LEGISLATIVE RELATIONS BETWEEN CENTRE AND THE STATE OF KARNATAKA

It is natural that every federal constitution should contain provisions regulating centre-state relations. In India, past experience with constitutional government, British traditions, public opinion and more than all this, the understanding of the developing political situation brought by powerful leaders at both levels have conditioned the relationship between New Delhi and the state capitals. They have been conditioned by specific political pressures, personalities and the organization of various interests. The most relevant facts shaping the unitary development of India's federalism were the lop-sided dominance of Nehru within the congress. Therefore, it is said that the Indian Constitution is structurally a unitary document. But seldom there is a whole hearted agreement between law and practice. Infact, a written constitution does little more than to provide a framework, ground rules, set of restraints or stimuli for the power system and political activity. Power centres are often expected to possess both constitutional and extra-constitutional legitimacy. No hard and fast rules exist about the division of power between different power centres. Indeed there cannot be any fixed approach for studying the power balance and its dynamics. It is a matter of fact that the constitutional division of powers are influenced by extra-constitutional forces which in turn are influenced by them. Constitutional structures may heavily tilt either towards unitarianism or federalism, but the power relations do not always work according to the written forms nor are these relations pre-determined to act in one or the other direction.
Therefore, as has been pointed out time and again, the traditional theory of federalism, no longer holds good. The curve is backward sloping in the sense that after a period of strong centralization of power, the opposite trend acts in motion, and when decentralization has gone too far, either the system breaks down or the centralizing forces come to dominate.

Federalism as a functioning system embodies in delicate balance between centralizing and decentralizing tendencies. Decentralization is always present there either introduced consciously or come about as a product of the forces demanding such decentralization and in reverse is equally true. Even the most written constitution cannot create a stable structure of power. New centres of power keep emerging all the time challenging the old ones. In the historical development of a nation there often occur phases of clash between constitutional provisions and social and political realities.

The Indian constitution provides a fairly elaborate scheme of the relationships and division of power-economic, financial, legal, administrative, between the centre and the states. Yet, serious difficulties keep cropping up every day. Many new difficulties are anticipated. The Indian constitution, though heavily written, is massively ambivalent on certain crucial matters. It seems at times that for answers to contemporary problems and crisis it is worse than useless to delve into the statements and intentions of the founding fathers of the constitution. “Given another chance, the Indian people will opt for a different and certainly better constitution, not because old framers were unwise and the new ones will have a touch of genius but because the situation and problems have undergone a sea of change.”1

The relations between any two power centres are not totally autonomous. But are jointly determined along with other power relationship in
the system as a whole. Nevertheless, they have their internal dynamics. To borrow a phrase from mathematical statistics, the functional relationships within a sub-set can be put in decomposable matrix, i.e., there are certain relationships internal to the subset that are interdependent with as well as independent of other sub-sets. A power set is a union or intersection of other sets.

Therefore, we should proceed to consider the distribution of legislative power in the Indian federation. We shall be able to appreciate this division more readily if we remind ourselves of the historical background of the birth of the Indian Constitution. This has been referred in the third chapter but I feel it necessary to elaborate it a little more.

Initially and before the partition of India became a reality, the constituent assembly, which owed its origin to the Cabinet Mission Plan, envisaged a weak federal centre, having regard to the trends of the time. It was thought by the authors of the plan that a tenuous constitutional relationship between the centre and the constituent units would satisfy the demand of the muslim-majority provinces for the widest measure of freedom from the central control and reduce to the minimum, the field of impringement on the sovereignty of the states and the provinces. The objectives resolution adopted by the constituent assembly on 22\textsuperscript{nd} January, 1947, stated that the territories in India, whether with the then boundaries or with altered boundaries, “Shall possess and retain the status of autonomous units, together with residuary powers, and exercise all powers and functions of government and administration, save and except such power and functions as are vested in or assigned to the union, or as are inherent or implied in the union or resulting therefrom.”

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The reason which had led the congress leaders to adopt this attitude in order to keep the country entire and together disappeared when the partition of India was eventually decided upon. The whole background which had drawn the leaders of the congress to the compromise disappeared in the new context. In part V of the memorandum which embodied the recommendations of the union constitution committee submitted on the 4th of July, 1947, the committee decided:

"1. The constitution should be a federal structure with a strong centre;

2. There should be three exhaustive legislative lists, viz.,

Federal, Provincial and Concurrent, with residuary powers to the centre."

In the second report of the Union Powers Committee dated 5th July 1947, the change was thus explained:

"Now that partition is a settled fact, we are unanimously of the view that it would be injurious to the interests of the country to provide for a weak central authority which would be incapable of ensuring peace, of co-ordinating vital matters of common concern and of speaking effectively for the whole country in the international sphere. At the same time, we are quite clear in our minds that there are many matters in which authority must lie solely with the units and that to frame a constitution on the basis of a unitary state would be a retrograde step, both politically and administratively. We have accordingly come to the conclusion—a conclusion which was also reached by the union constitution committee—that the soundest framework for our constitution is a federation with a strong centre. In the matter of distributing powers between the centre and the units, we think that the most satisfactory arrangement is to
draw up three exhaustive lists on the lines followed in the Government of India Act, 1935, viz., the federal, the provincial and the concurrent.

“We think that residuary powers should remain with the centre. In view, however, of the exhaustive nature of the three lists drawn up by us, the residuary subjects could only relate to matters which, while they may claim recognition in the future, are not at present identifiable and cannot therefore be included now in the lists.”

In framing the three lists, the draftsmen of the Indian constitution were following the model of the Government of India Act, 1935. It is interesting, therefore, to recall what had led those who had framed the Government of India Act, 1935, to provide these three lists, the concurrent list in its detailed extent being a peculiar feature of the Indian constitution. The Joint Select Committee on Indian constitutional reforms explained the reason for the introduction of a concurrent list in this manner:

“Experience has shown, both in India and elsewhere, that there are certain matters which cannot be allocated exclusively either to a central or to a provincial legislature, and for which though it is often desirable the provincial legislation should make provision, it is equally necessary that the central legislature should also have legislative jurisdiction to enable it in some cases to secure uniformity in the main principles of law throughout the country, in others to guide and encourage provincial effort, and in others, again, to provide remedies for mischiefs arising in the provincial sphere, but extending or liable to extend beyond the boundaries of a single province.”

One important member of the drafting committee, Alladi Krishnaswami Ayyar, suggested a somewhat different plan of the distribution of powers. His
scheme contained two lists, the state and concurrent, with central supremacy in
the latter in case of a conflict, and left residuary power to the centre. The point
of his plan was that "inasmuch as it is agreed that the residuary power, is to
vest in the centre (Union Parliament), the various enumerated items in the
union list are merely illustrative of the general residuary power vested in
centre. The proper plan, therefore, is to define the powers of the state or
provincial units, in the first instance, then deal with the concurrent power and
lastly deal with the power of the centre or the union Parliament while at the
same time making out a comprehensive list of the power vested in the centre by
way of illustration to the general power." This scheme, although not different
in principle from the plan embodied in the final constitution, has the merit of
simplicity and appears to be more logical.

The other members of the drafting committee, while not doubting the
merit of Alladi's scheme, did not, however, accept it, and followed the plan
embodied in section 100 of the Government of India Act, 1935, on grounds of
expediency. The 1935 Act, had come into operation, and there was popular
acquaintance with its provisions. Moreover, the principles of interpretation
which had emerged through judicial decisions on the scope of different items in
the legislative lists of the 1935 Act, could provide ample guidance in
interpreting the scope of the legislative items in the new constitution. All these
considerations weighed heavily with the members of the drafting committee in
finally accepting the scheme of the 1935 Act in preference to Alladi's scheme.

Before we proceed with a detailed examination of the distribution of
legislative power between the union and the constituent units, it is useful to
state the views of Prof. Wheare on the distribution of legislative powers in the
Indian constitution, which in his view, is only a quasi-federal governmental
structure. He observes: "The constitution of 1950 contains three legislative lists. The first enumerates, under ninety-seven heads, the subjects over which the union legislature has actual exclusive control; the second under sixty-six heads, those under the actual exclusive control of the states; and the third, under forty-seven heads, the subjects upon which both union and state legislatures make laws. Here is an enumeration more complete than anything attempted in the four federations. The matters in the concurrent field are, on the whole not unexpected. The provisions which deal with a conflict between general and regional laws are interesting. In general, they require that regional laws on concurrent subjects must give way to the laws of the general government to the extent of their repugnancy to such laws. But it is possible, if the President of India consents, for a regional law on a concurrent subject to prevail inspite of repugnancy. Thus, there is room for flexibility in the exercise of the concurrent jurisdiction, and the general government is not inevitable supreme in case of conflict. Yet, as it rests with the President to decide whether the general legislature is to be supreme, in this way a potentially exclusive control is vested with the general government."

The anxiety of the founding fathers to provide for the legislative supremacy of the union in respect of the these lists that they were creating, is shown by the language in which Article 246 of the constitution which introduces these lists, has been framed. It runs as follows:

**Article 246**

(1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in list I in the seventh schedule (in this constitution referred to as the 'Union List').
(2) Notwithstanding anything in clause (3), Parliament, and subject to clause (1), the legislature of any state also, have power to make laws with respect to any of the matters enumerated in list (III) in the seventh schedule (in this constitution referred to as the 'Concurrent List').

(3) Subject to clauses (1) and (2), the legislature of any state has exclusive power to make laws for such state or any part thereof with respect to any of the matters enumerated in list II in the seventh schedule (in this constitution referred to as the 'State List').

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a state notwithstanding that such matter is a matter enumerated in the state list.

