

which will come in course of payment during the year ending the 31st day of March, 1959, in respect of 'Capital Outlay of the Ministry of Rehabilitation'."

COMMITTEE ON
PRIVATE MEMBERS' BILLS AND
RESOLUTIONS

NINETEENTH REPORT

Sardar A. S. Saigal (Janjgir): I beg to move.

"That this House agrees with the Nineteenth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 9th April, 1958."

Mr. Deputy-Speaker: The question is:

"That this House agrees with the Nineteenth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 9th April, 1958."

The motion was adopted.

RESOLUTION RE: IMPOSING OF
RESTRICTION ON PERSONS WHO
HAD HELD THE OFFICE OF
GOVERNOR—Contd.

Mr. Deputy-Speaker: The House will now resume further discussion of the resolution moved by Shri Motilal Malviya on the 28th March, 1958, regarding imposition of restriction on persons who had held the office of Governor.

Out of 1 hour allotted for the discussion of the resolution, 16 minutes have already been taken up, and 44 minutes are left for its further discussion today.

Now, there is an amendment of this resolution by Shri Keshava. That is

out of order. He wants an amendment of the Constitution itself. That can be done by a direct motion, that is, a direct Bill and not by any other means. Therefore, it is out of order. There is no other amendment.

Now, Shri Braj Raj Singh. The hon. Member will appreciate that only 44 minutes are left, and since there are a few Members who want to speak, he should be as short as possible.

श्री ब्रजराज सिंह (फिरोजाबाद) :
उपाध्यक्ष महोदय, श्री मालवीय ने प्रस्ताव में सदन को यह अवसर मिला है कि वह इस सम्बन्ध में विचार करे कि जिन व्यक्तियों को एक दफा राज्यपाल बना दिया गया है, उस के बाद उन के जीवन की प्रक्रिया किस तरह चले और वे अपना जीवन किम तरहसे डालें कि जिससे राज्य के हित की रक्षा की जा सके और राज्य की प्रतिष्ठा को कायम रखा जा सके । सम्भवतः श्री मालवीय ने मस्तिष्क में यह बात इस तरह आई कि पिछले दिनों श्रमजीवी पत्रकारों के मामले में हमारे देश के सब से बड़े राज्य उत्तर प्रदेश के भूतपूर्व राज्यपाल, श्री कन्हैयालाल माणिकलाल मुन्शी, मुन्शीम कांट में वकील की हैसियत से श्रमजीवी पत्रकारों के खिलाफ खड़े हुए और न सिर्फ इस सदन में बल्कि सारे देश में यह प्रतिक्रिया हुई कि किसी भी भूतपूर्व राज्यपाल के लिये यह उचित नहीं था कि वह इस तरह के मामले पर श्रमजीवी पत्रकारों के खिलाफ वकील की हैसियत से बहस करता । मैं यह नहीं कहता कि वकील का जो मौलिक अधिकार है, उस को वह छोड़ देते—जहां तक इस प्रस्ताव का सम्बन्ध है, वह एक बड़ा मुन्दर प्रस्ताव है और इस को पास कर देना चाहिये—लेकिन इतना आवश्यक था कि किसी भी भूतपूर्व राज्यपाल को, जो किसी ऐसे व्यक्ति को, जो कि राज्य के किसी प्रतिष्ठित पद पर रह चुका हो, उस को कोई काम करने में पहले यह सोचना चाहिये कि उस का काम

राज्य की प्रतिष्ठा को हानि तो नहीं पहुंचाता। ऐसा प्रतीत होता है कि श्री मुंशी के उस कार्य से राज्यपाल के पद की प्रतिष्ठा को हानि पहुंची थीर देश के नागरिकों को यह सोचने पर मजबूर होना पड़ा कि श्री व्यक्ति एक बड़ा राज्यपाल, राष्ट्रपति या गवर्नर-जेनरल रह चुके हैं, उन को अपने बाद के जीवन को इस तरह संतुलित करना चाहिये जिससे राज्य की प्रतिष्ठा को हानि न पहुंच सके। मैं सोचता हूँ कि इस तरह की व्यवस्था करना बहुत आवश्यक हो गया है। जैसे तो अगर देखा जाये, तो हिन्दुस्तान जैसे गरीब मुल्क में—इस जनतंत्र में—गवर्नर के पद की कौनसी आवश्यकता थी और आगे के लिये भी कौन सी आवश्यकता है, यह मेरी समझ में नहीं आती। आज भी जो गवर्नर बनाये जाते हैं, वे कुछ विशेष प्रकार के लोग होते हैं। आज जो लोग तेरह राज्यों में गवर्नर बने हुए हैं, अगर उन को देखा जाये, तो पता चलता है कि कम से कम पांच राज्यों में ऐसे गवर्नर हैं, जो या तो लोक सभा के चुनाव में नहीं जीत सके, जिन को इस सदन में बैठने का अवसर नहीं मिल सका, या जो सूबों के मुख्य मंत्री पद से हटा दिये गये। आन्ध्र के गवर्नर के केस को लें। वह एक ऐसे व्यक्ति हैं, जो पंजाब में मुख्य मंत्री पद पर कायम नहीं रह सके। एक दूसरे सज्जन आसाम में मुख्य मंत्री थे, उन को वहां से हटा कर दूसरी जगह गवर्नर बना दिया गया। इसी तरह से हमारे देश के एक सब से बड़े राज्य, उत्तर प्रदेश, में, एक गवर्नर हैं जिन को मेरी पार्टी के एक भवना सिपाही को यह अवसर मिला कि वह उन्हें लोक सभा के मंच पर न बैठने दें, वह लोक सभा के लिये चुनाव में उनके हाथों हार गये। इसके बाद उन्हें उत्तर प्रदेश का गवर्नर बना दिया गया है। ऐसे लोगों को इन पदों पर बिठा कर आप विधान की प्रतिष्ठा नहीं करते हैं। जब आप ऐसे लोगों को जो एक बार मुख्य मंत्री रह चुके होते हैं, जो एक बार मंत्री रह चुके होते हैं जो चुनाव में हार चुके

