

child is hungry or thirsty, it thinks of its mother. It is the same thing with me. So forgive me'—he says.

AN HON. MEMBER: What about Ministers?

SHRIMATI SUDHA V. REDDY: It is this quality which provides an outfit for womankind which equips her as a better social worker than her counterpart.

SHRI RANDHIR SINGH: Conceded.

SHRIMATI SUDHA V. REDDY: The Central Social Welfare Board has recently been registered under the Companies Act. I think under sec. 25 of it. It was partly due to the fact that all the time it was felt that this body had no legal status, that it was being given money on just a fluid drive, that whatever was given to it made it an *ad hoc* limb of the Government and being a limb of the Government is not a very presentable feature'.

16 hrs.

MR. DEPUTY-SPEAKER: The hon. lady Member may resume her speech on the next occasion. We shall take up Private Member's Business now.

SHRI HEM BARUA (Mangaldai): I did not want to disturb the hon. Member while she was speaking. The Prime Minister was to make a statement on Telangana at 3.45 P.M.

MR. DEPUTY-SPEAKER: It will be made at about 6 P.M.

#### COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

##### FORTY-SEVENTH REPORT

SHRI B. R. PARMAR: I move:

"That this House do agree with the Forty-seventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 9th April, 1969"

MR. DEPUTY-SPEAKER: The question is:

"That this House do agree with the Forty-seventh Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 9th April, 1969"

*The motion was adopted*

16.02 hrs.

#### RESOLUTION RE : POWERS AND FUNCTIONS OF GOVERNORS— *Contd.*

MR. DEPUTY-SPEAKER: The House will now take up further discussion of the Resolution moved by Shrimati Sushila Rohatgi on the 28th March, 1969 on the Powers and functions of Governors. She has taken seven minutes, and one hour and fifty-three minutes are left. She may take another fifteen or twenty minutes and the other hon. Members may take five minutes each. The hon. Minister will take about fifteen minutes.

SHRIMATI SUSHILA ROHATGI (Bilhaur): The main controversy regarding the position of the Governors revolves round three factors. The first was the position of the Governor as a constitutional head; secondly, the exercise of his discretionary powers and thirdly, the question of impeachment or recall.

First and foremost, we find that there is a controversy regarding the functions of the Governor as a constitutional head. Mr. Giri believes then the Governor should act as an Ambassador between the Centre and the State and within the frame work of the Constitution he can also discharge certain necessary and useful functions.

16.04 hrs.

[SHRI THIRUMALA RAO *in the Chair*]

Whereas we find that some ex-Governors like Dr. Katju, Mr. Gadgil and Dr. Pattabhi Sitharamayya complained that they really had nothing to do with the Government which was carried out in their name

[Shrimati Sushila Rohatgi]

and that they did not have adequate powers. We find on the other hand that the study team of the Administrative Reforms Commission has suggested that these powers should be further enhanced under article 194.

Under article 156 he is appointed for a term of five years and he is to work directly under the President. Under article 163 he is to be aided and advised by the Council of Ministers in the discharge of his duties except on matters where he has to exercise his discretion. But we find that the Constitution does not lay down nor does it clarify in what matters the Governor is supposed to exercise his discretion.

Thirdly, we find that there is a provision that if in case a question arises whether a particular act or omission is within the purview of the discretionary powers of the Governor, the decision of the Governor and his judgment, would be final. And under article 164, the Governor appoints the Chief Minister and the Council of Ministers on the advice of the Chief Ministers, and they shall stay in office at the pleasure of the Governor. Again, we find that the word "pleasure" has not been defined by the Constitution. Under article 174, the Governor will summon the State legislature from time to time to meet at such times and place as he chooses.

In addition to all this, we also find that article 167 lays down some powers. Under this article, the Governor is given special powers, though they are not very often used. If they had been used, there might have been less of conflict and trouble or controversy. We find that this article empowers the Governor with certain powers; according to this, it is incumbent and obligatory upon the Chief Minister to communicate to the Governor all Cabinet decisions before the order is issued, and also after the orders have been issued relating to administration. The Governor can also call for any papers which may have relevance to the decision taken by the Ministers but which may not have been discussed in the Cabinet.

Articles 352 and 360 give some special powers to the Governor in the matter of finance. But the most important power is that conferred by article 356 by which the Governor, without talking the advice of the

Chief Minister, if he finds that there is failure of the constitutional machinery, can report to the President and the President acting upon the advice of the Prime Minister can supersede the legislature and clamp President's rule on the State.

I would like to draw the attention of the hon. Members of the House through you to this particular article where we find that this can be a very dangerous weapon in the hands of the Governor and in the hands of the President, because, if these powers are not wielded properly if the President acts arbitrarily and if the Governor is also disposed that way, the provisions could be misused or misutilised, and the very nature of the Constitution which is of a federal character can be ultimately changed to a unitary character. Therefore, I would like to draw the attention of the House to this particular aspect of the matter and suggest that the number of State which can at one stage be brought under the Presidents' Rule be clearly limited and defined.

It was in the exercise of these discretionary power that ultimately the controversies arose first in Kerala in 1953, as our present Law Minister knows, when the Rajpramukh acting on the advice of the defeated Chief Minister dismissed the Ministry. The question arose, should or can the Governor dismiss a Ministry acting on the advice of a defeated Chief Minister? We find that Lord Simon, an authority on the Constitution said:

"Parliamentary democracy can succeed only in a country where the ruling party prefers to vacate office for the opposition rather than think in terms of the breakdown of the Constitution."

And Mr. C.B. Gupta in Uttar Pradesh carried out and emulated the highest traditions of parliamentary democracy when he was Chief Minister in Uttar Pradesh, whereas in England, the country from where we derive our Constitutional inspiration for our democratic functions, it was not followed; it was not followed in England itself, when Lord Rosebury, who was defeated by eight votes, continued in office. We thus find that the highest traditions of democratic functioning was not followed on one occasion even in England.

Then, in France, where they have a multi-party system once the Chief Minister is defeated, he has no right to advise the Governor and the Governor need not dismiss the Ministry on his advice.

The second question regarding the discretionary powers of the Governor comes with the incident in Rajasthan where the relevant question arose: could the Governor prorogue the Assembly in the midst of the budget session on "conscientious grounds" if he felt after a subjective assessment that the party in power had lost the majority? Though he did not dissolve the legislature, all the same, it was prorogued to enable the members to participate in the presidential election. As Dr. Sampurnanand himself—a very learned scholar and a great, eminent man—had said: "The SVD leaders, instead of protecting the law, had actually, for their own purposes, deliberately broken the law themselves."

The third instance arose in Haryana. There, though the party still enjoyed a majority, because there was a lamentable lack of decency, as the Governor himself reported to the President,—it was "a lamentable lack of decency"—President's rule was clamped there. The question arises whether a Governor can dissolve the legislature even if the ruling party happens to have a majority in the House: In Madhya Pradesh, the question which arose was, whether the Governor can or should act on the "advice" of the acting Chief Minister? This question is of great importance and it was discussed on the floor of this House. Last but not the least, we come to West Bengal where the question arose, if the Chief Minister did not want to call the House at a particular time and if the Speaker did not want to face a motion of no confidence in the House, could the Governor dismiss such a ministry or could it hold office if it failed to serve at his "pleasure?" Could the Governor dismiss such a ministry if the Chief Minister refused to "summon the legislature at the place and time of his choosing" as laid down by the Constitution? It is out of this question that the entire controversy in West Bengal arose.

With regard to deleting or refusing to read certain passages in the Governor's Address, according to article 176, it was

within the powers of the Governor to reject any part which he did not like. Even in *May's Parliamentary Practice*, which is an authority on parliamentary democracy, it is enunciated that while the Prime Minister has the right, to say anything he likes in his speech from the Throne, at the same time, the Sovereign has an equal right to reject any part or passage of the speech which casts aspersions on the Crown. We find each one of these things has emanated from the same controversy, namely, how far and under what political circumstances is the discretionary power of the Governor to be wielded.

About the last question, would it not be against all canons of justice and logic to except a Governor, who has gone out of his way to meet the difficult situation in West Bengal, who faced humiliation and braved everything in the discharge of his duty as the Constitutional Head to defend the law and the Constitution, to indict himself?

All these questions arise from time to time because the discretionary powers of the Governor have not been clarified. Naturally when these matters are carried to their logical end, harmony between the Centre and State which is so necessary, suffers. So long as the Congress was in power at the Centre and the States, harmonious working was easy and logical. But with the emergence of leadership of various parties in various States and with the ideological differences between the political parties at the Centre and in the States harmonious working has become difficult. Every day matters arise which would lead to straining of relations between the Centre and the State. Naturally, the question of recall or impeachment of the Governor comes into focus. The Constitution does not contain any provision whatsoever for the recall of the Governor.

In Australia, there was a case in 1916 when the Governor dismissed the Prime Minister, and Prime Minister sent a telegram to London. The Governor was recalled and replaced. In Nigeria a similar case arose when the Governor had dismissed the Chief Minister, but the Privy Council stayed the decision. In America, there is no parallel, because they have an elected Governor. Even constitutional pandits like Keith and Crisp are in favour of recall of

[Shrimati Sushila Rohatgi]

Governors under certain circumstances, Here in India, this system has been more or less evolved upon conventions and political practices.

There is no specific provision in this direction but more or less it is taken for granted that the Centre would consult the State concerned. Though this consultation is not binding upon the Centre, though it is not binding upon the President by any chance, as we know that in the case of Haryana, for instance, Shri Ajit Prasad Jain was sent as the Governor though it was not favoured by the State Government and we know that in the case of Bihar Panditji in deference to the wishes of the people of Bihar did not send Shri Nityanand Kanungo there. Therefore, we find that alteration, amendments and adjustments can take place. But certainly I do not agree to this process of mathematical calculations, to this process of elimination which has been evolved in the recent past in the selection of the person to the post of Governor in Bengal.

I would like that these matters should be taken into consideration. We have to think in terms of Centre-State relations. We find that a new school has come into prominence which advocates that the Governor should be elected. This was originally the view of the constitution-farmers also. But since we followed the pattern in Britain where we have an elected legislature it was thought that to have an elected Governor would amount to interposing and would not at all be necessary in the context.

Another view is that the appointment of Governor should be ratified by the Parliament. The view expressed by the ex-Chief Justice of India, Shri Subba Rao, is that the President should appoint the Governor in consultation with the Prime Minister and with the Chief Minister and Leaders of the Opposition in the State concerned.

