

525 *Statutory Resolution AGRAHAYANA 18, 1913 (SAKA) and Motion re. 526*  
*re. Approval of Proclamation in relation to state of Meghalaya*  
*Revocation of Proclamation in relation to state of Meghalaya*

the detailed judgment is yet to be received.

I may also mention that the Governor in his latest report dated 4th December, 1991 has indicated that even if President's Rule is revoked, the stalemate will continue and it will not be feasible for either Group to form the Government as they will not be able to conduct any business in the Assembly.

In view of the circumstances, which I have just explained, I commend, Sir, that the Proclamation issued on 11.10.1991 under article 356 of the Constitution in relation to the State of Meghalaya, may kindly be approved by this august House.

MR. DEPUTY SPEAKER: Shall we start it after lunch?

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI RANGARAJAN KUMARAMANGALAM): Yes.

SHRI LAL K. ADVANI (Gandhi Nagar): I beg to move:

"That this House recommends to the President that the Proclamation issued by him on the 11th October, 1991, under Article 356 of the Constitution in relation to the State of Meghalaya, be revoked."

MR. DEPUTY SPEAKER: Shall we start it after lunch.

SEVERAL HON. MEMBERS: Yes.

MR. DEPUTY SPEAKER: Mr. Guman Mal Iodha, still there are ten minutes.

SHRI RANGARAJAN KUMARAMANGALAM: We could adjourn for lunch and meet against at 2 P.M.

MR. DEPUTY SPEAKER: We have got another ten minutes.

SHRI LAL K. ADVANI: The Government proposes to discuss with the opposition this particular issue. So, I suggest since the Minister has already suggested that we now adjourn for lunch to meet again at 2 P.M. that let us have it after lunch.

SHRI M. M. JACOB: I agree.

MR. DEPUTY SPEAKER: The House stands adjourned to meet at 2 P.M. after the Lunch

12.53 hrs.

*The Lok Sabha then adjourned for lunch till Fourteen of the Clock*

*The Lok Sabha re-assembled after Lunch at four minutes past Fourteen of the Clock.*

[MR. DEPUTY SPEAKER *in the Chair*]

STATUTORY RESOLUTION RE:  
APPROVAL OF PROCLAMATION IN  
RELATION TO STATE OF MEGHALAYA  
AND

MOTION RE: REVOCATION OF  
PROCLAMATION IN RELATION TO  
STATE OF MEGHALAYA

— *CONTD.*

[*English*]

MR. DEPUTY SPEAKER: We take up the Statutory Resolution which has already been moved. SHRI Lal K. Advani.

SHRI LAL K. ADVANI (Gandhi Nagar): Mr. Deputy-Speaker, Sir, I wish we had, been given a copy of the Governor's report that was received last Friday because I have with me a copy of the Governor's report of October and last Monday when this particular matter was listed for consideration, it had been put off on the ground that we are awaiting a fresh report from the Governor on the latest position in the State and it would be proper to consider the Motion only after that

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report is received. The Members of the House kept on pressing the matter as to when the Governor's Report was received. And ultimately on Friday, the Home Minister informed the Parliament that the Governor's Report had been received on Friday morning. So, all of us were expecting that when on Monday the matter is taken up, by then the Governor's Report would have been circulated. But the Governor's Report has not been circulated and at a meeting of the party leaders convened by the Minister for Parliamentary Affairs, it was shown to us and we glanced through it. But a discussion of this kind would be really purposeful if the Report had been circulated even this morning particularly after it had been received on Friday. I have a feeling that one reason why that Report has not been circulated is that the Government itself is not quite convinced of that Report. And I appreciate it no one would be, I for one I am not - because the concluding part of the Governor's Report apart from the contents of the Report recommends a fresh election on that state; without using the word 'dissolution', it suggests 'dissolution and a fresh election'.

At the very outset, I would like to voice my apprehension that if on the basis of the situations of the kind that have developed in Meghalaya - and they are not happy situations - if we start imposing President's Rule, it would not be surprising if in quite a few States on the North East Region, this Government would be forced to impose President's Rule and the overall consequences of such a situation would be very very damaging for the country and for the country's unity. Today the Kashmir situation has become so bad because of the one reason that we removed the properly elected Government of that State at one stage. I am no admirer of that Government. I have never been and I have differed with it very strongly and sharply. But when it was removed, I opposed it; my Party opposed it.

When Dr. Ambedkar commended Article 356 to the House, he said that he

expects this particular provision of the Constitution would remain a dead letter and it would be used only in extreme emergencies.

It is my strong view that though the situation in Meghalaya is an unhappy situation, it is not an extreme situation; it is not a situation of an emergency and, therefore, I have opposed the Resolution moved by the Home Minister and I have commended this particular Motion of mine.

Sir, anyone who goes through the Report of the Government I am referring to the Governor's Report on the basis of which President's Rule was imposed - he would agree that the Maghalaya events add up to a very bizarre episode. You just read the Report and you would know what kind of a situation. All hinges around one man's unbridled ambition to become the Chief Minister. It hinges around that. He becomes the leader of the Opposition; the leader of the Congress Party and therefore the leader of the Opposition. It is my strong view that it was at that stage, the Congress Party should have ascertained itself. The Congress Party owes a responsibility. It is governing the Centre. And as the Government at the Centre, it has a responsibility to see that no particular provision of the Constitution or of the law is abused in order to subvert the spirit of the Constitution which says that the Speaker should not become...*(Interruptions)*

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRIM.M. JACOB): In fact, the Central Government did not interfere at that stage. You have, in 1977, dissolved eight Assemblies even without looking at anything. Now at least we are seeking your advice ...*(Interruptions)*

SHRI LAL K. ADVANI: I am merely saying that here was a person, who is the Speaker of the House, belongs to your Party and the Speaker of the House becomes the leader of your Party in the Assembly. And because at that point of time your Party did

not have majority and it was a principal Opposition party, he became the leader of the Opposition. Simultaneously being the speaker, he becomes the Leader of the Opposition. Your party did not intervene at that stage, where it could not have been a constitutional problem, it would have been the Party intervening at the right point of time to ensure that things of this kind do not happen.

So, the first sin of omission was at that stage, way back in July 1990, 25th July, and this has been given by the governor in his Report. It says:

"When the Speaker Shri P.R. Kyndiah was elected as the Leader of the Opposition, he claimed that he had a majority and it became a confusion situation. In that confusing situation, naturally the Governor advised the Leader of the House to convene a special Session of the House and prove his majority. And so, on the 7th of August, Mr. Lyngdoh, the Chief Minister, convened a Special Session of the House and moved a confidence Motion."

What happened on the 7th of August? I am quoting from the governor's Report. It says:

"On the 7th of August, when the Confidence Motion was moved in the House, it was found that the ruling side had 30 Members against 27 of the Opposition in a house of 58."

