Chapter VII

GOVERNOR

Assam like every State of India has a Governor as its constitutional head, appointed by the President of India, and he holds office during the pleasure of the President.\(^1\) Article 156(3) of the Constitution gives the Governor a normal term of office for a period of five years. The original proposal in the Constituent Assembly for an elected Governor was replaced by the present system of appointment in order to maintain all-India unity and encourage centripetal tendencies. Through this system the Government of India was expected to exercise authority over the States.\(^2\) The arguments in the Drafting Committee against the proposal for elected Governors were that the elected Governor might come in clash with the Ministers and that the constitutional structure designed on the basis of harmony between the legislature and the executive might collapse.\(^3\) The possibility of finding a friend and a mediator was greater by far in an appointed Governor than in an elected one. The President and his Cabinet might choose a person of undoubted ability and position in public life, a person who is not usually mixed up with state party politics. The Drafting Committee felt that election of the Governor would encourage a 'narrow provincial way of thinking' in each State. In fine, the Drafting Committee upheld the idea of appointed Governor, a detached figure, who would act on the advice

\(^1\) Article 155, 156(1) of the Constitution of India

\(^2\) Lok Sabha Secretariat, Role and Position of the Governor, p. 5

\(^3\) Constituent Assembly Debates, Vol.VIII, No. 1, pp. 443-467
of his ministry in all matters and whose position would be purely ornamental. 4

From 1912 to 1920 Assam was a Chief Commissioner's Province. Under the Government of India Act, 1919, Assam was converted into a Governor's Province. Under this Act, the Governor became the executive and legislative head of the Province. The Government of India Act, 1935, maintained the position and powers of the Governor as under the Act of 1919. During the period of operation of these two Acts, the head of the Province could exercise both the executive as well as legislative powers. He could summon, prorogue and dissolve the legislative Council and suspend at any time the deliberations and discussions on the budget, resolutions and questions. He had absolute veto power over the Bills. The establishment of partial responsible form of Government under the Government of India Act 1919 and the provincial autonomy under the Government of India Act 1935 increased the powers of the legislature to some extent. Yet the imposing set of powers for the Governor tended to cripple those of the legislature. The powers as granted to the Governor were inconsistent with the spirit of a democratic legislature. 5

During the British period, trusted well-known persons in public life and senior members of the Civil Service were appointed Governors. The same pattern was followed in Assam as well. This time-honoured practice has been continued in the era of independence. The Administrative Reforms Commission in 1969 recommended the appointment of Governors from amongst persons with long experience in public life and administration. It also emphasized the fact that persons

4. ibid., p. 468
who could be trusted to rise above party prejudices and predilections should only be appointed as Governors. The Commission did not favour the reappointment of the Governor after the completion of the term and the appointment of retired judges as Governors but held that a judge who after retirement entered public life might not be considered ineligible for appointment as Governor. A convention has grown in India regarding the appointment of the Governor. Thus, the Chief Minister of a State is consulted before the appointment of the Governor. The system of appointment of the Governor under the Constitution has worked well. So the Committee of Governors did not consider it necessary to make any recommendation to replace the existing system of appointment of Governors. However, some difficulties were experienced in West Bengal and Bihar after the mid-term election of 1969. The West Bengal State Government demanded the recall of the Governor. The Council of Ministers of Bihar expressed openly its unwillingness to accept the person appointed by the President as Governor. No such exigency arose in Assam during the period of our review.

The Governor's relationship with the Legislature:

The Governor is a part of the legislature. Chapter IV of Part VI of the Constitution deals with State legislature. Article 168 provides that for every State there shall be a legislature which shall consist of the Governor and one or two Houses. Under the


7. A Committee of Governors was appointed by an order of the President of India on 26 November 1970

8. Lok Sabha Secretariat, Role and Position of the Governor, p. 3
Constitution, at the commencement of the first session after each General Election to the legislative Assembly and at the commencement of the first session of each year, the Governor shall address the Assembly. The rules of the Assam Assembly framed under the Constitution regulate the procedure of the House so as to allot time for discussion of the matters referred to in the Address of the Governor. The Address is prepared by the Council of Ministers unlike the practice obtaining in the pre-independence period. The relationship of the Governor with the legislature and the Cabinet may be discussed under the following heads:

(a) Summoning, proroguing and dissolution of the Assembly:

Before the Constitution came into force the Governor had the absolute power to summon, prorogue and dissolve the legislature at his discretion. He could decide the place, date and time of the meeting of the legislature and, before the expiry of the term, he could as well dissolve it. The Governor of Assam, in practice, summoned the legislature on the advice of the Chief Minister who generally acted according to the wishes of the legislature. The Constitution provides that the Governor shall from time to time


10. The legislature of Assam under the Government of India Act 1919 consisted of the Governor and one House known as Assam Legislative Council. Under the Government of India Act 1935 the legislature of Assam consisted of the Governor and two Houses, known as the Assam Legislative Assembly and the Assam Legislative Council. The dissolution of the House by the Governor meant the dissolution of the Assam Legislative Council under the Government of India Act 1919 and the Assam Legislative Assembly under the Government of India Act 1935.