होते हैं, और जिन का मुख्य मंत्रित्व छिन जाता है, मंत्रित्व छिन जाता है, उनको गवर्नर बना देते हैं तो लोगों को इससे बड़ा आश्चर्य होता है और वे इस चीज को पसन्द नहीं करते हैं।

बड़े आश्चर्य के साथ कस के ही समाचार-पत्रों में यह समाचार पढ़ने को मिला था कि एक मंत्री महोदय इस सरकार के जिन के डिपार्टमेंट के विषय में यह कहा जाता है कि उनका महकमा खत्म हो रहा है, मंत्रालय खत्म हो रहा है, उनको किसी राज्य का गवर्नर बना कर भेज दिया जायेगा। इतना मैं भ्रमस्थ कहूंगा कि गवर्नर का पद एक महत्वपूर्ण पद है और इस पद पर किसी निष्पक्ष व्यक्ति को ही नियुक्त किया जाना चाहिये। जब आप फजल भली साहब जैसे व्यक्तियों को गवर्नर के पद पर आसीन करते हैं, तो इसमें मुझे कोई एतराज नहीं होता है क्योंकि वह अज रह चुके हैं। मैं चाहता हूँ कि केवल निष्पक्ष व्यक्तियों को ही गवर्नर के पदों पर आसीन किया जाना चाहिये, फिर चाहे वे हाई कोर्ट के जज हों, चाहे सुप्रीम कोर्ट के जज हों, चाहे चीफ जस्टिस रह चुके हों। ऐसे लोगों को जोकि राजनीति में सक्रिय रहे हैं और सक्रिय रहने के बाद राजनीति को चला नहीं सके हैं, मंत्री नहीं रह सके हैं, मुख्य मंत्री नहीं रह सके हैं, उनको गवर्नर नियुक्त कर के आप विधान की प्रतिष्ठा को नहीं बढ़ाते हैं। मैं चाहता हूँ कि आप विधान की तिष्ठा का खयाल रखें। मैं चाहता हूँ कि यह सदन न सिर्फ इस पर विचार करे कि जो एक बार गवर्नर रह चुका है वह उस पद से हटने के बाद किस तरह से अपने आप को कंडक्ट करे, बकील है तो सुप्रीम कोर्ट में, या हाई कोर्ट में या डिस्ट्रिक्ट कोर्ट में अकालत करे या न करे, डाक्टर है तो इस बंधे को करे या न करे, बल्कि समय भा गया है जबकि हम इस पर भी विचार करें बलाभा इसके कि किस तरह के व्यक्तियों को गवर्नर पद पर नियुक्त किया जाये कि क्या हिन्दुस्तान जैसे गरीब

[श्री बजराम सिंह]

मुल्क के लिये यह बाधित है कि जो इस पद पर साखों खपाया बर्ब होता है, उसको वह बदलित करे और क्या हम इस भार को सहन कर सकते हैं ?

मैं कहना चाहूंगा कि गवर्नरों के बारे में जनता में कहीं कहीं बड़ी गलतफहमियां पाई जाती हैं। ऐसे समाचार मिलते रहते हैं और ऐसी अफवाहें भी उड़ती रहती हैं जिन की पुष्टि भी हो जाती है या जिन का खंडन नहीं किया जाता है, कि कहीं कहीं गवर्नर लोग अपने यहां का सामान खरीदने के लिये अपने रिश्तेदारों का प्रयोग करते हैं और वह काम उस तरह से नहीं किया जाता है जिस तरह से कि गवर्नमेंट का काम होना चाहिये। डेडर इत्यादि नहीं मांग जाते हैं और

उपाध्यक्ष महोदय : ऐसी चीजें यहां तो नहीं भानी चाहियें।

श्री बजराम सिंह : इस प्रस्ताव का जहां तक टाल्लुक है ...

उपाध्यक्ष महोदय : इस प्रस्ताव से तो इसका बिल्कुल भी टाल्लुक नहीं है और वैसे भी यह चीज नहीं आ सकती है।

The Minister of Home Affairs (Pandit G. B. Pant): That is a reflection which he should not cast.

Mr. Deputy-Speaker: He should not indulge in such remarks against Governors.