It may well happen that both the union and the state legislatures may unwittingly traverse the same field and thus bring into being conflicting laws in respect of the same subject matter. In such cases, the first question which would arise is whether the state law has been made in valid exercise of state power either in the state field or the concurrent field. If the state, on a true examination of the law, is found to have acted in enacting the law on a subject matter contained in the state list, the law clearly would be valid and prevail. In such a case, the competing union law would be held to have been invalidly enacted such cases raise only questions of legislative competence. These have, however, to be distinguished from those dealing with repugnant laws enacted by the union and the state, both acting in the exercise of legislative powers possessed by them. Such cases of repugnancy have been provided for by the constitution expressly by the enactment of Article 254 of the constitution, which we shall examine later.
Notwithstanding lists I, II and III, which contain a very exhaustive enumeration of powers, the constitution makers felt that, if any powers of legislation still remained unprovided for in these three lists, they should, having regard to the general scheme of the constitution, be vested in the centre. Article 248 provides exclusive power in Parliament to make any law with respect to any matter not enumerated in the concurrent list or state list, including a law imposing a tax not mentioned in either of those lists. This is emphasized by the inclusion of a similar head of legislation in entry 97 of the union list. The Indian constitution thus vests the residuary power of legislation in the union.

That the status accorded to the constituent units of the Indian union was no more than administrative units is testified both by Dr. Ambedkar and Pandit Nehru the former more explicitly than the latter. Moving the motion for consideration of the draft constitution in the Constituent Assembly on 4th November 1948, Dr. Ambedkar observed,

"Though the country and the people may be divided into different states for convenience of administration, the country is one integrated whole its single people living under a single imperium."8

Pandit Nehru, earlier in presenting the second report of the Union Powers Committee to the President of the Constituent Assembly observed,

"We are quite clear in our minds that there are many matters in which authority must be solely with the units and to frame a constitution on the basis of unitary state would be retrograde step both politically and administratively."9

The constituent units had neither any say nor choice in the matter of allocation of subjects to them. Although there was the provincial constitutional committee entrusted with the task of framing the centre part of the constitution,
that decided at its meeting on 6th June 1947 that there should be three exhaustive lists with residuary powers to the centre and it was the Union Power Committee which was entrusted with the task of preparing the lists. In fact, there was nobody like the Provincial Powers Committee which could have formulated items to be provided in the state list.

Even from the point of view of the content of subjects allocated to the constituent units, it was for administrative convenience alone. Subjects which were purely of a local nature and which the state governments could perform more efficiently and effectively were allocated to them and they were expected to discharge this responsibility on behalf of the centre within their territorial limits. And these subjects which were local in nature but could not be looked after as well as they ought to be by the states and for better performance, the centre's co-ordination was required, were placed in the concurrent list. In other words the subjects allocated to the states are in the nature of specific responsibilities which they have to discharge under the constitution and the securing of which is entrusted to the centre. T. T. Krishnamachari, for some time a member of the draft committee and who very often rose to explain in the Constituent Assembly when the draft constitution was being discussed, more particularly when subject allocations were being discussed, testifies to this fact thus:

Whenever we assign to the provinces a certain field in which they could act, we must leave the provinces entirely to the sole charge of that field, not because of any rigid adherence to theoretical reasons that the federalism adopted by us should be sure and we should not have a mixed kind of federation such as exists in Canada, but merely because I feel that the responsibilities of provincial ministers must be squarely placed on them and
there should be no opportunity provided for them to take shelter under the plea of divided responsibility between the centre and the provinces.\textsuperscript{10}

It was not possible for the constituent units of the Indian union to play a fraud on the constitution either by neglecting the functions allocated to it, improperly performing it or misusing it. The centre had enough powers against any of these eventualities. Thus when Pandit Kunjru raised a question in Constituent Assembly whether a province (constituent unit) would be able to raise army (which was a central subject). Dr. Ambedkar replied; "If a province is going to play a fraud on the constitution, the centre will be strong enough to see that fraud is not perpetuated."

Well, it is erroneous to contend that the idea behind the distribution of subjects, more particularly between the centre and the states, was with a view to have a federal setup with autonomy for the states in the subjects allocated to them. In fact, the day since the Union Constitution Committee took the decision that there should be three exhaustive lists with the residuary powers vested with the centre, a total transformation had taken place with regard to the status to be accorded to the constituent units. What status precisely they came to be accorded became clear with the actual listing of subjects under the various lists, first by the Union Power Committee and later on by the Drafting Committee in the draft constitution, followed by explanations provided by the members of the drafting committee as to objectives and purposes, the rationale, behind the scheme of distribution. In unmistakable terms both Dr. Ambedkar, the chairman of the drafting committee and T. T. Krishnamachari, a member of the drafting committee explained during the course of the discussion of the lists in the constituent assembly that the rationale behind the distribution of subjects was the administrative convenience of the centre. The tasks of administration
of a large country such as India was so vast that unless and until the constituent units were entrusted with certain responsibilities it would not be possible for the centre to shoulder the entire administrative burden. Subjects which were purely of a local nature were thus allocated to the states as their share of the administrative burden, to be discharged of course on behalf of the centre. It was seen by the drafting committee as well as the constituent assembly that subjects that were local in nature alone were put in the local list. So much so from the point of view of distribution of subjects, the constituent units appeared to be no more than local bodies in a unitary state. In fact a member of the constituent assembly made a remark to this effect when the assembly had practically finalized the lists to be put in the seventh schedule of the constitution. Rohini Kumar Chowdhuri, the member referred to above observed:

We have come nearly to the end of these lists I, II and III and what do we find? What we find is that the position of the states are no longer states or provinces, but they have been reduced to the position of municipal and other local bodies.\(^{12}\)

At this juncture it is necessary to say something about the argument sometime advanced to the effect that in as much as the lists in the seventh schedule were those lifted in their entirety from the seventh schedule of the Government of India Act, 1935 envisaged federation for India with autonomy for the provinces, India under the constitution is a federation with autonomous states. Well, even this contention is not correct. The scheme in section 100 of the Government of India Act, 1935 was no doubt followed in respect of the distribution of subjects. But it was not a case of mechanical transplantation. In two fundamental aspects the two lists differed.
First with regard to residuary powers and secondly with regard to the subjects themselves. In the case of Government of India Act, 1935 there was no agreement then among political parties as regards the location of residuary powers and it was left to the Governor General to decide by which legislature the residuary powers was to be exercised in any particular place in cases not covered by any of the lists. But in the case of constitution, the union constitution committee had decided that the residuary powers was to vest in the centre which would be made as strong as possible. With this change, it may be pointed out incidentally, the same order of stating the lists in the constitution union list, provincial list and concurrent list as in the Government of India Act, 1935 need not have been followed.\textsuperscript{13}

It would have been better if in the first instance the power of the states was defined, then the concurrent power dealt with and lastly the power of the centre while at the same time making out a comprehensive list of the powers vested in the centre by way of illustration to the general power. Such a proposal was in fact suggested by Alladi Krishnaswami Ayyar, in a separate note submitted by him to the constituent assembly.\textsuperscript{14} As the majority of members of the drafting committee considered Alladi’s proposal as merely one of form, they preferred not to disturb the form as in the Government of India Act, 1935. With regard to items in the three lists, more particularly with regard to items put in the state list, a thorough examination was made and then put in the appropriate lists. The centre neither overloaded nor the states denied their responsibility of shouldering what was unquestionably a local function. An additional precaution that was taken with regard to subjects allocated to the states under the constitution, a safeguard which was not done with that care and concern under the Government of India Act, 1935, was the power vested with
the centre that the states discharged their responsibility properly and if they did not, even taken over.

Thus, the subjects allocated to the states, even though local in nature did not partake the nature of subjects allocated to constituent units of a federation, but subjects allocated to units in a unitary form of government. It is in the nature of decentralization, the constituent units having only delegated powers. To reiterate, the centre has enough powers under the constitution to ensure faithful discharge of functions allocated to the states, through one or other provisions of the constitution.

The constitution provides legislative relations between the centre and the states in chapter one of part XI. It is, however, erroneous to contend that this relationship provisions is confined to this part of the constitution alone since throughout the constitution there are articles profoundly affecting the power relationship between the centre and the states. The overall effect is the subordination of the states to the centre or at least vesting initiative in all matters with the centre, the units enjoying only decentralized powers. No doubt provisions from and practices of federal frameworks have been borrowed sometime giving the impression of wholesale transplantation as in the case of Government of India Act, 1935. But it must be borne in mind that they had been either transformed or adapted before being incorporated into the constitution. The transformation/adaptation often times is to such an extent that they cease to be what they were. The process of transformation/adaptation was so gradual and in such set phases that those who fail or refuse to take notice of these changes and stay behind see only the shadow and not the substance. The fact of the matter is that the framers of the constitution who were expected to frame, under certain compelling circumstances, a federal constitution with
autonomous states and hence, had equipped themselves for the task of and even had prepared a good deal of groundwork, found in less than six months of the commencement of their deliberations a change in the circumstances to the effect that a federal constitution with autonomous states may not be imperative, if not relevant. It was however, felt that instead of going all over again in the matter of preliminary exercise and the groundwork done so far, to meet the requirement of the altered situation, work could be proceeded further with suitable modifications in the objective as well as in the groundwork. The Government of India Act, 1935 and the federal constitutions that were to serve as the background material for a federal structure, the framers felt, could very well be utilized for an entirely different objective with modification and alterations to serve the purpose in view. In fact, the objective had always been to frame a constitution that would curb divisive tendencies and enable unity and integrity, the federal idea with autonomous states has only been to accommodate muslims with British still ruling over India.