12. Article 174(1) of the Constitution of India
summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first session in the next session. The relevant rule of the Assam Assembly states that the Chief Minister shall, in consultation with the Speaker, advise the Governor for summoning the Assembly under Article 174 of the Constitution of India. The Governor may from time to time prorogue the House and dissolve it. The power of dissolving the Assembly can be exercised by the Governor at any time after the legislative Assembly is constituted.14 The Governor of Assam did not exercise this power during the period of our review. The power of the Governor to prorogue the Assembly is unfettered by any limitation and the Governor may exercise it while the House stands adjourned under the order of the Speaker. The order of prorogation takes effect as soon as the order of the Governor is notified in the official gazette. Dissolution of the Assembly is a matter of discretion of the Governor and he is not bound to act on the advice of the Chief Minister in this regard.15 The Administrative Reforms Commission also held that when a ministry is defeated in the Assembly on a major policy issue and, if the outgoing Chief Minister advises the Governor to dissolve the Assembly with a view to obtaining the verdict of the electorate, the Governor should accept the advice. In other cases he may exercise his discretion.16

13. Rule 3A, Assam Legislative Assembly, 1969, p. 3
14. Section 73 of the Representation of People Act 1951
15. Pylee, Constitutional Government in India, p. 522
of the Council of Ministers, is supported by the fact that the Constitution envisages situations in which there may be no Council of Ministers and while it may be necessary to dissolve the Assembly. The legislative functions of the Governor are to be performed by the Governor himself since these functions, unlike his executive functions, cannot be delegated to subordinate officers.

(b) Addresses and messages of the Governor:

Under the Acts of 1919 and 1935, the Governor of Assam had the power to address the legislature. However, the Acts did not mention clearly the interval of time at which the Governor was required to address the House. During 1921-36, the Governor of Assam addressed the legislative Council of Assam once a year only. During 1937-45, the House was addressed on two occasions only. From 1946 onwards the Governor could send messages from time to time and through it, stop deliberation, in the House. The Governor of Assam, however, did not exercise this power under the Act of 1919. Under the Act of 1935 also the Governor continued to exercise the power of sending messages to the legislature and through it the interests of the Central Government were carried out. Under the Constitution of India the Governor has the right to address and send messages to

17. In 1967 the Chief Minister of Punjab advised the Governor to dissolve the Assembly. The Governor instead of dissolving the Assembly invited the leader of the Janata Party to form the Government. While in Haryana though the Chief Minister had majority behind him in the House, the Governor dissolved the Assembly and reported to the President under Article 356 of the Constitution of India. - Mittal, Constitutional and Parliamentary Studies, 1970, p. 90


19. Assam Legislative Council Manual, 1929, p. 62

20. Assam Legislative Council Manual, 1940, p. 17

21. Article 175 (187) of the Constitution of India
the legislature of the State. The special address by the Governor to the legislature is provided for under Article 176(1) of the Constitution of India. The Governor only can determine under what circumstances it becomes necessary to send messages to the House. He alone determines what message is to be sent. The Governor may send messages on such subjects on which the Council of Ministers may not want to put matters before the House. The relevant rule\textsuperscript{23} of the Assam Assembly provides that when a message from the Governor to the Assembly under Article 175(2) of the Constitution is received by the Speaker, he shall read the message to the Assembly and give necessary directions in regard to the procedure that shall be followed for the consideration of matters referred to in the message. In giving these directions the Speaker shall be empowered to suspend or vary the rules to such extent as may be necessary.

