

1890

1890

with

1890

Proceedings of the Ninth session of the First Assam Legislative Assembly assembled under the provisions of the Government of India Act, 1935

ASSAM LEGISLATIVE ASSEMBLY

The Assembly met in the Assembly Chamber, Shillong, at 11 a.m., on Tuesday, the 4th March 1941

PRESENT

The Hon'ble Mr. Basanta Kumar Das, Speaker, in the Chair, the nine Hon'ble Ministers and thirty-nine members.

QUESTIONS AND ANSWERS

STARRED QUESTIONS

(to which oral answers were given)

Settlement of land in Shillong

Mr. BAIDYANATH MOOKERJEE asked :

*5. Will Government be pleased to state—

- (a) Whether Government have given any settlement of land in Shillong since after the present Government came to office ?
- (b) If so, will Government be pleased to state the names of the settlement holders ?
- (c) The terms of each settlement specially showing the area, amount of premium received and the period of the lease ?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN replied :

5. (a)—(c)—The following settlements have been made by the present Government, of land in Kench's Trace since they assumed office in November 1939.

(1) Oxford Mission.

1/6th of an acre on a valuation of Rs. 6,000 per acre and rent at 3½ per cent., i.e., Rs. 210 per acre without premium for 72 years.

(2) Babu Samarendra Narayan Choudhury.

Allowed only a small extension to his original plot on the same terms and conditions as above.

(3) Chaplain.

1.28 acre near the Rifle Range for a Khasi Cemetery without premium and with a nominal rent of Re. 1 per annum, subject to the condition that the Cantonment authorities have no objection.

A lease of a small plot to Miss Barr has also been promised for a Khasi Infant School but has not yet been executed.

No other settlement has been ordered by Government in the British area of Shillong.

Mr. NABA KUMAR DUTTA: Is it not a fact that some lands have been settled with Hon'ble Maulavi Abdul Matin Chaudhuri and Hon'ble Srijut Rohini Kumar Chaudhuri in Kench's Trace?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Land has not been settled yet, but three plots have been allotted to three Hon'ble Ministers—Hon'ble Minister, Education, Hon'ble Minister, Agriculture and Hon'ble Minister, Public Works Department.

Mr. NABA KUMAR DUTTA: May I know whether any premium will be received for this land?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Premium will be charged at the rate of Rs. 1,500 per acre.

Mr. NABA KUMAR DUTTA: May I know whether this land will be reserved for Hon'ble Ministers or settled for good with the three gentlemen?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Terms have not been settled yet.

Maulavi ABDUR RAHMAN: May I know if any other gentleman applies for land, will he be given the land on conditions which have been laid down in the case of Hon'ble Ministers?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: This is a hypothetical question.

Mr. NABA KUMAR DUTTA: May I know whether there is any special reason for which the land has been settled with the Hon'ble Ministers?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: These three particular plots were already marked for Hon'ble Ministers.

Babu KAMINI KUMAR SEN: May I know whether there were any other applicants?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: The land has been reserved for Government purposes. The applications from other candidates have been rejected.

Mr. BAIDYANATH MOOKERJEE: Are we to understand that so long as these gentlemen will remain in office they will be entitled to use the land, but when they will be out of their duties as Ministers they will not be allowed to occupy the land?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: The terms are under the consideration of Government.

Maulavi ABDUR RAHMAN: Just now the Hon'ble Minister said that these plots were reserved for three Hon'ble Ministers. May I know whether they will get the land as Ministers or as individual members?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: As Ministers.

Maulavi ABDUR RAHMAN: When they will go out of Ministry will they cease to occupy the land?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: I cannot reply to that question as the terms have not been settled yet.

Babu KAMINI KUMAR SEN: May I know why applications from other applicants were rejected?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Land in Kench's Trace has been reserved for Government purposes.

Maulavi GHYASUDDIN AHMED: Are Government going to erect buildings for Hon'ble Ministers?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: No, Sir.

Maulavi ABDUR RAHMAN: May I know whether they will be permitted as Ministers?

The Hon'ble the SPEAKER: A simple question may be put whether land will be settled as personal?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: I am not prepared to reply to that question, because the terms are still under the consideration of Government.

Mr. BAIDYANATH MOOKERJEE: But this is meant for Government purposes.

UNSTARRED QUESTIONS

(to which answers were laid on the table)

Secretaries to Aided High Schools

Babu LALIT MOHAN KAR asked:

10. Will Government be pleased to state—

- (a) Whether it is a fact that at present, Secretaries to the aided high schools are appointed by nomination by the Department?
- (b) If so, whether Government propose to get the Secretaries to the aided high schools elected by the members of the Committee from among themselves?
- (c) If not, why not?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI replied:

10.(a)—The reply is in the negative. Under the existing rules, the Secretary is elected by the members of the Committee but this election is subject to the approval of the Education Department.

(b) and (c)—Do not arise.

The Assam Motor Vehicles Rules, 1940

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Sir, before you take up any other item may I make a request? I want to mention some difficulty about the Motor Vehicles Rules. In the Upper House they have wanted certain information. Will it not be possible to take up the next two items later?

The Hon'ble the SPEAKER: I have thought over the matter. I think, although there is nothing in our Joint Sittings Rules to the effect that a conference of both Houses may be arranged, we may nevertheless arrange a conference and adopt a procedure as to how the conference should be arranged and as to how it should function. I have drawn up something in the form of a resolution. I shall presently make over that to the Hon'ble Premier. It is being typed now. The main outline of the arrangement that can be planned is that there should be first a resolution to the effect that a joint conference of members of both the Houses is necessary for considering the Rules framed by Government under the Motor Vehicles Act and that it

should be a joint conference of an equal number of members of both the Houses. Then this House will nominate some members of this House for that conference laying down at the same time a procedure as to how the conference should function. This House will have also to adopt a resolution requesting the other House to signify their concurrence to the proposal deciding upon the conference and also its procedure, with a further request that the other House should nominate its representatives for that conference. Another resolution to the effect that a message according to rule 121 of our Joint Sittings Rules should be sent from the House, containing the whole decision to the other House, will have to be adopted. The procedure to be laid down for the conference is that the conference will elect its Chairman; that the time and place of the conference should be fixed by the Hon'ble Minister-in-charge and that the Chairman will have only a single vote and will not have any casting vote. In the case of an equality of votes, however, the question will be decided in the negative. As regards procedure, I have not as yet decided anything but my idea is that two-thirds of the members of the conference should form the quorum but the House may decide this question in any way it likes.