There is no denying the fact that the constitution distributes legislative powers through the list system, between the union and the state as in federations, particularly Canada and Australia. There is also no denying the fact that if in reality it was meant to be so the federal scheme as envisaged under the Government of India Act, 1935, appears to have been transplanted into the framework of the constitution. But it is for certain that the federal objective is not sought through legislative distribution. And to achieve this end provisions alongside have been made within the chapter and outside it not only to nullify the effect of a federation but to enable the securing of anything short of a federation. With the partition of India, national interest and the securing of justice, social, economic and political, for the people of India assumed
enormous importance. This warranted the union government not only with this task but the overall responsibility of the country as a whole. Since this was too much of a burden that the union government could shoulder without the assistance of constituent units, the distribution of subjects between the union and the states was to serve the purpose. In operational terms this meant the placing of national subjects in the union list, of purely local ones in the state list and the concurrent list wherein both could legislate but when both choose to legislate, the union law would prevail over the state law. As a matter of fact, the so called federalism envisaged under the Government of India Act, 1935 was no federalism at all. It was only a apologia, if not a fraud on federalism and on the Indian people, a sort of autonomy given to the provinces through the state list. Only to be taken away by overriding powers given to the Governor-in-Council. Well, as compared to the Government of India Act, 1919, the fraud was to a lesser degree. The intentions and purposes of the dyarchical form of government introduced under the Minto-Morley reforms is too well known. The distribution of powers, the transformation of subjects as it was called as between the centre and the provinces under the act, an exercise done as assiduously as in a federation conferring exclusive jurisdiction to provinces for the exercise of powers, cannot by any stretch of imagination was meant for the purpose. The British, if one were to be charitable, had to practice this fraud since they were unwilling to distribute subjects between the centre and the states as in federal framework.

ALLOCATION OF THE SUBJECT MATTER OF LEGISLATION:

Distribution of legislative powers between the centre and the states is an essential prerequisite of a federal constitution. And in India the legislative powers of Parliament and state legislatures have been divided into three lists, in
the seventh schedule of the constitution. It may be pointed out that though
mainly the legislative competence of Parliament and state legislatures is to be
found with reference to the three lists, legislative powers are also conferred by
some of the articles of the constitution. Articles 2 to 4 provide for admission or
establishment of new states by parliamentary legislation and formation of new
states and alteration of areas, boundaries or names of existing states by
Parliamentary law. Article 119 provides for regulation by law of procedure in
Parliament in relation to financial business. Article 209 lays down for
regulation by law of procedure in the legislature of the state in relation to
financial business.

**List I : The Union List :**

The union list consists of ninety-seven items and is the longest of the
three. It includes items such as defence, armed forces, arms and ammunition,
atomic energy, foreign affairs, diplomatic representation, United Nations,
treaties, war and peace, citizenship, extradition, railways, shipping and
navigation, airways, posts and telephones, wireless and broadcasting, currency,
coinage and legal tender, foreign loans, the Reserve Bank of India, foreign
trade, inter-state trade and commerce, incorporation and its regulation banking,
bills of exchange, insurance, stock exchange, patents, establishment of
standards in weights and measures, control of industries, regulation and
development of mines, minerals and oil-resources, maintenance of national
museums, libraries and such other institutions, historical monuments, the
survey of India, census, union public services, elections, parliamentary
privileges, audit of government accounts, constitution and organization of the
supreme court, high courts and the union public service commission, income-
tax, customs duties and export duties, duties of excise, corporation tax, taxes on
capital value of assets, estate duty, terminal taxes, taxes on the sale or purchase of newspapers etc. 'Which are of common interest to the union and with respect to which uniformity of legislation throughout the union is essential.' Parliament has exclusive power of legislation with regard to the items mentioned in this list.

List –II-The State List:

The state list consists of sixty six items. 'The selection to these items is made on the basis of local interest and it envisage the possibility of diversity of treatment with respect to different items in the different states of the union. The scope of the application of the federal principles in India is to be determined by the scope of state legislation arising out of items included in this list. Some of the more important of these items are as follows: public order, police, administration of justice, prisons and reformatories, local government, public health and sanitation, intoxicating liquors, burials and burial grounds, education, libraries and museums controlled by the state, intra state communications, agriculture, animal husbandry, water supplies and irrigation, land rights, forests, fisheries, trade and commerce within the state, gas and gas works, markets and fairs, money lending, theatres, betting and gambling, local elections, legislative privileges, salaries and allowances of all state officials, state public services and the state public service commission, treasure trove, land revenue, taxes on buildings, agricultural land, duties of excise on liquors, opium etc., produced within the state, taxes on the entry of goods into a local area taxes on electricity (its sale and consumption) taxes on the sale and purchase of goods other than newspapers; taxes on advertisements except those in newspapers, taxes on goods and passengers carried by road or inland waterways, taxes on vehicles, taxes on animals and boats, tolls, taxes on
professions, trades and callings, capitation taxes, taxes on luxuries, etc. The state legislatures possess the exclusive power of legislation with regard to each one of the items included in the state list.

List –III – The Concurrent List :

The concurrent list consists of forty-seven items. These are items with respect to which uniformity of legislation throughout the union is desirable but not essential. As such, they are placed under the jurisdiction of both the union and the states. The list includes items, such as detention for reasons connected with the security of the state, marriage and divorce, transfer of property other than agricultural land, contracts, bankruptcy and insolvency, trust and trustees, civil procedure, contempt of court, lunacy and mental deficiency, adulteration of food stuffs, drugs and poisons, economic and social planning, commercial and industrial monopolies, trade unions, social security, labour welfare, legal, medical and other professions, vital statistics, trade and commerce in a number of items, price control, factories, electricity, newspapers, books and printing presses, stamp duties etc. The Parliament of India and the state legislatures have concurrent power of legislation over the items included in this list.

THE RESIDUARY POWERS :

The constitution lists in fairly exhaustive manner the subjects of legislative competence. Besides it was also anticipated that situation might occur when Parliament would have to introduce legislation on a matter not found in the union list or concurrent list. On those occasions the union parliament can resort to its residuary powers under Article 248. This provision has been incorporated into the Indian constitution following the Canadian principle.
The federal legislature had enjoyed much superiority in the Act., of 1935, when it had no residuary powers within its jurisdiction but the present union Parliament also has exclusive power to make any law with respect to any matter not enumerated in the state or concurrent list. This method of distribution of powers is thus significantly different from that adopted in the United States and is more akin to that in Germany.\textsuperscript{15}

After the detailed study of distribution of legislative powers between the centre and states in general, in India, now let us examine the legislative relations between centre and the state of Karnataka. But before that a brief sketch of the origin of Karnataka Legislative Assembly and Council is dealt with-

**KARNATAKA LEGISLATURE:**

India is a Sovereign, Democratic, Republic and it secures to all its citizens:

**Justice:** Social, economic and political;

**Liberty:** of thought, expression, belief, faith and worship;

**Equality:** of status and of opportunity;

And to promote among them all

Fraternity assuring the dignity of the individual and the unity of the Nation.

It has adopted the Parliamentary system of government. There are twenty eight states and the union territories, since 1987, seven in number in the Indian union. Karnataka State is one of those 28 states and its area is 1,91,191 sq. km., and ranks eighth among major states of the country in terms of size. As per 1991 census, the states population was 448 lakhs. It was 5.3 percent of all
India population of 8,443 lakhs. Among the states Karnataka was in the thirteenth position.

The legislature in Karnataka consists of the Governor and two houses. One House is the legislative assembly and the other is the legislative council.

ORIGIN AND GROWTH OF KARNATAKA LEGISLATIVE ASSEMBLY:

Associating people with the administration in an elementary form was started in the eighties of the 19th century in the erstwhile princely state of Mysore. In March 1881 his Highness the Maharaja Sri. Chamarajendra Wadiyar assumed powers of the state. In furtherance of the same policy, the Mysore Representative Assembly was inaugurated in the same year. The establishment of a deliberative assembly proposed by the Chief Commissioner of Mysore Mr. J. D. Gordon in 1879 as one of the conditions for transfer of Mysore to the Maharaja was not favoured by the then government of India. The Chief Commissioner had suggested the formation of deliberative assembly composed of eminent retired officials, representative of various sections and interests of the people. Government of India did not favour the constitution of an assembly as they felt that a deliberative assembly, with no specific legislative, financial or executive authority possessing only the power of recording opinions which need not be accepted tended to fall out of repute or develop into greater activity and influence than that might have been originally contemplated. The viceroy while writing to the secretary to the state, observed that it might be premature to introduce in the beginning an institution which had not yet been tried in British India.

An order for the constitution of the assembly was issued by the Maharaja on 25th August, 1881. The order stated that His Highness the
Maharaja was desirous that the views and objects which his government had in view the measures adopted for the administration of the province should be better known and appreciated by the people for whose benefit they were intended and that he was of opinion that a beginning towards the attainment of this object might be made by an annual meeting of the representative landholders and merchants from all parts of the province.

This may be regarded as the *Magna Carta* of the people of Mysore. It declared for the first time in the whole of the India that it is the duty of government to set itself in the eyes of its people. It recognized that it is necessary for a government to convince the public about the worthiness of its motives and the soundness of its policies. In other words it is clear admission of the principle that a government should submit itself to judgement and therefore to the guidance of its citizens.

The Representative Assembly met for the first time on 7th October 1881. At the inception it was an assembly of the representative landholders and merchants from all parts of the province and these were to be selected.

