

Shri Biswanath Das (Orissa: General): Sir, I am sorry I have to come here despite your advice to hasten the decision on the article by minimising discussion. If I have come up to speak it was because I thought that a certain aspect of this article has to be clearly and fully realised before honourable Members are called upon to vote. It is better at this stage to know what powers and responsibilities we are going to invest a Governor of a province with. I quite see the difficulties of the Drafting Committee when they were faced with a situation wherein root and branch changes were brought before them at the eleventh hour. If that it is the difficulty they could very well take time to consider.

My Friend Dr. Deshmukh stated that the Governor is to direct and advise. It that is the idea behind the Drafting Committee and also leaders of thought in the Assembly I think not only the powers contained in article 147 but something more is called for.

The question we have to consider in this House in whether the Governor is going to be a constitutional head or a Governor who has to play his role in advising the ministry and directing into proper channel ministerial thought and action. If it is the later, if he has to interfere in shaping the administration and raising the standard, then this power is not unnatural but id necessary. All that I want to know and the Assembly has a right to demand to know is the background behind this article. This article was drafted under different circumstances and conditions keeping in view certain essentials, viz., the Governor is to be elected on the basis off adult suffrage. Now the conditions have changed.

I would just invite the attention of honourable Members to clause (b) which says:

" to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for."

I for myself do not see why a Governor who is wedded to the Constitution and who is to be a constitutional head should dabble in matters regarding administration. The question might be asked as to whether the Governor should not know the proposals for legislation. Here again, I state that provision has been made that the proceedings of the Council of Ministers should be communicated to the Governor. Further, all the legislation, that is approved or passed by the legislature is to be submitted to him for his assent. Therefore there is every opportunity given to the Governor to know what legislation is coming. That being so, clause (b) seems to be wholly unnecessary. But if it is the desire of the House that the Government should have also the Governor's say in matters of administration the provision is justified. While discussing this article it would be unfair on my part if I do not invite attention to the Fourth Schedule wherein Instrument of Instructions has been provided. The Instrument of Instructions to the Governors has no legal force or validity in law. Whatever it is, be it a Sermon on the Mount, or be it something real, it allows scope for certain executive activities by the Governor. I specially refer to Para. 4 which says:

"That Governor shall do all that in him lies to maintain standards of good

administration, to promote all measures making for moral, social and economic welfare and tending to fit all classes of the population of take their due share in the public life and government of the State....."

Is the House, after the change in the modus of selection or election of the Governor, going to invest him with these powers? If so, I could understand the background and would say that clause (b) is fully justified. I therefore feel that those that are responsible for giving a lead to this Assembly to pass the articles have also the responsibility of explaining to honourable Members as to what is there in their minds in regard to the relations that should exist between the Governor and the Government and how they propose to avoid clashes and compose difference between them.

For myself, let me tell you a bit of my experience. I still recollect the days when contentious matters came up; how the Governor always took scrupulous care to be a disinterested person and said that in matters of contentions legislations he had no opinion to offer in the Cabinet because of his power of assent. If this is the case, there is no meaning in intimating to him beforehand what the legislative programme of the leader of the party or the Cabinet is going to be. Especially I visualise, in course of time as the Constitution works, there may be possible scope for the emergence of parties with differing political programmes and ideologies in the Centre and in the State. In such cases the Governor nominated by the Prime Minister at the Centre may not in all cases be acceptable to a Cabinet in the State headed by a different political party. In such circumstances rub can never be avoided if the power to give administrative pin-pricks is vested in the Governor.

Lastly, I wish to place before the House the fact that under the Government of India Act of 1935 ample power were vested in the Governor to interfere and to keep himself informed of things done by the provincial Government. He had in his hands the nose-strings of the bull so to say. But there is nothing in this Constitution to control the Governor once he is appointed by the President on the advice of the Prime Minister of India, till he the Governor himself chooses to resign. Therefore I feel that you are appointing a Governor who is responsible morally to the Prime Minister of India and to the President to the India Republic. There is little now in law limiting him to be a symbol or subject him to the control of the Centre or by the President. Therefore it is a pertinent question for honourable Members to ask, whether you are going to vest powers, of a wider scope in the Governor, capable of creating mischief and at the same time provide no power of control over him vested in President or the Prime Minister of the Republic.