Sub-section (3) of section 133 of the Motor Vehicles Act provides that the modification of the Rules should be made by the Legislature in the very session in which they are placed. Now if the other House agrees to our request and if we are to adhere strictly to the letter of the law, i.e., section 133 of the Motor Vehicles Act, then this conference must finish their labours during this session of this House and during the session of the other House that has begun and that the recommendations of the joint conference can be considered by both the Houses during their current session. Now we have fixed 27th as the date on which the amendments to the Rules are to be taken up by this House. Will it be possible for the conference that would be arranged to sit and deliberate over the Rules before 27th and place their report in good time to be considered by this House on the 27th? That is a point to be considered. Now if we are to adopt the interpretation that I have given to section 133, sub-section (3), and if it be not possible to finish the consideration of the Rules by the joint conference during this session which is to end on the 29th of this month, April or May for considering these Rules, I understand to meet again say in session of the Legislative Council will be adjourned to meet again say in They may consider the amendments that may be proposed by the conference first and then this House may take up the consideration of the amendments subsequently if this session be adjourned. With regard to this point the Hon'ble Premier will consider whether it will be feasible or not for the House to adjourn this session and resume its sittings again in April or May to consider these Rules. I have gone through the whole body of the Motor Vehicles Rules and I think the House will have to spend sometime to consider these Rules and suggest modifications thereto if necessary.

Mr. F. W. BLENNERHASSETT : Sir, may I ask you to indicate what form of nomination would be laid down, i.e., how the members of the conference will be elected from the House?

The Hon'ble the SPEAKER : I have said that there should be equal number of members from both the Houses. It is for the House to decide how many members of this House should be in the conference and in what way the election of members is to take place.

2 106 D

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I will convey this to the Upper House and then I will come back. So I request you not to take up this item now.

The Hon'ble the SPEAKER: Very well.

**Presentation of the Appropriation Accounts and Finance Accounts
for the year 1939-40.**

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Sir, I beg to present the Appropriation Accounts and Finance Accounts for the year 1939-40.

The Hon'ble the SPEAKER: The hon. members are already in possession of the Appropriation Accounts and Finance Accounts for the year 1939-40. They may discuss them if they like.

Mr. BAIDYANATH MOOKERJEE: Is it possible? (*Laughter.*)

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Sir, may I point out that they will be placed before the Public Accounts Committee and I think it will be better to discuss them when the report of the Public Accounts Committee is placed before the House.

The Hon'ble the SPEAKER: I think, there is no objection to this suggestion made by the Hon'ble Minister.

Election of a member to the Central Text-Book Committee

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Mr. Speaker, Sir, I beg to move that this Assembly do elect one member to the Central Text-Book Committee in place of the Hon'ble Dr. Mahendra Nath Saikia.

The Hon'ble the SPEAKER: Motion moved:

"That this Assembly do elect one member to the Central Text-Book Committee in place of the Hon'ble Dr. Mahendra Nath Saikia."
(The motion was then put and adopted.)

The Hon'ble the SPEAKER: Under rules 1 and 2 of the rules regarding the procedure to be followed in holding election of members to the Public Accounts Committee and other Committees, I hereby fix 2 to 4 p.m. on Thursday the 6th March, 1941 as the time for holding election to the Central Text-Book Committee. The voting will be held in Secretary's chamber between these hours.

**Election of one member each to the Assam-Bengal and Eastern
Bengal Railway Local Advisory Committees**

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Sir, in the absence of my colleague, the Hon'ble Maulavi Abdul Matin Chaudhuri, I beg to move that this Assembly do elect one member to the Assam-Bengal Railway Local Advisory Committee in place of Mr. Naba Kumar Dutta.

I also beg to move that this Assembly do elect one member to the Eastern Bengal Railway Local Advisory Committee in place of Srijut Purandar Sarma.

The Hon'ble the SPEAKER: Motion moved:

"That this Assembly do elect one member to the Assam-Bengal Railway Local Advisory Committee in place of Mr. Naba Kumar Datta."

(The motion was then put and adopted.)

Motion moved :

"That this Assembly do elect one member to the Eastern Bengal Railway Local Advisory Committee in place of Senjuti Prasad Sarma."

(The motion was then put and adopted.)

The Hon'ble the SPEAKER : Under rules 1 and 2 of the rules regarding the procedure to be followed in holding elections of members to the Public Accounts Committee and other Committees, I hereby fix 2 to 4 P.M. on Saturday, the 8th March 1941 as the time for holding elections to the Assam-Bengal Railway and the Eastern Bengal Railway Local Advisory Committees. The voting will be held in the Secretary's chamber between these hours.

Election of members to the Public Accounts Committee

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN : I beg to move that this Assembly do elect seven members to the Public Accounts Committee under rule 102 of the Assembly Rules for the year 1941-42.

The Hon'ble the SPEAKER : Motion moved :

"That this Assembly do elect seven members to the Public Accounts Committee under rule 102 of the Assembly Rules for the year 1941-42."

(The motion was then put and adopted.)

The Hon'ble the SPEAKER : Under the rules, I hereby fix Monday the 10th March, 1941, as the date and 2 to 4 P.M. as the hours for holding election to the Public Accounts Committee. The voting will be held in the Secretary's chamber within these hours.

The Assam Finance Bill, 1941

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN : Mr. Speaker, Sir, I beg to introduce the Assam Finance Bill, 1941.

(The Bill was introduced.)

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN : I beg to move, Sir, that the Assam Finance Bill, 1941, be taken into consideration.

Sir, it will be clear from the Statement of Objects and Reasons that under Sections 3 and 6 of the Assam Agricultural Income-Tax Act, the rate of taxation is left to the Assembly to be provided in the Assam Finance Bill. Hence the necessity of this Bill. The rates of taxation have been kept the same as in the last year.

The Hon'ble the SPEAKER : Motion moved :

"That the Assam Finance Bill, 1941, be taken into consideration."

(After a pause.)

Then I put the question.

The question is that the Assam Finance Bill, 1941, be taken into consideration

(The motion was adopted.)

The Assam University Bill, 1941

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Mr. Speaker, Sir, I beg to introduce the Assam University Bill, 1941.

In preparing and introducing this Bill before the House to-day, the Government is only giving expression to a great demand for establishment of a University in this province. Although this demand has been accentuated by the inauguration of the Provincial Autonomy as a result of the Government of India Act of 1935, there is no doubt that this demand has been in existence for a very long time.