(c) Assent of the Governor to Bills:

The assent of the Governor to Bills passed by the legislature is essential in that without the assent of the Governor no Bill can become an Act. Under the Government of India Act 1919, the Governor of Assam withheld assent from two Bills on technical grounds\textsuperscript{24} and only one Bill was sent to the Council for reconsideration.\textsuperscript{24} A copy of each Act was required to be sent to the Governor-General of India since without his signature no Act could be valid.\textsuperscript{25}

\textsuperscript{22} Rule 20, Assam Legislative Assembly, 1969, p. 17
\textsuperscript{23} A.L.C.D., 29.9.26, Vol. VI, No. 10, np. 919-940
\textsuperscript{24} A.L.A.D., 3.10.36, Vol. XXI, No. 19, p. 1646
\textsuperscript{25} Assam Legislative Council Manual, 1929, p. 27
Government of India Act 1935, the Governor did not withhold assent from any Bill passed by the provincial legislature.

Under the Constitution when a Bill is passed by the state legislature, it is presented to the Governor, who either gives his assent or withholds assent therefrom or reserves the Bill for the consideration of the President. The sending of a Bill for reconsideration is always accompanied by a message from the Governor requesting that the Assembly do reconsider the Bill or any provision thereof or any such amendment as are recommended in his message. The Governor of Assam did not withhold his assent from any Bill passed by the Assam Assembly during the period under review nor did he send back any Bill for reconsideration of the House. During 1962-1972 the President of India gave assent to fifty two Bills reserved for him by the Governor of Assam.

(d) Previous recommendation of the Governor:

The recommendation of the Governor is necessary before the introduction of certain Bills in the House. The Government of India Act, 1919, provided that the Bills that affected public revenues required previous recommendation of the Governor before their introduction. Under the Government of India Act, 1935, Bills that required the previous sanction of the Governor related to: (i) determination of technical and professional qualification; (ii) amendment

26. Article 200 of the Constitution of India
27. Rule 97(1), Assam Legislative Assembly, 1969, p. 60
29. Assam Legislative Council Manual, 1929, p. 71
of the duties and powers of the provincial Auditor General; (iii) endowment of original revenue jurisdiction on the High Court; (iv) provision on additional functions of the Public Service Commission; (v) restricting protection of public servants under section 197 Criminal Procedure Code and sections 80 to 82 of the Civil Procedure Code; (vi) land acquisition. The previous sanction of the Governor was not a formal affair. The Constitution lays down that the Governor shall in respect of every financial year cause to be laid before the House or Houses of the legislature of the State a statement of the estimated receipt and expenditure of the State for that year. Further, it requires that no Money Bill or amendment of like nature shall be introduced or moved except on the recommendation of the Governor.

(e) Governor's legislation:

Before the independence of India the provincial Governors were armed with a discretionary power to enact Governor's Act. If at any time it appeared to the Governor that certain legislation was necessary to discharge his special responsibilities, the Governor could either enact Governor's Act or attach a draft of the Bill in question to his message to the legislature. A Governor's Act had the same force as an Act passed by the provincial legislature. Such Acts were required to be placed before the British Parliament through the Secretary of State for India. During the period of provincial autonomy the Governor of Assam did not exercise such power. The

30. Article 202(1) of the Constitution of India
31. Article 207(1) of the Constitution of India
32. Section 90 of the Government of India Act 1935
Governor was also empowered to promulgate ordinances when he was satisfied that the circumstances rendered it necessary for him to take immediate action to meet any particular situation. The ordinances were of two kinds: one could be issued on the own responsibility of the Governor and the other on the advice of the Ministers. The ordinances remained valid for a period of six weeks unless revoked earlier. The Governor of Assam issued ordinance only once in 1941 and got the Assam Local Board Elections (Emergency Provisions) Bill 1942 passed.

The Constitution empowers the Governor to promulgate ordinances during the recess of the State legislature, if he is satisfied that circumstances exist which render it necessary for him to take immediate action. The Governor, however, shall not promulgate an ordinance without instructions from the President, if -

(a) a Bill containing the same provisions would under this Constitution have required the previous sanction of the President for the introduction thereof in the legislature; or

(b) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; or

(c) an Act of the legislature of the State containing the same provisions would under this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.