So, there was a clear majority for the Government. However, before the Motion was formally disposed of the Speaker on a complaint from a congress (I) MLA, suspended the voting rights of five independent MLAs and adjourned the House sine die. These are the events which really brought about the present situation. And in these situations, even though the Central Government may not have done anything, the Party could do that and the party could pull up its own Members and disciplined

them. But, it failed to do that. Even today I have a feeling that the Government feels helpless that they cannot do about it though they agree that what the Speaker was doing is wrong. This is an unhappy situation. And on 17th August, the Speaker passed a final order on the complaint of Congress (I) MLA disqualifying five independent MLAs belonging to the ruling group. After that, the matter came to the Supreme Court. The Supreme Court has held that four of these MLAs had to be reinstated and I am told that the Speaker has already issued a statement that he was not going to abide by the supreme Court's decision until the full judgement of the Supreme Court is received by him. The verdict is there. The direction is there. From what we see, even the Governor said that so far as his own view was concerned, the Supreme Court ruling in this regard has to be respected, has to be accepted and yet the Speaker continues to defy the Supreme Court's ruling and he continues to defy his own Party; he continues to defy the Assembly.

The situation has become so bizarre. My own feeling is that in such a bizarre situation, no one should take upon his own self the responsibility to decide as to who is going to rule Meghalaya. The people of Meghalaya have elected their Assembly and that Assembly is still there happily.

I would plead with the Government not to accept the recommendations of the Governor to dissolve that Assembly.

Today it is in suspended animation. It is there at least. The Government should not accept under any circumstances this recommendation to dissolve the Assembly.

From our side - we do not take sides - we are not interested in Lr. Lyngdoh; we are not interested in the Congress Party combination; we are interested in seeing that in a State, where the people have elected an Assembly, that Assembly should be given an opportunity to decide whatever it wants to do. And this can happen only if the Government of India decides to revoke the

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President's rule. My own recommendation is confined to that. I am not taking sides. I am merely saying that you revoke the President's rule. The moment you revoke the President's rule, it becomes obligatory for the Governor to restore the status quo ante. What was the position before imposition of President's rule would be restored and thereafter the earliest opportunity should be given to the Assembly to decide whose Government it was. If it does not want that Government, throw it out. And if something emerges from that because of which the Government has once again to inter vene I can understand that. But today at least there is no justification particularly when 30 Members have gone along with Mr. Lindo, physically presenting themselves, to tell the Governor that they are in a position to form the majority. And then the Supreme Court has given a verdict. That Supreme Court verdict should be honoured. From all points of view this particular recommendation that I have sought your support, the House's support to be made to the President, is perfectly valid under the situation.

There are a few other aspects about which I would like to say. Once again, we have to think about Article 356. I do not know if in the Inter - State Council meeting held last week where Sarkaria Commission's report was discussed, this particular issue came up or not. I would like this Government to apply a fresh mind on the basis of what has been happening in the past, how do you wish to go about this job of imposing President's rule. I am told that it has been suggested that Inter-State Council should be consulted in these matters. Perhaps, this proposal is worth considering. But the Government must make up its mind. The Sarkaria Commission came out very severely against the abuse of Article 356 that has been taking place. I am not happy with what happened in 1977 though I was part of the Government and, therefore, I am a party to that decision. But I am not happy with it. I cannot go into details as to what has been my opinion in that regard. But this is

certainly true that only because something wrong was done in 1977, therefore it should not be used as an excuse to keep repeating that wrong. Today it is necessary that these matters should be viewed with an open mind.

Similarly, about the Anti-Defection Law, there are cases where the Supreme Court has given a ruling. It is not only in respect of Meghalaya but in so many other cases also where Members who have been disqualified under the present law by the Speaker, their disqualification has been set aside or annulled by the Supreme Court. There are cases where the Speaker refuses to accept the Supreme Court Judgement. Now in these matters when the Supreme Court has struck down paragraph 7 of the Schedule which says that the Speaker's decision will be non-justiciable, it becomes justiciable. So far as the law and the Constitution is concerned, we have never questioned the fact that the Supreme Court is the final determinant or final interpreter of the Constitution and, therefore, its interpretation has to be accepted whether we agree with it or not. If we do not agree with it and disagree with it so strongly as we can think of in terms of a fresh constitutions amendment, it is a different matter. In this particular aspect, I think, the Speaker's ruling in respect of disqualification being justiciable is a right thing. Therefore, the fact that paragraph 7 has been struck down does not make me unhappy. It should be accepted as such. But the Central Government owes it to Parliament and owes to all State Assemblies to clarify where it stands.

There has been once a statement from the Prime Minister from which I felt that the Congress Party as a whole has accepted the fact that it is justiciable and it is not questioning it. But what is happening disturbs us. Therefore, there is need of a decision in respect of this Schedule as early as we can. I know the difficulties. But the review is long called for. There are aspects of the law which need to be reviewed.

Since 1985 the Anti-Defection Law has

emerged as a measure of stability to the political situation in the country. It has, in fact, saved some political parties, some of the very leading parties, from dis-integration. Otherwise, by now if this law had not been there, such parties would have been totally disintegrated. One by one people would have walked out of it.

THE MINISTER OF STATE OF THE MINISTRY OF POWER AND NON-CONVENTIONAL ENERGY OF SOURCES (SHRI KALPNATHRAI): Even now they are disintegrating.

SHRI LAL K. ADVANI: I do not know. Therefore, I feel that the law is not to be thrown away; the law is useful. It lends stability to the whole political structure. But there are lacunae in the law. But one such lacuna has been struck down by the Supreme Court. And there are lacunae in the law because of which people by pass it, circumvent it. Now these, on the basis of experience, we can certainly identify and an early review of the Anti-Defection Law should be undertaken. In the meanwhile if all the political parties make their own stand clear in respect of this particular provision viz. justiciability of the Speaker's ruling, it would give great strength to these State Assemblies. Otherwise, there is an ego problem that I have given a decision and that has been turned down by the Supreme Court. Till now it is true that all Legislatures have been jealous about their own sphere of action. Therefore, we have never allowed the judiciary to encroach upon our sphere. But that does not mean giving to the Speaker an arbitrary authority; Even when the majority in the House think that the Supreme Court is correct, one particular person and that too a person who has the ambition to become the Chief Minister of that State, goes on defying the Supreme Court, defying the House. Because of this law he is in a position to do so. This should not happen. I think that on this particular aspect the Government of India and all the political parties should take an early stand. My own party is of the view that this particular view if it has been struck down by the Supreme Court, it is not

something about which we should be unhappy. We should accept it.

Finally, till now all the various bodies that have been created at any point of time as to how a majority or minority in the House should be decided, they have all cautioned the Rajpal, the Rashtrapati and everyone concerned that whether a Government has a majority or not, should never be decided in Raj Bhawans and Rashtrapati Bhavan. They should be decided on the floor of the House in the Legislature or in Parliament. I think, in the case of Meghalaya also, we should adhere to this advice and let the elected representatives of Meghalaya decide whether the Government that they had before the imposition of President's rule should continue or should be removed.

With these words, I strongly commend the Motion that I have moved.

MR. DEPUTY-SPEAKER: Motions moved:

"That this House approved the Proclamation issued by the President on the 11th October, 1991, under article 356 of the Constitution in relation to the State of Meghalaya."

"That this House recommends to the President that the Proclamation issued by his on the 11th October, 1991, under Article 356 of the Constitution in relation to the State of Meghalaya, be revoked."