In 1917, in the April Session of the Assam Legislative Council the subject was first mooted with vigour. In December of the same year the Assam Association Conference held at Sibsagar passed a resolution demanding the immediate establishment of a separate University in the province. This resolution was repeated in the Conference held in 1918 at Goalpara. In 1920 and also in 1922 several questions were put and resolutions moved in the Assam Legislative Council on the same subject. In 1922 one member asked the Government to appoint a Committee to enter into the question of a separate University.

The demand for a University in Assam has also emanated from the practical difficulties to which the Provincial Government has been subjected from time to time. The inherent difficulty of a Bengal University dictating to Assam in educational matters was first felt when the Government of India proposed to reconstruct the Calcutta University in the light of the recommendations made by the Calcutta University Commission. It was realised at that time that the state of University education in Assam did not entitle the province to a voice in matters connected with the University of Calcutta; but on the other hand it was also realised that, to quote the words of Mr. D. E. Roberts, the then Officiating Principal of the Cotton College "There is no sufficient justification that Bengal should be placed in a position to dictate all the terms to Assam connected with its educational policy, and taking into consideration the future possibilities of development in Assam, the hopes and aspirations of its people, strongly encouraged by the Calcutta University Commission in their Report, Assam is surely entitled to have some representation on the important authorities of the University. This is the more imperative, as, by the proposed reorganisation the University is placed under provincial jurisdiction". Mr. J. R. Cunningham, the then Director of Public Instruction, Assam, stated in his note to the Government, dated 11th June 1920—"Assam has been—as it must remain—to all practical intents unrepresented on the University Council. It has had a handful of members on the Senate whose voice was lost when the local cause they had to plead was uncongenial to Calcutta, when it was congenial, unnecessary; and who, in the disposition of parties in the Senate, had no influence whatever in the larger affairs of University policy. Always, however, there was the Government of India above the University; and Assam could appeal to the Imperial Government against the decision of Calcutta. What is the situation under the new regime which is proposed? Our last state is to be no better than our first. Consider it in outline. The control

of the University will to all practical intents and purposes be identical with Bengal. The Government of India is eliminated. Formerly we were part and parcel of the University working under the Imperial Government in an area which included four provinces. Now we are to be a remote and unfriended suburb of the city of Calcutta." That was what Mr. Cunningham said in 1920. Mr. Cunningham also thought that the only just and remedy to discontinue this subservience to a moribund University was the establishment of a separate University in the Province. He said:

"I cannot urge that the time is really ripe for a University of Assam or that the adventure will not be attended by risks of the gravest. But it is as ripe for Assam as for Burma or Benares or Mysore. And if, as it would seem, we are between the devil and the deep sea, it may be the wiser course to prefer the sea. We shall at least meet our responsibilities with the spirit and resolution of those who are dealing the issue over with their own destinies".

The demand for a separate University of Assam at that time was so acutely felt that Sir Nicholas Beaton Bell, the then Chief Commissioner of Assam, expressed his opinion in the Assam Government letter to India, dated the 10th August 1920, as follows:

"The Educational problems of Assam differ not only in kind but also in nature from the educational problems of Bengal. The Chief Commissioner is profoundly convinced that the Reformed Government of Assam, supported by the educated public in the two Valleys, will be able without assistance from Bengal to solve all the educational problems of this province and to erect a self-contained structure culminated by one or more provincial Universities".

The helplessness of the Assam Government became again self-evident when the Government of Bengal proposed in 1923 to introduce a Bill to reorganise the University of Calcutta sponsored by the then Education Minister of Bengal, Sir P. C. Mitter. The Bill aimed at introducing a radical change in the constitution of the Calcutta University. Nomination of members to the Senate was transferred from the Chancellor to the Government of Bengal which in practice would mean the Education Minister of Bengal. Meanwhile the control of the Calcutta University had been transferred from the Government of India to the Government of Bengal, and a new Act was passed in 1921 embodying the change, namely, the Calcutta University Act No. VII of 1921. The establishment of a separate University in Assam was again mooted on this occasion. The proposal was not given serious consideration only for want of funds. It was also considered advisable that the Province should settle down under the reformed system of Government before it entered on the task of University legislation. It was also pointed out by Mr. Cunningham that there had been in India in recent years a cropful of University legislation. "A few years' delay", said Mr. Cunningham, "will give us the benefit of much experience which Universities had in other provinces".

The attitude of the Government of Assam with regard to the anomalous position it occupied in 1923 was clearly expressed in the letter to the Government of India, dated the 21st March 1923. Some relevant passages may be quoted—

"There is considerable feeling in the Province that those interests, [the educational interests of Assam], have not always been sufficiently recognised in the past, but this seeming neglect is doubtless due to the fact that the development of higher education in Assam is comparatively recent. Assam was still part of Bengal when the University of Calcutta was established in 1857—for the better encouragement of Her Majesty's subjects of

all classes and denominations within the Presidency of Fort William in Bengal and other parts of India in the pursuit of a regular and liberal course of education." When in 1874 Assam became a separate province it contained no institution of collegiate status. . . . The province has now two first-grade colleges under Government management, both affiliated upto the Honours degree standard in a wide range of subjects and numbering over 900 students on the roll. One of them is the only College outside Calcutta which undertakes Post-Graduate instruction. (This is Cotton College). There is also a Government Law College and proposals for the establishment of a training College for teachers have been approved and are only held up for want of funds." This training College has since been established in Shillong by the Authorities of St. Edmund's College and Government have granted liberal aid. The letter further goes to say—

"In spite of this development, Assam still lacks effective representation on the Councils of the University. The addition in 1921 of the Governor of Assam and of the Minister for Education to the list of *ex-officio* fellows has proved of little practical advantage and Assam is still unrepresented on the Syndicate in which the executive Government of the University is vested. Moreover, Assam has some justification for feeling that no attempt is made to correct its lack of direct representation by any special care for its interests when matters affecting those interests arise. Many illustrations of this tendency could be given, but it must suffice to mention a few recent outstanding cases. The Calcutta University Act of 1921, which transferred the control of the University from the Governor in Council to the local Government of Bengal, was passed without any consultation with the Government of Assam, and contained no provisions safeguarding the interests of Assam. A few months ago, the Senate and the Syndicate of the University drafted and submitted to the Government of Bengal for sanction revised Matriculation regulations framed without any reference to this Province and in total disregard of its existence. Finally, the Bill now under consideration was framed by the Government of Bengal and submitted to the Government of India without any previous reference to this Government, and it appears that two private members' Bills seeking to effect vital changes in the constitution of the University have already been introduced in the Bengal Legislative Council, without any opportunity being given to the Assam Government to express their views on the subject. . . . The Government of Assam are conscious that it may be suggested that the ultimate remedy for the legal and practical difficulties indicated in this letter is for Assam to cut itself adrift from the Calcutta University and to found a University or Universities of its own. This course was indeed definitely propounded by Sir Nicholas Beatson Bell in the Assam Administration letter No. 4793-E., dated the 10th August 1920. It seems doubtful whether this proposal would have been put forward, but for the very unsatisfactory recommendations made by the University Commission in regard to Assam, and their apparent acceptance by the Government of India." So this was the opinion of the Government of Assam in 1923, about 18 years ago. The opinion which I have quoted will only show that the Government have been thinking in terms of a separate University for Assam for some years and that its non-establishment was mainly due to want of funds, and this is not for the first time that this proposal has been put forward before the legislature. In the year 1921, the question of establishment of a University was discussed in the Assam Legislative Council. Then in 1931 also, this question was discussed in the Assam Legislative Council. In 1935 Government appointed Mr. Cunningham, the retired Director of Public Instruction to draw up a

