

no man could get a first class unless he secured 75 per cent. When I appeared for law it was only 50 per cent. Standards were brought down by us. A resolution here would not be passed unless we have fifty per cent of the votes. A man with 33 per cent can get his degree in B.A. or B.Sc. We have ourselves brought down the standards. We will lower the standards whether it is in English or in the regional languages. It depends upon ourselves. The argument of standards does not appeal to me. If we think we can switch on tomorrow, we should switch over tomorrow. What will happen? The education of a few people will be sacrificed—people of one generation. It has been sacrificed for some years on account of the various changes made by the education departments throughout India. After I left college forty years ago there have been at least ten kinds of changes in the educational system.

My hon. friend was referring to basic education. He pleaded for basic education. I think the Congress Government was pledged to basic education. I will tell you a small incident that happened in Visakhapatnam, the place from where I come. Till two months ago there was a basic training school in a building owned by the Government for the last 120 years. Coolly and calmly, in spite of the protest of everybody, it was converted into Super Bazar only two months ago and the trainees were asked to go to a place 18 miles away in another town.

AN HON. MEMBER : Change in value.

SHRI TENNETI VISWANATHAM : No one believes in what he says and no one says what he believes. That has been our difficulty in this language problem also.

My appeal to those who are for the five-years period for Hindi and those who are completely for regional languages at the university level also, is that they should consider the difficulties. I will not say they are insurmountable, but a little time is required. What happens to the proceedings in the High Courts, in the Supreme Court and tomorrow here? If tomorrow we want to switch over completely to the regional languages here, what will be the position? Today at least I am able to stand and speak which at least some of you are able to understand. If

everything is done in regional languages from tomorrow we will be so regionalised and perhaps we will be sitting in 17 compartments here and we will have to talk among ourselves while things are going on in their own way elsewhere. My humble plea is that we should have time.

So far as standards are concerned, apart from the question of language, my appeal to the Government is that the status of teachers should be enhanced in a revolutionary way. There is no point in trying to patronise the school teachers. They are the persons into whose hands you send your Prahladas, your little children. Most of them are absolutely ill-educated. If a man passes his Fourth Form he does not become a trained teacher. If he fails in the Third Standard he joins training and becomes a primary school teacher. What is the education that he is able to give? What are the salaries that you are going to give or you have been giving to the educators of your children? I beg to submit that the salaries to be given to the teachers, next to food and defence department charges, must be made the first charge upon the budget of any State. Unless you consider it a first charge to train your own children in a better way, to give them better education, to give them better discipline, to give them better morals, to give them better understanding and a concept of the wider horizon, we will not be able to proceed. That can be done only if you draft into your teaching circles persons with high morals, with high calibre, high education, high culture, with a sense of patriotism and with a sense of developing values of the new society. There is no use trying to attract into the circles of teachers old world people or old world ideas. You have to bring in new ideas by taking men who have high culture, a wide horizon and a new concept of the society. That can be done if you attract the best men. For that you have to give them better emoluments. Their emoluments should be the first charge upon our budget. Then only I see a bright hope for our future.

MOTION RE : GOVERNORS OF STATES

MR. DEPUTY-SPEAKER : We shall now take up Shri Nath Pai's motion, for which two hours have been allotted. We will have to regulate the time. I would

[Mr. Deputy-Speaker]

suggest that the mover take 15 minutes and the other Members 10 minutes.

SHRI NATH PAI (Rajapur) : 15 minutes is not sufficient.

MR. DEPUTY-SPEAKER : Please listen. We have got to regulate the time within two hours. Even if I were to extend it by half an hour, still the time has to be regulated.

SHRI S. M. BANERJEE (Kanpur) : Sir, this motion deals not only with the appointment of Governor in Bihar but also the situation in West Bengal. It is a very serious matter. We have in fact tabled an adjournment motion. So, if you extend it.....

MR. DEPUTY-SPEAKER : I know the background of the motion. It need not be explained.

SHRI S. M. BANERJEE : It should be extended by two hours; that is to say, four hours in all.

श्री अटल बिहारी वाजपेयी (बलरामपुर) : मेरा निवेदन है कि प्रस्ताव पेश करने वाले सदस्य को आध घंटा दिया जाये। बाकी के सदस्यों को 20 मिनट से कम देना उचित न होगा।

MR. DEPUTY-SPEAKER : Then how do you regulate the debate within two hours ?

श्री अटल बिहारी वाजपेयी : आपको समय बढ़ाना होगा।

MR. DEPUTY-SPEAKER : Some hon. Members from the Congress side also want to participate in the debate.

SHRI SURENDRANATH DWIVEDY (Kendrapara) : Let us make it at least 4 hours so that more Members can participate.

MR. DEPUTY-SPEAKER : Let Shri Nath Pai move his motion. We shall see.

श्री मधु सिमये (मुंगेर) : अन्त में बोलने वालों के साथ अन्याय होता है। उन्हें समय नहीं मिलता। पहले से तय कर लिया जाये कि

20 मिनट से किसी को कम समय नहीं मिलेगा।

SHRI A. K. GOPALAN (Kasergod) : I think it will be difficult to finish it in two hours.

SHRI A. K. SEN (Calcutta North-West) : Sir, some of the hon. Members on this side of the House also support the demand for extension of time, because it is an important matter.

MR. DEPUTY-SPEAKER : I entirely agree that some very vital constitutional as well as political issues are involved.

SHRI A. K. SEN : In two States the Government is refusing to call the Assembly.

SHRI SURENDRANATH DWIVEDY : Since there is a demand, and the whole House supports it, the time should be extended by two hours.

MR. DEPUTY-SPEAKER : Do you want to suggest that the debate should be concluded only tomorrow ?

SHRI SURENDRANATH DWIVEDY : Yes, or any other convenient date.

MR. DEPUTY-SPEAKER : Is it the sense of the House ?

SEVERAL HON. MEMBERS : Yes.

MR. DEPUTY-SPEAKER : All right. It is extended by two hours. Now Shri Nath Pai.

SHRI NATH PAI : Mr. Deputy-Speaker, I beg to move :

“That this House disapproves of the action of the Central Government in using the institution of the Governors of States not as instrument for proper functioning of the Constitution but as agent of the party in power at the Centre, as exemplified by current developments in Bihar and West Bengal.”

SOME HON. MEMBERS : Shame, shame.

SHRI NATH PAI : Mr. Deputy-Speaker, I have yesterday moved an adjournment motion on this subject, because I still believe that the way the Union Government has conducted itself deserves nothing less than a

full censure. Nonetheless, on the advice of the Speaker, we agreed to move a substantive motion.

I would like at the very outset to make it clear how much importance we attach, and we hope we shall succeed in persuading Parliament as a whole temporarily to forget party loyalties and to realise the importance of the issue at stake. It is not only the fate of a Governor here or there that is at stake—that by itself is very important—but governments chosen by the people of this country are not allowed to discharge their duties unto the people. But what is still more important and crucial to us is the continuity of the Constitution, the sanctity of the Constitution. The whole question of the State-Centre relationship, the smooth functioning of the States and the Centre in their respective spheres is at stake and what the Central Government through its short-sighted policy has brought into contempt is the Constitution itself.

I would like to emphasise two aspects here—the present practice of appointing Governors of States and the interpretation of the functions, the power and the duties of the Governors of States as interpreted by the Ministry of Home Affairs. Let us first take the issue of the appointment of Governors of States. A cursory view at the proceedings of the Constituent Assembly when they discussed article 131, which was then in the draft Constitution, the relevant article for the appointment of Governors, will show how the founding fathers of the Constitution looked upon the office of the Governor. There was a long debate, there was a studious debate and then the Constituent Assembly rejected the proposal that the Governor should be elected and in its place accepted the suggestion that the Governor should be nominated.

I would like here the hon. Members to bear in mind the remarks of particularly two hon. Members, one of whom later on became the Speaker of Lok Sabha and one who remained a redoubtable Member of this House. I have in mind the contribution made on this subject in the Constituent Assembly by Sardar Hukam Singh and by Mr. Hari Vishnu Kamath. It has been made abundantly clear that the Governor, according to the Constituent Assembly,

was to be a constitutional head and the Governor was to be a link between the Centre and a State. What a travesty we have seen during the last 20 years when the Congress has been in uninterrupted power at the Centre! What was meant to be good for the country, what was intended for the well-being of the country, was abused for boosting up the tottering fortunes of a tottering old party.

The Constitution says that the Governor of a State shall be appointed by the President by warrant under his hand and seal. Why was this provision made? It was in order to avoid a clash between an elected Governor and an elected representatives of a State. What do we find in practice the Congress doing? The sanctity of the office of the Governor is totally ignored, the importance attached as a vital link, as a bridge between the Centre and a State. The then Prime Minister, in his remarks, in the Constituent Assembly had said, "I regard it as a vital link." This is what Pandit Jawaharlal Nehru said. There was somebody who said:

"Today, we have him as the Prime Minister. He perhaps has no axe to grind. But we may get a Prime Minister who may have an axe to grind. What shall we do then?"

This is Mr. Viswanath Das speaking in the Constituent Assembly. I think, such a state of affairs has already come to pass. Here, we find that the office which was created to maintain the unity of the country—Pandit Nehru said, "I want this as a check against separatist tendency"—has been converted into the office of a patronage to be distributed by the Union Government to discredited, defeated and discarded politicians from the ruling Party. We have to look at the galaxy of the men who came to be the Governors of the States in free India after 1947. What happens? A man runs for an election and seeks the mandate, in his little constituency, and 100,000 Indians do not think him worthwhile or worthy of their confidence to represent them in the Assembly and they reject him. But what is not good enough for 100,000 Indians is quite good for the whole State to put him as the Governor there. The man who cannot enjoy the confidence of his constituency is to be imposed on the whole State of as big an

[Shri Nath Pai]

area of 50 million Indians. Here is a direct mockery of the very spirit of the Constitution. It was in this sense that I tried to move a censure motion against Mr. Chavan.

May I draw your attention to article 355 of the Constitution which says that it shall be the duty of the Government of India to ensure that the Government of every State is carried on in accordance with the spirit of the Constitution? Every opportunity was taken by this Government to bring the Constitution into contempt. The appointment of the Governors of States is one such thing. The latest example is provided by the appointment by the Government of India of the Governor of Bihar. I have nothing to say against Mr. Nityanand Kanungo. We saw his performance in this House. (*Laughter*)

SHRI A. K. SEN : Where is the question of laughter ?

SHRI NATH PAI : I have all my sympathy for him. It is a rare occasion, to have Mr. A. K. Sen here. The Government, obviously, knows it is in troubled waters and so he has been summoned from the Supreme Court. He will be using his legal acumen, and I will go into the constitutional propriety later on.

Coming to this case of appointment of the Government of Bihar, if I have any self-respect, if I know I am not wanted, I will not go there. If I know the Government does not own me, I will not go there myself. If the Bihar Government does not want me, I will not down grade myself and go there. He wanted to know what was laughable. It is beyond contempt to go on like this. Here is the heading from one of the national dailies published in Delhi :

“Kanungo, an unwise imposition on the Bihar State Chief Minister . . .”

We are told that there was a healthy convention evolved by the late Prime Minister, Pandit Jawaharlal Nehru, i.e., he normally consulted the Chief Ministers about the appointment of Governors in their respective States. The truth was that even for Pandit Jawaharlal Nehru, these provincial straps of the Congress Party were too strong *dadas*; he could not disregard them; he sounded them but normally he appointed Governors whom they wanted. Now

with* the change of Government what is happening? Mr. Chavan, very subtle in the use of words, told us that there is consultation; and ‘consultation is consultation.’ he quipped in Parliament. When we asked whether it was approval, he stopped short there and took shelter behind his famous thing, the smile. When we asked whether this consultation meant approval, he just said, in the last session when the issue was raised, ‘consultation is consultation’. Now what has happened in Bihar? I think he will tell us this. Casually he mentioned to the unwary Chief Minister, “What do you think of Mr. Kanungo?” If I am asked of my worst adversary, I will say, ‘he is a good man’; we do not run him down. Inadvertently Mr. Maha Maya Prasad Sinha said, “He is a good man”. That was good Mr. Maha Maya Prasad Sinha. It was good enough for Mr. Chavan to take it as his consent for the appointment of Mr. Kanungo as the Governor of Bihar. If somebody asks me, “What do you think of Mr. Chavan?”, I will say, “He is a very good man”, but that does not mean that I approve him as the Home Minister. This is the way in which the whole Constitution can be brought into contempt. I want the Home Minister momentarily to reflect, not to look so morose as Mr. Sen wants him to be, to ponder over what I am saying.

Mr. H. V. R. Iengar has written an article in the *Indian Express* and two beautiful articles also appeared by a very distinguished ex-Governor, Shri Sri Prakasa. They have told us how the office which was meant to be a symbol of the continuity of the Constitution, of certain authority though of no power, was brought down to the lowest possible level by making it a matter of getting rid of unwanted politicians. I said, defeated, discredited politicians, but I did not talk of one category. If you are a flop in Parliament, you are pushed to some State Cabinet. If you are an inconvenient colleague in the Cabinet, the first opportunity is taken to push you off to some State Government. These are the categories : defeated Congressmen, unwanted Congressmen and inconvenient Congressmen. Never was the country given a chance of having a proper Indian to go as a Governor of a State. It was these people—unwanted, rejected and found inconvenient—who were foisted on the State Governments. Shri

Sri Prakasa told us his experience. Shri Pattabi Sitaramaiah told us that often they did not know what was happening in the State Government; the highest function was to go and declare open the maternity homes and allied institutions. Often they did not know that Ordinances were promulgated in their names. One of them confessed in his memoirs that he read that an Ordinance was promulgated, in the next day's paper; till then, the Governor in whose name the administration was carried on did not know. What is this process? It is only the Congress which did not care for the Constitutional sanctity of the office of the Governor and it is only today that they want to use the office to suit their requirements and the needs of the ruling Party. I have very strong quarrels when I come to some of the aspects of the functioning of the West Bengal Government, but let not the political quarrels be mixed up with Constitutional propriety, how we discharge our duties. We cannot afford it. In the sanctity of the Constitution, I think, we have a common stake. Our Party quarrels must not be mixed up with that. I do disagree with many features, though my Party is with that Government. I have said it in Calcutta and I will say it here also; I will not hesitate. But today to seek the power as it is being sought, what is the Constitution? I will now come to one thing. What is the oath that the Governor takes when he becomes the Governor of a State? I would like Shri Y. B. Chavan's attention to be drawn to it. The form of the oath reads as follows. God forbid that I shall ever have to take such an oath in this life, but I may read this out; *misal ke taur par kah rahaa hoom.*

SHRI A. K. SEN : The form of his oath is also similar.

SHRI NATH PAI : It reads as follows :

"I, do swear in the name of God/ solemnly affirm that I will faithfully execute the office of Governor (or discharge the functions of the Governor) of (name of the State)"

Here, I want Shri A. K. Sen to ponder over what I am going to read. This is from article 159 of the Constitution of India. It further reads :

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

The Governor pledges to protect and preserve the Constitution of India and to devote himself to the service and well-being of the people of the State. Nowhere does he take the oath that 'I will serve the party at the Centre'; that is not the oath of office; the oath of office is that 'I will serve the Constitution'; the oath is not to serve the Congress, but the oath is to serve the people of India or the people of the State.

Every time the Centre interferes, what has been happening? We saw it happening recently. The whole tragedy began way back. We had a recent demonstration of it, we saw how even after the clear verdict by the people of India, an appointee, who was a political appointee, though in his own way a delightful person, behaved. I have the ex-Governor of Rajasthan, namely Babu Sampurnanad in mind, with his many facets like his love of astrology, for instance, which is a delightful facet, when politicians tend to become monolithic; and this is a rich facet of a personality, just like many other facets; we like many things in him such as his love of Sanskrit etc., but we did not enjoy and like what he was doing in Rajasthan. He behaved there in a purely partisan manner and President's rule was imposed on the State of Rajasthan.

SOME HON. MEMBERS : Shame !

SHRI NATH PAI : At that time, my thought was that the Constitution should be amended, and I think today the House will give a better consideration to my submission. I had moved an amendment to the Constitution at that time, and that has become very pertinent today. I said that no Governor shall enter his office as Governor unless his appointment is ratified by Parliament. I think the wisdom of that amendment is now perhaps realised. I am very glad that I am getting the full sanction of so senior a Member like Shri Ranga. Now, I suggest that Shri Y. B. Chavan should ponder over the wisdom of my amendment, and when eventually it comes up, he should come forward and say, 'Yes, I agree in the light the experience of the past so many months'.

[Shri Nath Pai]

Hereafter, in the changed political context of India, it is imperative that a Governor does not act as an agent of a party. The consultation must not be a mere formality for the sake of consultation. You, Mr. Deputy-Speaker, know that on the occasion of certain religious ceremonies, we are asked to say 'mama', and we say 'mama' and then the *tulsipatra* is left. This consultation should not be like that but it should be something much more significant and real.

SHRI ATAL BIHARI VAJPAYEE : It is 'mama' or 'Idam na mama' ?

SHRI NATH PAI : I think this will do. Now we shall have to say like Vishwamitra, 'Idam na mama'.

I would say that the process of consultation must be genuine. If it is not, then what is going to happen ? Bihar is already threatening. If Shri Nityanand Kanungo persists in going to Bihar—now, this should not be regarded as heroic tenacity, as sometimes it may be interpreted; I would not like to use the word that I have in my mind, but I think hon. Members can quite see what I would call such a quality in a man—if Shri Nityananda Kanungo persists in going to Bihar, then where is Shri Y. B. Chavan landing Bihar ? That is what I would like to ask. He who is concerned with upholding the Constitution is fostering a constitutional conflict in the State; the Government of India will be guilty of creating a constitutional crisis in the State of Bihar by imposing on the popularly chosen Government a Governor who is not approved by it. The Government of India are in duty-bound, as all of us, or in fact, more so, the Government, to uphold the Constitution. We all took the oath to uphold the Constitution when we became Members; and Shri Y. B. Chavan also took it and further in his oath of office administered to him by the President, he reiterated the oath that he would do everything in his power to uphold the Constitution. Can he in all conscience say when he imposes a Governor unwanted by a State and creates an artificial constitutional crisis of the first magnitude that he is carrying out his oath ? Will that be the verdict of the people of Bihar, and will that be the verdict of the people of India ? I do not think that if we persist in

this folly for party gains and political gains posterity is going to forgive us.

I want Shri Y. B. Chavan to retrace his steps. This should not be called something like determination. 'A man of iron' does not mean a man who persists in his folly when folly has become abundantly clear. I quite understand that he may now persuade himself to say that 'I am acting in the wider interests', but it so happens that if a person belongs for far too long to a party and continues to be in office, he tends to forget the distinction between party and country. And somehow the interests of the party magnify themselves into the interests of the country in the eyes of the politician. I want Mr. Chavan to call not the party leader in him, but the patriot in him, and see the harm likely to result from this kind of persistence in wrong policies. I even today suggest that nothing will be lost by a magnanimous admission of mistake and cancelling the appointment of Mr. Nityananda Kanungo. It is never too late to make amends for past mistakes, it requires courage, it requires honesty, and it requires I think

AN HON. MEMBER : Why don't you show the courage in the State ?

SHRI NATH PAI : Normally I should like to give a reply, but I do not quite understand what exactly he was mumbling, but he did say something. If he says more clearly, I will try to reply.

I now come to one sinister thing that is happening, this new fashion in India, and this new danger to our democracy, of defections. I have no kind of illusion in my mind and I have spoken publicly about it, and I had made a sporting offer to the Prime Minister when the defections first became clear in Rajasthan. Ten MLAs were signing the list of the Maharana and also Mr. Sukhadia. I said : it should be possible to identify these ten gentlemen; let us identify them, take the initiative in moving a resolution in the Rajasthan Assembly for expelling them from the Assembly and hounding them out from public life. But the Congress would not accept the offer, because it was inconvenient for them.

But then, when the defections began the other way round, suddenly we hear Mr. Chavan and the Prime Minister talking of

the necessity of evolving a code of conduct, that defections are dangerous. All these 20 years the Congress practised this pernicious, sinister practice of inducing defections in other political parties. They never thought of the ultimate danger to the body politic of India. (*Interruptions*)

My party was a victim, I know it, so I have the guts to say it and to condemn it also. It gains all the force because I know there have been defections from my party too.

In a country where the integrity of the politician becomes a marketable commodity, to be sold and purchased, liberty itself comes to be in jeopardy and in danger. This is precisely what is happening. I belong to one party, I am to be made a Minister the next day, and for that I sell my party. The Congress adopted this pernicious and sinister practice, and a whole lot of others are doing it today. The Congress is being given a taste of its own medicine which it practised on the country and other political parties for the past 20 years, without for a minute thinking that this is a dangerous double-edged weapon, some time somebody may turn round and use that weapon against us. In their halcyon days, in their days of triumph, it never occurred to them that this is a dangerous weapon, that it is a Basmasura who might touch their own head. Now the Basmasura is touching their head. We are all in danger, we know it.

