

[Sh. Saifuddin Choudhury]

in the neighbourhood, we will be also having our influence to exercise in this affair.

I want a categorical explanation on this.

SHRI EDUARDO FALEIRO: Definitely any fundamentalist regime is a matter of concern for us and it is a matter that is not according to our interest and our ideological point of view and surely when we speak about independence, we mean truly independent and non-aligned Government there.

SHRI HARI KISHORE SINGH (Sheohar); an important daily Hinustan Times; has carried this item that Dr. Najibullah is already here.

SHRI SAIFUDDIN CHOUDHURY: His wife is in India.

SHRI HARI KISHORE SINGH: Already he is here. Would you like to comment?

SHRI EDUARDO FALEIRO: No, he is not here.

MR. DEPUTY SPEAKER: Now it is 3 O' Clock. Mr. Basu Deb Acharia, you wanted to know at what time it would be taken up. Now it will be taken up. Shri S. B. Chavan will now move the Statutory Resolution.

15.02 hrs.

STATUTORY RESOLUTION RE.
APPROVAL OF PROCLAMATION IN
RELATION TO THE STATE OF
NAGALAND

[English]

THE MINISTER OF HOME AFFAIRS
(SHRI S. B. CHAVAN): I beg to move:

" That this House approves the Proclamation issued by the President on the 2nd April, 1992 under Article 356 of the Constitution in relation to the State of Nagaland".

The Governor of Nagaland in two messages both dated the 27th March, 1992 addressed to the President informed that he had dissolved the Nagaland Legislative Assembly on the advice of the Chief Minister under Article 174 of the Constitution and the Chief Minister had been allowed to continue in caretaker capacity until fresh elections.

The Governor of Nagaland also mentioned that the Budget Session of Nagaland Legislative Assembly, which was in session with effect from 16th March, 1992 came to an end on 26th March, 1992 after passing the Motion of Thanks on the Governor's address and Demand for Grants for the coming year. The majority of the present Chief Minister was proved on the floor of the Assembly. The ruling Nagaland People's Council party also got its candidate elected to the Rajya Sabha.

The Governor also informed that resort to Courts had been frequent during the life of the Assembly. The Courts had yet to resolve the case of disqualification of 15 MLAs and 10 MLAs were involved in yet another case in Guwahati High Court. The Governor further reported that the Chief Minister had favoured fresh mandate from the people because of various pressures to which he had been subjected to and felt that purposeful administration could not be carried on with Ministers and MLAs pressuring for plum posts. The Governor also mentioned that in the process the law and order had been neglected.

The Union Government considered the reports of the Governor and the overall situation prevailing in Nagaland. Clearly the party position in the State was fluid and the

law and order had been neglected. The very grounds relied upon by the Government to dissolve the Assembly showed that it was not possible to carry on the administration of the State in accordance with the provisions of the Constitution for the normal life of the Assembly. Accordingly, it was decided to recommend to the President of India to issue a Proclamation under article 356 of the Constitution in relation to the State of Nagaland. The President was pleased to issue the said Proclamation on 2nd April, 1992.

In view of the circumstances which I have just explained I commend, Sir, that the Proclamation issued on 2nd April, 1992 under Article 356 of the Constitution in relation to the State of Nagaland be approved by this august House.

MR. DEPUTY SPEAKER: Motion moved:

"That this House approves the Proclamation issued by the President on the 2nd April, 1992 under Article 456 of the Constitution in relation to the State of Nagaland."

SHRIBASU DEB ACHARIA (Bankura): I have submitted a motion for revocation of Article 356. I was not informed about the fate of my motion.

MR. DEPUTY SPEAKER: Shri Rabi Ray will now speak.

[Translation]

SHRI RABI RAY (Kendrapada): Mr. Deputy Speaker, Sir, I would like to raise a very urgent matter. The matter is important because it is to be verified whether the Government is in minority or majority in the Manipur Legislative Assembly and sitting of

the assembly was summoned for the purpose but the Governor of Manipur postponed the sitting of the State Legislative Assembly on that day.

[MR. SPEAKER *in the Chair*]

15.05 hrs

Mr. speaker, Sir, this is an unprecedented question. I would like Mr. Chavan to throw some light on it.

Mr. Speaker, Sir, before we take up the Nagaland issue, I would like to tell you that we read a very disturbing news today in the newspapers that the governor of the Manipur had deferred the sitting of the Assembly in an unprecedented move. Such an incident has never taken place in the history any time. The Government is destabilising the State Governments one after the other in such a manner. Therefore, I would like the hon. Home Minister - Shri Chavan who is present here to make a statement in this regard.

SHRI GEORGE FERNANDES (Muzaffarpur): Mr. Speaker, Sir, I would like to add one more thing that when the governor had administered the oath of office and secrecy to the Chief Minister of Manipur, he had asked the Chief Minister to prove his majority in the State Assembly within ten days. The assembly was to meet that day but just before that a message was received from the Centre that the Assembly would not meet on that day. Since the ruling party had no majority they did not let the Assembly meet. They had made a promise to the people of the country and the governor that they would prove majority within ten days. Now when they are not in a position to prove their majority what are they going to do? Therefore, I would demand that the hon. Home Minister should make a statement in this regard in the House.

[English]

MR. SPEAKER: We are now on a different topic.

SHRIGEORGE FERNANDES: We are. But this is an emergency matter.

MR. SPEAKER: Can we Jump from one topic to the other?

SHRI GEORGE FERNANDES: After all, the Constitution is being defiled at every moment and the Home Minister is sitting there grinning away. (Interruptions)

MR. SPEAKER: But then we have a matter which is equally important. let us discuss it first.

(Interruptions)

MR. SPEAKER: As senior Member, you know what can be done, how it can be raised, but not now.

(Interruptions)

SHRI LAL K. ADVANI (Gandhi Nagar): Mr. Speaker, Sir, we are certainly discussing the constitutional implications and the constitutional propriety of imposing President's Rule in Nagaland.. But I am sure that everyone would appreciate that it has political implications also and the political consequences are not confined to Nagaland alone. They are spreading over to the North-East. In this context, the question that has been raised by Shri Rabi Ray or the Shri George Fernandes is in the mind of everyone of us ever since we got the report yesterday. For the first time in the history of India a person who was given a definite time to prove the majority within the prescribed period, when the day arrives, on that very morning he is told that an extension of four days is given. Obviously it is done because he is not able to prove his majority. How

does the Government react to that situation? Or, does it have double-standards in this regard? This is a question which becomes pertinent in the context of the discussion on Nagaland itself. Therefore, if the hon. Home Minister is willing to enlighten the House, it will help the debate.

SHRI BASU DEB ACHARIA: This is a Constitutional question. (Interruptions)

SHRI S.B. CHAVAN: Sir, in fact, when the question of Nagaland is being discussed in the House, it is not proper for me to intervene and inform the House. But since the hon. Members have raised it and if I were not to react, it will give a totally wrong signal. I must inform the House. (Interruptions)

SHRI RABI RAY (Kendrapada): That is the precise reason why we want that you should react.

SHRI BASU DEB ACHARIA: Before raising the matter, you could have informed the House yourself.

MR. SPEAKER: Where was the occasion for him to inform the House?

(Interruptions)

SHRI S.B. CHAVAN: No. Actually, we got the message from the Governor that the Governor informed the President and the copy of which was also sent to the Home Ministry by saying that he apprehends some kind of a physical attack amongst the Members. That is why.

(Interruptions)

SHRI RABI RAY: This is a very peculiar reason.

(Interruptions)

[Translation]

(Interruptions)

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, what is all this? (Interruptions)

Is he making fun of it?

(Interruptions)

[English]

SHRIS.B. CHAVAN: If you want it, I am prepared to lay that report. (Interruptions)

[Translation]

SHRI GEORGE FERNANDES: He is running the administration he is the Home Minister of the country. (Interruptions)

SHRI S.B. CHAVAN: Had I said so, it would have been different thing but the Governor has said so (Interruptions) if you can speak loudly I can also speak loudly, (interruptions)

[English]

SHRI GEORGE FERNANDES: You have a Government there; you have a Chief Minister there; and you are running the administration there. (Interruptions) He is running the Government; his party is running the Government there. And they are apprehending the violence. (Interruptions)

MR. SPEAKER: Not like this. In the course of your speeches, if you raise this matter and if you expect a reply, I can understand it. But if you are setting aside what is really put before you and discuss altogether a different issue and that too.

SHRI BASU DEB ACHARIA: It is not different. It is a related issue. (Interruptions)

MR. SPEAKER: Mr. Acharia, all the time you are doing like this.

MR. SPEAKER: I know, Acharias are always very relevant and right. I expect him also to guide me. But then let us please discuss the issue. In the course of the debate, if you want to say certain things, nobody is saying that you do not say. As Advaniji has said, if it has some relevance to that area, you are well within your right. But you cannot set aside this discussion and take up altogether a new debate.

Shri Advani to speak.

(Interruptions)

MR. SPEAKER: You will have your chance. You can make your speeches one after the other.

(Interruptions)

SHRI LOKANATH CHOUDHURY (Jagatsinghpur): We just want to know under what circumstances.

MR. SPEAKER: When you speak, you say this.

SHRI LOKANATH CHOUDHURY: Wherefrom the speech will come unless the full facts are known? You are allowing us to move in the dark. Government must help us to understand it. (Interruptions)

MR. SPEAKER: Not like this. The point is, any thing which is on the agenda is not important for you and anything which is not on the agenda is important for you. How can it happen? Not like this. You follow the agenda. Anything which is on the agenda is more important than anything which is not on the agenda. That issue can be taken up on the agenda if you like.

SHRI LAL. K. ADVANI (Gandhi Nagar):
Mr. Speaker, Sir, I rise to oppose the
Statutory Resolution moved by the Home
Minister.

Article 356 is one of the most abused provisions of the Indian Constitution even though when it was adopted by the Constituent Assembly, the principal architect of the Constitution Dr. Ambedkar had expressed the hope that this would be used very rarely so much so that he said, "I hope and all of us hope that it would remain a dead letter." Far from being a dead letter it has been very very vigorously and actively used and more often than not, used for purposes that were never even contemplated by the constitution-makers.

Among the worst uses that I can recall, I would certainly include this particular case of imposition of the President's rule in Nagaland after the Assembly had been dissolved as one of the worst cases. I do not remember another case where after an Assembly has been dissolved by the governor under Article 174(2), article 356 has been invoked. At least, I do not recall. There might be some and there might be some explanation for that. In this case, I have not even found an explanation for it.

I have four principal reasons why I am opposing this Resolution. Firstly, as I have already indicated that I regard this type of decision to invoke Article 356 as constitutionally indefensible. There is just no defense. The second reason is, I regard it as an outrageous assault on the institution of Governor. The Governor is an institution - an important institution - which the Sarkaria Commission described as the linchpin of the constitutional apparatus. And by this act and this decision to impose President's Rule in Nagaland, the Government of India has been guilty of assault on the institution.

My third reason is that we have to view

this decision along with another decision taken three or four days later, namely, the dismissal of the Governor of Nagaland. And that two decisions together, I think add up to a notice served on all Governors in the country, that you must understand hereafter that irrespective of what the Supreme Court may have said about the role, status and duties of a Governor, irrespective of what the Administrative Reforms Commission or the Sarkaria Commission may say about the responsibilities of a Governor, so far as the Government of India is concerned and which is in office today, it regards the governor as a subservient agent of the Government of India, who is expected to carry out the duties given to him by the Government of India - by the ruling party in power. And, therefore, if one day he thinks that the Constitution has assigned to him this duty and he acts according to the Constitution without even reference to the Central Government then he does at his own peril. This is the third reason why, I think that this decision is absolutely perverse.

And the fourth reason which is less constitutional, more political and with which this particular question raised by Shri Rabi Ray and Shri George Fernandes and by other colleagues, this side of the House, is very relevant, is what is going to be our approach to this North-Eastern region? After all, every decision that we take has an impact on that region. And I believe that this decision imposes President's Rule in Nagaland has accentuated the feelings of distrust and alienation which prevail in that region - which prevail in a very large extent. There may be other reasons and some of those reasons, it may not be even justified. But the fact is that there is distrust in New Delhi, there is alienation from New Delhi and, therefore, when New Delhi decides to do something it must be very careful, very cautious. It should be careful in respect of extraordinary powers. But when these extraordinary powers are sought to be

applied in the North-East, you have to be doubly careful. And I hold that for these four reasons this particular decision is a wrong decision. Even at this stage, if the Government on its own avails all the provisions of the Constitution and decides to revoke it, I would be very happy. But if it does not, then, I think it is the duty of this House to let the Government know what the House thinks about it.

Sir, I would deal briefly with each of the points, each of the factors that I have mentioned. How is it constitutional? I listened to Shri Jacob, the other day, when he was speaking here. I read the speeches of the Home Minister in the other House and also some of his remarks outside. And one of the remarks that struck me was his saying that it will have to be legally examined. He is on record having said that legal opinion was being sought on whether a Governor can dissolve a State Assembly without reference to the President. (*Interruptions*)

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI M. M. JACOB): I do not think that that is the sense in which I have said. I said about the contradiction which you raised on that day which was that when there is Article 174 which was already invoked, can Article 356 be invoked? That was the question. I said that legal opinion on that is sought and there is no contradiction. It has - Article 356 - overriding power.