श्री बजराम सिंह: मैं केवल इतना निवेदन करना चाहता हूँ कि यह सदन इस देश का जनता का प्रतिनिधित्व करता है। देश की जनता के अन्दर जो जो भावनायें व्याप्त हैं, उनका प्रतिनिधित्व यहां होता है। अगर उन भावनाओं को मद्देनजर रख कर और उनकी कद्र कर के हम नहीं बलब तो हम पिछड़ जायेंगे और हम सही रूप से देश का प्रतिनिधित्व करने की स्थिति में नहीं रहेंगे।

मैं आपके जरिये से, उपाध्यक्ष महोदय, यह कहना चाहता हूँ कि हम इस तरह की सम्बन्धी को ज्यादा देर तक बदलित नहीं कर सकते हैं। इस वास्ते हमें इस सम्बन्धी में नहीं फंसना चाहिये।

इसके साथ ही साथ मैं यह भी निवेदन करना चाहता हूँ कि जो प्रस्ताव यहां पेश किया गया है, उसका हर सदस्य को समर्थन करना चाहिये। आज अखबारों में यह बात पढ़ कर मुझे बड़ा आश्चर्य हुआ कि इस सदन में जिस पार्टी का बहुमत है, जिस की सरकार कायम है, उसकी तरफ से कोई इस तरह का निर्देश दिया गया है कि प्रस्तावक महोदय इस प्रस्ताव को वापिस ले लें

उपाध्यक्ष महोदय : अखबार की खबरों पर आप विश्वास न करें।

श्री बजराम सिंह : आपको आघ बंट के बाद पता चल जायेगा। इसकी पुष्टि भी हो चुकी है।

मैं इतना ही इस सम्बन्ध में निवेदन करना चाहता हूँ कि या तो पहले ही बहुमत वाली पार्टी इस तरह के प्रस्ताव को रखने न दे और जब रख दिया जाता है तो उसको सदस्य महोदय द्वारा वापिस लिये जाने का निर्देश न दे और उसको इसके लिये मजबूर न करे।

जहां तक इस प्रस्ताव का टाल्लुक है इसको पास किया जाना चाहिये जिस से हम अपने मुल्क में जनतंत्र के प्रति अच्छी भावना पैदा कर सकें और सब का इसको समर्थन प्राप्त होना चाहिये।

Pandit K. C. Sharma (Hapur): The Governor's position under the Constitution is that he is the representative of the President of the Union. So far as that function is concerned, it is very important. A certain dignity is attached to it. But there are other functions in life which are equally important, perhaps more important. For instance, the lawyer's function is

that he is an instrument in the cause of administration of justice. I regard it as the noblest office in human affairs.

Shri Tyagi (Dehra Dun): Question.

Pandit K. C. Sharma: If he questions this, I may quote a great jurist who once said:

"When truth and justice vanish in the world, you will find them in the mind and heart of the lawyer."

This is the history of the world, and the liberty that we enjoy is the liberty given by English Judges and English lawyers. Otherwise. . .

Mr. Deputy-Speaker: The hon. Member is drawn into a controversy.

Pandit K. C. Sharma: I am sorry, but hon. friend wanted a little information.

So what I beg to submit is that we are at a stage of development in world affairs where it is not the person, however great he may look, however grand his personal looks be, that is important, but it is the function that is important. The moment a man goes out of the office, the dignity and importance attached to that office passes off to another man who comes to that office. The man who goes out of office serves the community in other different ways. Therefore, the proposition that the dignity which was attached to the office should pass on to the person after leaving that office is an impossible proposition.

Another aspect of the question is that our people and people in other countries too are quite well informed to be able to differentiate between a man in office and a man out of office. Therefore, to argue that he would abuse his position is taking the common man's intelligence too near the ground. The common man, as the various election results show, the talks in the cities show and discussions in newspapers show, is quite intelligent to distinguish between right and wrong, between what is important

and what is superficial and between what is desirable and what is otherwise. Let us depend upon the commonsense and intelligence of the man in the street. I submit that a Governor after leaving office should have as much right to take to any profession or trade as any other citizen, because he does not lose his right to be a citizen of India and to enjoy any of the fundamental rights given to a citizen under the Constitution.

Shri Narayanankutty Menon (Mukandapuram): My hon. friend, Pandit K. C. Sharma, said something about the great legal profession and also the sayings of great English jurists. Both English and continental jurists have said so many things, and whatever they have said about the great and noble profession has cooled down to some sort of metaphysical legalism, and sometimes when they talk about unrealistic things, those legalisms will be carried to the point of absurdity.

When my hon. friend said that the common people in India were intelligent enough to distinguish between personalities and the avocations they sought he was forgetting a fact, namely, because of the nature of our Constitution, we ourselves would, by allowing the Governors to practise in certain avocations, becoming to certain contradictions. That is the point I want to put before this House. Under the Constitution, the functions of a Governor as Head of the State are manifold, one of them being to assent to Bills. After being satisfied about the constitutional validity of a Bill, he assents to it. The presumption under the Constitution is that the Governor as Head of the State, having been satisfied that the provisions of the Bill conform to the provisions of the Constitution, gives his assent and the Bill passes into law. Fortunately or unfortunately, after the five year term, His Excellency the Governor goes out of office and dons his lawyer's robe.

15 hrs.

The client is affected by that piece of legislation for which he has given

[Shri Narayanaakutty Menon]

his assent and he knocks at the office of this ex-Governor lawyer. According to my friend's conception of a lawyer, no lawyer can refuse a client's request to represent his case before a court of law. Naturally, when the client's case is that he is affected by the provisions of this piece of legislation, he will have to question, sometimes, the validity of this legislation before a court of law and say that such and such provision of an Act is unconstitutional, and that his client should be taken out of the purview of the particular legislation. When the ex-Governor appears before the court and submits that the provisions of the Act are unconstitutional or that those provisions are *ultra vires* or are against article 19(g) of the Constitution, the learned Judges would be entitled to ask the ex-Governor, 'Are you not responsible for assenting to this Bill, having fully known that this was unconstitutional?' Such unhappy and embarrassing circumstances are bound to come up if ex-Governors are allowed to practice. Have we not, as a developing young democracy, our own duty to see that such embarrassing situations do not arise?