As Mr. Santhanam says, what are the duties of the Governor? The Prime Minister at the meeting said that a Governor should be a friend, a guide and a philosopher. Whose friend, whose guide and whose philosopher? Had there been an iota of philosophy, then they would have reminded themselves of the mandate of the sloka :

शैशवे अभ्यस्तविद्यानां,
योवने विषयैषिणां
वार्धक्ये मुनिवृत्तीनाम्
योगेनान्ते तनुत्यजाम् ।

in the end to retire and contemplate, and to reflect and to see how the world is going. These gentlemen are not the gentlemen made of that stuff as the *Raghu Vamsa* describes. Till defeat or death removes them, they are determined to cling to office

To call these gentlemen philosophers I think is a misnomer for the word. Friends they are, but of whom, not of the people, but of the Ministers at the Centre. And whom do they guide? They either misguide the Central Government by making wrong reports or misguide the people of the State by misinterpreting the Constitution. So, the Prime Minister's description of being a "guide, friend and philosopher" is, I think, totally misfitting here.

Mr. Santhanam raised, therefore in this connection a pertinent point. Before I quote an eloquent man like him, I should like to say this; I do not know why the Home Ministry always make it a practice of rejecting the sound and sober advice given by the existing Law Minister and is always making a preference for the ex-Law Minister's advice in these matters. Mr. Pathak, the present Governor of Mysore, tells them that the Governor has an absolute right to dismiss a Ministry and to summon the Assembly and promptly the Minister seizes it! But I think that your scholar friend there and his Ministry had a different opinion. Some people have given a dramatic review that till 2.15, the Law Ministry was insisting that the Governor is bound to by the advice of the Council of Ministers, and the discretion of the Governor is a limited one, well defined in the Constitution and beyond that there is no discretion.

Now, at this stage, before quoting the legal authority, I would refer very quickly to what was said by the Supreme Court on this subject-matter. It said :

"The only instances of this required by the Constitution to be exercised by a Governor in his discretion are the powers of the Governor of Assam, under paras 9 to 18, of the Sixth Schedule. Except the discretion of the Governor appointed to be the Administrator of a Union territory under article 239(2), there is no other matter in respect of which a Governor may under the Constitution act in his own discretion."

The matters where the discretion of the Governor is exercisable are clearly defined, and beyond that, there is no discretion.

I would then like to draw Mr. Chavan's attention to the Supreme Court cases, in this connection. The most important case about this has been given by Mr. Seervai in

[Shri Nath Pai]

his monumental book. I have no time to read from the judgment of the Supreme Court, but I shall just refer to it. This is the case in Rai Sahib Rau Saway Kapur versus the State of Punjab. I would like to draw the Minister's attention to the pronouncement of the highest court in the land on this subject : that the discretion is limited, well defined, in and found in the Constitution. Beyond that, there is no discretion vested in the Governor.

We take the powers about the summoning or dissolving the Government. The whole frame of the Constitution of India is the supremacy of the will of the people : that the will of the people will triumph in this country and that the will of the people shall not be defeated by the executive : that the executive shall be answerable and responsible to and removable by the legislature which represents the will of the people. We are now seeing that in West Bengal, the Governor thinks that the ruling United Front has lost its majority. And what does he do ? He therefore thinks that he is justified in ordering the Chief Minister to call a meeting. Here, I must make a distinction. In the first place, the essence of democracy lies in the fact that the chief Minister, claiming popular support, should never hesitate to call the Assembly.

He should go and take the verdict and that verdict should prevail. But—

AN HON. MEMBER : Hear, hear. (Interruption)

SHRI NATH PAI : I think it was a premature applause. But it is not part of the functions of a Governor to order a Chief Minister to summon the Assembly. In the first place, I will quote for my learned friend there. This is from Godfrey Phillips' Constitutional Law.

"The King cannot exercise his prerogative of dissolution without the advice of his Ministers.... He can only dismiss his Ministers though dismissal will only be justified under modern conditions."

He can only dismiss his Ministers and the dismissal will only be justified under certain conditions, and so on.

Now, take another case here. The King by convention is bound to accept the advice

of the Prime Minister since the alternative is to dismiss him and with him all his ministerial colleagues, a step which would inevitably involve the King in political controversy. Pandit Jawaharlal Nehru said in the Constituent Assembly that the Governors and the Presidents should not be party politicians. But what is precisely being done by the Home Ministry of the Government of India is, they are dragging the Governors who are constitutional heads into the squabbles of parties and partisan politics in these two States.

Mr. Deputy-Speaker, I am continuing, and I will be soon making a beginning of the end of my submissions. I will now quote from Keith : Ridge's Constitutional Law of England :

"But the weight of authority as voiced even in 1958 by Lord Aberdeen is wholly against the power to refuse one dissolution to a Ministry."

Whether it is dissolution or summoning, the weight of authority is that of the popular ministry. Their advice shall prevail.

Then, this is what Geoffrey Marshall says. This is very important for Mr. Chawan. I know the Home Ministry has prepared copious notes. They have a selective method of giving him notes. They are dangerous notes. Let him try to get my notes. I had to deny myself the pleasure of attending the birthday party of my dear friend, Pilo Mody, so that I can prepare my notes. I went without dinner. We have to toil all the night and come with the notes. This is what Geoffrey Marshall says :

"In the UK, no monarch has refused a dissolution when requested by the Prime Minister or forced one against the advice, nor has the Government been dismissed, since Queen Victoria came to the throne."

That was more than a century ago. This is the weight of the authority of the Council of Ministers. So, let not the office of the Governor be used for satisfying the unsatisfied ambitions of defeated, discredited politicians. The mistake in Bihar must be rectified without any further delay. Now I am coming to the mistake in Bengal :

16-32 hrs.

[MR. SPEAKER in the Chair]

Sir, before you took the Chair, I was about to submit an article in which a very cogent

pleas has been made by a veteran statesman of the country, Mr. K. Santhanam. He says :

"It is entirely wrong to think that it is the duty of the Governor to take note of the increase or decrease in party strength from day to day. Once he has formed the ministry, it is for the State Assembly to decide whether or not it should continue in office. Neither law nor convention prohibits a Cabinet having only minority support from conducting the Government so long as the Assembly does not record its disapproval by a no confidence motion or rejection of the Budget Bill."

The law is clear. The convention is very clear. The practice is very clear. What is not clear is the ambition of the Centre. If they do not get the people to support them, they are trying to rule the State through the agency of the Governor. I want to warn the Home Minister against the practice. Let us remember that the States are not colonies of India. They are equal partners in the conception of the federal structure of the country. No State shall be ruled as if it is a colony of New Delhi. Every part of India is an equal partner and this shall not be interfered with or endangered by any one.

How is the Governor to be advised ? Under article 160, rules could have been framed. Under the British dispensation, there used to be the instrument of instruction and a Governor before he took office, was given this instrument of instruction. Dr. Rau, when he was drafting the Constitution had suggested it. But now what happens ? The instructions to be given to a Governor depend on the convenience, wisdom or lack of it of the man who happens to be the Home Minister of India. It becomes a variable thing according to his whims or political preferences. Shall we submit such an important constitutional office as the Government to such changing political preferences of the man in authority in Delhi ? Is the office permanent or not ? I think this is a very vital link in the whole structure of the grand edifice of the Constitution. If it is to be made subordinate to the requirements and the political preferences of the party in power, not only one pillar will be in jeopardy, but the whole grand edifice will begin to crumble. This will
L78LSS (C.P.)/67—11

bring into ridicule the whole concept of parliamentary democracy, which is germane to our whole concept of Parliamentary Constitution which we have given to ourselves.

There is a delightful little article on this subject by the former auditor General of India, Mr. Ashok Chanda. He says that the Governor is not authorised, is not empowered, does not have the competence to do it, under our Constitution.

I would like, in this context, to refer to a brief note issued by Shri N. C. Chatterjee, an eminent jurist whom we have in Parliament. He has drawn attention to article 189 of the Constitution. The law is very clear. I want Shri Chavan to read the relevant part of article 189. The fate of a government shall not be decided in the gubernatorial palace which is the resting place for retired politicians but on the floor of the Assembly of the State. I am not in favour of any Chief Minister who will avoid facing the Assembly. I am more against a Governor who will be issuing mandates to a Chief Minister. The law is very clear on this.

What happens if the whole fabric of law, the whole Constitution goes into contempt ? Then there is article 356. Let the Governor then make a report to the President that the Constitution has broken down in his State. Then let the President of India issue a Proclamation of emergency and then let the Government of any State be dismissed. It is totally a different state from the state today being contemplated. There is such an amount of confusion in the thinking of Government that it began with Rajasthan and now dangerously it is tottering on the [verge of precipice in Patna and in Calcutta.

Before I conclude I want to make this plea once again to my friend, Shri Chavan, and also the Prime Minister, now that she has been good enough to come and listen to this important debate. I have my political differences. I never hide them. Those with whom I have, they are there. Whether anybody meets me at my residence or in the Parliament or in public, they are there. I do not have two standards as some are in the habit of having. Having said that, let me try once again to emphasise what is at stake. What is at stake is the very fabric of the Constitution of India. It is a very delicate

[**Shri Nath Pai**]

thing that we have inherited. Let us not be guided by the temporary gains which our respective parties may make. If the price is weakening the strong fabric of the Constitution, if the price is to be paid in breaking the main concept of democracy, no party gain should persuade us to follow that dangerous path. I hope Shri Chavan will try to see what is at stake. Allow the governments to prevail till the people there through the Assembly pass their verdict—be it the Government of Haryana, the Government of Punjab or the Government of Kashmir.

I would have liked to say something about what is happening in Kashmir. I see double standards of the Government functioning. What happens there is totally different. Nobody can interfere because the Government happens to be of a party which is the same as at the Centre. Therefore, danger to the security of the country, to the law and order and Constitution in Kashmir cannot be made by the Governor any matter for reference to the President of India.

I, therefore, submit, let not different standards prevail—one in Rajasthan, one in Bengal, one in Kashmir, one in Maharashtra and one in Bihar. Standards to be applied will have to be uniform because in the uniformity of standards we give new strength to the Constitution. I am not concerned about the fate of Shri Mahamaya Prasad or Shri Ajoy Mukherjee. I am concerned with the continuance of democratic values and the Constitution. These are our greatest heritages. Let not anybody light-heartedly tamper with these two heritages.

MR. SPEAKER : We have already decided that we will sit for four hours on this motion. Tomorrow Private Members' Business will come up and therefore we have only one hour for this. If you agree we may sit today up to 7.00 and have one hour more tomorrow. The Mover has already spoken. Others may have 10 to 15 minutes each. We will proceed calling one from this side, one from that side and so on. Let us stick to this time of four hours for this motion. Now, the motion is before the House.

SHRI M. R. MASANI (Rajkot) : Sir, I beg to move :

That in the motion,—

omit "as exemplified by current developments in Bihar and West Bengal".

(1)

SHRI N. C. CHATTERJEE (Burdwan) : I beg to move, that at the end of the motion, the following be added, namely :—

"and urges the Government to direct that the Governor should act according to the advice of the Ministry with regard to the calling of the next Session of the West Bengal Legislative Assembly." (2)

SHRI BADRUDDUJA (Murshidabad) : I beg to move :

"That at the end of the motion, the following be added, namely :—

"and requests the Government to direct the Governor to act according to the advice of the West Bengal Cabinet in the matter of calling next Session of the West Bengal Assembly, which will be in keeping with the constitutional provisions and also help harvest and procurement operations in West Bengal." (3)

SHRI A. K. SEN (Calcutta-North-West) : Mr. Speaker, Sir, having heard Shri Nath Pai with all his eloquence, with which he always approaches his problem, and the amendments which have been moved, it became clear to me, and I am quite sure it became clear to many of us, that the whole object of the Resolution which has been moved and the amendments appears to be to compel the Governors of Bihar and West Bengal not to call the respective Assemblies because the advice of the Ministries there to the Governors has been, if newspaper reports are correct, that the Assembly should not be called immediately... (*interruptions*). We have listened with very great patience to the other side and we expect the same courtesy from the other side.

SHRI JYOTIRMOY BASU (Diamond Harbour) : Do not distort things.

SHRI A. K. SEN : We have not distorted it and we are not in the habit of distorting things. He is a new Member. He ought to know that much.

MR. SPEAKER : Will you all kindly resume your seats ?

SHRI JYOTIRMOY BASU : What is this "new Member" business which Shri Sen has been talking about ?

MR. SPEAKER : May I request hon. Members on both sides to resume their seats ? They have heard the speech of Shri Nath Pai with pin-drop silence. So, I would request Shri Jyotirmey Basu and others in the opposition to hear the other side with rapt attention. Otherwise, it will be difficult. They may not agree with what he says; all the same, he has a right to say what he feels.

SHRI JYOTIRMOY BASU : I said "do not distort" and he replied "you are a new Member". Therefore, should I enjoy less privileges than him ?... (*interruptions*)

MR. SPEAKER : I would appeal to members on both sides not to disturb when others are speaking. Otherwise, the same fate will fall on them when they are speaking. Now, Shri Sen.

SHRI A. K. SEN : The Resolution reads:

"That this House disapproves of the action of the Central Government in using the institution of the Governors of States not as instrument for proper functioning of the Constitution but a agent of the party in power at the Centre, as exemplified by current developments in Bihar and West Bengal."

It starts with the premise for which there was no effort to prove it. It says that the Centre has been using the Governors in these two States as agents of the party in power. I wish to this was added the case of Haryana, which is a disgusting example which shocks everyone who believes in the Constitution and its working. Whenever there is a defection there the Governor, on the advice of the Ministry, has been appointing that defector as a Minister. I should have imagined that a word of criticism would have been forthcoming about this from those who loudly profess their loyalty to the Constitution... (*interruptions*) It is quite clear that the hon. Members on the other side are not at all keen on hearing this side, while they are praising the Constitution and its working.

Now, let us take these two cases and let us see how far my hon. friend, Mr. Nath Pai, has been able to make good his case. He says that the Centre has been using the

Governors not, as institutions, for the constitutional working of the Governments there. He read out the oath which every Governor has to take, a very noble oath. Similar oaths are taken by all of us, as Members of Parliament and as Members of the Legislatures. I wish that some of his colleagues who are parties to the United Front Government remember the noble words of the oath which they have taken, namely, to uphold the Constitution because many of them, outside the Assembly, openly proclaim that under this Constitution, no democracy is possible and I find many of them, the other day, have been openly advocating the Chinese corps

SHRI JYOTIRMOY BASU : All this is not relevant.

SHRI UMANATH (Pudukkottai) : Don't bring in cock and bull stories . . . (*Interruptions*)

SHRI A. K. SEN : I know it pinches.

SHRI UMANATH : No pinching; my shoes are new.

SHRI A. K. SEN : I come from a city where the other day the portraits of Mao Tse-tung were being openly paraded in the streets (*Interruptions*)

SHRI JYOTIRMOY BASU : All this is not relevant.

SHRI A. K. SEN : We are told that the Government there sits quiet at the sight of defamation of the Constitution and its open revolt against the Constitution; it sits quietly with these 14 units of curious amalgam and cannot move a finger, and its Chief Minister says that he is ashamed that he is a party to a conglomeration of people, some of whom are openly the supporters of the Chinese corps. And the Governor is being asked to follow their advice. If the Constitution is to be preferred, it is to be preferred. If the Assembly is to be called to test the strength of the majority, the Assembly is to be called even if the Government which represents a minority opposes such a calling of the Assembly. In the case of Madhya Pradesh, I was the man who opposed that the Governor should act on the advice of the Chief Minister because I said the Chief Minister's advice was binding so long as it represented the majority. But when he loses the majority, the Constitution does not give him

[Shri A. K. Sen]

any authority to advise the Governor. If I know anything of the Constitution, the Chief Minister is there because he happens to be the leader of the majority party. . . . (*Interruptions*). I am not going to match my learned friends there with their voice. It is clear on all authority that the head of the State is bound by the advice either of the Prime Minister or of the Chief Minister because he reflects the majority. But the moment he does not reflect the majority, the Constitution commands him to obey the mandate of the majority and not of the minority whose spokesman the Chief Minister for the time being is.

Now, as I was saying, English authority is out of place in this context and even if English authorities are to be cited, I shall cite them myself in their proper context. English authorities are unnecessary to judge a situation where there are no parallel parties of almost equal strength, where there are 14 small groups who have come to coalesce with one another to form a majority, a fortuitous majority—a shift in sand will destroy that majority. It appears that the changing of sides has resulted in a completely different complexion as it happened in France before De Gaulle came to power, but the Assembly was never dissolved nor was the advice of the Prime Minister sought in such a case, when the conglomeration lost its complexion. In these two States, from Jan Sangh to Left Communists—a wonderful combination of groups—have formed a majority Government. If some of them defect, it is still to be urged that the Governor must obey the advice of the Chief Minister and will not call the Assembly to test whether the Chief Minister has still the majority or not. . . . (*Interruptions*) I know it has been possible for the Government of Bihar to continue so long because they had a very obliging Governor. He obliged his colleagues in the Assembly. We have no quarrel with that; we would not call him by all sorts of names or laugh at him; he was one of us the other day. When the next Governor comes fear strikes at the very breast of those who have been running a minority Government that this Governor may not be as obliging as the other and may call the Assembly to test the strength of this vast and rather uncertain and unpermanent conglomeration of groups, and the fear expresses itself by calling the Governor by all sort of names. . . . (*Interruptions*)

AN HON. MEMBER : Who called ?

SHRI A. K. SEN : When the name 'Mr. Kanungo' was uttered, at once it was greeted with laughter.

SHRI S. M. BANERJEE : The most incompetent man.

SHRI A. K. SEN : He is much more competent than you, Mr. Banerjee. . . . (*Interruptions*) According to the Constitution by which we are governed, the President does not judge the competency of the Governor from the stray utterances of a few Members here on the Opposition.

SHRI S. M. BANERJEE : I am not defending the corrupt ex-Ministers of Bihar; you are defending them.

SHRI A. K. SEN : In West Bengal, what happened ?

SHRI S. M. BANERJEE : Let him speak in Calcutta like this.

SHRI A. K. SEN : What has happened in West Bengal ? On the 1st of September this year, the Leader of the United Front, which consists of about 14 small groups out of which two are of a bigger dimension, namely, the Communist Party of India and the Communist Party (Marxists)—the differences between them need not be elaborated here, but in size they are larger than the other groups—was going to resign. It is now a matter of public knowledge that the chief reason behind his decision to resign was that some of his colleagues did not appear to him to represent Parties. He really believed in nationalism or in the Constitution. And he said it openly that many of them openly pledged their loyalties to China. . . .

SOME HON. MEMBERS : Shame, shame.

SHRI A. K. SEN : Though he is against us, we have respect for him. He said that his forty years of service to the country and his sense of patriotism revolted against this. But, for good or for evil, his colleagues ultimately prevailed upon him not to resign.

SHRI JYOTIRMOY BASU : That was why the statement was drafted in Delhi.

SHRI A. K. SEN : The Congress is blamed for sticking to the gaddi. But in West

Bengal we have a wonderful sight of everyone sticking to the gaddi. They take decisions in Cabinet, but each one goes out and each Minister goes out and speaks against the other, and we have the phenomenon of one colleague blaming the other and calling the other all sorts of names. Wonderful collective responsibility ! And when they are told 'If you cannot subscribe to this collective decision of yours, please leave', they say 'We shall only leave when we are kicked out; before we are kicked out, we shall never leave the gaddi', and they say that 'Even if we are dismissed, we shall go to the Writers Building and offer hunger-strike until the Governor kicks us out. The lure of the government, the lure of the gaddi appears to be tempting even to the Marxists these days.

The position today is that one of their senior colleagues, the Food Minister, is being called all sorts of names; that old gentleman might be against us; he may have fought the elections against the Congress; he was a member and a leader of the Praja Socialist Party for a long time, and he had left the Congress, but yet Congressmen never called him all sorted of names as his own colleagues are calling him such as agents of this one or brokers of the other and so on. The terminology and the dictionary of the Marxists are so rich that I do not want to compete with them in inventing words of abuse. But all the words of abuse which can be invented by human ingenuity were showered on this old gentleman, Dr. Prafulla Chandra Ghosh. And he still remained a member. Why ? Because it was a collective decision. That collective decision of the Cabinet was being challenged by his own colleagues outside and one of the colleagues went out of the Writers Building and called upon the people to agitate and to offer satyagraha for 24 hours or 48 hours' hartal. And against what ? It was a Government calling hartal against itself. A wonderful sight ! And now, on top of it, when the existence of that gentleman in this Government....

MR SPEAKER : The hon. Member should try to conclude now.

SHRI A. K. SEN : I hope you will remember the interruptions that I have been going through.

MR. SPEAKER : That is why I am giving him some more time. He should try to wind up his speech now.

SHRI A. K. SEN : When through all this crisis, this old gentleman found it impossible to live together with that vast complex of gathering, he resigned. Of course, he is so much abused today that I have more sympathy for him than anything else. But what happened ? Along with him resigned 17 others and more possibly have resigned or are going to resign. The Chief Minister says 'I do not believe that they have signed recently; the signatures are of August or September; I want proof of that'. The Governor says 'Very well, let me test it.' and, therefore, he sees each and everyone. Is that unconstitutional ?

