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

THE ASSEMBLY met in the Assembly Chamber, Shillong, at 11 A. M., on Thursday, the 5th June, 1941.

PRESENT

The Hon'ble Mr. Basanta Kumar Das, Speaker, in the Chair, the ten Hon'ble Ministers and fifty-six members.

QUESTIONS AND ANSWERS

SHORT NOTICE QUESTIONS AND ANSWERS

(to which answers were laid on the table)

Free distribution of newspapers

Mr. BAIDYANATH MOOKERJEE asked :

4. Will Government be pleased to state—

(*a*) The names of the newspapers subscribed by Government for free distribution with their places of publication ?

(*b*) The number of each such papers subscribed for free distribution separately ?

(*c*) The total amount paid by Government for each such paper ?

(*d*) Who selects the persons or institutions that gave such newspapers free ?

(*e*) Whether Government has given any definite instructions to the selectors regarding the qualification of those who will get free copies ?

(*f*) Whether a person gets more than one newspaper ?

(*g*) The names of newspapers published from the province ?

(*h*) Since when this free distribution has been started ?

(*i*) The names of the proprietors or companies of the newspapers that are subscribed for free distribution ?

(*j*) The names of persons receiving such free copies with their addresses ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

4. (*a*)—The following newspapers are subscribed by Government for free distribution : "Assam Herald", " Jugaveri ", "Khadem," "Tarun Assam" and "Times of Assam". Their places of publication are respectively Sylhet, Sylhet, Gauhati, Purnananda Road, Post Office (Dibrugarh) and Dibrugarh.

(*b*)—The number of copies subscribed are: "Assam Herald"—100 copies, "Jugaveri"—200, "Khadem"—300, "Tarun Assam"—200, and "Times of Assam"—100.

(*c*)—The Government pay at the usual rate of annual subscription for the total number of copies of each newspaper subscribed. The total amount thus paid for subscription is for:— "Assam Herald" Rs.600; "Jugaveri" Rs.600; "Khadem" Rs.825; "Tarun Assam" Rs.600; and "Times of Assam" Rs.600.

(*d*)—District Officers.

(*e*)—The instructions are that they are to select such officials in the interior of the province and representative non-officials or institutions as generally do not receive copies of daily or weekly newspapers and would, if they received such publications, make proper use of them in disseminating correct news and information about the activities of the Provincial Government.

(*f*)—No.

(*g*)—There are nearly a hundred periodicals published in Assam, but many of them do not appear regularly. As the list is very long we have not mentioned the names Sir.

(*h*)—Since November last.

(*i*)—Government have no information regarding the names of proprietors or companies of the newspapers that are subscribed.

(*j*)—A list is placed on the Library Table.

Mr. BAIDYANATH MOOKERJEE: Sir, may I know why these papers were selected when we find that there are about hundred periodicals published from the province? Are we to understand, Sir, that the rest are not published regularly?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: The grounds of selection were, first, as the hon. members know, we have got a Publicity Department which publishes sometimes weekly and sometimes fortnightly summary of the war news and also certain activities of the Provincial Government. Those papers that used to publish such communications from the Publicity Officer have been selected.

Mr. BAIDYANATH MOOKERJEE: Sir, are we to understand that the rest of the papers refused to publish the news that were sent from the Publicity Officer?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Most of them, Sir, did not publish.

STARRED QUESTIONS

(to which oral answers were given)

Trial of Srijut Debeswar Sarmah, M.L.A.

Mr. BAIDYANATH MOOKERJEE asked:

*167. Will Government be pleased to state—

(*a*) Whether it is a fact that Srijut Debeswar Sarmah, B.L., a member of this Assembly from Jorhat and Chief Whip of the Congress Assembly Party was arrested and tried on 14th December 1940 under the Defence of India Rules for shouting anti-war slogans and sentenced to nine months' imprisonment on the same day by the Senior Magistrate of Jorhat with first class powers?

(*b*) Whether it is a fact that the trying Magistrate directed Srijut Sarmah to be placed in "A" division ?

(*c*) Whether it is a fact that in the Jail warrant he was shown as "A" division prisoner ?

(*d*) Whether it is a fact that the trying Magistrate recommended Srijut Sarmah to Government to be treated as "A" division prisoner under rule 209 of the Assam Jail Manual ?

(*e*) If so, will Government be pleased to lay on the table a copy of the letter from the trying Magistrate to Government through the District Magistrate under rule 209 of the Assam Jail Manual ?

(*f*) Whether it is a fact that Srijut Sarmah was treated from 14th December 1940 till 1st February 1941, *i.e.*, for six weeks, as "A" division prisoner ?

(*g*) Whether it is a fact that Government intimated the Jail authorities at Jorhat Jail on 1st February 1941 to place Srijut Sarmah as " B " division prisoner and to treat him as such ?

(*h*) If so, will Government be pleased to lay on the table a copy of the order communicated in this connection to the Jorhat Jail authorities.

(*i*) The reasons which led them to place Srijut Sarmah in " B " division and that after a period of six weeks ?

(*j*) Whether there was any correspondence between Government and the District Magistrate about this subsequent placing of Srijut Sarmah in " B " division ?

(*k*) If so, will Government be pleased to lay a copy or copies of all such correspondence on the table ?

(*l*) The reason for this inordinate delay of six weeks for fixing the division of this prisoner ?

*168.(*a*) Is it a fact that Government stated in reply to a question of Mr. Kamala Prasad Agarwalla, M.L.C., in the last January Session of the Assam Legislative Council that Government would accept the classification recommended by the trying Magistrate ?

(*b*) If so, why did Government deviate from this position particularly after Srijut Sarmah was confined in " A " division for six weeks ?

*169. Will Government be pleased to state—

(*a*) The considerations which weigh with Government in deciding as to the division in which a particular prisoner is to be placed ?

(*b*) Which of such considerations did not merit Srijut Sarmah to continue as " A " division prisoner ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI replied :

167 to 169.—The hon. member is referred to the replies given to unstarred questions Nos.275 to 276 asked by Srijut Ramnath Das, M. L. A., in this Session of the Assembly.

Srijut RAMNATH DAS: With regard to question No. 167 (*d*) Sir. In reply to my question the Hon'ble Minister said "Yes. It should however be noted that Magistrates subordinate to District Magistrate report through him, and his is the classification which Government have to consider." May I know from the Hon'ble Minister whether the District Magistrate is authorised according to the Jail Manual to modify the classification made by a First Class Magistrate in a case tried by him ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Sir, the District Magistrate is the classifying authority with regard to any offence which is tried by a Magistrate.

The Hon'ble the SPEAKER: No, no. That is not the answer. His question was when the trying Magistrate is a First Class Magistrate and when he gives a certain class to be given to a convicted person whether the District Magistrate can alter it ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: That is a legal point, Sir, which I am not competent to answer but so far as the Government is concerned, Government only recognized the classification which came from the Deputy Commissioner.