33. Section 93 of the Government of India Act 1935
34. A.L.A.D., 2.3.44, p. 28
35. Article 213(1) of the Constitution of India
Article 213(2) provides that an Ordinance promulgated under this Article shall have the same force and effect as an Act of the legislature of the State assented to by the Governor. Every such ordinance shall be laid before the legislature of the State and shall cease to operate at the expiration of six weeks from the re-assembly of the legislature. If before the expiration of that period, a resolution disapproving the ordinance is passed by the State legislature, the ordinance ceases to operate earlier. Moreover, an ordinance may be withdrawn by the Governor at any time. The Governor exercises this power as a component part of the legislature when the legislature is not in session. The restrictions put on the exercise of ordinance-making power also shows that the Governor exercises this power on behalf of the House when the same is incapacitated by its recess. The urgency of action should be so grave that things cannot wait for the legislature to be summoned and regular enactment passed. The Governor of Assam during 1962-72 issued forty one ordinances during the recess of the Assam Legislative Assembly. 36

(f) Decision on Members' disqualification:

The Governor exercises another important power under the Constitution. 37 If a question arises regarding the disqualification of a sitting member of the House under Article 191(1) of the Constitution of India, the question is referred to the Governor. The Governor takes the opinion of the Election Commission before taking action and his decision is final. The Governor exercises this power

36. A list of Ordinances is given in Appendix-I
37. Article 192(1) of the Constitution of India
as a constituent part of the legislature. No sitting member of the Assam Legislative Assembly was found disqualified during 1960-1972.

The duties of the Governor, as a component part of the legislature, are performed in accordance with the provisions of the Constitution and by doing so he preserves, protects and defends the Constitution. The Committee of Governors expressed itself against the laying down of any rigid guidelines for the Governor on the ground that that would be unrealistic and unwise since the Constitution itself did not make any provision for such guidelines. The Committee of Governors in its report pointed out that complete harmony between the executive and the legislature was the foundation of the constitutional and democratic Government of India and of the States. The powers of the Governor were laid down in the Constitution and as such he was by no means an agent of the President. Even under Article 356 of the Constitution when the administration of a State is taken over by the President the Governor does not by virtue of anything contained in the Constitution becomes an agent of the President. The President entrusts to the Governor some or all of these powers by an order in writing. The Committee of Governors further held that non-

38. The Committee of Governors was appointed on 26 November 1970 by the President of India in pursuance of the decision taken at the Conference of Governors held on 20 and 21 November 1970. The Committee consisted of five Governors. They were,

(1) Bhagawan Sahay, Governor of Jammu and Kashmir
(2) Dr B. Gopala Reddy, Governor of Uttar Pradesh
(3) V. Viswanathan, Governor of Kerala
(4) S. S. Dhavan, Governor of West Bengal
(5) Ali Yavar Jung, Governor of Maharashtra

The Committee directed its study in particular, to the provisions relating to (1) appointment of Council of Ministers (Articles 163 and 164), (ii) summoning, prorogation and dissolution of a legislative assembly (Article 174), and (iii) failure of constitutional machinery in a State (Article 356); Maheswari, Administrative Reforms Commission, pp. 524-525
inclusion of the instrument of instructions in the Constitution indicated that the Governor under the Constitution would be functioning as head of the State and would not be subject to control by anyone. The guidelines would be beset with many difficulties since it would not be easy to envisage all situations which might confront Governors in the future. The Committee, however, recommended the setting up of a special wing in the President's Secretariat which would ascertain all the facts and circumstances relating to each situation that might arise from time to time requiring action on the part of the Governor.

(g) Governor vis-a-vis the Cabinet:

Article 163 of the Constitution provides that there shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except insofar as he is, by or under the Constitution, required to exercise his functions or any of them in his discretion. If any question arises whether any matter is or is not a matter with respect to which the Governor is required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion. The question whether any and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court. The Chief Minister and other Ministers are appointed by the Governor. 30 Article 167 of the Constitution makes it the duty of the Chief

39. Article 164 of the Constitution of India
Minister to communicate to the Governor of the State all decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for, and if the Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council. The Council of Ministers is not only a part of the legislature, it also depends for its very existence on the confidence it enjoys in the Assembly. No ministry was turned out of office in Assam by vote of no-confidence during the period of our review. About the discretionary powers of the Governor of Assam there are two cases mentioned in the Constitution of India and both relate to the functions of the Governor of Assam. 40 There are no precedents in Assam where the

40. Paragraphs 9 and 18 of the Sixth Schedule of the Constitution of India. The power to levy taxes and land revenues in the areas coming under the Sixth Schedule is exclusively vested in the Regional and District Councils. Para 9(1) - Such share of the royalties accruing each year from licences or leases for the purpose of prospecting for, or the extraction of, minerals granted by the Government of Assam in respect of any area within an autonomous district as may be agreed upon between the Government of Assam and the District Council of such district shall be made over to that District Council. (2) If any dispute arises as to the share of such royalties to be made over to a District Council, it shall be referred to the Governor for determination and the amount determined by the Governor in his discretion shall be deemed to be the amount payable under sub-paragraph (1) of this paragraph to the District Council and the decision of the Governor shall be final.