SHRI JYOTIRMOY BASU : Very much.

SHRI A. K. SEN : If he wants to test whether the Chief Minister of the amalgam of 14 curious groups.....

SHRI NATH PAI : But why this parading of the MLAs like beauty competitors ?

SHRI A. K. SEN : They are more than beauty competitors. When the Governor tries to test the veracity of the signatures and he calls them, he is being abused. My hon. friend says that he is parading them. I would submit that he is not parading them. He is calling them because the Chief Minister did not believe the signatures of the very people who had been his supporters a few days back. When he calls them and he tests their veracity and he finds that what they had written was true, the Chief Minister says, 'Let me consult my colleagues whether the Assembly should be called immediately or not, because the period of six months will expire only in February'. Therefore, they can run until February, without calling the Assembly, and in the meantime the interim budget, for the first time in our country, is being passed by an Ordinance. I remember the Opposition here howling at the Congress if ever a supplementary budget was passed by an Ordinance. I remember that when I was a Minister, we gave the opinion that no Demands should be passed by an Ordinance. That no taxation should be passed by ordinance in the case of Orissa. I remember we said that on the floor of the House and Pandit Nehru was then the leader of the party, and he said on the floor of the House

[SHRI A. K. SEN]

that so long as he was here no taxation would be passed by ordinance. But because they will not call the Assembly the ordinance has to be resorted to to levy taxation, because the State has been rendered absolutely bankrupt by waste and by useless spending.

17 hrs.

When the Governor says "Please call the Assembly", he says "let me consult." He goes and consults, and the reply is: "We are so busy with our procurement programme that we cannot call the Assembly now." Will you take from me the illustrations of their busy activity which prevent them from calling the Assembly? They go from maidan to maidan, from village to village, from house to house, shouting slogans against the Congress and the Central Government, and saying "We shall bathe the City of Calcutta with blood." (*Interruptions*). All of you have said that.

I come from the City of Calcutta. I have represented the greater part of that city for all these years. I challenge. Let them try a blood-bath in the City of Calcutta. (*Interruptions*)

Let it be recorded that they are going to do it.

SHRI UMANATH : You brought in the military on 2nd October for a blood bath. You are responsible. You are talking of a blood bath.

SHRI A. K. SEN : So, the Constitution is to be soaked with the blood of the innocent people of Calcutta, so that a minority party may continue to function.

SHRI JYOTIRMOY BASU (Diamond Harbour) : Go and say it in Calcutta.

SHRI A. K. SEN : I go every time, and I face them, and when I face them, they melt away.

MR. SPEAKER : You have taken 20 minutes.

SHRI A. K. SEN : In the High Court, a Full Bench was deciding upon the legality of the order of the Government of West Bengal by which they said the police and the magistrates should not move their fingers if the industries are gheraoed. That was the

circular and it was being challenged. I was one of the counsel who appeared for one of the factories which was seized upon by these workers. I read out the very oath which the Ministers had taken of loyalty to the Constitution, and I reminded the Judges that these Ministers have been traitorous to the Constitution itself. Then, as I was going out of the court, there were a few bunches of about 200 or 300 workers assembled there, they shouted slogans at me in the verandah and insulting remarks were hurled at me. I said nothing until I concluded my argument for two days. At the end of it I told the Judges that these people thought that we would be deterred in our duty of appearing before you to test the legality of the executive's action, which we shall always do with all hazards and for ever. That is what I said, and the next day, the high court was gheraoed. That is the Constitution in West Bengal. These 300 people came and it is on record in the judgment of the Chief Justice himself. They said, "Down with the Constitution." "Down with the Constitution", they said. "Down with the High Court," they said. The judges said one of the noblest things which will uphold our Constitution. The Chief Justice said that if the judges could not face the tyranny of the mob as they have to face the tyranny of an individual tyrant, then the judges will forfeit the confidence which the public repose in them. Therefore, it is the rule of the mob which has taken the place of the constitution in West Bengal today. And it is the Congress' responsibility to see that the Constitutional working in that State is restored and that the majority—whoever be the majority, I do not care—constitutes the government, because, when in Madhya Pradesh the Congress lost its majority, I myself had written a memorandum to the Prime Minister, signed by Mrs. Kripalani here and six other Congress Members saying that the Chief Minister no longer has the majority behind him and the Governor is not bound to take his advice. That is what I said. (*Interruption*).

MR. SPEAKER : May I point out that the Congress party is prepared to give up some of its time and they want him to continue, in the place of one or two other Members. Therefore, I have allowed him to speak.

SHRI A. K. SEN : I wish the same spirit was exhibited by those who sing the praise-

for our Constitution, on that side, by saying that we shall see that the majority parties in West Bengal and in Bihar are allowed to rule and not the Chief Ministers who masquerade as Chief Ministers without having the majority behind them. It is crystal clear today: let all hypocrisy be forgotten for the moment and let us be clear to ourselves, to our conscience, and let us at least acknowledge that factually today, both in Bihar and in West Bengal, the Ministries have lost their majority.

In Bihar, they have been running to the Government House every day, saying that these are the members who are in a majority, but the old Governor stuck to the words of Constitution. He said, "I shall listen to the Chief Minister"—the Chief Minister representing a minority. These are contradiction in terms: there is no Chief Minister representing a minority.

AN HON. MEMBER : What about Rajasthan ?

SHRI A. K. SEN : It is the same : I said the same thing there. You will remember that on the floor of the House I said that if the Governor found that in Rajasthan the Chief Minister had not the majority, he should call upon the leader of the majority and make him the Chief Minister. I said so here.

श्री रवि राय (पुरी) : आपकी पार्टी ने नहीं किया ।

SHRI A. K. SEN : That is a different matter. (*Interruption*) Now, therefore, if I may say so, the Centre has been accused by the people in both the States of timidity and hesitancy. This has been the accusation hurled against the Prime Minister and the Home Minister from these two States : that they have been too hesitant and too timid to restore the constitutional democracy in these two States. And if the Chief Ministers in these two States refuse to call the Assemblies, then the only fate which should overcome them is dismissal. (*Interruption*). The reports are that the Governor of West Bengal called upon the Chief Minister to call the Assembly by the 23rd November. No answer has come in up till now.

AN HON. MEMBER : What about Bihar ?

SHRI JYOTIRMOY BASU : What is the Governor's authority ?

SHRI A. K. SEN : He has every authority under the Constitution. (*Interruption*)

MR. SPEAKER : Order, order. The other Members can have a chance to speak. They can reply to him when they speak. But this is not the way.

श्री रामावतार शास्त्री (पटना) : क्या बिहार के गवर्नर ने मीटिंग बुलाई है ? उसने नहीं बुलाई है । (*Interruption*)

MR. SPEAKER : They will have the chance to speak; Shri Umanath will have a chance to speak; Shri Banerjee will also speak. Everybody will have the freedom to speak here, but then, if this is the way they begin to interrupt, I think it will be a dangerous thing. I have been seeing Shri Ramavatar Shastri interrupting from the very beginning. Order, order. I find that Mr. Shastri is disturbing the proceedings every minute. It is not proper. Mr. Umanath, Mr. Ramamurti and all of you will have a chance. Freedom of speech should not be disturbed at least on the floor of this House.

SHRI A. K. SEN : It may be the interpretation of some of the Constitution, that every member of the opposition has to be disturbed and *vice versa*. But we believe in that type of Constitution where every man is allowed to be heard and decisions are arrived at by a free majority vote. That is the lesson of democracy and the Constitution. If those who try to thwart it find that the Governor is an impediment, they accuse the Governor. The fault of the Governors in these two States is this. One Governor has not assumed office, but it is apprehended that he may demand the calling of the Assembly very soon. In the other case, the Governor asked the Chief Minister to call the Assembly. That is the only Constitutional thing possible. But he has done the worst crime in calling the Chief Minister to convene the Assembly. Where according to the Governor, the Chief Minister does not represent a majority, it is not only his power, but his duty to ignore his advice and call upon the party which has a majority to form the Government. That has been the lesson everywhere. If the party

[SHRI A. K. SEN]

which is called upon to form the Government does not have a majority, it will be voted out of power. If there is no other party with a majority to form a Government, then automatically the Assembly will have to be dissolved and President's rule will have to be imposed. We had it in Kerala and in Orissa. (*Interruptions*).

SHRI E. K. NAYANAR (Palghat) : As Law Minister you advised the Kerala Governor not to call the Assembly. (*Interruptions*).

SHRI A. K. SEN : These friends are not anxious to hear and they are interrupting. This will have no effect whatsoever either on us or on posterity.

No instance has been cited about these two Governors having contravened any article of the Constitution. On the contrary, the facts are so glaring that the Governors have been too patient with a minority Government.

SHRI S. M. BANERJEE : He is repeating too much.

SHRI A. K. SEN : It has to be repeated every second. Mr. Nath Pai has said that the supremacy of the people and the will of the people is the last determinant. There cannot be any quarrel about that. But is this the way to test the supremacy or will of the people by not calling the Assembly? It is all right to pay our devotion to the will of the people, but it is another thing to prevent the will of the people from being expressed on the floor of the Assembly. Mr. Nath Pai and all of them are not allowing them to express themselves on the floor of the Assembly. He says it can only be done by a no-confidence motion. How can a no-confidence motion be passed if the Assembly is not called?

Therefore, Sir, I have no doubt that this House will reject this motion as not only premature, not only unfounded but as having been moved with a purpose, namely, to buttress the continuance of two minority governments which have been functioning far too long.

SHRI N. DANDEKER (Jamnagar) : Mr. Speaker, Sir, the motion as it stands is one which we are unable to support because it is perfectly obvious from the speech of

Shri Nath Pai as well as from the demonstrations... (*Interruptions*). Sir, I was saying that we are unable to support the motion in the form in which it has been submitted by Shri Nath Pai for the simple reason, as is clear from the speech made by Shri Nath Pai and the interruptions which Shri Sen's speech encountered, that this motion is really meant as a cloak for demanding the continuance of the kind of situation that has been prevailing in Bengal. Therefore, in order to isolate the constitutional issues involved, my hon. friend, Shri Masani has tabled an amendment for the deletion of the words appearing at the end of the motion, namely : "as exemplified by current developments in Bihar and West Bengal". I, therefore, propose, in the short time at my disposal, in the first place, to deal with the motion as it has been put by Shri Nath Pai and, secondly, as it will be, were our amendment accepted.

In so far as the motion as it stands, including the words "as exemplified by current developments in Bihar and West Bengal", is concerned, I submit, it is not defensible in the terms in which it has been put. I will first take the case of Bihar where the only question was whether the State Government was or was not consulted in regard to the appointment of the Governor. Here, I am afraid, the facts are not very clear, but in so far as they are known it would seem that the President rather cavalierly dismissed the opinion of the Chief Minister of Bihar, by offering only one name and rejecting the comment that was made by the Chief Minister of Bihar in regard to that gentleman. I suggest the Constitutional provisions are quite clear. On the one hand, it is exclusively within the power of the President, in the exercise of his discretion, to appoint a Governor. While that is the provision of the article, I suggest there are also constitutional proprieties to be observed, but nothing else. They require that there must be a genuine attempt to ascertain the wishes of the State Government; to consult them, but not to allow them a veto. In other words, what is involved is an *accommodating consultation* by the President with the Government of the State concerned with a view to giving them considerable latitude and choice. But the ultimate decision has got to be that of the President and there can be no veto, so far as the State Government is concerned. That, Sir, is our position. And, as I said, I am not clear

whether in this case beyond the one name that was offered to the Chief Minister of Bihar the President of the Union of India did or did not offer other names and whether those names were or were not also rejected by the Government of Bihar. But if, as seems to be the case, only one name was suggested and on that one name the Chief Minister of Bihar expressed his dissent, then I suggest constitutional proprieties were not complied with. The President may have complied with the letters of the law but not the spirit, because I suggest the President should have had a wider consultation with the Chief Minister of Bihar before deciding upon the appointment of the particular person as Governor. So much for Bihar.

Turning now to the situation in Bengal, I am not myself a resident of Calcutta; but I have been making it my business over the past 8 months, partly because it is my business,—and I have also some business connection there,—but partly also because of the grave developments that have been taking place in Bengal; where industrial life has been in jeopardy, and industries are almost at a standstill right from Calcutta, all along throughout the industrial belt up to Asansol; where in the rural areas nothing short of an agrarian revolt has been deliberately fomented; where there has been a tricky situation deliberately created by the State government by ordering that the law and order machinery should not function; where it has taken a full Bench of the High Court to decide what indeed was obvious from the very beginning that things that were done in the name of gherraos and industrial disputes were a lot of criminal acts for which people could be prosecuted under the Penal Code; and as I said, I have been continuously watching the situation and developments in Bengal. But I have been also of the opinion that so long as the Legislature of West Bengal, however compelled, and so long as the West Bengal Government however composed, continued to enjoy the confidence of the majority in the Legislature, there was nothing the Governor can do or could do. And indeed there was nothing he sought to do. Let us get the facts right. So long as the Government of West Bengal enjoyed the confidence of the Legislature of West Bengal, there was nothing that the Governor tried to do that was unconstitutional;

there was not even any advice he gave of any kind that was unconstitutional. He perfectly constitutionally, tolerated the situation that was going on, because that unfortunately was his constitutional duty. But then this situation came to an end and had those extraordinary antics of the Chief Minister deciding to resign, then deciding not to resign, then making a statement as to why he had first decided to resign and then not to resign, and there after Shri Jyoti Basu and various other people making statements of their own contradicting the Chief Minister, and then his making further statements condemning Shri Jyoti Basu and all sorts of people. And then, at last, from this awful pandemonium a gentleman called Shri P.C. Ghosh decided to resign from this government and along with him went 14, 13 or 17, some such legislative support from the present Chief Minister.

Now, Sir, Shri Nath Pai has referred to the oath taken by the Governor. The oath taken by the Governor is that he will uphold the Constitution. What, in the circumstances, would he be upholding if he did nothing? Allowing this minority Chief Minister and his Cabinet to go on until at their own pleasure, in their own time, they sought a vote of confidence from the Legislature? I know, and everybody knows, what they are going to do between this time and the summoning of the Legislature, may be in December or in January. Those 14 members and many others are today living in terror and intimidation, of not physical violence; and I, therefore, suggest it was perfectly in the true spirit of the Constitution for the Governor to have suggested to the Chief Minister,—not ordered him but to have suggested to him,—that he should convene an early meeting of the Assembly so that his contention *vis-a-vis* the contention of others concerning the extent of his support could be tested. Was this unconstitutional? Was that not the only proper thing that the Governor could or should do? Would he not be committing a breach of the Constitution if he did *not* do that? Whether you look at it one way or the other way, it seems to me that the advice tendered by the Governor to the Chief Minister was constitutional and that the decision of the Chief Minister and his Cabinet colleagues not to convene the Legislature was unconstitutional and was

[SHRI N. DANDEKAR]

in total disregard of the oath which *they* took,—in total disregard of the oath which the Chief Minister and his Cabinet colleagues took when they assumed office.

Let me be quite clear. Are we talking about constitutional propriety or are we talking of what these people want, which is quite different from constitutional propriety? If we are concerned with constitutional proprieties, I have no doubt whatsoever, having as I said repeatedly made a study of the developments that have been going on in Bengal, that the conduct of the Governor of West Bengal has been in the highest constitutional traditions.

Now, Sir, a few words about the motion as it would be if the words “as exemplified by current developments in Bihar and West Bengal” were deleted. That is the amendment which has been tabled by my friend, Mr. Masani. When you read the motion as it then stands, you come up against two problems of constitutional relationship between the President and the Central Government, on the one hand the Governor and the Chief Minister on the other. In so far as that is concerned, I have no doubt whatever that the Central Government has had a very great tendency, right from the commencement of the situation as it developed after the last elections, to try and project party ideas and party requirements and party objectives into what should be plainly and simply the constitutional rights and duties of the President on the one hand and the Governor on the other, and of the Chief Minister. In so far as that is concerned, Rajasthan is a wonderful illustration of what the Central Government ought *not* to have done. There was a situation there after the elections, when there was a doubt—let me be perfectly generous and charitable to Dr. Sampurnanand—in the Governor's mind as to which particular group or groups commanded the majority in the Legislature. What did he do? As to what did he advise the Government of India to do and what the President should have done, I am not concerned, for these are also the personal discretionary responsibilities of the President. But eventually, instead of doing the constitutional thing, namely, to see whether a Government responsible to the Legislature

could be constituted, and for that purpose to invite the one or the other leader who claimed to have the majority immediately to summon the legislature and face up to the question, what did the Governor do? The Governor, pushed by the Central Government, pushed by party objectives, advised the President to impose the President's rule. I suggest that was unconstitutional.

If we are trying here really to tackle the constitutional problem, I suggest, the constitutional problem can be divided into three parts. First of all, the appointment of the Governor is at the discretion of the President. I entirely agree with Mr. Nath Pai that this should not be a vehicle for political patronage, it should not be the refuge for political incompetency or failure, it should not be the refuge for political inconvenience, but that it should be the place for competent people to be put there. I also agree that the President, although he has to sole discretionary power to make the appointment, as I stated earlier, should as far as possible do it in a consultative way with the Chief Minister concerned without giving to the Chief Minister the power of veto.

As regards, the Governor, plainly, he has a considerable field for the exercise of discretion. I do not think Mr. Nath Pai is right in saying that the discretionary powers of the Governor are anywhere defined and, therefore, limited. In fact, they are not defined and they are therefore unlimited. But there is one particular provision in the Constitution which says that where the Governor acts in the exercise of his discretion, his discretion shall not be questioned. There shall be no question about whether he was properly acting in the exercise of his discretion, for that itself is entirely a matter of his own discretion. But he has got certain constitutional objectives and obligations to which I have referred and this is where the Central Government comes in. There are articles 256 and 257 concerning the obligations of the State Government *vis-a-vis* the Central Government's obligations. Then, there are the articles which say that if it is clear to the Governor or to the President upon such information as he may have, that is, the President may have, that it is not possible to run the Government of the State in a constitutional way, then the President

in the exercise of his discretion has got the power, for the time being, to impose the President's rule and suspend the local Government's rule. I do not, therefore, say that the Central Government has no function in this at all. But I suggest that the function of the Central Government in this matter, under articles 256 and 257 and also under articles 355 and 356, is a limited one, namely, to see whether the State Government is not fulfilling the obligations of a fundamental character about the security of the country, to put it at its highest, or even, which is no less important, about the security of the individual and of property and of liberty and freedom of people as in the case of West Bengal. Then, I suggest that there is a power for the President to intervene—indeed it is not only power but I should say it is an obligation to intervene. But we must be very clear that this wide range of discretionary powers of the Governor and the President should not be made the play things of the Central Government who happen to be controlled by a political party totally opposite in complexion to the political groups or parties that happen to be in power in that particular State.

I do not wish to take more time. I would only like to summarise and say this. In regard to the Resolution as it stands, one cannot possibly support it except with one qualification as regards Bihar, and that is to inquire whether the Chief Minister was given an opportunity really to express an opinion on the alternative names. But beyond that, this Resolution is a cover and I am surprised that Mr. Nath Pai has allowed himself to be made a cat's paw. . . . (*Interruptions*) for urging in the House the continuance of a Government that would sell out,—let me put it bluntly—to a foreign power if the occasion arose. I am surprised that he has allowed himself to be used as an instrument for this sort of Resolution. Consequently, so long as this Resolution stands as it is, we cannot support it. But with the deletion of the words that I have just mentioned, which Mr. Masani moved as an amendment, you get into focus the true Constitutional issues, the true limitations on the powers of the President, the Governor and the Central Government to

introduce purely party political objectives into a local State Government situation, the true focus on the discretionary powers of the Governor, the true focus for the ultimate power, also a discretionary one, of the President to intervene.

SHRI NATH PAI : I am a little surprised to hear this from Mr. Dandekar who knows his language very well. I could expect to hear such loose remarks from others and I would not normally bother myself to take note of them, but since it comes from a man like Mr. Dandekar, I have to take the first opportunity to repudiate the insulting insinuation. You know this fact, Sir; we are a little more alert.

MR. SPEAKER : He has the chance to reply when he could make his position clear.

SHRI NATH PAI : Where a personal attack is made, it should be done immediately. He did make those remarks, and he should not be allowed to continue to adopt those tactics; he said, "cat's paw". His representative was present; and you were also present, Sir.—All the Party Leaders were there.—When I had the Adjournment Motion. We could not agree on the spot. Then I dictated this thing and it was taken down by the Secretary and the others signed. I am not used to be anybody's paw. If I have a paw, it is the lion's paw and I will show it done day to Mr. Dandekar.