But one thing is quite clear. We know the instance which was brought to our notice last week when the Leader of the Communist Party, Shri Gopalan—this is according to the Press and I do not know the authenticity of the thing—gave a note of warning to the Governor in Kerala that he must mend his ways and he should not go and work against the wishes of the

elected legislature in Kerala. The report says that he wanted the Governor to mend his ways in accordance with the lessons learnt from the Governor in Bengal. In the context of this, if the post of Governor becomes an elected one would he not become a pawn, a stooge in the hands of the Chief Minister? The very theory that the Centre should be strong will then be nullified. I would like to point out that it was specially with a view to keep a very strong Centre that the framers of the Constitution had framed article 160 by which special powers have been conferred on the President and under which the President in case of any contingency can frame rules and make provisions for discharge of functions of the State. We find this is a special power, a significant power which finds no parallel in any Constitution, not even in the Canadian Constitution which is analogous to our own Constitution. Therefore, it becomes incumbent upon the Centre to see that the relation between State and Centre remains harmonious.

In the context of the present political explosive situation we find that pinpricks are made every day, grounds are framed every day for straining the relations between Centre and State, whether it is a matter of deploying troops outside the State as in the case of Durgapur or whether it is a case of the very tragic incident in the Cossipore Factory. Also, something unprecedented in the history of democratic countries, something unparalleled in the working of our Constitution happened yesterday and that is the Bengal Bandh, where we find that the State arrogates to itself all powers which are relevant to the Central Government relating to communications, transport etc. When things like this are happening what is the Government to do? What is the Governor to do? Is he to be a mere spectator and watch these things happen at the cost of life and property of the people concerned there or is he to take law and order in his hands and mobilise things there in accordance with the oath of allegiance he has taken to the Constitution and discharge his duties rightfully, dutifully and courageously?

In the context of this political climate we have to evolve healthy traditions and conventions. These will not automatically flow from the advice of the Home Ministry

or the Law Ministry. It will be based not only on the advice given by constitutional pundits. It will depend very much upon the co-operation and good spirit between the Treasury Benches and the Opposition Leaders. It can only be done by their co-operation. Before I started my speech last time I appealed to all hon. Members of the Opposition not to take this matter up from any political angle but only from the national and larger interests of the country. Here we have to see that it becomes incumbent upon the government which is in power to make a proper choice of the Governor. First and foremost, the President must see that the Governor is above party level, that he is not a member of any political party. Otherwise, he will have a natural bias for that party. Secondly, it has to be ensured that once a person is appointed as Governor, he does not re-enter politics when his term expires. Otherwise, his interest in politics will continue and his entire outlook will be biased beforehand. Further, it is extremely important to choose for the post of Governor people who possess not only great administrative ability, good knowledge of the Constitution and basic faith in the democratic tenets of life, but they must be men of foresight, political wisdom, a touch of statesmanship as some people would say and, above all, courage of conviction and self-confidence, who know what to do in the given circumstances. Shri Dharma Vira, who is one of our ablest administrators in the country, before his departure from West Bengal after laying down office, he said that the powers of the Governor must be clarified, must be defined and guidelines must be clearly laid down.

At the same time, I would appeal to the opposition members that they can also, in their turn, help in this process of evolving a healthy precedent or healthy convention by building up a strong opposition. And a strong opposition can be built up only if they reduce the number of parties. It would be to their advantage if they have only three or four political parties. Their strength can be increased by reducing the number of parties and in that way they can build a strong opposition. In this way the process of defection, which has become a political stigma of the twentieth century, can be reduced and ultimately abolished. I am sure that with co-operation of the

political parties the selection of the right sort of candidate by the President for the post of the Governor, a healthy atmosphere will prevail between the two the Centre and the States.

Before I end I would like all hon. Members of this House to understand this, that we cannot take a partisan approach in this matter. It is a matter which is of burning importance in the context of the present day. What is happening in one place can possibly happen in another place tomorrow. With the incursion of new ideas, with the creeping in of Naxalites in the country, with violence taking various shapes in the country, whether in the form of agrarian revolt or in the form of unauthorised occupation of land—as we have seen from the papers, this is spreading from Bengal to Bihar—with new political ideologies sweeping into the country, it is very necessary that the Governors must exercise their powers with vigilance and alertness. That is why I have tabled this resolution.

We must frame certain provisions in the Constitution. We must make amendments in the Constitution. First and foremost, the word "pleasure" has to be defined. We find that in Nigeria the word "pleasure of the Governor" is defined. Secondly, the discretionary powers of the Governor must be clearly laid down. Even though they may not be clearly laid down in Australia and even though the powers which we have given to our Governors are more or less identical to those given to Australian Governors, we find it is necessary to clarify the discretionary powers of the Governor. Mr. R.D. Lumb, writing on the Australian Constitution, says:

"It is accepted by most authorities that the Governor is not obliged to act on the advice of the Ministers in all cases whatsoever. He possesses certain reserve powers which he must exercise constitutionally and not arbitrarily. It is, however, very uncertain to which powers this individual prerogative of the Governor applies."

It is precisely here that we have to make certain guidelines, how far the Governor can act within his discretion, and how far he will not act in a manner which is arbi-

[Shrimati Sushila Rohatgi]

trary. Therefore, with these words, I would commend my Resolution to the hon. Members of this House, with the fervent appeal that they should rise above party level and suggest guidelines which will be in the larger interests of a strong democratic institution.

MR. CHAIRMAN : Resolution moved:

"In view of the recent controversy regarding the powers and functions of the Governors, and in the context of smooth Centre-State relations, this House is of opinion that a Committee of 30 Members of Parliament be constituted to consider the necessary amendments in the Constitution of India."

There are two amendments to this motion.

SHRI SHINKRE (Panjim) : I beg to move: That in the Resolution,—after "Parliament" insert—

"representing all the States and Union territories" (1)

SHRI SAMAR GUHA (Gontai) : I beg to move: That in the Resolution,—add at the end—

"and before such Constitutional amendments are adopted by Parliament, the Prime Minister should convene as early as possible a conference of the Chief Ministers of the States with a view to chalk out *ad hoc* guidelines regarding the powers and functions of the Governors with the approval of the President." (2)

SHRI LOBO PRABHU (Udipi) : Sir, the institution of Governor has to be traced to the Act of 1935. If our Constitution is placed side by side with that Act, the difference between the two Governors to be found will be very slight. The same is true also of the President but by a convention the Governors and the President have become figureheads before the Prime Minister and the Council of Ministers. This was an evolution which was not in the Constitution but which has grown as a result of convention. To that extent the powers of the Government are enormous; they do not

accord with the system of government that we have.

The anomaly was not of importance when the same party was in power at the Centre and in the States. The anomaly has become very important, even dangerous as Shrimati Rohatgi suggested, because of the difference of parties, in which connection the Governor has become the symbol of such differences as exist.

At the same time, it must be recognised that though different parties can exist at the Centre and at the State level, there is no real cause for differences unless the circumstances provide them. We have Governors in the States of Madras, Orissa and even Kerala, where the stability of government has not brought the Governors into conflict with their Chief Ministers. It is where there has been instability, where the Governments have been loosely knit, where the governments have lost their majority, that the institution of Governor has been questioned and derived and is being demanded to be abolished. That factor must be realised and from that factor we must judge the institution of Governor.

Do we want the Governor to act for the Centre—when I speak of the Centre, I speak of the people—when there is instability in the State? This is the simple question. If we do not want the Governor to interfere when there is instability and when a party has lost its majority, who is going to act for the Centre and for the people of that State? That is the most relevant question. What is the substitute contemplated by those who wish to abolish the institution of Governor when such circumstances arise, when a party has lost its power and is not willing to lay down office? If you do not have a Governor, are you going to allow the courts to have a say in the matter; or are you going to allow, what is more probable, the army to have a say in the matter? This position, therefore, makes it absolutely necessary that the institution of Governor should continue. If you do not have the institution of Governor, you will not have democracy and constitutional government.

The next large question is : What are we going to do, firstly, to secure that the office of Governor is properly filled and, secondly,

to see that the office of Governor escapes ordinary conflicts—I do not say, extra-ordinary conflicts—with the Government? About the office being filled by persons only *persona grata* or agreeable to the party in power, I do not think I have the time to give all the details but everyone is aware that governorship is a heaven, a refuge to the disappointed politicians; governorship is a refuge for someone whom the Government either wants to oblige or wants to placate lest he should be troublesome elsewhere.

SHRI VISWANATHA MENON (Ernakulam) : Or retired ICS people.

SHRI LOBO PRABHU : I am glad, you are very keen on bringing I.C.S. into the picture everywhere. The retired ICS people, I do not think, are as bad as some of you would like to believe. When they are appointed as Governors it is not because Government wants to please the ICS; Government may be wanting to please some particular ICS officer who has obliged them. The principle is the same. They never thought of appointing me as a Governor because I have never tried to oblige them. Even otherwise, when an ICS officer has been appointed, you will concede that he is certainly some one who has come in on the basis of merit. Many of you may say what you like about ICS, but the fact remains that all of you, at one time or the other, hoped to be in ICS. Because you are not there, you cannot say that the ICS is bad. ICS is not a service which has been made by politics; it is not a service which has been made by favour. We have come into the ICS by merit, after a strict examination. So, let us have some peace on the subject of ICS.

MR. CHAIRMAN : Two of you are already in the House. You need not defend yourself.

SHRI LOBO PRABHU : Let me revert to the more important question ICS is fading out; there are only 100 members left of Governor.

You have to see that the office of Governor is properly filled. The proposal which attracts me the most is that the President, in consultation with the Prime Minister, the Chief Minister, the Leader of the Opposition

and, I would even add, the Chief Justice of the Supreme Court, should select the Governor of a State. That would prevent absolute use of the office for party purposes. If that is secured, the Governor is someone that every one will respect, that every one will accept. Then, I think, that office will work better than it has done so far.

The second question is how to make this office conformable or how to make avoid the conflict that has arisen. In this connection I would like to say that any office is useful, any office is respected, any office survives, when it has a function. Because of the development of our Constitution from convention, the Governor has ceased to have any functions at all except of being the host of the Government, except of being a kind of representative of the country and of the Government, except of being very useful to say things that the party wants him to say, once a year, in his Address. It is comparable to a thing which has no function. For instance, Appendix remains only to cause trouble. You have to suffer from Appendicitis. Governor is a form of Appendicitis in our system. We have to think of dealing with him as we deal with something which has no function but must be given a function.

In this connection I am glad I had this opportunity to put the views of my leader, Rajaji, before you. Whatever your views may be, whichever party you may belong, I think you will concede that there is no one in this country with a longer history of service, with a greater perception of the needs of the country, with a greater power to know the law and its best uses, than Rajaji. Even if you will, for a moment, think of him not as Leader of the Swatantra Party but as one who led the Congress, one who led this country to Independence, I think, he is entitled to some attention to his views.