Para 18(1) - The Governor may (a) subject to the previous approval of the President, by public notification, apply all or any of the provisions of this Schedule to any tribal area ... (North East Frontier Tract including Balipara Frontier Tract, Tirap Frontier Tract, Abor Hills District and Misimi Hills District) or any part of such area and thereupon such area, or part shall be administered in accordance with such provisions, and (b) with like approval, by public notification, exclude ... any tribal area ... or any part of such area.
Governor had acted contrary to the advice of the Council of Ministers since the operation of the Constitution of India.  

Position of the Governor of Assam: An appraisal:

The Governor of Assam during the period of our review performed his activities in accordance with the Constitution and the rules framed thereunder in regard to the appointment of the Council of Ministers, addressing the Assembly and sending messages to it. The Address of the Governor consists of the policy matters to be executed by the Government in a year. After the delivery of the speech by the Governor the Speaker reports to the Assembly that the Governor had been pleased to make a speech and shall lay a copy of the speech on the table of the House. On such report being made, notice may be given of a motion or motions for discussing the Governor's address. Amendments may be moved to such motion or motions in

(2) Until a notification is issued under sub-paragraph (1) of this paragraph in respect of any tribal area or any part of such area, the administration of such area or part thereof, as the case may be, shall be carried on by the President through the Government of Assam as his agent.

41. There are precedents of some Governors of some States of India acting contrary to the advice of the Council of Ministers. In 1955 in Travancore Cochin (which forms part of the present Kerala State) the Governor rejected the advice of the ministry to dissolve the Assembly. In 1967 the Chief Minister of Punjab advised the Governor to dissolve the Assembly. The Governor instead of dissolving the Assembly invited the leader of the Janata Party to form Government. In Haryana though the Chief Minister had majority in the House the Governor dissolved the Assembly and reported to the President under Article 356 of the Constitution of India; Mittal, Constitutional and Parliamentary Studies, 1970, pp. 89-90

42. Rule 13(2), Assam Legislative Assembly, 1969, pp. 12-13
such form as may be considered appropriate by the Speaker. The Address having been adopted with or without amendment shall forthwith be communicated to the Governor by the Speaker. The Chief Minister or any of the Ministers whether he has previously taken part in the discussion or not, shall on behalf of the Government have a general right of explaining the position of the Government. The amendments moved to the Addresses of the Governor during 1969-70 were either withdrawn or lost in vote after the positions were explained by the Government. The following is an example of the debates on the Addresses of the Governor:

Governor S.M. Srinagesh addressed the first session of the Assam Legislative Assembly on 23 March 1962 after the third General Election of 1962. In his Address he reviewed the problems and achievements of the State and mentioned that the situation on the Assam-Pakistan border was satisfactory for the implementation of the ground rules. The law and order situation throughout the State was satisfactory. Food prices came down for the building up of buffer stock by the Government and for the procurement of food grains through the co-operative societies, the place of middlemen was done away with. A phased programme for increased facilities for technical and general education was taken up. Developmental programmes were in progress in the Hill Districts and a Committee was appointed to study the actual working of the tribal belt and the Blocks constituted under the Assam Land Revenue Regulation and to give concrete suggestions for removal of defects. The Governor expressed great concern at the violent activities of the Naga hostiles and referred to a shocking incident in North Cachar Hills where the rebels burnt down six villages and killed one person. The Governor further said about the steps taken by the Government for
stopping illegal Pakistani infiltration and about the formulation of a well-defined land settlement policy for settling waste lands with the deserving persons. He referred to the progress made by the Oil Refinery and Spun Silk Mill at Jagiroad.

The debate that followed on the Address of the Governor was started with the moving of the Motion of Thanks by Sarat Chandra Sinha (Cong). He was supported by Sarat Chandra Goswami (Cong). Moti Ram Bora (Cong) in a highly critical tone pointed out some lacunae in the Address of the Governor. He held that in the Address there was no mention about the appointment of a judicial enquiry into the Hailakandi Police firing, and that the Address did not contain definite information about the number of Pakistani infiltrators and steps taken or proposed to be taken. There was nothing about the encroachments on Government land. He regretted that there was no mention about the appointment of a Judge to the High Court of