scheme of the University and his report was transmitted on 11th October 1938, the then Minister for Education, Hon'ble Maulavi Muhammad Ali, prepared a draft Bill as Minister of the Government of Assam, but he did not intend to introduce that Bill, the then Government had to resign. In January 1939 the Hon'ble Maulavi Muhammad Ali, as a member of the Assam Legislative Council, drafted a Bill and he asked the Government to introduce that Bill, but that sanction was not granted because a definite scheme was not prepared at the time. Now, after we had taken up the subject in November 1939, we have been considering the question of establishment of a University in this province in tight earnest, and some suggestions were given in the last budget speech of the Hon'ble Premier Sir Muhammad Saadulla. We appointed a Special Officer for drawing up a Bill and the Special Officer—Rai Bahadur Dr. Yuzva Kumar Bhattacharya, has prepared the Bill which I am placing before the House. At this stage I do not think I need much dilate on the matter. I only say that there is a general public opinion in favour of the establishment of a university in this province. Now the position has become all the more acute on account of the continuous controversy which has been going on, on the Secondary Education Bill in Bengal, provision of which is intended to take away the jurisdiction of the University of Calcutta over secondary education.

The Hon'ble the SPEAKER: The Assam University Bill, 1941, stands introduced before the House.

I may inform the hon. members that this Bill requires the previous sanction of His Excellency the Governor in view of the provision made under Section 82 of the Government of India Act, 1935, and that the previous recommendations required have been obtained.

Re. Heating arrangements in the Members' Hostels

Mr. JOBANG D. MARAK: May I point out to the Hon'ble Speaker that there is no heating arrangement provided in the Members' Hostels, and that we are suffering much in this inclement weather? It should be provided without delay.

The Hon'ble the SPEAKER: With regard to the request made by hon. Mr. Marak, I may invite his attention to rule 1 (ii) (b) at page 67 of our Rules. There it is laid down as follows:—

“The hot water radiators in the New Hostel will be set on work for supply of hot water in the bath-rooms and for heating the rooms, if necessary, on an additional charge of annas 4 (annas four) per head for both (i) the supply of hot water and (ii) the heating of rooms or annas 2 (annas two) separately for each of these two facilities, if at least two-thirds of the seats are occupied and the majority of the occupants require these facilities.”

Our information is that two-thirds of the seats have not been occupied and the majority of the occupants have not communicated their desire. I may tell the hon. members that these Rules were framed with the concurrence of the Public Works Department and the Finance Department. Of course, we have no objection to provide the amenities if Government give their concurrence, even if the two-thirds limit is not satisfied. I however suggest to the hon. member to occupy a room in the Inglesby Bungalow

where, I understand, there is yet a room to be occupied. There is the chimney for heating purpose. I shall however write to Government if the restriction could be removed and shall inform the hon. member about the decision.

Assam Motor Vehicles Rules, 1940

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Mr. Speaker, Sir, I have just made a statement before the Upper House and they seem to agree to the suggestions made by you, but they say that resolutions to that effect shall have to be placed before both Houses, and as tomorrow is the last day of their session, the Hon'ble the President has been kind enough to do away with the usual time-limit for notice and will allow me to make a motion. I have just now got this tentative scheme from you. I find in this that you propose 4 members from either House, but I think that 3 members from each House, with the Hon'ble Minister-in-charge, will do. Unless the Hon'ble Minister is there, hon. members will find some difficulty in studying the rules; if he is there as Chairman he will explain everything, but if you leave the Chairman to be elected by the committee itself, it may lead to some confusion. As the Minister is proposed as the Executive head, let him be the Deliberative head also. Subject to these two suggestions I accept what you propose.

The Hon'ble the SPEAKER: I shall have no objection to the Hon'ble Minister-in-charge being the Chairman, but as regards the members I suggest that there should be an equal number of members, including the Hon'ble Minister-in-charge.

Rev. J. J. M. NICHOLS.-ROY: What is the harm if the number of members from this House be more than the number of members from Upper House, because there are more members in this House than in the Upper House?

The Hon'ble the SPEAKER: In a joint conference I think there should be an equal number of members. If we do not do that we will be open to the charge that the Assembly will carry their wishes by a majority.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Very well, let there be four members from each House, and let the Hon'ble Minister in-charge be the Chairman.

The Hon'ble the SPEAKER: In that case also the number of members from this House will be greater than the number of members from the Upper House.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: But the Minister will not cast his vote unless there is a tie. The Minister is a Minister for both Houses, although he is a member of this House.

The Hon'ble the SPEAKER: But he has no vote in the Upper House.

Mr. KAMINI KUMAR SEN: He will have no vote in the committee.

The Hon'ble the SPEAKER: If the Minister be taken in addition to four members, there will be a majority of votes of this House. In Bengal they, from the Assembly, included the Minister in the number of members, and therefore I have made this suggestion.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Very well, Sir, I have no objection.

The Hon'ble the SPEAKER: Then the Hon'ble Premier may make the motion, and let the Leaders of the parties name members from their party.

Mr. A. WHITTAKER: Do I understand that the suggestion of the Hon'ble Premier that the Minister-in-charge shall be the Chairman of this conference has been accepted? I personally support that proposal.

The Hon'ble the SPEAKER: That is the suggestion made and I do not think there should be any objection to that.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Then, in paragraph 1(c)(vi) of the draft resolution it is proposed that "the Secretary of the conference shall be the Secretary of the Department concerned to which the rules relate", but as a matter of fact it is the Secretary of the Provincial Transport Authority who deals with these rules and who framed these rules also, and he should be the Secretary of the conference.