His views on the Governor arise from the circumstances. He wanted to make the Governor functional in respect of two things, where popular Government had failed and the two things are: (1) the Police. Take an instance. Yesterday in Calcutta the Police no longer followed their duties according to Criminal Procedure Code, but have followed their duties according to the book on jobs. They are disposed to ignore the law so long

[Shri Lobo Prabhu]

as it pays them, so long as they can please the Government in power and so long as they get a better job. As long as the Police remains dependent on the Party in power, they will not exercise their duties to maintain law and order. It is, therefore, absolutely necessary that the Police should be insulated from political interests and that they should carry out their duties in respect of law and order in the same way as a surgeon or a physician carries out his duties without reference to the politics of the patient. If they are at fault, they should be punished by court of law of their own as in the Army. They should not be exposed to political commissions, to political influences in this matter.

Therefore, if you want peace and order I think every one wants peace and order—and even my good friends, the Communists, whatever they say, they also want peace and order, they must have a Police which is capable of enforcing and you could have a police capable of enforcing it only when they are completely insulated from politics. Now will it be a loss to politics? After all what does the Government gain by more riots.

MR. CHAIRMAN : The hon'ble Member's time is up.

SHRI LOBO PRABHU : The second proposal of Rajaji is that just like the Police the administration should be insulated from political influence. The administration should be an instrument of carrying out whatever be the politics. The Government should not do what the administration does. The Government should not give instructions to the administration. That is very much like keeping a dog and barking yourself. Let the administration be completely independent of the Government. It is not difficult. In England, I may tell you, that the Treasury is completely separate from the Government. It carries on its own work. The Permanent Secretaries remain there and carry on the policy that is laid down to them without interference. So to the extent you can make the Services dependent on the Governor for their posting, for their promotions and for their independence, you will secure an instrument of service for the country not merely a service for party in power.

I will come back to the views of the learned speaker who preceded me that it is not a question for a Party. This is a question for the whole country. Tomorrow somebody else may be in power. If you want an instrument in the Government, in the Services, in the Police that will carry out their orders, if that is the purpose of Government I would suggest that we should have our Governors for these two functions, the function to control the Police completely, to control the administration completely and make the services of these two large bodies available to the political democracy of the country.

SHRI CHINTAMANI PANIGRAHI (Bhubaneswar): Mr. Chairman, today we are passing through such a revolutionary time as this that perhaps merely confining ourselves to discussions of certain sections of the Indian Constitution in respect of the institution of Governorship will be really not enough. For the problems that we are facing to-day are full of dangerous portents. Sir, this Constitution that we had framed, was framed after long years of struggle and during the last few years, may be after 1967 and even after the mid-term elections in 1969 a new upheaval is taking place all over the country. Therefore, when we shall analyse the institution of Governorship, merely citing cut and dry formulae of the Constitution will not be sufficient to-day in view of the rising contradictions that we find among the new generations of the country and the old. We cannot simply ignore the rude realities of political life that we face today.

Sir, it is both unrealistic and unfair to expect that the Governor's position will remain immune from the great political changes that have taken place and are taking place in the country every day.

Now, take the case of the Bengal *Bandh* yesterday. Well, what can the poor Governor do? If the Governor, in the Constitution, I should say, is 'condemned' for defending the constitution and the law, it is the people alone who can defend the constitution and not the poor Governor. What can the poor Governor do? About the Bengal *Bandh* the Law Minister could not do anything. The Central Government could not do anything. If the people take law into their hands and into the streets, and take



certain measures like that, what the Governor can do?

Therefore, the ultimate defenders of the Constitution and of our democracy are the people. Just because the Governor is there, he cannot do these things and it is the people at large who have got the final say.

Let us analyse the position like that. If you read the provisions of the constitution, you will see that we are confronted every day with new challenges. Take the case of the Governor reading the Address containing the policy of the Ministry which has been elected by the people. The Constitution has taken it for granted that the Governor will read the policy of the Ministry which has been elected by the people.

Now, in Bengal, people elected a Ministry and the people wanted that this is the policy which should be read. But then, the Governor said "I cannot do it." But, you may take the case of Orissa. The Khanna Commission was appointed and that Commission said that there are no charges against the Congress Ministers. Those were exonerated by the Khanna Commission. But the Governor was made to read his Address there saying that the 'follow-up action will be taken.' Why? Because, it is all 'politics'.

Sir, similarly, take the case of reading out the Address by the Governor of Punjab. What has he said? He has said exactly what the Ministry wanted, what the Ministry wanted him to read.

Therefore, simply citing certain sections of the Constitution will not help matters; these are all not enough to meet the new challenges that we are facing every day in this country.

I would submit through you, to this Honourable House, to all the parties concerned, and to this country, that the present ritualistic ceremony of the Governor setting out the Ministry's policy must be given up in the present political pattern that has developed in our country.

Sir, the States and the Centre have all gone apart. It is a fact. It must be recognis-

ed. We all should recognise that these things have gone apart in respect of the political affiliations of Ministries, Ministers and Legislators. Therefore, there cannot be any final or national convenient arrangement for such a thing as setting out the Ministry's policy, of the policy of the elected Government by the Governor.

So, the time has come when the Law Minister should think over these matters. He is very efficient and thinks also very seriously on these matters. A time has come when a Conference should be convened of all enlightened and right-thinking men in this country who are seized of this matter, so that some new pattern may be evolved. There should be a reappraisal made of the Governor's powers, his discretion and the powers invested in him in the Constitution to defend the rights, the duties and the responsibilities of the Government of India. What is needed is such a reappraisal.

Let us look into the institution of the Governorship. The Governor has to defend the law and the Constitution. How can he defend it? If you look at the particular provisions of the Constitution, you will find that the Governor is to act as the agent of the Centre and also as the representative of the Union in the State. Supposing the institution of Governor becomes a centre of clash between the State and Centre, then what is to be done? Where shall we begin with? Therefore, it is necessary that the question whether the institution of Governor is really outdated or not has to be thought of again. It was thought of when there was monopoly of power by one Party; it was thought of when all the new changes that we see now were not very much there 16 or 17 years ago. In the present changed context of political thinking and in the present context of Centre-State relations, how far can we go by the existing Articles of the Constitution? I think this question needs more rethinking and reappraisal.

One more point. Supposing the Governor is there to defend the Constitution and the law. The Chief Minister is elected and the entire Assembly is elected by the people. The Chief Minister has lost his majority in the House. Then, according to the

[Shri Chintamani Panigrahi]

Constitution, he has to resign. Supposing he does not resign. Then the institution of Governor should be used or the Governor should act in his discretion so that the Chief Minister is made to resign. If the institution of Governor is only meant to facilitate President's rule in a State where the Chief Minister has lost his majority in the Assembly, then I think it is not necessary because the Governor can only recommend to the President; he cannot directly enforce President's rule in a State. If it is to be enforced, it has to be ratified by this House. Therefore, it is the President who can directly enforce it. The law Minister may ask: Who is his agent there? I think time has come when we shall have to lay down democratic precedents. The Chief Minister should be so honest that within 24 hours of his losing majority in the House, he should say: "I must maintain democratic traditions and therefore I shall go." For that purpose an outdated institution like that of Governors need not be there because for maintaining this institution, annually we are spending Rs. 3 crores. This includes Lt. Governors and Governors, and their travelling allowance, sumptuary allowances, medical treatment expenses, etc. In view of the changed circumstances and political changes in the country, is it necessary that we should maintain this costly institution? Should we not devise some democratic precedent whereby every elected Chief Minister should step down the moment he loses his majority in the House? It should not be left to a Governor or the President to ask him: "You convene the Assembly. Otherwise, I shall dismiss you." We should build up new democratic precedents whereby the necessity of having this institution of Governors should disappear. Then only democracy can be saved. We ourselves should be the guardians of law and Constitution, and not the Governors.

श्री यश बल्लभ शर्मा (अमृतसर) : अध्यक्ष महोदय, मैं इस प्रश्न के ऊपर एक सामान्य व्यक्ति के दृष्टिकोण से आपके सामने अपने विचार रखना चाहता हूँ। विधान की बारीकियों की दृष्टि से 'इस प्रश्न के ऊपर काफी चर्चा हुआ है। आम आदमी यह सोचता है कि राज्यपाल जोकि किसी राज्य के अन्दर है,

वैधानिक हितों की रक्षा के लिए, चौकीदारी के लिए, केन्द्र की ओर से एक पहुँचदार है और उनका रक्षक है। जब कभी कोई संकट का काल आता है, वैधानिक क्राइसिस पैदा होती है, तो उसे लगता है कि इस व्यक्ति के द्वारा एक प्रकाश मिलेगा। सबसे पहले मैं यह कहना चाहता हूँ कि यह प्रकाश आज हमारे विधान का आलोक है, केन्द्र के अन्दर विधान का आलोक है, नीचे जाकर वह आलोक लोगों को पता लगेगा। यह तो एक वाइरिंग सिस्टम है। अगर वहाँ पर हमारा वह आलोक, दीप यानी वह व्यक्ति प्रोजेक्ट करता है उस प्रकाश को या नहीं लेकिन हमने तो ऐसे फ्यूज बल्ब सब जगहों पर लगा रखे हैं। सब जगहों पर विधान की व्यवस्था आलोक है लेकिन ऐसे रिजेक्टेड, ऐसे घटिया दर्जे के लोग, राजनीति से उखड़े हुए लोग जो दलों के लिए संकट थे या जो अपनी प्रतिष्ठा खो चुके थे या चुनाव में हार चुके थे, ऐसे व्यक्तियों को वहाँ पर राज्यपाल के पद पर रखा है, जिसके कारण मुझे लगता है कि इस प्रकार के भूटके अधिक लोगों और लोगों को शिकायत के मौके अधिक मिलें।

विधान बनाने वाले हमारे निर्माताओं ने और हमारे माननीय नेताओं ने इस बात का विचार रखा था कि राज्यपाल का पद किसी भी समय के ऊपर जब कहीं कोई अव्यवस्था आती है तो उस दृष्टि से इस पद के द्वारा संकटकालीन परिस्थिति को और निश्चित रूप से संभाला जा सकता है। लेकिन आज विधान के, जिसे कहना चाहिए, प्रतीक, यह वहाँ के मुखिया राज्यपाल की स्थिति को देखते हैं जोकि पिछले दो वर्षों के अन्दर आई और चौथे आम चुनाव के बाद व्यावहारिक रूप में हमारा लोकतन्त्र काम करने लगा है, प्रैक्टिकल रूप में हमारे सामने लोकतन्त्र की प्रक्रिया आई है, उस समय से यह राज्यपाल का पद विवाद का विषय बन गया है। पहले तो शायद एक दल के होने के कारण बहुत सी व्यवस्थाएँ लोगों के ध्यान में नहीं आती थीं