Mr. BAIDYANATH MOOKERJEE: Sir, are we to understand that the Hon'ble Minister does something illegal and that he does not care for law ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Not at all, Sir.

Srijut RAMNATH DAS: Then in that case, Sir, when according to the Jail Manual it is definite that if the trying Magistrate is a First Class one, his is the classification which, only comes through the District Magistrate, is to be considered by Government and not that of the District Magistrate.

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: I have already answered the question, I think.

Srijut RAMNATH DAS: Sir, may I know from the Hon'ble Minister whether a First Class Magistrate is a classifying authority or not in a case tried by him ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: As far as I understand, Sir, the Deputy Commissioner makes the final recommendation.

Srijut RAMNATH DAS: Sir, I want to have a clear answer from the Hon'ble Minister whether a First Class Magistrate is a classifying authority or not ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Not according to our interpretation.

Mr. BAIDYANATH MOOKERJEE: May I request the Government to take the highest legal advice that is available here when there is a controversy ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: I will consider that, Sir.

Srijut RAMNATH DAS: With regard to question No. 167 (*l*), Sir. The question is, "Will Government be pleased to state the reason for this inordinate delay of six weeks for fixing the division of this prisoner ?". The reply was that the Government were not aware that the provisional classification of District Magistrate had not been carried out. Will the Hon'ble Minister in charge of the Jail Department be pleased to state whether the recommendation of the First Class Magistrate was to be carried out or not ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Sir, I think there has been some.....

Srijut RAMNATH DAS: Will the Hon'ble Minister in charge of Jail Department be pleased to state clearly whether the recommendation of a First Class Magistrate was to be carried out or not ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: I think there is some confusion of ideas with regard to Srijut Debeswar Sarmah's sentence. I may explain that Srijut Debeswar Sarmah was recommended to be placed in Division "A" by the trying Magistrate and subsequently the District Magistrate recommended that he should be placed in "B" division. Although that wa the recommendation of the District Magistrate, Srijut Debeswar Sarmah was not actually placed in "B" division. When the recommendation of the District Magistrate came to the Government, they accepted the recommendation. As a matter of fact, that was only a formal order, and he was never placed in "B" division. A few days after, the Government changed that order and placed Srijut Debeswar Sarmah formally in "A" division.

Srijut RAMNATH DAS: If the classification of the District Magistrate was not carried out, who is responsible for it ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: The question of responsibility does not arise at all. The Government order to place Srijut Debeswar Sarmah in "B" Division could not be carried out by the Jail authority and for that I think the hon. member should not complain, but rather should be glad.

Srijut RAMNATH DAS: Sir, I am rather glad that Srijut Debeswar Sarmah was placed again in "A" division. But the way in which answers are given necessitates further questions from me. As in reply to my question, "whether it is a fact that the trying Magistrate directed Srijut Sarmah to be placed in 'A' division and for that in the committing jail warrant he was shown as 'A' division prisoner", the Hon'ble Minister said "Yes". Then, how the Hon'ble Minister can say now that the classification of the District Magistrate was not carried out ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: The classification of the District Magistrate was not carried out and I do not like to waste the time of the House by repeating the reasons which I have already stated.

Srijut RAMNATH DAS: My point is that, Sir, if in the jail warrant he was shown as "A" division prisoner and not as "B" division prisoner, how Government can again say that they are not aware that the provisional classification of the District Magistrate had not been carried out ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Government have stated quite clearly that Srijut Debeswar Sarmah was receiving "A" division treatment throughout.

The Hon'ble the SPEAKER: I think the answer given by the Hon'ble Minister is quite clear and do not think any further interpellations should follow.

Srijut RAMNATH DAS: I think, Sir, the answer is not quite clear as it is not according to the provisions of Jail Manual ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: That is in the opinion of the hon. member.

†**Mr. BAIDYANATH MOOKERJEE:** Sir, in this connection, I bring to the notice of Government that there are many "C" division political prisoners in jail, and it will be in the fitness of things that Government may kindly make a statement about those gentlemen who are placed in "C" division, that is, whether they should be transferred to "B" division. These gentlemen have been suffering a great deal as they are not accustomed to the condition and cannot make both ends meet. I hope the Hon'ble Minister will make a statement as to what they propose to do in respect of them.

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: The Hon'ble Premier will make a statement as regards the internees. As regards the *Satyagrahi* prisoners in jail, I can assure the hon. member that the Government has been all the time taking particular care about their classification. Government generally approve the classification recommended by the District Magistrate. But if any representation is made on their behalf that they deserve better division than that in which they have been placed, Government pass orders after making necessary enquiries. If my hon. friend Mr. Mookerjee can point out any particular case where a prisoner has not been given proper division and treatment, and if he will make himself responsible for the statement that he is entitled to better treatment, Government will consider the case favourably.

The Hon'ble the SPEAKER: Does the Hon'ble Premier like to make a statement on the point ?

†**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I do not think any further statement is necessary from me. In answer to a question the day before yesterday it was pointed out that there are 17 political prisoners in "C" division and out of them only one has been granted an allowance of Rs. 12 consistent with the report of the local officer. If any particular case of hardship is brought to my notice, I will make enquiry if any change is required.

UNSTARRED QUESTIONS

(to which answers were laid on the table)

List of Venture Schools

Babu BALARAM SIRCAR asked :

285. Will the Hon'ble Minister of Education be pleased to place on the table a list of venture primary schools which were recommended for grant by the Selection Committee for the subdivision of Karimganj in the years 1939-40 and 1940-41 and also the list of schools actually taken up by the Government in those years ?

286. Will Government be pleased to state—

(*a*) How many of those schools contain absolutely Muslim students, Hindu students, Scheduled Caste students and *Ex*-Tea labour students, giving the details year by year, and how many of them contain majority students from each of those communities ?

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†Speech not corrected by the hon. member or by the Hon'ble Minister concerned.

(*b*) What standard Government followed in the distribution of grants to the venture schools in those areas ?