The Hon'ble the SPEAKER: Very well, but he will have no vote.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Yes, Sir.

Then, the portion "that the Assam Legislature Council be requested to signify their concurrence to the above resolution and nominate its members to the conference proposed". Is it necessary?

The Hon'ble the SPEAKER: Yes, it is necessary.

Mr. A. WHITTAKER: Has the Hon'ble Premier got any views about the committee?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I was just going to mention that. As the adjourned session of the Upper House will sit in the third week of April, the conference must sit in the first week of April, otherwise it will not be possible to place its proposals before the Upper House in the adjourned session.

The Hon'ble the SPEAKER: Unless the members prefer to sit during this session on recess days and Sundays.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Very well, Sir, we will consider that suggestion.

Mr. A. WHITTAKER: May I suggest, Sir, that instead of having the Conference in the first week of April, it may meet after the Legislative Council has risen in the third week of April.

The Hon'ble the SPEAKER: The Conference will meet before the Council sits by the third week of April. The Hon'ble Premier wants first week of April for the Rules to be taken up by the Conference.

Rev. J. J. M. NICHOLS-ROY: The Easter Holidays will commence in the second week of April.

Mr. A. WHITTAKER: Would it not be economical and saving everybody's time if the members of the Council who are coming up by the last week of April stay on for a given number of days after April and the first week of April, there is no guarantee that the Conference will finish its work before the Council sits. My alternative proposal will therefore be that members of the Conference, whoever they may be, shall meet immediately after the Council is adjourned in April and carry on until they finish the job.

The Hon'ble the SPEAKER: The idea is that the Rules shall be considered before the Council meets in April so that the recommendations of the Joint Conference may be considered in the Council when they meet in the third week of April. Therefore these Rules are to be considered by the Conference before the Council meets in the third week of April. The Council will first consider the recommendations of the Conference.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: The difficulty that will arise in case the suggestion of my hon. friend Mr. Whittaker is accepted, is that we shall have to adjourn the Council a second time. There will be then two adjourned sessions. This difficulty has cropped up on account of the wording "same session" in the Indian Motor Vehicles Act. Therefore I suggest that the Conference must finish their recommendations by the end of the Easter Holidays, which comes about the 15th April. The Council sits about the 21st. So we get about a week for printing. Therefore, if my friends will agree to 15th April being put in my resolution, I can move it just now with your permission.

Mr. BAIDYANATH MOOKERJEE: For how many days is this conference expected to sit? That time also should be considered.

The Hon'ble the SPEAKER: In Bengal they took 11 days. I think 10 days will do.

Rev. J. J. M. NICHOLS-ROY: The Conference should not sit in Easter Holidays. There are people who are engaged in the Easter holidays.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: My suggestion is that we should sit earlier. We have kept the last day of the Easter holidays as the last day of report. We shall have to finish on or before that date.

Rev. J. J. M. NICHOLS-ROY: If they cannot finish they will have to sit during the Easter holidays. This should not be. Therefore they will have to meet some other time. Therefore it will be much better if the Council session be postponed.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: My friend Rev. Nichols-Roy did not realise the difficulty that I have mentioned. These Rules shall have to be placed before the Upper House. Therefore the Upper House shall have to be again adjourned.

Rev. J. J. M. NICHOLS-ROY: May we not postpone the date of the meeting of the Upper House? It may meet sometime about the last week of April or in May.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: There will be some difficulty because the Finance Bill which will come before the Assembly shall have to be placed before the Council, and we must place the Finance Bill in the Upper House as early as possible.

As regards members, there should be four members including the Hon'ble Minister-in-charge. I suggest that one member might come from the Independent Bench for there is no Opposition Benches, one member from the European group and the third from the Ministerialist group. If hon. members of the different groups can suggest names, I will just place them in the resolution.

***Maulavi ABDUR RAHMAN:** Before we come to a final decision I would like to know if the Chairman would have no vote of his own.

The Hon'ble the SPEAKER: No casting vote. In case of equality the question will be decided in the negative.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Hon. members may now suggest names.

(The following names were then suggested:—

Mr. Baidyanath Mookerjee from the Independent group ;

Mr. A. Whittaker from the European group ;

Khan Bahadur Maulavi Keramat Ali from the Ministerialist Party.)

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : I beg, Sir, to move : "That this House being of opinion that a Joint Conference of members of both the Chambers of the Assam Legislature is desirable to consider the Rules promulgated by Government under the Motor Vehicles Act and laid before both the Chambers under section 133 B of the said Act, and, if necessary, to suggest modifications thereof, resolves as follows—

(a) That a conference consisting of an equal number of members of both the Houses of the Assam Legislature be formed to consider the Rules promulgated by Government under the Motor Vehicles Act and laid before this House under section 133 B of the said Act.

(b) That the following members be nominated on behalf of the Assam Legislative Assembly for the said conference—

- (1) Khan Bahadur Maulavi Keramat Ali, M.L.A.
- (2) Mr. Baidyanath Mookerjee, M.L.A.
- (3) Mr. A. Whittaker, M.L.A., and
- (4) the Hon. Minister-in-charge

(c) That the following procedure be followed by the said Joint Conference—

(i) The conference will be presided over by the Minister-in-charge but he shall have only a single vote and if the votes are equal the question shall be decided in the negative.

(ii) The day, hour and place of the meeting of the conference shall be fixed by the Hon'ble Minister-in-charge.

(iii) The number of members whose presence shall be necessary to constitute a meeting of the Joint Conference shall be two-thirds of the total number of members.

(iv) If at the time fixed for any meeting of the conference or at any time during any such meeting, the quorum of members is not present, the Chairman of the conference shall either suspend the meeting until the quorum is present or adjourn the conference to some future date.

(v) That the conference shall invite suggestions for modifications of the Rules from the members of both the Chambers and shall present their report with their recommendations for the modifications, if any, of the Rules in good time for circulation to the members of the Legislature on or before the 15th April 1941.

(vi) The Secretary of the Conference shall be the Secretary of the Provincial Transport Authority, but he shall have no vote.

2. That the Assam Legislative Council be requested to signify its concurrence to the above resolution and nominate its members to the conference proposed.

3. That a message be sent to the Assam Legislative Council conveying the above resolutions under rule 17(1) of Assam Legislature (Joint Sittings and Communications) Rules."