या उनकी आवश्यकता नहीं प्रतीत होती थी। आज ऐसा संकट आया है तो अर्थ का अनर्थ कर दिया है। कुछ बिबेकों की बात कही गई है। यहां गृह मंत्री महोदय ने तीन और विषयों के ऊपर, तीन धाराओं के अन्दर राज्यपाल के विवेकों की व्यवस्था के बारे में कहा है कि उसके विवेक से काम लेने की व्यवस्था है। लेकिन प्रश्न यह है कि उसका एक प्रकार का अर्थ सभी जगहों पर लगाएँ तो लोगों की शंका का समाधान होता है। लेकिन इन्टरप्रिटेशन अलग-अलग प्रकार के हुए हैं। मैं पंजाब का एक उदाहरण देता हूँ। पंजाब के अन्दर एक नगर के अन्दर ही पंजाब और हरियाणा की राजधानी है। एक ही भवन के अन्दर दोनों सरकारों के सचिवालय बने हुए हैं और मंत्री भी वहाँ बैठे हुए हैं। लक्ष्मण सिंह गिल की सरकार 17 आदमी वहाँ के फ्रंट की सरकार की ओर से तोड़ कर एक अन्य सरकार बनाने की स्थिति में आए। गुरनाम सिंह की ओर के 17 आदमी उन्होंने तोड़े और दूसरी तरफ राव विरेन्द्र सिंह ने कांग्रेस की ओर से 17 आदमी तोड़कर एक अन्य दल की सरकार बनाई। एक ही प्रकार के दोष हैं दोनों के जोकि एक ही मकान में बैठकर करते हैं। लेकिन दो गवर्नरों ने दो प्रकार के अलग-अलग निर्णय लिये। मुझे यहां यह कोई विवाद नहीं करना है कि कौन गलत है और कौन सही है, लेकिन एक बात निश्चित है कि इन दोनों बातों में कोई एक तो गलत है। लेकिन दोनों को यहां से समर्थन प्राप्त हुआ। माननीय चौहान साहब ने दोनों की पीठ थपथपाई। जिस गवर्नर ने लक्ष्मण सिंह गिल को सरकार बनाने का मौका दिया, उससे कहा 'शावास, तुमने अच्छा 'कया' और जिस गवर्नर ने राव विरेन्द्र सिंह को नीचे गिराने का कदम उठाया उससे भी कहा, 'शावास, तुमने भी अच्छा किया'। तो इस तरह की बात है।

तो मैं यह कह रहा था कि आम आदमी के दृष्टिकोण से बात करते हैं तो गली का आदमी जो होता है वह दूसरी तरह सोचता

है। यह विधान पंडित, विधान के शब्दों की, भाषा की उसके प्राविधान की क्या-क्या बारीकी निकालते हैं और किस तरीके से इस विषय का मंथन करते हैं, यह एक प्रश्न है लेकिन गली का आदमी किस तरह सोचता है। उसके गाँव के एक बेईमान दूकानदार में और इन बड़े-बड़े नेताओं के अन्दर क्या फर्क है? उसके लेने के वाट और हैं और देने के वाट और हैं। जब वह लेता है तो एक प्रकार के बांटों से और देता है तो दूसरी प्रकार के बांटों से। यानी इनकी अपनी तरफ आने वाली चीजों का मापदंड एक है और दूसरी तरफ जाने वाली चीजों का मापदंड दूसरा है और मैं ऐसा समझता हूँ कि इससे आम आदमी के मन को धक्का लगेगा।

आज जब हम विधान के प्रकार के ऊपर चर्चा कर रहे हैं तो हमारे लोकतन्त्र की आत्मा की चर्चा हो रही है, हमारे लोकतन्त्र की प्रतिष्ठा हमारे लोकतन्त्र के स्वरूप, उसकी सत्यता उसका अस्तित्व यह हमारे लिए संकट-मय दिखाई देता है। विधान की पवित्रता और विधान के प्रति आस्था, गह कायम रहनी चाहिए। पवित्रता और आस्था कायम रहने का अर्थ यह है कि हमारी उसके प्रति अधिक से अधिक प्रामाणिकता, हमारी उसके प्रति अधिक से अधिक आस्था कायम रहे और इस आस्था और प्रामाणिकता के लिए संकटकालों के अन्दर हम उसकी कितनी कीमत चुकाने के लिए तैयार है, यह इसकी कसौटी है।

मुझे एक शास्त्र की छोटी सी कक्षा याद आ रही है। स्वामी विश्वामित्र ने किसी एक अकाल के अन्दर किसी के घर से मरे हुए कुत्ते का भूठा मांस चुराकर के अपने भूखे शरीर को बचाने के लिए खाया। तब घर का मालिक एकदम से आ गया और कहा तुम ऋषि हो, कुत्ते का मांस खाना मानराव में निषिद्ध लिखा है, वह वर्जित है। ऋषि होते हुए तुमने कुत्ते का मांस खाया है, भूठा खाया है, चुराकर खाया है। तुमने इतना पाप किया

[श्री यज्ञदत्त शर्मा]

हैं, तुम ऋषि नहीं। जब वह ऐसे कहने लगा तो विश्वामित्र ने कहा, चुप रहो, मेंढक टरनि लगेंगे तो बेल के पानी पीने के लिए तालाब बन्द नहीं होता। तुम्हारे इतना बोलने से मैं मांस खाना बन्द नहीं करूंगा। मैं भूखा हूँ और मुझे अपने को बचाना है और अगर मैं जिन्दा रहा तो ऐसी व्यवस्था की बातें मैं तुम्हें और बताऊंगा कि क्या करना चाहिए और क्या नहीं करना चाहिए। यहां विधि के बारे में बताने के लिए विधि मंत्री महोदय यहाँ खड़े होंगे और शब्दों के जाले बुनेंगे अनेक प्रकार के ताने-बाने यहाँ पर रखे जाते हैं, मुझे यह कहना है कि यह गलत के ऊपर से बोले हुए शब्द हैं, हमारे अन्तःकरण के नहीं। विधान के अन्दर परम्पराओं को बचाने की और काम करने की जो हमारे राष्ट्र की ऊँचे दर्जे की प्रतिमा है, वह इसके अन्दर प्रकट नहीं हो रही है और आने वाली पीढ़ियों को न तो हम इससे प्रेरित कर पाते हैं और न ही आज के संकट का मुकाबला कर पाते हैं। इसलिए मैं यह कहना चाहता हूँ कि बड़ी से बड़ी कीमत हमें चुकानी है और इस कीमत को चुकाने के लिए हम तैयार नहीं हैं। राज्यपाल केन्द्र का प्रतिनिधि है और जिस प्रदेश के अन्दर वह बैठा हुआ है, उस प्रदेश के प्रति भी उसका कोई दायित्व है और उस प्रदेश के प्रति भी उसको अपने दायित्व को निभाना चाहिए।

आज मैं हरियाणा की स्थिति को देख रहा हूँ। एक घण्टे के अन्दर हरियाणा का बजट पढ़ दिया गया और उसके बाद वहाँ की एसेम्बली साइन डाई एडजॉर्न कर दी गई। बंशी लाल जी चंडीगढ़ के परे बंशी बजाते फिर रहे हैं और चक्रवर्ती जी वहाँ बैठे हैं। आज चक्रवर्ती जी का सुदर्शन चक्र कहाँ गया जोकि राव विरेन्द्र सिंह पर चला था। वह कहाँ है। आखिर स्टेट का बजट है। इस पर माइन्स्यूटली डिस्कशन होना चाहिए, लोगों के अपने विचार होते हैं। एक घंटे में बजट पढ़ दिया गया और गवर्नर वहाँ आनन्दगप्सा बना

हुआ बैठा है। वहाँ पर वह कोई निर्णय लेने की स्थिति में नहीं है, कुछ कहने की स्थिति में नहीं है। मैं समझता हूँ कि राज भवन के अन्दर राज्य के सीमित साधनों को इस तरह सुहा करे, यह मूर्ति जो वहाँ के लोगों के साधनों का उपयोग तो करे लेकिन मौके पर कोई वरदान न करे, इस मूर्ति को वापस बुला लिया जाए। यह मेरा निश्चित मत है।

और मैं माननीया रोहतगी से इस प्रस्ताव का समर्थन करते हुए यह कहना चाहता हूँ कि आज अवसर आ गया है कि इस सम्बन्ध में कोई हाई पावर कमेटी मुकर्रर करें जोकि राज्यपालों की नियुक्तियों तथा अधिकारों के बारे में ब्योरे से विचार करे और जब तक यह कमेटी कायम होकर इसका विचार ब्योरेबार नहीं होता, तब तक यह सदन, यह सरकार राष्ट्रपति महोदय से यह प्रार्थना करे कि राष्ट्रपति महोदय सुप्रीम कोर्ट के इस प्रश्न के ऊपर यानी राज्यपाल के विवेक की जो तीन धाराएँ हैं, उनके सम्बन्ध में क्लियर कट सुप्रीम कोर्ट का इन्टरप्रिटेशन प्राप्त कर ले ताकि हमें आगे विधि व्यवस्था को चलाने में सुविधा हो। इतना ही मैं इस पर कहना चाहता हूँ। धन्यवाद।

SHRI BEDABRATA BARUA (Kaliabor): Sir, this Resolution really brings in discussion on other aspects of Centre-State relations also. We have to have a new look at the federal structure of India. So long as the Congress Party had control over practically all the States, even when the Centre-State relations existed, they were sorted out at the level of the Party. In view of the new state of affairs now existing, naturally these relations have to be given a statutory recognition and many things, which were answered or not answered, are now to be clarified. There are certain imperatives, which it will do good to us to recognise.

When we say that India is a federation, we mean that the States are autonomous and not independent. If they are autonomous, they would certainly have certain powers within their sphere of action there should not be interference and no interference will also be tolerated by

them. But, still they are part of the Union of India. The power and authority of the Centre should be there even in regard to law and order, which is State subject. The Centre should have power and authority over the law and order in the States if the unity of India is to be maintained. I don't know how otherwise the unity of India can be maintained if the law and order is entirely vested in the States and if suddenly a State decides to secede from the Union. How is it possible to maintain the unity of the country except by the prevention of development of such a situation resorting to disorderly action on the part of the people of the State instigated by the State Government themselves? Such situations can, may and do arise. It must be forestalled.

17 hrs.