(*c*) The reasons for (*i*) taking up schools which were not recommended by the said Selection Committee and (*ii*) rejecting others so recommended ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI replied :

285 and 286. (*a*)—The information as far as available is furnished below—

1939-40

SCHOOLS RECOMMENDED BY SELECTION COMMITTEE

1. Parchak Muktab (Absolutely Muslim).
2. Charia Muktab (Ditto).
3. Bhitargul Muktab (Ditto).
4. Machli Girls' Lower Primary School (Hindu majority).
5. Umarpur Muktab (Absolutely Muslim).
6. Sonasar Muktab (Muslim majority).
7. Nayagram Muktab (Absolutely Muslim).
8. Brajasundari Girls' Lower Primary (Muslim majority).
9. Gangajal Girls' Lower Primary (Absolutely Muslim).
10. Raghunath Girls' Lower Primary (Hindu majority).
11. Kanakpur Muktab (Absolutely Muslim).
12. Parbagul Lower Primary (Muslim majority).
13. Hizim Muktab (Absolutely Muslim).
14. Jatkapan Girls' Lower Primary (Hindu majority).
15. Sherpur Girls' Lower Primary (Ditto)
16. Biscut Muktab (Absolutely Muslim)
17. Taltoal (Muslim majority).
18. Awalala (Hindu majority).
19. Khagail (Muslim majority).
20. Kurikhala Girls' Lower Primary (Absolutely Muslim).
21. Gangkul Muktab (Muslim majority).
22. Akakhazana Girls' Lower Primary (Absolutely Muslim).
23. Fazilpur Girls' Lower Primary (Ditto).
24. Raibashi Muktab (Ditto).
25. Shaneswarbazar Lower Primary (Scheduled Castes majority).

26. Neraudi Maktab (Absolutely Muslim).
27. Venrarpar (Ditto)
28. Kalaiura Maktab (Ditto).
29. Gagra Girls' Lower Primary (Hakaluki) (Hindu majority).
30. Usmania Maizdihi Muktab (Absolutely Muslim).
31. Jamkandi Lower Primary (Not known).
32. Kalacharra Lower Primary (Ditto).

SCHOOLS TAKEN OVER

1. Nalbahar Maktab.
2. Charia Muktab (Absolutely Muslim).
3. Kanakpur Muktab (Ditto).
4. Akakhajana Girls' Lower Primary (Absolutely Muslim).
5. Kumarshail Maktab.
6. Nayagram Maktab (Absolutely Muslim).
7. Kurikhala Girls' Maktab (Absolutely Muslim).
8. Sunashar Pathsala (Muslim majority).
9. Longai Forest Reserve Lower Primary School.
10. Nabang Sutarkandi Maktab.

1940-41

SCHOOLS RECOMMENDED BY THE SELECTION COMMITTEE

1. Pubagool Maktab (Muslim majority).
2. Parchak Maktab (Ditto).
3. Raghunath Lower Primary (Hindu majority).
4. Gangkul Maktab (Muslim majority).
5. Fazilpur Girls' Lower Primary (Absolutely Muslim).
6. Raibashi Maktab (Absolutely Muslim).
7. Bhitargool Maktab (Ditto).
8. Machli Girls' Lower Primary (Hindu majority).
9. Umarpur Maktab (Absolutely Muslim).
10. Hizim Maktab (Ditto).
11. Jatkapan Girls' Lower Primary (Hindu majority).
12. Sherpur ,, ,, (Ditto).
13. Shaneswarbazar Lower Primary (Scheduled Castes majority).
14. Nerandi Maktab (Absolutely Muslim).
15. Jarukandi Lower Primary.
16. Nilambazar Lower Primary.
17. Fakirbazar Girls' Lower Primary.

SCHOOLS TAKEN OVER

1. Pubagool Maktab (Muslim majority).
2. Parchak Maktab (Ditto).
3. Raghunath Lower Primary (Hindu majority).
4. Gangajal Girls' Maktab (Absolutely Muslim).
5. Nayakhani Girls' Lower Primary.
6. Raibashi Maktab (Absolutely Muslim).
7. Kalaima Maktab (Ditto).
8. Machli Girls' Lower Primary (Hindu majority).
9. Chandgram Maktab.
10. Hizim Maktab (Absolutely Muslim).
11. Jatkapan Girls' Lower Primary (Hindu majority).
12. Sherpur ,, ,, (Ditto).
13. Shaneswarbazar Lower Primary (Scheduled Castes majority).
14. Nerandi Maktab (Absolutely Muslim).
15. Biscut Maktab (Ditto).
16. Nilambarpur Lower Primary.
17. Taltola Maktab (Muslim majority).
18. Matiura Idgah Maktab.
19. Bhenlapar Maktab.
20. Aulala Lower Primary School (Hindu majority).
21. Osmania Maktab (Absolutely Muslim).

(*b*) and (*c*)—More schools were taken in than was recommended by Selection Committee. Addition and alterations were made by Government on representation of certain members of the Assembly, in order to serve the best interests of the public of the subdivision concerned.

Babu BIPIN BEHARI DAS: Is it not a fact that some members of the Legislative Assembly were members of the Selection Committee?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Yes, some of them were. Some of the members afterwards revised their opinions given as members of the Selection Committee.

Babu BIPIN BEHARI DAS: What was the necessity for Government to make additions and alterations in the lists recommended by the Selection Committee?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: We had to compare the report of the Selection Committee with that of the educational officers and there were circumstances which necessitated the change. The hon. member knows that the Selection Committee cannot give the final word in the matter.

Maulavi MABARAK ALI: Will the Government take it from me that the lists of schools taken over by Government are not correct?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: I think, that is not.

Communal representation of Contractors in the Public Works Department

Maulana ABDUL HAMID KHAN asked:

287. (*a*) Will the Hon'ble Minister-in-charge of the Public Works Department be pleased to state the number of contractors to whom contract was given under the Public Works Department in different districts, showing the community to which they belong during the last 5 years?

(*b*) Does the Hon'ble Minister-in-charge propose to consider the desirability of distributing Public Works Department contracts in different districts according to population of each community in each district?

(*c*) Will the Hon'ble Minister-in-charge be pleased to state whether Government maintain any register of recognised contractors?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI replied:

287. (*a*)—Government consider the labour involved in collecting this information would be incommensurate with any result obtainable.

(*b*)—No.

(*c*)—Executive Engineers maintain a register of contractors who have secured Public Works Department contracts. A copy of Circular letter No.A.5C/6/41/36-44 of 1941, dated the 31st May 1941, on the subject is placed on the library table.

Statement regarding the action taken by Government to grant relief to the flood-stricken people of the district of Sylhet

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Mr. Speaker, Sir, as promised day before yesterday I rise to make a statement about the floods in the district of Sylhet. The Deputy Commissioner, Sylhet, reported on the 7th May that due to incessant rains he apprehended flood and accordingly he warned all Thana Officers and others to be on guard for giving prompt relief when necessary. Two members of the Assembly, Maulavi Mabarak Ali and Khan Bahadur Abdul Majid Chaudhury, wired on the 9th May that the Karimganj Subdivision was submerged and that relief was necessary. We wired on the 10th May to the Deputy Commissioner, Sylhet, for taking necessary action promptly. The Deputy Commissioner reported by letter on the 9th that he informed the Subdivisional Officer, Karimganj, to incur expenditure in anticipation of sanction for relief works in case it was found necessary after proper enquiry, and that he was also starting for Karimganj to see the flood-affected areas himself. He telephoned to Government on his return and submitted his detailed report on the 14th May regarding the flood situation in the different subdivisions of the district. The facts are briefly noted below:—

Sadr Subdivision.—No serious damage to property except paddy plants both *Amon* and *Aus*. The extent of damage could not yet be ascertained. In Kanairghat low-lying *Amon* paddy fields were submerged and the crops thereon damaged. People would try to broadcast *Amon* seeds again on the land if possible when the water subsided. The damage to *Aus* crop is not likely to be much. The extent of damage will be known when the enquiry is finished. No relief was considered necessary but it was being ascertained by enquiry if any seed was required.