The Hon'ble the SPEAKER : Now when the number of members is going to be eight, there will be some difficulty with regard to quorum. The number should be fixed.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : I was myself going to suggest that five members will form the quorum. So it should be that the number of members whose presence shall be necessary to constitute the meeting of the joint conference shall be five.

The Hon'ble the SPEAKER: Motion moved :

That this House being of opinion that a Joint Conference of members of both the Chambers of the Assam Legislature is desirable to consider the Rules promulgated by Government under the Motor Vehicles Act and laid before both the Chambers under section 133(3) of the said Act, and, if necessary, to suggest modifications thereto, resolves as follows:—

- (a) That a conference consisting of an equal number of members of both the Houses of the Assam Legislature be formed to consider the Rules promulgated by Government under the Motor Vehicles Act and laid before this House under section 133(3) of the said Act.
- (b) That the following members be nominated on behalf of the Assam Legislative Assembly for the said conference:—
 - (1) Khan Bahadur Maulavi Keramat Ali, M.L.A.,
 - (2) Mr. Baidyanath Moskerjee, M.L.A.,
 - (3) Mr. A. Whittaker, M.L.A., and
 - (4) The Hon'ble Minister-in-charge.
- (c) That the following procedure be followed by the said Joint Conference:—
 - (i) The conference will be presided over by the Minister-in-charge, but he shall have only a single vote and if the votes are equal the question shall be decided in the negative.
 - (ii) The day, hour and place of the meeting of the conference shall be fixed by the Hon'ble Minister-in-charge.
 - (iii) The number of members whose presence shall be necessary to constitute a meeting of the Joint Conference shall be five.
 - (iv) If at the time fixed for any meeting of the conference or if at any time during any such meeting, the quorum of members is not present, the Chairman of the conference shall either suspend the meeting until the quorum is present or adjourn the conference to some future date.
 - (v) That the conference shall invite suggestions for modifications of the Rules from the members of both the Chambers and shall present their report with their recommendations for the modifications, if any, of the Rules in good time for circulation to the members of the Legislature on or before the 15th April, 1941.
 - (vi) The Secretary of the conference shall be the Secretary of the Provincial Transport Authority, but he shall have no vote.

2. That the Assam Legislative Council be requested to signify its concurrence to the above resolution and nominate its members to the conference proposed.

3. That a message be sent to the Assam Legislative Council conveying the above resolutions under rule 17(1) of Assam Legislature (Joint Sitings and Communications) Rules."

Maulavi ABDUR RAHMAN: Mr. Speaker Sir, I understand, this Committee will also have to deal with different matters connected with the Motor Services of the Province—specially the Commercial Carrying Company Limited and the United Motor Transport Company Limited.

The Hon'ble the SPEAKER: No.

The Hon'ble Maulavi Saiyid Sir **MUHAMMAD SAADULLA** : It will deal with nothing else.

Maulavi ABDUR RAHMAN : Sir, we know there are two big motor service concerns—one is the Commercial Concerning Company and the other is the United Motor Transport Company with some of our hon. members who are directly interested.

The Hon'ble the **SPEAKER** : The hon. members are making a confusion. All these matters are really matters of contract with certain Companies and these matters cannot come in when the rules framed under the Motor Vehicles Act will be considered. Nothing else can be considered at that time. Any other matters will be quite proper and for discussion in that meeting.

Maulavi ABDUR RAHMAN : A certain member may be personally interested with any Company mentioned above and at the time of considering rules in the Committee he may do so keeping in mind the interest of his Company. A particular Company may be more benefited due to that member. I want such member should not get place in the Committee.

The Hon'ble the **SPEAKER** : Certain member may have certain Company in his mind and he may suggest modifications of the rules just to suit his purpose.

Now we shall see whether any person in the Chamber is interested in such matter.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY : All the members are interested.

The Hon'ble the **SPEAKER** : And they will have also the right to suggest modifications in the House itself when the report will be considered.

(The motion was then put and adopted.)

The motion with a message will be duly communicated to the Assam Legislative Council.

Report of the Privileges Committee of the Assam Legislative Assembly

The Hon'ble the **SPEAKER** : I present before the House the Report* of the Committee of Privileges of the Assam Legislative Assembly which met on the 6th December 1940, and considered the motion moved in the Assembly by Mr. A. K. Chanda on the 23rd November 1940.

The House has to consider the Report that has just now been presented and any hon. member can make a motion to that effect.

The Hon'ble Maulavi Saiyid Sir **MUHAMMAD SAADULLA** : Sir, I have carefully gone through the Report as well as the recommendations made by the Privileges Committee. I am sorry, Sir, that I cannot accept the motion and the form in which it has come before the House.

The first recommendation of the Privileges Committee is only information to the Hon'ble Speaker and there is no difficulty in accepting that part.

The second recommendation.....
Babu KAMINI KUMAR SEN : On a point of information, Sir, should not there be a motion for consideration of the report ?

*Appendix D.

The Hon'ble the SPEAKER: I was just going to say this to the Hon'ble Premier. Of course, he may state his objections to the report. In order to give the House an opportunity to consider the report, I think, it would be better if he makes a motion.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: From the agenda paper, I thought, a motion for consideration of the report would be moved by the Chair. If you want the Minister in charge of the Legislative Department should move, probably my Hon'ble friend Khan Bahadur Sayidur Rahman will make a motion.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Mr. Speaker, Sir, I beg to move that the Report of the Privileges Committee of the Assam Legislative Assembly on the resolution of Mr. A. K. Chanda of the 23rd November, 1940 be taken into consideration.

The Hon'ble the SPEAKER: Motion moved: "That the Report of the Committee of Privileges of the Assam Legislative Assembly on the resolution of Mr. A. K. Chanda of the 23rd November, 1940 be taken into consideration."

The Hon'ble the SPEAKER: The Hon'ble Premier may speak.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Mr. Speaker, Sir, while considering this motion we are concerned with the motion as amended by the Committee of Privileges and printed as Appendix 2 of the Report which runs as follows:—

"This House recommends to the Government that the following privileges of the members of the House may be adopted and recognised whereby:—

(I) If any member of the Assembly is arrested, detained, convicted or imprisoned on any criminal charge or otherwise, the information of such arrest, detention or imprisonment together with charges against such member shall be forthwith sent to the Speaker by the person or persons under whose authority or order the arrest, detention, conviction or imprisonment is effected;

(II) Mr. Speaker, on receipt of authenticated information of the arrest, detention, conviction or imprisonment of a member, shall require the Provincial Government to arrange for the production, on a specified date or dates, of that member for such meeting or meetings of the Assembly or any Committee thereof as Mr. Speaker thinks fit. Mr. Speaker shall also require the attendance of such a member in any joint session of the Legislature. The Provincial Government shall take such steps as they consider fit for the custody of the member during his stay at the place of the meeting of the Assembly, joint session or committee;

(III) That a member should be entitled, while within the precincts of the House, to exercise all his rights and privileges as such, as far as this is possible".