Therefore, the first imperative is that, we must have central control over the States. The Governor as the agent of the Centre must function in the States. But when he does function in the State, there is however the new possibility, may certainly, of existence of unstable conditions in various States. When this instability occurs in a particular State, the Governor has to function again as the agent of the Centre and as the constitutional head. We have always prevaricated on this issue. Even the Central Government have not very clearly stated the actual position. If the Governor has to decide as the constitutional head, has the Centre to report anything about what the Governor is doing or not doing? Has the Governor to act as the agent of the Central Government? The Central Government and the people of India have a stake in stability in all States. They are interested in the States functioning in a certain way.

Then the question is posed, what happens when the Governor takes a certain decision? Suppose he dismisses a Government and in the next election the people return the same party to power? The question that was posed in Britain by Dicey and others was: How is it possible? If the King dismisses Parliament and in the next elections, the same party is returned to power, then the King goes. This is an inescapable logic. We cannot avoid it. Somehow we have to sort it out here. We have to evolve

certain norms and patterns of functioning in conditions of stability. Opinions have been expressed this way and that on either side of the House. We must try and evolve certain patterns of functioning. It must be wrong for a Governor to dismiss a Government as it must be equally wrong for the Speaker or the Chief Minister to say that the Assembly will not be called. But what happens is that one wrong reinforces another wrong which creates conditions beyond the limits of proper constitutional functioning. No constitution can be made to work if such postures and stances are adopted in an unconstitutional way.

Here is a situation where we have to find out exactly how we can function in conditions of stability and normalcy. In India, we have said that we want unity in diversity. Whenever the unity aspect is overstressed, we are going to create trouble; whenever the diversity element is overemphasised, we are going to create trouble again. Neither aspect must be overstressed. We must be able to see that the Centre's authority to ensure stability is ensured. Whenever there is instability, the Centre must come forward and make it clear in unassailable terms that it has to intervene to save the situation.

But then the political question arises, what if the regional forces consider it as interference with their affairs and an encroachment on their rights by the Centre which is outside the State? This naturally starts a war of nerves. It may destroy the fabric of our unity. It is no good to say that the Centre can do it. If this aspect is overstressed and the Centre says 'we will impose our decision on the State', the forces that are ruling in the States might as well stress the opposite point of view.

In such a situation, who is going to discipline whom? When by the same system of elections parties come to power both at the Centre and in the States, there is no question of imposing discipline one over the other.

So this question of how Centre-States relation has to be defined has to be thrashed out. After 20 years of experience of the federal set-up, certain matters have arisen in Centre-States

relations, as for instance, financial relations, which have to be examined. We have to find out a more workable relationship. The States have certainly their obligations which they have to discharge. If they are not able to discharge them, what happens? We can raise many such questions. What is needed is to bring them round and start a dialogue.

But I think it should be made clear that before this dialogue starts, people should stop doing things they are doing now. In West Bengal, I do not think what has been done can be called constitutionally correct. In spite of all the sympathy the authorities there may have for those people who look to be regional forces there, who are in charge of the dispensation of affairs, I think what has happened in Bengal is constitutionally and politically wrong. For a State Government to exploit a situation that is really explosive and utilise it to direct the fire against the Central Government would give the impression to anybody that really what is attempted is a breakup of the Indian Union. Any anger created unnaturally against the Centre is bound to affect all of us. I know that we are in a position to do it in Assam. But should we do it? Unless we have wrong motives we must not do so. We must lay down what concession we can make.

I do not think that control over the All India Services presents a problem. But whispers are heard about it. There is no question of the Centre controlling the All India Services; it is the All India Services controlling the Centre. For these minor matters let us find out some solutions. Once a man is put in the State cadre he remains in that cadre for life. Except for recruitment purposes and for matters of discipline it does not matter. Because they are All India Services, the States Governments are not able to take any disciplinary action unilaterally against those persons. That does affect implementation of policies. I think we have to make certain concessions if they are good for the country and if they are necessary to come to an understanding. The whole concept of bureaucratic control has been challenged by the people and the people are not interested in bureaucratic unity. Can this bureaucracy give unity to the country? That does not exist anywhere. Wherever

it has been attempted, people resisted. In Bengal Bureaucratic unity sought to impose national unity but people revolted and reacted furiously against it. We should not consider the bureaucratic position as a very happy position.

If we have elected Governors, what purpose will they serve? If he is elected by the people he will put the whole State Government in a position of complete non-unity. An elected Governor is bound to be powerful as the Chief Minister. If he elected indirectly and not given the powers he would become a sycophant and will try to get political support for the next election. If he is to be elected by the Assembly, it will again be the same thing. Allegations will be made that he is serving the interest of the party in power in the Centre, if the Centre appoints the Governor. The answer lies in finding out norms and methods by which he is acceptable to all. Things have to change with times. We have understood the Centre-State relations in a way that has not been very helpful to the States. There was a lot of browbeating of the smaller State. That is not the type of relations that we feel happy about. The Centre and the State should function as a real federation. Nowhere in the world in the Upper House of a federation are the States represented unequally. Big and small States have equal representation. Here the biggest States have big influence and the smaller states are browbeaten and that happened when the congress ruled in the Centre and the States. When we have a federation we must accept all the consequences. We have unity; we have also diversity and we must try to harmonise both but not in the way in which it is sought to be done in Bengal but not also in the way in which things had been done in the past here. We must find an acceptable way.

17.09 hrs.

[MR. DEPUTY—SPEAKER *in the Chair*]

SHRI VASUDEVAN NAIR (Peer-mod.): This Resolution is timely and I welcome it although I may not welcome the speech of the hon. lady Member. There is a furious debate and discussion going on in the country on in the country about the institution of the Governor, This was made

necessary by the events that took place in recent times. Everybody is thinking aloud including the Law Minister. He has a right to do so. If newspaper reports are correct he went to the extent of saying that it was not necessary for the Governor to read out the policy statements of the Council of Ministers. Maybe that the Chief Minister himself can do it. He said it is his personal opinion. So many opinions are expressed, views are aired, about the institution of the Governor.

The institution of the Governor has been brought into disrepute in the recent period and that too because of the wrong positions taken and policies followed by those in authority at Delhi. I am not at all interested in mud-linging as far as the Governors are concerned. Why should we, after all, concentrate our fire on the Governors? The real culprits are sitting here at Delhi. They have violated the Constitution with impunity during the last 20 years both in letter and spirit. And that is the reason why people have lost faith in this institution, whatever faith there was, and it is imperative that a thorough re-examination of the entire question should be undertaken, and in that sense, a Committee of Members of Parliament will serve a useful purpose.

What will this Committee do? As far as we are concerned we are even prepared to examine the question of abolishing the post of Governor. My party has expressed its viewpoint much earlier. To us, this institution is superfluous. Heavens will not fall if this institution is abolished. This is an ornament. We can do without it. My friend Shri Panigrahi has said that every year this poor country is spending more than Rs. 3 crores over these ornaments. Of course, these Governors in recent times have served as tools in the hands of the clique at the Centre, the Congress Government at the Centre. That is a different matter. But as far as the development of democracy in this country is concerned, we are of the firm opinion that the institution of the Governor is not an imperative necessity. So, this Committee can go into the question of even abolishing the institution of the Governor.

Secondly, if the Committee decides or if there is an opinion that the institution

of the Governor is so sacred that it should continue, then at least they should define beyond doubt what that institution means, what its powers or and what its responsibilities are. There also, our position is very clear; the Governor is on a par with the President. The spokesmen of the Government of India have tried to interpret the Constitution of late to their advantage when they have said that as far as the President is concerned, he is to be guided by the Council of Ministers, but that as far as the Governors are concerned, it is not so; that they have discretionary powers. The Minister has tried to discriminate between the President and the Governor, because it suits him now. When he gets out of his *gaddi* and out of the Central Government his opinion may change, but he thinks he will continue in the Central Government, for all time to come and the Congress will continue at the Centre for all time to come. I do not know. So, they go on preaching the new principle, giving an interpretation of the Constitution that the President is only a figurehead, that he has to go by the orders of the Council of Ministers, but the Governors can do as they like, that they can even be dictators; even to that extent they are prepared to stretch the Constitution. Let us be very clear about it. There cannot be two propositions, as far as the Centre and the States are concerned. If at all we decided to have a Governor, then that Government would only be a representative of the Council of Ministers; whatever they decide, he has to implicitly implement it. There cannot be a discriminatory power. Even today, the Constitution really does not permit him to have a discriminatory, overriding power over the decisions of the Council of Ministers. He is allowed to have that discriminatory power by the Central Government only because it suits them now.

If at all we decide to have the institution of Governor we should have a provision for his impeachment, just as we have a provision for the impeachment of the President. Even if the Governor has limited power, maybe under some guidance from the President or from the Central Council of Ministers, a misguided person like Mr. Dharma Vira or an ambitious civil servant, may want to overstep his powers. Therefore, there should be a provision for the

[Shri Vasudevan Nair]

impeachment of the Governor also. I hope these questions would be considered among other questions by the members of the committee.

We want to make certain interim proposals to the Government for serious consideration. The most important question is the appointment of the Governor. They claim that the appointment is made after "consultation" with the State Government. "Consultation" is an elastic term which can be interpreted this way or that way. It does not satisfy anyone. If they really mean business, if they want to share the view of so many people in the country that we are facing new problems which we did not envisage sometime back so far as Centre-State relations are concerned if they really want to have better relations with the Governments led by different parties what is the harm in accepting that the Governor will be appointed by the Central Government and President not only after "consultation" with but with the acceptance of that particular State Government? This suggestion should be accepted pending the examination of the entire question of the institution of Governors; constitutional amendment, etc. I do not know whether the Government will accept this resolution. Even though the mover belongs to the Congress she is very reasonable on this occasion, it is very timely and it has all-round support of all the parties in this House, still Mr. Menon may request her to withdraw it. He will "say, "I accept the spirit of the resolution; the sentiments expressed" etc. We know how ministers speak. Being a dutiful member of the Congress, she might withdraw it at the end.

At least some Governors are perhaps going to be headaches. I do not want to mention names.

AN HON. MEMBER: You mentioned Mr. Dharma Vira.

SHRI VASUDEVAN NAIR: He is gone; it is old story now.

My concrete proposal is henceforward the Central Government should appoint a person as Governor who is acceptable to the State Government. Playing with words like 'consultation' will not satisfy anyone.

This practice of making civil servants, retired or otherwise—mostly they are retired—as Governors is not a very healthy practice. It is really an insult to the leaders of the people. You speak so much, you shout eloquently, about supremacy of the people and all that. If a civil servant who is today working under Shri Govinda Menon after his retirement tomorrow becomes a Governor it will not be a good thing. Suppose he becomes the Chief Minister of some State—I do not know which State—

AN HON. MEMBER: Kerala.