43. The Governor is offered thanks for addressing the House. This incident of giving thanks originated from a custom in England. It does not mean that the Government which is responsible for preparing the speech is thanked; but it is a matter of courtesy to the King or the Queen for coming over and delivering a speech to the House in England. In the same way the Governor of a State in India is thanked as he comes to the House as a titular head and the Government is commented upon for the speech of the Governor. However there is a qualitative difference between the Monarch of England and the Governor of a State. The Monarch is a hereditary head, while the Governor is appointed by the President. In that light the analogy between the two is not tenable. The debate is initiated as in England by a motion of thanks proposed by a member and seconded by another. All communications between the legislature and the Governor take the form of an Address, the Motion of Thanks generally takes the form of a proposal for presenting the Address. To this, motion of amendments may be moved by way of adding words at the end of the Address in reply. The words sought to be added usually take the form of an expression of regret for any matter omitted from the speech or for the policy contained therein.

44. Police firing took place at Hailakandi for language disturbance where one person was killed.
Assam where one post was lying vacant. Similarly, no information was given about the Kopili Valley Project.

The Opposition moved six amendments to the motion of thanks on the ground that the Address was short of important information.

Tajuddin Ahmed (P.S.P.) asked the Government to find out the root cause of corruption amongst the Government servants and try to

45. Six amendments were moved to the Motion of Thanks on the Address of the Governor by Tajuddin Ahmed (P.S.P.), Santi Ranjan Das Gupta (Ind), Dulal Chandra Barua (Ind), Rathindra Nath Sen (Ind), Tarapada Bhattacharyya (Ind) and Khagendra Nath Barbarua on the ground that the Address failed to mention about -

(1) disparity of pay scales between different grades of Government servants and semi-Government servants and whether it would be removed; relief of poorer people from burden of heavy taxation; nationalisation of industries of the State; unemployment anomalies in the Panchayat Administration; abolition of corruption; unfair means adopted by party in power in the General Election of 1962; free education for students upto High School and helping them on economic basis.

(2) failure of Government to comply with and give effect to the rulings of the Hon'ble Supreme Court of India against the monopoly granted in favour of co-operatives and the violation of Articles 14 and 19 by the Government; to comply with the provisions of Articles 15(1), 30(2) and 350 of the Constitution; to admit that administration cannot be carried on in accordance with the provisions of the Constitution; to activise Government machinery; to implement the recommendations made by the Goreswar Inquiry Committee in regard to rehabilitation of riot victims; to safeguard the linguistic minorities, to bring into being the Kopily Valley Project and to provide road, medical facilities and drinking water.

(3) failure of the Government in arresting upward trend of prices, land distribution, in maintaining law and order; in providing health and education.

(4) Hailakandi disturbances of 19 June 1961 and actual number of persons killed; transport deadlock, deteriorating supply condition, haphazard rehabilitation of displaced persons.

(5) stopping of Pakistani infiltrators; Naga Hostiles; development of Cachar district.

(6) deterioration of productivity of soil.
cure it. He thought that Panchayats were being used for the benefit of the party in power.

Haladhar Uzir (P.S.P.) dealt with education and urged that the pay of the primary school teachers should be raised.

Mohananda Bora (Cong) appreciated the role of the service co-operatives.

Rathindra Nath Sen (Ind) in a dispassionate appeal to the people of Assam asked them to forget the past bitterness and go hand-in-hand to make a new Assam where all could live with honour and happiness.

Mohikanta Das (Cong) spoke about the student indiscipline that prevailed in the State.

Madhusudhan Das (P.S.P.) alleged that the Congress resorted to unfair means in the General Election of 1962.

Sarbeswar Bordoloi (Cong) spoke about labour welfare measures.

Santi Ranjan Das Gupta (Ind) referred to Assam Food Grains Control Act which was challenged three times in the High Court of Assam and the Supreme Court of India and on each occasion the judiciary delivered judgement against the State Government, which amounted to violations of the fundamentals of parliamentary democracy.

Lakshmi Prasad Goswami (P.S.P.) alleged that the Congress Party received help to the extent of Rs 4 to 5 lakhs and new 'teens' from a businessman in lieu of which he had been given a permit to import 'suphari' from a foreign country. He cited instances of disturbances and kidnapping in border areas of Assam.
These were some of the main aspects of the discussion in the debate on the Address of the Governor of 1962. Altogether 45 members took part in the discussion which covered 14½ hours of the House.