SHRI LAL. K. ADVANI: Mr. Speaker Sir, when I referred to this fact I did not have the Minister of State in mind, I had the Home Minister's statement as reported by the PTI in mind. I have read one of the statements by the Home Minister reported by the PTI in which he said that legal opinion would have to be sought whether a Governor can

dissolve a State Assembly "without reference to the President".

SHRI S. B. CHAVAN: I think this is also a mis-quoting. In fact there is no question about it. We know under article 174 2(b) the Governor has the power to dissolve the Assembly. There is no doubt in our mind. The only point was getting the legal opinion. After article 174 2 (b) having been invoked whether article 356 can also be invoked, was the legal issue that we wanted to get examined.

SHRI LAL. K. ADVANI: I am satisfied to the extent that you appreciate that under article 174 2(b) the governor has the power to dissolve the Assembly. I would go further and I would ask you whether you think that in that situation the Government that was there in Nagaland on that day, on the 27th, had not lost the majority. The Assembly session was just over and you yourself said in your statement just now that the Motion of Thanks on the Governor's Address had been passed, the Budget had been passed. I am aware that there has been defection, counter-defection and re-defection going on in some of these States for the last so many years in which you start blaming some of my colleagues this side. I would say that all parties there are equally guilty, including some of my side. It is like the pot calling the kettle black. Let us not accuse each other on that score. I got a pamphlet from the Nagaland Congress Committee telling me what was happening in the last three years in which all these allegations were traded. I am aware of that: I will be coming to that aspect also. But the basic fact is that on the 27th of March when the Vamuzo Government advised the Governor to dissolve the Assembly because it thought in those circumstances the Government cannot continue, it was perfectly right. It was not only perfectly right, but if the Governor had refused to accept the Chief Minister's advice, the Governor would have been acting

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unconstitutionally. He had no option whatsoever that a duly elected Government which had not lost its majority in the Assembly it advised him dissolution. The grounds that he had given, you yourself endorsed.

THE MINISTER OF STATE OF THE MINISTRY OF STEEL (SHRI SONTOSH MOHAN DEV): The Chief Minister should give the advice after a Cabinet decision, not by himself.

SHRI LAL.K. ADVANI: It is a question of fact. I do not know. I have with me a letter addressed by the Chief Minister of Nagaland to the Governor Dr. M.M. Thomas. I quote this letter:

" You are aware that due to frequent defection of Members of the Legislative Assembly, there have been several changes of Ministry. I am now running the third Ministry within a span of three years. It is still found that there is no stability in the minds of Members. The Cabinet has therefore come to the conclusion that the Assembly be dissolved and a care-taker Government be allowed till such time as the fresh mandate of the people is called for. I therefore recommend dissolution of the House and a care-taker Government be invited till a fresh mandate of the people is called for."

I have nothing else to rely upon except this particular letter which says that the Cabinet has decided.

SHRI SONTOSH MOHAN DEV: You should have quoted the subsequent statement followed within 24 hours by six Ministers saying that there was no Cabinet meeting. Kindly apprise the house of the actual facts.

SHRI LAL K. ADVANI: I am fully aware of the kind of politics that goes on there. (Interruptions)

SHRI SONTOSH MOHAN DEV: We are also from the North Eastern State. You have said one thing that the alienation of the North East is by Delhi. It is a very sweeping statement from a leader of your status. This sort of statement is instigating the insurgency by certain political parties who do not have any footing in the North East. (Interruptions) It is a dangerous statement. (Interruptions) There was another statement by a BJP leader, Shri Jaswant Singh who said that Ali, Kuli and Bengali are there in the North East. They have to pay a price for it. This sort of statement should not be made in the Parliament. (Interruptions) we have not said that at all. (Interruptions) Please do not make this sort of statements. You people are playing politics and not the Central Government (Interruptions) You are putting the North East into trouble by making this sort of statements on the floor of the House by a person of his status. (Interruptions) I have got a right to say it. (Interruptions) As a person from the North East, we also feel hurt to hear this. (Interruptions)

AN HON. MEMBER: What the Leader of the Opposition has said is true that the Centre is alienating the North East. (Interruptions)

SHRI JASWANT SINGH (Chittorgarh): Mr. Speaker, Sir, ordinarily I would not have intervened at all. In my colleague, the Leader of the Opposition, I have full confidence and perfectly he will be able to handle it. But, the hon. Minister of Steel and my old friend has gone into a paroxysm of stimulated anger and he is pretending a great deal of outrage. (Interruptions)

MR. SPEAKER: What is stimulated in it? It may be real.

(Interruptions)

SHRI JASWANI SINGH: Sir, two suggestions have been made by him. Averments are made on account of what we have said or say here that these might cause alienation in the North East. It is not what we say or do that has caused alienation; alienation in the North East is a direct consequence of forty years of Congress misrule. (Interruptions) then, what he said is correct. I said in this very House and I quote;

"A former President of the Congress party, Shri Devakant Baruah, said, "What do I need votes in Assam for, when I have got Ali, Kuli and Bengali in my pocket?".

That is the quote of the former President of the Congress party, which my good friend is perfectly entitled to misquote and misuse in the Cachar Valley (Interruptions)

MR. SPEAKER: But, Shri Baruah is not here to defend himself.

(Interruptions)

SHRI SONTOSH MOHAN DEV: Sir, I have got a copy of his speech which I have circulated in my area. For his correction, tonight, I will send a copy of his speech to him where he has never mentioned about it. I have full belief in Shri Jaswant singh. He is a good orator, but he should not try to do this. (Interruptions)

MR. SPEAKER: That is all right. Shri Advani may please continue.

(Interruptions)

SHRI LAL K. ADVANI: Mr. Speaker, Sir, As the Home Minister has himself conceded that under Article 174(2), a Governor, of course, cannot act in his

discretion in so far as the dissolution of the Assembly is concerned. But if he is advised by the Council of Ministers to dissolve the assembly, he has to do it. He has no option but to do it unless, as Sarkaria has said, the advice is patently unconstitutional.

He says:

It is a well recognised principle that so long as the Council of Ministers enjoys the confidence of the Assembly, his advice in these matters, namely, in the matter of dissolution, unless patently unconstitutional, must be deemed as binding on the governor.

Of course, Sarkaria mentions that one of the State Governments has represented to the Sarkaria Commission about article 174 (2) that there must be an addition made to it to make this very clear that the advice of the Council of Ministers shall be binding.

SHRI PAWAN KUMAR
BANSAL(Chandigarh): Council of
Ministers never met.

[Translation]

SHRI LAL K. ADVANI: Should I believe you or the letter which I have got from the former Chief Minister, this is my difficulty.

SHRI PAWAN KUMAR BANSAL: Since you are saying all this, you find it out yourself.

SHRI LAL K. ADVANI: Some people keep doubting there everyday, it is not my tendency, to believe them.

SHRI PAWAN KUMAR BANSAL: You should ascertain the entire fact first and then speak.

MR. SPEAKER: All right, sit down please.

SHRI LAL K. ADVANI: Let this be said by the Home Minister. I do not know. Let him enlighten the House. I have with me a letter from the Chief Minister. Therefore, I have mentioned it.

Even the other day, when Mr. Jacob addressed the House or Mr. Chavan addressed the other House and spoke on this subject, it was clear that the Government of India expected that the governor would consult them before dissolution. This has been the invariable practice till now of all governors.

SHRI S.B. CHAVAN: This is not correct. We never expected this.

SHRI LAL K. ADVANI: Very good.

SHRI M.M. JACOB: In fact, when I spoke in this House, I categorically made it very clear that we were not concerned about that aspect at all that Governor did not consult us. It was not the question at all before us at that time. (*Interruptions*)

SHRI RAM NAIK (Bombay North): the facts are coming out of the bag now.

MR. SPEAKER: All of us were here in the House.

SHRI LAL K. ADVANI: If the anger is not because of non-consultation, then I fail to understand why an action of the Governor, which is perfectly constitutional has caused umbrage here. Why has it annoyed the Central Government and annoyed to such an extent as first to impose President's rule and then to dismiss the Governor also.

SHRI PAWAN KUMAR BANSAL: It is a different matter.

SHRI LAL K. ADVANI: If that was a different matter, it should have been taken

care of earlier. All kinds of charge are being traded here. In the Press also, allegations are being made. I think, it is highly unfair on the part of the Government to make those charge after development of this kind has taken place.

I hold no brief on behalf of Dr. Thomas. I have not seen him. I have not met him. I do not know him. Mr. George Fernandes would be knowing him fully personally. I do know this thing that the Government of India was not angry with the Governor before March 27. The anger of the Government of India has followed the Governor's decision to dissolve the Assembly on the advice of the Council of Ministers according to the Constitution. So, I am sure, you will appreciate that at least in this matter, I can be more objective than some of my colleague.

SHRI S.B. CHAVAN: I hope that you will be objective.

SHRI LAL K. ADVANI: I am objective. I go only by the record whatever has appeared.

SHRI S.B. CHAVAN: You are briefed (*Interruptions*)

SHRI LAL K. ADVANI: I am not briefed. by any one. by anyone. You explain to me what are the circumstances which can be described as the Constitution has broken down in Nagaland. After all, very specific cases are there.

SHRI PAWAN KUMAR BANSAL: After article 174 (2) (b), what is left?

SHRI LAL K. ADVANI: That is the problem

SHRI PAWAN KUMAR BANSAL: After that it was to be done (*Interruptions*)

[English]

MR. SPEAKER: Not like this.

SHRI LAL K. ADVANI: After all, the utmost step that can be taken even after article 356 is invoked is an appeal to the electorate, an appeal to the people.

And this had already been done. All that you have done by imposing Article 356 is to short-circuit the process of appeal to the electorate and nothing else. What are you going to achieve? As I can see, the practical consequences are that you have dismissed the caretaker government and secondly you want to hold elections at the timing of your own choosing. You do not have the scope for doing what you have done in Manipur, that is, to install a Congress Government, or anything of that kind. I am really amazed that for a purely partisan and very petty purpose, you have done all this. This is an enormity. This is a great offence that you have committed for a petty gain. Otherwise, elections have already been ordered by the Governor immediately. If the elections are held and you have won, it would have been fine. But you preferred to act in a partisan manner and therefore, invited the condemnation of the whole country. Now in the entire country, almost every newspaper with very few exceptions, has condemned this action.

SHRI SONTOSH MOHAN DEV: If the same situation arises in Madhya Pradesh, Uttar Pradesh or even in West Bengal, where the Chief Minister recommends the dissolution of the Assembly without consulting the Cabinet and if the Governor accepts the same, will you hold the same opinion as you are holding now? (Interruptions)

SHRI SAIFUDDIN CHOUDHURY (Katwar): You cannot put hypothetical questions. Even then, we say it should be as per the Constitution only and nothing else.

SHRI LAL.K.ADVANI: The right

hon. Minister of Steel has asked me a question. I would tell him that my Chief Ministers will never do anything of this kind... (Interruptions)

SHRI SONTOSH MOHAN DEV: Who knows? With Ms. Uma Bharathi's episode, anything can happen... (Interruptions)

SHRI LAL K. ADVANI: It is only a Prime Minister of Congress Party who can even invoke Article 352 and promulgate emergency without consulting the cabinet.

SHRI SONTOSH MOHAN DEV: That is no answer.

SHRI LAL K. ADVANI: In this case, on this particular issue, I have nothing to go upon except the letter of the Chief Minister to find out whether the cabinet was consulted or not. And I am not willing to accept your word for it. Let the Home Minister say something about it.

I am aware that the Governor has various roles and not a single role. But essentially, in problems of this kind, to come to a decision as to how much he is obliged to the Constitution, how much is his duty to the Constitution and how much is his duty to act as a link between the Centre and the State, I think what the Supreme Court has laid down in the case of Hergovind Pant versus Dr. Raghukul Tilak in 1979 should be regarded as the last word and the Government should accept it. In this the Supreme Court very wisely said:

"It is no doubt true that the Governor is appointed by the President, which means in effect and substance the Government of India. But that is only a mode of appointment and it is not to make the Governor an employee or servant of the Government of India.. This is how the Government of India tends to view it. Every person appointed by the President is not necessarily an employee of the Government of India. So also, it does not material that the Governor holds office during the pleasure of the

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President, It is a constitutional provision for determination of the term of the office of the Governor and it does not make the Government of India an employer of the Governor. His office is not subordinate or subservient to the Government of India. He is not amenable to the directions of the Government of India and nor is he accountable to them for the manner in which he carries his functions and duties. He is an important and independent constitutional office which is not subject to the control of the Government of India."

SHRI A. CHARLES (Trivandrum): What was the ruling given by the National Front Government?

SHRI E. AHMED (Manjeri): The National Front Government, when they were in power here, with the support of BJP changed the Governor and then Advani ji supported that Government.