1. By the local fund boards from among themselves and others of the district the persons who were to represent them.

2. From each taluk one or two cultivating holders possessed of general information and influence the people and

3. Three or four leading merchants for each district generally, the attendance at the meeting was voluntary.

In 1891 principle of election was introduced. Persons paying certain revenue or mohatarfa which differed from taluk to taluk owners of alienated villages with certain beriz and graduates of Indian university were eligible for
voting and for becoming members. The number for each taluk was fixed. The persons qualified under the rules were to meet annually in each taluk and elect from among themselves the number of members allotted to that taluk. The municipalities and associations were also allowed to depute representatives. Everyone who had attained the age of 18 could be voter or become a member.

According to the constitution of India a person who has attained the age of 18 could be a member. The age of a candidate was raised to 21 in 1924 and to 25 in 1940. Some more alterations were made. Only municipalities with a population of 5,000 and more were permitted to send representatives. To enlarge the electorate the qualification for voters was fixed at half the land revenue of what was fixed for candidates. Graduates without property qualifications were not allowed to become member. The term of taluk member was fixed at three years and for others one year. In 1918 the disparity in the property qualifications for franchise in different taluks was abolished and uniform rate was prescribed for all taluks. The rate was also reduced. The distinction between the qualification for voting and membership was abolished. In 1919 larger representation was given to municipalities and the term of these members and others whose term was only one year was raised to three years. The regulation of 1923 fixed the term of the assembly as three years.

In 1932 the seats in taluks were readjusted on the basis of population. The system of proportional representation was introduced in 1932 for the election of members from the city constituencies of Bangalore and Mysore. In 1935 the election of the members by the assembly to the legislative council was discontinued as it was considered unnecessary to make a person member of two houses.
The representative assembly which was constituted in 1881 by an executive order continued to function till 1923 when a regulation was promulgated by the Maharaja under which the assembly was given a statutory status.

The members of the assembly were not initially invested with any recognized powers of privileges. But they were not passive auditors of the dewan’s speech. They made observations and suggestions in public interest which met with every consideration. They made useful contribution to the country by watching the working of the administration in all branches and brought to notice the defects and shortcomings.

Members did not have any limitations as to the range of subjects to be discussed. Inquiries were made of all sorts of things from the tenure of the dewan’s office and the constitutions of the council to mirasi huq of toti and throwing of a dam across a jungle stream of rain water.

The assembly did not possess the power of voting. Members were representing that every proposed measure of legislation should in the first instance be placed before the assembly and its opinion taken thereon. government would not bind themselves though they were consulting on all important matters of legislation.

In modern legislatures, members have begun to make representations. But in the Mysore Representative Assembly the representations were the main features. By persistent representations by members, the government passed a legislation, gave up a scheme or took up a scheme.

In 1891 the government started a competitive examination for the recruitment of senior grade civil servants. The examination was open to all
citizens of India. The members began to protest and they wanted that the examination should be restricted only to the Mysore people as the neighbouring British Indian provinces were not allowing the mysoreans to compete for the services in those state. The matter was raised year after year and it was only in 1907 government agreed to restrict the competition to mysoreans.

Members had been urging from the nineties of the last century that a member of the assembly should be nominated to the Maharaja’s council. It was only in 1940 the government agreed for such participation. The government of Mysore Act, 1940, provided for the constitution of a council of ministers to which the Maharaja would appoint two elected members, one from the assembly and another from the legislative council.

The dewan, in his absence, the members of the executive council used to preside at the meetings of both the representative assembly and the legislative council. In 1940, legislative council was enabled to elect its own President and vice-President from among its members to preside at its meeting. But in the case of the assembly this right was not conceded. The dewan and in his absence the members of the executive council were continued to preside on the ground a non-official president being merely an officer of the house and having no connection with administration, would not be in the same advantageous position to deal with representation as the members of administration.

**KARNATAKA LEGISLATIVE COUNCIL** :

The legislative council was established in 1907 with a view to associate with the government a certain number of non-officials qualified by practical experience and knowledge of local conditions and requirements to assist
government in making laws and regulations. In addition to the dewan, president and the members of council, who were ex-officio members, the council was to consist of not less than 10 and not more than 15 additional members to be nominated by the government and of this number not less than two-fifths were required to be non-officials. The minimum and the maximum were increased gradually and in 1923 the strength of the council was fixed at 50 and of these the number of non-official members was fixed at not less than 60 percent so as to ensure a decided non-official majority. Special interests like the Mysore University, commerce and trade, planters and labour were given representation. Seats for the muslims, christians and depressed classes were reserved and the government nominated them if they were elected. The strength of the council was further increased in 1940.

Though the council was started to make laws, other functions were assigned to it in course of time. No measure could be introduced without the previous sanction in writing of the dewan and the leave of the house duly obtained. Certain subjects were excluded from the purview of the council and only government could frame law on such subjects. When there was urgency, government themselves could enact laws which would be in force for six months.

Interpellations were allowed to be put in the council from 1914 onwards. In 1915, members were allowed to put supplementary questions.

The council was empowered in 1914 to discuss the budget and in 1923 it was given power to vote on the demands for grants. They could move cut motions. It is noteworthy to find that certain items were votable items in the province. Resolutions were discussed in the council from 1919 onwards.
In 1923, it was enacted that the council will not have power to amend the representative assembly regulation and the legislative council regulations. The term of the members of the council was made three years in 1917 and four years in 1940.

In 1940 Government of Mysore Act conferred certain privileges to the member. Freedom of speech in the representative assembly and the legislative council was conferred on the members. The provisions were similar to the provisions in the Government of India Act, 1935.

The inauguration of the Assembly was hailed throughout India as a very progressive and beneficial measure. One Nationalist Weekly “The Mahratta” writing eleven years after the establishment of the Assembly went so far as to say that “The British government might do well to take a lesson from the enlightened Maharaja of Mysore.” The institution was, however regarded by some as premature; But, as observed by Sir. K. Sheshadri Iyer, “the continued interest which the members evinced in public affairs and the practical commonsense which characterized the discussions had served to refute the assumption that the institute was in advance of the times.”

After Independence, the Maharaja of Mysore by a proclamation dated 29th October 1947 set up a Constituent Assembly to frame the constitution for Mysore state. When the constituent Assembly met, majority of the members pleaded for governance of the state by the constitution to be framed by the constituent assembly of India, though strong views were expressed by a few in favour of a separate constitution for Mysore state. Ultimately the majority view prevailed and the constituent assembly passed a resolution that the constitution framed by the constituent assembly of India should be made applicable to Mysore state. The Maharaja issued a proclamation on 25th November 1949,
consequently the representative assembly and the legislative council were dissolved on 16th December 1949; the constituent assembly which has been constituted in 1947 become the provisional assembly of Mysore until the elections could be held under the constitution.

The first assembly under the constitution was constituted in 1952 and composed of 99 elected members and one nominated member. With the formation of Andhra State in 1953, parts or adjoining Bellary district from Madras State were added to Mysore state and the strength of the Assembly increased by five members.

The states were reorganized in 1956 on linguistic basis. As a result new state of Mysore came into being on 1st November 1956 with four districts from the former Bombay state, three districts of Hyderabad state, a district and a taluk of the old Madras state, the state of Coorg and the princely state of Mysore. The state was renamed as Karnataka in 1973.

The legislature of Karnataka consists of two houses, the legislative assembly and the legislative council. The first sitting of the new assembly was held on 19th December 1956 in the newly built Vidhan Soudha. The strength of the Assembly which was 208 in 1957 increased to 216 in 1967 and to 224 in 1978. The assembly is now composed of 224 elected members and one nominated member.

The strength of the legislative council which was 63 in 1957 increased to 75 in 1987. The council is now composed of 75 members out of which 25 are elected by legislative assembly members, 25 are elected by local authorities, 7 are elected by graduates and by the teacher’s and 11 members are nominated by the Governor of Karnataka.
After examining the origin and growth of Karnataka legislative assembly and legislative council, now, we shall move to the study of legislative relations between centre and the state of Karnataka. Here, we study legislative relations through different cases.

As the scope of my research work is restricted i.e. Since 1980, to the present year, I will divide legislative relations into two categories.

1. Legislative relations between centre and the state of Karnataka prior to 1980.

2. Legislative relations between centre and the state of Karnataka since 1980.

1. Legislative Relations between Centre and the State of Karnataka prior to 1980:

Though the constitution of India provides for the mutual delegation of executive powers by the union to the states and vice-versa by consent of the respective governments, the delegation of legislative power can only be made by the states to the union, and not by the union to the states.

Article 252 enables Parliament to pass legislation with respect to a subject matter in the state list, if it appears to the legislatures of two or more states to be desirable that Parliament should do so and if resolutions to that effect are passed by all the houses of the legislatures of the states. Any legislation so passed can apply only to such states as have passed the necessary resolution. It would, however, be open to any other state to give effect to that legislation in its territory by subsequently passing the necessary resolution in its house or houses of legislature. In effect two or more states may consider it advantageous from the point of view of uniformity or for other reasons by
resolutions of their legislatures to temporarily delegate their power in respect of particular subject matters of legislation to Parliament. However, an act passed by Parliament in exercise of this power may be amended or repealed only by an act of Parliament passed or adopted in the same manner. Such an act cannot be amended or repealed by the act of the legislature of the state to which it applies.

In debarring the state legislatures from amending or repealing legislation passed by Parliament pursuant to this power, the constitution has made a departure from what was provided in section 103 of the Government of India Act, 1935. This stands to reason, for, if once Parliament has been asked to intervene by legislation in respect of a particular subject matter by two or more states, it is but appropriate that the power to amend or repeal that legislation should lie with Parliament.