श्री अटल बिहारी वाजपेयी (बलरामपुर) : अध्यक्ष महोदय, भारतीय लोकतन्त्र बड़े नाजुक दौर में से गुजर रहा है। केन्द्रीय सरकार के लिये यह परीक्षा का काल है। हमारा संघात्मक संविधान कसौटी पर कसा जा रहा है। पिछले 20 वर्षों तक केन्द्र और राज्यों में एक ही दल का एकाधिकार रहा। वह एकाधिकार अब टूट गया है। केन्द्र और राज्यों के बीच में जो प्रश्न खड़े होते थे, उन्हें कांग्रेस पार्टी के स्तर पर हल किया जाता था। लेकिन अब केन्द्र में कांग्रेस का शासन और आठ राज्यों में गैर-कांग्रेसी सरकारें हैं। संविधान की दृष्टि से, लोकतन्त्र की स्वस्थ परम्परा निर्माण करने की दृष्टि से, कौन से प्रश्न खड़े होंगे, इस का पिछले 20 वर्षों

[श्री अटल बिहारी वाजपेयी]

में विचार नहीं हुआ। पिछले आम चुनावों ने देश में लोकतान्त्रिक क्रान्ति की है। आठ राज्यों में कांग्रेस को सत्ता से अपदस्थ होना पड़ा है। अब हमारे संविधान की परीक्षा होगी। अब हमें स्वस्थ परम्परा स्थापित कर के दिखलाना होगा कि दल के हित के बजाय देश का हित हमारे लिये प्रमुख है। लोकतन्त्र की स्वस्थ परम्पराओं की स्थापना और उस का संवर्धन आज ये महत्वपूर्ण हैं।

अध्यक्ष महोदय, प्रश्न श्री नित्यनन्द कानून-गो का नहीं है, प्रश्न पश्चिमी बंगाल की सरकार को बचाने या उसको तोड़ने का भी नहीं है। व्यक्ति आयेंगे और चले जायेंगे, इस देश में लोकतन्त्रात्मक ढंग से सरकारें बनेंगी और बदलेगी। प्रश्न यह है कि क्या इस परीक्षा की घड़ी में हम लोकतन्त्र को मजबूत करेंगे या उसे कमजोर बनायेंगे। अध्यक्ष महोदय, हमारा संविधान संघात्मक संविधान है। राज्यपाल का एक महत्वपूर्ण स्थान है। यह ठीक है कि राज्यपाल केन्द्र का प्रतिनिधि होता है, किन्तु जिस राज्य में नियुक्त किया जाता है उस राज्य का प्रमुख भी होता है। कहा गया है कि उसे दोनों के बीच की कड़ी बनना चाहिये। लेकिन वह कड़ी तभी बन सकता है जब उसे संविधान के अनुसार आचरण करने के लिये विवश किया जाय। वह केन्द्र और राज्य की कड़ी तभी बन सकता है जब वह केन्द्र और राज्य दोनों के विश्वास का सम्पादन करे और उस विश्वास की रक्षा करे।

हमारा संविधान स्पष्ट है। राज्यपाल को वे अधिकार नहीं दिये जा सकते जो अधिकार राष्ट्रपति को भी हम ने नहीं दिये हैं। कहा जाता है कि राज्यपाल स्वविवेक का उपयोग कर के विधान सभा की बैठक बुला सकता है, स्वविवेक (डिस्क्रिशन) का उपयोग कर के विधान सभा को भंग कर सकता है—मैं समझता हूँ कि संविधान के निर्माताओं की यह मंशा नहीं थी। किन मामलों में राज्यपाल अपने स्वविवेक का उपयोग

करेगा ये बिल्कुल स्पष्ट कर दिये गये हैं। चुनाव के बाद किस व्यक्ति को मुख्य मंत्री के रूप में सरकार बनाने के लिये निमन्त्रित किया जाय—वहाँ राज्यपाल के लिये स्वविवेक का उपयोग करने की गुंजाइश है। राज्य की विधान सभा द्वारा पारित किसी विधेयक को स्वीकृत किया जाय या न किया जाय—इस में भी राज्यपाल स्वविवेक का उपयोग कर सकता है। कानून के द्वारा अगर राज्यपाल किसी पद पर मनोनीत किया जाता है, उदाहरण के लिये अगर राज्यपाल किसी विश्वविद्यालय का कुलपति बनता है तो कुलपति के अधिकारों का उपयोग करते समय वह स्वविवेक से काम ले सकता है। लेकिन विधान सभा की बैठक बुलाना मुख्य-मंत्री के परामर्श के बिना राज्यपाल के अधिकार क्षेत्र के अन्तर्गत नहीं आता।

मुझे ताज्जुब है अभी नई दिल्ली में राज्यपालों का जो सम्मेलन हुआ, उसमें बड़े खतरनाक निर्णय किये गये। समाचर पत्रों की रिपोर्ट कहती है कि राज्य पालों ने यह तय कर दिया कि वे स्वविवेक का उपयोग बिना किसी बन्धन के करेंगे। मैं समाचार का एक अंश सुनाना चाहता हूँ—

Where a Government which has lost its majority refuses to face the legislature, the Governor should call any other person commanding a majority to form a Government.

इस का निर्णय कौन करेगा कि सरकार अल्पमत में रह गई है। इस का निर्णय राज्यपाल भवन में किया जायगा या विधान सभा भवन में ?

श्री अ० कु० सेन : विधान सभा में, बुलाइये विधान सभा को।

श्री अटल बिहारी वाजपेयी : अगर निर्णय विधान सभा भवन में होना है, तो विधान सभा का अधिवेशन कौन बुलायेगा? सब स्वीकार करते हैं कि विधान सभा की बैठक मुख्य मंत्री को बुलाना है। कहा जा रहा

है कि अगर मुख्य मंत्री विधान सभा की बैठक बुलाने से इन्कार करता है तो गवर्नर क्या करे? अध्यक्ष महोदय, हमारे संविधान में स्पष्ट लिखा हुआ है कि विधान सभा की दो बैठकों के बीच में 6 महीने से ज्यादा का अन्तर नहीं होना चाहिए। 6 महीने के भीतर विधान सभा की बैठक होनी चाहिए। अगर आज यह स्थिति पैदा हो गई है कि 6 महीने का समय कांग्रेस पार्टी को ज्यादा मालूम होता है, यद्यपि संविधान के निर्माण में कांग्रेस पार्टी का बड़ा हाथ था तो वह संविधान में संशोधन का विधेयक ला सकती है। यह अवधि 6 महीने से घटा कर तीन महीने की जा सकती है लेकिन जब तक भारत का संविधान यथावत है विधान सभा की बैठक 6 महीने के भीतर होनी चाहिए। उस के लिए कोई चीज मुख्य मंत्री पर लादी नहीं जा सकती। कोई सरकार अल्पमत में है या नहीं इस का निर्णय विधान सभा को करना होगा। यह निर्णय राज्यपाल पर नहीं छोड़ा जा सकता . . . (व्यवधान) मध्य प्रदेश के लिए जो कहा गया तो मैं बतलाना चाहता हूँ कि मध्य प्रदेश में विधान सभा की बैठक में सरकार गिर गई थी

एक माननीय सदस्य : हरियाणा में क्या हो रहा है ?

श्री अटल बिहारी वाजपेयी : धीरज रखिये, मैं हर एक सवाल का जवाब देने को तैयार हूँ। मैं अभी हरियाणा पर भी आऊंगा।

राज्यपालों ने हाल के अपने सम्मेलन में यह निर्णय किया है कि अगर कोई मुख्य मंत्री विधान सभा की बैठक न बुलाये तो राज्यपाल किसी और व्यक्ति को जिसे वह समझता है कि इस का बहुमत है, सरकार बनाने के लिए निर्मात्रित कर सकता है। मान लो कि ऐसा व्यक्ति निर्मात्रित किया गया, विधान सभा की बैठक हुई और उस की सरकार को बहुमत नहीं मिला तो राज्यपाल की स्थिति क्या होगी ? जब निष्ठाएं बदली जा रही हैं और

गृह मंत्री ने कहा कि एक हफ्ते में चार बार दल बदले जाते हैं, पश्चिमी बंगाल का गवर्नर इस निर्णय पर पहुंचे कि जो सरकार है वह अल्पमत में है और और विधान सभा की बैठक होते होते वह बहुमत में हो गयी तो राज्यपाल की स्थिति हास्यास्पद हो जायगी। स्पष्ट है कि अगर प्रश्न को संविधान की दृष्टि से देखना है तो जहां तक विधान सभा की बैठक बुलाने का सवाल है राज्यपाल को मुख्य मंत्री के परामर्श से काम करना ही होगा।

लेकिन प्रश्न केवल संवैधानिक नहीं है राजनीतिक भी है। कोई मुख्य मंत्री अल्पमत में होते हुए शासन चलाये हम यह नहीं चाहेंगे। लोकतंत्र का तकाजा है कि वह मुख्य मंत्री जल्दी से जल्दी विधान सभा में शक्ति का परीक्षण करे और मैं चाहूंगा कि पश्चिमी बंगाल के मुख्य मंत्री और हरियाणा के मुख्य मंत्री भी विधान सभा की बैठक जल्दी से जल्दी बुला कर अपना बहुमत प्रमाणित करें। (व्यवधान) हम पश्चिमी बंगाल में सरकार में शामिल नहीं हैं। एक सदस्य चुना गया था जिसे कांग्रेस पार्टी ने खरीद लिया (व्यवधान) और जब मैं कह रहा हूँ कि कांग्रेस पार्टी ने खरीद लिया तो कांग्रेसी मित्र खुश हो रहे हैं। हम हरियाणा में सरकार का समर्थन कर रहे हैं। हम वहां सरकार में शामिल नहीं हैं मगर हम ने हरियाणा के मुख्य मंत्री से कहा है कि विधान सभा की बैठक जल्दी से जल्दी होनी चाहिए। 3 दिसम्बर, को एक उपचुनाव है, यह कोई बहाना नहीं हो सकता विधान सभा की बैठक को टालने का जैसे पश्चिमी बंगाल में प्रोक्पोरमेंट कोई बहाना नहीं हो सकता विधान सभा की बैठक को टालने का, लेकिन पश्चिमी बंगाल के मुख्य मंत्री ने विधान सभा की बैठक बुलाने से इन्कार नहीं किया है। वह 16 दिसम्बर को बैठक बुला रहे हैं। वह बैठक जल्दी हो इस बात का भी आग्रह किया जा सकता है मगर यह आग्रह राजनीतिक स्तर पर

[श्री अटल बिहारी वाजपयी]

होना चाहिए। गवर्नर को छोटा डिक्टेटर बनने की छूट नहीं दी जा सकती। मैं यह कहना चाहता हूँ कि हम में से कोई भी दल पार्टी के हित में ऐसा काम न करे जो भारतीय लोकतंत्र के विकास के मार्ग में एक खतरनाक परम्परा डालने का कारण बने। आज पश्चिमी बंगाल में कांग्रेस सत्ता में नहीं है और केन्द्र में सत्ता में है, कल यह स्थिति बदल भी सकती है। इसलिए प्रश्न को दलगत चश्मे से नहीं देखना होगा बल्कि लोकतंत्र के व्यापक हितों में देखना होगा। संविधान के अक्षर की और संविधान की भावना की रक्षा करनी होगी और उस का सम्मान करना होगा।

मुझे बड़ा ताज्जुब है कि जहां तक राज्यों की विधान सभा बुलाने का प्रश्न है विधान सभा के अध्यक्ष कहीं तस्वीर में नहीं हैं। संदस्यों के लिए इस बात की छूट होनी चाहिए यह परम्परा होनी चाहिए, आवश्यक हो तो यह नियम बनाया जा सकता है कि अगर विधान सभा के बहुसंख्यक सदस्य अध्यक्ष से जाकर मांग करें कि विधान सभा की बैठक बुलाई जाय तो अध्यक्ष मुख्य मंत्री के साथ परामर्श करके राज्यपाल को बिना तस्वीर में लाये हुए विधान सभा का बैठक बुलायें जिसमें यह निर्णय हो कि किस के साथ बहुमत है और किस के साथ नहीं है। किंतु 20 साल तक, जो आज परम्परा स्थापित करने की बात कर रहे हैं, उन्होंने विधान सभाओं के अध्यक्षों को कहीं तस्वीर में नहीं रक्खा, आज वह तस्वीर में राज्यपाल को लाना चाहते हैं क्योंकि वह समझते हैं कि राज्यपाल नई दिल्ली की इच्छाओं का पालन करेगा।

अध्यक्ष महोदय, पिछले 8 महीनों में 8 प्रदेशों में गैर कांग्रेसी सरकारें चल रही हैं। कोई भी ऐसा उदाहरण हुआ है कि राज्यपाल का निर्णय किसी गैर कांग्रेसी दल के पक्ष में गया हो? (व्यवधान) क्या कारण है कि

हर बार निर्णय कांग्रेस पार्टी के हक में ही होता है चाहे वह मध्य प्रदेश हो चाहे वह राजस्थान हो। अब बंगाल की बारी आई है। राज्यपाल राष्ट्रपति के प्रतिनिधि हैं, केन्द्र और राज्य को जोड़ने वाली कड़ी है। वह संघात्मक संविधान के एक महत्वपूर्ण पद पर आरूढ़ सम्मानित व्यक्ति है या नई दिल्ली के इशारों पर चलने वाला, जनता के मत में अपने लिए आदर पैदा न करने वाला, केन्द्र के हाथ का खिलौना है? हमें इस प्रश्न पर बड़ी गम्भीरता से विचार करना होगा।

यह कहा गया कि राज्यपालों की नियुक्ति की पुष्टि लोकसभा में होनी चाहिए। हमारे मित्र श्री नाथ पायी ने इस आशय का एक विधेयक भी दिया है। मैं उस से सहमत नहीं हूँ। लोकसभा की स्वीकृति का अर्थ है बहुसंख्यक दल की स्वीकृति। लोकसभा की मुहर क्या होगी? वह तो बहुसंख्यक दल का निर्णय होगा। हम इस जाल में नहीं फँसेंगे। फिर लोकसभा में अगर पुष्टि करनी पड़ेगी तो नामों पर विचार होगा। गुणावदोषों की चर्चा होगी, पुराने पाप प्रकट किये जायेंगे, नये आरोप लगाये जायेंगे। जो व्यक्ति राज्यपाल बन कर जायगा उस की पहले ही छीछालेदार हो जायगी।

एक यह भी सुझाव दिया गया है कि केन्द्र सरकार विरोधी दल के नेता से विचार विमर्श करके राज्यपाल को नियुक्त करे। आज की स्थिति में यह सुझाव भी व्यवहारिक नहीं दिखाई देता है।

तीसरी बात यह कही गई है कि जब राष्ट्रपति राज्यपाल की नियुक्ति करता है तो उन्हें केन्द्रीय सरकार से परामर्श से काम करने की ज़रूरत नहीं है। वह स्वाविवेक से नियुक्ति करें। मैं इस बारे में अपनी शंकाएं रखता हूँ। राष्ट्रपति कहां स्वाविवेक का पालन करें या न करें यह अभी स्पष्ट होना बाक़ी है। स्वर्गीय डा० राजेन्द्र प्रसाद ने इस बात की चर्चा चलाई थी कि राष्ट्रपति

के अधिकार क्या हैं, क्या नहीं हैं, इस की चर्चा होनी चाहिए। बहुमत इसी पक्ष का निकला कि राष्ट्रपति को केन्द्रीय सरकार की सलाह से काम करना है। अब यदि राज्यपाल नियुक्त होंगे केन्द्रीय सरकार को सलाह से और राष्ट्रपति उन्हें नियुक्त करेगा तो हमें नये ढंग से सोचना होगा। मैंने प्रारम्भ में निवेदन किया कि राज्यपाल केन्द्र का प्रतिनिधि होगा मगर वह राज्य का प्रमुख भी होगा। क्या यह सम्भव नहीं है कि केन्द्र सरकार दो, तीन नाम मुख्य मंत्रियों के सामने रखे। एक पैनल रक्खा जाय और मुख्य मंत्री उस पैनल में से एक नाम चुन लें। मैं यह तो नहीं चाहूंगा कि राज्य सरकार जो कहे जिस किसी व्यक्ति को चाहे, उसी व्यक्ति को राज्यपाल बना दिया जाय।

उदाहरण के लिए अगर पश्चिम बंगाल सरकार कहे कि निर्मलचन्द्र चटर्जी पश्चिम बंगाल के राज्यपाल बना दिये जायें, तो लोक सभा में उन का अभाव हो जायेगा, इस लिए हम इस बात की सलाह नहीं देंगे।

SHRI N. C. CHATTERJEE : I shall never want to be a candidate for that post.

श्री अटल बिहारी वाजपेयी : लेकिन अगर बिहार की सरकार कहती है कि हम श्री नित्यानन्द कानूनगो को नहीं चाहते, तो फिर क्या राज्यपाल धोपे जायेंगे? क्या राज्यपालों को लादा जायेगा? बिहार सरकार कहती है कि हम सहयोग नहीं करेंगे, तो राज्यपाल अपने राजभवन में क्या करेगा? लोकतन्त्र बड़ा नाजुक पौदा है, लोकतन्त्र को धीरे विकसित करना होगा। केन्द्र को सब को साथ ले कर चलने की भावना से आगे बढ़ना होगा। अगर केन्द्र में यह भावना है कि वह सरकार गैर-कांग्रेसियों की सरकार है, और वह स्वयं उन राज्यों में विरोधी दल में बैठी है, तो फिर इस देश का लोकतन्त्र खतरे में पड़ जायेगा।

पश्चिम बंगाल में बहुत सी ऐसी चीजें हो रही हैं जिन्हें हम पसन्द नहीं करते नक्सल-बाड़ी में सशस्त्र विद्रोह करने के प्रयत्नों को सब से पहले हम ने इस सदन में उठाया था हम ने घेराव का विरोध किया है। पश्चिम बंगाल में कुछ लोग माओ त्से तुंग का नारा लगायें, इस बात को बर्दाश्त नहीं किया जा सकता। लेकिन कुछ लोगों को सारा बंगाल समझने की गलती मत कीजिए। यह वह बंगाल है जिस ने बन्दे मातरम का नारा दिया था, जिस बन्दे मातरम के नारे को ले कर लोग फांसी के तख्तों पर झूल गये थे। यह वह बंगाल है जिस ने नेताजी को पैदा किया, जिन्होंने जय हिन्द का नारा दिया और सारे देश में एक प्रेरणा पैदा की। यह वह बंगाल है जिस ने डा० मुर्कजी जैसा नररत्न पैदा किया। केन्द्र का एक गलत कदम उन तत्वों के हाथ मजबूत करेगा जिन की लोकतन्त्र में आस्था नहीं है, जो हथियारों से शास्त्र को बदलना चाहते हैं। लडाई राजनीतिक है, निर्णय राजनीतिक स्तर पर करना होगा। ऐसी सरकार को जो बहुमत में नहीं है, जनता का सामना करना होगा। बकरी की मां कब तक खैर मनायेगी। लोकतन्त्र में देर हो सकती है लेकिन अन्धे नहीं होना चाहिये। लोकतन्त्र देर से चलता है, लोकतन्त्र धीरे धीरे पीसता है, मगर बारीक पीसता है। इस सदन को और इस सरकार को बंगाल की जनता पर विश्वास होना चाहिये। वह ऐसे तत्वों से लड़ेंगी। ऐसे तत्वों से लड़ने का उस का अधिकार है, ऐसे तत्वों से लड़ना शेष भारत का कर्तव्य है।

अगर किसी राज्य में संविधान के अनुसार शासन नहीं चलता या कानून व्यवस्था भंग हो गई है तो केन्द्र हस्तक्षेप कर सकता है। आज अगर ऐसे हस्तक्षेप की नौबत आई है तो वह जम्मू और काश्मीर में भी आई है। मगर जम्मू और काश्मीर में शासन, जैसा मेरे मित्र श्री नाथपाई ने कहा, उन का है जो नई दिल्ली में भी सत्तारूढ़ हैं। अभी कांग्रेस को वह समझना बाकी है कि जिन आठ राज्यों

[श्री अटल बिहारी वाजपेयी]

में कांग्रेसी शासन नहीं है वहाँ कांग्रेसी लोगों को विरोधी दल में बैठने का अभ्यास करना चाहिये। केन्द्रीय कांग्रेस को नेताओं लोकतन्त्र की परम्पराओं का जिस समय अन्तिम रूप से निर्धारण होने जा रहा है, उन का दृढ़ता से पालन करना चाहिये। मैं चाहूँगा कि सारी परिस्थिति पर गम्भीरता के साथ विचार कर के निर्णय किये जायें।

SHRI HANUMANTHAIYA (Bangalore)
Sir, I do not want to deal with this question from a political angle. I will try my best to deal with it from the constitutional point of view. The Administrative Reforms Commission is studying this question under the heading "Centre and State Relationship". We appointed a study team under the chairmanship of Mr. Setalvad, former Attorney General of India and he has given a report. I see from the discussion going on in this House and outside that there is need for further clarification of the powers of the Governors, particularly in the context of different parties forming Governments in the States and the Centre. The present question is whether the Home Ministry has acted according to the articles of the Constitution or has violated any principles of the Constitution for party purposes.

Shri Nath Pai is a great democrat. I have firm belief that he is socond to none in upholding the conventions and constitutional provisions to make democracy safe for this country. I shall first deal with the Governor of Bihar. The relevant article is 156(3) which says :

"Subject to the fore going provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office :

Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office."

