CRITICAL APPRAISAL AND CONCLUSIONS

From the foregoing survey of the emerging trends of the demand of greater autonomy by the states in Indian federation, the conclusion emerges that the demand for greater state autonomy has often become a cover for ideological strategies against the centre, notably by the communist dominated united front governments in Kerala and West Bengal after the fourth General Election or an expression of aggressive cultural separatism as in case of D.M.K. in Tamil Nadu and Akali Dal in Punjab. Thus, Autonomy in Indian Federal system has now assumed the character of "STATES RIGHTS" which generally has been the bane of other federal system too.

In formulating the blue print of NORMATIVE federalism for India, the framers of the Inian constitution did not a reduce the autonomy of states to a force".

However, they conceded that under the balance of power established by the constitution, the states cannot claim to be co-ordinate and co equal with the Centre.
They intentionally, taking into consideration the peculiar conditions of the country, prevalent at the time and also toward off the future fissiparous tendencies, provided for a strong centre. This, however is by no means a peculiar feature only of the Indian Federal system.

What actually founding fathers did was to formally provide for a pattern of centre-state relations which has in fact, emerged over the years in the so called 'PURE AND TRADITIONAL' federations like the USA AND AUSTRALIA. Thus, as discussed earlier in this study, the Indian constitution qualifies for federation status.

Further conclusion emerges that the union state relations under the Indian constitution are in fact, based on the federal principle as reflected, in the actual practice of contemporary federalism of the English speaking federalisms.

The strength of the centre does not, in the normal working of constitutional system, subvert the federal balance between the union and the states.

The fully detailed and carefully spelled out distribution of powers in the constitution and the power of judicial review vested in the Supre Coart and High Coursts provide sufficient
guarantee that central subversion cannot occur.

Recently, there has also been an unmistakable and growing trend towards an assertion of autonomy on the part of the states. Of course, the trend has not been uniformly evident in the past and there had been back and forth movement, the balance of power tilting at one time towards the centre and at another time towards the states.

But, the growing vitality of the states implies no erosion of the power of the centre or security and unity of the country.

Every urge for autonomy is not a divisive but most probably a complementary force, it would not lead to blaknisation but to the restructuring of national identity, it is not a fissiparous tendency, but a normal centrifugal tendency in a federation; it is not a call for disintegration but a re-integration.

It is a matter of common observation that no federal system works strictly in accordance with the constitution on which it is based. Various social, cultural, religious, political and economic forces emerge and as a consequence of these the working constitution becomes different from the written one.
Although the forms of the constitution remain unchanged but the spirit and substance of it undergo a big change. All this is found to be true about the working of Indian federalism during the last thirty eight years.

The Indian constitution provides for a federal system of govt with a strong centre. The survey made in the earlier chapters of this study clearly shows that the strong centre become paramount centre under the influence of a variety of factors.

No, there is a need to reverse this trend to maintain the autonomy of the states. There is a general consensus that in a country like India with its vast size, with regions at different levels of development, and linguistic, cultural religious and other diversities, federalism is the most appropriate form of government.

Hence every attempt should be made to preserve the federal system and not to weaken the spirit of it. The Indian federalism, thus, seeks to reconcile unity with multiplicity, centralization with decentralisation and nationalism with localism. The pattern of union state relations is not static. it is dynamic and is constantly changing for finding a new balance in a response to the centripetal and centrifugal forces. Operating in the country.
To the question whether the foundations of Indian federal system have been well laid and whether they meet adequately the needs of national security, solidarity, and economic development without rendering state autonomy nugatory.

In answer to this question two mutually contradictory answers are generally given.

On the one hand, there are critics who complain that the constitution of India has not been worked according to the true intentions of the founding fathers and that the powers of the centre have been augmented to such an extent that India has virtually become a decentralised unitary system of govt. They also criticised the impact of national planning the that suppressed the federalism and made the states financially dependent on the centre.

On the contrary, there are observers who feel that the centralisation resulting from national planning is, essentially, the result of a fortuitous situation, that is the continuous domination of a single party at the centre and in majority of the states. But this situation obviously cannot last forever.

The linguistic reorganization of states has made the states more homogeneous and has accentuated their tendency to assert
for greater autonomy. From this, obviously the conclusion may sometimes be drawn that the Indian federal system is basically weak. However, the fact is that the existence of strong filaments constitutional, economic, emotional and administrative ensure that there is no real danger of balkanisation or disintegration of the country.