SHRI PETER G. MARBANIANG (Shillong): Mr. Deputy Speaker, Sir, while participating in the discussion on the Statutory Resolution regarding promulgation of President's Rule in Meghalaya. I feel very much pained. As one of the leaders who was responsible for the movement of Meghalaya and also as one of the leaders who had an active part in running of the State of Meghalaya from 1972 till 1989 before I came to this august House, it pained me very much. The people in Meghalaya have a democratic heritage. I remember Shri

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Subhash Chandra Bose who said, 'If you want to see democracy walking, go to the Khasi and Jaintia hills. There you see how the democracy functions. True! We have had this heritage. It is in our blood.

The promulgation of the President's Rule is largely based on the report given by the hon. Governor. I received the report of October and not of December. I do not want to cast any aspersions on the high office of the Governor. However, we must remember that this office is held by the bureaucrats working in the same system and I will show that the report of the governor is not true at all. It is based prejudicial and not wanting to help the largest single party existing in Meghalaya now.

In 1988, we had a very strong Government under the leadership of Shri P.A.Sangma, the present Minister in the Ministry of Coal, and I was, then, the Speaker of the Assembly. However, when I left Meghalaya, the Ministry was toppled due to the intervention of the National Front Government. There, the functional Government existed at that time under the dynamic leadership of the Chief Minister, Shri Sangma.

Now, we talk about the conglomeration of Regional Parties. There are many of them having their own leaders, you have the HPU original under SD Khongwir, you have HPUBB consisting only 4, under the leadership of ex-Chief Minister Shri B.B. Lyngdoh, you have HPUBC consisting of minister Shri Beningstan Mornin, a group of seven of them, you have HSPDP - a group of four, you have HSPDPDL, a group of two, you have PD a group of two and you have seven independent MLAs. This was the conglomeration.

In fact, I would like my friends from the other side to note that this political situation in Meghalaya did not start from the month of August. I would say it started right when the Tenth Lok Sabha election was notified to

beheld. I would tell my friends here that in April after filing of nominations for the 10th Lok Sabha, there leader of the HSPDP, who happened to be the Parliamentary Minister in the Government of B.B.Lyngndoh, made a press statement and announced that the MP election would be a referendum for the government. You please imagine, an MP election converted into a referendum for the government - to see that their candidate - a Member of the Rajya Sabha, the other House, who had contested the Lok Sabha election, gets elected. They used all the official machineries and everything under their command. But, the people of Meghalaya loving the democratic principles, did not become victims.

SHRI LAL K. ADVANI: We do not make specific references to the Members of the other House.

SHRI PETER G. MARBANIANG: Sir, I did not mention any name.

SHRI LAL K. ADVANI: The inference is obvious. the aspersions on the other House are never cast here. (*Interruptions*).

SHRI PETER G. MARBANIANG: Sir, the situation started from there. They used the whole Government machinery, yet the people of Meghalaya voted for the man belonging to the democratic party, the Congress party and won by 20000 votes. After that there were agitations by the people.

SHRI AMAR ROYPRADHAN(Cooch Bihar): All Members - those who are elected by the people - have got their own democratic values. All parties are democratic parties. (*Interruptions*).

MR. DEPUTY SPEAKER: Mr. Peter G. Marbaniang, kindly stick to the subject that is what is the action taken by the Governor. That is the subject matter before us. Kindly restrict to that.

SHRI PETER G. MARBANIANG: Sir, as I have said, there were many mis-information in the Report of the Governor. I

also raised this issue in the House in the month of August. The Congress party in Meghalaya have staked a claim to form the Government and the Governor had asked the Chief Minister to call for the Assembly in the month of August. Here the Report of the Governor says. "I had received copies of the resignation letters of two Ministers and on the same day the Chief Minister advised me to induct two more Ministers." The date for the Assembly Session was notified. But the Governor inducted two more Ministers. Having called the Assembly Session, the Governor is morally bound not to induct any more new Ministers. This governor was appointed by the National Front government to replace Shri R.R. Rahim. The then Governor, Mr. R.R. Rahim refused to swear in one Minister who defected from the Congress party. One out of twenty-two defected and he said he would wait for the Attorney General's Report. However, the Governor was changed overnight and the present governor was sent to Meghalaya and he immediately swore in this man who defected from the Congress party. You see, Sir, how things have gone. We cannot blame the Present Congress government. These were the things done by the previous government. All these things were planned by them. therefore, I say that it is wrong to give such a report and more so what he has painted on page six that the law and order situation is bad in Maghalaya. This law and order situation was created by the Chief Minister himself. Now he called a public rally on 12th of September by buses. just to frighten everybody there in Meghalaya. Two hundred buses were there and the people who joined the rally were only three hundred. It shows very clearly that the people do not want these regional hotch-potch parties any more in Meghalaya. They are non-functional Governments. They do not function. They are busy only with their own personal gains and do nothing for the welfare of the State as "a whole.

Let me tell my hon. friends that I was an MLA from 1972. In 1972 we had the support of the Congress and formed a government,

and the Government went on smoothly. In 1978 we had the elections again. Then the regional parties wanted to form a Government of their own. It lasted just for one year, even when no intervention was there from anywhere, when Janata rule was there in 1977. In 1979 again we had a collusion Government with the Congress. That Government lasted for the rest of the term. In 1983 again no one got absolute majority after the election and in 1983, B.B. Lingdoh was the man who formed the Government with the regional parties. That Government lasted just for 23 days. Then he had collusion with the Congress and we find that that Government lasted till the end of 1988. These are the facts which our friends must realise.

The regional parties just do not have good leaders. The leaders hate one another and they combine only for greed, they combine only for power, to rob the people, to destroy the State. That is my feeling. It is only because of the Congress Party and the Congress programme that Meghalaya has come to where it is today democratically.

Coming to the role of the Speaker, let me tell my hon. friends that I have spoken three times in this House to give them the idea that the information that they received that the Speaker of the Meghalaya Assembly was elected as the Leader of the Congress Part is wrong. He was never elected as the Leader of the Congress Party at any point of time. You know that the Congress Party is a National Party. Every major action in any of the States must get the approval of the High Command, here in Delhi. There was no such election of the leader, Right from 1990-1991 Shri D.D. Lapang was the Leader of the Opposition in Meghalaya. He was appointed Leader of the Opposition by the Speaker of the Meghalaya. He was appointed Leader of the Opposition by the Speaker of the Meghalaya Assembly on the recommendation of U.M.P.F. The Opposition was consisting of 28 Members 23 were of the Congress party and the rest were associate members. Therefore, it is wrong to say that Shri P.R. Kyndiah is the Leader

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is. I do not know from where they got the information.

I remember that I had raised in this House earlier that the Ministers of Meghalaya were busy here in Delhi, in the months of August-September, giving mis-information to my hon. friend from the other side of the House. I spoke about it on the floor of the House., It is true that all mis-information were given to them. Never had the Congress party or its associates in the U.M.P.F. elected Shri P.R. Kyndiah, Speaker, as the Leader of the U.M.P.F. Never. Not by the Congress Party or by the U.M.P.F. I, therefore, do not see how can we condemn the role of the Speaker. I will remind my friend here (*Interruptions*).

[*Translation*]

SHRI MADAN LAL KHURANA (South Delhi): The Governor has mentioned it in his report but the Government is denying it.