Karimganj Subdivision.—The entire subdivision was affected badly by the floods but Nilambazar and Patharkandi sides (Longai Valley) suffered the most. The Subdivisional Officer and the Assistant Commissioner (Mr. Dumbreck, who was present then at Karimganj) visited these areas.

As many as 30 boats were kept there but the people did not want them. Some people had to leave their houses and go to the nearest high lands with their cattle but not many. Officers were deputed with rice for distribution to daily labourers or others who might be in distress and distribution and enquiries are in progress. The railway and roads were breached between Patharkandi and Nilambazar and the train service between Karimganj and Kolkalighat stopped because the line went under water. There was no loss of life.

South Sylhet Subdivision.—Almost all the fields and most of the villages in Kamalganj and Kulaura and several villages in the Maulavibazar Thana became flooded. The Maulavibazar town was threatened with flood, but a *bund* of sand bags was put up from the western side of the *bazar* to a point near the Manu bridge and it was saved. Only two or three houses had to be vacated. Officers were deputed to Juri, Karaya, Kauadigi sides with instructions to organize relief if necessary and to report on the situation. The Subdivisional Officer personally visited Kanakpur and other places. Boats were also supplied for a number of families at Kanakpur to vacate their houses which went under water. A number of families in the low-lying areas had to remove women and children to Shamshernagar bazar and other high places.

Some of the Bhanugach *bazar* merchants had to remove their goods to boats and railway godowns. The flood was severe towards Juri side. A number of villages near Juri went under water. Villagers took shelter in *tilas*, Inspection Bungalows, camp and railway godowns. Rice was given to persons having no food. Wheeled traffic was stopped on all the roads except on the Maulavibazar-Srimangal road. There was no loss of life. The extent of damage to crops would be ascertained after the floods subside.

Habiganj Subdivision.—No damage from Habiganj Subdivision was reported before. I have since ascertained from the Deputy Commissioner, Sylhet, that there have been some floods in Habiganj but nothing abnormal. The Subdivisional Officer has sent a report to the above effect to the Deputy Commissioner and has stated that he considers that no action on the part of Government in the shape of relief measure is necessary. There is sufficient seed in the Subdivision to replace any seedlings that may have been washed away. The Subdivisional Officer, Habiganj, came and when asked he told that the flood was not abnormal in that side but a little jute had been lost in North Habiganj but otherwise there was no damage.

Sunamganj Subdivision.—There has been some damage to reaped *Boro paddy* and *Amon* seedlings.

The Deputy Commissioner reported that the cultivators would require seeds and that it would be necessary to issue seed loans.

The Deputy Director of Agriculture, Surma Valley and the Agricultural Department is co-operating in the matter of arranging for purchase and distribution of fresh seeds and seedlings in the subdivisions of Karimganj and Maulavibazar. He has personally been called to Shillong in this connection and has received instructions from the Ministry and the Agricultural Department. Rupees. 8,000 has been allotted for this purpose, of which Rs.2,000 is proposed to be spent in the Sadr and the balance in Maulavibazar subdivision.

Karimganj subdivision is being provided for by agricultural loans and Rs. 10,000 has so far been allotted. Stocks of paddy are said to be sufficient for the present, but in the event of a continuance of flood conditions and if the young seedlings are again washed out, gratuitous relief is likely to be needed at a later stage. The Deputy Commissioner is still collecting reports.

Now, I want the hon. members to remember what Dr. Terrell said the other day, " that this is only the beginning of our work, " because it is only after the flood subsides that we are in a position to know the exact extent of damage and the reliefs that are necessary. So, our Officers are doing their best to relieve these flood-stricken people and if there be any acts of omission and commission on their part I request the hon. members of the House to help me in finding out any defects and if need be to ascertain them by personal visits to the flood-affected areas.

Maulavi ABDUR RAHMAN: Mr. Speaker, Sir, may I speak a word in the way of challenging the report of the Deputy Commissioner? I am afraid the Deputy Commissioner has no personal knowledge of the flood-affected areas nor even the local officers to whom he entrusted the whole affair. I have seen with my own eyes the areas which have been seriously affected by the flood. There is no mention of the Fenchuganj Thana in the report. If anybody goes there from Kulaura up to Maglabazar, he will find the whole land under water. But he does not make any mention of the Fenchuganj Thana in his report. Then again, Sir, the only effective measure which was taken by the local authorities is concerning the Karimganj subdivision.

As regards Habiganj subdivision—it is my own subdivision—in Baniyachong, Nabiganj, Ajmiriganj and Lakhai Thanas absolutely no crops have been grown. These are *Amon* growing areas and no seed can be grown there because of unusual an untimely flood. As regards Langla side, this side has practically lost its crops and nothing could be grown there for unusual flood. This is the *Aush* growing area. The month of *Baisakh* is the proper month for sowing *Aush* crop, but that could not be done for the unusual and heavy flood.

I would then request the Hon'ble Minister-in-charge to go there personally and see the locality and come toa decision.

As regards jute in the Habiganj subdivision I can dare say that whole jute has totally been damaged. I do not know how the Subdivisional Officer could dare submit a report that jute has not been damaged. It is an incorrect report.

Babu BIPIN BEHARI DAS: With regard to Habiganj North, I support my hon. friend Maulavi Abdur Rahman. Sir, the whole of North Habiganj seems to be a vast sheet of water. Flood made its appearance all on a sudden in the month of *Baisakh* in a devastating form before the people could hardly finish sowing the seeds and ploughing the lands. So, the report that has been submitted by the Subdivisional Officer, I think, is not at all correct. So, under the circumstances, I would request the Hon'ble Minister-in-charge to pay a kind visit to the locality and ascertain the truth of the report by personally seeing the flood-affected areas. Even from the Habiganj town a vast sheet of water can be seen. The Ghungijuri Haor seems to be a vast sheet of water. Again I request the Hon'ble Minister-in-charge to pay a personal visit to the locality.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: I make a note of what the hon. members from Habiganj say about the floods there. As I said before, enquiries are already in progress and we are still awaiting the report of the Subdivisional Officer.

Maulavi ABDUR RAHMAN: There was loss of life also.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: A request has been made that I should pay a personal visit, and if on report I find that there is necessity of any personal visit, I shall be too glad to do that.