JUSTICE HOLMES once said that the life of the law has not been logic, it has been experience. The same may be said for the future of Indian federalism.

Power will flow in one direction, now in another, as the rush of the moment dictates. No single concrete issue is likely in our time, to put the nation in a position where it must choose sharply, one and all, which path it will continue to tread. More likely we shall continue to travel to roads at the same time."

Indian federation can successfully face its manifold problems, if all the government work in cooperation with each other. The union government and state governments in our federal system are not independent of each other, rather interdependent, and they have to act not at cross-purpose but in
unison for the maximisation of the common good of the people of India. Federalism is thus, always in the process of evolution and constant adjustments.

It, therefore, seems to be most opportune time to undertake a study of the Indian federalism in depth to take stock of the developments hitherto, to evaluate the trends of emerging demand of greater state-autonomy, frictions and difficulties in the area of centre state relations and for finding solutions for these differences with a view to making Indian federalism a more viable system so that India may meet the great challenges of development, defence etc.

Traditionally federalism has been conceived as a system under which powers and functions of the government are divided between the centre and the states, which operate independently and each other, modern developments have changed this concept and have given rise to a new phenomenon called the 'cooperative federalism' which is essence, is a system under which the central and state government supplement each other and jointly or collaboratively perform a variety of functions. Much of the subject matter concerning the cooperative federalism in India is found in the constitution itself, in the principles and institutions established therein. However in recent years many extra constitutional means and methods of cooperation have also
been evolved which are also of a very great importance.

The nature of the Indian constitution has been the subject of deep controversy among constitutional lawyers and writers. Prof. where takes the view that the constitution is quasi federal. K.M. Munshi, a distinguished jurist, calls our constitution a quasi federal union invested with certain features of unitary government. Some have gone too far to describe it as a definitely unfederal or unitary constitution. Thus view is not shared by many jurists. According to Sir IVOR JENNINGS India has a federation with a strong centralizing tendency. On the other hand, APPLEBY an experienced administrator thanks that he Indian constitution is 'extremely federal'.

The Indian constitution, however, cannot be accused of violating the federal principle; because there is no strict, true, or pure federal principle. 'If there is such a thing as a strict pure or unqualified federal principle, then the hard fact is that there are not federations and no federal constitutions. A close examination of the world federal constitutions would further reveal how much do they differ in numerous features and how difficult it is to find in them a common thread which can be described as a basic feature of the federalism. There was thus no absolute federal principle in any of the world federal constitutions.
The analysis of the Indian constitution shows that it differs in character from the American, Australian and Canadian federal constitutions. What was achieved by judician innovations in these federations has been embodied in the provisions of the Indian constitution. It does so largely because it takes into account the experiences of these federations and the changed political and economic conditions of the post-war period.

The constitutions of the three older federations were based on the principle that the federal and state governments should operate, with minor exception, in watertight compartments, their links being their derivation of powers from the same constitution and the fact, that they exercise these powers on the same people. But under the pressure of the growing complexity of economic life due to the growth of industrialism, and due to advances in technology and communication, the constitutions of the three older federations have been adopted to meet the needs of the present time, by the development of extra constitutional devices which are known as cooperative trends in federationism.

A kind of centre state partnership came to be established in the U.S.A. through the:

1. Full faith and credit clause.
2. Tax credit and tax deduction.
3. Grants-in-aid system

4. Inter-state agreements, and through various.

5. Standing or ad hoc inter-governmental conference.

This has transformed the concept of federalism from a competitive federalism to cooperative federalism. Under tax credit and tax deduction system the amount collected by one government is allowed as credit against the amount due to the other if both states and federal government are using the same tax. This system mitigates the evils arising out of the competition in the field of taxation and borrowing. In the U.S.A there are conditional and unconditional grants and the movement today is more and more in favour of the latter. Grants-in-aid system is a cooperative device and remedies a great many undesirable consequences arising out of inter governmental competition in so many ways.

FIRSTLY, it is useful in providing relief to the adversely affected units by the policies pursued by the general government in general interest.

Secondly grants serve as a instrument for stipulating the activity of the units in the matters which according to the constitution are within the jurisdiction of the centre. If for instance, the efficiency of defence depends on the way the units
administer education and public health and if it is found by the centre that these matters are not administered by the units in accordance with recognised standards, then they may be stipulated to pay adequate attention to them through a system of grants.