SHRI VASUDEVAN NAIR: Why not it may be Kerala. Then, if come civil servant, some ICS officer—they are even now fond of ICS officers more than IAS officers—who has served as Chief Secretary under Shri Govinda Menon becomes the Governor it is really an insult to him. Try to avoid this. Some people were laughing at the suggestion that Shri Shoo Narain should be made a Governor. I was really sorry that some people were making fun of it. It is really funny to make fun of such propositions. Send persons who know the people of this country, who know the pulse of this country who have played some role in the development of this country, who have played some role in the freedom struggle of this country and who know the aspirations of this country as Governors. I think if the Government accept these two suggestions that I have put forward, pending the formation of a Committee and amending the Constitution, then at least they can come forward in this House, go to the people and say that they have learnt some lessons from the recent controversies around the institution of the Governor.

MR. DEPUTY-SPEAKER: Now, before I call the next Member I would like to take the sense of the House. Two hours were allotted for this Resolution. The time allotted has already been exhausted. From the slips that I have received from both the sides I see that even if I extend the time by one hour I will not be able to conclude the discussion on this today. The Resolution is an important one.

SHRI RANDHIR SINGH (Rohtak): Give us three minutes each.



**MR. DEPUTY-SPEAKER:** If I give three minutes to the hon. Member, will he sit down after three minutes? It is impossible to do justice to the discussion or the Resolution. It involves so many considerations. In such a position I want guidance from the House as to what is the time to be extended.

**SHRIMATI SUSHILA ROHATGI:** Sir, with your permission I would like to point out that the original time allotted is 2 hours. We took only 7 minutes on the previous occasion and therefore this can go up to 5.53, today. We have, therefore, half-an-hour at our disposal.

**MR. DEPUTY-SPEAKER:** The Minister will take 15 minutes out of that. If hon. Members agree to take only five minutes each I can accommodate two or three from this side and then call the hon. Minister.

**SHRI SAMAR GUHA (Contai):** Sir, I have heard some hon. Members suggesting that four or five minutes would be enough to each Member. This is a very vital subject, affecting as it does not only the future of our Constitution but even the future of Centre-State relations. The situation has reached such a stage that it may explode any day; God alone knows when it will happen.

**SHRI M. L. SONDHI (New Delhi):** I do not take such a pessimistic view.

**SHRI SAMAR GUHA:** It is bound to happen. You have yourself brought an adjournment motion on what happened in West Bengal yesterday. Therefore, Sir, reasonable time should be given to each member who participates in the debate. If you give five minutes each, it will not be doing justice either to the subject or to the member. Then it is better not to speak at all.

**MR. DEPUTY-SPEAKER:** I am not taking any decision myself. I will be guided by the House. I know the importance of this debate. When we pass any judgment the whole scheme of our Constitution will have to be kept in mind. I do not treat it lightly at all. But in case I want to satisfy more members by giving them at least five minutes, it cannot be finished today; it

will automatically have to go to the next week. Because, at 6 o'clock there will be a statement by the Prime Minister and at 6.30 another statement by the Home Minister, followed by the Half an Hour discussion. So, what is to be done?

**SHRI VASUDEVAN NAIR:** Extend it by one more hour.

**MR. DEPUTY-SPEAKER:** The Left Communists, P.S.P. and S.S.P. are yet to speak. The Minister wants fifteen minutes.

**THE MINISTER OF LAW AND SOCIAL WELFARE (SHRI GOVINDA MENON):** If you are going to extend the time, it will have to go to the next day in any case.

**MR. DEPUTY-SPEAKER:** But what should be the time limit for members?

**SHRI GOVINDA MENON:** That is for the Chair to decide.

**MR. DEPUTY-SPEAKER:** All right, I will extend the time. If necessary, we will adjourn this discussion today and resume it on the next occasion. I hope it is agreeable to all. Because, I do not want to take a decision of my own.

**श्री मृत्युंजय प्रसाद (महाराजगंज) :** बड़ी मुश्किल के बाद आपने मुझे पांच मिनट का समय दिया है। मैं चाहता हूँ कि आप मुझे अगले दिन बोलने का अवसर दें और तब चाहे एक मिनट मिले या पांच मिनट मिले। जवान खोलने से फायदा ही क्या है जब मैं अपनी बात ही न कह सकूँ।

**MR. DEPUTY-SPEAKER:** I would suggest that you take your chance today.

**श्री मृत्युंजय प्रसाद :** जितना भी आप से मुझे समय मिल जाए, वही मेरा सौभाग्य है। इतने कम समय में मैं कानूनी पंचड़ों में नहीं पड़ूँगा। उसका समय नहीं रहा। कानून की बातें छेड़कर अधूरा छोड़ना बेकार हो जाएगा। मैं सिर्फ एक बात की ओर आपका ध्यान दिलाऊँगा। गवर्नर के अधिकार सम्बन्धी

[श्री मृत्युंजय प्रसाद]

कानून चाहे साफ भी हों तो भी इंटरप्रेटेशन अर्थ का भगड़ा हमेशा लगा रहता है और लगा रहेगा। उसका आज समय नहीं है, इसलिए वह भगड़ा अपनी जगह पर है। कानून में बहुत सी बातें साफ होती हैं और कुछ बातें ऐसी भी होती हैं जिनको साफ करने की जरूरत रहती है। तब एक बात जिसकी ओर सबका ध्यान जाना चाहिए यह है कि आज दुनिया का कोई भी कानून आप देख लीजिए, कोई भी कानून आप बना लीजिए, दो पक्षों में से एक पक्ष यदि इस बात की जिद्द किए हुए हो कि मैं कोई-न-कोई बहाना बनाकर उसको चलने नहीं दूंगा तो फिर कोई कानून चल नहीं सकता है। अभी श्री यज्ञदत्त शर्मा जी ने हमारे खिलाफ शिकायत की है। उस शिकायत में क्या तथ्य है और क्या नहीं है, इस बहस में मैं नहीं पड़ूंगा। लेकिन उनके अनुसार इस शिकायत में तथ्य है। इसी तरह से अब मेरी शिकायत में भी तथ्य है। वह इसको समझ लें। एक पक्ष इस बात का निर्णय कर चुका है, ऐलान कर चुका है कि हम पार्लिमेंटरी गवर्नमेंट से ही सारा काम नहीं निकाल सकते।

यहाँ तो हम डेमोक्रेसी को मान रहे हैं चूँकि आज के लिए यही रास्ता है। मगर हम उस दिन की तैयारी कर रहे हैं जिस दिन बड़ा विस्फोट होगा और हम कराके रहेंगे। इसलिए यह पार्लियामेंटरी रास्ता, जनतंत्र का मार्ग उनके लिए विस्फोट कराने की तैयारी है। ऐसे लोगों के साथ आप क्या करिएगा? कौन कायदा कानून बनाइएगा और कौन सा कायदा कानून होगा जिसको वह मानेंगे? जो गवर्नमेंट खुद ही स्ट्राइक कराती है और यह कोई पहली बार नहीं हुआ है, यह 1967 में भी उसने यही किया था। गवर्नमेंट ने ही हड़ताल करायी है, आज भी उसने स्ट्राइक कराया है और इधर हर बात के लिए सेंटर दोषी है। होगा। सेंटर के लिए मैं जवाब देने के लिए नहीं खड़ा हुआ हूँ। मगर एक बात कहूँगा कि आप चलने दीजिएगा तब तो कोई चीज

चलेगी। कल आपने नया कानून बनाया। गवर्नर को रखें, ए रखें, हटाएँ, गवर्नर को एलेक्टड बनाएँ, गवर्नर को अप्वाइंटड बनाएँ, कुछ भी करिए, मगर जो उनके हुकम के मुताबिक नहीं चलेगा उसी के खिलाफ वह सब कुछ करने को तैयार हो जाएंगे। यही उनका तरीका है। जो फिर उसका कोई जवाब नहीं है। मैं इसी बात की ओर सदन का ध्यान दिलाना चाहता हूँ और उदाहरण के रूप में दो बातें कहूँगा। . . . (व्यवधान) . . . में कहाँ समय ले रहा हूँ? मैं तो अपनी बात कह कर समाप्त करूँगा . . .

**SHRI SAMAR GUHA:** You have given sufficient time to some fortunate Members and I do not know why other Members should be so unfortunate that suddenly in the midst of the discussion you want to regulate time and say to some Members that they will get only five minutes when some other Members were given 15 minutes. Is it fair? Does it do justice to us? It will be some sort of a farce if a Member tries to speak only for five minutes on such issues like constitutional provisions. If you wanted to regulate time, you should have done it from the very beginning. Suddenly in the midst of the discussion to say that five minutes will be given to Members, is not fair.

**MR. DEPUTY-SPEAKER:** If I do not put restriction on time, it will deprive Professor Ranga to move his Resolution which is next on the Order Paper. That is one consideration. Therefore I said that we will try to finish by giving five minutes to each Member. Even then I will not be able to give much time to the Mover. I have to take this step now because he is protesting; otherwise, we would have postponed this debate for the next occasion. He has every right to protest; if he agrees, it is a different matter. When he is protesting, how can I postpone it? That is my difficulty.

**SHRI K. NARAYANA RAO (Bobbili):** After 7 o'clock we may continue this. Professor Ranga's Resolution is also an important Resolution.

**MR. DEPUTY-SPEAKER:** Every Resolution which is balloted and is on the

Order Paper is equally important. Some may have special importance but all Resolutions are important.

I would again request hon. Members to take just five minutes; otherwise, I will have to omit some names and call the hon. Minister.

श्री मृत्युंजय प्रसाद : उपाध्यक्ष जी, मैं एक ही बात कहकर खत्म करूंगा। यों तो मेरे मित्र गुरु साहब प्रश्न करने में ही इतना समय ले लिया करते हैं। भाषण की बात तो अलग है, जाने दीजिए। मैं यही बात आपके ध्यान में लाना चाहता हूँ कि जहाँ जो गवर्नमेंट एक तरफ उन लोगों को छोड़ देती है, उनके ऊपर से मुकदमे उठा लेती है जिनके ऊपर खून के चार्ज हैं, जिनके ऊपर आगजनी के चार्ज हैं, लूट के अभियोग हैं चाहें और जो पोलिटिकल चार्ज हैं, उनको छोड़ देती है, जिन चार्ज का निर्णय अब कभी हो ही नहीं सकेगा कि वे दोषी थे या निर्दोष थे, इसका किसी को पता नहीं चलेगा क्योंकि दोबारा तो उनके मामलों की सुनवाई होगी नहीं। यह और ही बात है कि लोगों के विश्वास अलग-अलग होंगे, बंगाल की गवर्नमेंट आज यह कहती है कि सेन्ट्रल गवर्नमेंट के उन आदमियों को पकड़ करके हमारे हाथ में दो जिन्होंने कुछ ऐसे काम किए जिसके बारे में उनका जवाब स्पष्ट है कि वे अपनी ड्यूटी कर रहे थे . . . (व्यवधान) . . .