The second point is that the office of Governor and certain other offices under the Constitution have got certain respect attached to them. We have not, as human beings, overgrown ourselves like mythological deities who are above personalities. We will have to be realistic in these cases and we have got to bear in mind that when these persons come out and take up a particular case, they carry their respect even out of office and are likely to influence others.

In conclusion, I would say something of the psychology of this Resolution, for its introduction in this House. I will not—I cannot and I do not wish—to refer to personalities. But, why has this Resolution come before this House? It has got an immediate provocation behind it. It has got a psychology behind it. It was because some people in this country who ought

to develop conventions themselves did not think it proper to develop them in that way. That is exactly why this Resolution has come before this House. It had a very tremendous psychological effect upon very influential sections of the people and as a reflection of that it has come.

Even though this Resolution as it is may not be acceptable to Government, I appeal to the hon. Minister to think over this question whether any immunity should be conferred upon these Heads of States or whether some other method should be found so that these embarrassments, these unhappy conventions should not develop, so that through the Constitution by which we are just nourishing our democracy we can have our own healthy system of democracy.

Shri Keshava (Bangalore City): Sir, I rise to oppose this Resolution. In fact, this Resolution contemplates, in a negative way, to disqualify the people who have been occupying the position of Governors from following their own professions. My respectful submission is this. Any amount of legislative measures will not serve the purpose the Mover of the Resolution has in mind in moving this Resolution before this House. The least a Government interferes with our life the best Government it is. I would not like that the extraordinary intellectual capacities or professional capacities of any individual, whoever he may be, should be denied to his countrymen, simply because he was Governor for a time or acted as the Head of a State for some time.

Another thing that I would like to bring before this House is this. Even if we accept the argument that has been put forward just now by Shri Menon, there is no use disqualifying a Governor completely. Even if his objections are to be upheld, then such a person should be disqualified only so far as the State in which he acted as Governor is concerned. Lately, we have allowed even the Chief Justices of High Courts to practice, after re-

tiement, in courts other than those over which they presided. In that way also, it is objectionable totally to disqualify the Governors from following their avocations in life. It is not acceptable.

Apart from professions or avocations, even so far as the Membership of this Lok Sabha is concerned, in fact, I may bring to the notice of this House that the fourth bench of the first block here consists almost entirely of ex-rulers. You find ex-rulers, ex-Ministers and ex-Governors and ex-Maharajas, all of them there. It does not mean . . .

Shri Thirumala Rao (Kakinada): There are 3 present Ministers also.

Shri Keshava: No proper professional etiquette would allow at any time the supposed competition that may be brought about by the entry of the ex-Governors of States into that profession. If at all any restriction is to be placed according to this Resolution and if at all a convention has to be established as Shri Menon just now mentioned, it is a matter for the individual himself and, as such, the legislative prohibition that is sought in this particular case is objectionable. When we want to establish a socialist State what harm is there? On the other hand, I would like to suggest that it is very complimentary that the gentlemen make up their minds to join the rank and file of the profession and start practice.

I do not agree for a moment with the observations made by the Mover. He said—I did not understand him completely but, in a way he said:

“वे अपने सिद्धान्त और भावना से गिरते चले जा रहे हैं।” बिल्कुल ऐसा नहीं है। मेरा कहना यह है कि वे एकदम उठे जाते हैं। बिल्कुल गिरते नहीं जाते हैं।

Under these circumstances, it is not desirable at all that we should introduce wholesale disqualification for the ex-Heads of States.

Mr. Deputy-Speaker: Pandit Thakur Das Bhargava. He will also take as

much time as the other hon. Members have taken.

पंडित डाकूरदास भार्गव (हिसार) :

जनाब डिप्टी स्पीकर साहब, मैं ने जो तकरीर सुनी इस रेजोल्यूशन के मुबार साहब की तो मुझ को ऐसा लगा कि वह भी मुंशी जी से कुछ नाराज हैं कि वह सुप्रीम कोर्ट में बहसियत बकील के पेश हुए या शामद छागला कमिशन के सामने पेश हुए। मैं श्रद्ध से अर्ज करना चाहता हूँ कि असल में वह सवाल पर्सनेलिटीज का नहीं है। मैं भी मुंशी को बहुत अर्ज से जानता हूँ। उन्होंने हमेशा अपने फायदे के लिये ही मुकदमे नहीं किये हैं। बल्कि जब वहाँ अंग्रेजी राज्य था तो बेधुमार दफा पोलिटिकल सीटर्स को बचाने के वास्ते भी बहुत से मुफ्त मुकदमे किये हैं। उनकी निश्चयत खयाल करना कि वह किसी लालच की वजह से मुकदमों में फंस गये होंगे, यह गलत बात है। उन की जो धामदनी इस तरह से होती है वह सब हो सारी की सारी अच्छे कामों में पहुँचती है। मैं तो श्री ब्रजराज सिंह की तकरीर को सुन कर ताज्जुब में पड़ गया। क्या सवाल यह है कि गवर्नर कौन साहब मुकर्रर हों? उन्होंने कई साहबों की मिशालें दीं कि फलां भादमी जो एलेक्शन में हार गये उन्हें गवर्नर मुकर्रर किया गया। यहाँ सवाल यह नहीं है कि कौन गवर्नर मुकर्रर ही। अगर मेरी राय पूछी जाये तो मैं चाहता हूँ कि सुप्रीम कोर्ट का कोई जज कभी गवर्नर न मुकर्रर किया जाये। ब्राड प्रिंसिपल्ल के ऊपर जो जज जुडीशियरी में मौजूद हैं उन्हें प्रेक्टिस करने की इजाजत नहीं होनी चाहिये लेकिन बही एग्जिक्यूटिव पोस्ट गवर्नरी की सीक करते हैं। जहाँ तक गवर्नर का सवाल है यह सोचा जा रहा है कि एक गवर्नर साहब पांच वर्ष तक किसी स्टेट में रहते हैं, उस के बाद उन को प्रेक्टिस करने की इजाजत होनी चाहिये या नहीं। मैं अर्ज करूँगा कि हमारे फंक्शनेटल राइट्स में साक तीर पर अर्ज है कि हर भादमी का यह फंक्शनेटल राइट है कि वह जिसे किसी प्राक्सेशन