FINALLY, the system of grants does not merely imply that the centre cooperates with the units in enabling them to discharge their responsibilities but also that the richer units are under an obligation to come to the assistance of the poorer units.

Among the institutions, which promote inter state cooperation in the reformation of the U.S.A. the council of state governments deserves the first place. It is composed of the members of commissions or committees on inter state cooperation established in each of the fifty states. The Council serves as an instrumentality for encouraging full cooperation among the states in solution of inter state problems both regional and national and a means of facilitations and improving federal state relations. Several other associations and conferences such as the American Legislators association, the Governor's conference, the conference of Chief Justices, the National Association of state budget officer and the parole and probation - Administrators' Association also work in close cooperation with it.
Similarly, the cooperative trends are found to be working in a federations of Australia & Canada. In Canada, the framers of the Canadian constitution wanted to make the centre strong so that it may deal with all matters of national importance effectively. But the judicial interpretation has not followed this historical approach and shifted the balance in favour of the provinces. In times of emergency, however, the general power of the centre becomes very wide to enable it to face the emergent situation of war effectively. But during the peace time, the centres feels itself handicapped in several ways.

On the other hand, some of the provinces with inadequate development find it difficult to discharge their functions adequately with their own limited resources. This imbalance has been rectified through the limited growth of the cooperative federalism which has come into action through the delegation of the legislative powers by parliament or a provincial legislature to a subordinate agency of the other, central grants-in-aid to the provinces and inter-provincial and the dominion-provincial conferences.

In Australia, there has been a notable development of cooperative federalism as described earlier, by evolving the fiscal need grants to the deficit states through the agency of the commonwealth grants commission, and by creating a loan council
for coordinating borrowing by the various governments and premiers' conference for coordinating activities affecting federal state relations.

From this survey of the cooperative trends in the federations of the U.S.A., Canada and Australia, the conclusion emerges that the cooperative trends through extra constitutional devices have become stronger than the competitive trends. They have become more active in recent years and have also succeeded to a great extent in counteracting the adverse consequences arising out of the struggle for power.

The Indian constitution accepts that the principle of operation of the federal and state governments in watering compartments in now undesirable, if not impossible, and it includes a large number of provisions for interaction between the central and state governments and further provides for other means of securing flexibility.

The scheme of division of legislative powers between the union and the states in the Indian constitution reveals that there is an obvious constitutional tilt in favor of making the centre strong over the states. But, in spite of long enumeration of powers between the union parliament and state legislatures, it may be
asserted that the scheme of distribution of powers lays stress more on power sharing to bring about a large amount of interaction and interdependence between the centre and the states. Further, in the analysis made earlier it is found that the centre has been made conspicuously strong by the framers of the Indian constitution in view of the historical evolution, the circumstances prevailing at the time of drafting the constitution and the experience of other older federations. Apart from dyarchy and the subsequent working of the Government of India Act, 1935 the founding fathers had to take into account the country's population, diversity, religion and special socio economic, linguistic and political forces which were expected to be satisfied.

Some critics allege that the scheme of division of legislative powers under the Indian constitution show a sign of over centralization. Taking into consideration the present day need of the nation, we may assert that the centre's power are not excessive and the situation has not so much changed as to call a radical change in the constitution as proposed by the Rajamannar committee and the west Bengal memorandum. The need to maintain the unity of the nation is as important as it was 40 years ago. Regionalism, religions, diversity, population and political demands are also important factors today as they were in 1950. If the constitution has shown strain in its working, the fault perhaps lies more with those who have worked it than with the constitution itself.
Hence, it may be submitted that the Articles 249, 250, 252 and 253 which empower the parliament to legislate on state subjects are merits rather than demerits of the Indian constitution. These provisions enable the centre to legislate in exceptional circumstances on the state subjects without amending the constitution and thus introducing a certain amount of flexibility in the scheme of distribution of legislative powers. Moreover, these are resorted to in most are invoked only where there are exceptional circumstances and that too for a limited period. In this way, the conclusions arise that the framers have incorporated the federal principle in our constitution in a modified form in the light of the experience of the other federations and in view of the peculiar requirements of our country, and this modification is certainly towards establishing the cooperative federalism, where in the national and the state governments functions as cooperator of each other.