SHRI LAL.K..ADVANI: I have my own opinion about that also. But the question is not that. Today the question is not where the Governor has resigned, but it is the question where the Governor has been dismissed. In all those cases the Governors had tendered their resignations. Someone can say that they were pressurised to resign but in this particular case he has been removed from Office and removal from Office is a very extraordinary matter. I do not know whether he was given....

[Translation]

SHRI SAIFUDDIN CHOUDHURY: It was announced in Hindi on Radio 'Abranim sabe', if no longer, what was it then. (Interruptions)

SHRI LAL.K. ADVANI: Dr.. Thomas is no longer

SHRI SAIFUDIN CHOUDHURY: No

longer a Governor of Nagaland. (Interruptions)

[English]

SHRI LAL.K. ADVANI: The Home Minister might be aware that in the draft Constitution there was a provision even for impeachment of the Governor. Subsequently it was dropped and it was dropped on the ground that there will be an instrument of direction subsequently added and, therefore impeachment provision is not necessary. But after this experience I feel that some provision has to be made or at least some decisions have to be taken and which should be adhered to. Now, the kind of campaign that has been going on round about the Governor is, was he given notice of it that these are the allegations against him; was he given an opportunity to explain his position. This is a demand of natural justice.

The Sarkaria Commission also felt that one of the important factors which will contribute to the independence of the Governors would be fixity of tenure. When he is appointed for five years he should know that he is expected to indicate the continuance of Government. Chief Minister may come and go but he will continue for five years and that would make him responsible for the Constitution as a whole. Therefore, if there are any special circumstances in which the tenure of the Governor has to be terminated the Sarkaria Commission says:

"Whenever it is proposed to terminate the tenure of a Governor before the expiry of the normal term of five years he should be informally apprised of the grounds of the proposed action and afforded a reasonable opportunity for showing cause against it. It is desirable that the President, which in fact means the Union Council of Ministers, should get the explanation if any submitted by the Governor against this proposed removal from Office examined by an Advisory Group consisting of the Vice President of India, the Speaker of Lok Sabha and

a retired Chief Justice of India. After receiving the recommendation of this group the President may pass such orders in the case as he may deem fit.

This is the extent to which the Sarkaria Commission wanted the Government to go in order to ensure that there is no arbitrary dismissal of any Governor. But that has taken place now. That is at least what I know. I have nothing else to go upon. These are the recommendations made in the context of ensuring that the institution of Governor really functions in accordance with the conception of the Constitution makers in order to ensure that Centre state relations are on an even keel.

SHRI SONTOSH MOHAN DEV: The Sarkaria Commission report was made in the year 1987 and you supported the NF Government in 1989-90.

[Translation]

SHRI LAL.K. ADVANI: If the Government was wrong, the Sarkaria Commission was appointed by no other authority than the Government issued.

SHRI PAWN KUMAR BANSAL (Chandigarh): Shri V.P. Singh with your support forced 9 Governors to resign.

SHRI LAL.K. ADVANI: I know that but no one was dismissed.

THE MINISTER OF STATE OF THE MINISTRY OF COMMERCE (SHRI P. CHIDAMBARAM): All that we are saying is that Supreme Court judgment in Raghulal Tiilak's case and the Sarkaria commission Report, you conveniently did not remember them or read them when Shri V.P. Singh's Government got rid of Governors.

SHRI LAL K. ADVANI: It was not a dismissal at that time. This is the only dismissal.

SHRI P. CHIDAMBARAM: Mr. Mufti Mohammed Sayeed proclaimed a new

doctrine that it was the right of the Central Government to remove Governors. It was a forced resignation. The record says that it is the right of the Government to remove Governors. So, please do not go by what appears on the surface. Because, the Governors were forced to resign. So, it was really a dismissal.

SHRI LAL K. ADVANI: It seems that you accept Mr. Mufti Mohammed Sayeed's thesis. You are acting according to Mr. Sayeed's thesis. [English]

MR. SPEAKER: I think, we are discussing the conduct of the Governor and removal of the Governor.

SHRI LAL.K.ADVANI: I am not. Removal of the Governor can be discussed. I am not discussing the conduct of the Governor. No one is discussing it.

MR. SPEAKER: The difficulty will arise here. Supposing if the hon. Members say that the Governor is removed and wrongly removed and supposing the Government wants to reply why it is so (Interruptions)

SHRIS.B. CHANVAN: If the hon. Leader or the Opposition were to say that this is an arbitrary use of the power, then I would have to come to the House by giving all the details about the conduct of the Governor and I do not want the conduct of the Governor to be discussed on the floor of the House. That is my difficulty. That is why, we are requesting the hon. Members, whatever be their views, directly or indirectly, if you again discuss the conduct of the Governor, then, of course, it would be very unfortunate.

MR. SPEAKER: It is a very complicated issue. Please apply your mind and speak to the point.

SHRILAL.K.ADVANI: No. I said, I have applied my mind. Therefore I have not discussed the Governor. What I am stressing is that, this episode has underscored the need of accepting the Sarkaria Commission's recommendations in this regard. Otherwise,

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there will be a case of miscarriage of justice in many cases.

SHRI S.B. CHAVAN: Do not conveniently quote the Sarkaria Commission. It has said so many things.

SHRI LAL.K. ADVANI: I see that you have taken a decision on all the issues and said that this is not acceptable but this is acceptable, It has been pending for the last four or five years now and nothing is being done about it.

MR. SPEAKER: I am very sure - I am sorry I am interrupting you that while discussing this issue some reference is likely to be there on the Governor also. But I am aware of the fact that if the reply is sought to be given by the Government, then there may not be an objection to it., So, the position becomes very very delicate, That is why both the sides have to bear in mind the delicacy involved in it and carry on the discussion, I do not think that you have done anything wrong in this matter. You are putting forth the theoretical aspect, the technical aspect and the Constitutional aspect of it

SHRI BASU DEB ACHARIA: But the Members have the right to know the reasons also.

MR. SPEAKER: The Government may give you the reasons and you may not like it to be given on the floor of the House. There, the problem arises.

SHRI S.B. CHANVAN: Governor's independence there of course becomes subservient. You don't seem to know anything. When he says that there is a possibility of physical violence, everybody says (*Interruptions*)

SHRI LAL K. ADAVANI: I think, as far as Mr. Advani's statement is concerned he is going buy what the Sarkaria Commission has said and things like that. Nothing more than that.

SHRI SAIFUDDIN CHOUDHURY: Is there any method in our Rule Book by which we discuss the conduct of the Governor also?

AN HON.MEMBER: By Substantive Motion.

SHRI SAIFUDDIN CHOUDHURY: Yes, Before removing the Governor why did they not bring the Substantive Motion on the conduct of the Governor. They should not take defence on that. We should not be disarmed on that. Of course, you have done a very wrong thing.

SHRI BASU DEB ACHARIA: The House should not be kept in the dark.

MR. SPEAKER: Well, you are saying something in favour of the Governor. You are well within your right to do so. Supposing the reply is given by the Government, you should not object to that.

SHRI SAIFUDDIN CHOUDHURY: I am saying that they should have brought a Substantive Motion before removing the Governor.

SHRI LAL.K. ADVANI: I for one would not object to any remark made by the Treasury Benches about the Governor, because I hold that this rule in respect of "No reference to any constitutional office" has a relevance to where a substantive motion can be moved against him. I cannot say anything about the President because I can move a motion of impeachment against the President. I cannot say anything about a Judge because I can move a motion of impeachment against the Judge, or against the Chief Election Commissioner. But the Governor is the only constitutional office in the whole Constitution book in which there is no sanction for nay action, except that he shall hold office at the pleasure of the President. There is none. I have no remedy. Therefore, truly seeking, I should not be barred from referring even to a Governor, normally. But in this case I have not done it, And, therefore, I would not object even to the Government replying to my queries

whether it was done in a fair manner, whether he was given an opportunity to explain or not, if not what the Government proposes to do in this regard in the future. Has it got any plans for the future?

Sir, my concern is that this Government when it came into office gave an impression that in the past many things may have happened wrong; hereafter they are going to see that there is no understanding of institutions as such, they are going to see that by and large things go on by a measure of consensus.

In fact, I was happy on the other day, when discussing Meghalaya, the Government told us, "You should be able to appreciate that we cannot direct the Governor; we have taken note of all the feelings that you have expressed, but we cannot direct the Governor".

We said that this has been happening in the past, and they have been directing. It was said that it may have been on an occasion. It was said that "it may have been happening in the past, we do not propose to direct the Governor. Let him take a decision".

It was a good thing.

But in this particular case the Governor has done something constitutional. It has been supervised by Article 356 and four days later he has been dismissed. It is certainly a matter which calls for an explanation and the Government is duty bound to explain why it has done it. Rules should article 352 which is about Proclamation of Emergency to Article 360 which is about Proclamation of a Financial Emergency. these are nine provisions under this Chapter. The most draconian of these provisions is Article 352 about proclamation of Emergency. We have had to go through that traumatic experience of 1975 and 1977. We cannot forget it. not bar this substantial explanation.

I would like to make a few suggestions before I close. Article 356 is one of the provisions of Part VIII relating to Emergency

Provisions. From Article 352 which is about Proclamation of a Financial Emergency, these are nine provisions under this Chapter. The most draconian of these provisions is Article 352 about Proclamation of Emergency. We have had to go through that traumatic experience of 1975 and 1977. We cannot forget it.

SHRI SAIFUDDIN CHOUDHURY (Katwas): They have not gone through it.

SHRI LAL K. ADVANI: No. But I give credit to them also that after 1977 when a new Parliament was convened, in which the Congress Party was the principal party and these bear facts of the Emergency were brought out very forcefully, formally they have stated that the Emergency was justified. But actually everyone in the country realised that the Emergency was not justified. And therefore when we put forth the proposal before the Government at that time that Article 352 should not be lightly used, one proposal, was that Article 352 should be scrapped altogether; there should be no right to the Central Government to impose an Emergency of this kind in which the democratic process was totally eclipsed. But it was said that a situation can arise, they have arisen in the past., there has been a war, there have been other situations and therefore we made certain changes. Instead of internal disturbances, we brought in the concept of armed rebellion, etc. But the most important is that to Article 352 an amendment was made providing that Parliament's approval for the Proclamation of Emergency will not be a simple majority. It would be by a special majority, the kind of special majority which is needed when you amend the Constitution under Article, 368, that kind of a special majority would be required, even in the case of Article 352. I am very happy to say that the decision taken in respect of the Forty-fourth Amendment in this regard was unanimous.

The Congress Party also supported the proposal.

There are friends of mine on this side from prominent Parties, which have been

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campaigning for scrapping of Article 356 and that Article 356 should be repealed altogether, as that time there was a tendency to call for repealing of Article 352. But my Party has not been of that view. My Party has been of the view that Article 352 or Article 356 were conceived by the Constitution makers for certain extreme situations and those extreme situations cannot be ruled out. Taking into account that Article 356 has been repeatedly abused in this manner, I would plead with the House that even if the Government today insists upon passing this Nagaland decision as it is, let it consider this proposal. Just as we had inserted an amendment under Article 352, let us include a similar amendment under Article 356 also providing for a special majority in case of approval on all cases of President's Rule. This would be a very important check, which you yourself would have in your hand. Today you cannot impose proclamation of emergency like this. Neither you nor nay Government if it comes from this side can do that. There is check. These in-built checks would be very healthy, very good. Please consider this. This is my first suggestion.

My second suggestion is the at one of the reasons why we are having problems in the North Eastern Assemblies is the problem of defection. I recall very well that before this Session began, there was a series of meetings convened by the Speaker, in which Party leaders were invited. And in that the Government assured us that they will review the Anti-Defection Law in the context of the experiences of the past and they would bring forth an amendment very soon. That amendment is yet to come, I do not know when it would come, whether it would come or not. And if it does come, whether it would be passed in this Session or not. I expect the Home Minister to reply on this point also.

The third point which has a relevance to the North East is that the States there are very small; their Assemblies are small. Some of them have a membership of only sixty. And in a House of 60 Members, you have a

party or a combination of Parties adding up to 32 or 33 forming the Government and when out of these, 33 Members, 25 or 26 Members become Ministers then the remaining 7 or 8 Members are the biggest establishing factor in that situation. This becomes prominent in that part of the country. But it has a relevance even to the rest of the country. It is time for the Government to consider having a ceiling on the strength of Ministry in the whole country by a constitutional amendment. And that ceiling should apply not only to the so called Members of the Council of Ministers but even to the MPs and MLAs who are sought to be given Chairmanship and Presidentship of certain Committees or Corporations and given ministerial status along with those posts. It is time now that we think in terms of remedies of this kind also.

I have already referred to the need to provide a mechanism to ensure the tenure of Governor. And in that light, what the Sarkaria Commission recommended is worthy of consideration and adoption.

The last point that I would like to make is that in the context of the present Resolution, it would be a red-letter day in the history of Parliament if today after this debate is over, either the Government on its own realises the folly of what it has done and withdraws this Resolution it has moved or this House decides to reject this Resolution and force the Government to revoke President's rule in Nagaland, restore the earlier Government and allow it to continue as a care-taker Government until fresh elections are held.