[पंडित डाक्टर दास भार्गव]

को चाहे कर सकता है। मैं देखता हूँ कि भाष के दिन भी कुछ हमारे गवर्नर साहबान ऐसे हैं जिन के साथ एक हैलो है जो कि आहिस्ता आहिस्ता खत्म होता जा रहा है वह गवर्नरी के खत्म होने पर, या बड़े बड़े मिनिस्टरी के खातमें पर हर आदमी कोमन मेन बन जाता है। जैसे यह प्रोफेशन फाईनमेंटल तौर पर सब के साथ आ जाता है। चाहे वह वकील हों, डाक्टर हों या कारतकार हों। जैसे मेरे लायक दोस्त ने करमाया यह सा जो प्रोफेशन है वह हर एक आदमी के साथ रहा है, चाहे गवर्नर हो चाहे कोई और हो। इसलिये मैं कहता हूँ कि इस तरह का प्राविजन कानून में न लाइये जैसा कि रिजोलेशन में तजवीज है। पंडित नेहरू वकीलों में वकील हैं, महात्मा गांधी हम में से हुए, चांचल को देख लीजिये, दुनियां के जितने बड़े आदमी हैं सब लाइअर्स ही थे।

उन्होंने ला को बनाया और ला को बसाया। उन्हीं के बलबूते पर आज दुनिया की गवर्नमेंट सब काम करती है। अब हमारे पंत जी यहां पर बैठे हुए हैं। मैं पूछना चाहता हूँ कि वह अगर रिटायर होने के बाद अपने प्रोफेशन की तरफ रागिब हों तो उसमें क्या ऐतराज है? मैं प्रिसिपल के तौर पर इसमें कोई भी आब्जेक्शन नहीं देखता। कांस्टीट्यूशन में दर्ज किया है कि यह हर एक मुल्जिम का हक है कि वह वकील से डिफेंड हो। आपने अपने कांस्टीट्यूशन में रक्खा है कि हर आदमी अपने बचाव के लिये वकील रख सकता है और कोई वजह नहीं है कि आप बकला को मजबूर करें कि वह रिटायर होने के बाद अपना प्रोफेशन न करें। हमने कुछ क्लासेज के आदमियों के बास्ते इस तरह की कैद लगाई है कि वह रिटायर होने के बाद कला काम नहीं कर सकेंगे मसलन् सबिस ज्यायन नहीं कर सकेंगे। इसी तरह हाईकोर्ट के जजेज के बास्ते हमने कांस्टीट्यूशन में लिख दिया है कि हाईकोर्ट के जज रिटायर होने के बाद उसी हाईकोर्ट में प्रैक्टिस नहीं कर सकेंगे

चाहे वह ऐडवोकेटस जज ही क्यों न रहे हों। अब जहां तक गवर्नरी पर भी इस तरह की पाबन्दी लगाने का सवाल है तो मैं अब के पूछना चाहता हूँ कि क्या उनको कोई पेंशन मिलती है? मैं पूछना चाहता हूँ कि जबलिक सबिस करने के बाद जब वह गवर्नरी के पद से रिटायर होती हैं तो उनके पास कौन सा ऐसा साधन रहता है जिससे कि वे डिगनिटी के साथ अपनी जिन्दगी बसर कर सकें? कौन सी उनके बास्ते आपने पेंशन की व्यवस्था रक्खी है। अगर आप चाहते हैं कि उन लोगों का रिटायर होने के बाद भी हैलो बना रहे, तो आप उनके बास्ते कोई पेंशन मुकर्रर कीजिये। मैं समझता हूँ कि गवर्नर बन जाने से यह तो नहीं होना चाहिये कि आप बाद में उसको उसके फंडामेंटल राइट से महरूम कर दें। अब अगर आप यह समझते हैं कि वह चूँकि गवर्नरी के ऊंचे प्रोहदे पर रह चुका है और उनको रिटायर होने के बाद वकालत का पेशा न प्रखत्यार करना चाहिये तो आप उनके बास्ते पेंशन मुकर्रर कर दें जैसी कि आपने जर्जों के लिये मुकर्रर की है। इस तरह की व्यवस्था किये वगैर एक शख्स जो उस प्रोहदे से रिटायर होता है और अगर वह गरीब आदमी है तो उसको अपना पेशा प्रखत्यार करने से रोकना न तो उसके लिये ठीक होगा और साथ ही इस तरह की कैद लगा कर जबलिक को आप उसकी खिदमत से महरूम करते हैं। इसके अलावा आपको यह भी नहीं भूल जाना चाहिये कि आप मुल्क को और यहां की जनता को ऐसे ऐबलेस्ट लोगों की वकालती सलाह और पैरवी से क्यों महरूम करते हैं। हर क्लॉएंट की यह क्वाहिश होती है कि उसका केस प्लीड करने के लिये उसे फास्ट क्लास वकील मिले और वह हर एक देशवासी का बुनियादी हक है कि वह अपने को वकील से डिफेंड करे। इसलिये मैं समझता हूँ कि जो यह रेजी-कूशन पेश है वह अपनी मौजूदा शकल में हरगिब पास होने के काबिल नहीं है। अगर