At the end of the discussion, B.P. Chaliha (Chief Minister) replied that the Government of India advised the Registrar-General of Census to check up figures of Pakistani infiltration and the Government of India approved a scheme with sizeable financial implication for making a larger number of districts and borders as an anti-infiltration measure. He also informed that no officer was victimized while discharging duties in detecting Pakistani infiltration. The demarcation of about 620 miles of the entire Assam-East Pakistan border would be completed within three years. The Chief Minister admitted that a lot of development works had to be done in Garo Hills where some progress was already made in the matter of providing communication facilities. He thanked Md Umaruddin (Cong) for his suggestion for the development of agriculture, for associating Panchayats with the developmental works of the Forests and for the separation of judiciary from the executive. He said that the industrialists of Assam were persuaded to give employment to the unemployed people of Assam. The Government of India was doing whatever was possible for the stabilization of prices of things. He said that he raised the question of integration of Assam, Nagaland, N.E.F.A., Manipur and Tripura as suggested by Khagendra Nath Borboruah (R.C.P.I.) before the Prime Minister. The Prime Minister said that that would be ideal and was up to the people of Assam to see how the people of these territories could come under one integrated administration. With these explanations and remarks, the Chief Minister requested the
movers of the amendments to withdraw the amendments. The request, however, was not complied with. The amendments were put to vote and were negatived.  

The Governor as a constitutional head of the State is not supposed to be criticised inside the House for any supposed omission or commission in his Address to the House. But the members of the Opposition in the House criticised the Governor on all available opportunities and went to the extent of suggesting that the Governor was not taking any interest in the affairs of the State. For instance, on 3 March 1964, Tarapada Bhattacharyya (Ind) participating in the debate on the Address of the Governor quoted from the Speech of the Governor regarding law and order situation in the State. The Governor said that the law and order situation in the State was on the whole satisfactory. The member said that he admired 'this lack of knowledge' on the part of the Governor. He held that it appeared to him that either the Governor was not taking any interest in the affairs of the State 'amounting to dereliction of duty' or that he was advised to keep silent on this vital matter. On 24 February 1965, Rathindra Nath Sen (Ind), speaking on the amendment on the Motion of Thanks to the Address of the Governor said that the 'luxury post' of the Governor was meant only for Dwrodghatan.

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46. A.L.A.D., 11.6.62, p. 676

47. A.L.A.D., 3.3.64, p. 48

48. During the four-day discussion on the Address of the Governor in March 1964, members of both sides of the House were critical about the law and order situation of the State and characterised the Governor's statement on law and order as 'misleading', promulgation of orders under section 144 Cr. P.C. and curfew in Shillong, Nowgong and in Cachar were not indicative of a satisfactory law and order situation in the State.
opening of doors), Briksharopan (planting of trees) and foundation stone-laying ceremonies. So such posts should be abolished as this costly office helped neither democracy nor the country. He was supported by Santi Ranjan Das Gupta (Ind) who said that the House should suggest to the Government and the Parliament of India to abolish the post of the Governor since he had nothing to do except addressing the House and entertaining the people. The Governor was even called a 'showboy'.

Not to speak of the Opposition, even some members of the ruling party criticised certain Addresses of the Governor. For instance Moinul Haque Choudhury (Cong) participating in the debate on the Address of the Governor on 21 January 1970 criticised the Address as 'having nothing' about the course of action to be followed in the next twelve months. He expressed regret and surprise at the silence of the Address about the current problems of the State. Throughout the period of our survey it was found that some members of the ruling party pointed out certain supposed omissions in the Addresses of the Governor and held the Council of Ministers responsible for it.

On 9 March 1971, an important question was raised by Dulal Chandra Barua (Ind) in the House before the delivery of the Address of the Governor. The member sought clarification whether the Governor was a party man and held that if he was so, the Opposition would not allow him to enter the House. The contention of the member was that

49. A.I.A.D., 24.2.65, p. 74
50. A.I.A.D., 28.3.67, p. 11
51. A.I.A.D., 21.1.70, p. 31
52. A.I.A.D., 9.3.71, pp. 1-6
the part played by the Governor in the mid-term Election of 1971 proved beyond doubt that the Governor was a partyman and so they would not allow him to enter the House. He was supported by Gohinda Kalita (R.C.P.I.) and Kamini Mohan Sarma (C.P.I.). Phani Bora (C.P.I.) held that though the Governor had every right to cast his vote for whomever he liked, he had to act as an impartial head of the State. He alleged that the Governor of Assam and Nagaland violated the convention of the House by propagating a particular view through a series of articles published in the Assam Tribune in its issues of 24 and 25 February 1971. He questioned the right of the Governor to propagate a particular viewpoint with regard to the economy and policies of the country before the elections. He wanted to know whether the Government had advised the Governor to write the articles. The member further held that by writing the articles the Governor of Assam and Nagaland had gone against the interest of the country and the people and served the interest of a certain group of people in the country and for certain people outside the country. He accused the Governor who 'not only defended the devaluation but advocated that that was a best piece of diplomacy'. He demanded to know what