16.00 hrs.

SHRI SHARAD DIGHE (Bombay North Central): Mr. Deputy Speaker, Sir, I rise to support the Statutory Resolution moved by the Home Minister. I have heard with rapt attention the points raised by the Opposition Leader opposing this action of the Government of Proclamation of this President's Rule.

Now, mainly four points were put by Shri Advani to oppose this Statutory

Resolution. First was that it is constitutionally indefensible. Second was that it is out of a rageous assault on the Governor's institution. Thirdly, he wants us also to consider this action in the light of the subsequent dismissal of the Governor by the President. And Finally, the political question he wants us to consider as far as the small North-Eastern states are concerned which are being alienated by such action.

Now, as far as Constitutional provisions are concerned, I feel that there is no difficulty at all as far as the Proclamation by the President under Article 356 is concerned. Article 356 has been used several times, has been interpreted by the courts including the Supreme Court on several occasions. It has been well-established that either on the report of a Governor or otherwise, if the President is of the opinion that the Government cannot be carried in according to the provisions of the Constitution, then he has the right to issue this Proclamation under Article 356. And the word 'Otherwise' has also been interpreted in several judgements of the Supreme Court meaning that it is the subjective satisfaction of the President. The well-known case which is very-well known to the Opposition is the case in 1977 to 1978 when the then Home Minister, Shri Charan Singh practically directed the Chief Ministers of nine States to give advise to the Governor to dissolve the assemblies. Why? Because they were congress Governments and according to the then Home Minister Congress, had lost a mandate of the people because they had very miserably lost in the Lok Sabha elections. In certain States no Seat; in certain States one or two seats were won by the Congress Party. So, on this very wide political reason only that the Government has lost the mandate of the people. Therefore, you Chief Minister, I direct you to give advise to the Governor and dissolve the Assembly. Those cases went to the Supreme Court under Article 131 and Supreme Court held that this comes under this otherwise provision and President can dissolve all those Assemblies and the President ultimately dissolved all those Assemblies. So, this word 'otherwise' is so wise, it is only

subjective to the President himself, he can assess the situation from the information which is withheld from the Governor or otherwise and come to the conclusion that this Government cannot go on according to the provisions of the Constitution.

Therefore, I feel that in this case also there was no difficulty at all. There is Constitutional right and provision available to the President to have this Proclamation. And the situation was supported party by the report of the Governor himself. The report of the Governor himself says that there is pressure for plum-posts. The Governor has himself said that the situation was fluid and the Governor has himself said that the law and order was neglected. Therefore, the report of the Governor himself meant that the situation was such that the Government could not be carried in according to the Constitution. The only thing is that the Governor came to a different conclusion. The Governor came to a conclusion that he should accept the advice of the Chief Minister who, according to him, was still having the majority and, therefore, he was bound to accept the advice and dissolve the Assembly. There also the fact suggests that that was not the correct thing.

The Governor's whole inference was based upon three things. He said: the session of the Assembly was just now over, the thanks-giving resolution has been passed, the Demands have been passed, therefore he presumed that Government had majority. Secondly, he says that because the nominee of the Chief Minister was elected to the Rajya Sabha. Now first submit that election to Rajya Sabha is not at all an evidence of the majority of the Chief Minister or the Prime Minister in any House. It is not a part of the proceedings of the House. Therefore, you cannot say that on the floor it has been decided that is majority behind the Chief Minister. Therefore there, that was an extraneous point that was considered by the Governor as far as the Rajya Sabha election was concerned.

As far as the thanks-giving resolution and the Demands were concerned, I Submit

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that he himself has stated that the situation was fluid. Every minute it was changing. My information is, and the Home Minister will bear with me, that this advice of dissolution was given without the Cabinet's decision. It was his personal advice and no Cabinet meeting was held to tender that advice. Had he summoned the Cabinet to consider giving this advice, there would have been vertical split in the whole party and at that very moment, he would have been reduced to a minority government. That is proved by the subsequent events and immediately on the next day you will find that he had to sack four Ministers. On 28th March, he has sacked Shri C. Chongsen, Shri, K.V. Keditsu, Shri Tiameren and Shri Khekiho Sema. What does it show? He tenders his advice as the advice of the Council of Ministers which was wrong because it was not given by the Council of Ministers; it was his personal advice. That was absolutely proved next day and he had to sack his four Ministers. What does it show? It shows that he had no backing of his Ministers at all and on 1st April, immediately he had to sack further three Ministers. They were Shri Buckchem Phom, Shri, N.T. Nakhro and Shri Yamakam. Thirteen MLAs from the ruling party had withdrawn support to the Ministry. So, these subsequent events which took place within a day or two, show that the advice which he tendered to the Governor was his personal advice, was not the advice of the Government, was not the advice tendered by the Council of Ministers. Therefore, I submit that the Governor ought not to have acted upon it and he should not have accepted that advice. My information is that when the Governor was on his way to Calcutta, a message went to him at Dimapur and he came back immediately and then I am told that within 20 minutes he passed that order of dissolution without applying his mind. I do not want to blame the Governor. He had every right to act according to his own conscience. But all this shows that the situation was such that there could not be a care-taker government or there could not be any machinery if government which would go on according to the Constitution. I,

therefore submit that even if we cannot of behind the present's satisfaction, the facts also show that they were sufficient to satisfy the President that the proclamation ought to have been issued under article 356 of the Constitution. It is, therefore, fully justified that the constitutional proclamation has been issued.

A constitutional point is being raised and would be raised also - that there is a conflict between Articles 174 and 356 of the Constitution. When dissolution already took place under Article 174, can the President issue the proclamation under Article 356? I submit that there is no contradiction at all. The Governor derives his power from the President and from the Constitution. The Supreme Court judgment, which my learned friend has cited, shows that the Governor is not the servant of the President. Yes, how is not the servant of the president. The President has the higher constitutional authorities., The Governor derives all his powers from the President. He derives his appointment from the Constitution.

SHRI LAL K. ADVANI: Mr. Speaker, Sir, I would request the hon. Member Shri Sharad Dighe to kindly enlighten this House as to how there was a breakdown of constitutional machinery. That is the issue.

SHRI SHARAD DIGHE: There is what I was saying and I will again repeat. The Constitutional machinery has failed because the chief Minister had lost the majority, he lost the support of the persons who were earlier supporting him. According to the Governor's report itself, the situation was absolutely fluid and pressures were being brought for all plum posts. Such a government could not have lasted for one day. If he had continued for one day more, the government would have come down and would have been reduced to a minority government.

SHRI BAS DEB ACHARIA: The Motion of Thanks was passed. The Vote on accounts was also passed. how can you say that the government did not enjoy the majority.?

SHRI SHARAD DIGHE: That is what I have explained already. I will repeat, if you want. The Motion of Thanks and the Vote on Accounts were passed few days ago. The situation was changing every minute and every hour. What does the further fact that the Chief Minister had to sack his own ministers show? It was a fact that he has to sack his own ministers. (*Interruptions*)

SHRI BASU DEB ACHARIA: You refer to the Sarkaria Commission. (*Interruptions*)

SHRI SYED SHAHABUDDIN (Kishanganj): Sir, which Constitution he is referring to? (*Interruptions*)

SHRI SHARAD DIGHE: That shows that the government has already been reduced to a minority.

You have been referring to the Sarkaria Commission so many times. I have got great respect for the Sarkaria Commission. It has had very good suggestions. But the political and constitutional provision is that the Sarkaria Commission is a Commission. Its report has neither been accepted by this House nor by the Government, I will point out at least half-dozen recommendations which you will not accept.

I am told that the Sarkaria Commission's report is being considered by the sub-committee of the Government and then the recommendations will be made effective. So, merely because it suits you, cannot cite the Sarkaria Commission. They are good recommendations, we will discuss we will accept and then they will come into force. But there is no particular recommendation which you have pointed to the effect that whenever the Governor has dissolved the Assembly, the President should not issue proclamation. That is not there in the Sarkaria Commission Report at all. Therefore, what I submit is that constitutionally there is no contradiction, the President has full powers to exercise his powers under Article 356, even though powers have already been exercised by the Governor under Article 174 of the Constitution because the Governor derives the whole power from the President

and the President can override all the orders of the Governor as far as this Constitution is concerned. So, there is no constitutional difficulty at all.

You have said: 'Consider also the Governor's dismissal'. On this background I would submit that it will be very delicate to discuss that issue because then so many things which are not allowed by the rules will have to be discussed. Therefore, I would urge upon the Opposition also to confine themselves to the present Statutory Resolution. The Statutory Resolution is: "The House approves the proclamation issued". What has happened to the Governor, why has he not been dismissed — that subject is a very delicate subject and that subject should be kept aside. But the fact remains that so many allegations have been made against the Chief Secretary and the investigation has taken place and he was not suspended in spite of the directions given to that State Government. That fact also has to be considered as far as this is concerned.

Now, of course, about the political approach, the Opposition leader has rightly said that we have to consider. I agree that political implications have always to be considered while exercising rights under the Constitution, which are discretionary rights of the president or the Governor. But I submit with great humility: How do you presume that the Central Government cannot see the interest of the North West provinces and it is only the Opposition who can see it and when they act, they will be alienated and why do you say that this act itself is not in the interest of that State itself? That State, according to my information and according to several reports, is full of corruption. The Government cannot run there. Therefore, in fact this action will protect that State, this action is in the interest of the people of that State. Therefore, there is nothing to presume that because that Assembly has been dissolved and the caretaker Government has been dismissed, now the whole thing is against the people's interests. The Congress Party also as a political party, they have got also their

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representatives there and it considers that this action is in the interest of those States of the North-West and therefore, it need not be presumed that because the present's 'Rule is there that will immediately alienate the whole people, they will have a grudge against the Government. Perhaps all those people must have welcomed this action of the Central Government.

With these words, Sir, I support this statutory Resolution.

[Translation]

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, we are today engaged in a discussion which shows that the Congress party has been taking such decisions for the last ten months especially about the eastern regions which shows that neither has there been any changes in the last ten months in their way of thinking more there is any kind of a worry in their mind about the security of the entire country and about the question of running the administration in the country in accordance with the provisions of the Constitution and especially about the eastern region which is considered to be the most sensitive boundary of the country.

The proposal on which we are having a discussion today, which the Home Minister has just laid, I think the Constitution of India is being played with, though it has been played with on several occasions in the past but the recent action on the part of the Government shows that no regard is left for the constitution in the eyes of the ruling party.

Mr. Speaker, Sir, just now our friend hon. Sh. Sharad Digheji spoke a few words on the decision of the Governor, i.e., the dissolution of the Legislative Assembly and making the Government a care-taker Government with Vanaja at its head. It appears to me that they did not hear the speech made by the Home Minister. When hon. Lalji was speaking here, once the Home Minister—not once but several times,

intervened but once he said that as far as the decision of the Governor was concerned, under 174 he is not challenging it, rather he has accepted it, and last time when Shri Jacob had submitted and accepted here that the Governor is within his rights, and that he has not misused his office, but now when the Members of the ruling party have accepted it, their first spokesman stands up here and says that majority was not there nor any cabinet meeting was held. If I use the word 'Jhooth' (falsehood), you shall ask me to withdraw it, but if I use the word 'untrue' then all the anger in my mind shall not find expression. Since arguments and counter arguments are employed in the House and the Home Minister makes a submission, the Government makes a submission on its own after that the Government spokesman, stands up here and says it is wrong, he insults the entire House and put his own Government in the dock, which makes us feel pity and if I say.... (Interruptions)... feel I am ashamed, it's all right.

Mr. Speaker, Sir, from the 9th to the 26th of March, there is a sitting of the Assembly. At first the Assembly listens to the Address of the Governor, after which there is a discussion on the Governor's Address and then motion is passed with majority. If every second, every minute, every hour change takes place there—as our friend Digheji, who has gone out was saying that the situation changes moments by moment. I want to know when did this moment begin? If 13 Members or 15 members resign from the Government and are ready to topple the Government and since the Minister of External Affairs has gone there and was stating there, and when they had got a chance to topple the Government, who did they not do so?

SHRI RAM NAIK (Bombay North): That moment is yet to come.

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, it was followed by the election to the Rajya Sabha. During the elections, the external affairs Minister remained there for four days.... (Interruptions) The Minister of State in the Ministry of External

affairs (Interruptions) no, he had gone there perhaps because when there was dispute with Nagaland, when an agreement was reached, a condition was there in it that the problem of Nagaland will be looked into by the Ministry of External Affairs. But, they are possibly not aware and the Home Minister is possibly not aware of the fact that India has moved much ahead of that.

SHRI S.B. CHAVAN: Perhaps, they have done what they were doing.

SHRI GEORGE FERNANDES: What were we doing?

SHRI S.B. CHAVAN: You had also gone.

SHRIGEORGE FERNANDES: Where had I gone?

AN HON'BLE MEMBER: Nagaland.