Maulavi ABDUR RAHMAN: I suggest that one Hon'ble Minister should immediately be sent. We have very little faith on the report of this Officer.

Mr. BAIDYANATH MOOKERJEE: Is the Hon'ble Minister relying on the report of the officer and not on the report of Mr. Rahman?

The Hon'ble the SPEAKER: Order, order.

The Assam Motor Vehicles Rules, 1940

The Hon'ble the SPEAKER: Having regard to the object for which the Joint Conference was decided upon and having regard also to the understanding underlying this decision, the number of amendments tabled by hon. members appear to me to be unexpectedly very large. They were to table their amendments by 1 P.M. yesterday, and my staff had to labour up to 10 p.m. last night in order to arrange the amendments, but they could not finish the arrangement of all the amendments. Hon. members will find that they have been supplied with two lists. List I was completed just this morning and the second list was completed just before the Assembly met to-day. There will be also numerous other amendments which will have to be arranged and placed on the table of hon. members to-morrow. Hon. members will also notice that there was no time to have the lists printed and they have been supplied with cyclostyled copies of amendments.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Mr. Speaker, Sir, before I formally move the different amendments that stand in my name, I deem it my duty to explain the situation. As hon. members are aware, these rules, which were originally framed by Government, had to obtain the sanction of the Legislature. And as we have got bicameral Legislature, the best policy for having the unanimous decision of both the Houses will be to have a joint conference with hon. members of both the Houses going through the rules. With that idea the joint conference was constituted and their report is before the hon. members who will review them in the light of recommendations of the conference. The rules will then be efficient, practicable and popular. As I have mentioned, the Joint Conference spared no pains in considering these rules. But the number of amendments that have been tabled are much too large, lengthy and going into numerous details. However, I hope that discussion on these, will be short and precise, so that we can finish these rules during this session by Saturday next. We have so far amendments up to rule 60 only, and as hon. members know these rules extend up to 209. However we expect that we will be able to finish them within the fixed time. I would therefore request hon. members to be very brief and only just place their points of view.

In this connection I would state the Government position. Government have undertaken to put no amendments on the recommendations of the Joint Conference. They accept *in toto* all the recommendations and it is for the House to decide whether they will accept the amendments or not. As Government have got no definite point of view as regards these rules, their draft rules have been placed before the Legislature to amend them or not as they like. I will leave the matter entirely at the hands of the hon. members of the House and therefore there will be no voting on any matter on party lines. Government members including Ministers will be free to vote as they like.

With this preliminary statement of the Government position, I shall now move the amendments standing in my name.

Rule 2

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move, that for sub-rule (*a*) the following shall be substituted :—

"(*a*) 'The Act' means the Motor Vehicles Act, 1939 (Act IV of 1939), as amended by Act XL of 1939."

I need hardly elaborate the point of my amendment.

The Hon'ble the SPEAKER: Amendment moved is: that for sub-rule (*a*) the following shall be substituted:—

"(*a*) 'The Act means the Motor Vehicles Act, 1939 (Act IV of 1939), as amended by Act XL of 1939."

There are no amendments to this motion.

So I am putting the question at once.

The question was put and adopted.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that for sub-rule (*d*) of rule 2 the following shall be substituted:—

"(*d*) 'Passenger' for the purpose of the Rules in Chapter IV means any person travelling in a public service vehicle other than the driver or the conductor or the permit holder or one of his employees while on duty."

The Hon'ble the SPEAKER: Amendment moved is: that for sub rule (*d*) of rule 2 the following shall be substituted:—

"(*d*) 'Passenger' for the purpose of the Rules in Chapter IV means any person travelling in a public service vehicle other than the driver or the conductor or the permit holder or one of his employees while on duty."

The Hon'ble the SPEAKER: There are no amendments to this motion. So I am putting the question at once.

The question was put and adopted

Maulavi ABDUR RAHMAN: Sir, as regards the next amendment, I think, it will be more regular to take up our amendment first.

The Hon'ble the SPEAKER: I am coming to this. The hon. member need not be anxious. I shall take the Government motion practically as a substantive motion and the other motions as amendments.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move, that for sub-rule (*f*) of rule 2 the following shall be substituted:—

"(*f*) The 'Licensing Authority' means a Superintendent of Police."

The Hon'ble the SPEAKER: Amendment moved: is that for sub-rule (*f*) of rule 2 the following shall be substituted:—

"(*f*) The 'Licensing Authority' means a Superintendent of Police."

There is one amendment standing in the name of three hon. members—Maulavi Abdul Bari Chaudhury, Maulavi Maqbul Hussain Chaudhury and Maulavi Abdur Rahman. Who is going to move the amendment?

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY: I beg, Sir, to move, that for sub-rule (*f*) the following shall be substituted:—

"*Licensing Authority.*—(*f*) The 'Licensing Authority' means the Deputy Commissioner in charge of a district."

I made my point perfectly clear the other day; I do not like to make any speech.

The Hon'ble the SPEAKER: Amendment moved is that for sub-rule (*f*) of rule 2 the following shall be substituted:—

"*Licensing Authority*—(*f*) The 'Licensing Authority' means the Deputy Commissioner in charge of a district."

Maulavi ABDUL BARI CHAUDHURY: Mr. Speaker, Sir, this small amendment wants to introduce a far-reaching change in the administration of motor vehicles in the province. It wants to replace the Police Department by the civil autho ities in the country. Hon. members who have come in tuch with the meth ds of control of motor traffic are aware of the real inconvenience of the people. Many of them have got personal experience of the hardship caused by the Police. Unfortunately, Sir, corruption and bribery are still reigning supreme in all Police Offices, and the Motor Vehicles Department has afforded a new avenue for corrupt practices.

It may be argued that taken away from Police control, the administration of the Department would become slack and a good deal of permit money would remain outstanding. As for myself, I do not lend any support to this contention. I do not see any reason why we should have so little faith in our civil administration. As regards the probable loss of permit money, it will be more than compensated by the blessings Government will earn by this change. As regards control, the police shall still remain in charge of control of traffic. By this amendment the hon. mover does not seek to introduce any innovation in the Province ; it is already in practice in other provinces.

The suggestion made by the Hon'ble Premier the other day about the preoccupation of the police in Bengal and the Punjab for which they were not placed in charge of this Department hardly carries any conviction. These two major provinces of India besides their large special police branches have got a big police reserve.

I appeal to the Hon'ble Premier to accept this amendment. I also hope that the hon. members of the European Group who have always supported all beneficial measures will lend their whole-hearted support to this amendment.