[*English*]

SHRI LAL K. ADVANI: I want to draw the attention of the hon. Member to one fact Senior leaders in the Government from the Congress party told us that it is because of this that we forced him to quit the leadership. This fact was not disputed. This was told to us that because we thought it wrong for the Speaker to become leader of the Congress party, therefore, we forced him to quit leadership.

The fact is not disputed. For the first time I am hearing the contrary (*Interruptions*)

SHRI PETER G. MARBANIANG: In the month of August, in zero hour, it was raised (*Interruptions*)

SHRI LAL K. ADVANI: You are saying that the Governor is telling us a ...

SHRI PETER G. MARBANIANG: Sir, it is a \*\* (*Interruptions*)

SHRI AMAR ROYPRADHAN (Cooch Bihar): Sir, the word '...' is unparliamentary.

MR DEPUTY SPEAKER: If the word '...' is used, it will be expunged.

SHRI PETER G. MARBANIANG: Sir, I want to warn my friends on the other side, like Shri Advani and others. On 9th January, 1991 we had to suspend the Question Hour in this august House in order to take up an Adjournment Motion. that Adjournment Motion was on the failure of the Government to uphold the provisions of the Constitution in regard to disqualification of Members contained in the Tenth Schedule of the Constitution which has put the issue outside the jurisdiction of Court. The Tenth Schedule is outside the jurisdiction of the Court. All of us agreed at that time, when we spoke, that we had held the supremacy of parliament. It should be the same with regard to the role of the Speaker of Meghalaya in respect of the Tenth Schedule.

We belong to one system - Parliamentary democratic system. That bill was passed by the congress party. At that time we all held up the sovereignty of the Legislature is there. I remember very clearly, how many hon. members like Shri L.K. Advani Shri Somnath Chatterjee, Prof. Ram kapse and many others took part in the discussion on that day and how all of them said that this house is supreme.

That system should also be extended to Meghalaya. It should not be restricted to the four walls of Parliament. It does not end here. It extends to Meghalaya, it extends to Manipur, it extends to Assam. We are all part of that Parliamentary democratic system and guided by the laws passed by this House. And there we have said that no one should interfere with the right of the Speaker in delivering a Judgement. I remember many



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of them did not even allow letters to go to Parliament House from the High Court and the Supreme Court. I remember that day, almost all of them upheld the sovereignty of the Parliament. But now because the sovereignty related to Meghalaya Assembly you all fought shy if you condemn the action of the Speaker, there are avenues where they can discuss it. I know many lacunae are there in the law. But having taken a decision on the role of the Speaker on his judgment on the five Independent M.L.As. who changed sides almost every three hours, I can say he has given a very good ruling on their role and also the Supreme Court, mind you, upheld the judgment on four Ministers and did not uphold the judgement on one M.L.A. So, four were acquitted and one was not acquitted. Look at it. It has happened in this honourable House also where the High Court has interfered in the Ruling of the Speaker in respect of Ministers. Now, this democratic system extends not only to this House, but to the whole of India and it originates from this honourable House. Therefore, the action of one man cannot be taken to invalidate the law.

The Presiding Officers Conference is going to be held very soon, the hon. Speaker has promised to take it up there, and I am sure he will take it up there. But the judgement because it is passed by the Speaker of the Meghalaya Assembly, I do not think that we should close our eyes not to help Meghalaya. No, Sir. We should all think of the supremacy of the House be it here in Lok Sabha or be it in any part of India. We belong to the same system of the Government.

Lastly, as I said, I am against promulgation of the animated suspension of the Meghalaya Assembly under Article 356 of the Constitution because on 8th October, there were 27 Members from the Opposition side and 26 from the Ruling side. In fact the largest single party is the congress 23 of them. People want the Congress to rule there. Believe me, in the last bye election on 16th of November, the Regional Party lost their security deposit. In Tura the H.P.U.

candidate of the regional party lost the security deposit. People do not want them any more, they have seen how they conduct the administration of the State. Therefore, the single largest party is the Congress. Allow them to form the government. And the test of strength should be on the floor of the House, not in front of the governor. I appeal that the single largest party, the congress (I), should be given the opportunity to form the Government in Meghalaya.

SHRI UDDHAB BARMAN (Barpeta):  
Hon. Deputy-speaker, Sir, I rise like to oppose the Statutory Resolution moved by the hon. Minister and I support the motion moved by Shri Advani and Shrimati Geeta Mukherjee.

Sir, lot of things have been said by my friend, Shri Marbaniang and also hon. Member Shri Advani. In the North Eastern region, Meghalaya is a peaceful State. In other States including Assam, there is a lot of disturbance. In the peaceful State of Meghalaya, the President's rule was imposed not because of violence, not because there was some breakdown of administration and not because there was some law and order problem; but it is seen from the case that the very queer behaviour of the speaker and the illogical role of the speaker of that particular Assembly had created such a situation on which the governor of that particular State suggested that the President's rule should be promulgated and already President's rule is there in that State. As the governor's report spelt out, it is a strange thing that the inner motive of the Speaker, who wants to be the chief minister of the State, had created this uneasy situation in the State. He had run roughshod over the rule of the law also. He did not try to take cognisance of the direction of the supreme Court and he did not take account of the votes of four independent Members of the Assembly in a NO-Confidence Motion. On two occasions a Confidence Motion was moved the Government headed by Shri B.B. Lyngdoh would prove its majority. So, to restore peace in the State, the Assembly should be convened and the elected MLAs should be given a chance to decide about their future.

[Sh. Uddhab Barman]

Sir, there are many regional parties in our country and these regional parties are coming up because of the failure of the Central Government, because of the discriminatory role of the Central government and because of the policies pursued by the Central Government during the last few years. There are some regional parties in this country to fulfill the aspirations of the people and they are working within the Constitution of India. Some people are saying that all the regional parties are undemocratic. But it is not correct. So, all these regional parties are working within the Constitution. They are maintaining some democratic values and they are fighting for those values. So, there are some regional parties which have been formed because of the discriminatory role played, bankrupt policies pursued by the Central Government. This is the phenomenon in this country.

I want to say that the Statutory resolution should be withdrawn and the Assembly should be convened and that the elected members should be given a chance to form what sort of government they want to have there. I would also say that there is a lot of misuse of article 356 of the Constitution. The Sarkaria Commission has also mentioned about it. It has also suggested some guidelines to follow in the application of this article on any State. But we have seen that the Central government is continuing to misuse this article. The Sarkaria Commission has mentioned that out of 75 cases, in as many as 37 cases, the application of President's rule would have been avoided. Here, we have seen, this misuse is going to be repeated.

I hope that the Statutory Resolution would be withdrawn, the Assembly would be convened soon and the people's elected representatives will be given a chance to form what kind of government they want to have.

With these words, I conclude my speech.

**SHRI GUMAN MAL LODHA (Pall):** Mr Deputy-speaker, Sir, I stand to oppose the Statutory Resolution moved by the Government and support the Motion moved by the hon. Leader of the opposition.

Sir, it is a very peculiar situation where in spite of repeated orders of the Supreme Court, in Meghalaya, the Speaker and the Governor have defied them to such an extent that the Supreme Court have to say repeatedly that it would be the duty of all concerned to get this order complied with.

