

Shri Biswanath Das (Orissa: General): Sir, I stand to record my protest at the aspersions made by so scholarly a gentleman as Professor Shah. He finds unfortunately ghosts where there are none. He has made reference to Patronage. I would request him to show anything in the article wherein comes patronage. The appointment of a Finance Commission is a necessity. It is not peculiar to India. It is a necessity and has been accepted and adopted in India to suit the peculiar conditions of a federal structure that has been devised for her on the lines of similar other States. All that the Constitution has done is to lay down specific powers for Parliament to make laws by which a Finance Commission is to be appointed. And it has gone a little further. It has laid down also the conditions and qualifications of persons to be appointed. May I refer you to article 260(2) in this connection, which lays down that "Parliament by law shall determine the qualifications etc. of the Finance Commission". I would request Professor Shah not to proceed with unjustifiable suspicion. If by the appointment of any Member of any Commission you mean patronage will come in, certainly you have to stop all State activities. That will be something like burning a house in a fight against flies. I hope therefore that Professor Shah will not play the role of an unnecessary opposition in a case where there is no scope for opposition.

Having stated so much about the unnecessary allegation made by our learned Professor, let me come to - the vital issue that faces us in the discussion. I am sorry I have to differ from my esteemed colleagues Professor Saksena and Mr. Kamath. Both of them, I am sure, have erred grievously. They feel that powers of the Parliament are interfered with and that no discussion of a full and frank nature is possible under the circumstances. These two allegations seem to be the basis of their opposition.

Let me take the first, namely, that there will be no possibility of discussion. Parliament is to enact a law by which a Finance Commission is to be appointed. The impartiality of the Finance Commission is a matter beyond doubt, because the whole thing is left to Parliament itself. They have to devise the law, they have to lay down qualifications, and the choice of the personnel depends upon the Cabinet, I believe, in the name of the Governor-General. They represent the people. Under these circumstances I have no hesitation in believing that there will be an impartial Tribunal. The Finance Commission is thus a baby of the Parliament-it is an institution created by the Parliament under its own statute.

On appointment, the Commission makes a thorough, deep and searching enquiry, also if required sit in examination over the budgets and administration of provinces, and submit a report to the executive. Whose executive? The executive of the Parliament. Thereupon the Cabinet in the name of the Governor-General take decisions and they practically accept the recommendations of the Finance-Commission, just as in the case of the findings of the Election Tribunal where the Governor or the Governor-General has the power to interfere. But can you point out a case wherein a

Governor or Governor-General has ever interfered? No, never. Therefore, precedents have been created and have been in existence wherein the recommendations of statutory bodies-judicial or quasi-judicial bodies-are accepted in toto.

Then the other stage comes in, namely, of their being placed before both Houses of Parliament. That again gives an occasion for discussion. Any member of the House, under its Rules of Procedure, can raise a debate. Political parties may also move Parliament for a debate and discussion. Therefore there is scope for discussion immediately after the sitting of Parliament.

The grant again comes before Parliament in the shape of a Money Bill. Then again Parliament has got the power to discuss the whole question on its merits. Is it possible for a responsible Ministry and a Cabinet to go beyond the wishes of the Parliament? It is impossible unless we visualise that we are not to have a parliamentary system of democracy having a Cabinet which is absolutely representative of the wishes, aims and aspirations of this honourable House.

One question more remains for me to discuss here and that is about the charged items. Charged items in our country are many. They have become a part of the Constitution. Charged items are inevitable and charged items are the creations of the Legislative Assemblies themselves, because they pass legislation and they agree to charge their own items of revenue and expenditure as a charged amount in their budget. Therefore it is one of their own creation. It is only a question whether you should have a prior sanction or a post-sanction. That is all the difference. Therefore in this regard I do not agree with my honourable Friends that any injustice or wrong, serious, great or constitutional, has been done in this regard. Sir, it will not be conducive to the advantage of the nation if a fraternal duel is undertaken in this House by politicians from provinces and States. Each member is anxious to see that his province gets more. True it is that when a member is elected, he represents, after the election, India and not his province. That is true, but the fact remains that we are men and we are average men, not rising so high as few people have done, like our leaders Sardar Patel or Pandit Jawarharlal Nehru. So within these limitations, I claim that a decision, after a judicial and thorough enquiry of a non-Political Body, of the nature required to be undertaken by the Finance Commission in regard to the aids to be given to provinces, is necessary. The power is also vested under the statute in the Governor-General to revise these grants whenever he likes after a certain period of years. With these words, I strongly support the article and oppose the amendment.