SHRI S.M. BANERJEE (Kanpur): Sir, I rise on a point of order.

MR. DEPUTY-SPEAKER: We are pressed for time. He is concluding.

श्री मृत्युंजय प्रसाद : मर्डर रोज होते हैं जब पुलिस गोली चलाती है मगर कितने पुलिस के लोगों को आपने पकड़ा है ? जब तक कोई इन्क्वायरी नहीं हो जाती है तब तक किसी पुलिस को गोलीकांड के लिए आप पकड़ नहीं सकते हैं और न पकड़ते हैं। आपने किसको पकड़ा है ? क्या वेस्ट बंगाल में गोली नहीं

चली है ? किसी पुलिस को पकड़ा है ? जब गोली चलती है तो लोग मारे जाते हैं। किसी गवर्नमेंट अफसर के प्राजीक्यूशन के लिए गवर्नमेंट को संक्शन देनी पड़ती है तब प्राजीक्यूशन चलता है... (व्यवधान)... जिन पर साल भर तक मुकदमा चला, जो डेढ़ साल तक छिपे रहे और फिर पकड़े गये, उनको तो छोड़ देते हैं... (व्यवधान)... यह गवर्नमेंट उनको पकड़ना नहीं चाहती है। लेकिन जिनको यह भी कहने का मौका नहीं दिया जाता कि हम गलत हैं या सही हैं... (व्यवधान)... उनको पकड़ना चाहते हैं।

श्री स० मो० बनर्जी : उपाध्यक्ष महोदय, यह सब मामला सबजुडीस है...

श्री मृत्युंजय प्रसाद : सेन्ट्रल गवर्नमेंट कहती है कि हम एन्कवायरी करेंगे, उसके बाद हम परमीशन देंगे कि उनका प्रोसीक्यूशन होगा या नहीं होगा...

श्री स० मो० बनर्जी : हम अफसरों को पकड़ेंगे, जो गोली चलायेंगे उनको पकड़ेंगे, जो भाषण देंगे उनको पकड़ेंगे और जो यहां भाषण देंगे उनको नहीं बोलने देंगे...

श्री मृत्युंजय प्रसाद : जिस सरकार ने वहां पर ऐसा किया कि लोगों का आना-जाना बन्द कर दिया, ट्रेन्ज बन्द कर दीं, हवाई जहाज का आना-जाना बन्द कर दिया, सारे का सारा काम ठप्प कर दिया, क्या ऐसी गवर्नमेंट वहां पर चलेगी, क्या आप इनको रखना चाहते हैं। अगर ऐसी हालत रही तो दुनिया का कोई भी कानून बनाइये, वहां पर नहीं चल सकेगा। मेरे सामने यही प्रश्न है और इसीकी तरफ मैं सबका ध्यान दिलाना चाहता हूँ... (व्यवधान)...

MR. DEPUTY-SPEAKER: If everybody abides by the time-limit, then only it is possible to accommodate the members. I could have listened to Mr. Banerjee's point of order, but one thing was there. He was in the midst of his speech. Whatever is Mr. Banerjee's point of order, he may write and send it to me; I will consider it.

**SHRI S.M. BANERJEE:** This a very important matter. Hon. Member, Shri Mrityunjai Prasad, to whom I have the greatest respect, has said something about a particular incident. He mentioned about some officers who were handcuffed and handed over to the Police. You will recall, Sir, yesterday or the day before the Defence Minister stated that a court of inquiry was being appointed to inquire into the firing incident at Cossipore. Can the hon. Member go on saying whatever he likes on that when we were precluded from asking questions? I want your ruling on this.

**MR. DEPUTY-SPEAKER:** My ruling is this. You can make a reference to an incident, but that must be done without any provocation, at an academic level.

**SHRI GANESH GHOSH (Calcutta South):** Conditions in our country have changed much from what they were a few years back. Existence of many State Governments, different in ideology, outlook, principle and political orientation, from the one that is ruling at the Centre, has become a general and permanent feature in our country, particularly after 1967. The earlier the leaders of the Central Government recognise this fact and reconcile themselves to this inevitability, the better it will be for all of us, for the people of our country.

Never before did the principle of provincial autonomy, which is one of the basic issues of our Constitution, face such a test as it is doing now. And it has become the bitter experience of our people that, on very many occasions, whenever the people of a State transferred their allegiance from the Congress Party, the leaders of the Central Government, for petty and temporary gains, unhesitatingly threw over-board the principle of provincial autonomy, violated basic democratic principles, trampled under foot our Constitution and made a mockery of provincial autonomy. This happened in 1959 and extensively in 1967. And it is through the State Governors that the Central Government acted to subvert the Constitution and dismiss illegally and unconstitutionally popular Ministries in various States. Persons selected by the Central Government, without taking the opinion of the people of the States, were foisted on

them to be used as convenient instruments for Central intervention in the affairs and administration of the States.

Certainly, the framers of our Constitution had no such thing in their minds. They envisaged the State Governors as mere constitutional heads and certainly not as despots and irresponsible agents of the Central Government to subvert democracy and Constitution to suit the narrow political advantages of the party in power in the Centre.

It is on the basis of our recent experience and study that we suggest that for upholding democratic principles, for smooth operation of the Constitution and for a better Centre-State relation, the office of Governor should be abolished, or if not, the Governor must be elected by the State legislatures for a fixed period and the Governors must act strictly in accordance with the advice of the Council of Ministers.

A question may be asked if the State Governors be not appointed by the Centre and do not act as the agents of the Centre, how can the centre know if a State administration is run according to the Constitution, or how can the Centre act promptly in case a State Government resorts to the policy of repressing the minorities.

Mr. Deputy Speaker, Sir, such questions only betray the prejudices of the past. The functions of the State Governments and the effects of their Administration are manifest. Moreover the Central Government have a thousand and one ways to know what the State Government is doing. The Centre can certainly act through the President in case the Constitution is violated, etc.

The ex-Governor of West Bengal had even the cheek to say in public before he recently left Bengal for good after being dishonoured, disgraced and humiliated by the people in the last mid-term elections that he would again act in the same way and do the same thing as he had done earlier if he got a chance again.

**DR. RANEN SEN (Barasat):** He will get the same treatment.

**MR. DEPUTY-SPEAKER:** Hon. Member's time is up.

**SHRI GANESH GHOSH:** It is impossible to gauge the height of impertinence and the depth of foolishness of this civil servant who could take such silly pride in showing disrespect to the opinion of the general people in a democratic set-up. It is really regrettable that none of the Central Government leaders either pulled him up or contradicted him.

**SHRI K. NARAYANA RAO:** (Bobbili): Mr. Deputy Speaker, Sir, in view of the short time at my disposal I would rather like to confine myself to the very few observations about the constitutional position. In this particular context, we have been quite used to bring the institution of Governor into disrepute, not so much because a particular Governor has been doing any act outside the purview of the constitutional commitment, but because of our political adventurism, as Mr. Lobo Prabhu has correctly said. In certain States where the stability is there, we are not finding anything particular, but in certain States where the political situation is very nebulous where that situation is tried to be converted into the most intolerable way to gain party politics they want the Governor to act in a manner which is more conducive to the interests of the Party.

I would like to say that first of all the Governor is both a link between the Centre and the States as well as the *de jure* head of the State Government. These two facts we must keep clearly in our mind. In that light when the article says that there shall be a Council of Ministers to advise, upto that stage there is a similarity between the position of President and the Governor. Then comes the question of discretionary power. But in the case of the President the corresponding constitutional provision does not emp'oy the use of discretion.

I will come to West Bengal because I have a lot of material on the subject. In West Bengal when they lost the majority as a Party, the Government which believes really in the democratic tradition of the Constitution should have the least suspicion and it should have been sufficient enough to tender their resignation. They fell back on what is called the constitutional right which they have created. The consti-

tutional right is that they have a right not to advise the Governor until the expiry of six-months period but it is not for the purpose of Article 154. Article 174 says that the Governor shall from time to time convene the Assembly and that six months shall not elaps between one session and another session of the Assembly. This is done more in the interest of the accountability of Government to the Legislature.

What I say is this. If the West Bengal Government had agreed with the Governor to call the Assembly earlier, possibly the constitutional controversy would have been avoided.

In that case, the Governor would not have been confronted to take to the constitutional right or recourse of dismissing the West Bengal Government, according to the Articles of the Constitution.

With these words, I will conclude; but I will elaborate some of these ideas of mine later on, when I get a chance. I am grateful to you for giving me this opportunity.

**SHRI SAMAR GUHA:** (Contai): Most of the ugly scenes and the bitter conflicts between the authorities of the Governors as well as the institution of responsible Government would have been avoided if the makers of our Constitution had acted not with a split-mind, but with a clearly defined objectives. They left many gaps in the Constitution, in the matter of defining the role of the Governors.

While interpreting the role of the Governors, Dr. Ambedkar said:

'In responsible Government, the Governor will always act on the advice of the Council of Ministers.'

But, nowhere in the Constitution, such a simple proposition has been clarified.

In the same speech, he said:

'Provincial Governments are required to work in subordination to the Central Government'.

[Shri. Samar Guha]

17.48 hrs.

[MR. SPEAKER *in the chair*]

Even Pandit Jawaharlal Nehru has stated that the Governor should act as a friend, philosopher and guide of the Council of Ministers. At the same time, he mentioned the Governor should be appointed, instead of being elected, because, he said, it would be a check against the secessionist tendencies on the part of any State.

Therefore, it is quite obvious, while on the one hand they wanted that the State Governments should develop on the principles of responsible Governments, on the other side, they really tried to have a controlling agent over the State Government by having not an elected governor, but a nominated, appointed authority, to function as Governor.

It is very strange how responsible Government can develop when the President acts not through an elected authority, as his agent, but a nominated Governor, to deal with the Council of Ministers which is an elected body which holds office according to the verdict of the people. I do not know how such a system can work. This is something of the result of a split-mind. The authority at the highest level of a state, the elected representatives holding the Government, can be challenged by the appointed authority, namely, the nominated Governor. It is almost an 'insult' I should say, to the institution of any responsible Government. It is against the principles of recognising the will of the people. It is against all democratic principles, that any person who has held an office of the Government, should hold this highest office in a State, and set upon controlling the elected representatives of the people.

Even if the Governor has to be a nominated person and an appointed authority, I, along with my other hon. friends would say, that one basic principle should be scrupulously observed, namely, that neither the routed, rejected or rigged politician, nor any Government official of any capacity, should be appointed as Governor to deal with any responsible Government.