Although it is not necessary, I may mention that the Constitutional provisions, particularly articles 142, 143 and 144 clearly direct all including the civil authorities and other authorities to obey and accept the direction of the Supreme Court. Even in the Uttar Pradesh case, that is, Keshav Singh case where the historical controversy between legislature and the judiciary arose resulting in contradictory orders first passed by the Speaker of the Legislative Assembly and then by the High Court in which a situation arose when the High Court judges were ordered to be arrested by the Speaker off the Assembly. The full bench of the Allahabad high Court granted bail to the judges. This matter required reference of the hon. President to be made under article 143 of the Constitution of India. The hon. supreme Court made it very clear, though in the internal matters of the House, the Speaker is supreme, but so far as certain rights, which are known as fundamental rights are concerned, the authority of the Supreme Court cannot be undermined. The hon. supreme Court directed and desired that the privileges should be codified by Parliament but it is unfortunate that despite the judgment was given way back in 1965, we have not codified those privileges.

15.00 hrs.

So far as the present controversy is concerned, this question is different from any matter which is within the domain of the House and, therefore, it is not correct to view the controversy as a controversy between

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the legislatures and the supremacy and the sovereignty of the legislature versus judiciary. The simple point is that the Tenth Schedule was enacted by a constitutional amendment and by doing so ratification was not done by more than half of the Assemblies as required under Article 368 of the Constitution. After the Kesavananda Bharati case, it was made very clear that the basic features of the Constitution and the Supremacy and the sovereignty of judiciary being one of them, it cannot be encroached upon by even Parliament and, therefore, the Supreme Court now has given a judgment in which it has said very clearly that clause 7 of Schedule Ten is *ultra vires* of the Constitution.

I lay on the Table of the House the judgment of the Supreme Court and all the stay orders.

I would like to mention that it is not with Meghalaya only. I regret and I am sorry for the wrong information and lack of information of the hon. Member who came from Meghalaya that it is only against Meghalaya. It is the law of the land. Clause 7 of the Tenth Schedule Governs the rights of the judiciary so far as the Speaker's right on the question of disqualification is concerned. In Madhya Pradesh also, there are three or four members of Madhya Pradesh legislature who were disqualified by the Speaker. That Order is also struck down and so many other orders also are struck down. So, it would not be proper to give a picture that the Members sitting on this side of the House are against the speaker of Meghalaya. We are not against any one. We are for the sovereignty of the constitution which gives sovereignty to the judiciary. So far as judicial review is concerned, judicial review is very precious right in the Constitution and, therefore, I submit that this is a typical case of Meghalaya. Similar cases happened in Madhya Pradesh. The Madhya Pradesh speaker also decided for some time that the Order of the Supreme Court would not be implemented or respected but after the final judgement of the Supreme Court, he has respected the order. Earlier, stay orders were given.

After the judgment has been given finally by a majority of the Supreme Court judges sitting on the bench, now for the speaker of the Meghalaya Assembly to say that "I would like to have a copy of the judgment and I do not go by the judgment of the Supreme Court and the supremacy of the Speaker should be maintained" is, in my respectful submission, too dangerous a move.

I submit that in this House today while considering the question of Meghalaya, we should consider what the Speaker's authority is.

I would like the hon. Member coming from Meghalaya to show some rules which have been framed for defection. Is there any provision for suspending the Members? Here is a case in which when the voting was being taken in the Meghalaya Assembly on the confidence motion, the Speaker just rose and said "I suspend five members." This is unheard of an unprecedented. To suspend any Member without completion of inquiry would make a mockery of democracy in parliamentary system. This is an occasion when we should rise in support of the democratic norms.

On 6-9-91, the Supreme Court passed a stay order in SLP staying disqualification order of the Speaker for four MLAs after hearing the Attorney-General who appeared for the Speaker, but the Speaker issued a statement thereafter that court's judgment cannot be accepted and instructed security guards not to allow the five disqualified Members.

On 3.10.91, a Contempt Petition was filed by the disqualified MLAs in the Supreme Court. There again, the Supreme Court directed all, including the Governor, that they must ensure that the Court's interim order dated 6.9.91 is obeyed. On 8.10.91, when the Confidence Motion was voted, by a diversion, 30 Members voted in support of the Confidence Motion. Thereafter the Speaker said: "Although they have signed in the Division Register, I do not recognise

[Sh. Guman Mai Lodha]

them." These are the conditions which existed there.

Sir, it is not only that. Thereafter, the most important thing is that on 9.10.91, the Government asked the Chief Minister that even though the Supreme Court order of 9.10.91 was passed. Whether the Governor must take into account the vote of four MLAs disqualified. This is very important. The Supreme Court expressly directed the Governor to count the four votes which makes the total 26 plus 4=30 in support of the Confidence vote. But the Governor said; 'No, I would not count them. "He defies the order of the Supreme Court and says: It is between the Supreme Court and the Speaker. What has got to be done? So far as I am concerned,, I would abide by the Speaker's note that the Confidence motion has failed. Therefore, I ask them to resign." In a situation like this when consistently defiance has been made of the hon. Supreme Court which means defiance of the constitution under which all of us have taken oath, is it fair enough for any Member who is here to say that even though that is so, we must support the prorogation of the Assembly which was done by the president?

Therefore, in this connection I would like to say that the Motion of the hon. Leader of the Opposition making a request to the hon. President for revoking the President's rule and maintaining *Status quo ante* must be supported. It means that we are not concerned with any party - 'A' party or 'B' party or 'I' party. We are concerned with the institution, the institution of democracy, the institution of parliamentary democracy and the institution of judiciary. Therefore, what should be done is that the hon. President should revoke the Proclamation which has been issued under misrepresentation. I must say so that it has been issued under misrepresentation. Further, even the Attorney-General was there on the 9th October 1991 when the hon. Supreme Court directed that the four votes must be counted. In spite of the Attorney-General being there, may I ask the Government why the Home

Minister pressed the Proclamation, why the Law Ministry pressed the Proclamation? It is not the duty of the Attorney-General who was there in the Supreme Court to convey that the Supreme Court has directed that the four votes have to be counted? How can the President defy that order? How can in the Home Minister defy that, how can the Law Minister defy that? It is a very serious situation where all of them have been in the box, in the dock. Having defied the hon. Supreme Court consistently, the only remedy now available is that they should immediately revoke the order.

SHRI M.M. JACOB: Even if the four suspended MLAs are admitted inside the House, the Governor's report says that even then the situation is equal and nobody can form a Government. That point is also to be considered.

SHRI GUMAN MAL LODHA: What would happen after *Status quo ante* is restored? Nobody can ensure what is going to happen in the future. Even today, we cannot say who crosses the floor either this side or that side. Nobody can say that. But can a Governor, when the Speaker is taking a defying attitude against the Constitution, against the Supreme Court, recognise the Speaker's defiance? It is clear that 31 MLAs have been paraded. Apart from the question of parading, 31 MLAs were there. But 30 MLAs were there in the Division on the particular day. Now, 31 have been paraded. So, as against the 31 MLAs, there were 26. It does not require any mathematical calculation or any effort to know where is the majority. Therefore, the question is the the proper *status quo ante* must be restored and it must be left to the Members. When the House assembles, the Speaker is duty bound to act according to the Constitution, the Speaker is duty bound to obey the judgement of the Supreme Court and it is expected that he would act rationally, he would act legally and he would act constitutionally, having taken the oath to the Constitution.