The Administrative relations between the union and the states reveal that the constitution of Indian lays down a flexible scheme of allocation of responsibilities for administration between the centre and the states. The Scheme is such as to permit all kinds of cooperative arrangements between the union and the states as may be thought desirable to deal with the situations at hand. The centre has been empowered to administer any matter falling within its exclusive legislative domain, but it is not bound to
administer all these matters itself and can, it is so desires, entrust the responsibility of administering any of these matters to the states or their instrumentalities by legislation. The states also have been given power to administer all matters within their exclusive legislative domain, but they may delegate any of their functions to the centre for administration by agreement with it.

The administration of the matters in the concurrent list rests with the states in the first instance, but parliament may, by passing a law enable the centre to assume responsibility for administration of any of these functions.

There are a few more provisions in the Indian constitution to regulate the centre state administrative relationship. Any government whether state or central, may carry on any industrial or commercial activity, or may acquire property and enter into contracts for the purpose, but if any activity falls outside its legislative domain than it would be subject to the laws made by the other government having to do so. It is a case where the central executive power may be subjected to the state legislative power.

On the other hand, the states have been put under obligation to so exercise their executive powers as to ensure
compliance with the laws made by the executive power of the centre, and this includes giving of necessary directions but the centre to the states.

The centre also has to power to give directions to the states for constructing and maintaining means of communication of national or military importance; for protection of the railways, the costs of which are to be defrayed by the centre. Similarly, the centre can give directions to the states under some other provisions of the constitution. If a state government fails to follow a central directive, the centre can treat this as breakdown of the constitutional machinery in the state and thus take over its administration.

Provisions have also been made for the inter delegation of administrative power between the central and state governments. Furthermore the centre as discussed earlier acquires the cooperation of the states through the central agencies in the states such as governor, All India services, High Courts, etc. These also enable the union government to exercise control over the states in matters of execution of Union laws.

Thus, from the survey of the administrative relations between the union and the states, it appears that the constitution
on India has assigned very wide administrative powers to the union. Articles 256, 257 and 365 provide a system of comprehensive administrative control and direction of the states. This aspect of administrative relations has been subject of bitter criticism. The critics contend that the comprehensive administrative control over the states which the constitution provides so expressly, coupled with the ultimate sanction of invoking the coercive measures contained in articles 356 tends o destroy the autonomy of the states which is the main essence of federalism. It is true that the provisions in the constitution relating to direction and control of states contain potentiality for mischief, and are capable of being abused to the utter neglect of state autonomy.

It would also be correct to inter the article 356 was used as a weapon of political vendetta against the non congress governments in the states when the congress party was in power at the centre. It is therefore, desirable to think of devices to prevent the abuse of power under article 356. The suggestion to add conditions for the exercise of the power under article 356 by amending the said article, is unacceptable because a really emergent situation may not be tackled effectively under the conditions provided. Another suggestion to make the exercise of the power under article 356 justifiable by the supreme Court is equally
unacceptable because recently the Court has declined to entertain political questions and most of the issues relating to the exercise of the power under article 356 would be undoubtedly political.

The suggestion to make the office of the Governor of the state elective as in the U.S.A., so that he will be independent of the centre does not solve the problem. Perhaps, it may contribute to greater disharmony between the centre and the states. Recently, Article 356 has been amended to limit the period to the minimum in which he power under this article can be exercised. Hence the further effective check against abuse of the power under article 356 can be only a conscious electorate guided by some norms which may be evolved regarding the use of article 356. That is perhaps, the only means of preventing the misuse of the power under article 356. In order to achieve this purpose it becomes necessary to educate the illiterate masses on the values of democracy and thereby try to mobilise effective public opinion. That will certainly act as an effective deterrent on the abuse of any power.

Regarding the power to issue directions, it is well understood that this power has been used rarely; only states have been reminded their responsibilities in the matter as the occasions arose, and even this. Also has been rare. Even if these powers
have to be used time and again, these have to be tolerated as a necessary evil in a country devoted to welfare state ideal where powerful centrifugal forces are at work. Thus a large measure of administrative uniformity is essential for attaining the ends of welfare state. Many of the central laws made with the object of promoting the well being of the people would become useless scraps of paper if the state or state due to negligence or some political prejudice or for some other reasons lightly or badly administer them. This makes it absolutely necessary for the centre to possess the power of direction and control of the states to ensure the normal functioning of central agencies and to achieve the cooperation of the states in administration.