SHRI GEORGE FERNANDES: I had not been to Nagaland His junior Minister had said so last time. I had said it with challenge and sought proof, first.... (Interruptions) I had not gone. I had gone, what was the result, I am ready for a discussion, but I am not ready to tolerate it. I had not gone there. But it is being repeated, if somebody abuses me outside the House, I can comprehend somewhat, but they have the courage to speak in the House that I had gone there..... (Interruptions) A Minister came to me and told me that the tape recorded version of my conversation with Governor is with him. Mr. Speaker, Sir, I challenge that, I did not have any conversation even with the Governor whether I was in the Government or out of it, and he says he is possessing the tape-recorded version.. (Interruptions)....., It means he admits the Governor's version is tape-recorded (Interruptions). They are telling me, I asked them to bring that. They should bring that version in the House and of they don't dare. they should bring it outside. Show it to thousands of people outside. Mr. Speaker, Sir, it is no politics as it ought to be. No responsible Government can talk like this. If they have the Governor's

tape-recorded conversation, they should not say so publicly. The President has full faith in the Governor, even on his removal and we have been tape-recording his dialogue. Then the Budget was presented. It was passed in the evening on 26th. If the circumstances-kept changing moment by moment even then, that moment has not arrived as yet? 15-20 people from Government side were ready to topple the Government. Mr. Speaker, Sir, so we must understand these facts. As far as the decision of the Governor depends on the decision of Vamuzo cabinet, these people are saying now that the Cabinet meeting was not held at all. I challenge the Home Minister today that the house of the Governor, Secretariat or Cabinet Secretariat is at his disposal and the facts can be collected from there through anybody. But they are making such wrong statements through their spokesman in this House that the Cabinet Meeting was not held. The Home Minister says about the Governor that under Article 174 his decision was correct. The Governor took the decision without scrutiny, whether Cabinet meeting was held or not, and if held, when was it held.

[English]

SHRI JASWANT SINGH: With your permission, if you yield, I would say this.

I would be grateful if the hon. the Home Minister correct us, should we be wrong on facts in this regard. I am informed that the State cabinet met on 126th March and decided to recommend for the dissolution of the House. It is Cabinet decision of the State Government and that the meeting took place on the 26th of March. This is factually an assertion that I am making here. If this be at variance from what information the Government of India has and if this be not correct, then it is incumbent on the Union Home Minister to place the correct facts before the House.

SHRI S.B. CHAVAN: Is it the contention of the hon. Member that on 26th, the meeting was held in which the decision to dissolve the House was taken and knowing this full well, even then the Governor who had a

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programme of going to Calcutta went to dimapur and was to go to Calcutta
(Interruptions)

SHRI JASWANT SINGH: May I repeat for the benefit of the Union Home Minister that what I have asserted is not the itinerary of the former Governor of Nagland? I have stated here that to my information, the Cabinet of Nagaland Government met on 26th and decided to recommend for the dissolution of the Assembly, whether the Cabinet's decision was known or not known to the Governor is not the pertinent matter and if the Union Home Minister chooses to go on a discussion of the itinerary if the Governor, then it is a different matter. Is this a fact of not is a simple assertion that I am a making. Of it be at variance from the fact, the Union Home Minister should inform us. And if he does not, this canard that the recommendation was made without the Cabinet's advice should now be put at rest?

SHRI S.B. CHAVAN: You better wait for my reply.

SHRI JASWANT SINGH: I cannot wait.
(Interruptions)

[Translation]

SHRI GEORGE FERNANDES: This is not the proper reply. So how can we discuss it? (Interruptions)

SHRI S.B. CHAVAN: I know what all you are going to say that 's why I need not give any reply. First you say, whatever you want to say.

SHRI GEORGE FERNANDES: Mr. Speaker, in this matter I as well as the whole House seek your protection. The Congress (I) party says time and again in and outside the House that it all was done without the Cabinet's approval. If that is true, its responsibility lives on the hon. Minister of Home Affairs and it is our right to know from him, because whatever Shri Dighe, has said just now, if that is correct then. I will not

pursue the matter further because we are not...

[English]

We are not a debating society.

MR. SPEAKER: Well, the hon. Home Minister says that he is going to reply. Supposing he makes a statement now and, supposing you say that it is not correct and, supposing we carry on the discussion only on that ground and if, supposing that the entire discussion on the proclamation is delayed, that will not be proper. So, you make your assertion and the reply will be given. Even after that, if you are not satisfied, you are will within the right to ask.

SHRI LAL K. ADVANI (Gandhi Nagar): This is a question of fact. I have an official document with me which I have quoted and even after that, repeatedly from the ruling party side, Members have been intervening. Naturally, Mr. Fernandes and myself, we would like to know what is the Government's stand in this regard.

MR. SPEAKER: All right.

SHRI LAL K. ADVANI: If once we are told that the recommendation was made by the Chief Minister without consultation with the Cabinet that would be one position. Our stand would be somewhat different. Even then I would not say it has no validity. As I pointed out, the proclamation of emergency is much more important. It is a pity that it is done without reference to the Cabinet because it depends upon the Cabinet's rules of functioning. By itself, it does not become illegal. But in this particular case if the fact is known to us, perhaps our response would be different and, therefore, it will be better if the Government enlightens us on this point. (Interruptions)

SHRI A. CHARLES (Trivandrum): When a Member quotes from a document, is it not the responsibility and the duty of the Member quoting from the documents, to authenticate and place them on the Table of the House? (Interruptions)

MR. SPEAKER: SHRI A. Charles; please take your seat now (*Interruptions*).

SHRI RAM KAPSE (Thane): Sir, the Home Minister's Silence is equipment.

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, we would like to submit that this decision was taken by the Cabinet and then the Chief Minister met the Governor at 10.00 A.M. on 27th and communicated to him the decision of the Cabinet on the very same day. After that the Governor took the decision and communicated it first of all to the President of India through the telegram-

[*English*]

" I have dissolved the Nagaland Legislative Assembly on the advice of the Chief Minister under Article 174 of the constitution. Chief Minister allowed to continue in care-taker capacity until fresh elections. Detailed message follows."

[*Translations*]

I am reading out from the document laid down by the Government on the Table of the House last time in reply to a question. After that he sent a detailed telegram and wireless message on 27th March wherein it was stated by him:-

[*English*]

"My dear respected President,

This is in continuation of the telephonic as well as earlier wireless message of even number of today regarding dissolution of the Nagaland Legislative Assembly".

[*Translation*]

I want read the full text as it is available with everyone. But they further say.

[*English*]

" The Budget Session of the Nagaland

Legislative Assembly which was in Session with effect from 16th March came to an end yesterday, the 26th March after passing the Motion of Thanks on the Governor's Address and the demands for grants for the coming year. The majority of the present Chief Minister was proved on the Floor of the Assembly.

[*Translation*]

The people elected say after that

[*English*]

"The Chief Minister has favored a fresh mandate from the people because of various pressures to which he has been subjected to. He feels the purposeful administration cannot be carried on with Ministers' and MLAs pressurising for more and more plum-posts"

[*Translation*]

A telegramme was sent to the President, and then the same was sent to the Chief Minister also the 27th It states:

[*English*]

" I have received your letter advising to dissolve the Nagaland Legislative Assembly. I have accepted your advice since you have proved your majority in the Assembly yesterday. Accordingly, I am dissolving the Assembly with immediate effect. You are requested to continue as care-taker Government until further orders"

[*Translation*]

I would therefore, like to place it here before you that if the argument advanced by you just now is conceded, it is a blunder on the part of the Governor. Because the Assembly had already been dissolved on the 27th and the care taker government had been formed. On April 2, article 356 of the Constitution is enforced. Advice to invoke

[Sh. George Fernandes]

the provision of the article was given after due consideration by the Government and the Home Minister. In the light of these facts is it correct whether the hon. Minister of Home Affairs had suggested to the Hon. President that the decision given by the Governor under article 174 was unconstitutional; because he took decision ignoring the majority and secondly the Chief Minister placed the decision before the Governor without convening the meeting of the state cabinet. Thirdly, the Governor, without examining all these things, dissolved the Assembly. Therefore, immediate action should be taken against the Governor. Has the Government submitted any such proposal to the Hon. President?

[English]

SHRI S.B. CHAVAN: I would like to inform the House that I was searching for the Report from the Advisor and now this is in my hands. I have also verified it.

SHRI BASU DEB ACHARIA: From which Advisor?

SHRI S.B. CHAVAN: Just a minute. We have also tried to find out as to whether any notice of the Cabinet Meeting was also given to all the Ministers. first Report is:

"As of now, the Report is: we have no record or minutes of any Cabinet Meeting recommending President's Rule"

There is also the statement the ex-Cabinet Minister Shri Chonghsen. This is statement which I have with me. But since I have not placed it on the Table of the House, I would not like to read it. There is a deputy Leader of their party who has publicity said that the Cabinet Meeting was not held.

(Interruptions)

SHRI BASU DEB ACHARIA: He was purchased by you. (Interruptions)

MR. SPEAKER: Mr. Fernandes, you please continue.

(Interruptions)

[Translation]

SHRI S.B. CHAVAN: George Sahib, please control your anger while expressing your views so that we may understand why you are so furious.

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, I would only say to the hon. Minister of Home Affairs that there is a limit of everything. I did not suggest it to him. I said that there is a limit. You have started discussion over the statement of a person, who with great difficulty managed to break the party and got nothing. I am tell you just now about the person whom he has referred to and whose statement he has placed.

MR. SPEAKER: No, no.

(Interruptions)

MR. SPEAKER: You are not allowed to speak against a person who is not present here.

SHRI GEORGE FERNANDES: He has mentioned his name. (Interruptions)

[English]

MR. SPEAKER: This is not going on record.

[Translation]

SHRI GEORGE FERNANDES: That is why I have said that have said that he has raised a matter related to a person whose name can not be mentioned here, such thing is raised here which can not be recorded. (Interruptions)

[English]

SHRI LAL K. ADVANI (Gandhi Nagar): Such is the person's testimony. The Home

Proclamation in relation
Minister wants to tell the House something
he has said... (Interruptions)

MR. SPEAKER: There are two points.
He said: Advisor has said something. And
this is the second.

(Interruptions)

SHRI S.B. CHAVAN: If you want the
name of the Advisor, I am prepared to give
the name of the Advisor. (Interruptions)

SHRI JASWANT SINGH: I bow with
deference to your observations that the
Union Home Minister has quoted something
that the Advisor has said. My point is, even
if you were to examine what he has said
about Advisor having said, all that the Advisor
is saying is that he is not in possession of
any minutes of such a Cabinet meeting. He
is not disputing

MR. SPEAKER: He said, "he has not
found".

(Interruptions)

SHRI JASWANT SINGH: The minutes
are not available. Even the Advisor is not
disputing that such a Cabinet meeting ...

MR. SPEAKER: This is exactly why,
the Home Minister is not there, he has to
depend on the report given to him. So he is
very careful in making the statement.

(Interruptions)

SHRI JASWANT SINGH: I am, of
course, also not there just like the Home
Minister.

MR. SPEAKER: That is why, you made
a statement and he replied to it.

SHRI JASWANT SINGH: But I remain
unsatisfied.

MR. SPEAKER: That is perfectly all
right Let the discussion continue.

(Interruptions)

(Translations)

SHRI GEORGE FERNANDES: the
hon. Minister of Home Affairs is giving the
example as to what extent the limits are
being violated. I have got with me written
requests of three Ministers. He following
was written on 30th March.

(English)

They are Dr. K.Kath, Minister
(Transport), Shri Khukivi, Minister of State
(Art. and Culture) and Shri K.Kiko, Minister
of State (Geology and Mining). They have
said:

"In a letter dated 30.3.92 addressed
to the President NPC, Mr. Chongshen
has stated that we have withdrawn
our support from the Vamuzo's
Ministry and formed a separate party
called NPC (Progressive) and the
said letter was signed by him as
Deputy Leader on NPC
(Progressive). We have never
withdrawn our support from the
leadership of Mr. Vamuzo and we
never attended any meeting in taking
the decision either for withdrawing
the support from the Vaduzu's
Ministry or forming a separate party
and that our signature in the Press
Releases issued by Mr. Chongshen
and others are forged by some
politician with vested interests."

(Interruptions)

(Interruptions)

SHRI SAIFUDDIN CHOUDHURY: Sir,
are they a party to it.

MR. SPEAKER: Beg a pardon.

SHRI SAIFUDDIN CHOUDHURY: Sir,
is the State Minister of Home a party to it?

MOHAN DEV: If there signatures are
forged, why they had not been dismissed by
the Chief Minister?

SHRI SAIF YDDIN CHOUDHURY: I am only asking whether he is also a party.

[Translation]

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, I would like to make one clarification. The Governor has taken a decision. Since the Home Ministry does every work in the name of the President, there would be nothing more derogatory to the Constitution than questioning the decision taken by the Governor particularly in regard to the action taken during the period 27th March to 2 April. I don't refer to decision taken by the Governor under Rule 174 here. Under Rule 356 President's order was issued. At the time of starting discussion Shri Rabi Ray and other Members referred to the matter related to Manipur as to how the Chief Minister and the Government gave an assurance to prove their majority in the House within ten days and have taken over the power. Then the Governor proposed to convene the Assembly. A few hours before, the meeting of the Assembly was got postponed at the order of the hon. Minister of Home Affairs.