The Governor says in the very report which our hon. Leader of the opposition has

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referred to, my information which I already quoted in my earlier report is that the Speaker had in his mind the aspiration to become the Chief Minister.

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By Such acts, he ceases to become the Speaker. Therefore, now the question is that the judgement (*Interruptions*)

RAO RAM SINGH (Mahindergarh): Mr. Deputy-Speaker, is it according to rules that we use such derogatory language in respect of the speaker of one of our Assemblies? I would like to have your ruling on that. Is anyone permitted to use such derogatory language as Shri Guman Mal Lodha is using? He gave a conscious judgement. The Supreme Court has given a conscious judgement. I am sure both of them considered the facts adequately. But is it according to rules that we can use such derogatory language in respect of the office of the Speakers of one of our State Assemblies? I would like your ruling (*Interruptions*)

SHRI GUMAN MAL LODHA: before the hon. Chair given the ruling, I may say that I read out from the report of the hon. Governor forwarded to the Government of India. And that report says that he is ambitious to become the Chief Minister. That report now says which has come now and which the hon. Leader also referred to that the Speaker even now would not allow five persons, ten persons etc. It is not from my record, it is not from my vocabulary. I did not mean to use any derogatory words. It is the report which I have read out (*Interruptions*)

SHRI MANI SHANKAR AIYAR (Mayiladuturai): Shri Lodha used the Word \* about the Speaker. He did not only quote from the Governor's report, he also added his own adjective which applies, perhaps, to that side and which does not apply to the Speaker or the presiding officer. (*Interruptions*)

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND THE MINISTER OF STATE IN MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI RANGARAJAN KUMARAMANGALAM): Mr. Deputy-Speaker, Sir, firstly, I wish to make a point that the Governor's report to the President is normally not quoted in this fashion. (*Interruptions*)

SHRI GUMAN MAL LODHA: What is the fashion in which it is quoted?

SHRI RANGARAJAN KUMARAMANGALAM: There is a way. Either it has to be tabled in the House..

SHRI GUMAN MAL LODHA: It has been tabled.

SHRI RANGARAJAN KUMARAMANGALAM: It has not been tabled. Why do you not see that? You had been the Justice of a Court. I hope you will see that.

SHRI GUMAN MAL LODHA: I challenge that you have tabled this report.

SHRI RANGARAJAN KUMARAMANGALAM: Which report are you talking about?

SHRI GUMAN MAL LODHA: The earlier report and these words have been used in the earlier report.

SHRI RANGARAJAN KUMARAMANGALAM: Do you mean to say that the word...\*... has been used. (*Interruptions*)

There is one word which has been quoted and which is not in the report. (*Interruptions*) I object very strongly to it. I would like to go on record. It is time that the Members of the House also do understand that things do happen now and then. But terminology does matter. It is not the question

\*\*Expunged as ordered by the Chair.

\*Not recorded.

[Sh. Rangarajan Kumaramangalam]

of an individual. It is the position of the Speaker. One should not bring it down in this fashion. The language can be used in a manner in which it does not bring down the position. (*Interruptions*)

MR. DEPUTY SPEAKER: I shall look into the record and if there are any words which are derogatory and not fitting to the status, such words will be expunged.

SHRI GUMAN MAL LODHA: I was referring to the report. Sir, what I want to say is that the hon. Supreme Court had passed the orders not once but four times and those orders are so explicit, so clear, so mandatory in form, they direct that the governor should take notice of it and that four votes should be counted. And in spite of that, I am very much pained, disturbed and perturbed to find that though the Attorney General was in the Court, the government of India passed a proclamation in spite of the order of the hon. Supreme Court. I would submit that it is a day which should be treated as the blackest day, as the Supreme Court's orders were defied one after the other.

Sir, it is not a question of one party or the other. By now, the Article 356 had been used a hundred times. The compilation of the Lok Sabha shows that the proclamations under Article 356 have been used a hundred times and for forty five times the Assembly had been dissolved.

The hon. the Leader of the Opposition had rightly quoted Dr. Ambedkar who said "I hope, it would remain a dead-letter, never to be used". Today also, there is a threat which is coming within the lines and it is that the Assembly is to be dissolved or a plea is made that the largest single party should be allowed an opportunity to form the Government. When there is a combination of parties which has been recognized by the Speaker earlier and the Chief Minister was there, who was the Leader of that party, having a strength of 31 members where is the question of any largest party. 31 Members

constitute a clear majority and 26 members were on the other side. So, let the Meghalaya House decide on the issue. A rightly pointed out by the hon. the Leader of the Opposition, let the status quo ante be restored. After the Supreme Court's judgment, it is explicit that five Members disqualification was unconstitutional; that being so, there were 31 Members on that day. There was no question of any doubt about that. Let it be restored, let it be tested on the floor of the House the very next day. On the next day of the Swearing-in Ceremony, you say that they have to prove their strength on the floor of the House. It, at that time, it is found that the Government cannot function then the Article 356 is always with them. The article 356 could not exhaust itself.

Therefore, my respectful submission to the hon. Members of the House is that this is not a case of Meghalaya only. Another point is that under the garb of this particular proclamation, we should not raise the controversy of Speaker Vs Supreme Court and the Judiciary. The speaker is supreme, so far as to management is concerned. We have got Article and we have got other articles also, and no one challenges that. Even in Kesav Singh's case also. too hon. Supreme Court, under Ref. 146 said: Yes Speaker is supreme except in a very few and rarest of the rare case where fundamental rights have been violated". That is the law of the land and the law of the land must be allowed to prevail. We believe in the rule of law, we believe in parliamentary democracy. We, after great efforts and after great sacrifices, have culled out this Constitution for ourselves. Therefore, my respectful submission is that the hon. Members from the Treasury Benches should think over, ponder over this matter and consider and tomorrow they must come with a straight forward statement stating that after the judgment of the Supreme Court, we have got no options and nothing to say; we abide by it, we respectfully salute it and we direct that the proclamation will be revoked and status quo ante is restored. Then, it should be left to the Speaker to do whatever he wants to do according to the law.

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*Revocation of Proclamation in relation to state of Meghalaya*

**SHRI SHARAD DIGHE** (Bombay North Central): Mr. Deputy Speaker Sir, I rise to support the Statutory Resolution of our Home Minister asking this House to approve the proclamation issued by the President on 11th October 1991 in relation to the State of Meghalaya.

Several provisions of constitutional law have been referred to by the previous speaker. I would come to those points later on. In the beginning I may say that on the fateful day the position in Meghalaya was 26 against 26 and the Speaker cast his Casting Vote and declared that the No Confidence Motion was passed as far as that Government was concerned.

Questions are raised as to why did he not count the votes whereas the Supreme Court had directed him to do so. Further, a question was raised that even if the Speaker did not count it, why did the Governor not consider those votes and declared that that Government was in majority.

As far as the Speaker was concerned, he had categorically taken the stand that he was to ignore that Supreme Court's directions. I would come to that later on because I am also of the firm opinion that as far as the proceedings of the House are concerned, the Speaker is sovereign and no court should be allowed to interfere or sit in judgment over the Speaker's ruling. It may be that in this case the Speaker's rulings are not liked by so many people. There may be prima-facie so many detesting factors as far as the Speaker is concerned. But on principle, I would urge upon this House that we should always take a stand that we do not allow any interference of judiciary as far as the House proceedings are concerned.