Cooperative trends in the financial relations between the centre and the states reveal that on the whole cooperative solutions have been found for problems as they have arisen in the field of financial relations. The scope for cooperative action is found to be wide and it assumes several forms. Certain duties are levied by the centre but collected and appropriated by the states. There are several taxes levied and collected by the centre but whose proceeds are assigned either wholly or partially to the states. There are also provisions relating to the making of grants by the centre to the units and they cover unconditional as well as conditional grants.
All details regarding the sharing of tax proceeds and the making of grants are worked out by an independent commission. Keeping in view the desperate financial position of the states, the successive finance commissions have recommended increase in the state share of the divisible pool. The share of the states in the divisible pool was fixed at 55% by the first finance commission which was further raised to 60% then 66.6% and then to 75% by the second, third and fourth finance commissions, the fifth finance commission did not think it proper to increase it further. The sixth finance commission raised it to 80% and seventh commission raised it to 85%. This is to be distributed among the states according to a formula which fixes 90% share on the basis of population and the remaining 10% on the basis of collection measured by annual average of net assessment in each state. The centre is also empowered to grant loans to the states.

Despite all this, however, a feeling still persists that the states have not had a fair deal. Such a feeling, perhaps, is not due of any basic deficiencies in the set up of the constitution but due to the manner in which the centre has interpreted and applied certain provisions of the constitution in the field of centre state financial relations. Replacement of tax on railway passage fares by a fixed lump sum grant and the proposed replacement of
sales tax by enhanced central excise duty are the instances in point. Moreover, while giving loans to the states the central government functions as a money lender with a profit motive. For example, "The Centre obtained loans from international agencies at two per cent interest and passed it to the states at ten cent interest." Due to this policy of profiteering on the part of the centre, some of the states have to pay a heavy amount of interest repayments they are left with very little amount for development purposes. However, it is true that grievances like these have never erupted into live disputes. But simmering dissatisfaction remains.

On the major issue of inclusion of corporation tax and income tax surcharge in the divisible pool. The states are divided on the familiar line of the advanced versus the backward. The advanced states demand for increased devolution of funds from the centre to the states. While the weaker states do not want further increase in the divisible pool. The fear of the weaker states is that the increase in the divisible pool will cut down the central resources which are used to assist them. The states which want tha the centre should have adequate resources for the balanced development of the country are Jammu and Kashmir, Himachal, Orissa and North Eastern states. The states which want a change in the present fiscalies are
Maharashtra, Gujrat, Tamil Nadu, Punjab, Haryana, Andhra Pradesh and Kerala.

The key to smooth functioning of the financial relations between the centre and the states is consultation, and more consultation. The working of financial relations would show yet more significant improvements if decisions that affect the revenues of the states are taken after the widest measure of consultation with them.

The Indian constitution itself envisages a number of constitutional and cooperation in Articles 131, 262, 263, 280 and 307. Article 280 and 307 envisage the constitution of finance commission and a body for promoting free flow of trade respectively. Article 262 provides for creation by parliament of a suitable machinery for adjudication of inter-state dispute with respect to distribution, use or control of waters of inter-state rivers and river valleys. Accordingly parliament has enacted the inter-state water disputes Act, 1956, which provides for setting up of tribunals for adjudicating disputes among the states concerning water of inter-states rivers, and River Board Act, 1956, empowering the centre to establish River Boards for regulation and development of inter-state rivers and river valleys.
To promote cooperation between the centre and the states and states inter se it is also necessary to resolve disputes which may arise between them. Legal controversies between the two governments can be resolved by the SUPREME COURT either in its original jurisdiction as has been done in West Bengal v. Union of India, State of Rajasthan v. Union of India and karnataka state v. Union of India or on its advisory jurisdiction, as was done in the Kerala and the see customs cases.

A constitutional provision much talked about after the fourth general election (during 1967-1971) is article 263 which provides for the appointment of an inter-state council. This article is general and therefore, any number of such bodies for various purposes may be established. So far only the central council of local self Government, the central council of Health and our regional councils of sales tax have been established. Exept the finance comission, no other body envisaged by the constitution has had much impact on the constition has had much impat on the owrking of the inter state or centre state relations. However these bodies can be made of full use in the field of centre-state relations by the confidence of states in these and by the give and take policy on all sides.
Since long there has been a 'demand and plea' to establish an Inter State Council on a broader basis to discuss federal problems and find solutions for them. But the central Government has remained cool of the idea of creating such a body. The central government is, perhaps, indifferent due to the reasons that once such a body is appointed, the states will start to use it to intrude into the matters which fall within the purview of central cabinet such as appointment of governors, High Court Judges, application of Article 356 etc. Because of these apprehensions, the central government has preferred to make use of article 263 to establish only such bodies which have well defined and narrow terms of reference. However, the disputes and differences are bound to occur in our policy where are divided between two levels of government. In this context serious efforts should be made by the centre to establish an inter state council and further activate the councils already established.