The Constitution fixes five years as the term and it does not give latitude even to the Government either to extend it or to curtail it. The proviso merely provides for, as they say, joining time. It may be one week

or a few weeks by the time the other Governor takes over charge. This article and the provisions have to be strictly implemented. The present incumbment, namely, the Governor of Bihar has completed five years. If he or the Chief Minister or any one of us tries to extend the period by any method or means it is unconstitutional, it is not even dignified. For a Chief Minister to press the Home Minister to violate the article I have just quoted is not right. Here is a case where Government of India is trying to act in conformity with the provisions of the Constitution. If the Chief Minister of Bihar—may be he has taken a liking for the present incumbent or it may be for some other reason—asks the Home Minister to extend his term, clearly he is asking the Home Minister to go beyond the powers conferred on him by the Constitution. My hon. friend Shri Chatterjee says there have been instances. I know that and I have all the time pleaded with the previous Prime Minister that it was wrong, it is unconstitutional to continue Governors after their term of five years. If he so desires, if he is fond of a particular individual, he can give him another term in another State or even in the same State. That is perfectly constitutional. But to keep him and to go on extending his term, my friend Shri Nath Pai will seem is not in consonance with the provisions of the Constitution.

Secondly, the Bihar Chief Minister, my hon. friend Shri Nath Pai argues, is consulted. Consultation with him is not taken by the Home Minister as decision. I am sure Shri Nath Pai is quite conversant with the meaning of the word "consultation". It is not "decision". The Chief Minister has to be consulted. That is a convention. But after consultation the Government of India has to weigh whether the consultation, whether the advice tendered or whether the opinion given is in consonance with the provisions of the Constitution.

In this case if the Chief Minister of Bihar asked the Home Minister to continue him indefinitely or even for one year, where is the provision either in the Constitution or in any other act for such continuance. If, in spite of that, the Chief Minister of Bihar and others persist in wanting to continue the Governor unconstitutionally, again against the provisions of the Constitution,

Shri Nath Pai, being an upholder of the Constitution, should be the last person to support such a move.

18 hrs.

So far as Shri Kanungo is concerned, we are not entering into any discussion on the merits of his personality. In the case of every personality, some people praise and some others blame. But that is not the issue here. Some may find Shri Kanungo good, while some others may not find him so good. But that is irrelevant for the purpose of this debate. Shri Kanungo has not completed the full term of five years and he is not a defeated candidate, as some Members have alleged. He has been posted within the period of five years from the State to another, which is perfectly constitutional.

So far as West Bengal is concerned, whether the Governor has the authority to summon the Legislature is made clearly by article 174. Further, the Governor is not a mere rubber stamp. Let us remember that the Constitution vests him with so many powers. The status given to him is that of the head of the State and the head of the executive. Article 168 says that in every State there shall be a Legislature which shall consist of the Governor and two Houses of the Legislature or one House, as the case may be. Therefore, the Governor is part and parcel of the Legislature; but not so the Chief Minister. The Governor enjoys a constitutional status of his own, as distinguished from the status and power which the Chief Minister enjoys. Being a part of the Legislature, if the Governor takes interest in the maintenance of the Legislature and its proper procedure, he is acting rightly and constitutionally. Then, article 174 says :

“The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit.....”

This power to summon the Legislature is advisedly vested in the Governor. Along with many other Members I have also been in the Constituent Assembly. Even if I do not claim the privilege of participating more effectively in the proceedings

M78LSS (CP)/67—12

of the Constituent Assembly, at least I have followed the debates. So, I am aware of the intention of the Constituent Assembly when it incorporated these provisions in the Constitution. There may be a case where the Chief Minister takes the law into his own hands, does not summon the Assembly and equates his personal will with the will of the people. To safeguard such contingencies an impartial person, who is not a member of any political party, who is not wedded to any political ideology, is asked to be the Head of the State so that at a time of emergency and crisis he can take impartial decision in consonance with the provisions of the Constitution.

In this particular case the Leader of the Opposition in the West Bengal Assembly and some others say that they have a majority and the present incumbent in the office of Chief Minister says that he has got the majority. The Governor is placed in a very difficult position. He has to take a decision objectively, just as a judge has to take a decision objectively between the two parties. Here there are two parties. It is not a case where the Chief Minister is being questioned of his powers which he exercises with reference to administration, executive functions, or the policies he lays down. It is a function which the Governor is called upon to exercise where the self-interest and the very existence of the Chief Minister is at stake. The Chief Minister, necessarily, in such a case is not the best person to judge. He, necessarily, takes a subjective view. An objective view has to be taken under such circumstances. If every Chief Minister, under such circumstances, is allowed to run away with the subjective decision, then the Constitution will break down. Therefore, the Governor has a difficult task of arbitrating or judging between the two positions, between the two persons, and he can do it only by summoning the Legislature. Here, he is not proposing to dismiss the Ministry, he is not proposing to impose. President's rule although he has the power to recommend such a step to the President. He is merely asking the Chief Minister to summon the Assembly as soon as possible. Any self-respecting Chief Minister, when his existence is questioned, when his majority is questioned, should be the first person to say, “Why wait for one month or two months ? Let us summon it within a week.”

[Shri Hanumanthaiya]

That is the way of honourable conduct; that is the way of exhibiting self-respect. If the Chief Minister says, "Don't summon the Legislature so soon summon it at my convenience", it is like accepting the argument of the accused without question.

Mr. Nath Pai has to see the constitutional propriety. All that he quoted and said are good principles with which we have no disagreement. In fact, all that he quoted is relevant in the sense that they are accepted principles. But their application is the real matter. When he applied those principles to these particular cases, his eloquence carried him astray. In his cooler moments, I am sure, he will see what is being done by the Government of India or the Governor is the only step that will guarantee the continuance of democratic methods.

I would make an appeal to him only in one sentence and I have done. He said let not the States be the colonies of the Centre I would say in all sincerity that we also agree with him that we will not make the States the colonies of the Centre. But let us not unwittingly allow the State to become a colony of China.

SHRI ANBAZHAGAN (Tiruchengode):

Mr. Speaker, Sir, after listening to the arguments for and against the motion, I express the view on behalf of the D. M. K. Party that the motion is to be considered by one and all in the sense in which it is presented here. The motion is that the appointment of Governors by the ruling Party at the Centre, through their advice to the hon. President, has, more or less, become a party affair and that the upholding of the Constitution is not at all the aim in the appointment of such Governors. Now, it has come to the fore, and the public opinion is very often expressed, that the appointment of the Governor for the State of Bihar is, more or less, for the sake of the ruling Party to protect the interest of the Congress and not to protect the interest of the State of Bihar. Whether we like it or not, the State of Bihar has gone to the Opposition and whether the Opposition parties in coalition have come to an understanding or not, they have formed a Government and that Government is not yet toppled down. Unless the Legislature is summoned

there and the Vote of No-Confidence is carried, it is expected that the Government is going on and is run by the Chief Minister. If the Governor's advice is accepted by the Chief Minister, it is all right. But if it is not accepted by the Chief Minister, then the controversy arises and if the Central Government has not got the real interest of protecting the Constitution, that itself comes into jeopardy.

As to what is exemplified here by Mr. Nath Pai, whether I agree in full or not, I would like to say that in the case of West Bengal, the Governor advising the Chief Minister to summon the Assembly and the Chief Minister saying that it could take some more time, on such an issue, the Chief Minister's view should prevail upon the Governor. The Governor may have his own reasons that the Assembly should be summoned at once, but the Chief Minister of the State, who is an elected representative of the State and is also an elected Leader of the Assembly, has to be consulted and his views in the matter should be considered. Even if it is called 15 or 20 days later, nothing will be lost; nothing will be lost because the date is postponed. The Governor should not impose his own view on the Chief Minister. Democracy should be allowed to continue. Even if there is any fault, anything untoward, the Governor should not take the power in his own hands to summon the Assembly and also interfere in the affairs of the State. Democracy is yet on trial in this country and Democracy is not yet fully approved even by the senior Party which has been ruling this country for the last twenty years. Even the leaders of the Congress Party are not yet accustomed to the democratic principles. The Constitution is often quoted, but it is not followed. Those very people who are very often saying that the Opposition Parties are not keeping up to the Constitution are doing so many things against the Constitution. My friends on this side have quoted so many things. Specially I would like to say that because the ruling Party here at the Centre is yet powerful, they should not think that whatever they think is all right; they should not follow one method or one rule for their own Party in a State and follow another rule or another method for the Opposition Parties in another State. There

have been so many instances quoted by the hon. members of this house. Whether this Motion is going to be passed or not, it does not matter for me, but what all is expressed on this Motion here is more important and the ruling Party, which has got the opportunity of advising the President to appoint the Governor, should take into consideration all these things and they should not, at least hereafter, commit the same mistake which they have done in the case of Bihar. The Constitutional provision may be there only in a few lines, but the President has got every duty to consult the Chief Minister of a State, because as the President is elected by the Houses here, the Chief Minister is elected by the people as well as by the House there. Naturally the President should consult him in full and should not do anything to suit the convenience of the Party which is ruling here. Therefore, I would like to say that the same mistake should not be committed again. The Governor should be there as the Head of the State only to protect the interests of the people, and in order to protect the interests of the people, he should be the guardian of democracy, the watch-dog of democracy, and in no sense should he become a barking or a biting dog. Because the Governor's position is such an honoured one—he is considered to be the Constitutional Head of the State though he is not elected and is appointed by the President—it should be maintained by his not interfering in the affairs of the State, especially Party politics. There are so many things to doubt the position of the Governors that they are interfering in the internal matters of the States. Such things should not be allowed and such things should not be encouraged by the Central Government. There have been many instances which have been quoted in the case of Rajasthan, Kashmir and so many other States. Such things should not be repeated and I wish, whether this Motion is passed or not, what all is expressed on this Motion should be given full consideration in the sense that the Central Government should not commit the same type of mistake again and again, especially in the matter of appointing Governors. The Government may now change their position even in the case of the appointment of the Governor of Bihar; because there is so much opposition here, there is so

much opposition also from the State Government, the Central Government may advise the President to recall the Governor of Bihar, so that democracy and the democratic hopes of the people prevail upon the Central Government also. The Central Government should also at least satisfy the demand of the people by accepting the demand of the Opposition as well as the Chief Minister of the Bihar State.

SHRI INDRAJIT GUPTA (Alipore): We listened with attention to the speech made by the self-proclaimed main advocate of the Government case, Shri A. K. Sen. I come from the same city from which Shri A. K. Sen comes, though unlike him I do not have the dubious honour of representing that part of the city which includes the Dalhousie Square, Bara Bazar and Clive Street, areas which are dominated by names which also decorate the pages of the Monopoly Enquiry Commission's report.

Shri A. K. Sen made much of what he described in West Bengal as a curious amalgam of 14 groups or 14 parties. His speech was to my ears also a curious amalgam of pseudo-constitutional law and political frustration. Shri A. K. Sen is an advocate of lost causes. I know that.

SHRI PILOO MODY (Gcdhra): Lost cases or lost causes ?

SHRI INDRAJIT GUPTA : I am told that at present he is also the advocate on behalf of six former Ministers of Bihar who are being arraigned before a tribunal for an investigation into whether or not they misused their official position for their personal advantage.

However, the point which he made much about was in regard to the question of calling the Assembly in West Bengal to test whether the present Ministry really enjoys the majority support or not.

I am not a constitutional lawyer and I know that if six constitutional lawyers are consulted they will give six different opinions.

AN HON. MEMBER : Seven.

SHRI INDRAJIT GUPTA : But I have with me the opinion given to the West Bengal Government by the Advocate-General of our State. I think it is at least necessary that the House should know what the Advocate-General of West Bengal feels in this matter.

In the first place, he has said, and I think it is necessary to point that out, that no Assembly or no legislature is ever summoned explicitly and expressly for the purpose of testing the strength of a Ministry; it cannot be done. A legislature is summoned for its normal business. It is then the duty of some private Member, if he so wishes, or a group of private Members, to table a no-confidence-motion, and then only the question of testing will come. The Assembly cannot be summoned for the purpose of testing the majority position of the Ministry. That is the first point.

Secondly, is the Governor of West Bengal sure, and is he certain, that the present Ministry has lost its majority support? By his own statements which have appeared that is not the position. The newspapers have published in full the text of the Governor's letter dated the 6th November to the Chief Minister in which he says :

"A doubt has arisen about the present United Front Government enjoying the confidence of the majority in the Assembly. In the circumstances, I feel that the Assembly should be convened as soon as possible."

These are his words. Therefore, on his own admission, even he does not go beyond saying that a doubt has arisen and then he proceeds to advise the Chief Minister that he should call the Assembly. As far as I understand the Constitution, it is the job of the Governor to act on the advice of the Council of Ministers; he is at the receiving end of the advice. He is not supposed to give advice. Anyway, that apart, the Constitution, in the opinion of the Advocate-General of our State, has not designed the office of the Governor to serve as a barometer to record the shifting political strength of a ministry or as a computing machine to make arithmetical calculations to assess such strength from day-to-day according

to the shifting political affiliations of individual members. I am quoting the advocate General. This is not the job of the Governor. If it were so, he says, then the Governor may have to instal and dismiss a number of ministries in the inter-sessional period as the defection of members to and fro oscillates like a pendulum, every time a doubt arises in his mind as it has happened this time.

As far as we know the facts, a bunch of letters couched in identical language, typed probably on the same typewriter and on the same kind of paper, was handed over to the Governor by Dr. P. C. Ghosh, and is the Governor satisfied? He is not satisfied, he has himself said that a doubt has arisen.

I could understand if the Ministry had refused point blank to all the assembly. Then, some case could be made out by the other side, but that is not so. The whole trouble has arisen over a difference of dates. Some people are in a hurry, I know, their indecent haste is not being concealing very well. If it is a squabble whether it should be on the 23rd November or 16th December, then, in a case like that, should the Governor be guided ultimately by the advice of the Ministry, or should he acting in what is called his own discretionary powers, summon the Assembly direct. When it is a question of difference in dates, when he himself says a doubt has arisen, he is not certain, when the letters of the alleged defectors were handed over in a bunch by one gentleman, couched in the same language, typed on the same machine, when that is the position, it is not the job of the Governor to keep track who is oscillating where, because then between two sessions of the Assembly, each time he will have to dismiss the Ministry and get it resign, and call the next one. That is one question.

The other point which has arisen is this. Mr. Sen did not make a clean breast of it here, but it is being meted about so much in the press. The Law Ministry of the Government of India is supposed to have advised the Governor when he was here recently that he has got the power, if he is so satisfied, to dismiss the Ministry. I do not know whether this is the advice that is being given to him or not, but

certainly this Ministry is not responsible to the Governor, it is responsible to the Legislative Assembly and to no body else. And even a paper like the *Statesmen* which is not very kindly disposed towards our Ministry has written only two days ago in its editorial :

“Only an open verdict in the Assembly can establish beyond a shadow of a doubt... —that is the point—

“...that the ministry has ceased to enjoy the confidence of the majority in the legislature and is no longer responsible to it as required under the Constitution. The other alternatives in vogue which are suggested as a parade of dissidents before the Governor or signatures, even genuine ones, attached to petitions expressing lack of confidence, are, by themselves, inadequate as a basis for action.”

These are the *Statesman's* words.

“Any other action of a Governor using his discretionary powers to convene a meeting of the Assembly overriding the Chief Minister's unwillingness, need not arise. Such a course may be as much unnecessary as politically inexpedient.”

This is the position. That I wish to say is that we are now functioning in a totally changed political context, it has been referred to by many friends, where the Government at the Centre itself has got a precarious majority in Parliament, where the party in power is not able to secure a majority in about nine States of the Indian Union. In such changed political context, to talk big about the discretionary powers of the Governor who is appointed by the Government is simply, Sir, to instigate, to incite Governors in certain cases to act against the constitutionally elected State Governments and the State authorities. This is not the old milieu that we are working in where there was no problem of this type, because the same party ruled everywhere with a monopoly of power. That change has taken place now completely and the future of democracy in this country will depend on whether these Governors are really to be the upholders of the Consti-

tution or to function as the agents of the Union Home Ministry. That is the whole issue at stake today. It is very easy,—I know, for a party whose power is dwindling they may still have considerable power but everyone knows that power is dwindling day by day—(*Interruption*)— and for dwindling parties it is very easy to try to twist a particular article or a particular word of the Constitution in order to prove that the Governor has got some sort of legal or constitutional competence to aid and abet their political ambitions. We have to be very careful about that.

In West Bengal, we are told, that it is a curious amalgam of 14 groups which, we have been told for the last six months, will break up and collapse by itself. If you are so sure of that, why are you in such an indecent hurry ? The whole trouble is that it is not breaking up. Attempts have been repeatedly made: last month an attempt was made to wrest the real prize, not P. C. Ghosh but somebody who was higher in the list of priorities—the Chief Minister himself—poor man, who was led to believe that we were on the verge of an attack by China, who was fed with reports, the so-called intelligence reports, given to him here in Delhi by the Home Ministry—a vivid, lurid picture painted for him from Naxalbari to Nathu La; he has told the whole story. That is why you are so angry with him now. (*Interruption*). We are parties which constitute the United Front. We know that old man was made to believe that the whole country was on the verge of a catastrophe. He has spoken out every thing openly. But because that is a curious amalgam, why should you prepare for an even more curious amalgam which we are told will take place, where 130 people will be asked to ride on the back of 17 ? That is also a very curious amalgam; 17 horses of which the leading horse is very decrepit and senile. 130 people want to get on to that horse and ride back to power ?

(*Interruption*)

MR. SPEAKER : Order, order, Please conclude now.

SHRI INDRAJIT GUPTA : Yes, Sir, I am concluding. I am so sorry to say that we feel in Bengal that we have got some ground, justification, for harbouring suspicious in the case of our State

[Shri Indrajit Gupta]

about the role or the advice that is being given to the Governor there. I do not know who has given the advice. Sometimes we feel that it is really the Government here which is being advised by a gentlemen like Mr. Birla, and then that advice is being passed on to the Governor, because we see his open statement. Mr. Birla issued a statement saying "I cannot do any business in Bengal; I am not investing any more capital in Bengal; I can do it in 50 other places but not here." And then, Mr. Sussex, a Britisher, the Deputy President of the Indian Engineering Association, issues a public statement allegedly referring to the conditions in the engineering industries and in the course of that statement, he has the temerity to say, "I should like the State Government to know that our association is interested in strengthening the hands of those groups inside the Government who are interested in preserving law and order." What kind of interference is this? (*Interruption*).

AN HON. MEMBER : Shame, shame.

SHRI INDRAJIT GUPTA : Then, Sir Biren Mukherjee, who has deliberately closed down two of his biggest factories, says that he would not open them unless 5,000 workers are retrenched. These are the people who are here acting, pressurising behind the scene.

Much noise was made about procurement. Why don't you ask your Chairman of the Food Corporation of India, who has publicly commended the new procurement policy and programme which was drawn up only a few days ago, where we have set a procurement target of 10 lakh tonnes? The highest procurement target up to now was only 5 lakh and odd tonnes. To implement this programme, a huge machinery is required to be set up. If this goes through, for the first time the jotedars will not be able to corner the grain and hoard it. But Congress-led jotedars in the districts of Midnapore and 24 Parganas are holding public meetings inciting peasants not to yield any grain to the Government in the name of procurement. From here the Food Ministry indirectly instigates the jotedars by making statements that we cannot supply any rice to West Bengal beyond this limited amount, which means

statutory rationing is breaking down and smuggling is going on into the city. If procurement is to be successful, it is essential that the Central Government should co-operate by sending supplies, but they say, no. This is how attempts are being made. Thousands of tonnes of pulses have accumulated in Howrah station. They are not being cleared. Prices have gone up to Rs. 3-50. The Preventive Detention Act has been used by our Government against a certain gentleman who is the President of this association of traders, who was inciting them not to clear the stocks. These are the people interested in toppling the UF Ministry.

Our Government made two specific suggestions to the Railway Ministry and Food Ministry that some slight amendments are required in the rules which would enable them to clear the accumulated stocks, confiscate them and sell them at cheap rates. But no concurrence has come and for two months it is hanging fire. Are we not to suspect anything?

Mr. A. K. Sen was mixing up his arguments; sometimes he referred to the minority position of the UF Ministry and at other times he painted a lurid picture of the law and order situation there. Let me read one or two excerpts from some Congress papers of Calcutta like *Amrita Bazaar Patrika* :

"Looking at the socio-political scene in this State (West Bengal) one cannot escape a feeling of alarm. There are among most sections of its workers so much discontent, so much lack of patience and such a widespread appetite for plunging headlong into turmoil that it is difficult to expect a change in the situation.... The danger is that the whole of this State has become a powder-keg and any smallest spark may cause a violent outburst."

This was written on 10th September, 1966, when Mr. P. C. Sen's government was in office. I can give so many more excerpts like this. There was no UF government in power then. Where was law and order then? Why was it not demanded that that Government should be dismissed? Now after frank talks with industrialists and trade unions, for the first time, 10 days

ago, we have been able to reach a position when some sort of stabilisation of industrial relations is becoming possible and both sides have agreed to observe certain norms. For the first time, a procurement programme has been undertaken, which if carried out will break the grip of the blackmarketers. That is why politically interested people realise that if this programme is successful, there will be no hope to topple the UF ministry. That is why this indecent haste. There is a conspiracy behind it and the Governor is functioning as a tool of that conspiracy.