As far as the Anti-Defection Law is concerned, there is the recent judgment no doubt which strikes down Para 7 of Schedule 10 of our Constitution. Para 7 clearly lays down that no court will have jurisdiction to entertain any appeal as far as the disqualification case is concerned. That is only held on the ground that if you take away

the jurisdiction of the High Court or the Supreme Court that particular constitution amendment must be also approved by more than half the legislatures of our country. That has not been done and therefore that has been struck down.

That raises so many fundamental questions. The Supreme Court judgment is based on the assumption that the Speaker's rulings in Anti-Defection Law is the ruling of a tribunal and therefore the Supreme Court says that it is the highest court as far as lower tribunals are concerned. Taking that view the Supreme Court has been dabbling or interfering with several rulings of Speakers from different States. My humble submission to this House is we as the members of this House, we as the legislators, we as the sovereign body of Parliament and State Legislatures should stand up against this and should not allow any interference of judiciary. It may be the High Court or the Supreme Court, we should never follow their rulings at all.

We have been always following this convention. This matter was discussed at Bombay in the Presiding Officers' Conference when I was the Speaker of that State. It was clearly laid down in that Conference also that Speaker should ignore any warrant or any summons of the judiciary. You should always ignore it because we are supreme as far as the procedure in the House is concerned. So, no judiciary should be allowed to take away our sovereignty as far as the procedure is concerned. There is already Article 12 of the Constitution which says that no procedural decision of this House can be challenged in any court. Apart from the Anti-Defection Law or Part 7, Schedule 10 of the Constitution, there is Article 122 which clearly lays down that as far as internal procedural part is concerned, it cannot be challenged anywhere. Therefore, when the Speaker of Meghalaya decides that so and so Members have been disqualified, I submit that no court has any right to sit in over the judgment of it. I can understand that he was also aspiring to become the Chief Minister and so he was

[Sh. Sharad Dighe]

acting under some motive. He ought not to have done that, but, that is a different matter.

On principle, I would always support the Governor's view that he followed the record of the Speaker. When the Governor was asked by the Press as to why did he not abide by the Supreme Court direction, to take into account the votes of the four disqualified Members, he said, "I have been maintaining that the counting business should be carried out on the Floor of the Assembly and not in the Raj Bhavan". The opposition parties and the Congress have always been saying that counting should be done on the floor of the House and not outside. If that principle is to be applied, then the Speaker says, "I have counted it is as 26 against 26; I cast my vote to them and this is my ruling". So, nobody should challenge it. The Governor should accept the report of the Speaker. The Governor has further said and I quote:

"Moreover, as far as the number of Members supporting the Government was concerned, I am bound to go by the official proceedings of the House, certified by the Speaker; and as such, I had to take cognizance of the Speaker and nobody else".

I bow to the very courageous statement. The Governor has to take the result from the proceedings of the House and not from the Supreme Court or the High Court. We are supreme as far as our procedure is concerned. So, if the Speaker says, "I have decided this way and this is the result of the voting," then, nobody else can say, "I will count the votes, I will count the votes of other disqualified Members, I will decide and give my ruling".

As far as this Governor was concerned, on both the points, he has absolutely correct. He had said that he would follow the certified report of the Speaker, that he could not have their parade in Raj Bhavan, and that he could take his decision.

If that is followed, the result would be 26 against 26. With the Speakers' casting votes, I submit that the Government will go. Thereafter also, the Governor has tried his best to find out a solution. He said this in his report of the 9th October 1991, to which Shri Lodha also referred to, and I will quote only one sentence from it.

"It is my considered opinion that neither the present Ministry can function, as it will not be possible to transact business in the House, with the opposition not cooperating; nor the opposition with equal number of Members, if given a chance to form the Government, will be able to function in the present situation because this group also consists of five independent Members whose loyalty cannot be predicted".

He has taken his subjective stand. He says that even if their votes are considered, what I feel is that the Government cannot function. What is required under Article 356 of the Constitution is only to say "that a situation has arisen in which the Government of a State cannot be carried on in accordance with the provisions of the Constitution". Then, we issue the Proclamation of the President's rule. There also, the Governor has come to an opinion. He is a man on the spot. He is an officer on the spot and he gauges the situation and says that even if these five people are considered, this Government cannot be formed and Government cannot go on. Therefore, he has recommended to the President that President's rule should be imposed. On that basis also, Governor has decided that it is a case for imposing President's rule. Therefore, this resolution has to be supported because the ordinance has been promulgated according to the provisions of the Constitution.

I would now say a few things about the Anti-Defection Law to which I have made certain references. According to me, this House is supreme, as I have said earlier. Now Mr. Lodha referred to the reference matter of the Supreme Court-Reference No. 1 of 1954. That was the confrontation



between UP Legislature and the Allahabad High Court at its Lucknow Bench. In that Keshav Singh's case, the UP Legislature issued warrants against the High Court Judges. And High Court Judges stayed those warrants. Ultimately, the matter went for opinion to the Supreme Court. The Supreme Court in its advisory capacity decided that, Supreme Court can interfere if fundamental laws are affected there. But as many jurists say, that opinion jurisdiction of the Supreme Court is not binding upon anybody. It is judicial opinion. Mr. Seervai in his constitutional book has said that it is no more than law officer's opinion because no parties are there and no cause of action is there. They just give their opinion. From that point of view, I say that view is no binding at all. In that particular case, ultimately, the UP Legislature also did not listen to that opinion case. Ultimately, contempt proceedings proceeded with against the High Court Judges and then were dropped. That is a different matter. But UP Legislature thereafter also - after the Supreme Court's judgment - defied and said, "We are not going to follow."

That is the last judgment as far as that point is concerned. But in an earlier judgment of the Supreme Court in Searchlight case under our privileges matter, Article 105, a question arose in S.M. Sharma's case whether our privileges are subordinate to the fundamental rights of the citizen. That judgment has clearly said that, no, when question of fundamental rights comes, the privileges will prevail, the privileges of the House will prevail and fundamental rights must give way. That is a judgment of the Supreme Court., This is an opinion of the Supreme Court. So, earlier judgment according to me, is binding. That is the law of the land. That has to be followed as far as we are concerned with respect. Therefore, I say that here also the Speaker, whatever may be his other faults, was right in law, under Constitution, in defying the Supreme Court's judgment and following his own conscience and decided the matter. If the Governor has also followed that, then my submission is that Governor's advice was

correct. And relying upon that report, if the Government has issued this proclamation then it is time that we should wholeheartedly support it.

I am told that thereafter also, that was one by-election. That election has been won by Congress. That is the report of the Governor. Even if that is considered, let us see now to what conclusion the Governor will now come and for further action, we can await as far as this point is concerned. But today, whatever the Government has done on 11th October is correct or whatever the President has done on 11th October relying upon the report of the Governor, Mr. Madhekar Dighe, is completely correct. This House supports it. Therefore, I wholeheartedly support this resolution.