SHRI S.B. CHAVAN: This is wrong.

SHRI GEORGE FERNANDES: It means that you do not do even your own work.....(Interruptions)

SHRI S.B. CHAVAN: It shows to what extent you are not speaking the truth, this is an example of it....(Interruptions)

SHRI GEORGE FERNANDES: Your submission is that you did not favour what happened in Manipur. Then you should immediately rectify the error. I made this submission because the Governor takes action on the advice of the Central Government in these matters and when the Governor of Nagaland did not enquire from you, a dispute is created there by you. But the Governor of Manipur took the action on your advice and dissolved the Assembly. Just now when this matter was raised in the House, you stated that there were such

circumstances prevailing there in which it was very risky to convene the Assembly there....(Interruptions)

SHRI S.B. CHAVAN: I did not say like that. It was the Governor who has stated this; you should have faith in him.(Interruptions)

SHRI GEORGE FERNANDES: You are supporting him in the House on that issue.(Interruptions)

SHRI S.B. CHAVAN: The Governor will have to be supported.....(Interruption)

SHRI GEORGE FERNANDES: Then the whole responsibility is yours. You believe that incident....(Interruptions)

Mr. Speaker, Sir, he has said that the Governor will have to be supported. On one side he supports the one Governor, but on the other side he does not support the next Governor and after wards, the Governor is removed. Will the Hon. Minister of Home Affairs state whether he is in favour of changing the Governors frequently.(Interruptions) Just now it was stated that it was very difficult to convene a meeting of the Assembly in Manipur. But there was no reference to convene the Assembly in Nagaland. The meeting of the Assembly was concluded on 26th. There was a conspiracy to topple the Vamujio Government and to instal the Congress Government there....(Interruptions) There was no problem in calling the Assembly there. The Government of Manipur, which was in majority, had proposed to dissolve the Assembly. Except the Congress, all the other political parties have demanded convening of the Assembly. The entire process, through which North-eastern States express their difficulties was working there and the Home Minister, while supporting a request from the Governor, says in this House that the situation is not favorable for calling Assembly to meet there. About Nagaland, he says that there has been neglect of law and order and the situation is very fluid. What proof do you have?

SHRI S.B. CHAVAN: The report of the Governor.

[English]

SHRI GEORGE FERNANDES: Where is it?

SHRI S.B. CHAVAN: It is on the Table of the House. Try to go through it. I have tabled the report on your demand. Kindly go through it.

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, I want that the hon. Home Ministers should read this report. We will read it hundred times. Besides these reports, you have two more reports. They should also be laid on the Table of the House. Four reports were sent from there, out of which two have been tabled and the other two have not been laid on the Table of the House. They should also be tabled here. It is written here that there are four reports.

[English]

MR. SPEAKER: Reports are not generally laid on the Table of the House.

[Translation]

SHRI GEORGE FERNANDES: I am speaking very cautiously.

MR. SPEAKER: I have no objection to your speaking.

SHRI GEORGE FERNANDES: I have written a letter to you in the morning seeking permission to table these documents. You said that according to rule a copy should be submitted prior to laying it on the Table of the House. But I had not done so.

MR. SPEAKER: I have no objection. Please speak.

SHRI GEORGE FERNANDES: Therefore, we would like to know as to how law and order was neglected and the situation became fluid. I am reading it, but the time I will take in reading these extracts from the reports should be adjusted against the time allotted to the Home Minister.

"My dear Respected President,

This is in continuation of the telephonic as well as earlier wireless message of even number of today regarding dissolution of Nagaland Legislative Assembly."

In this the law and order has not been neglected.

"Present Assembly which had completed three years and two months has been dissolved on the recommendation of the Chief Minister. The Budget session of the Nagaland Legislative Assembly which was in session with effect from 16th March came to an end yesterday the 26th March, 1992 after passing the Motion of Thanks on Governor's Address and Demand for Grant for the coming year. The majority of the present Chief Minister was proved on the floor of the Assembly. The ruling NPC Party also got its candidate elected to the Rajya Sabha.

Resort to courts has been frequent during the life period of the present Assembly. Courts yet to resolve 15 disqualified MLAs. As a result 15 constituencies have remained unrepresented for more than 15 months. Further 10 MLAs are involved in yet another case in Guwahati High Court."

Till now there is no mention of the law and order disturbance.

"The Chief Minister has favoured a fresh mandate from the people because various pressures to which he has been subjected to."

In this also there is no mention of law and order problem.

"He feels that purposeful administration cannot be carried on

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with ministers and MLAs pressuring more and more plum posts. It may also be recalled that as early as December 1990 I had pointed out that in a 60 Member House, 40 MLAs had changed party affiliations sometime or other and that as many as 59, *repeat*, fifty-nine members of the present Assembly had already enjoyed ministerial berths."

Is there any mention of law and order disturbance?

" After being made minister, it has always been the tendency for those ministers with less important portfolios. In the process law and order has been neglected."

SHRI S.B. CHAVAN: Now you understand. I understand correctly as in it.

SHRI M.M. JACOB: Ministers were pressurising for plum posts. In the process law and order has been neglected.

[Translation]

SHRI GEORGE FERNANDES: There was no mention of law and order problem or calling Assembly or not calling it. The Government was functioning in Nagaland. There was no mention of any problem till the morning of that day. What argument do you want to put forward in this regard?

[English]

Article the 356 does not talk about neglect of law and order. Article 356 speaks about Constitutional break down. Where is the Constitutional break down Mr. Home Minister?

[Translation]

By drawing upon this one sentence of the Governor—— the sentence which you should have taken in the context of the

entire message sent to the President, you are saying that Article 356 will be invoked, You should have stopped at Article 174...

SHRI S.B. CHAVAN: According to you Article 174 cannot be applied in this regard.

SHRI GEORGE FERNANDES: Why?

SHRI S.B. CHAVAN: Because the issue was of law and order.

SHRI GEORGE FERNANDES: Is it your opinion or are you referring to my opinion?

SHRI S.B. CHAVAN: I am referring to your opinion——

SHRI PAWANKUMAR BANSAL: What is your opinion regarding Article 174?

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, I would like to tell the Home Minister that no more injustice can be done with the Constitution than invoking article 356 on the basis of a brief message of the Governor. Mr. Speaker, Sir, when this issue was raised here last time, Shri Jacob had said several things in this regard and I am quoting his sentence, so that the question of Privilege on this....

MR. SPEAKER: My work load is increasing very much——

SHRI GEORGE FERNANDES: You have to take it up.

[English]

It is at page 16791 of Part-II Proceedings other than Questions and Answers, of April 3, 1992. I am now quoting the Minister of State for Home Affairs.

"In the Governor's report, the first opening thing he says is: 'I am compelled to dissolve the State Legislature because there is no stability among the Members'.

Where is that?

SHRI M.M. JACOB: I have repeatedly said on the floor of the House that I am not quoting the Governor's report; I am only saying the gist of it (*Interruptions*)

SHRI GEORGE FERNANDES: It is within quotes. He further says:

"That is one reason. The other reason he gives is that the law and order situation is in jeopardy."

Where is it? Where does he say that the law and order situation is in jeopardy in the statement of the Governor that you have quoted here? He further says, Mr. Speaker, Sir,

"Knowing fully well the scenario, the Governor says that he is not happy with the law and order situation."

Where is it?

[*Translation*]

When Shri Lal K. Advani interrupted here and you also intervened, then he says:

[*English*]

"I have not quoted from the report; I am just telling the gist"

[*Translation*]

If this is the gist, where is the report? I am repeating this sentence once again:

He further says:

"The constitutional break down, which is the requirement under Article 356, was very much visible there. That is why Article 356 comes in. It is because the constitutional break down is there. That is what I have said. The Governor informed us that there is no stability in the Government. Instability is there."

[*Translation*]

Where are all these things? You said all

these things in this House.

[*English*]

"The first point I mentioned is regarding instability being there. It has been accepted and reported by the Governor".

[*Translation*]

Where are all these things mentioned by you?

[*English*]

SHRIM M JACOB: What is the meaning of fluid situation? I do not understand you. What is fluid situation.?

SHRI GEORGE FERNANDES: I do not know. You should tell us.

[*Translation*]

These statements have been made by you.

[*English*]

Why are you asking me to interpret what you have said? (*Interruptions*)

17.00 hrs.

[*Translation*]

Mr. Speaker, Sir, I would not like to discuss constitutional matters here, because we had a detailed discussion on these issues on April 3, but out of sheer hunger for power, The Centre misused the emergency provisions of the Constitution and imposed Article 356, to dilute the decision of the State Governor to allow Shri Vamuzo to continue as Caretaker Chief Minister. Sir, now let me come to the last point and that is that of the Governor's dismissal. You have said something in this regard here, earlier.....

MR. SPEAKER: I have to say only one thing. A decision will be taken as per the wishes of all the Members. Today, actually

we are discussing the Proclamation issued in regard to Nagaland. If you want to discuss the Governor's dismissal along with it, it won't be out of context, rather it would be relevant, but you shouldn't raise any objections, if the Members on this side react to your points.

SHRI GEORGE FERNANDES: Therefore, I believe that we cannot have objections to the false propoganda being carried out against the Governor outside the House. The term in English language for this is 'Disinformation'.

MR. SPEAKER: As the Governor is not present in the House, it won't be proper to say anything against him, and if at all one has to say something, one should restrict himself to only relevant and necessary points. However, if something is said in his support, then the Members on the other side have got the right to explain.

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, my objection is to the Home Minister rising the matter here. He said that he would not like to discuss the dismissal of the Governor inside the House. Does it mean that one can discuss it outside?

MR. SPEAKER: If you raise some issue here, he will respond to it.

SHRI GEORGE FERNANDES: Like it was said that he was supporting the missionaries, it was also said about him that.....(Interruptions)

SHRI S.B. CHAVAN: Please respond to whatever is being said in the House. We are not responsible for whatever is being said outside. The responsibility for that lies on the shoulders of those who have said it.

MR. SPEAKER: Please listen, if someone repeats the Home Minister's statement outside the House, how can you hold the Home Minister responsible for it? You can question him on the statement he has made in the House. The maximum you can ask is regarding his statement. If you ask questions about others, it won't do.

SHRI JASWANT SINGH: It would be better if the Home Minister speaks less, otherwise it would only create problems.

SHRI GEORGE FERNANDES: The Governor himself in his statement has refuted the charges being levelled against him and he is right on his accord, but has't the Home Minister got any responsibility to respond to the Governor's statement? If a propaganda is being carried out against the Governor that he had established links with underground Naga rebels and was aiding and abetting them, that he was supporting Christian Missionaries, then isn't it the responsibility of the Home Minister to react to these allegations:

[English]

SHRI SHARAD DIGHE: He is saying indirectly what he cannot say directly.

[Translation]

SHRI GEORGE FERNANDES: So, the Home Minister chose to maintain silence over it. If the Home Minister doesn't want us to take up such matters for discussion, then he should at least refute the charges. still we feel it necessary to mention here that when the Governor was sacked, it was said that despite Presidential orders, the Governor refused to remove the Chief Secretary and after that, the Government was left with no option, but to remove him. I hope that the Home Minister won't object to our saying that this way the reason for the Governor's dismissal.

Even a few editorials appeared to the effect that the Governor tried to shield some corrupt officials and under the circumstances, the President was left with no alternative but to sack him. I have with me a letter written by the Nagaland Chief Minister to a Union Minister.

"During my last visit to Delhi, I have brought to your kind notice the case of Shri Ahluwalia an IAS officer of Nagaland cadre. As per our discussion, you were to inform me

overt telephone about the case; but so far no information to this effect has been received. I am, therefore, writing this letter to enquire about the same.

The CBI had registered a case against him in March, 1987. Nearly 27 months have elapsed but so far, no charge-sheet could be framed against him. Normally, in a case of this nature, even relatives are harassed as there has been an attempt to tag the properties of his relatives with his name. According to records, the facts of the case are as follows."

[Translation]

There are three things mentioned here— one pertaining to house, second pertaining to land and third regarding a truck belonging to his relative.

[English]

"On the face of the facts stated above, I do not find any strong reasons to continue the case against the officer. May I, therefore, request you to personally look into this case and do the needful?"

[Translation]

This letter was written by the Nagaland Chief Minister to the Minister in-charge of Personnel, Public Grievances etc., This letter dated June 17, 1989 was sent to Shri Chidambaram, the then Minister of State for the Department of Personnel, Public Grievances and pensions by Shri S.C. Jamir, the then State Chief Minister.

Similarly in another official order issued by the Nagaland Government on November 23, it was mentioned that.

[English]

"The Government of Nagaland hereby withdraws the consent sanction (if any) given to the members of the Delhi Special Police Establishment under section in regard to a matter against Shri S.S. Ahuwallia, IAS Financial Commissioner (previously Commissioner and Secretary, Labour and Employment), Government of Nagaland, Kohima with immediate effect. By order and in the name of the Governor of Nagaland, Under Secretary to the Government of Nagaland."