53. The Governor of Assam and Nagaland published two articles in the Assam Tribune (Gauhati) in its issues of 6 March 1971 and 7 March 1971, and not in the issues of 24 and 25 February 1971, under the caption 'The Top Priority' I and II in which he wrote about the problem of unemployment, its sizes, its consequences and its possible cures. The Governor stated that although the Governor must remain above partisan politics it would be wholly undesirable for them to remain silent and thus fail to discharge their duties as citizens, on the fundamental disorders of the body politic of the State. He discussed what he believed to be the first priority which the nation must place before itself. He held that the magnitude of its malady was so great and the rate at which it was increasing so rapid that if nothing was done to cure it, it would eat into the vitals of the nation and cause a collapse of the body politic.
the articles stood for which were written by the Governor on the eve of elections. He held that the Opposition were not going to accept the Governor as impartial head of the State, who represented a sect, a group of people who were reactionaries and served the cause of the foreign imperialism. Sailen Medhi (Ind) supported him. The Speaker said that he had no information that the Governor was a partyman. It was a matter to be discussed, if necessary, since till that time the Governor was 'presumed' to be a non-party man. Mahendra Mohan Choudhury (Chief Minister) submitted that the Governor as a citizen had the right to franchise as every Government servant was entitled to vote in the election without divulging the secrecy. He found no fault on the part of the Governor taking part in the voting. About the articles written by the Governor, the Chief Minister held that the Constitution had guaranteed freedom of expression to all citizens and by exercising that fundamental right conferred on him if the Governor ventilated his views, no fault could be found with him.

Dulal Chandra Barua (Ind) submitted that if the Chief Minister said that the Governor was equal in status with a 'Lower Division Assistant' then they had nothing to say. But if the Government considered the Governor as a Government servant then the Opposition would not be able to accept him as an impartial person to take stand in the House and deliver his speech. The member further held that the articles written by the Governor were 'objectionable'. The Opposition wanted clarification from the Chief Minister whether the views expressed by the Governor through the articles were the views of the Government of Assam. Mahendra Mohan Choudhury (Chief Minister) stated that under the Constitution the Governor's Address to the Assembly must come through the mouth of the Governor. So the constitutional responsibility of the Governor should not be mixed with his individual
responsibility in which capacity he wrote some articles on the economic matters of the country. If there was anything to discuss about the merit of the subject, it could be done through a separate motion or during the discussion on the Address of the Governor. He further stated that he did not go through the articles of the Governor; if they had gone against the Government, the Government might take action. The Governor should, therefore, be allowed to deliver his speech which under the Constitution was obligatory. He was interrupted by the Opposition members. Amidst noise in the House the Speaker went out and after a short while the Governor was conducted in. Dulal Chandra Barua (Ind) demanded clarification from the Governor whether he was a partyman. The Chief Minister said that the Governor under the Constitution, was not to take part in the deliberations of the Assembly. He was not going to reply in the House and was not a party man. The Governor was a man of different status appointed by the President of India.

Both the Governor and Lakshyadhar Choudhury (P.S.P.) were on their feet: one was speaking and the other was reading at the top of his voice. The member shouted slogans like 'Partisan Governor Murdabad.' Unprecedented disturbances followed and the Opposition members walked out of the House. The Governor read out his Address in the absence of the Opposition. During the discussion on the Address of the Governor, the Opposition referred to the articles written by the Governor in which the Opposition alleged that the Governor supported devaluation and that was the 'best defamation

54. A.L.A.D., 9.3.71, p. 6
55. ibid., p. 6
ever he has done. The Chair asked the members to refrain from criticising the Governor since he could not be criticised in the House.

Throughout the period of our survey the Governor of Assam was found to be acting in accordance with the provisions of the Constitution. No situation arose during this period requiring him to report to the Central Government under Article 356 of the Constitution of India. The Governor of Assam B.K. Nehru created history by addressing the House in Assamese in 1970 and by doing so respected the sentiments of the people of Assam. The Governor was criticised rather vehemently by the Opposition for having published a series of articles on the economic situation. But there is nothing to show that he acted beyond the term of his oath of office.

56. A.L.A.D., 15.3.71, p. 28
57. A.L.A.D., 24.1.70, p. 67