[Translation]

SHRI RAM VILAS PASWAN (Rosera): Mr. Deputy Speaker, Sir, just now I was listening to the speeches of Shri Dighe and Shri Lodha. Both of the hon. members are learned lawyers. So they go deep into the details of all the issues. But I think the issue under discussion is not what they have stated. The matter does not fall under the jurisdiction of the hon. Speaker or the Governor, but falls under the purview of the Government of India. Views of the hon. Speaker and the Governor are not all that important, but the basic issue is the intention of the Government of India. What is the intention of the Government of India? I think the hon. Minister of Home Affairs as well as the Central Government are confused, over the issue.

THE MINISTER OF HOME AFFAIRS (SHRI S.B. CHAVAN): No, it is not correct.

SHRI RAM VILAS PASWAN: Then let us know your position.

SHRI S.B. CHAVAN: We would like to support it and are not at all confused.

SHRI RAM VILAS PASWAN: Then let us know when do you want to support. We

[Sh. Ram Vilas Paswan]

are firm on our stand. At the Centre the Government is of Congress (I), while in the State since March 26, Mr. Lyngdoh is at the wheels. Till now, it could not be proved that the Government in the State is in minority. It is evident from the last session of Vidhan Sabha called on August 7 and from the report of the Governor, that 30 MLAs are with the ruling party and 28 MLAs are with the opposition. The Government is requested to go through the report where in it is contained that since August 7 no occasion has arisen for trial of strength on the floor of the Assembly.

**SHRI S.B. CHAVAN:** Once it is happened when the casting vote was exercised.

**SHRI RAM VILAS PASWAN:** No, it has never happened. After that no occasion came for trial of strength. As per the latest report of the Governor, which has been read by Mr. Jacob, here just now, 30 MLAs are with the ruling group and 28 MLAs are with the opposition. It is the apprehension of the Congress (I) that the Speaker of State Assembly may not agree to the party's point of view and might tender his resignation. But, even if the Speaker of the State Assembly resigns, the strength will remain at 30 and one of them again will be appointed as Speaker reducing the strength of the ruling party to 29 while 28 are in opposition and one MLA is still in a fix. If the same MLA joins the opposition group, the strength will become equal i.e. 29 on each side. All this cannot solve the deadlock and the matter rests here. The Government should not have any difficulty in accepting the position that 30 MLAs are on one side and 28 MLAs are in opposition camp. One is double minded and is not aligned with any group. On the day of trial of strength on August 7, in the Assembly, 5 MLAs were suspended. Then on August 13 or after that all these 5 MLAs were disqualified. Only 4 MLAs went to the court against their disqualification and if all the five MLAs had gone to the court, then a decision could have come on their petition.

*The court has given the judgment to maintain status-quo and since then no progress has been made on the issue.*

At present, 30 MLAs are on one side and the other 28 MLAs are on the other side. I just want that aspersions should not be cast on the Government of India. There is no question of accusing the Centre, but the main point is that we have seen the sequence of incidents in Punjab. We have also seen how the Barnala Government who was in majority was dismissed by the Centre. The Government seems to have not learnt any lesson from the Punjab and Kashmir episodes and again the same things are being repeated in Meghalaya. It will also not go down well among people, of the State. Why is the Centre afraid of future political developments in the State. Please revoke the order and convene the Assembly of the State. Whichever party is in majority will form the Government. If no party is in majority then elections will be conducted. On the one hand, the Supreme Court states that the legislature is supreme and on the other hand it does not want to issue any direction to the Government of India. Therefore, I submit that it is a separate issue to be pondered over. That the role of the Speaker of Assembly is justified or not. The Government should consider what the Governor has stated in his report which is at present before the Government.

In the beginning, I have pointed out that it is the question of the intention of the Government of India. We are law makers and this August House is entrusted with the task of making laws. Therefore, I would like to quote from the tenth schedule of the constitution, as has also been referred to by Shri Dighe during his speech, that the rights of the Speaker cannot be challenged in any court. But, the court has ruled that the actions of the Speaker of Assembly are wrong. In that case it must be reviewed and the anti-defection law should definitely be reviewed. But in this connection, we strongly oppose the proposal of the Government and I think that the Government should understand the feelings of the House. This

matter does not relate to a particular party or to a particular Government. Whatever you do, it will be a matter of happiness for you. At least for once the Congress Government should do a good work since it is always doing wrong things.

SHRI S.B. CHAVAN: They will do after listening to you.

SHRI RAM VILAS PASWAN: The Governor has always said that they should prove their strength on the floor of the House. We do not say anything in this matter also. We are of the opinion that the trial of on the floor do the House is the best test of majority. In that context it must be reviewed and the President's rule should be revoked. Give a chance for the formation of a new Government. We have always demanded on the floor of the House that Mr. Lingdoh, who had been the Chief Minister and was removed, deliberately, should be given a chance to be the Chief Minister. Majority should be proved on the floor of the House. If some new situation emerges there, then the House or the Government will have an opportunity to think over it. If we start presuming and the Government also starts thinking that this or that will happen, then I think, it will be making smocking of the people of the country and the democracy. Therefore, on one hand, we firmly oppose this proposal of the Government on the other hand, we openly support the motion of Advaniji and Shrimati Geeta Mukherjee.

15.42 hrs.

#### STATEMENT BY MINISTER

**Train Accident to 3 Pathankot-Bajjnath Passenger Train between Jawanwala Shahr-Harsar Dehri on Pathankot-Joginder Nagar Narrow gauge Section of Northern Railway on 7.12.1991**

[English]

THE MINISTER OF STATE IN THE MINISTRY OF RAILWAYS (SHRI MALLIKARJUN): It is with deep anguish that I apprise the House of the traffic accident to

train No. 3 Pathankot-Bajjnath Passenger at about 15.00 hours on 7.12.1991 on the Pathankot-Joginder Nagar narrow gauge single line section of the Firozpur Division of Northern Railway. While this train with 6 coaches was on run between Jawanwal Shahr and Harsar Dehri stations, 2 coaches next to the train engine derailed and capsized at km. 47/7-8. As a result of this derailment, 27 persons lost their lives and 73 passengers sustained injuries.

Immediately on receipt of information about the accident, the medical relief van with Divisional Officers and doctors were rushed to the accident site from Pathankot. The Divisional Railway Manager/Firozpur also left for the site of the accident to supervise relief operations. Local Civil and Police Officials also attended the accident spot. The injured were admitted to the Civil and military hospitals at Nurpur, Jawanwala Shahr and Pathankot. Military personnel also assisted in attending to injured passengers.

The Member Engineering, Railway Board alongwith General Manager, Northern Railway and Senior Officers also proceeded to the site of accident to oversee rescue and relief arrangements.

I proceeded by special airforce plane alongwith Member Traffic to the site of accident. I visited the injured in the hospitals and also inspected the accident site.

Ex-gratia payment to the next of kin of the dead and to the injured is being arranged.

The Commissioner of Railway Safety, Northern Circle will be holding a statutory inquiry into this accident from 10.12.1991.

I am painfully conscious of the public misgivings about rail safety that are provoked by such unfortunate accidents. Every single accident is a matter of serious concern to me and all Railwaymen as it is to the general public. While I assure the House that the officials guilty of causing this accident through their negligence, will be severely punished,