This letter was dated the 23rd November, 1989.

[Translation]

This was issued on November 23, 1989, when Shri Jamir was still the Chief Minister. Here, I will also read out a letter dated January 22. This is not an official letter, so there should be no objection to it, but in this letter, there is a reference to a very responsible person. I will mention his name later on. It was written to the Prime Minister.

[English]

"Dear Prime Minister, this is further to my D.O. letter of even number dated 4th December 1986 regarding Shri S.S. Ahluwallia, as IAS officer of Nagaland cadre."

[Translation]

MR. SPEAKER: look, Mr. Jamir is not present in the House and you are quoting his letter. There are many others present in the House, who might object to it.

[English]

SHRI GEORGE FERNANDES: I will authenticate and lay it on the Table with your permission, Sir.

*As the speaker subsequently did not accord the necessary permission, the paper/document was not treated as laid on the Table.

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"I have personally gone into the case. There is no basis for the accusations and these accusations are not true at all."

SHRI S.B. CHAVAN: Is he prepared to take the responsibility that the officer against whom the suspension orders were issued was, in fact, given a clean chit by everybody and there is no corruption involved? (*Interruptions*)

[*Translation*]

SHRI GEORGE FERNANDES: Mr. Speaker, Sir, I am drawing your attention towards the letter written by then Chief Minister Shri S.C. Jamir and also towards the order of the Nagaland Governor issued under the order of the State Governor in November, 1989, when Shri Jamir was still the Chief Minister. The letter which I am going to read out now is dated January 22, 1992, i.e. about three months back, exactly three months back.

[*English*]

"The case is pending for the past five years and nothing has been proved against the officer. It is unnecessary harassment to the officer who is performing his duties with devotion and in the best interest of the nation in this border and sensitive State. I shall therefore request you to close the case No. RC -1/87 against the officer and treat my letter of even number dated 4th December 1986 as withdrawn. I may add here that my successor two Chief Ministers S/ Shri S.C. Jamir and Vamuzo have also written on the same lines earlier. In view of this, I request you to kindly give your personal attention to this matter and I shall be very grateful if you kindly close this case early."

This was signed by Shri Hokishe Sema, former Chief Minister of Nagaland and former Chief Minister of Nagaland leader of your party.

[*Translation*]

I will not reply to that point raised by the Home Minister. So far as the question of corruption is concerned, we are having a lot of discussion about it; but I am not going into that. I am specific only upto the matter that concerns the document and that has been made the basis for the dismissal of the Governor. You may talk about corruption, about North-East, and about the happenings in the world, but I am placed before you many documents like the letters of the Chief Ministers, signature of the Governor, the notification published in Nagaland gazette.

What did Dr. Thomas say? Dr. Thomas simply said what his advisor has said. I quote his words before you right now-

[*English*]

"On 7th April, the newly appointed Advisor to Governor called on me asked for my signature on a typed sheet of paper* brought by him from Delhi for suspending the Chief Secretary. I was also shown a photo-copy of the sanction for prosecution issued by the Department of personnel against the officer."

SHRI INDRAJIT GUPTA (Midnapore): Who is that advisor?

SHRI GEORGE FERNANDES: I do not know! He is a nameless person and as far as I am concerned, he is faceless too because here it is only stated, 'advisor'.

[*Translation*]

You are behaving like with the Governor. You have also said here about the

* As the Speaker subsequently did not accord the necessary permission, the papers documents were not treated as laid on the Table.

constitutional authority, that it is a question of showing respect to the constitutional authority. Are you giving him due respect by putting a paper before him and asking him to sign thereon? Leave aside the office of Governor and Constitutional authority, no person having a bit of self-respect will accept such a thing. The Governor has spoken the truth. He should be shown respect by this House, because he has declined to put his signature. He has made it clear that imposition of president rule under the article 356 does not mean that the constitutional process ends. It does not mean that you can dismiss any employee of the State by the dictate from Delhi; and if you have the right, why did you not dismiss him right from here? Insulting why did you try to obtain the signature of the Governor by insulting him, and much time has passed since the Governor was removed, but Ahluwalia still continues to be your principal Secretary.

Therefore, Mr. Speaker, Sir, I have participated in this discussion with a feeling of great anguish and I know what is the thinking of the Government side on matters like these that are brought before this House and how the Government side behaves only to serve its motives like defecting some members to its side of obtaining some votes of members. But today I would like to warn the Government about North-East that by informing, consulting and taking the Home Ministry into confidence the Chief Minister of the State, Shri Vamuzo has been promoting the underground groups there to come out and surrender their arms. You do not like this action of theirs now, you do not want that all those activities that are taking place in the North East, the insurgency in the State should end. Your motive is that such an insurgency should continue. Besides, the joke being played upon the entire nation is evident to us from this incident. and here once again I would ask the Government that we would stand obliged if the hon. Home Minister wishes to end this discussion, not giving chance for the creation of new problems, must withdraw notification under article 356 and the provisions under the constitution. And if this is not acceptable to the hon. Home Minister, then we will

oppose it. Moreover, I hope that the House will not only vote against it rather this House will defeat the motion that you have brought forward before this House for approval under the Article 356. The House will not allow your misdeeds and the joke played with the constitution to go scot free so that such a situation does not arise in future and therefore, this motion should not be passed.

[English]

SHRI A. CHARLES: Mr. Speaker, Sir, I am grateful to you for having given me an opportunity to speak and also to the hon. Members on the other side for giving me such a warm reception.

I need not respect the sequence of events that had taken place in Nagaland in the last few years, to be more particular from the year 1989 onwards. In one sentence I can say that they were following the policy of 'Ayarán and Gyaran'. The sequence of events that had taken place there does not give credit either to the Parliamentary democracy or to the great virtues that have been preached by the Members on the other side.

I would like to bring to the notice of the august House that in the year 1989 there was an election to the Assembly. The fact remains that the Congress (1) won with a massive mandate and in the assembly of 60 MLAs Shri Jamir headed the Government with the support of 36 MLAs. That fact has unfortunately been overlooked by most of the Members on the other side. That happened thereafter, I must say, was very shocking and was against the normal procedure of the Parliament. Every provision of the Anti-Defection Law was violated. I am not pointing out any finger towards anybody but the fact remains that after one year the defection had taken place. Shri George Fernandes has left the House; I would like to ask him who was at the Centre at that time. I do not accuse the then Central Government for encouraging defection but there is no doubt that they drew inspiration from Delhi for the defection and for the subsequent events.

[Sh. A. Charles]

Sir, the dissolution of the assembly was ordered by the Governor when a case about 13 MLAs was pending in the Supreme Court. When that case is still pending in the Supreme Court, I would say that it was most unfortunate that such a very very hastily action was taken. In this connection I would also like to bring to the notice of this august House that three months back the former Chief Minister Shri Jamir had staked his claim to for the Ministry. He gave a list of MLAs to prove his majority. He was advised by the Governor to wait for some more months till the Judgement of the Supreme Court about disqualification of 13 MLAs is delivered. So, when the former Chief Minister Mr. Jamir staked a claim, the Governor advised him to wait till the judgement of the Supreme Court.

Mr. Dighe, just now mentioned the names of seven Cabinet Ministers who have been sacked by the Chief Minister. There is another list of 15 MLAs who have deserted them and left the Party. I wonder, if an administration is handed over to the outgoing Chief Minister, who else in the Party remain, except himself. Is it not a fact that as a result of dissolution of the assembly this has happened?

Sir, on 20.3.92, there was an article in *Indian Express* 'The Governor dismissed Nagaland Assembly, Center taken by Surprise'. We know that the media in a way are criticising the action of the Central Government. They are of the view that the imposition of Article 356 was not in keeping with the normal procedure that has to be followed under the Constitution.

Sir, I do understand the right of a Governor to dissolve the Assembly. Though the Governor is permitted to dissolve the Legislature, the normal practice that is followed is to first inform the President or the Central Government before such a dissolution. But in this case, everything was done in a haste behind the back of either the Rashtrapati or the Central Government.

The disqualification of the MLAs is a matter of *sub judice*. Any action change the *status quo* before the Supreme Court passed the final judgment would only worsen the relationship of the judiciary and the Legislature. So, also the high Offices of the Governor and the Speaker has been reduced to the status of unofficial power brokers and the confidence of the public on the impartiality of persons holding such high offices have unfortunately been eroded. What is the role of the Governor?

Much has been said about the Center-State relations and the Sarkaria Commission Report. The hon. Leader of the Opposition has been extensively quoting from the Report of the Sarkaria Commission on the Centre-State relations. Sir, I would also like to quote from that very Report. I am quoting from Page 120, para 4.5.02:

"There is an important area, though limited and subject to constitutional constraints, within which he acts in the exercise of his discretion. It will bear reiteration that there are more than one facet of his role. As a 'bridge' between the Union and the State, he can foster better understanding between them and remove such misapprehensions as may be souring their relations. He is sentinel of the Constitution. He is a live link or channel between the Union and the State. As such link, it is his duty to keep the Union informed of the affairs of the State Administration, whenever he feels that matters are not going in accordance with the Constitution, or there are developments endangering the security or integrity of the country. The Governor thus assists the Union in discharging its responsibilities towards the States."

This is a suggestion in regard to the Institution and the role of the Governor given by the Sarkaria Commission. I may humbly ask a question to the hon. Members on that side of the House. Is the action of the

Governor in keeping with the recommendations of the Sarkaria Commission which has been quoted here for the last several years whenever that suits the convenience of those hon. Members? Has he acted as a bridge between the Union and the state.

But, quite unfortunately, a few days back, a question was raised about the Nagaland issue during the Zero Hour. I mentioned that we were handicapped because none of the information had been given to us. And even today Members on the other side have been quoting extensively from various correspondence. Who is giving them those correspondence? I am sorry to point out that the high Office has been a bridge between the Opposition and his Office; and there is no intention to assist the Union Government and the President as has been suggested in the Sarkaria Commission Report.

Again about the dissolution of the Assembly, I would like to draw the attention of the House to the recommendation of the Sarkaria Commission on page 128 para 4.11.09. It reads as follows:

" It was made clear by Dr. Ambedkar that the pleasure should not continue when the Ministry had lost the confidence of the Assembly; and the moment this happened, the Governor would use his 'pleasure' to dismiss it. In the result, the Governor cannot dismiss his Council of Ministers so long as they continue to command the majority, and conversely he is bound to dismiss them, if they lose the same but do not resign."

So, here is a case of a Government which has lost majority. The case of 15 MLAs is in the Supreme Court and the seven Cabinet Ministers have resigned; and 13 MLAs have been disqualified, who else is left? How can the Governor say that the Government there, has the majority?

What is more surprising is, as I have

already stated, that most of the media while giving facts or commending on the action have been in a way criticising the action of the Union Government. But in The Hindu dated 30th of March, while giving the news items it was stated "what was even more surprising was the readiness with which the Governor acted even without informing the Centre. The dissolution of the Assembly has come as a *fait accompli*. And the Home Minister, S.B. Chavan, who himself was taken unaware, told Parliament in reply to a question that the Law Ministry was being consulted in the matter. There are not many cases in the Constitution history of a Governor taking a decision of the kind of his own.

Now, this has all come in the papers. These views have been expressed by those who have been criticising the action of the Central Government.

Now I would like to draw the attention of the House to Article 356. They have extensively quoted from the Sarkaria Commission Report. I am also quoting from there.

MR. SPEAKER: You have made very good points.

SHRI A. CHARLES: Now I would like to quote from page 179, para 6.8.04 of the Sarkaria Commission Report about Article 356. It reads as follows:

"If it is not possible for such a government to be installed and if fresh elections can be held without avoidable delay, he should ask the outgoing Ministry, if there is one, to continue as a caretaker government, provided the Ministry was defeated solely on a major policy issue, unconnected with any allegations of maladministration or corruption and is agreeable to continue."

MR. SPEAKER: That is not necessary. On that point, the law is very clear.

SHRI A. CHARLES: This is a very particular point. The caretaker Government can be allowed to continue only if the Ministry was defeated on a major policy issue. This is a recommendation of the Commission. What I mean is, even according to the recommendation of the Sarkaria Commission, what had happened cannot be justified under any circumstances. There are many deeds that cannot be legally faulted but are ethically unpardonable. I have strong feeling that all that has happened is against parliamentary norms, against the values and morals and against all norms of constitutional property. The ugly haste with which the Assembly was dissolved and the elected Members have been sacked cannot be morally justified.

Much has been said about the way in which the Governor has been removed. I am not going to talk on that. But I would like to draw the attention of this august House what had happened when the National Front Government was here. About 13 Governors were compelled to resign.

In Kerala the then Governor was telephonically asked from the Rashtrapatii Bhavan to submit the resignation. She prepared her resignation. A special messenger was sent. Then only they came to understand that the Assembly was to meet on the next day and the Governor had to discharge the constitutional responsibility of addressing the Assembly. There was a crisis. So, again a message was sent from here asking her not to submit the resignation till that constitutional responsibility was discharged. The Governor refused. There was pressure from Delhi and finally in the view of the high norms that have been followed by the Congress, the Governor addressed the Assembly. It is a disgrace because in all the newspapers it was questioned, whether the Governor the Governor had resigned or she was in office, and as to who was addressing the Assembly. This is what happened then. And now they are talking here about values.