Dr. C. G. TERRELL: Mr. Speaker, Sir, much has been heard concerning the desirability or otherwise of motor vehicles affairs being administered by the Police Department. For better or for worse most of us have on various occasions in our lives come into contact with these guardians of the law and benefited or suffered accordingly. Reflection on these various incidents will bring us to the inevitable conclusion that on the whole their dealings have been characterised by fairness, or at least we should reach the conclusion that we could not have done better ourselves. It is obvious that for their satisfactory conduct the whole of the motor vehicles affairs must be administered by one authority. It would make great confusion and difficulty for the general public if two or more Government departments were handling its affairs, and would not be conducive to smooth running and efficiency. Although many genuine grievances in the past could have been levelled at details of its administration, it must not be forgotten that the Police Department has by now had considerably more experience in the practical working of the motor vehicles affairs, and however reluctantly undertaken by them it must be assumed that with increasing experience will come increasing efficiency. Consideration has been given by Government to various suggestions made for simplifying the procedure ; these include employment of cashiers to deal with payment of dues and they have also accepted the principle of allowing payment to be made by cash, money orders or cheques as an alternative to the treasury system. This will certainly help those in charge and make for more speed and efficiency in the administration of the motor

vehicles affairs. It is the considered opinion of this Group that support should be given to the Government suggestion that the Police Department should undertake this responsibility.

Mr. A. WHITTAKER: Mr. Speaker, Sir, in the last Session I tried to make an appeal for accurate language. I am sorry to hear this morning the following remarks : "In the Police Department corruption and bribery reigns supreme". I cannot believe that this is a true statement, and I think it is necessary for some members of this Assembly to defend the Police Department from this wild and very irresponsible charge. I believe, Sir. that it is another case of inaccurate language rather than what the speaker believes to be true.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Mr. Speaker, Sir, when Government drafted their rules the definition for 'Licensing Authority' was, "the 'Licensing Authority' means and includes a Superintendent of Police, a Deputy Commissioner in charge of Police.....". So, both the Deputy Commissioner and the Superintendent of Police were mentioned as 'Licensing Authority.' But while this matter was discussed in the joint conference, the members thought that unity of administration will conduce to greater efficiency and therefore it was thought that the Licensing Authority should be the Police Department, or rather the District Police Superintendent instead of the District Magistrate. My hon. friend has advanced only one argument for the change he proposes, and that is that corruption and bribery are rampant in the Police Department. I am sorry, Sir, that if we are to judge this statement singly it will be rather wide of the mark ; for time after time, we had notice of motions and resolutions by different members of the House alleging that bribery and corruption were so rampant in every department especially in subordinate ranks, that we should have a roving commission of enquiry. If this is a fact, it is rather uncharitable to say that the Police Department has earned the greatest number of league points in this match of corruption and bribery. I cannot understand how the Police Department will suffer from additional corruption and bribery by Superintendent of Police being made the licensing authority. When the test for granting driving license will be taken either by the Superintendent of Police or his nominee, how can the question of bribery come in ? If it be said that subordinates of the clerical establishment will not put up the case speedily unless their palms are oiled, well, Sir, this will happen whether it is the clerical establishment of the Superintendent of Police or the District Magistrate. As I said already, Sir, it is for the purpose of greater efficiency and unification of administration that the Joint Conference has made this change I leave the matter in the hands of the hon. members.

The Hon'ble the SPEAKER: I shall first put the amendment of Maulavi Maqbul Hussain Chaudhury, and then the motion of the Hon'ble Premier.

The question is that for sub-rule (*f*) of rule 2, the following shall be substituted :—

" *Licensing Authority*—(*f*) the 'Licensing Authority' means the Deputy Commissioner in-charge of a district. " .

The Assembly divided.

Ayes—29

1. Babu Balaram Sircar.
2. Babu Bipin Behari Das.
3. Srijut Joges Chandra Gohain.
4. Babu Kamini Kumar Sen.
5. Babu Lalit Mohon Kar.
6. Mr. Naba Kumar Dutta.

Ayes—*concld.*

7. Srijut Purandar Sarma.
8. Srijut Ram Nath Das.
9. Srijut Santosh Kumar Barua.
10. Maulavi Abdul Bari Chaudhury.
11. Maulana Abdul Hamid Khan.
12. Khan Bahadur Hazi Abdul Majid Chaudhury.
13. Maulavi Abdur Rahman.
14. Maulavi Syed Abdur Rouf.
15. Maulavi Md. Abdus Salam.
16. Maulavi Dewan Muhammad Ahbab Chaudhury.
17. Maulavi Muhammad Amjad Ali.
18. Maluavi Badaruddin Ahmed.
19. Maulavi Ghyasuddin Ahmed.
20. Maulavi Muhammad Maqbul Hussain Chaudhury.
21. Khan Bahadur Maulavi Mahmud Ali.
22. Maulavi Matior Rahman Mia.
23. Maulavi Mabarak Ali,
24. Maulavi Namwar Ali Barbhuiya.
25. Maulavi Sheikh Osman Ali Sadagar.
26. Mr. Jobang D. Marak.
27. Srijut Khorsing Terang.
28. Srijut Rabi Chandra Kachari.
29. Babu Sanat Kumar Ahir.

Noes—14

1. Maulavi Jahanuddin Ahmed.
2. Khan Bahadur Maulavi Keramat Ali.
3. Khan Bahadur Maulavi Mufizur Rahman.
4. Mr. N. Dawson.
5. Mr. E. H. S. Lewis.
6. Mr. D. B. H. Moore.
7. Mr. C. W. Morley.
8. Dr. C. G. Terrell.
9. Mr. P. Trinkle.
10. Mr. A. Whittaker.
11. Srijut Bhairab Chandra Das.
12. Srijut Bideshi Pan Tanti.
13. Rev. L. Gatphoh.
14. Mr. C. Goldsmith.

The question was adopted.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg Sir, to move that for sub-rule (*g*) of rule 2 the following shall be substituted:

"(*g*) The 'Registering Authority' means a Superintendent of Police."

The Hon'ble the SPEAKER: Amendment moved is:

"That for sub-rule (*g*) of rule 2 the following shall be substituted:

(*g*) The 'Registering Authority' means a Superintendent of Police."

There is a notice of amendment in the names of Maulavi Abdul Bari Chaudhury, Maulavi Maqbul Hussain Chaudhury and Maulavi Abdur Rahman.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY: Mr. Speaker Sir, I beg to move that for sub-rule (*g*) of rule 2 the following shall be substituted:—

"*Registering Authority.*—(*g*) 'Registering Authority' means the Deputy Commissioner in charge of a district".

It is co-related with the amendment just now accepted and so I do not think any speech is necessary and I hope that this will be accepted without any division.

The Hon'ble the SPEAKER: Amendment moved is:

"That for sub-rule (*g*) of rule 2 the following shall be substituted:—

Registering Authority.—(*g*) 'Registering Authority' means the Deputy Commissioner in charge of a district".