In view of the urge for accelerated economic growth, extension of social services and the great expansion of governmental functions, the Indian federalism has developed an extra constitutional mechanism of establishing various statutory bodies for its working of the statutory bodies, as described elsewhere reveals that the efficiency and economy in government
cannot be obtained merely by a division of powers between Governments, rather the cooperation in the pursuit of common objects and solution of common problems is essential.

Many cooperative arrangements have been development between the centre and the states and between the states inter as through the statutory bodies such as zonal councils, university grants commissions, Damodar Valley Corporation, Bhakra Management Board, Beas Construction Board, Drugs Consultative Committee, Central Board for the prevention and control of water pollution, central warehousing board and central electricity authority. These statutory bodies coordinate the activities of the centre and the states in various specified fields of activities. It is also no found true that the centre always dominates the states through these statutory bodies. A review of the relationship between the governments that develop within the sphere of endeavour of the Damodar Valley Corporation, reveals that despite the constitutional and legislative powers of the centre in this case, the centre felt itself completely lacking in effective powers, and with the result the centre did make substantial concessions to the wishes of the state of West Bengal.

The analysis of the working of the statutory bodies reveals that there is a close interaction between State's functions, central functions and concurrent functions. The
coordination has perforce to come from the centre. At the same time, it is a power that cannot arise out of the cooperation of the states. There is no road into either union or state rights. The allegation about the centre's interference in state fields through the statutory bodies is a mistaken allegation. Concepts of sovereignty and responsibility are fastly changing in world because of the greater and greater interaction between the economies of the world. Even the big countries of the Europe have agreed to merge their sovereignties in the European Economic community in order to achieve progress in their economies. Likewise, the countries of commonwealth also have certain economicities. But, these are not inroads into sovereignty, rather a calculated get-together for coordination for basic self interest. Against this background, the argument that the centre interferes, through various statutory bodies, in states' fields appears to be irrelevant. What is relevant is whether the arrangement is acceptable to both the centre and the states and whether, the national interest is thereby secured.

The cooperation through non statutory bodies, conferences and party system can also be achieved. A large number of non statutory bodies are found to be working outside the constitution and the statutes for centre state coordination and cooperation. These non statutory bodies are such as the planning
commission, the National Development Council, Inter University Board. National Integration Council. Centre family welfare council. All India council for technical education. Central water and power commission, central control Board for Inter state project, etc. These Institutions, as discussed earlier coordinate the activities of the centre and the states in various specified fields of activities. There is a close interaction between states' functions and central functions. All these institutions serve as very useful devices of cooperative federalism.

However, the planning commission has been criticised as to be working like the 'super cabinet' in close collaboration with the central Government and imposing its will on the states. The NDC though being a representative body of the centre and the states has been criticised to be functioning more by fits and starts than a regular body in the planning set up. Oftenly, it has been used merely to 'rubber stamp' the decisions of Planning Commission. The critics has demanded a constitutional or statutory status for the Planning Commission. Only conferring such a status on it would no serve the whole purpose. The critics should also keep in mind that the Plans deal with many functions within the exclusive competence of the centre. Further, the Plans also affect other matters directly under the jurisdiction of the Centre. The development finance for the States, the backbone
of planning is also provided to the States by the Centre. For all these reasons, the Commission has to work in close association with the Centre than with the States. Inspite of all this, the States also remain in continuous dialogue with the Commission for their plan formulation and implementation. The grievances of the States in this regard can be better remedied by making the NDC more regular and Effective operationally.

In addition to the standing machinery for centre state or inter governmental cooperation, the Indian federalism has also evolved the conference technique for facilitating smooth centre-state relations and inter level cooperation. It has been revealed in this study. Periodical conferences between the representatives of the Union and the States have become a regular feature of the operative machinery of Indian federalism. These conferences are such conferences of Governors, conferences of the State Chief Minister, conferences of the State Ministers of the same portfolios and the meeting of the Union and State officials. In each of the conferences some representatives of the Union provide the necessary guidance and leadership.