I do not know why a provision should be there for impeachment of the Governor, for the same reason. The Governor is an appointed authority, and so, why should he face an impeachment? Impeachment is an institution meant only for an elected representative. Therefore, at least I think that a provision to recall the Governor, if he acts in violation of the spirit and contents of the Constitution, should be there.

SHRI J. B. KRIPALANI : (Guna) It is always there.

SHRI SAMAR GUHA : It is not there. A responsible Government cannot in a constitutional way demand the recall of the Governor. That has not been outlined anywhere in the Constitution.

A serious problem has been created and some confusion has been created because of the language incorporated in the Constitution which States that 'the Council of Minister shall hold office during the pleasure of the Governor'. I remember that there was one member in the Constituent Assembly—Shri Kamath who wanted to replace this language by the words "till it enjoys the confidence of the Assembly." That was not accepted and the language of "pleasure of the Governor" was accepted. What is the result? "Pleasure" can be interpreted in any way. Again, power has been given to the Governor to summon the Assembly. But it has not been said anywhere whether it will be in consultation with the Council of Ministers or on the advice of the Council of Ministers. Many other discretionary powers have been given in several contingencies he can act.

There is a serious clause to the effect that the Governor can act with the advice of the President, if the Constitution breaks down, or if a situation develops when the rule of law does not work. But who will define whether such a situation has been created or whether there is a constitutional breakdown or whether a serious law and order situation has been created or whether the law and order situation has come to such a pass that the Constitution will break down?

I wholly support the Resolution because this is a very vital issue, a very sensitive issue. If this is delayed, serious situations

may develop. Already red signals are appearing here and there on different sides because the monolithic structure of power in several States has gone giving place to multicoloured spectrum of politics. This should be taken as a dangerous signal and the powers and functions of the Governors should be defined as early or possible. I do not know what the Law Minister will say. Under Art 160, certain rules can be made to deal with urgent problems stated to powers and functions of Governors. Some of the anomalies can be cleared if the President frames certain rules as to the functions and powers of the Governors.

श्री मधु लिमये (मुंगेर) : अध्यक्ष महोदय, सबसे पहले मैं श्रीमती सुशीला रोहतगी को बधाई देना चाहता हूँ कि उन्होंने यह प्रस्ताव सदन के सामने रख कर एक महत्वपूर्ण संवैधानिक सवाल की ओर इस सदन का ध्यान खींचा है।

यह बात सही है कि गवर्नरों के अधिकारों को लेकर केन्द्र और राज्यों के सम्बन्धों में कुछ कटुता उत्पन्न हो गई थी लेकिन इस समय हमारे देश के सामने और व्यापक राजनैतिक समस्याएँ भी हैं और मेरी अपनी राय है कि वर्तमान संविधान में माझूली परिवर्तन करके इन समस्याओं का समाधान हो नहीं पायेगा। इसलिए अब यह जरूरी हो गया है कि जिनकी उम्र 18 माल या उससे अधिक है ऐसे सभी नागरिकों की राय लेकर एक संविधान बनाने वाली परिषद् का गठन करना चाहिए। एक कांस्टीट्यूट ग्रसेम्बली का गठन करना चाहिए और इन 22 सालों में जो घटनाएँ घटी हैं और जो नये अनुभव मिले हैं उनकी रोशनी में एक नया संविधान बनाना चाहिए। लेकिन जब तक यह नहीं होता है, कमेटी जरूर बने। हो सकता है कि यह कमेटी बनने के पश्चात् इस नतीजे पर पहुँचे कि संविधान में परिवर्तन न किये बिना भी दोनों सदनों में एक संयुक्त प्रस्ताव हम पारित कर सकते हैं और गवर्नरों के बारे में कुछ निर्देश दे सकते हैं।

अध्यक्ष महोदय, जैसे कि मैं एक परिपाटी चाहता हूँ कि हर चुनाव के बाद अगर किसी भी एक दल को बहुमत हासिल न हो तो गवर्नर को सबसे बड़े दल या दल समूहों के नेता को मुख्य मंत्री की शपथ देनी चाहिए वह मुख्य मंत्री विधान सभा के सामने जाय, अपनी नीति और कार्यक्रम के बारे में विधान सभा का समर्थन हासिल करे और उसके बाद मंत्रिमंडल बनाये। राजस्थान में क्या हुआ थाप जानते हैं? इसलिए यह जरूरी हो गया है। पिछली एक बहस में मैंने सदन का ध्यान दिलाया था कि राजस्थान में श्री सम्पूर्णानन्द ने एक कांग्रेसी के नाते काम किया यह स्वयं हरिभाऊ उपाध्याय ने एक लेख में कहा है।

दूसरी परिपाटी यह होनी चाहिए कि सत्ताधारी दल के नेतृत्व में अगर कोई परिवर्तन होता है, जैसे अभी-अभी मध्य प्रदेश में हुआ, तो गवर्नर को तत्काल नये नेता को बुलाना चाहिये, बीच में अपने विवेकपूर्ण अधिकारों का इस्तेमाल नहीं करना चाहिये।

तीसरी बात यह कि विधान सभा के प्रतिकूल वोट के बिना किसी भी गवर्नर को लोक-नियुक्त मंत्रिमंडल को बर्खास्त नहीं करना चाहिये, यह भी निर्देश इस प्रस्ताव में होना चाहिये।

चौथी बात यह कि गवर्नर को, मंत्रि-परिषद् द्वारा जो अभिभाषण तैयार किया जायेगा उसमें बिना परिवर्तन किये उसको राज्य के संवैधानिक प्रमुख के नाते पढ़ना चाहिये।

पाँचवाँ निर्देश यह होना चाहिये कि गवर्नर के पद के लिये एक सूची हो, और उस सूची में से हर राज्य को यह छूट होनी चाहिये कि वह दो-तीन नाम केन्द्र के पास भेजे और केन्द्र उन दो-तीन नामों में से चुन ले, जिससे राज्य और गवर्नर के बीच में जो कटुता उत्पन्न होती है वह न हो।

[श्री मधु लिमये]

छठी परिपाटी में यह चाहता हूँ कि गवर्नर अपने अधिकार से किसी भी सदस्य को नामजद न करे। आप जानते हैं कि पहले ग्राम चुनाव होने के बाद मद्रास में कांग्रेस को आदमी नहीं मिला नेतृत्व के लिए तो श्री राजगोपालाचारी को नेता बनाया गया। उस समय श्री राजगोपालाचारी न तो विधान परिषद् के सदस्य थे और न विधान सभा के सदस्य थे, कोई मन्त्र परिषद् नहीं थी गवर्नर को सलाह देने के लिये। फिर भी श्री राजगोपालाचारी को श्री श्रीप्रकाश ने विधान परिषद् का सदस्य नामजद किया। इस तरह का कार्य नहीं होना चाहिये।

सातवीं परिपाटी में यह चाहता हूँ कि गवर्नर के खर्च और ठाट-बाट में कमी की जाये और फिजूलखर्ची को रोका जाय।

चूँकि अब मेरे पास अधिक समय नहीं है इसलिये आठवीं बात कहकर मैं अपना भाषण समाप्त करूँगा। हमारे संविधान में कुछ क्षेत्र ऐसे जरूर हैं जिनमें गवर्नरों के ऊपर विशेष जिम्मेदारी या दायित्व है। जैसे इस वक्त तेलंगाना का मामला चल रहा है। 371 धारा में गवर्नर के ऊपर विशेष दायित्व है। लेकिन जब श्री एल पी सिंह हैदराबाद गये थे तब उन्होंने स्वयं अखबार वालों के सामने कहा कि हम लोगों के पास शिकायतें आई थीं कि प्रेजिडेंट के द्वारा जो आर्डर जारी किये गये या केन्द्र के द्वारा जो आर्डर जारी किये गये उनका उल्लंघन हुआ है, इसकी जाँच करने के लिए हमें भेजा गया है। अगर गैर-कांग्रेसी सरकार होती और उस सरकार द्वारा उल्लंघन होता तो मेरी निश्चित राय है कि गवर्नर अपनी स्पेशल रिस्पांसिबिलिटी के नाम पर बहुत सस्ती से काम लेते, लेकिन चूँकि आन्ध्र में हमेशा कांग्रेस सरकार रही, उस कांग्रेसी सरकार द्वारा प्रेजिडेंशल आर्डर का उल्लंघन होता रहा। इसलिये गवर्नर ने स्पेशल रिस्पांसिबिलिटी का इस्तेमाल नहीं किया। इस बात का सबूत है कि रीजनल कमेटी के प्रस्तावों को उकराया

गया है। दफा 371 में आपने जो प्रेजिडेंशल आर्डर जारी किया है उसमें इस बारे में साफ जिक्र है कि गवर्नर की यह जिम्मेदारी है कि रीजनल कमेटी के प्रस्तावों पर अमल कराये। लेकिन अमल नहीं हुआ, फिर भी गवर्नर ने इस बारे में कार्रवाई नहीं की क्योंकि आन्ध्र में हमेशा कांग्रेस सरकार रही। घूम-फिर कर बुनियादी बात आ जाती है कि जब तक गवर्नर के पद का इस्तेमाल कांग्रेस पार्टी अपने दल के हितों के लिए करती रहेगी तब तक गवर्नर का पद और उसके अधिकार की बात विवाद का विषय बनी रहेगी।

इसलिये मेरी यह राय है—कांस्टिट्यूट असम्बली कब होगी या नहीं होगी, मैं नहीं जानता हूँ—कि ऐसा किया जाये कि गवर्नरों को निर्देश देने के लिये एक संयुक्त प्रस्ताव राज्य सभा और लोक सभा में पारित किया जाये कि सभी गवर्नर उस प्रस्ताव में जो निर्देश हों उनके अनुसार काम करेंगे। प्रस्ताव की बात मैं इसलिए कह रहा हूँ कि अगर अनुभव से यह बात सिद्ध होती है कि यह निर्देश ठीक नहीं है, या उनमें परिवर्तन की जरूरत है तो हम साधारण बहुमत से उन निर्देशों को परिवर्तित कर सकें, हर दफा संविधान में परिवर्तन करने की जरूरत न पड़े।

मुझे इस सम्बन्ध में इतना ही कहना है।

18 hours.

#### STATEMENT RE-TELANGANA

THE PRIME MINISTER, MINISTER OF ATOMIC ENERGY AND MINISTER OF PLANNING (SHRIMATI INDIRA GANDHI): Mr. Speaker; Sir, during the last few weeks, I have conferred with my colleagues in Government and Party the Leaders of the Opposition in Parliament, the Chief Minister of Andhra Pradesh, political leaders of some parties from Telengana and other parts of Andhra Pradesh as well as others, on the prevailing situation in Andhra Pradesh.