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: As I mentioned earlier, Sir, that in the draft provisional rule framed by Government "Registering Authority means and includes a Superintendent of Police, a Deputy Commissioner in charge of Police, the Superintendent of the Lushai Hills and the Political Officers of the Sadiya and Balipara Frontier

Tracts, within their several jurisdiction." Now I must mention, Sir, that the Joint Conference thought that all references to areas which are not within the jurisdiction of this Legislature should be omitted from our rules. Therefore the excluded areas have been left out from the recommendations of the Joint Conference. Now as regards the amendment of my hon. friend, in view of the majority opinion of the House, I do not think, Sir, there is any necessity to put it to a division. I think if you find that the majority is in favour of it, it may be carried.

The Hon'ble the SPEAKER: The question is:

"That for sub-rule (*g*) of rule 2 the following shall be substituted:—

Registering Authority.—(*g*) 'Registering Authority' means the Deputy Commissioner in charge of a district."

The question was adopted

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg Sir, to move:

That for sub-rule (*j*) of rule 2 the following shall be substituted:

"(*j*) 'Officer in charge of the Motor Vehicles Department' means a Superintendent of Police."

The Hon'ble the SPEAKER: Amendment moved is:

"That for sub-rule (*j*) of rule 2 the following shall be substituted:—

(*j*) 'Officer in charge of the Motor Vehicles Department' means a Superintendent of Police."

There is an amendment in the names of Maulavi Abdul Bari Chaudhury, Maulavi Maqbul Hussain Chaudhury and Maulavi Abdur Rahman:

Maulavi ABDUR RAHMAN: Sir, I beg to move:

"That for sub-rule (*j*) of rule 2 the following shall be substituted:—

Officer in charge of Motor Vehicles Department.—(*j*) 'Officer in charge of Motor Vehicles Department' means the Deputy Commissioner of a district."

This is also consequential and co-related thing.

The Hon'ble the SPEAKER: Not consequential.

Maulavi ABDUR RAHMAN: Any way, Sir, the other day I also made certain suggestions about the changes that will have to be made of the recommendations of the Joint Conference because I am of opinion that instead of placing the charge of the Motor Vehicles Department in the hands of the Police this should be placed in charge of the Deputy Commissioner of a district. I adduced my arguments the other day and I need not repeat them further. I hope the House will be agreeable to my amendment.

The Hon'ble the SPEAKER: Amendment moved is:

"That for sub-rule (*j*) of rule 2 the following shall be substituted:—

Officer in charge of Motor Vehicles Department.—(*j*) 'Officer in charge of Motor Vehicles Department' means the Deputy Commissioner of a district."

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I am sorry Sir, that I have got to oppose this amendment. So long the Motor Vehicles Department was administered by the Police Department; this change will introduce an unwelcome duplication of authorities in the district. The change proposed by my hon. colleagues Maulavi Abdul Bari Chaudhury, Maulavi Maqbul Hussain Chaudhury and Maulavi Abdur Rahman does not transfer the administration of the Department from the Police to that of the district authority. They want that "the officer in charge" should be the Deputy Commissioner of the district, which will lead to delay and confusion, *e. g.*, the Deputy Commissioners will not be able to address the Inspector-General of Police, who is the administering head of the Department, direct. They will have to go through the Commissioner. It will take a long time. Therefore, Sir, I oppose the amendment.

Mr. A. WHITTAKER: Mr. Speaker Sir, as an illustration of the fact that this amendment is not consequential to that of Maulavi Maqbul Hussain Chaudhury's which we have already accepted, I will refer to rule 192 which refers to certain restriction of dazzling lights. Dazzling lights are a matter which is entirely for the police to deal with. I think, it will be unfortunate if these duties are taken away from the police from the point of view of administering criminal law. I am not going to speak on the merits of the Police Department. If the Deputy Commissioner being the registering and licensing authority now becomes the officer in charge of Motor Vehicles, his duties impinge on the work of the traffic control. Therefore in the interest of the general public this work should be left where it is, namely, in the hands of the police.

The Hon'ble the SPEAKER: I shall put the amendment of Maulavi Abdur Rahman first. The question is:

"That for sub-rule (*j*) of rule 2 the following shall be substituted:—

Officer in Charge of Motor Vehicles Department.—(*j*) 'Officer in Charge of Motor Vehicles Department' means the Deputy Commissioner of a district."

The question was negatived.

The Hon'ble the SPEAKER: Then I am putting the amendment moved by the Hon'ble Prime Minister. The question is:

"That for sub-rule (*j*) of rule 2 the following shall be substituted:—

(*j*) 'Officer in charge of the Motor Vehicles Department' means a Superintendent of Police."

The question was adopted.

The Hon'ble the SPEAKER: The Hon'ble Premier may move amendments Nos. 9, 10 and 11 together.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg Sir, to move that sub-rules (*k*), (*n*) and (*o*) of rule 2 shall be deleted.

The Hon'ble the SPEAKER: The amendment moved is:

"That sub-rules (*k*), (*n*) and (*o*) of rule 2 shall be deleted." There is no amendment to this and so I am putting the question.

The question was then put and adopted.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg Sir, to move:

"That for sub-rule (*r*) of rule 2 the following shall be substituted:—

(*r*)—'Inspector of Motor Vehicles' means the officer appointed by the Inspector General of Police for the purpose of inspecting transport vehicles and for the examination of professional drivers and shall include any other officer appointed for the time being to perform the functions of the Inspector of Motor Vehicles."

The Hon'ble the SPEAKER: Amendment moved is:

"That for sub-rule (*r*) the following shall be substituted:—

(*r*)—'Inspector of Motor Vehicles' means the officer appointed by the Inspector General of Police for the purpose of inspecting transport vehicles and for the examination of professional drivers and shall include any other officer appointed for the time being to perform the functions of the Inspector of Motor Vehicles."

There is an amendment standing in the names of Maulavi Abdul Bari Chaudhury, Maulavi Maqbul Hussain Chaudhury and Maulavi Abdur Rahman. Are they going to move it?

Maulavi ABDUL BARI CHAUDHURY: We will not move the amendment*, Sir.

The Hon'ble the SPEAKER: I am then putting the question. The question is :

"That for sub-rule (*r*) of rule 2 the following shall be substituted :—

(*r*)—'Inspector of Motor Vehicles' means the officer appointed by the Inspector General of Police for the purpose of inspecting transport vehicles and for the examination of professional drivers and shall include any other officer appointed for the time being to perform the functions of the Inspector of Motor Vehicles."

The question was adopted.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Is it necessary, Sir, that I should move the next amendment† (*i.e.* amendment 14) as it is only re-numbering the sub-rules according to alphabetical order ?

Mr. A. WHITTAKER: May I suggest that when the rules have been amended, the consequential re-numbering could be done in a composite form.

The Hon'ble the SPEAKER: Yes, that can be done.