इसमें कुछ है तो सिर्फ इतना है कि गवर्नरों की डिगनिटी रिटायर होने के बाद कायम रखनी चाहिये और उसके लिये मेरा कहना है कि अगर आप उनको इस हक से यानी बकायत का पेशा करने के हक से महकूम करना चाहते हैं तो उनके बास्ते आप कोई पेंशन मुकर्रर करें ताकि वह डिगनिटी के साथ अपने को मेंटेन कर सकें। वो असूलन ऐसा करना दुरस्त न होगा।

Shri C. E. Pattabhi Raman (Kubakonam): Sir, frequent references had been made to the oath taken by the Governor. I shall confine myself to two or three legal aspects of it. I shall in this connection refer to article 159 of our Constitution which says that the Governor should make and subscribe an oath or affirmation. During the period of his office, he is bound by it. It has been said that by doing so he cannot argue as a lawyer against the various legislative enactments of the State. This, I submit, is wrong. The Governor does not get a pension. There are some Governors to-day who are heads of business houses. Some are in the present House. If you pursue the matter to the logical extent of the Resolution, it will mean that you will have to amend article 19 of the Constitution guaranteeing the Fundamental Rights to practise one's profession. There must be a proviso saying: 'provided always that it shall not apply to persons who have held the office of Governor'. That, I am sure, is not in the contemplation of the Mover of the Resolution.

To say that a Governor, by appearing before a court, influences the Court is hardly a compliment to our courts. I do not think, may I say with great respect, that it makes any difference to the Judges as to who appears before them. The case wins itself or loses itself. Much depends upon the advocacy also. But to say that because a Governor appears in a court the result of the judgment would go this way or that way is hardly fair to the Judges who are adorning the various benches and the Supreme Court.

There was also another reference. I would not refer to it in detail. But I am surprised that Shri Narayanankutty Menon should refer to the oath taken by a former head of the State Mr. Bulganin is now in charge of a bank. He was in the position of a Governor. He was much more than a Governor in fact. In that ideal State of my good friend, Shri Narayanankutty Menon, Mr. Bulganin's predecessor, too is somewhere functioning in Siberia as the head of an office. So, to say that simply because they subscribe to an oath, they should not function when they are out of office is wrong.

There seems to be some approval when my friends referred to the convention in England. In England, such people may be elevated to peerage. But a Lord Chancellor was so broke when he was retired. Everybody knows. Lord Birkenhead wanted to practise. Leading businessmen then met together and gave him some chairmanship of some company. He was actually Lord Chancellor. That is the instance of England.

We can envisage things here. Tomorrow a middle class person may be taking up the governorship and become the Head of a State. When he goes from that office, he gets no pension at all. I do not think he has got any rank. Except in the case of some service men who have become Governors, when the ordinary individuals or non-officials leave that office, they again become ordinary citizens. There is not even any protocol giving them a rank. So, taking all these things into consideration, I submit that this Resolution is bad.

The Minister of Home Affairs (Pandit G. B. Pant): I have gone through the text of the speech delivered by the Mover when he placed this Resolution before this House. I had also the privilege of listening to the speeches that have been made to-day. I can appreciate the reasons that impelled the Mover to move this Resolution. I wish, however, that it had been possible to deal with the subject in a more impersonal way than this

[Pandit G. B. Pant]

debate had actually shown, for so far as possible we must care for the sentiments of persons, who are not here in the House and avoid criticism of their conduct. Actually, an ex-Governor has been mentioned by name. But apart from that, pointed references had been made by the hon. Mover to indicate the Governor he had in view. I can only say that the distinguished fellow-countryman of ours to whom he referred has rendered many valuable services not only in the field of politics but also in cultural, educational and social spheres. Even now, I understand, he devotes his net professional income to an institution which he has established and which he is nursing. All that he saves from his professional income, he has earmarked for a well-known institution of which we have got a branch very close to this very place.

However, the question has to be considered in a detached way. Should or should not the Governor be given the freedom to carry on his profession in a legitimate way, after he has quit the office of Governor?

The question, I think, can admit only of one answer. My own feeling is that although we claim to be democratic and, some of us, also to be very forward, still we have not yet shed off outmoded notions which are not consistent with the basic fundamentals which must guide the citizens of a democratic society. What difference does it make whether a person has been a Governor, or whether he has been a trader, or whether he has been a clerk? So far as our society is concerned, all men have equal rights and, except where for the protection of society certain restrictions are considered to be inevitable, no one should be deprived of his liberty of doing what is legitimate and lawful.