In conclusion, I am not saying it as a threat. Even a humble and meek man like Mr. Ajoy Mukherjee about whom Mr. A. K. Sen said, "We respect him very much; all his life, he has been an honest man", said in a statement two days ago that if unfair and unconstitutional and arbitrary means are employed to dismiss this ministry, the people of West Bengal are not going to tolerate it. It does not matter what happens. We may go down, but we will not tolerate it. If these means are going to be employed, it means tomorrow democracy throughout the country will be imperilled.

This is not an issue affecting one State alone. Therefore, even now I urge upon the Government to think ten times before they take rash steps. The whole future of the Constitution will be jeopardised and there will be much unrest, ten times more unrest than what they have seen, because the people are not the old people, they are much more conscious now and they will not tolerate any kind of brutal suppression of their democratic liberties.

SHRIMATI SUCHETA KRIPALANI (Gonda) : Mr. Speaker, Sir, I was listening with great attention to the speeches delivered by the Members of the Opposition. Whatever the Central Government may have done in other cases, as far as Bihar and Bengal are concerned, this charge that they are utilising Governors for party purposes as their agents in their States is wholly wrong, unwarranted.

As far as Bihar is concerned much has been made out of a small matter. After
M78LSS(CP)67-14

all, what is the matter in Bihar? What is the point at issue? As far as I understand—if my facts are incorrect I hope Shri Chavan will put them right—there is no constitutional provision by which the Chief Minister should be consulted before the Governor is appointed. But it is right and proper, for the sake of harmonious administration, that a convention has developed whereby the Chief Minister is consulted. In this case, as far as I know Shri Mahamaya Prasad was consulted.

AN HON. MEMBER : No.

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) : He was consulted.

SHRIMATI SUCHETA KRIPALANI : Whatever my information is, I am giving that. As far as Shri Mahamaya Prasad is concerned, I know him much more and over a much longer period. He is a dear and close friend of mine and I wish him well. But I am sorry he has got himself involved in this useless controversy. He was consulted, at that time. He had nothing to say against Shri Kanungo. He is an old colleague of ours as well as his. He merely asked that some more time may be given to Mr. Ayyangar, a couple of months or so, to which I think the Central Government more or less agreed. After that time, Shri Mahamaya Prasad has come up again saying that this term should be extended by another six months to which the Central Government is rather reluctant to agree. That is the point at issue—nothing more. Nobody is taking away the power or the authority of the Chief Minister and nobody is imposing an unwilling man there as my friend Shri Nath Pai thinks.

SHRI KANWAR LAL GUPTA (Delhi Sadar) : They have written to the Centre saying that they do not like Shri Kanungo.

SHRIMATI SUCHETA KRIPALANI : I am giving the information that I have. Shri Nath Pai said that the Chief Minister might have inadvertently agreed. I would like to say with great respect to my friend Shri Nath Pai, that the Chief Minister of a State cannot inadvertently agree to anything. It is not expected of him to do so. He holds too responsible a position. I

SHRIMATI SUCHETA KRIPLANI : think it is a very small matter which can be settled by tactful handling. If there is something behind it, to which Shri Sen referred, then, of course, the matter will have to be gone into more deeply. But I think it is unfair to charge the Central Government of trying to impose a Governor on Shri Mahamaya Prasad without wider consultation.

Now I come to the main question and that is about Bengal. The Opposition has made a big ho-haw, a song and dance about what is happening in Bengal. The hon. Member who spoke before me said that we should not twist words to get constitutional interpretation. I want to avoid that. I am not a constitutionalist. I, therefore, want to stick to the facts of the case. Let us see what are the facts. The coalition governments have many difficulties. Some difficulties are not of their making and some are of their own making. One difficulty which we have been seeing in State after State is that some of the constituent parties of the coalition wish to be in the government and at the same time carry on agitation. This is more so about the condition that is obtaining in West Bengal. The Chief Minister was embarrassed and was placed in a very difficult position. Who embarrassed the Chief Minister? Not the Congress Party. The Congress Party was sitting aside. The Congress Party was not trying to create any trouble for him. Neither was the Centre pulling the Chief Minister's legs. Who was pulling the Chief Minister's legs? His own constituent members. Things had gone to such a pass that a very serious situation had developed, the whole of India was concerned and there was a great deal of discussion in the House. I would like to draw the attention of the hon. Members to a speech delivered not by a Congress Member but by Shri Surendranath Dwivedy, a member of the Opposition, after his visit to Naxalbari, in which he painted a picture of the administration obtaining in West Bengal. He drew attention to the fact that police has become totally immobilised, law and order did not obtain there and various other things. I do not want to go into the details.

SHRI JYOTIRMOY BASU : Very old story.

SHRIMATI SUCHETA KRIPALANI : It is a continuing story, piling upon pile. Then, I come to a very recent incident a very old one,—just now Shri Sen told us that members of the Cabinet were being abused in choice language, which only a particular party can indulge in. They have abused Shri P. C. Ghosh, whom my young friend has described as senile. I would like to tell him that Shri P. C. Ghosh is an old patriot, with life-long sacrifice for the country and yet his brain is working very alert. He is not senile.

SHRI INDRAJIT GUPTA : Even the greatest patriots become senile at some time.

M. R. SPEAKER : What the hon. Member says is that he has not become senile yet.

SHRIMATI SUCHETA KRIPALANI : What I want to convey is that when Shri P. C. Ghosh and another very senior Cabinet Minister, Shri Nishitnath Kundu, when they went on tour in Midnapur, they were insulted and humiliated by the members of the Coalition Government.

AN HON. MEMBER : Not members of the Coalition Government.

SHRIMATI SUCHETA KRIPALANI : All right, by the henchmen of the members of the party, if you prefer that term.

Now, the condition became so difficult that a month back the Chief Minister himself said "I want to resign". Who was asking him to resign? Who created the situation so that he wanted to resign?

SHRI JYOTIRMOY BASU : The resignation letter was drafted here.

SHRI KANWAR LAL GUPTA : In your house.

SHRIMATI SUCHETA KRIPALANI : Not in my house.....*(Interruptions)*

SHRI SHEO NARAIN (Basti) : Sir, she is our Chief Minister and she is speaking with a great sense of responsibility. If she is not allowed to speak by the opposition, I will never allow any of them to speak. What is all this?

MR. SPEAKER : I do not think he is helping her by his action.

SHRIMATI SUCHETA KRIPALANI : If they think that their Chief Minister drafted the statement in my house, that only shows their confidence in their Chief Minister.

Then he had a discussion with all his party colleagues and he decided that he will not resign, because they promised to give him co-operation, honest and earnest co-operation. After that, to celebrate the unity, a meeting was held in a maidan in Calcutta. In that meeting itself, some of the Ministers did not attend, certain discordant notes were raised, but somehow that meeting did not attract too much attention. After that, however, the Chief Minister issued a statement on the 16th, that deserves to be noticed. It is very interesting and significant. This statement was issued because the CPI (Marxist) Polit bureau, had made certain charges at that meeting, where Shri Jyoti Basu, the Deputy Chief Minister was present. The charge was that the Central Government, the Governor and the I.G. of Police had entered into a conspiracy to overthrow the United Front Government. The Chief Minister stated in his reply that this statement was issued because of the allegations made by the CPI (Marxists). In his reply he said: "I am responsible for all the happenings. After consulting the Bangla Congress I decided to resign. As a precautionary measure against wide-spread disturbances, I asked the military to stand by and I asked for extra police from the other States." Now, I will just beg your indulgence to read a little from his own speech. I am very happy our task has been made very easy by the Chief Minister himself by the various statements he has issued. He said:

"It was I who requested the Central Government through the Governor to give us this sort of help. The I.G.P. had nothing to do but to carry out my instructions. So, nobody could be blamed except me if a blame was due for taking precautions against hooliganism, rioting and consequent bloodshed."

So, he was expecting hooliganism, rioting and consequent bloodshed these days.

Yet he was prepared to leave.

SHRI JYOTIRMOY BASU : You mean operation Hooghly?

SHRIMATI SUCHETA KRIPALANI : I do not know, operation Hooghly or Calcutta.

He says:

"Fortunately for me, without criticising and challenging me for the step I was about to take, the leaders of all the parties were kind enough to request me to continue as the Chief Minister."

It is surprising that Mr Ajoy Mukerjee, a veteran politician, an astute politician, who could take the courage to fight against the iron man of Bengal, Atulya Ghosh, became so naive that he believed in the assurances given by his party colleagues, some of whom were deliberately agitating with a set purpose? Why was the Chief Minister disturbed? He was mentally agitated and disturbed. What was the cause of his agitation? The cause of the agitation, as he said in one sentence, was:

"Industrial unrest, lawlessness in agricultural field, general lawlessness and open invitation to China to bring about an armed revolution starting from West Bengal."

This is what the Chief Minister said. Now some Members here tried to make out that because he is such an innocent person, the Central Government gave all such wrong reports to him and he believed in them. He is the Chief Minister of a border State, a very vulnerable State. We are threatened from that border. He is the man on the spot to assess the situation. He is the most responsible man of Bengal who says this is the condition in the State. Therefore, he was disturbed and he wanted to resign. The Congress was not throwing him out. It was his own friends, his own colleagues, who made the position so difficult that he decided to go. And later on, he agreed to stay.

Now, he says that there was an open invitation to China. Did he expect that those who believed in this policy that China should be invited were going to abjure or to give up the policy for the sake of giving cooperation? What do you think is the responsibility of the Centre? It is not merely a question of what you do in Bengal. It is a question of safety of India. It is

[SHRIMATI SUCHETA KRIPALANI]

not only a question of democracy being threatened; it is a question of India being threatened. If that is the question, the Central Government cannot sit quiet. Rather, we charge the Central Government that they should have acted long ago and that they should have taken adequate precautions to see that such a situation should not have arisen. The Chief Minister has come out in public to say all this in secret. This is not a thing which he has said in the Cabinet. He has openly said that there was an open invitation to China for an armed revolution starting from West Bengal and subsequently to other areas. *(Interruption)* I would say that the Central Government is showing patience more than necessary in this matter.

SHRI JYOTIRMOY BASU : Is it a colony of the Central Government?

SHRIMATI SUCHETA KRIPALANI : The responsibility of protecting India against those saboteurs lies squarely on them.

SHRI JYOTIRMOY BASU : We are not a part of them.

SHRIMATI SUCHETA KRIPALANI : It is for you to answer that.

MR. SPEAKER : She is only quoting the Chief Minister; she is not saying anything else. Why do you get disturbed?

SHRI JYOTIRMOY BASU : She is quoting only the convenient portions.

SHRIMATI SUCHETA KRIPALANI : Now, I come to the second point. Was the Governor's conduct right or wrong? That is the question at issue. What was the Governor to do? The Opposition parties there sent him information that the present Ministry had lost its majority. The Governor tried to assess the position, to satisfy himself, whether they had a majority or not. By various means, he tried to do it. Then, after finding that, he advised the Chief Minister to call the Assembly soon to see whether he has the majority or not.

Now, I come to Madhya Pradesh.

Mr. Nath Pai said that we should "temporarily forget Party loyalties". In the case of Madhya Pradesh, many of us temporarily forgot our Party loyalties. Mr. D. P. Mishra,

who was a very powerful Chief Minister and who had powerful backing at the Centre, wanted to stay; he gave his advice to the Governor and the Governor listened to the advice, but we said that, if he had lost the majority, he had no business to advise the Governor and the Governor had no business to listen to his advice. Within a week the Assembly was called and Mr. Mishra was thrown out. So many things against the Congress have been quoted, but they forget that we rose above Party loyalties and we criticised our own Party members *(Interruption)*. As I said, I am not going to hold a brief for what all Government has done or not. But as far as Bengal and Bihar are concerned, certainly Government is not in the wrong. In the case of Madhya Pradesh what happened? All of you felt very pleased and happy; I remember in the Lobbies it was bandied about that the Governor should be impeached for what he has done. But today the situation has totally changed. In West Bengal, the man who is in minority wants to advise the Governor and if the Governor does not listen to it, he is blamed as having not fulfilled his obligation to the Constitution and being in the wrong. Following the criterion that we followed in Madhya Pradesh, to day it is but right and proper that the Assembly should be called. They say it is a question of a few days. They have that they will call it next month. But what is the plea for not calling the Assembly soon? They say, 'Procurement'. *(Interruptions)*. On the one side they say that they cannot call the Assembly even for two or five or seven days because that will disturb the work of procurement, but on the other side they give a call for an agitation from the 15th and if the agitation goes on all over Bengal, counter-agitation will also be there. Will that be conducive to 'procurement'? So, they are more than proved wrong by their own foolish statements. I am sorry, Mr. Mukerjee, an old patriot, an old worker who has made sacrifices for the country, is today misguided by the young non-senile colleagues and is behaving in a most foolish way. Whatever respect we had for him, he is losing that. He is standing in the way of normal working of democratic processes. If you lose the majority, honour dictates that you should resign immediately; you should not stay for a day more. If, however, you

are doubtful about the majority, then call the Assembly? They want to delay calling the Assembly because it has become very fashionable to adopt these tactics—to bribe, to intimidate, to overwhelm, to shut up people, to make them disappear and so on. They want to use all these tactics. That is why they want to delay calling the Assembly, if at all they intend to call the Assembly. Therefore, we should throw out this Resolution; it is totally unworthy of support.

श्री मधु लिमये (मुंगेर) : अध्यक्ष महोदय, सब से पहले मैं यह बताना चाहता हूँ इस सदन में कि यह प्रस्ताव हम लोगों के द्वारा क्यों रखा गया ? इधर एक अरसे से हम लोग देख रहे हैं कि कांग्रेस पार्टी ने अपने दलगत स्वार्थों के लिये संविधान को एक फुटबाल बनाया है । जब उन के हित में एक बात होती है तो वह संविधान का कुछ अर्थ लगाते हैं, कुछ परिपाटी डालते हैं, परम्परा डालते हैं और जब वह परम्परा या परिपाटी या भाष्य कांग्रेस पार्टी के हित के विरोध में जाता है तब फिर नई परिपाटी डालते हैं, नया भाष्य करते हैं । आज कांग्रेस पार्टी को ओर से श्री अशोक सेन मुख्य प्रवक्ता के नाते बोले और उन्होंने कहा कि मध्य प्रदेश के बारे में उन्होंने और दूसरे 60 सदस्यों ने क्या किया था । मैं अच्छी तरह से जानता हूँ कि उस वक्त अशोक सेन साहब ने सदन में क्या कहा था । मेरे पास यह लोक सभा की कार्यवाही है । अशोक सेन साहब कभी-कभी भूल जाते हैं क्योंकि वह वकील हैं और वकील के नाते एक बात कभी सुप्रीम कोर्ट में वह कहते हैं, दूसरे दिन किसी दूसरे का पक्ष ले कर बिलकुल उलटी बात वह कहते हैं

श्री शिवनारायण : परसनल अटैक नहीं होना चाहिये । (व्यवधान)

श्री मधु लिमये : यह समझ ही नहीं रहे हैं । वकील के नाते उन का यह करना ठीक है लेकिन वह भूल जाते हैं कि इस सदन में

जब उनको बोलना है तो लोक सभा के सदस्य के नाते और जनता के प्रतिनिधि के नाते उन को बोलना है । अध्यक्ष महोदय, पिछली बार उन्होंने जब मध्य प्रदेश वाली बहस में हिस्सा लिया तो उन्होंने संविधान का क्या अर्थ है, इसके बारे में कुछ जुमले कहे थे । जन्हीं के शब्दों में वह मैं आप के सामने रखना चाहता हूँ । उस के बाद आप को पता चलेगा कि मैं क्यों कह रहा हूँ कि कांग्रेस पार्टी के द्वारा संविधान को फुटबाल बनाया जा रहा है ।

अशोक सेन साहब कहते हैं :

“The ultimate judgment of any governmental action of the State must be given by the State Legislature and not by us.”

दूसरा वह कहते हैं :

“The second principle is that if the autonomy of the State is to be maintained and if the Governor has to act as a constitutional organ, then the Governor must act on the advice of the Chief Minister so long as he remains Chief Minister.”

यह अशोक सेन के शब्द हैं । तीसरा वाक्य वह कहते हैं :

“Now, if the Governor has to act on the advice of the Chief Minister who are we to tell him that he must act in a different manner?”

उस का मतलब, अध्यक्ष महोदय, यह हुआ कि सदन का सत्तावसान क्यों किया गया, उसको प्रोरोग क्यों किया गया, उस की उस वक्त चर्चा चल रही थी और उस पर अशोक सेन साहब ने कहा कि केन्द्रीय सरकार ने कुछ नहीं कहा है, मुख्य मन्त्री के कहने पर उन्होंने सत्त का अवसान किया और गवर्नर का यह कर्त्तव्य था कि संवैधानिक राज्य के प्रमुख के नाते कि जब तक वह मुख्य मंत्री हैं, मुख्य मंत्री की सलाह पर उन को चलना चाहिये, सत्त कब बुलाना, कब उस को अवसान करना आदि के बारे में उस वक्त तो एक सत्त

[श्री मधुलिमये]

चल रहा था, वोट होने वाला था और उस वक्त यह बहुत गलत काम किया गया, सत्र का अवसान करने का। लेकिन उस का भी समर्थन अशोक सेन साहब ने उस समय किया है। अध्यक्ष महोदय, उस समय यह कहा गया था कि गृह मंत्रालय की राय और कानून मंत्रालय की राय इस के बारे में अलग-अलग थी। कुछ दिन पहले राज्यपालों का सम्मेलन हुआ। मेरे पास स्टेट्समैन की यह रपट है और उस में दो नये सिद्धांत और नये भाष्य हमारे सामने आये हैं। एक वाक्य में स्टेट्समैन से पढ़ता हूँ :

“The Governor can dismiss a minority government if on the basis of any material information available to him, he finds that the ruling party has lost its majority. He can act in the absence of the verdict of the Legislative Assembly. This interpretation of the constitutional position, of immense significance in the context of the current West Bengal developments, was given by a spokesman of the Law Ministry today.”

आगे चल कर यह कहते हैं कि जहां तक विधान सभा को बुलाने का सवाल है :

“In regard to the summoning of the legislature, another logical issue in West Bengal today, the Governor, according to the spokesman's interpretation cannot exercise his discretion; he is bound to follow the advice of the Chief Minister.”

19 hrs.

तो इस रपट के अनुसार विधान सभा की बैठक के बारे में गवर्नर को कोई अधिकार नहीं है आदेश जारी करने का, उन को मुख्य मंत्री की सलाह पर चलना है। लेकिन साथ-साथ ये कहते हैं कि अगर गवर्नर की यह राय है कि सरकार अब अल्पमत में हो गई है तो गवर्नर अपने विवेकाधीन अधिकारों का इस्तेमाल कर के उस सरकार को हटा सकता है। अब यह एक नया भाष्य है—अध्यक्ष महोदय। अब सेन साहब क्या कहते हैं ? और उस वक्त क्या कहते थे ? सेन साहब कहते थे कि इस का फंसला गवर्नर नहीं करेगा,

विधान सभा को करना पड़ेगा और विधान सभा की बैठक के बारे में, सत्र कब बुलाना उस का अवसान कब करना, इस के बारे में संवैधानिक प्रमुख के नाते सरकार की सलाह पर उन को चलना पड़ेगा। तो, अध्यक्ष महोदय, आप देखेंगे कि आज इन्होंने जो बात कही है और उस समय इन्होंने जो बात कही थी उस में जमीन और आसमान का फर्क है और इसी लिये मैं कहता हूँ कि कांग्रेस पार्टी के द्वारा संविधान को फुटबाल बनाया जा रहा है।

अध्यक्ष महोदय, असल में हमारे संविधान की जो विभिन्न धारारें हैं उन को अगर गौर से देखें, अगर निष्पक्ष हो कर काम करेंगे तो हमारे सामने कोई आपत्ति नहीं आयेगी, कोई अड़चन नहीं आयेगी। आज मैं गृह मंत्री जी से पूछना चाहता हूँ कि संविधान की 164 धारा में जो यह लिखा हुआ है कि—

“The Chief Minister shall be appointed by the Governor and the Ministers shall hold office during the pleasure of the Governor.”