However, the decision of these conferences are no endowed with any legal validity, but they possess special utility as they are taken by highly competent authorities and thus have proved fruitful also, some common shortcomings have also been pointed out in these conferences. There are some shortcomings in
these conferences. The inefficient handling of agenda and agenda-papers, the preparation and circulation of minutes of he meetings, the trady manner in which meetings are conducted and absence of vigorous follow-up actions after the meetings have greatly impaired the effectiveness of this consultative machinery. Undoubtedly, these conferences can be further of much use if these shortcomings are removed.

It also has been revealed that the emergence of national and regional parties in India has upset the constitutional division of powers between the Centre and the States through political forces and devices. There can be indentified 'four different phased' in the development of the Indian federalism since independence, each shaped by the political forces at work at different Stages. From the analysis of the party-system at work in four different phases in the development of Indian federalism, the conclusion emerges that the cooperative federalism starts to work with its full vigour when there is one party rule in the Centre and in the large number of States, as it worked in pre-1967 and post-1972 period. On the other hand, the working of cooperative federalism becomes hindered when there is different party rule at the two levels of government, as it was experienced in post-1967 election phase and up to a limited extent as it is being experienced at present.

Thus, from the survey of the cooperative trends in
Indian federalism, too, it may be asserted that the cooperative trends have become active and more stronger over competitive trends in recent years and they have succeeded to a great extent in counteracting several of the undesirable consequences arising out of the competitive struggle for power. There is therefore, no need to think of unitary system as the only remedy for overcoming the defects of federalism.

The Indian Federal system of government has shown its capacity of adjust itself to changing needs and circumstances and this process of adjustment in Indian federalism as in other federations of the U.S.A Australia and Canada has been facilitated by the cooperative devices. If these cooperative trends are strengthened further federalism will continue to be an ineal system of government for country like India which is vast in size and consequently develops geographical, economic, social and cultural diversity.

THAT'S WHAT THE SARKARIA Commission recommends

In a unanimous report, the three member Sarkaria Commission has expressed itself against the transfer to more subjects to the states; it has in fact, adopted a strong entreaty "to preserve the unity and integrity of the Country." The 1500 page report, which purposely carries no summary, is an exercise to defend existing constitutional arrangements between the centre and the states. In support, the Commission cities "the working of
the constitution in the last 37 years" which, according to it, has demonstrated how 'basically sound' the scheme and provisions are and how fickle is the demand for structural changes. For better coordination between the centre and the states, the commission had recommended more consultations between them. And to give it an institutional framework, the commission had recommended the constitution of an Inter Government Council (IGC) under Article 263, which provides for an inter state council charge with the duty of 'enquiring into and advising upon dispute which may have arisen between states, investigating and discussing subjects in which some or all of the states, or the Union and one or more of the states, have a common interest; or making recommendations upon any such subject and, in particular, recommendations for the better coordination of policy and action with respect to that subject;".

The Commission, with justice R.S. SARKARIA as Chairman and B.Sivaraman and Dr. S.R. Sen as members, was constituted in June, 1983, to review the relationship between the centre and the States, its working, and to suggest such changes as may be appropriate.

In the 247 recommendations the commission has made, it is clear that the efforts have been to ensure that whatever institutions exist for the states should be activated so that the centre does not operate only on its own. It has, for example,
been recommended that the national development council (NDC),
the be renamed as the National Economic and development
council, shoul maintain its separate identity and have a normal
status and duties, meeting at least twice a year. At present, the
NDC an apex body, is convened by the planning commission to
discuss the plan as and when required.

Again, the five zonal council, which were constituted in
1967 after the states' reorganisation, have been told to have a
secretariat each. Instead of the home minister, who is a
permanent chairman of all zonal councils, chief will preside by
rotation. The Commission, emphasising the practice of
consultations, has said that the chief minister concerned should
be taken into confidence before a Governor is appointed for a
state. This practice was followed till Mrs. Gandhi returned to
power in 1980. She stopped consulting chief ministers and the
first Governor appointed was in Janata ran Karnataka, A.N.
Banerjee. Banerjee. She followed the practice in
Andhra Pradesh by having Ram Lal, the former chief minister of
Himachal Pradesh, as the Governor.