A Governor upholds the dignity of the State. He is the symbol of the status and of all that the State stands for. So, as long as a person is a Governor he should be treated with becoming respect—though I find that

here, sometimes, even this elementary rule is forgotten. Some of the hon. Members here seem to think that a Governor is dignified enough and he can over-awe the judges when he appears before them even after he has ceased to be Governor; but so far as this House is concerned, Governors can be attacked and maligned here even when they are acting as Governors. I do not know how far the two attitudes are consistent. However, that is a minor matter.

Now, a Governor is no more than a citizen after he has ceased to be a Governor. A Prime Minister is no more than a citizen after he has ceased to be Prime Minister.

An Hon. Member: Also a Judge.

Pandit G. B. Pant: All citizens are equal. A Judge is no more than a citizen after he has ceased to be a Judge. Wherever any restrictions have been considered necessary, provision has been made in the Constitution. In the case of a Judge, there is a provision that he should not practise in the State in which he has functioned as a High Court Judge. In the case of a Judge of the Supreme Court there is a provision that a Judge of the Supreme Court should not practise after retirement. There are also provisions to the effect that persons who have served as members of Public Service Commissions should not be given any office by the Executive. Well, wherever the Constitution makers thought that for safeguarding public interest, some sort of restraint was necessary they did the needful. A Governor holds a position which invests him with a certain amount of prestige and dignity during the time he represents the State; but after he has been relieved of that office he stands on a par with other citizens.

Why do you want to treat him on a different level? In a democratic society, the effort should be to treat everyone as equal and no one as a superior. But those old notions linger, and we still seem to have some relics

of the feudal age either around us or in our minds. They continue to grip us

Shri Braj Raj Singh: You are keeping it on.

Pandit G. B. Pant: Now, let us look at the question from the practical point of view. Whether you give pension or not, that has to be considered. But, apart from that, I say, in free India if a person is capable of rendering any service his talents and his experience should be utilised. No man's time should be wasted and no man's experience should remain unutilised, because if we condemn people to enforced idleness then the society suffers, not merely the individual. Work and labour are the main desiderata of the day, and everyone should do whatever he can and should put in the best. Everyone should work as hard as he can. This is what we need today.

But, supposing we are to ask the Governors not to do anything but to lie in their sofas, what would we have to pay to them? A Governor's term is normally not more than five years. We have 14 States and there will be 14 Governors. A public servant is ordinarily expected to serve for 30 years if not more, so that for every public servant who serves for 30 years there would have to be six Governors in his State each serving for five years. There being 14 States there would be 84 Governors. You have to give a pension to each, and as the whole of the argument is based on the assumption that the Governor is somewhat of a super-human being, I think the pension would have to be also sufficiently adequate and befitting one. Why should we spend such an amount in paying pensions to 84 Governors for the time that a public servant takes?

Shri Braj Raj Singh: He can cultivate the land if he so desires; there is no restriction on that.

Pandit G. B. Pant: Very well. There is no restriction, and that is what he is doing today....

Shri Tyagi: Or, sent to prison or kept under detention.

Pandit G. B. Pant: At least the remark indicates that there would be no restriction in respect of a number of professions.

Mr. Deputy-Speaker: When he was Governor he would have gone to the tiller.

Pandit G. B. Pant: So it comes to making an invidious discrimination, that if a Governor was an aristocrat, if a Governor was a landlord, if he was a trader, a director in industrial firm, a managing director as some of them were, then he can revert and go back to his profession again, but if he was a lawyer, if he was a doctor, if he was a teacher—because all these professions involve a certain amount of competition—then his entry back into his fold should be barred. I do not, I submit, appreciate the logic of it, and I wonder if any other person who takes the same view of things would be able to do so.

So there is hardly any force in the argument. Then, you must remember that the times have changed. In the olden days the Governors used to belong mostly to British aristocracy and the Lords in those days had very fat incomes. Now even they have not got those resources which they possessed in the olden days. If you do not allow these men, the commoners in the country, to go back to their profession after they have served as Governors, then what would be the natural consequence? You have to appoint as Governors men who have ample means and who can live comfortably after they have served as Governors and maintain what you consider to be their dignity. Thus, while making this proposition, you are really suggesting that the post of Governors should not be given to commoners of this country.

Shri Braj Raj Singh: There should be no such posts.

Pandit G. B. Pant: That is a different thing—there should be no Governor altogether—I can understand that well. But that is not the reso-

[Pandit G. B. Pant]

tion we are considering, fortunately or unfortunately, nor any amendment to that effect has been moved nor has that noble suggestion, a novel one too, been made by the interrupter even in the course of his speech. So, I need not take further notice of that.

Sir, the point is that we have, according to our Constitution, according to our practice, prescribed that even where a person has been charged with murder we shall provide on behalf of the State a lawyer to defend him; so the State is expected to see that every cause is fully pleaded before those who have to form an opinion. So, why should there be such an amount of perturbation because a particular lawyer appeared in a particular case? That does not make any difference. There were others, and more eminent ones, appearing on the other side, and if justice has to be done and the present system has to be maintained, then the honourable profession of law has also to be preserved, because the present judiciary cannot function without the aid and co-operation of lawyers and judges. And the more eminent, the better equipped, the more erudite a lawyer is, the better it is that he should have the opportunity of going back to the profession after he has been relieved of other duties. Whether he should do so or not, that is his choice. It is not only that of the Governor. There are many: others our Chief Ministers, and some of us who happen to be Ministers here; we are also connected with the appointment of High Court judges and sometimes of Supreme Court judges. I do not know what we will do when we go out. I am too old, but there may be younger men. But would you say that no Member of Parliament wields authority over us? A Member of Parliament wields authority over us too. We may have some connections with others.