So far the first recommendation is concerned there is no difficulty. It is but meet and proper that when a member of this House is arrested, detained, convicted or imprisoned, that matter should be brought to the notice of the Hon'ble Speaker.

The second recommendation raises a matter of grave constitutional issue, namely that if any hon. member is unfortunately arrested, detained, convicted or imprisoned, it will be for the Speaker to order the Provincial Government to produce that member during a session of the Assembly or any committee or any joint session. If the second recommendation is adopted or accepted by this House, the recommendation

No. (III) comes in automatically, that is if a member is brought under those circumstances in this House and is given the right to sit and join in the deliberations or the subject-matter of discussion, then he should be entitled to exercise all his rights and privileges. The main contention hinges on recommendation No. (II). Now recommendation No. (II) is being claimed by way of privileges.

Babu KAMINI KUMAR SEN: On a point of information, Sir. Is the Hon'ble Premier supporting or opposing the motion moved by the Hon'ble Minister in charge? I think, there will be another day for consideration of the Report item by item.

The Hon'ble the SPEAKER: But on a motion like this he is entitled to give his reasons for.....

Babu KAMINI KUMAR SEN: Am I to understand that the Hon'ble Premier is opposing the motion?

The Hon'ble Maulavi Salyid Sir MUHAMMAD SAADULLAH: In the consideration stage, the principles underlying a certain subject-matter before the House can be discussed, and I was just going to dilate on those principles only. I was not saying anything either opposing or supporting the motion.

If we look into the Constitution Act, the privileges of members are defined in section 71. There it is said that:

"(1) Subject to the provisions of this Act and to rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in every Provincial Legislature, and no member of the Legislature shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a Chamber of such a Legislature of any report, paper, votes or proceedings.

(2) In other respects the privileges of members of a Chamber of a Provincial Legislature shall be such as may from time to time be defined by Act of the Provincial Legislature, and, until so defined, shall be such as were immediately before the commencement of this Part of this Act enjoyed by members of the Legislative Council of the Province.

(3) Nothing in any existing Indian law, and, notwithstanding anything in the foregoing provisions of this section, nothing in this Act, shall be construed as conferring, or empowering any Legislature to confer, on a Chamber thereof or on both Chambers sitting together or any committee or officer of the Legislature, the status of a court, or any punitive or disciplinary powers other than the power to remove or exclude persons infringing the rules or standing orders, or otherwise behaving in a disorderly manner."

The other sub-sections are not relevant to this motion under consideration.

Now, in the first place, the specific privilege that has been given under the Constitution Act is the freedom of speech and he is also entitled to, without any Act by the Provincial Legislature, any further privileges which were obtained in the Provincial Legislative Council before the commencement of this Part of the present Constitution Act. So under the Constitution Act no express privileges can be obtained which were not in vogue before the commencement of the present Constitution without an Act of the Provincial

Legislature. If the House accepts the recommendations of the Privileges Committee, then legislation will be necessary before the privileges could be enjoyed. The Committee, it appears, envisaged the necessity of legislation and therefore has recommended the adoption by way of convention.

Now, in England, a Member of Parliament who commits an indictable offence enjoys no privilege. When he commits a crime he is arrested like anyone else. Therefore, the privileges recommended by the Committee are non-existent in England and it will be really something novel for India also.

Then turning our attention to what happened in Bengal, hon. members who follow the proceedings of the Bengal Legislature may remember that though the Privileges Committee recommended such a privilege, the Government did not accept that at the time of introducing their Bill.

Probably it may be said that a member who is unfortunately imprisoned and kept in jail can be produced before a Court of Justice for the purpose of giving evidence but that is regulated by an Act, the Prisoners' Testimony Act (if I remember aright) of 1869.

So the principles governing the claim of such privileges, I have laid before the House and it is for the House to give their considered views whether these privileges should be extended and whether the privileges could be extended without any form of legislation. I take it for granted that our hon. members are cognisant of the rules on the privileges that have already been framed and which have found place in the first Report of the Privileges Committee. There it has been distinctly stated that enactment of legislation was not necessary in certain cases, certain minor privileges can be extended by convention but the privilege now claimed does not find a place in those privileges or be obtained by convention.

The Hon'ble the SPEAKER: I take it that there is not going to be any further debate. The question is:

"That the Report of the Privileges Committee of the Assam Legislative Assembly on the resolution of Mr. A. K. Chanda of 23rd November 1940, be taken into consideration."

(The motion was adopted)

Now, the recommendations of the Privileges Committee would come up for consideration on the 11th March. So, the hon. members will please table their amendments by the 7th so that the amendments proposed may be circulated to hon. members in time. This finishes the business of the day.

Statement by the Hon'ble Speaker regarding the general discussion of the Budget and voting on demands for grants

The Hon'ble the SPEAKER: Now, we meet again on the 6th and take up the general discussion of the Budget. I would request hon. members to supply the names of the hon. members who want to take part in the debate so that I may be able to fix time limit for each speech.

66 STATEMENT *RE* GENERAL DISCUSSION OF BUDGET [4TH MAR.] AND VOTING ON DEMANDS FOR GRANTS

Then, with regard to the Demands for Grants to be considered by the House, hon. members know the days that have been fixed by His Excellency the Governor. As in previous sessions, I have prepared a time table allotting the time that should be devoted to the discussion of each of the demand during this session. I would request the Leaders of the Parties to examine the time table and for that purpose to meet me in my chamber to-day after the House disperses for the day. I think we shall disperse by 15 minutes to 1 P.M., and I hope it will not be inconvenient for the hon. members to meet just after we disperse.

ADJOURNMENT

The Assembly was then adjourned till 11 A.M. on Thursday, the 6th March, 1941.

SULLONG:

The 3rd April, 1941.

A. K. BARUA,

Secretary, Legislative Assembly, Assam.