क्या इस का यह मतलब है कि आज किसी भी राज्य के मंत्री को गवर्नर हटा सकता है ? क्या प्रेजिडेंट आज प्रधान मंत्री को हटा सकता है ? क्या ड्यूरींग दि प्लेजर आफ दी गवर्नर या प्रेजिडेंट—इस का यह भाष्य है कि वह मनमानी करे।

अध्यक्ष महोदय, संविधान में साथ-साथ इसी धारा के अन्दर कहा गया है कि जो मंत्री परिषद् है, उस का दायित्व विधान सभा के प्रति रहेगा—इस का अर्थ क्या है ? इस का फंसला करने कि सरकार को बहुमत का समर्थन हासिल है या नहीं, उस का फंसला राज्यपाल नहीं कर सकता। केन्द्र सरकार इस का फंसला नहीं कर सकती, इस का फंसला विधान सभा को करना पड़ेगा। अब विधान सभा की बैठक के बारे में बहुत कुछ कहा गया—हम लोग उन लोगों में से नहीं हैं, जो विधान सभा से भागना चाहते हैं, जैसे नाथपाई जी ने कहा, अटल

बिहारी जी ने कहा और मेरा भी यही राय है कि अगर ऐसी स्थिति उत्पन्न होती है तो हम लोगों को डरना नहीं चाहिये, किसी को डरना नहीं चाहिये, लेकिन साथ-साथ इस का यह मतलब नहीं है कि जब कोई दो-चार लोग इस तरह के पत्र तैयार करें, पत्रों का कारखाना खोलें, गवर्नर के पास जाएँ, दो-चार लोम खड़े करें और कहें कि बहुमत समाप्त हो गया तो हर सात दिन के बाद या दस दिन के बाद विधान सभा की बैठक नहीं बुलाई जा सकती। अध्यक्ष महोदय, आपको मालूम है, कि जुलाई-अगस्त महीने में लगातार उत्तर प्रदेश, से लेकर पश्चिमी बंगाल तक कोशिश की गई कि इन सरकारों को समाप्त किया जाये, अविश्वास के प्रस्ताव आये, स्थगन प्रस्ताव आये, बजट पर वोट हुआ, इन लोगों को पूरा मौका मिला था लोकतांत्रिक ढंग से इन सरकारों को समाप्त करने का। संविधान में यह लिखा हुआ है कि दो सत्रों के बीच में किसी भी हालत में 6 महीने से अधिक की अवधि नहीं होनी चाहिये। मैं इनसे यह पूछना चाहता हूँ कि क्या पश्चिमी बंगाल में दो विधान सभाओं के सत्र में बीच 6 महीने की अवधि हो चुकी है? अगर 6 महीने के बाद भी मुख्य मंत्री कह दें कि मैं बैठक नहीं बुलाऊंगा तो गवर्नर ने जो शपथ ली है, जो कसम खाई है कि मैं संविधान का पालन करूँगा, उस के तेहत मैं मानता हूँ, कि उनको अधिकार है कि वह सरकार को हटायें लेकिन संविधान की जो धारा है उस का भाष्य आज यह अपने हित के अनुसार करना चाहते हैं।

बिहार में, अध्यक्ष महोदय सवाल आया कि हमारे दल के श्री विन्धेश्वरी प्रसाद मंडल, वह इस सदन के सदस्य हैं, को हम लोगों ने यह सलाह दी कि आप को लोक सभा के लिये चुना गया है, इसलिये आप यहां आये। उन को यह पसन्द नहीं आया, उन्होंने विद्रोह किया— इस के बारे में मुझे कुछ नहीं कहना है— लेकिन बाद में सवाल आया कि एक ऐसा

व्यक्ति जो पांच महीने पच्चीस दिन या छत्तीस दिन मंत्री रहता है, सदस्य नहीं है विधान सभा का या विधान परिषद् का, एक दिन के लिये, दो दिन के लिये या चार दिन के लिये हट जाता है, तो क्या वह फिर से मंत्री या मुख्य मंत्री बन सकता है। संविधान में लिखा हुआ है कि 6 महीने के अन्दर उस को सदस्य बनना चाहिये, 6 महीने के बाद वह नहीं रह सकता। तो बिहार के राज्यपाल ने उन से यह कहा कि संविधान का जहां तक भी अर्थ समझ पा रहा हूँ, उस के तेहत आपको मंत्री या मुख्य मंत्री में नहीं बना सकता। उस वक्त ये लोग उन का समर्थन कर रहे थे और बिहार में चूंकि उन की इच्छा के अनुसार वहां के राज्यपाल ने काम नहीं किया, ये लोग गवर्नर के खिलाफ हो गये, यही वजह है कि बिहार सरकार के कहने पर कि उन को और पांच साल के लिये वहां रखा जाये, इन की इच्छा के अनुसार केन्द्र ने काम नहीं किया। इसलिये ये उन को वहां से हटा रहे हैं और अब नई परिपाटी बनाना चाहते हैं कि पांच साल से ज्यादा कोई गवर्नर न रहे। गिरी साहब रह चुके हैं, श्रीमती पद्मजा नायडू एक ही सूबे में पांच साल से अधिक समय तक गवर्नर रही हैं, लेकिन अब जब कि एक नई समस्या आती है, दल-हित और पुरानी परिपाटी टकराती है तो कहते हैं कि एक नई परिपाटी बनाओ, आईन की धाराओं का एक नया भाष्य करो।

अध्यक्ष महोदय, मैं यह जानना चाहता हूँ कि जब संविधान में इस के लिये एक अलग धारा है—धारा 160, जिसका मैंने यहां पर कई दफा जिक्र किया है—

“The President may make such provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in this Chapter.”

क्या वजह है कि आज 17 साल हो गये, इस के बारे में सरकार ने कोई नियम नहीं बनाये, इन नियमों को सदन के सामने नहीं रखा,

[जी मधु लिमये]

इस सदन की स्वीकृति नहीं ली। अगर इस तरह के नियम पहले से बनाये जाते, आदेश जारी किये जाते कि विभिन्न स्थितियों में गवर्नर को कैसे काम करना है तो आज इस तरह के विवाद और झगड़े उत्पन्न नहीं होते, लेकिन, अध्यक्ष महोदय, जान-बूझ कर 160 धारा का ये इस्तेमाल नहीं करना चाहते हैं, क्योंकि स्थिति को इस तरह से ये अपने काबू में रखना चाहते हैं कि ये मन-मानी कर सकें। इसलिये इसमें कोई संवैधानिक सिद्धान्तों का सवाल नहीं है। अगर अजय मुखर्जी साहब खुद 18 दिसम्बर को नहीं, बल्कि 5 दिसम्बर को या 1 दिसम्बर को बैठक बुलाते, तो मुझे एतराज नहीं था, मुझे खुशी होती। लेकिन आज जब गवर्नर आदेश दे रहा है इन के कहने पर, तो आज मैं इस के लिये बाध्य हो रहा हूँ कि अजय मुखर्जी साहब को यह सलाह दूँ कि आप अब किसी भी हालत में गवर्नर की इच्छा के अनुसार बैठक न बुलायें। वरना विधान सभा की बैठकों के बारे में तो मेरी राय इस से अलग है।

हरियाणा में कई दफा स्थितियां बदलीं—क्या वजह है कि इन लोगों ने कभी हरियाणा के मंत्री मंडल को नहीं कहा—अटल जी ने कहा है कि मैंने कहा है, उन के दल ने कहा है—लेकिन केन्द्रीय सरकार ने गवर्नर के द्वारा कभी यह नहीं कहा कि तत्काल विधान सभा बुलाइये। शायद यह कारण हो सकता है कि वीरेन्द्र बहादुर सिंह का एक वक्तव्य मैंने कुछ दिन पहले पढ़ा था, जिसमें उन्होंने कहा था कि हरियाणा में गैर-कांग्रेसी सरकार अच्छी है, लेकिन केन्द्र में इन्दिरा जी और चव्हाण साहब की सरकार अच्छी है, क्या इसी लिये हरियाणा के बारे में आपकी अलग राय है और पश्चिमी बंगाल के बारे में अलग ?

अध्यक्ष महोदय, मैं आपसे यह कहना चाहता हूँ कि अगर यह केवल स्वस्थ संवैधानिक परम्पराओं का सवाल होता, परिपाटी का

सवाल होता, संविधान के भाष्य करने का सवाल होता तो एक जगह बैठ कर इस के बारे में कोई रास्ता निकाला जा सकता था। राजस्थान के समय सम्पूर्णानन्द जी की बात मुझे याद है—उन्होंने कहा था कि आप इतने उतावले क्यों हो रहे हैं, विधान सभा की बैठक का इन्तज़ार करो और वहां ताकत की आजमाइश करो। जब कि राजस्थान में मैं यह कहना चाहता हूँ कि मैं दाण्डेकर जी से इस बारे में सहमत नहीं हूँ—सत्तारूढ़ दल चुनाव में हार चुका था और हारने के पश्चात् वहां पहला मौका विरोधी दल को देना चाहिये था और कांग्रेस पार्टी को यह सलाह देनी चाहिये थी कि अगर उनकी राय में विरोधी दलों के साथ बहुमत नहीं है तो आपके साथ तो बिल-कुल ही नहीं है, क्योंकि चुनावों में जनता ने आपको हरा दिया है, इस लिये आप विधान सभा की बैठक में आजमाइश करें, लेकिन वहां इस के बिलकुल उलट हुआ—हारे हुए दल को सरकार बनाने का मौका दिया गया और जनता ने जिन को बहुमत में चुना था, जिन्होंने कांग्रेस को हराया था, उनको कहा गया कि तुम विधान सभा की बैठक के लिये इन्तज़ार करो। इस लिये राजस्थान में हम को विरोध करना पड़ा। मध्य प्रदेश में अध्यक्ष महोदय, बजट के समय यह जो सत्र का अवसान किया गया उस की निन्दा हम ने की क्योंकि हम को शक था कि केन्द्रीय सरकार के कहने पर यह किया गया। यह कहते हैं कि नहीं हम ने नहीं किया लेकिन आप को याद है कि बजट छापने का मामला आया था और प्रमाण के साथ यहां साबित किया था। एक बड़ा षडयन्त्र रचा गया था और भारी तैयारियां हुई थीं। लेकिन चूँकि वह बजट सत्र था यह जानते थे कि विधान सभा की बैठक अगर नहीं बुलायेंगे तो बजट कैसे पास करेंगे ? बजट यहां पास करना पड़ेगा और इन लोगों को हम ने साफ कहा था कि हम आप के चपड़ासी और गुलाम नहीं हैं कि आप संविधान की हत्या करते जायें और हम आप का बजट यहां पर पास करें। मैं उस दिन भ्पास में था और

श्री द्वारका प्रसाद मिश्र इस्तीफा नहीं देना चाहते थे हारने के बाद भी । तो उस वक्त उन को कहना पड़ा है, गृह मंत्री जॉ को ओर मिश्र जो की बात हुई है और गृह मंत्री जी ने कहा है कि परसों सोमवार है, लोक सभा के सामने मुझ को आना पड़ेगा आप इस्तीफा दे दीजिये, तब इस्तीफा हुआ है । कोई संविधान का आदर करने के लिये उन्होंने नहीं दिया है । अध्यक्ष महोदय, यह संविधान का मामला नहीं है । यह सवाल दलों राजनीति का बन गया । आज मैं इन को चेतावनी देना चाहता हूँ कि पश्चिमो बंगाल की सरकार के बारे में उस ने क्या काम किया, क्या नहीं किया, अच्छा किया, बुरा किया वह बात अलग है । खुद गैर-कांग्रेसी सरकारों के कामों से हम लोम संतुष्ट नहीं हैं । आप को याद होगा कि लोहिया जी को श्रद्धांजलि देते समय हम ने यह कहा है कि हम यह जरूर चाहते थे कि कांग्रेस हटे, कांग्रेस खत्म हो जाय, परिवर्तन हो जाये, राजनीति गतिमान बने, कई सरकारें बनें लेकिन साथ ही साथ हम यह चाहते थे कि यह सरकारें सत्ता अभिमुख न बनें बल्कि यह कार्यक्रम अभिमुख बनें तो अध्यक्ष महोदय, झमड़ा, पश्चिमो बंगाल सरकार कैसी है, बिहार सरकार कैसी है, उत्तर प्रदेश की सरकार कैसी है, यह नहीं है । मुझे ऐसा लगता है कि पश्चिमो बंगाल में पिछले 7-8 महीनों में जिस ढंग से काम करना चाहिये था और औद्योगिक कानून, श्रम नीति, जमीन का बंटवारा, अन्न नीति, इन सारी चीजों के बारे में जो प्रगतिशील और ठोस कदम सरकार के द्वारा उठाये जाने चाहिये थे, वह नहीं उठाये गये ।

एक ट्रामवे कम्पनी को हाथ में लिया । उस का स्वागत हम ने किया था तो इस के लिये मुझ को खेद है लेकिन यह जिस ढंग से इस सरकार को खत्म करने जा रहे हैं इस को हम कभी कबूल नहीं करेंगे । कार्यक्रम पर बमल नहीं किया, आश्वासनों को पूरा नहीं किया इस को लेकर गैर-कांग्रेसी सरकारों को

भंग करने के लिये एक दफे नहीं दर्जनों दफा हम तैयार हो जायेंगे लेकिन केन्द्रिय अधिकारों का इस्तेमाल करके गवर्नरों के द्वारा अगर इन सरकारों को तोड़ा जायेगा तो हम बरदाश्त नहीं करेंगे । खबरों में खबरें आई हैं, मेरे पास इस तरह की इत्तिला आई हैं कि फौज की सहायता ये लोग लेनेवाले हैं । आज मैं इन को चेतावनी देना चाहता हूँ, यह सुरक्षा मंत्री रहे हैं, मेहरबानी कर के सेना को और फौज को वह राजनीति में घोंट कर न ले आये । अगर उन को पश्चिमो बंगाल की सरकार को गिराना है तो लोकतांत्रिक रास्ते से संवैधानिक रास्ते से वह सरकार को गिराये । 10-12 दिन में 15 दिन में कोई आसमान नहीं टूटने वाला है विज्ञान सभा की बैठक होगी । अब मैं यह नहीं कहने के लिये तैयार हूँ अजय मुकर्जी को कि वह बैठक जल्द बुलाये क्योंकि इन लोगों ने अनुचित ढंग से दबाव डाला है । अगर राजनीतिक स्तर पर यह बात करते, हम लोग करते तो वह एक दूसरी बात होती । लेकिन अनुचित ढंग से गवर्नर को जो अधिकार नहीं हैं उस अधिकार का इस्तेमाल कर के अगर वह इस सरकार को दबाना चाहेंगे और उस के लिये फौज को और सेना को बुलाना चाहेंगे तो मैं आज चेतावनी देना चाहता हूँ कि सेना को राजनीति में लाने का बड़ा खतरनाक नतीजा निकल सकता है । आप उसी रास्ते पर जा रहे हैं जिस रास्ते पर अय्यूब खां गये और दूसरे फौजी तानाशाह गये हैं । इस लिये यह काम आप न करिये । आप को जो लड़ाई लड़नी है, संघर्ष करना है वह आप करिये लोकतांत्रिक ढंग से, राजनीतिक तरीकों से । इस का जनता फैसला करेगी । अगर पश्चिमो बंगाल की सरकार में कोई खराबियां हैं कमियां हैं तो हम लोगों की जिम्मेदारी है, जो विरोधी दल के नेता हैं कि किस तरीके से इन कमियों को केवल पश्चिमो बंगाल में ही नहीं अगर बिहार में हैं, उत्तर प्रदेश में हैं, तो वहां भी इन कमियों को दूर करें । आप मेहरबानी करके, यह प्रस्ताव आज चेतावनी के तौर पर लाया

[श्री मधु लिमय]

गया है वरना हम अविश्वास का प्रस्ताव आज लाते, जल्दबाजी में संविधान की हत्या करने-वाला, लोकतन्त्र का गला घोटनेवाला कोई कदम जल्दबाजी में आप न उठाये। जो प्रक्रिया है वह चलने दीजिये। सरकार को अगर वहाँ की जनता गिराना चाहती है, लोग गिराना चाहते हैं, विधान सभा गिराना चाहती है, तो गिरा सकती है। लेकिन गवर्नर के जरिये अपने विवेकहीन अधिकारों का इस्तेमाल करके, विवेकपूर्ण नहीं, डिस्क्रीशनरी नहीं, और फौज का नाजायज़ ढंग से इस्तेमाल करके अगर यह सरकार को गिरायेंगे तो हिन्दुस्तान की सुरक्षा का और सेना का क्या होगा ? मुझे बड़ा खतरा लग रहा है। बस इतनी ही बात मैं आज कहना चाहता हूँ।

SHRI B. P. MANDAL (Madhipura) : Sir, I rise to a point of order. The hon. Member has just referred to me by name while speaking about Bihar. So I should be given a chance to give a personal explanation.

MR SPEAKER : There is no point of order. We refer to each other by name.

If hon. Members agree, I would like to call Shri Prakash Vir Shastri and Shri C. K. Bhattacharyya today. Let them have ten minutes each.

SHRI NATH PAI : Are we concluding the debate today?

MR SPEAKER : No, no. There are some parties who have not taken part. Then the Home Minister has to speak and the hon. Member has to reply. Tomorrow we have one hour but I do not think all those who have given names can be accommodated.

श्री प्रकाशवीर शास्त्री (हापुड़) : अध्यक्ष महोदय, अपने भाषण को प्रारम्भ करने से पूर्व हिन्दी में लिखे इस प्रस्ताव के शब्दों को एक बार फिर मैं सदन के सामने जानबूझ कर पढ़ना चाहता हूँ :

“कि यह सभा केन्द्रीय सरकार की इस कार्यवाही का निरनुमोदन करती है कि वंह राज्यों के राज्यपाल-पद को संविधान के समुचित प्रवर्तन का माध्यम न बना कर उस का उपयोग केन्द्र में सत्तारूढ़ दल के एजेंट के रूप में कर रही है, यदि प्रस्ताव के शब्द इतने हों तो मुझे और मेरे सहयोगियों को इस प्रस्ताव का समर्थन करने में किसी प्रकार की कोई आपत्ति नहीं हो सकती। लेकिन प्रस्ताव की जो अगली पंक्ति है उस को उस रूप में स्वीकार करने में मैं और मेरे सहयोगी अपने को असमर्थ पाते हैं।

19.18 hrs.

[**SHRIMATI LAKSHMIKANTHAMMA** in the Chair].

महोदय ! उसका कारण विशेष रूप से यह है कि जहाँ तक राज्यपालों की नियुक्ति का सम्बन्ध है, उस में विशेष रूप से बिहार के राज्यपाल की नियुक्ति का प्रश्न आया है। आप को स्मरण होगा कि इसी आसन पर जिस पर कि आप इस समय बैठे हुई हैं एक ऐसे व्यक्ति ने जिसने सात साल से भी अधिक लोक सभा का नेतृत्व किया, वही व्यक्ति इस समय बिहार के राज्यपाल-पद पर विराजमान है। यह वहीं व्यक्ति बिहार के राज्यपाल पद पर विराजमान है जिसको राष्ट्रपति ने नियुक्त किया और उस समय की बिहार सरकार के परामर्श से नियुक्त किया। मैं नहीं कह सकता कि संवैधानिक स्थिति इस प्रकार की है कि नहीं कि राष्ट्रपति राज्यपाल नियुक्त करते समय मुख्य मंत्रियों का परामर्श ले लेकिन परम्परागत स्थिति इस प्रकार की अवश्य है कि राज्यपालों की नियुक्ति करते समय मुख्य मंत्रियों से अवश्य परामर्श लिया जाता है। जब ऐसी स्थिति है तो यह बात समझ में नहीं आती कि बिहार के सम्बन्ध में इस प्रश्न की पहली बार उपेक्षा क्यों की जा रही है ? जैसा हमारे कई मित्रों ने कहा कुछ राज्य ऐसे भी रहे हैं जिन राज्यों में एक राज्यपाल केवल 5 साल तक नहीं, दो बार नहीं बल्कि उस से भी

अधिक अवधि तक रहा है। तो इस प्रकार के परीक्षित व्यक्ति, जिसने लोक सभा के अध्यक्ष पद के आसन पर लगभग सात साल तक सफलता के साथ काम चलाया है और जिस की सफलता और प्रतिभा से प्रभावित होकर उस को बिहार के राज्यपाल-पद पर आसीन किया गया आखिर आज उस व्यक्ति में कौनसी दुर्बलता उत्पन्न हो गई कि जिस से उस को हटा कर एक ऐसे व्यक्ति को जिसका कि राज्य उस राज्य से बिल्कुल सटा हुआ है, वहां पर राज्यपाल के पद पर बैठाया जा रहा है। कुछ दिन पूर्व अगर मैं भूल नहीं करता हूँ तो श्री कानूनगो ने केन्द्रीय सरकार से इस प्रकार का एक अनुरोध किया था कि मुझे अगर मेरे निकटवर्ती राज्य के पास भेज दिया जाये तो कहीं अधिक अच्छा हो। मैं नहीं कह सकता कि कानूनगो की नियुक्ति के पीछे कहीं वही कारण तो नहीं है? लेकिन अब तक केन्द्रीय सरकार की परम्परा इस प्रकार की रही है कि जहां तक सम्भव हो जो व्यक्ति जिस राज्य का निवासी हो वह उस राज्य अथवा पड़ोस के राज्य में राज्यपाल के आसन पर नियुक्त न किया जाये। इस लिये इस प्रकार की परिस्थिति में कि जिसमें बिहार के मुख्य मंत्रों ने अपना विरोध प्रकट किया है और जो चोड़ समाचारपत्रों के माध्यम से जनता की आलोचना का विषय बन चुका है केन्द्रीय सरकार को जनतंत्र की स्वस्थ परम्परा को कायम करने की दृष्टि से अतः उन पुरानों परम्पराओं का निर्वाह करना चाहिये कि मुख्य मंत्रों से परामर्श किये बिना बिहार के राज्यपाल की नियुक्ति का प्रश्न एक दम से उन पर लादना एक अस्वस्थ परम्परा प्रारम्भ हो जायेगी और आगे चल कर इस के कुछ दूसरे परिणाम भी हो सकते हैं।