Advantage has been taken of this provision in the constitution on some occasions. The Estate Duty Act, 1953, enacted by Parliament was extended to agricultural lands situated in states which had passed the necessary resolution under Article 252 or which adopted it later. Similarly, the prize competition Act of 1955 was enacted by Parliament, following a resolution by some states with reference to entry 34 in the state list “Betting and Gambling.” It is obvious that a state legislature, when it passes the resolution contemplated by Article 252, is deemed to delegate its legislative power only with respect to that subject matter which is dealt with by the resolution.

This article actually provides for the enlargement of the legislative power of Parliament by the consent of the states. This is again a unique feature of Indian constitution unknown to the constitutions of America and Canada.
Some are of the opinion that this is a standing invitation for superseding federalism and when there will be two different parties in power in the union and in a minority of states, the majority of states owing allegiance to the party controlling the union and subvert federalism in other states by surrendering their own authority and thereby making the union Parliament a legislative colossus.

But the reality was visualized by the framers of the constitution who could foresee that in a diversified land like India there existed a great need for co-ordination of effort of contiguous states. Of course, this goal can also be achieved by the states enacting similar legislation. But the fissiparous and separatist forces of the pre-independence period still persisted. And in the face of such tendencies the constitution makers were apprehensive about the difficulties that would be faced in securing the necessary measure of uniformity. And it is necessary to quote T.T. Krishnamachari who countered the arguments labelled against this provision by saying that Article 252 was:

".... premised on voluntary co-operation of two or more states a process not easily given shape at any rate at the instance of the centre and as such, there can be no guarantee that speedy action when required can be taken. The legislation for one year at a time also is important. For, it gives the states an opportunity to review the legislation, its scope and its operation and if thought in that light unnecessary, they can instruct their representatives in the council not to extend its life. Hence, the period limit is a real safeguard against unnecessary extension of the central power."  

This provision has also not been invoked frequently. By passing such resolution a state legislature surrenders its legislative power only with respect to the particular matter which is the subject of the resolution. Thus, where the
resolution enabled Parliament to make a law for the “control and regulation of prize competition” the power that is surrendered is one under entry 34 of list-II relating to “betting and gambling.”

As far as Karnataka state is concerned, such a case in centre state relations happened in the year 1962. It was held in R.M.D.C. (Mysore) private limited, v/s. the state of Mysore. (AIR, 1962 S.C. 594) that the taxing power of the state legislature is not lost by the resolution, even though it can no longer make law for the regulation and control of betting and gambling. The constitution, as the court pointed out, draws distinction between general heads of legislation and taxation. The power of taxation is considered separate and distinct from other subjects of legislation though taxation can be one of the methods of regulating a particular subject matter. By holding that the surrender of legislative power over general heads of legislation does not mean surrender of taxing powers with respect thereto, the court has permitted a state to cede legislative power without losing attractive sources of revenue.

This provision embodies the legislative means for implementing the recommendations of the inter-state council envisaged under Article 263 to the extent of their acceptance by the parties. But the infrequency of the use of this provision highlights the fact that the objectives underlying it are being achieved through extra-constitutional agencies such as the Planning Commission and the numerous annual conferences held under the auspices of the union to evolve co-ordination and integration on matters even in the state spheres.


Another case in legislative relations of Karnataka, took place in the year 1971.
Not withstanding the exhaustive enumeration of legislative fields in the three lists and the optimistic views expressed by various members of the constituent assembly the working of the constitution has demonstrated the great complexity of human affairs at the present day, so that the residuary legislative power has not been found of such academic significance as it was believed to be. The exercise of this power has not only helped the union to legislate for its own purposes, but enabled it to come to the rescue of the states.

We may point to the Gift Tax Act, 1958, the tax on building contracts even though no such tax is involved in them, which happened in second Gifts Tax Officer, Mangalore V/s D. H. Hazarath in 1970.

Article 249 (1) of the constitution confers powers on Parliament to make laws with respect to any matter enumerated in the state list, if the council of states has declared, by resolution supported by not less than two thirds of the members present and voting, that it is necessary or expedient to do so in the national interest. This provision would appear to be based on the theory that the council of states, which is a limb of Parliament, in a sense represents the states, and if the specified majority of that body considers it in the public interest that, for a time, the power of legislation in respect of a particular subject matter, though in the state list, be vested in Parliament, such a desire should be given effect to. Under the Article, once the resolution has been passed, it becomes competent to Parliament to make laws with respect to that subject matter, so long as that resolution remains in force. The Article provides that a resolution under it shall ordinarily remain in force for such period not exceeding one year as may be specified therein, and the resolution can be continued in force for further period of one year each by successive similar resolutions passed in the same manner.
The provisions of Article 249 would however, seem to be based on the theory that on the representatives of the states, voting by a majority of two-thirds, that national interest required Parliament to legislate on a subject matter Parliament should have such power though the subject matter continued to be a state subject.

IMPOSITION OF PRESIDENT'S RULE IN KARNATAKA:

So far the state of Karnataka is concerned imposition of President's rule took place for nearly four times. They are as follows:


Article 356 of the constitution provides for the imposition of president's rule when there is a failure of constitutional machinery in the state.

Therefore, before we proceed to examine the pros and cons of the application of Article 356, specially in Karnataka, it seems desirable to make the meaning of the phrase, “the government cannot be carried on in accordance with the provisions of the constitution,” clear and to suggest its guiding principles.

GROUND FOR THE APPLICATION OF ARTICLE 356:

A subversion of the constitution by the state government while processing to work under the constitution or creating disunity or disaffection among the people to disintegrate the democratic social fabric or to subvert its 'basic feature' such as federation, democracy and secularism.
Where a ministry, although properly constituted, acts contrary to the provisions of the constitution or seeks to use its power for purposes not authorized by the constitution and the Governor's attempt to call the ministry to order have failed.  

Where the ministry, although having the confidence of the majority in the legislature fails to meet on extraordinary situation, e.g., on outbreak of unprecedented violence; a great natural calamity such as severe earthquake, a flood, or a large epidemic, which failure amounts to an addiction of its governmental power.

A state government entering into an alliance with a foreign power.

A political party seeking to subvert the principle of responsible government and to set up a party dictatorship.

When a new state is created as a result of territorial reorganization or upgrading of a union territory and there is no legislature for such state until election is held, therefore, resort may be had to Article 356 as a stopgap arrangement.

Where a state government fails to comply with the direction issued by the union under the following Articles, even after warning under Article 257 (2), 353 A; 360 (3); 339 (2).

A threat to the security of the state owing to external aggression or armed rebellion which would have attracted Article 352 (1) or such external aggression or internal disturbance as would have justified action under Article 353. In short, a danger to national integration or security of the state or aiding or abetting national disintegration or a claim for independent sovereign status.
GROUND OF MISUSE:

Where, after the resignation of a chief minister, or after the dismissal of the ministry on losing the majority support in the assembly, the Governor recommends dissolution under Article 356, without probing the possibility of the formation of an alternative government.

If the dissolution of a state assembly is sought on the ground that the Chief Minister belongs to a particular caste or creed. If a state government is punished by repeated dissolution of its assembly, within a short period.26

But a duly constituted ministry, so long as it enjoys the support of the assembly, cannot be revoked under Article 356 (1), merely for the sake of securing a good government. The cause must be a failure of the constitutional machinery.27

The union government cannot dismiss a duly elected state government, on the sole ground that the ruling party in the state suffered an overwhelming defeat in the election to the Lok Sabha.28

Where the Governor declines the request of a ministry which has not been defeated on the floor of the house and recommends its, suppression, without giving the ministry an opportunity to demonstrate its majority support through the ‘floor-test’ and acting solely on his subjective assessment that the ministry no longer commands the confidence of the assembly. The floor test may be dispensed with only in exceptional circumstances, such as an atmosphere of violence, it was not possible to convene a sitting of the assembly for the purpose.29

In Bommais’ case Justice Satwant and Justice Kuldip Singh expressed that they had no hesitation in concurring broadly with the illustrations set out in
Sarkaria Commission’s report where the use of the Presidential power under Article 356 (1) was termed as improper. Illustrations given in para 6.5.01 are as follows:

1. A situation of maladministration in a state where a duly constituted ministry enjoying majority support in the assembly, is in office. Imposition of president’s rule in such a situation will be extraneous to the purpose for which the power under Article 356 has been conferred. It was made clear by the constitution framers that this power is not meant to be exercised for the purpose of securing good government.

2. Where a ministry resigns or is dismissed on losing its majority support in the assembly and the Governor recommends imposition of president’s rule without exploring the possibility of installing an alternative government enjoying such support or ordering fresh election.

3. Where, despite the advice of a duly constituted ministry which has not been defeated on the floor of the house, the Governor declines to dissolve the Assembly and without giving the ministry an opportunity to demonstrate its majority support through the ‘Floor test’ recommends its suppression and imposition of president’s rule merely on his subjective assessment that a ministry no longer commands the confidence of the assembly.

4. Where Article 356 is sought to be invoked for superseding the duly constituted ministry and dissolving the state legislative assembly on the sole ground that, in the general elections to the Lok-sabha, the ruling party in the state, has suffered a massive defeat.
5. Where a situation of ‘internal disturbance’ not amounting to or verging on abdication of its governmental power by the state government, all possible measures to contain the situation by the union in the discharge of its duty, under Article 355 have not been exhausted.

6. The use of the power under Article 356 will be improper if, in the illustrations given in the preceding paragraphs 6.4.10, 6.4.11 and 6.4.12. The President gives no prior warning or opportunity to the state government to correct itself. Such a warning can be dispensed with only in cases of extreme urgency where failure on the part of the union to take immediate action, under Article 356, will lead to disastrous consequences.