APPENDIX D

REPORT OF THE COMMITTEE OF PRIVILEGES CONSTITUTED FOR THE ASSAM LEGISLATIVE ASSEMBLY

We the members of the Committee of Privileges, at a meeting held on the 6th December, 1940, took into consideration the motion (Appendix 1) moved in the Assembly by Mr. A. K. Chanda on the 23rd November, 1940, and which was referred to this Committee for consideration and report. We also examined in this connection the Bengal Legislature (Privileges and Powers) Bill, 1941, sponsored by the Home Minister, Bengal, and which was published in the *Calcutta Gazette*, dated the 2nd December, 1940. We found that Mr. Chanda's motion followed closely one adopted by the Bengal Privileges Committee and that item I of the motion has only been embodied in the Bengal Bill. The remaining items II, III and IV which are common to Mr. Chanda's motion and the motion of the Bengal Privileges Committee have not been incorporated in the said Bill.

2. In our opinion, the privileges as sought for in the motion under consideration cannot be claimed and vindicated without legislation. As this will take time, we recommend that, as an *interim* device, the House should adopt, as a convention, items I, II and III of the motion, as amended by the Committee (Appendix 2). We are unanimous that the provision of item IV of Mr. Chanda's motion would be embarrassing to the Hon'ble Speaker and should be deleted.

3. We further recommend that the Report may be presented to the House in the next Session by the Chair for consideration as to whether any convention should be adopted by it on the lines suggested by the Committee.

B. K. DAS,
Chairman.

*ABDUL MATIN CHAUDHURI,
*A. WHITTAKER,
ARUN KUMAR CHANDA,
BAIDYANATH MOOKERJEE,
DEBESWAR SARMAH,
RAJENDRA NATH BARUA.

Minute of dissent by the Hon'ble Maulavi Abdul Matin Chaudhuri

I refrained from expressing any view on the matter.

Minute of dissent by Mr. A. Whittaker, M. L. A.

I regret that I cannot subscribe to the views expressed above in so far as they concern items II and III of Mr. Chanda's motion. The motion

* Signed subject to minute of dissent annexed.

N.B.—The Hon'ble Srijut Rohini Kumar Chaudhuri, although a member of the Committee, did not attend the meeting held on the 6th December, 1940 and has not signed the Report.

contemplates (i) that the Speaker can require the Provincial Government to produce any member of the Assembly "who has been arrested, detained, convicted or imprisoned" for the proceedings of the Assembly or any Committee thereof; (ii) that pending legislation for conferring these privileges the House should adopt a convention which would have the same effect as legislation and be equally binding on the Provincial Government.

2. This question has received special prominence because of the cases in which convictions have followed attempted *satyagraha*, although the mover made it clear that the scope of his motion was not intended to apply only to a particular kind of detention. The majority view, in effect, proposes that as soon as a citizen becomes a law breaker he shall be exempt from certain penalties should he become a law breaker. Hitherto it has been an axiom that a legislator's privileges shall not interfere with the administration of criminal justice. It is difficult to reconcile the legislator's known advocacy of the democratic way of life with the specious idea for the equality of treatment before the law.

3. This question can also be examined from the point of view of a member's constituents, who elect him to serve their cause in the Legislature. If that member, whatever his motives may be, places himself in jeopardy by breaking the criminal law, the member's ability to carry out the programme approved by his constituency suffers. His constituency may approve or disapprove of the conduct which lands the member in jail but that, in my opinion, is entirely a matter for the member and his constituency. It is not open to that member to seek the help of his fellow legislators. It is a majority propose, to escape either the consequences of breaking the law or the odium of breaking any undertaking which such member has given to his electorate.

4. The immediate proposal is that the Assembly shall accept a convention which will operate to suspend the criminal law for the duration of its Sessions and for the benefit of its prisoner members. I consider that any such short cut solution as a convention is objectionable. The proposed privilege would make a breach in the democratic doctrine that every man is equal before the law. If this breach is to be made it should be done by an enactment passed after all the implications have been discussed and weighed. This problem is not one for *ad interim* devices.

I consider the proposal contained in items II and III to be indefensible on any grounds.

APPENDIX I

MOTION MOVED BY MR. A. K. CHANDA, M.L.A., ON THE 23RD NOVEMBER, 1940 AND REFERRED TO THE PRIVILEGES COMMITTEE

"This House recommends to Government that the following privileges of the members of the House may be adopted and recognized whereby:—

(I) If any member of the Assembly is arrested, detained, convicted or imprisoned on any criminal charge or otherwise, the information of such arrest, detention or imprisonment together with charges against such member shall be forthwith sent to the Speaker by the person or persons under whose authority or order the arrest, detention, conviction or imprisonment is effected;

- (II) If the Speaker, on information received as above or otherwise, is of opinion and if he thinks necessary after consulting the wishes of the Assembly that the presence of a member who has been arrested, detained, convicted or imprisoned is essential for the purpose of the proceedings of the Assembly or any Committee thereof, the Speaker shall inform the Provincial Government accordingly, and the Provincial Government shall take necessary steps forthwith to bring such a member on such escort as they may consider necessary or in any such other manner as they may think necessary before the Speaker, and such a member may attend such meetings of the Assembly or any Committee thereof as the case may be on such day or such days as may be required by the Speaker, provided that the Provincial Government may take such steps as they may consider fit for the custody of the member during the time the presence of such a member is necessary in the Assembly or a Committee thereof ;
- (III) That a member should be entitled to exercise all his rights and privileges as such as far as this is possible while in custody ; and
- (IV) Such further privileges as may be agreed upon after discussion between the Speaker and the Minister-in-charge of the Legislative may also be extended to a member who may be under arrest, detention, conviction or imprisonment”.

APPENDIX 2

MOTION BY MR. A. K. CHANDA, M.L.A., AS AMENDED BY THE COMMITTEE OF PRIVILEGES

“This House recommends to Government that the following privileges of the members of the House may be adopted and recognised whereby:—

(I) If any member of the Assembly is arrested, detained, convicted or imprisoned on any criminal charge or otherwise, the information of such arrest, detention or imprisonment together with charges against such member shall be forthwith sent to the Speaker by the person or persons under whose authority or order the arrest, detention, conviction or imprisonment is effected ;

(II) Mr. Speaker, on receipt of authenticated information of the arrest, detention, conviction or imprisonment of a member, shall require the Provincial Government to arrange for the production, on a specified date or dates, of that member for such meeting or meetings of the Assembly or any Committee thereof as Mr. Speaker thinks fit. Mr. Speaker shall also require the attendance of such a member in any joint session of the Legislature. The Provincial Government shall take such steps as they consider fit for the custody of the member during his stay at the place of the meeting of the Assembly, joint session or committee ;

(III) That a member should be entitled, while within the precincts of the House, to exercise all his rights and privileges as such as far as this is possible”.