Shri Tyagi: At least the hon. Home Minister should not—who appoints judges.

Pandit G. B. Pant: Yes; so far as I am concerned, I agree. I think we must now look at things in a rational way, with greater faith in our people. Whether you appoint me or I appoint you, I expect that you will do justice by my opponent if I am not in the right. If you do not follow that principle, then democracy cannot flourish. So, that should be the principle which should guide us.

There were some observations made that some persons have been appointed as Governors though they had not succeeded in elections. I never knew that the post of Governor is an elective one. Our Constitution does not say that a Governor is to be elected. But along with that there was another inconsistent remark that persons who had succeeded in elections and who had been elected as leaders of their parties had been appointed as Governors, and that they should not have been appointed as Governors, because they had succeeded in the elections.

Shri Braj Raj Singh: Because they could not continue as leaders of their parties.

Pandit G. B. Pant: I wonder if the hon. Member who has made the observation can claim to know more about parties than those who belong to the parties themselves.

Shri Braj Raj Singh: This is a new interpretation.

Pandit G. B. Pant: The fact remains that so far as elections go, there can be no dispute that those persons had been elected to the legislatures. Is that too disputed? That is not. So, when persons who have been elected to legislatures, and who have also been elected by their respective parties as their leaders are chosen as Governors, then there is a caveat lodged, and we are told that that is wrong. If persons who failed in elections are appointed then that too is wrong. And if persons who do not belong to either of these categories are appointed then that too is wrong.

Shri Braj Raj Singh: Unfortunately, the hon. Member belongs to the Congress Party.

Mr. Deputy-Speaker: Order, order.

Pandit G. B. Pant: So, I do not know if you can create a new generation over night for service in the States as Governors. I venture to think that there is no substance in this resolution. I need not pursue the matter further though I could have advanced a few more arguments. I hope the mover will withdraw the resolution.

श्री मोती लाल मालवीय (सजुराहो-रक्षित-अनुसूचित जातियाँ) : माननीय उपाध्यक्ष महोदय, इस संकल्प को इस सदन में प्रस्तुत करने की मेरी मंशा यह थी कि सरकार के सामने, समाज के सामने और राष्ट्र के सामने इस प्रश्न पर विचार किया जाये और हम किसी नतीजे पर पहुँचे। यह बात सही है कि हमारे संविधान में कुछ मौलिक अधिकार हैं और उन मौलिक अधिकारों का हनन नहीं होना चाहिये। यह बात भी सही है कि यदि किसी के पास उत्तम बुद्धि है, तो उसका भी उपयोग हो, लेकिन वह उपयोग इस प्रकार से हो कि समाज का या समाज के ज्यादा लोगों का हित हो सके, क्योंकि एक व्यक्ति बिनाश या किसी छोटे समूह के मौलिक अधिकारों से समुदाय बड़ा होता है और उस के मौलिक अधिकारों की हम ज्यादा देख-भाल करें और ऐसी परम्परा कायम करें, जिससे कि हम जनतंत्र का विकास कर सकें। मैं समझता हूँ कि इस संकल्प के द्वारा इस ओर ध्यान गया है कि हम अपने प्रजातंत्र और जनतंत्र का विकास करने के लिये कोई कानून की रोक न लगाते हुए भी ऐसी स्वस्थ परम्परा कायम करें, जिससे हमारा राष्ट्र स्वस्थ और उन्नत हो सके। इस प्राप्ति के साथ मैं अपने इस संकल्प को वापस लेने की आज्ञा चाहता हूँ।

Mr. Deputy-Speaker: Has the hon. Member permission of the House to withdraw the resolution?—I find

neither 'Yes' nor 'No', I shall put the resolution to the vote of the House. The question is:

"This House is of opinion that suitable steps be taken to prevent persons who had officiated or acted as Governor of a State from accepting any competitive avocations or assignments for profit."

The Resolution was negatived.

Mr. Deputy-Speaker: The resolution is lost. We shall proceed to the next resolution.

RESOLUTION RE: REORIENTATION OF THE SYSTEM OF EXAMINATIONS

Dr. Gohokar (Yeotmal): Mr. Deputy-Speaker, I beg to move:

"This House is of opinion that with a view to raise the standard of education and ensure the pursuit of study more for the sake of knowledge rather than merely for passing examinations and thus to bring in a generation of better-equipped teachers and better-informed pupils, the entire system of holding examinations prevalent in schools and colleges may be re-orientated and new system of assessing progress and merit based on a series of regular monthly tests be introduced."

I bring this resolution with a view to changing the present system of examinations. We have seen for the last so many days that this system of examinations has given rise to a great indiscipline among the students. In fact, we must remind the students as well as the teachers that they are a privileged group and as such they are under a deep obligation to the community and to the country. It is estimated by the University Education Commission's Report—that Commission was under the chairmanship of Dr. Radhakrishnan—that the commu-