7. Where in response to the prior warning or notice or any informed or formal direction under Articles 256, 257 etc, the state government either applies the corrective and thus complies with the direction, or satisfies the union executive that the warning or direction was based on incorrect facts, it shall not be proper for the President to hold that “a situation has arisen in which the government of the state cannot be carried on in accordance with the provisions of this constitution.” Hence, in such a situation also, Article 356 cannot be properly invoked.

8. The use of this power to sort out internal difference of intra-party problems of the ruling party would not be constitutionally correct.

9. This power cannot be legitimately exercised on the sole ground of stringent financial exigencies of the state.

10. This power cannot be invoked merely on the ground that there are serious allegations of corruption against the ministry.
11. The exercise of this power, for a purpose extraneous or irrelevant to one for which it has been conferred by the constitution, would be vitiated by legal *mala fides*.

2. **Legislative Relations Between Centre and the State of Karnataka Since 1980.**

S. R. Bommai’s is the leading case in which Article 356 has been discussed elaborately by the supreme court. This case was heard by constitution bench of nine Judges.

By a proclamation dated 21st April 1989 the President dismissed the Government of Karnataka, dissolved the Legislative Assembly, took over the powers of the government and the Governor, vested the powers of the state legislature in the Parliament and made other incidental and ancillary provisions suspending several provisions of the Constitution with respect to that state. The proclamation did not contain any reasons except barely reciting the satisfaction of the President. The satisfaction is stated to have been formed on a consideration of the report of the Governor and other information received by him. S. R. Bommai was the Chief Minister then.

The Janata Legislature Party emerged as the majority party in the state legislature following elections to the Assembly in March 1985. Ramakrishna Hegde was elected as the leader of the Janata Legislature Party and was sworn in as the Chief Minister on March, 1985. In August, 1988, Hegde resigned and Bommai was elected as the leader and sworn in as the Chief Minister on August 30, 1988. In September, 1988, Janata Party and Lok Dal (B) merged resulting in the formation of Janata Dal. On April 15, 1989 the ministry was expanded by Bommai including thirteen more. On April 17, 1989, a legislator,
Kalyan Rao Molakery, defected from the party and presented a letter to the Governor withdrawing his support to the Janata Dal government. On the next day, he met the Governor and presented nineteen letters purported to have been signed by seventeen Janata Dal legislators and one BJP legislator withdrawing their support to the Government. The Governor is said to have called the Secretary of the legislature and got the authenticity of the signatures on the letters verified. He did not, of course, inform Bommai about these developments. On April 19, the Governor sent a report to the President stating that there were dissensions in Janata Party which led to the resignation of Shri Hegde earlier and that even after the formation of Janata Dal there have been dissensions and defections. He referred to the letters received by him from defecting members and opined that on that account, the ruling party had been reduced to minority in the Assembly. He stated that the Council of Ministers headed by Bommai did not command a majority in the House and that, therefore, “it is not appropriate under the constitution to have the state administered by an executive consisting of council of ministers who did not command the majority in the house.” He opined that no other party is in a position to form the government and recommended action under Article 356(1).

On April 20, 1989, seven legislators out of those who were said to have submitted the letters to the Governor, complaining that their signatures were obtained on those letters, by misrepresentation and by misleading them. They reaffirmed their support to the Bommai ministry. On the same day, the state cabinet met and decided to convene the assembly session on April 27, 1989. The Chief Minister and the Law Minister met the Governor on that day itself and informed him about the summoning of the assembly session. They also
brought to the Governor's notice the recommendation of the Sarkaria Commission that the support and strength of the Chief Minister, should be tested on the floor of the assembly. Bommai offered to prove his majority on the floor of the House. He even expressed his readiness to prepone the Assembly session if so desired by the Governor. He also sent a telex message to that effect to the President of India. Inspite of all this, the Governor sent another report to the President of India on April 20, 1989 referring to the letters of seven members withdrawing their earlier letters and opining that the said letters were evidently obtained by Bommai by pressurising those M.L.As. He reported that "horse-trading is going on and atmosphere is getting vitiated." He reiterated his opinion that Bommai has lost the confidence of the majority in the State Assembly and requested action being taken on his previous letter. On that very day, the President issued the proclamation. It says that the said action was taken on the basis of "the report from the Governor of the State of Karnataka and other information received."

Both the Houses of Parliament duly met and approved the said proclamation as contemplated by Clause (3) of Article 356.

The validity of the proclamation was challenged by Bommai and certain other members of the council of ministers by way of a writ petition in the Karnataka High Court. The Union of India submitted that the decision of the President of India based on the report of the Governor and other information brought to his notice is not justiciable and cannot be challenged in the writ petition. While making a report, it was submitted, the Governor does not act on the aid and advice of his council of ministers but in his individual capacity. The report of the Governor cannot be challenged in view of Article 361 of the constitution nor can he or the President be compelled to disclose the
information or material upon which they have acted. Article 74 (2) was said to be a bar to the court enquiring into the said information, material and advice. It was also submitted that the proclamation has since been approved by both Houses of Parliament under Clause (3) of Article 356. The State of Karnataka submitted that the Governor had taken into consideration, all the facts and circumstances prevailing in the state while submitting his report and that the proclamation issued on that basis is unobjectionable.

A Special Bench of three Judges of High Court heard the writ petition and dismissed the same on the following reasoning:

1. The Proclamation under Article 356(1) is not immune from judicial scrutiny. The court can examine whether the satisfaction has been formed on wholly extraneous material or whether there is rational nexus between the material and the satisfaction.

2. In Article 356, the President means the union council of ministers. The satisfaction referred to therein is subjective satisfaction. This satisfaction has no doubt to be formed on a consideration of all the facts and circumstances.

3. The two reports of the Governor conveyed to the President essential and relevant facts which were relevant for the purpose of Article 356. The facts stated in the Governor's report cannot be stated to be irrelevant. They are perfectly relevant.

4. Where the Governor's 'personal bonafides' are not questioned, his satisfaction that no other party is in a position to form the government has to be accepted as true and is based upon a reasonable assessment of all the relevant facts,

5. Recourse to floor test was neither compulsory nor obligatory. It was not a prerequisite to sending up a report recommending action under Article 356(1).
6. The introduction of Xth Schedule to the Constitution has not affected in any manner the content of the power under Article 356.

7. Since the Proclamation has to be issued on the satisfaction of the union Council of Ministers, the Governor’s report cannot be faulted on the ground of legal *mala fides*.

8. Applying the test indicated in the State of Rajasthan v/s Union of India, the court must hold, on the basis of material disclosed, that the subjective satisfaction arrived at by the President is conclusive and cannot be faulted. The Proclamation, therefore, is unobjectionable.

An appeal in the Supreme Court against the above findings-of the High Court was heard by nine judges. Majority opinion was expressed by five Judges. Among these five judges, the opinion of B.P.Jeevan Reddy, who delivered the judgement for himself and on behalf of S.C. Aggrawal is mentioned here.

“We find ourselves unable to agree with the High Court except on points (1) and (2). To begin with we must say that question of personal *bona fides* of Governor is really irrelevant.

We must also say that the observation under point (7) is equally misplaced. It is true that action under Article 356 is taken on the basis of satisfaction of the union Council of Ministers but on that score it cannot be said that legal *mala fides* of the Governor is irrelevant when the Article speaks of the satisfaction being formed on the basis of the Governor’s report, the legal *mala fides*, if any, of the Governor cannot be said to be irrelevant. The Governor’s report may not be conclusive but its relevance is undeniable. Action under Article 356 can be based only and exclusively upon such report. Governor is a very high constitutional functionary. He is supposed to act fairly
and honestly consistent with his oath. He is actually reporting against his own government. It is for this reason that Article 356 places such implicit faith in his report. If, however, in a given case, his report is vitiated by legal _mala fide_ it is bound to vitiate the President's action as well. Regarding the other points made in the judgement of the High Court, we must see that the High Court went wrong in law in approving and upholding the Governor's report and the action of the Governor's report is vitiated by more than one assumption totally unsustainable in law. The constitution does not hold an obligation that the political party forming the ministry should necessarily have a majority in the legislature. Minority governments are not unknown. What is necessary is that government should enjoy the confidence of the house. This aspect does not appear to have been kept in mind by the Governor. Secondly and more importantly, whether the council of ministers has lost the confidence of the house is not a matter to be determined by the Governor or for that matter anywhere else except the floor of the house. The principle of democracy underlying our constitution necessarily means that any such question should be decided on the floor of the house. The House is the place where democracy is in action. It is not for the Governor to determine the said question on his own or on his own verification. This is not a matter within his subjective satisfaction. It is an objective fact capable of being established on the floor of the house. Exceptional and rare situations may arise where because of all-pervading atmosphere of violence or other extraordinary reasons, it may not be possible for the members of the assembly to express their opinion freely. But no such situation had arisen here. No one suggested that any such violent atmosphere was obtaining at the relevant time.

The High Court, in our opinion, erred in holding that the floor test is not obligatory. If one keeps in mind the democratic principle underlying the
constitution and the fact that it is the legislative assembly that represents the will of the people and not the Governor the position would be clear beyond any doubt. In this case it may be remembered that the council of ministers not only decided on April 20, 1989 to convene the assembly on 27th or that very month, i.e., within seven days but also offered to prepone the assembly if the Governor so desired. It pains us to note that the Governor did not choose to act upon the said offer. Indeed, it was his duty to summon the assembly and call upon the Chief Minister to establish that he enjoyed the confidence of the house. Now only did he not do it but when the council of ministers offered to do the same, he demurred and chose instead to submit the report to the President. In the circumstance, it cannot be said that the Governor's report contained or was based upon relevant material.