The commission has also recommended a process of
consultation by the centre with the states on concurrent subjects.
The Commission concedes that the centre is not keeping the
states in the picture in this respect. But the demand that
subjects like education and forests should be transferred from the concurrent list to the state list has been rejected.

Similarly, the suggestion that the power of the union be restricted to defence, external affairs, currency an communications has not found favour with the commission. It is of the opinion that the country cannot "SURVIVE" as one integrated nation if such drastic changes are affected. The commission says that the step if taken, may even be beyond the scope of the power of amending the constitution conferred by article 368, which says that an amendment to the constitution can be effected through a parliamentary bill with a majority of time thirds of the members of each house.

In the introduction the communication commends the periodic examination of the constitution's working in relation to centre-state functioning. It says:

The very dynamism of the system with its checks and balance brings in its wake problems and conflicts in the working of union-state relations. Stresses and strains and irritations generated by such problems may stifle the working of the system and endanger the unity and integrity of the country. It is, therefore, necessary to review from time to
time in the light of past experience the evolution of union state
arrangements, not only for the purpose of identifying the
persistent problems but seeking their solutions. The main
recommendations of the commission are given below:

**EXECUTIVE POWERS:**

The commission has laid down principles for appointing a
Chief Minister as well as dismissing a ministry. However, a set
of guidelines for the exercise of the Governor's discretion has not
been found either 'FEASIBLE FOR DESIRABLE'.

**PRESIDENT'S RULE:**

The commission has said that this power was "necessary"
but it should be used "sparingly" in extreme cases when all
available alternatives fail to prevent a breakdown of the
constitutional machinery. It feels that the bulk imposition of
president's Rule in 1977 and 1980 was "clearly improper".

The commission has stated that the Governor's report
should contain "a clear statement of all material facts" and the
report should be given wide publicity. Accordingly, Article 356
should be amended to provide that the material fact and grounds
justifying the imposition of president's Rule should form part of
the proclamation. The Commission has suggested that when imposing
president's Rule the Legislative assembly should not be dissolved
before parliament approves the proclamation.

USE OF ARMED FORCES:

On the use of armed forces by the Union of Commission has stated that it is entirely for the Union to decide, suomoto, whether the situation is such that the armed forces should be deployed in a state. However, it is desirable to consult the state concerned, "wherever feasible" before deploying the forces otherwise than at the request of the states.

FINANCIAL RELATIONS:

The commission has recommended amendment of the constitution which would enable parliament to proved for the sharing of the corporation tax along with suitable adjustments in sharing of income tax and excise duties. The commission favour a levy of tax on advertisements in the press have been excluded probably because of the Court's judgement that such a levy would come in the way of freedom of the press.

It has been suggested that grants should be given to the states in lieu of railway passenger fare tax as recommended by the finance commission. It has also been recommended that there should be modernisation of the treasury system for making available foreign exchange to the states apart from suggestions on overdrafts.
by states. The commission feels that the centre should give its consent to the states for borrowing from banks, etc., for periods less than one year. It is also for the introduction of a tax free municipal bonds system.

The commission is for the appointment of an expert body to recommend "desirable directions" to reforms in taxation and resources mobilisation by the centre and the states. It has also favoured a comprehensive paper on government subsidies.

PLANNING COMMISSION:

The commission has made a number of suggestions to improve the "efficiency" of the planning commission. But the commission's emphasis is on "full and effective consultation" with the states at all stages. It favours healthy conventions to give weightage to the states' views.

MASS MEDIA AND LANGUAGE:

The commission is opposed to the transfer of broadcasting either to the concurrent list or the state list. Nor does it favour the demand for grant of total autonomy to the broadcast media. It is premature, the commission says, "to consider the grant of uncontrolled functional freedom to this powerful media." However, it says that there should be reasonable decentralisation of power and freedom in the day-to-day functioning and "harmonious
adjustment between the imperatives of national interest and the varied needs and aspirations of the states and the people".

The commission has observed that politicisation of language has threatened the unity and integrity of the country. It has stated that the three language formula, English, Hindi and a regional language, should be implemented in its true spirit by all the states.

**APPOINTMENT OF JUDGES**

The commission favours a constitutional amendment to prescribe a time schedule within which the functionaries having consultative role in the procedure for appointment High Court judges should complete the process. The delay in appointments has been regretted.

The Home Ministry has set up a special cell to process the commission's recommendations. The views of the state Governments have been sought, and there will be a detailed discussion in parliament before there is any decision on the recommendations.