Now ten months are over after this Government has come to power. This

Government has not touched a single Governor. It is an unfortunate story that has happened in Nagaland, under the force of circumstances. Shri George Fernandes is not here. He referred to the breaking down of the law and order. What does he mean by saying that there was a total neglect of law and order? Is there any difference between the neglect of law and order and breaking down of accordance with law and order? So, all that has been done by the Central Government was in Constitution, under the moral authority of the Constitution. I stand to support with all my strength the notification supporting the imposition of President's Rule in Nagaland under Article 356 of the Constitution.

MR. SPEAKER: Shri Basu Deb Acharia. In your able manner you will make your points in a very short time, I suppose.

SHRI BASU DEB ACHARIA: I will be very brief and I will try to elaborate. I will not repeat those points which have already been mentioned by the Members on this side.

MR. SPEAKER: Thank you very much. That is exactly what we want.

SHRI BASU DEB ACHARIA: I submitted a notice of a Motion also Disapproval. Motion, and for revocation of the proclamation under Article 356 in Nagaland. And I was told that my Motion has not been accepted.

MR. SPEAKER: What is that Motion? You do not have to mention the notices of the motion in the House. That is not the practice. If you start mentioning the notices given to the Secretariat of the House then we shall have to deal with more than two lakhs of notices on the floor of the House.

SHRI BASU DEB ACHARIA: That was about the revocation of the notification under Article 356 imposing President's Rule in Nagaland.

MR. SPEAKER: You come to the point. You have the opportunity to speak.

SHRI BASU DEB ACHARIA: All of us think that the Proclamation which was made about Nagaland is quite a violation of the Constitution. The Constitution is very clear as to when Article 356 can be imposed. In Nagaland, the Governor had acted according to the Constitution, according to the advice of the Chief Minister and the Cabinet, which enjoyed the majority at that point of time. The Chief Minister of Nagaland advised the Governor to dissolve the Assembly and have a fresh mandate, a fresh election. He had very clearly stated this in his report.

When a brief statement was made by the Minister of State for Home Affairs, we demanded the report of the Governor and we wanted to know whether the Governor had recommended for the proclamation of Article 356; whether he had categorically and clearly stated that the State of Nagaland could not be run according to the Constitution. This is what is there in Article 356. Article 356 can be proclaimed not only when the law and order breaks down but also the State cannot be run according to the Constitution. But nowhere in his report he has stated this. Immediately after he took this decision, he informed the President that the Assembly had been dissolved and a care-taker Ministry had been appointed to have a fresh mandate, a fresh election. He took this decision according to the Constitution. Under Article 174 (2), he immediately informed the President of India that he had no other option except to dissolve the Assembly to have a fresh poll. He had also stated in his report as to why he took that decision. But it was misquoted by the Minister of State for Home Affairs,

Shri Jacob when he was making a statement on the floor of the House. And we wanted to know what exactly was there in the Governor's Report; whether the Governor had stated that there was a clear break-down of law and order; whether the State of Nagaland could not be run according to the Constitution. But nowhere he had stated this. What he had stated was that the law and order had been neglected. In a number of States in our country, law and order has been neglected, law and order situation has

not been good and has not been normal. I would like to know as to why President's Rule had been imposed in Nagaland and why Article 356 had been imposed in Nagaland.

The Central Government is trying to destabilise the North Eastern States—Mizoram, then Manipur and then Nagaland.

MR. SPEAKER: Please conclude.

SHRI BASU DEB ACHARIA: Sir, why are you ringing the bell?

MR. SPEAKER: There was an agreement between you and me that you will make only a brief speech.

SHRI BASU DEB ACHARIA: I will speak upto 6 o' Clock.

MR. SPEAKER: You cannot penalise all the Members.

SHRI BASU DEB ACHARIA : I will speak upto 6 o' Clock.

MR. SPEAKER: That is not allowed.

SHRI BASU DEB ACHARIA: Other Members have spoken for one hour.

MR. SPEAKER: That is why you do not have to repeat the points .

(Interruptions)

SHRI BASU DEB ACHARIA: The misuse of Article 356 was done on a number of times. we have the experience how a non-Congress (1) Government of Kerala was dissolved in 1959 by imposing Article 356. You are very much aware of what Dr. B.R.Ambedkar whose Birth Centenary had been observed on 14th of April, observed regarding imposition of article 356. You are very much aware that when this Article 356 was being inserted in the Constitution of India, he had observed that Article 356 would be there but this would be used very sparingly. But, what have we seen in the last forty four years? a number of times this

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Article 356 was imposed in a very partisan manner. The Sarkaria Commission also observed that out of 56 times, 27 times this Article 356 was imposed in a partisan manner. This Article 356 was imposed when there were different parties in power in the Centre and the states and the State Governments were dissolved. But, here in this particular case, in the State of Nagaland, the Governor acted according to the Constitution and challenged publicly when some allegations were made against the Governor. We have not seen any contradiction by the Government. The Governor has challenged the allegation made by the Central Government.

The Sarkaria Commission had observed regarding the imposition of Article 356 when this can be used, when this should be used. The Sarkaria Commission has stated very categorically and very clearly that Article 356 be used when there is not only a breakdown of law and order but also when there is a Constitutional breakdown.

May I know from the Home Minister whether there was a Constitutional breakdown. The neglect of law and order tent amounts to the Constitutional breakdown. Did the Governor not act according to the Constitution? We have seen how the Governor of Bihar was removed. He is a Member of this House. He is out colleague. why was he removed? Why was he asked to tender resignation? Because he said the Governor's speech prepared by the Council of Ministers of Bihar. There was some criticism about the action of the Central Government. Because the Governor of Bihar acted according to the Constitution, he was removed. The Tamil Nadu Assembly was dissolved when Barnala was the Governor of Tamil Nadu. He was asked to submit a report. He refused to submit a report against the state Government. That was his fault and he was removed by the Central Government and the Assembly was dissolved.

SHRI M.R. KADAMBUR
JANARTHANAN: (Tirunelveli): How did the people react to that? ... (Interruptions).

SHRI BASU DEB ACHARIA: Whether that was the violation of the Constitution or not, whether the recommendation of the Governor is mandatory or not, the Home Minister will make it clear to the House. This was categorically made clear in the Supreme Court judgement in the case of Dr. Reghukul Tilak, referred to by other Members, that the Governor is not subservient to the Central Government. Governor is not a servant of the Central Government. May be he is a liaison between the Central Government and the State Government. But the Governor has some power and he has to act according to the Constitution. And here, by proclaiming Article 356 in the State of Nagaland, the Central Government has violated the Constitution. It has violated article 356. why? Because the Congress Party is afraid of facing the election, because the Assembly was dissolved only to have a fresh election, fresh mandate. When in West Bengal, the Cabinet took a decision seven months before its term was to expire and when the Chief Minister recommended for the desolation of the Assembly to have a fresh mandate, then what was the role of the Congress(1) party in West Bengal? They demanded the imposition of President's rule in West Bengal. But that was not done in West Bengal because the Cabinet took decision to dissolve the Assembly to have a fresh mandate. In Nagaland also, the Cabinet enjoyed majority on that particular date when the cabinet meeting was held on 24th March. He cannot challenge that. The notification was not there about the Cabinet meeting but the Cabinet meeting was held and the Cabinet took the decision. The Cabinet had the majority support in the Assembly. May be fifteen members were disqualified by the Speaker but their case is still pending. So, the Cabinet, having twenty-four members in the ruling party out of the forty, enjoyed majority. They held a meeting and recommended for the dissolution of the Assembly and asked for a fresh poll.

17.49 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

What does this indicate? The then Chief Minister Shri Vamuzo, particularly in the North Eastern States, was trying to unify the people and was trying to isolate the insurgency in the North Eastern States, particularly in Nagaland. This authoritarian steps of the Central Government will encourage the insurgency in the North Eastern states. This partisan action of the Central Government to have their own man at the helm of the affairs in Nagaland, to appoint a Governor of their own choice and then to hold elections in Nagaland to capture the power, is not correct. By this partisan and opportunistic outlook, the Central Government - as in the past - in this case also have blatantly violated the Constitution. We are afraid....

MR. DEPUTY SPEAKER: Shri Acharia, please conclude. There are others also who are eager to participate in the discussion.

SHRI BASU DEB ACHARIA: Sir, I will conclude at 6 O'Clock.

MR. DEPUTY SPEAKER: No. There are others also who are your own colleagues

(Interruptions)

SHRI BASU DEB ACHARIA: I have spoken for 20 minutes. I will continue tomorrow also, if you permit.

SHRI HARI KISHORE SINGH (Sheohar): It is very important subject.
(Interruptions)

MR. DEPUTY SPEAKER: There are others also. there is a big list of speakers and they will be denied of the opportunity.

SHRI BASU DEB ACHARIA: Since this will continue tomorrow also, I will speak tomorrow also. I will speak upto 6 O' Clock. now.

MR. DEPUTY SPEAKER: Please conclude.

SHRI BASU DEB ACHARIA: Sir, Nagaland is one of the important States in the North East. It was mentioned that there will be alienation there. Shri Sontosh Mohan Dev is not here now.

SHRI MANORANJAN BHAKTA (Andaman and Nicobar): He will come

SHRI BASU DEB ACHARIA: He is not here now. When he was here, he became very much angry when Shri Advani mentioned about alienation of the people of that area. He became very angry. We have seen how Congress (1) rule was imposed in Tripura. He had also the experience there. He was there at the time of election.

SHRI MANORANJAN BHAKTA: We had free and fair election. the people gave mandate to the Congress.

SHRI BASU DEB ACHARIA: The greatest joke of the century is the free and fair election in Tripura. Everybody knows what you did in Tripura and what is happening there now. We know what situation you are facing and what we are facing there. You are not interested in the integrity and unity of the country. You are only interested to be in power. That is why you are taking such authoritarian steps and violating the Constitution and imposing the President's rule only to have your own government there. Why are you afraid facing the Assembly in Manipur?

SHRI MANORANJAN BHAKTA: We are not afraid.

SHRI BASU DEB ACHARIA : The Manipur Assembly session was adjourned suddenly because the Governor asked the Chief Minister to have the vote of confidence within 10 days. But suddenly the Manipur Assembly was adjourned because the Chief Minister of the Congress Government was afraid of facing the Assembly. At this moment the Congress (1) Government in Manipur is

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not enjoying the majority. Why the Governor was removed when the House was not in Session? When Lok Sabha was adjourned for seven days, the Governor was removed without showing any reason. What was his fault? His failure was, he wanted to protect the Constitution. what was his fault? He acted according to the Constitution. What was his fault? He acted according to the advice of the Cabinet, the Cabinet which took the decision in its Meeting on 24th March for the dissolution of the Assembly. that was his fault and for that failure only he was punished. Not only Article 356 was imposed, the Governor, Mr. Thomas, who acted according to the Constitution of India, was removed from the Governorship and some other Governor was given the charge of that State. Now the question is whether there will not be alienation of the people — now Mr. Santosh Mohan Deb has come— whether the people of the North-Eastern States will not feel that they are deprived of their own Government. They want to have their own elected Government and they are now deprived of it by the Central Government. So the question is whether they will not feel that such alienation will not be there. (Interruptions). He agrees personally.

SHRI SONTOSH MOHAN DEV: I am going to speak.

SHRI BASU DEB ACHARIA: He will speak because knows how to capture power. He could capture power in Tripura. He knows those tactics. So, sir we are very much concerned for them. The people of North-Eastern States are feeling that already the secessionist movement is there in several parts of our country. The Central Government do not care for this. Their only aim is to

capture power to remain in office by hook or by crook, by any means even by violating the Constitution. Even by raping the Constitution they want to remain in power. So, here also it is a glaring example. Nagaland where Article 356 has been imposed is a glaring case of blatant violations of the Constitution. That is why, Sir, as you are the custodian of this House and also as you are to protect the Constitution, you must direct the Government from the Chair that whatever misdeed they committed should be done. You should not only admonish them, not only reprimand them, but say that what they have done is unpardonable. Many of us have moved a motion for revocation of the imposition of Article 356. We want that this should be adopted by the House. Many of the Congress (I) Members will also support. They should support, they should protect the Constitution. so, Sir, if this Statutory Resolution moved by the Home Minister is rejected, they do not have any argument.

18.00 hrs.

MR. DEPUTY SPEAKER: There is a big list of speakers. Many Members want to participate in this debate. So, is it the desire of the House that the time be extended?

SEVERAL HON. MEMBERS: No.

MR. DEPUTY SPEAKER: The House stands adjourned to meet tomorrow the 22nd April, 1992, at 11 o' Clock.

18.01 hrs.

The Lok Sabha then Adjourned till Eleven of the Clock on Wednesday April 22, 1992/ (Saka).