Though the proclamation recites that the President's satisfaction was based also on 'other information received' but there was no other information before the President except the report of the Governor and that the words and other information received by me' were put in the proclamation mechanically. The Governor's reports and facts stated therein appear to be the only basis of dismissing the government and dissolving the assembly under Article 356(1). The proclamation must, therefore, be held to be not warranted by Article 356. It is outside its purview. It cannot be said, in the circumstances, that the President or (the Union Council of Ministers) was satisfied that the government of the State cannot be carried on in accordance with the provisions of the constitution. The action was mala fide and unconstitutional. The Proclamation is accordingly liable to be struck down and we would have struck it down herewith but for the fact that the elections have since been held to the legislative assembly of the state and a new house has come into being. The
issuance of a writ at this juncture would be a futile one. But for the said facts, we could certainly have considered restoring the dismissed government to office and reactivating the dissolved assembly. In any event, the judgement of Karnataka High Court is set aside.

GOVERNOR'S POWER TO ASSENT THE BILLS AND RESERVATION OF BILLS:

The Governor also plays a crucial role in determining the pattern of centre state relationship. As has already been pointed out he may reserve a bill passed by the state legislature for the consideration of the President and he is not required to act on the advice of his council of ministers. The Governor, as has been often marked, without paying any heed to the constitutional requirement of him being a politically non-aligned man and acting as the constitutional head of the state, have usually acted as the centre’s representatives. The aftermath of the fourth general election has added more political colour to the office of the Governor.

A very unusual feature of the Indian constitution is the control which the constitution enables the union executive to exercise over legislation passed by the state legislature. Under Article 200 of the constitution, a bill passed by the legislature of a state consisting of one or two houses, as the case may be, has to be presented to the Governor for his assent; and it is provided that, “the Governor shall declare either that he assents to the bill or that he withholds assent therefrom or that he reserves the bill for the consideration of the President.” Further, the proviso so that article makes it obligatory on the Governor not to assent to a bill of a certain nature, but to reserve it for the consideration of the President. The Bill referred to in the proviso is, any bill, which, in the opinion of the Governor, would if it became law, so derogate from the powers of the High Court as to endanger the position which that court
is, by this constitution, designed to fill; Article 201 deals with the President’s functions when a state Bill is reserved by the Governor for his consideration. It provides:

When a bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the bill or that he withholds assent therefrom:

Provided that, where the bill is not a money bill, the President may direct the Governor to return the bill to the house or, as the case may be, the houses of the legislature of the state together with such a message as is mentioned in the first proviso to Article 200 and, when a Bill is so returned, the house or houses shall reconsider it accordingly within a period of six months from the date of receipt of such message and if it is again passed by the house or houses with or without amendment, it shall be presented again to the President for his consideration.

The power of the President, on a bill being referred to him, to direct the Governor to return the Bill to the house, or as the case may be, the houses of legislature of the state, together with a message such as is mentioned in the first proviso to article 200, has reference to, “a message requesting that the house or houses will reconsider the bill or any specified provisions thereof, and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message.”

Apart from the discretionary power of the Governor to reserve a state bill for the consideration of the President contained in Article 200, there are certain other provisions in the constitution which require either that Bills on certain state subjects shall not be introduced in the legislative assembly of the
state without the previous sanction of the President, or that certain legislation, though competent to the state must be reserved for the assent of the President in order to obtain validity.30

So far as Karnataka State is concerned, such a case happened when Govind Narain, was the Governor of Karnataka.

Govind Narain, Governor of Karnataka from 1977 to 1983 stated the facts of a real case in one of the state when both houses of legislature passed a bill raising the emoluments and allowances under various categories, of all the members of both the houses along with speaker, Deputy Speaker, Chairman, Deputy Chairman. When the Bill came for assent, the Governor studied and obtained corresponding figures of emoluments and allowances from Parliament and legislatures of various states. The Bill provided for enhancement to levels higher than those members of Parliament and other state legislatures. The enactment of such a law would certainly have been against public policy, besides causing an unnecessary drain on the state exchequer. The Governor, therefore, kept the bill pending.31

It took the government of India a whole year to advise the President to accord his assent to a progressive piece of legislation pertaining to the Karnataka Zilla Parishad, Taluka Panchayat Samitis, Mandal Panchayats and Nyaya Panchayats bills based on the Ashok Mehta Committee Report.

Even the Janata party government also equally shares the blame for adopting such type of practice. This is evident from the fact that when Karnataka government adopted a bill for setting up Mandal Panchayats as part of process of decentralization and restructuring development administration at the grassroots, the Bill was referred to the President and kept under consideration for about one year.
Similarly, AIR 1975 Karnataka 53, the Karnataka Land Reforms Act-1974, assented to by the President, is not valid on the ground of the President having earlier withheld his assent, when the material before the court was not sufficient to prove the ground.

Governors have abused their power in according assent to the ordinances too. Karnataka is worried about its enacted lokayukta ordinance which seeks to root out corruption among public servants.

Mr. P. Venkatasaubbaiah, the Governor of Karnataka from 1988 to 1990 had done his bit in holding assent to government’s bills.

An interesting case-study made under the auspices of the Indian Law Institute has gleaned very useful information on this subject. It states:

“During the 1956-65 period, out of about 170 bills examined by the Institute, the government of India has withheld assent only in six to seven cases. In many cases, however, the action of the central government has varied from advising the states to make certain modifications in the bill, giving assent but imposing certain conditions, including a condition to obtain the approval of the central government in issuing notifications or the rules under the state’s statute, to imposing certain conditions, including a condition to obtain the approval of the central government in issuing notifications or the rules under the state’s statute, to imposing certain conditions by the President before giving the assent. On the whole, the study reveals that the centre does try to dictate its policies to the states in giving Presidential assent, though the fact that assent has actually been withheld only in a few cases seems to indicate that, so far, the process of Presidential assent has not acted as a substantial threat to the autonomy of the states.”
We would conclude by saying that while there may be good reasons for delay in a few cases, in most other cases, it would be desirable that consideration of all such references be expeditious though not necessarily time bound. Delay, particularly when the centre and state are ruled by different political parties may cause avoidable irritation and suspicions. If the conflict arises between centre and the state on this count, the governor will have to use his discretion acting under the direction of the union government which will shoulder responsibility for constitutional consequences. As a matter of fact, the constitution of India does not confer on the union government the power of disallowance over state legislation as is enjoyed by the union in Canada. The President’s assent was not intended to confer an arbitrary veto on the centre.

The Sarkaria Commission has made suggestions for the guidance of the centre and states on the Governor’s power to refer state bills to the President for his assent. The commission recommends that assent should not be withheld merely on policy differences in matters relating to the state list and concurrent list and reasons for withholding assent should be communicated to the states. The commission recommends that residuary powers of legislation in regard to taxation should continue to reside exclusively with Parliament. But the commission seems to be unwise in this regard as the states had the experience of the centre’s encroaching more and more on the revenue sources of the states which is a major bone of contention between the centre and the states.

It would appear that the scheme of the constitution providing for the reservation of state legislation for the assent of the President is well designed and intended to offer guidance to the states in various respects in matters of legislation undertaken under the state list. No doubt, it is subversive of what has been called the true federal principle, in as much as it detracts from the co-
ordinate legislative power of the states on their own field. But in an age when
even classical federations so jealous of state power and state authority are
moving in the direction of a co-operative federation, have we not in the Indian
federation achieved the same objective of co-operation by following our
constitutional provisions?

As has been said, “whatever might have been considered to be the best
structure of the balance of power as between the centre and the federating units
in the classical model of federalism in the 19th century, the far-reaching
changes in science and technology, since the end of that century, abridging
time and space, have had their inevitable repurcussions on the tempo and
color of national life and on the nature of international relations. This has
imported an unavoidable centralist bias to the working of federalism even in
the western countries and in others that followed the classical western model.
The so-called revolution of rising expectations in the less developed countries
has materially accentuated this trend. In the context of these developments, no
system of co-operative federalism can expect to be viable, effective or
responsive to the challenges of the times, especially in the less developed
countries of the world, unless it has a positive centralist bias and is adequately
equipped with the means and tools needed to provide that type of co-operative
leadership at the governmental level, in all those fields in the life of a modern
community where such leadership is called for.”

Such a case happened in Karnataka when Mr. Ramakrishna Hegde was
the first non-congress chief minister in the year 1983, when the educational
policy was passed. The education policy contained steps to eliminate colonial
legacies from the educational system. It is committed to the three-language
formula and the promotion of all Indian languages, the implementation of the
recommendations of the Gujral committee on Urdu and the inclusion of Nepali in the eighth schedule of the constitution.

Mr. Ramakrishna Hegde, the then chief minister of Karnataka, while addressing a press conference in April 1983, expressed the view that, “as the Sarkaria Commission was the first ever such panel since independence and that as such commission would not be set up often, it was necessary that all matters including fiscal, legislative, industrial licencing, etc., should be gone into.”

He came to the conclusion that the centre had, “steadily aggrandized in recent years too many responsibilities, rights and resources at the expense of the states.”

The operation of the legislative process at the union level as well as the state level reinforces the union predominance in the legislative field. When Parliament legislates on a matter included in the union list, usually the states are neither consulted nor informed. The union ministry of law and the central ministry dealing with the subject matter of the Bill handle the matter and if the bill affects the states, the members of Parliament from those states see to it that the states are not affected adversely. When Parliament enacts a law on a matter within the concurrent list, the states are generally kept informed but no regular consultation is made before the legislation is enacted although any state may send representation expressing its point of view. However, when a state legislates in the concurrent sphere, a convention has grown up that the states will usually, consult the union government before proceeding with the legislation. On the basis of several practical cases, it has been pointed out that the centre while communicating “has often tended to dictate its policies to the states, though actual assent has been refused only in a few cases.”
However, it is always apprehended that the whole frame of the federal constitution "falls if the President is pleased to take a more active part in the consideration of state bills." In addition to this the President may by virtue of Article 364 issue a public notification saying that such a law passed by the union Parliament or any state legislature is not to apply to any major air-port or sea-port, or it is to apply thereto subject to such exceptions and modifications as may be specified in the notification.