महोदय! जहां तक बंगाल की स्थिति का सम्बन्ध है उस के विषय में मैं दो बातें कहना चाहूंगा। एक बात तो यह है कि इस समय विवाद सब से बड़ा इस बात का है कि पश्चिमी बंगाल के वर्तमान राज्यपाल मुख्य मंत्रों को

यह कह रहे हैं कि विधान सभा का अधिवेशन जल्दी से जल्दी बुलाओ और पश्चिमी बंगाल के मुख्य मंत्रों की अपनी राय यह है कि 18 दिसम्बर जो पहले हम तारीख घोषित कर चुके हैं उस समय विधान सभा का अधिवेशन बुलाया जाये।

सवाल यह नहीं है कि राज्य विधान सभा की बैठक कब बुलाई जाये और कब न बुलाई जाये। मैं इस प्रश्न को उतना अधिक महत्व नहीं देता जितना महत्व मैं इस बात को देना चाहता हूँ कि राज्य की आन्तरिक स्थिति जो आज भयंकर और विषम रूप धारण करती जा रही है इस को भी हम अपनी आंखों से ओझल न करें। वर्तमान पश्चिमी बंगाल के मुख्य मंत्री श्री अजय मुखर्जी और उनके साथी जिन्होंने श्री मुखर्जी सरकार को सत्तारूढ़ करने के अन्दर बड़ा भारी सहयोग दिया और जो यहां पर संसद में सदस्य भी हैं लेकिन दुर्भाग्य से इस समय उपस्थित नहीं हैं, श्री हुमायून् कबिर उन्होंने एक स्थान पर नहीं बल्कि कई स्थानों पर और बार-बार इस बात को कहा है कि पश्चिमी बंगाल की वर्तमान सरकार इस समय वहां पर पदारूढ़ नहीं रह सकती है वैधानिक दृष्टि से। श्री अजय मुखर्जी अब से कुछ दिन पहले जब दिल्ली आये थे तब उन्होंने अपने एक वक्तव्य के अन्दर उसी प्रकार की धमकी को दोहराया था जिस धमकी को हमारे कुछ मित्र यहां और उग्र भाषा में दोहराते हैं। श्री अजय मुखर्जी ने कहा था कि सम्भव है कि विधान सभा के अन्दर मेरा बहुमत न हो। ये शब्द श्री मुखर्जी ने ही अपने वक्तव्य में कहे थे। इन दोनों बातों को जोड़ते हुए जो मुख्य बात है उस पर मैं आना चाहता हूँ।

मैं इस बात को भी उतना अधिक महत्व नहीं देता कि पश्चिमी बंगाल के राज्यपाल की अर्थी को सड़कों पर जलाया जाये। लेकिन इस बात को मैं बड़ा महत्व देना चाहता हूँ कि पश्चिमी बंगाल सरकार के मिनिस्टर और

[श्री प्रकाशवीर शास्त्री]

जिम्मेदार मिनिस्टर जो सरकार की ओर से कलकत्ता के अन्दर 144 दफा लागू करते हैं, वही मिनिस्टर खुद विधान सभा भवन के आगे आ कर 144 दफा का उल्लंघन करते हैं और वहां खड़े हो कर राज्यपाल को धमकियां देते हैं। आखिरकार पश्चिमी बंगाल की स्थितियों से कब तक आंखें मोड़ कर हम चल सकते हैं। क्या हम नहीं जानते कि आज भी कलकत्ता के अन्दर सेंट्रल एवेन्यू के ऊपर आदम कद की एक तस्वीर लगी हुई है जिस के साथ में राइफल है और नीचे माओ का एक वाक्य लिखा हुआ है कि शक्ति प्राप्त की जा सकती है तो केवल राइफल के द्वारा ही प्राप्त की जा सकती है। जब ये सारी परिस्थितियां वहां हैं तो कब तक आप अपनी आंखें ओझल कर के चल सकते हैं। मैं नहीं कहता हूँ कि विधान सभा की बैठक को कल बुलाया जाये या परसों बुलाया जाये। लेकिन स्वस्थ परम्परा यह है कि वहां की आज की आन्तरिक स्थिति को देखते हुए अगर पश्चिमी बंगाल के मुख्य मंत्री इस बात को समझते हैं कि विधान सभा के अन्दर उनका बहुमत है तो कौनसी तारीख को वह बैठक बुलायें और कौनसी तारीख को न बुलायें इसका मैं आग्रह नहीं करता हूँ। लेकिन इतना आग्रह मैं अवश्य करता हूँ कि उनको अगर विश्वास है कि उनका बहुमत है, तो जल्दी उन को विधान सभा की बैठक बुला कर शक्ति परीक्षा करनी चाहिये।

दूसरी विशेष बात मैं राज्यपाल के अधिकार के बारे में कहना चाहता हूँ। पश्चिमी बंगाल के राज्यपाल का कर्तव्य था कि वह अपने अधिकारों का प्रयोग करते हुए राष्ट्रपति को एक परामर्श देते कि पश्चिमी बंगाल के अन्दर संवैधानिक स्थिति, कानून और व्यवस्था की स्थिति बिलकुल समाप्त हो चुकी है और वह इस सरकार को भंग करें और भंग करके अपना शासन वहां पर लागू करें। लेकिन पश्चिमी बंगाल के राज्यपाल ने राष्ट्रपति को

इस प्रकार का परामर्श दिये बिना वहां इस बात को उचित समझा है कि राज्य विधान सभा के अन्दर शक्ति परीक्षण हो जाये और शक्ति परीक्षण के बाद जो वैधानिक निर्णय होगा उसको कार्यान्वित किया जाये या जो उचित समझा जाये वह किया जाये। तब राष्ट्रपति पश्चिमी बंगाल की सरकार को भंग करें और उसके पश्चात् राष्ट्रपति शासन वहां पर लागू करें यह स्थिति बन सकती है। कल को क्या स्थिति होगी इसके सम्बन्ध में मैं आज नहीं कह सकता हूँ।

लेकिन गृह मंत्री श्री चट्टाण और केन्द्रीय सरकार को कान खोल कर मैं कहना चाहता हूँ कि केन्द्रीय सरकार पश्चिमी बंगाल के सम्बन्ध में जितनी चिन्तित है और उसको होना भी चाहिये क्योंकि जैसी विषम आन्तरिक स्थिति वहां धीरे-धीरे पैदा हो गई है, लेकिन साथ-साथ मैं यह भी कहना चाहता हूँ कि जम्मू काश्मीर की ओर से क्योंकि वहां पर वह सरकार है कि जिसके नाम के साथ कांग्रेस लगा हुआ है वहां भी आंख नहीं मूंद लेनी चाहिये। कांग्रेस सरकार में कांग्रेस के वेश में या कांग्रेस के आवरण में कितने कम्युनिस्ट वहां कार्य कर रहे हैं यह कभी प्रसंग आयेगा तब चर्चा कलंगा। लेकिन इस समय मैं कहना यह चाहता हूँ कि जहां चट्टाण साहब पश्चिमी बंगाल की स्थिति से चिन्तित हो कर वहां की स्थिति को सम्भालने के लिये प्रयत्नशील हैं वहां स्वस्थ परम्परा का तकाजा है कि जम्मू काश्मीर के सम्बन्ध में भी वह पहल करें और जम्मू काश्मीर की आन्तरिक स्थिति को भी सम्भालें। तब पता चलेगा कि केन्द्रीय सरकार पवित्रता से और निष्पक्ष होकर काम करना चाहती है। मैं यह अवश्य कहना चाहता हूँ जैसा मेरे एक मित्र ने कहा है कि कभी न कभी हिन्दुस्तान से कांग्रेस सरकार को जाना है और अब समय आ चुका है जब कांग्रेस सरकार धीरे-धीरे जा रही है। मेरे कांग्रेसी मित्र इस बात को अपने मास्टर से हटा दें कि परमारभा की ओर से हकूमत चलाने की जिम्मेवारी केवल

उनको ही देकर भेजा गया है और इनके बलावा इस देश में कोई और शासन चला ही नहीं सकता है। अपने बीस वर्ष के अलोकप्रिय शासन के कारण अब वह स्थिति नहीं रही है जो बीस वर्ष पहले थी। लेकिन जाते-जाते कांग्रेस इस प्रकार की अस्वस्थ परम्पराओं को कायम करके न जाये जिससे आनेवालों के रास्ते में कांटे बो कर वह जाये। इस प्रकार की स्वस्थ परम्परायें कायम करके जाये कि आनेवाली पीढ़ियां उन को अपने लिये आदर्श मानें। पश्चिमी बंगाल के बारे में आप निर्णय तो लें लेकिन पश्चिमी बंगाल के साथ-साथ जम्मू और काश्मीर के बारे में भी उसी प्रकार की निष्पक्ष दृष्टि से कार्य करें, तब एक स्वस्थ परम्परा कायम हो सकती है।

SHRI C. K. BHATTACHARYYA Raiganj: Madam Chairman, I admired the eloquent speech of Mr. Nath Pai, interspersed with compliments to Mr. Chavan and the Prime Minister. I am completely one with him to say that the Constitution must be upheld, that is, its prestige and integrity must be kept intact. But while following the speech of Mr. Nath Pai, the feeling in me was that a keen intellect was exercising itself in invoking the ghost and, at the same time, having the pleasure of exercising it. That is what Mr. Nath Pai's speech amounts to. He was seeing the ghost where there was none and he was trying to excite the House with the feeling that he was the only person who can exercise it and none else. I pay him compliments for that. In any case, we on our side are as much devoted to the Constitution as anyone on that side.

Madam, you must have witnessed the very patient and silent hearing that we gave to Mr. Nath Pai and you must have also witnessed how the very first speaker on this side was heckled, harassed, interrupted and disturbed. While I saw this I said to myself, "This is Mr. Nath Pai's constitution at work." Perhaps, they want that while we, on our side, should patiently and silently hear and bear what they do and say, they, on their side, will try to create disturbances and that the people in the country, whether in the Government or outside the Government should continue to tolerate.

SHRI SURENDRANATH DWIVEDY : You mean to say that the law and order has broken down here?

SHRI C. K. BHATTACHARYYA : In fact, Madam, it is the common interest of all. I suggest that the ideals of democracy should be maintained and democratic procedures should be followed.

What is the condition in West Bengal? I want to know from the Government of India whether they are keeping their eyes and ears open to what is being said and what is being done there. If they don't, the entire situation is proceeding to a certain culmination and when the culmination comes, let not this Government be caught napping. That is my apprehension and I tell them before hand. (*Interruption*) Some of my friends there have the gift of an uncontrolled tongue. Unfortunately, I have not got that gift.

Let me refer to the statement made by the Chief Minister in the city of Delhi. When questioned by press reporters, he said, "Possibly, I have lost the majority." Therefore, I tell my friends who have said that the Governor is acting only on his doubt, that this statement may be referred to. Not only the Governor but the Chief Minister himself has got a doubt that he has not got the majority. Another statement that he has also publicly made in the Kalibari meeting is that if there is any attempt to remove the Ministry, blood will flow. I do now know whose blood he means to say. His colleagues have been saying this vociferously and almost repeatedly everyday.

SHRI JYOTIRMOY BASU : You send the army there and make more blood flow in West Bengal.

SHRI C. K. BHATTACHARYYA : Only two or three days back, thousands of their party workers proceeded to the Raj Bhavan and wanted to make an exhibition to the Governor that they were burning his effigy. The Raj Bhavan area is enclosed by Section 144. Under the very nose of the Ministry, this is happening. The Ministers themselves are addressing meeting in this area which is enclosed by Section 144. What do you expect from the people to follow after seeing what the Ministers themselves are doing?

[Shri C. K. Bhattacharyya]

Two statements have been made by another Minister of his. One is, "If on the day when the Assembly meets a Resolution is moved to remove us, I call upon all of you to go and surround the Assembly". Remember, the Assembly is in an area covered by Sec. 144 and the Minister makes a call upon the persons who, he thinks, will support his case to go and surround the Assembly, and then he makes a significant remark which I shall tell you now. The Home Minister may find it out from the Calcutta papers and call upon the Ministry to render an explanation. He says, "Even those who are against us must have the fear of their lives." This was stated by Shri Hare Krishna Konar, a Minister in Mr. Ajoy Mukerjee's Ministry. What is the position that people are being led to? He has again stated, "If on any day we lose this Government, I appeal to all of you to go and surround the Secretariat so that those who will be coming to replace us may not have entry into the Secretariat..." (*Interruptions*).

SHRI ATAL BIHARI VAJPAYEE : That will be the time to call the Army, not now... (*Interruptions*).

SHRI C. K. BHATTACHARYYA : Mr. Vajpayee is apprehending that the Army may be called. But why does he not give his attention to what has been stated by the Ministers? Does he agree that this is the ideal condition? Are such statements to be made by the Ministers? When the Ministers go on making statements like these, should I say that the Governor must ignore? This is what the Ministers are doing. They are quoting Articles from the Constitution. The Constitution says that a Council of Ministers should be there only to aid and advise the Governor and not to call upon the people to go and surround the Assembly so that those who are against them may be put in the fear of their lives, to call upon people to go and surround the Secretariat so that the people who will be coming to replace them may not find an entry into the Secretariat. Is this following the Constitution? Is this the respect to the Constitution? This is being done by the Ministers and not by the demagogues in a village meeting. Mr. Nath Pai is a very good gentleman. He gives warnings that

Central Government must not do this and that. But they are completely oblivious to the things that are happening before their own eyes and to the things that have been stated. What is all this leading to? The Government of India should take note that this culmination may not take place.

Dr. P. C. Ghosh resigned. The very day he resigned, there were demonstrations before his residence. His residence is in the Raj Bhavan area and the Raj Bhavan area is covered by Sec. 144. There were demonstrations before Dr. P. C. Ghosh's residence. Then he asked for security and security guards were provided. But to the Press Reporters Mr. Jyoti Basu says this: Dr. Ghosh's residence is in Raj Bhavan area; why does he want security?

SHRI JYOTIRMOY BASU : He was given police guard. You have been telling cock and bull stories.

SHRI C. K. BHATTACHARYYA : This is the position to which Dr. Ghosh was reduced..... (*Interruptions*).

SHRI JYOTIRMOY BASU : You are introducing immoral traffic in politics..

MR. CHAIRMAN : Please allow him to speak. Your representative will speak tomorrow.

SHRI JYOTIRMOY BASU : He should give a correct picture.

SHRI C. K. BHATTACHARYYA : While Dr. Ghosh was a Minister, some of his Ministerial colleagues tried to oust him. In fact, when he found this, he voluntarily resigned once before this, but then the Chief Minister himself prevented him from going out and persuaded him to withdraw his resignation. In fact, the Chief Minister said that, if they were to go out, they should go out together. But going out together did not take place.

Who asked for his resignation? There is Mr. Basu belonging to the Left Communist Party. His leader Mr. Sundarayya at a public meeting asked for the resignation of Dr. P. C. Ghosh and said 'Drive that man out of the Ministry', and Dr. Ghosh retorted.....

SHRI JYOTIRMOY BASU : Dr. B. C. Roy said the same thing about fifteen years ago when he said 'Push that man out'.

SHRI C. K. BHATTACHARYYA : Dr. Ghosh retorted: 'Mr. Sundarayya, I do not belong to your party. Who are you to call for my resignation? Mr. Jyoti Basu belongs to your party; if you want to dissociate with the present Cabinet, call upon your representative to resign. Who are you to call upon me to resign?'

So, these friends of his were trying to push him out and see that he resigned and when he actually resigned they said, 'This man has betrayed; therefore, his head must be brought on a charger.' It is peculiar logic; it is peculiar conduct. This is being indulged in by persons in responsible position, as I have stated already and not by demagogues in some village meeting.

Shri Indrajit Gupta is not here. He referred to Mr. Birla's statement. By constantly thinking about Birla, their whole vision has become *Birlamayam*. Whichever side they look they see only Birla. He quoted one statement of Mr. Birla. But why did he not quote the other speech of Shri Birla at Calcutta wherein he said at a Calcutta party that 'I have got better terms from Shri E. M. S. Namboodiripad than what I got from any of the Congress-run States?' Why does he not quote that statement of Shri Birla? He quotes only one statement where Shri Birla says that West Bengal has come to a position where no industry can flourish. This is how intelligent and disinterested persons react. So, what has it got to do with Shri Birla or anybody else? But I am not concerned with what the Governor will do or not. I am not concerned so much with whether the Governor will dismiss the Ministers or will call upon the Assembly or not. But I am concerned as one living in Calcutta with the situation to which that city is being led and generally the entire State is being led.

Somebody referred to Naxalbari. Yes, the Naxalbari picture and what happened there is now being.....

SHRI SURENDRANATH DWIVEDY : He is representing Naxalbari.

SHRI C. K. BHATTACHARYYA:..... and it is now being extended all over the State. There are warrants of arrest, as Shri Surendranath Dwivedy and as Shri Nath Pai might know, against the Naxalbari leaders. But a meeting was held in the

maidan where Mao's portrait was displayed and speeches were made saying 'These are the heroes and their example should be followed by young men', taking the name of Shri Kanu Sanyal and Shri Kadam Mullick and so on, knowing full well that warrants of arrest were issued against them by the very same Ministry which is now in existence in Bengal.

SHRI JYOTIRMOY BASU : He is telling something which is untrue. He is misleading the House.....

SHRI C. K. BHATTACHARYYA : Warrants of arrest had been issued against them by the very same Ministry.....

SHRI JYOTIRMOY BASU : On a point of order. The hon. Member who is speaking is deliberately misleading the House. They had been expelled from the party a long time ago.

SHRI C. K. BHATTACHARYYA : Warrants of arrest had been issued and yet they held a public meeting and praised them as heroes.

This is the position which we are going to. If the Government of India do not act in time, we might be in difficulty. Therefore, this is what I would urge before the Central Government that they should take timely action. Shri Nath Pai was referring.....

SHRI JYOTIRMOY BASU : The hon. Member is quite safe in this house. I know that.

SHRI C. K. BHATTACHARYYA : Shri Nath Pai was referring to the discretion of the Governor. He was putting a very narrow interpretation. He meant that only in regard to those articles where the word 'discretion' is mentioned, the Governor may exercise his discretion. But if article 163 is read in its entirety, it will be found that it disputes the interpretation put on the word 'discretion' by Shri Nath Pai, as to what constitutes Governor's discretion. The article clearly states that what the Governor's discretion is something which the Governor himself will decide and he will decide that also in his discretion and that may not be challenged in any court of law. That is the entire article 163. Again, what is the meaning of 'discretion' as held by the courts? The Supreme Court has held that

Shri C. K. Bhattacharyya

[the Governor will not be required to act according to the advice of the Council of Ministers or even not to seek such advice.

The Governor will be able to act in that way. Taking Articles 163 and 174 together, the Governor has enough powers to decide what is to be done in some particular circumstances if he feels that the Government of the State cannot function in a peaceful and normal way.

AN HON. MEMBER : Where do you find that?

SHRI JYOTIRMOY BASU : At long last they have found a British civil servant to come to their rescue.

SHRI C. K. BHATTACHARYYA : You read together Articles 163 and 174.

The Constituent Assembly intended the Governor to be a link between the Centre and States. He is not a neutral factor, just to see whatever is happening not to take any action. Neither can the Central Government shake off from its own shoulders the responsibility that it has over the entire territory of India.

Shri Nath Pai was waxing eloquent on the autonomy of the States and asking whether they were the colonies of New Delhi. Would he kindly read that article in the Constitution whereby the residual authority for legislation vests with the Centre, and not with the States? He has

completely forgotten that article of the Constitution when he said that the Centre should remember that the States are not its colonies. He almost wanted to make the Centre a shadow figure having no control or no voice in whatever the States did.

SHRI JYOTIRMOY BASU : But you have abolished zamindaris. The colonies are gone.

SHRI C. K. BHATTACHARYYA : Both the Centre and the Governor up till now have shown enough patience, the patience of stone, and they should not think of acting, do what the Constitution, demands that they should do. Under the Constitution, the Centre has got an obligation which it cannot lay down. The Centre cannot abdicate its responsibility because some friends of the opposition want that the Centre should remain completely ineffective, that the Governor should remain ineffective, that they should go on in their own way in the States wherever they have control. That is the position today. Neither the Centre nor we can tolerate it. There should be cognizance taken of what is happening in the States by the Centre.

SHRI JYOTIRMOY BASU : Call for a mid-term poll if you have the courage.

19.44 hrs

The Lok Sabha then adjourned till Eleven of the Clock on November 16, 1967/Kartika 25, 1889 (Saka).