CONCURRENT FIELD OF LEGISLATION:

The West-Bengal memorandum to the Sarkaria Commission demanded that the concurrent field of legislation should be abolished. In fact the experience of federations all over has been in favour of concurrent powers with central hegemony. There are certain matters which cannot be exclusively allotted to either centre or to the units, though it may be desirable that the units be empowered to legislate upon these. The central legislature should have jurisdiction over such matters to secure uniformity in the main principles of law all over the country or to guide and encourage the efforts on the part of the units or to provide for remedying mischief by the units or also for providing for a legislation extending beyond the boundaries of a single unit. In the federations like USA, Switzerland and Australia, concurrent power though were not provided initially, have now crept in by judicial decisions and interpretations.

In India, there has been a detailed enumeration of the concurrent field to avoid conflicts. There are 47 entries (as against 97 for centre and 66 for state) in the concurrent list which can be broadly classified to fall in the categories of public welfare, labour welfare, economic power and planning, communication and miscellaneous. The government of India has not usurped any field which in other federations continue to be in the hands of the units.
However, in the field of industries, it is argued that the central government has brought distortions. The field of industries falls in the state list (entry 24) and is subject to the provisions of entry 7 and 52 of the central list, which provide for powers of the central government to bring restrictions if the industries are declared necessary for defence or if the Parliament deems it expedient to control the industries in public interest. The Industries (Development and Regulation) Act of 1951 was enacted which provides for control of industries in public interest. The Act provides for control of regulation of industries right from issue of licenses leaving the industrial activity of the states at the mercy of the centre. This has affected state initiative and enthusiasm and led to the centralization of all economic activity, argues N.A.Palkhiwala. It is totally indefensible that lipstick and toilet papers should be dealt with by Parliament. This rhetoric apart, the tendency of all federations over the world has been to control and regulate industrial development and commerce.

RESIDUARY POWER:

The Karnataka and West Bengal governments had demanded delegation of this provision under Article 248, substituting it by an express provision under Article 248, substituting it by an express provision to vest the powers with the states.

The concession of residuary powers to the state given to the Muslim League for joining the constituent assembly was withdrawn after the partition since the picture had completely changed. The detailed enumeration of the powers in the three lists have in fact left little scope for residuary powers.
The Sarkaria Commission, however, has agreed to keep all residuary matters in the concurrent list. This is just to contain the demands of the non-congress (I) governments. How is it going to serve any purpose? The reasonableness of the founding fathers is self evident if one studies comparative federations.

**PARLIAMENT'S POWER TO LEGISLATE ON A SUBJECT OF STATE LIST:**

The Government of Karnataka and West Bengal demanded that the constitution be so amended (Article 249, 252 and 254) that no state should be deprived of any legislative powers belonging to it without its prior concurrence.

Article 249 empowers that Parliament to legislate on any state subject if the Rajya Sabha by 2/3 majority is satisfied that the matter is of national interest. Such a law is operative only for one year but the period can be extended for any number of times. Such power has been used only once so far, when in 1950, the provisional Parliament had resolved to take powers in the national interest to legislate with respect to trade and commerce within the state and production, supply and distribution of goods (state list entries 26, 27). The Parliament enacted Essential supplies (Temporary Powers) Amendment Act 1950, and the supply and prices of Goods Act 1950. Though, as has just been said, the constitution of the states was provided by the constitution of India, the state of Jammu and Kashmir was accorded a special status and was allowed to make its own state constitution. Even all the other provisions of the constitution of India did not directly apply to Jammu and Kashmir but depended upon an order made by the President in consultation with the government of that state, for which provision had to be made in Article 370.
This is novel scheme, the like of which has not been provided in any of the classical federations except Canada.

**Article 252**: It provides for the power of Parliament to legislate for two or more states on any state subject if they consent. This provision was used for the first time in 1953 and again in 1955 when some of the state legislatures authorized the Parliament to enact Estate Duty Act and Prize Competition Act respectively. This is a co-operative feature of federalism. However, the states cannot amend or repel such a law passed by the Parliament.

Such a provision of adjustment between the states and the centre is not to be found in other federations except in Australia. Certain situations may arise in the fields of public health, agriculture, fisheries, forest etc., that contiguous states may feel desirable to have a uniform legislation.

**Article 254**: Supremacy of the central government in the field of concurrent legislation has been objected by the governments of West Bengal and Karnataka. But such supremacy is universal. In the peculiar situation of separatism and secessionist tendencies, it is not at all desirable to meddle with the whole scheme.

**REINFORCING INTERNATIONALISM**:  
Foreign affairs being a subject of union list, the Parliament has exclusive power to legislate with respect to it including all matters which bring the union into relation with any foreign country. Moreover what is important is that treaty making and its implementation is a subject of union legislation. Hence, the constitution ensures legislative competence to the union Parliament to pass laws with respect to matters in the state list in so far as it is necessary to implement any treaty, agreement or convention with a foreign country or any
decision made at any international conference, association or other body. (Article 368 of the constitution of India)

Thus, the intention of reinforcing internationalism has further worked to add to the authority of the union in paving path to the room of state list when the states can do nothing except becoming silent spectators.

THE CONSTITUTIONAL AMENDING PROCEDURE:

A constitution is required to meet the changing requirements of the body politic. It is the fundamental as well as the dynamic document of the land. It is required to grow with a growing nation in order to suit the changing needs and circumstances of growing and changing people. The constitution is to be adjusted from time to time with a view to bring about a greater degree of compatibility between the structural and functional aspects of a polity. This aspect is fulfilled by the constitution itself providing for the procedure of amendments. The process of amendment becomes all the more important in case of federation which involves constitutional demarcation of authority between two sets of government. The sanctity of such provisions depends upon the due provision for the participation of federative units in the process. The examination of the Indian constitution with regard to its amendment procedure further makes the point clear that the centre enjoys a greater amount of supremacy as compared to the states.

In conclusion, the most important criticism labelled against the scheme of the distribution of legislative powers is that it makes India a federation more in name than in substance. This is, no doubt, an extreme view. And there are also people who embrace the other extreme. As the late Paul Appleby persistently pointed out, the nature of Indian administration in such as to give
all the more important functions to the state governments, within the centre considerably dependent on the states to carry out the centre's programmes for development. The central government, he pointed out, that 'all staff and no line' by which he meant that actually the governmental functions are carried out in the field by administrations that are under the control of state governments. Over the years the states have developed a tendency to take for granted financial support from the centre, including special help in cases of shortage and deficiencies. This has in practice served to counteract the control and reviewing powers of the central government as a result of grants-in-aid. Appleby concluded that the central government, thus expressing a somewhat extreme view on India's federal character.38

India is a federal polity or at least a quasi-federal polity. Therefore, the union-state relations are very important from the perspective of the political functioning of the state and also the development of the state. Till 1969, the relations between the Karnataka state government and the centre were relatively cordial because the same party ruled both the governments. In 1969, the centre was under what was then known as congress (R) while the Karnataka state government was under congress (O). But even so, the relations between the two governments did not alter basically. After 1977, a similar situation arose when the Janata Party came to power in the centre and the Karnataka State was under Congress (I). This was understandably a period of political confrontation, which involved such dramatic events as the dismissal of Urs government and the election of Mrs. Indira Gandhi in a by election from Chikkamagalur to the Lok Sabha. Towards the very close of his Chief Ministership, Urs had to contend with the centre ruled by a different party. But the most intense phase of confrontation seems to figure with the Janata party
coming to power in the state early in 1983. This political confrontation has taken the form of a demand for a radical restructuring of centre-state relations. In particular, the demand has focused on greater devolution of financial resources to the states and a significant weakening of the administrative hold of the centre on the states. Early in August 1883, the then Chief Minister Shri. Ramakrishna Hegde got organized a supposedly non-political seminar of experts on centre-state relations at Bangalore, which turned out to be politically quite controversial. These are controversial political issues in the context of party politics, though they reflect the existence of genuine problems transcending partisan politics.

Apart from such developments, the legislative relations between the centre and the state of Karnataka do not seem to be noticeably deteriorating. The Chief Minister is a seasoned politician and he is not anxious for needless confrontation rhetoric in public. In any case, the issues here are all India issues, and not narrowly related to Karnataka. There is every prospect of the ruling party keeping within realistic limits its efforts to pressurize the centre for greater advantages and benefits.
NOTES AND REFERENCES


3. Ibid.


16. A brochure on Karnataka, Research and Reference Section, Vidhana Soudha, Bangalore, p. 16.


20. Ibid.

21. Ibid.


25. Ibid.


28. Ibid.

29. Ibid.

30. As an example of a provision requiring the previous sanction of the President to the introduction of a Bill, see the proviso to Article 304, which deals with the imposition of reasonable restrictions on the freedom of trade, commerce or intercourse with or within a state as may be required in the public interest. As examples of provisions making the reservation for the consideration of the President and his assent obligatory see the laws referred to in Article 31 (3), Article, 31 (4), the first proviso to Article 31 (A) and Article 254 (2).


33. Notes on the Approaches to the study of Centre-State Relations by D. L. Mazumdar, Submitted to the national convention on Union State relations.
34. *Indian Express*, April, 7, 1983.