Rule 4

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that for rule 4, the following shall be substituted, namely :—

"4. Licences may be professional or private. Professional licences shall be coloured red".

The Hon'ble the SPEAKER: Amendment moved is that for rule 4, the following shall be substituted, namely :—

"4. Licences may be professional or private. Professional licences shall be coloured red".

There is no amendment to the motion. I shall now put it as a question.

The question was then put and adopted.

Rule 5

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that for rule 5, the following shall be substituted :—

"5. *Professional and Private licences.*—No person shall drive a motor vehicle as a paid employee unless he holds a professional licence. Private licences shall only be issued to those who do not drive on such conditions.

Note.—Any motor vehicle when used partly for private purposes by the owner and partly let or plied for hire shall be deemed to be vehicle partly let or plied for hire".

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*Maulavi Abdul Bari Chaudhury / Maqbul Hussain Chaudhury / Abdur Rahman to move :—

That for sub-rule (*r*) the following shall be substituted :—

"*Inspector of Motor Vehicles.*—(*r*) 'Inspector of Motor Vehicles' means the officer appointed by the Provincial Government for the purpose of inspecting transport vehicles and for the examination of professional drives and shall include any other officer appointed for the time being to perform the functions of the Inspector of Motor Vehicles."

†14. The Hon'ble Maulavi Saiyid Sir Muhammad Saadulla to move :—

That sub-rule (*c*) be re-arranged as sub-rule (*e*), sub-rule (*d*) as (*j*), sub-rule (*e*) as (*l*), sub-rule (*f*) as (*g*), sub-rule (*g*) as (*m*), sub-rule (*h*) as (*d*), sub-rule (*i*) as (*o*), sub-rule (*j*) as (*i*), sub-rule (*l*) as (*n*), sub-rule (*m*) as (*k*), sub-rule (*p*) as (*c*), sub-rule (*q*) as (*h*), sub-rule (*r*) as (*f*).

The Hon'ble the SPEAKER: Amendment moved is:

" That for rule 5, the following shall be substituted :—

5. *Professional and Private licences.*—No person shall drive a motor vehicle as a paid employee unless he holds a professional licence. Private licences shall only be issued to those who do not drive on such conditions.

Note.—Any motor vehicle when used partly for private purposes by the owner and partly let or plied for hire shall be deemed to be vehicle partly let or plied for hire."

There are three notes of dissent from Mr. Whittaker, Rai Sahib Apurba Kumar Ghosh and Mr. Gawthrop. I think the amendment that has been tabled by Mr. Whittaker should be taken into consideration.

Mr. A. WHITTAKER: Mr. Speaker, Sir, I beg to move that for rule 5, the following shall be substituted :—

"5. No person shall drive a motor vehicle as a paid employee unless he holds a professional licence. No owner of a motor vehicle shall drive, on any occasion, that motor vehicle on hire unless he holds a professional licence. Private licences shall only be issued to those who do not drive on such conditions."

I think the object of my amendment is quite clear if it is compared with the amendment put foward in the Joint Conference. The amendment put forward in the Joint Conference does not deal with the case of owners of taxis who drive their own cars. They cannot be said paid employees unless "paid employees" some where in the rules is defined. I think the rule read by the Hon'ble Premier does not make that definition clear. I think, Sir, my own draft on any occasion does cover that point, and as I understand, that draft was accepted on the first day of the proceedings by the Hon'ble Premier. I commend my amendment to the House.

The Hon'ble the SPEAKER: I would like the hon. member to tell the House if he has got anything to say as regards the notes of dissent of Rai Sahib Apurba Kumar Ghosh and Mr. W. R. Gawthrop.

Mr. A. WHITTAKER: I think, Sir, Mr. Gawthrop's note was more correctly in accord with what the Conference observed in its proceedings. He did meet my difficulties by defining "paid employee" by adding a note to rule 5. If Mr. Gawthrop's amendment is accepted, it means exactly the object I had in mind. Mr. Gawthrop wants to substitute the rule and I think my draft incorporates the substance of the rule. As regards Mr. Ghosh's amendment there is no question whatever, Sir, that the word "partly" should be omitted. If Mr. Ghosh's amendment is accepted, the note becomes unintelligible. With these words, Sir, I commend my amendment to the House.

The Hon'ble the SPEAKER: The amendment moved is:

"That for rule 5, the following shall be substituted :—

'5. No person shall drive a motor vehicle as a paid employee unless he holds a professional licence. No owner of a motor vehicle shall drive, on any occasion, that motor vehicle on hire unless he holds a professional licence. Private licences shall only be issued to those who do not drive on such conditions.' "

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: As I mentioned, Sir, the Joint Conference wanted to improve or rather use the terminology used in the Act. In the main section of the Act—section 3(1)—it is stated as follows :—"No person shall drive a motor vehicle in any public place unless he holds an effective licence issued to himself authorising

him to drive the vehicle ; and no person shall so drive a motor vehicle as a paid employee or shall so drive a public service vehicle unless his licence specifically entitles him so to do".

As I mentioned the other day, Sir, Mr. Whittaker's draft is better than that of the Joint Conference and his draft makes the matter so clear that there is no necessity for the Note. Therefore, Sir, I consider that the Note as well as the draft rule 5 should be omitted and Mr. Whittaker's amendment be accepted. In that case, Rai Sahib Apurba Kumar Ghosh's amendment drops.

The Hon'ble the SPEAKER: Then, the Hon'ble Premier does not press his motion.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: No, Sir.

The Hon'ble the SPEAKER: The question is :

"That for rule 5, the following shall be substituted :—

'5. No person shall drive a motor vehicle as a paid employee unless he holds a professional licence. No owner of a motor vehicle shall drive, on any occasion, that motor vehicle on hire unless he holds a professional licence. Private licences shall only be issued to those who do not drive on such conditions."

The question was adopted.

Rule 6

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that sub-rule (*b*) of rule 6 shall be omitted.

The Hon'ble the SPEAKER: Amendment moved is that sub-rule (*b*) of rule 6 shall be omitted.

The amendment was put and adopted.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in the second line of sub-rule (*c*) of rule 6 for the words "shall be Rs.4", the words "shall not exceed Rs.4" shall be substituted, and for the words "which is payable" the words "shall be paid" shall be substituted.

The Hon'ble the SPEAKER: Amendment moved is :

"That in the second line of sub-rule (*c*) of rule 6 for the words 'shall be Rs.4', the words 'shall not exceed Rs.4' shall be substituted, and for the words 'which is payable' the words 'shall be paid' shall be substituted".

Mr. E. H. S. LEWIS: Mr. Speaker, Sir, I beg to move that in sub-rule (*c*) of rule 6 for the words "which is payable", the words "and shall be paid" shall be substituted.

This amendment was put up by Mr. Gawthrop in Annexure to the Joint Conference report.

The Hon'ble the SPEAKER: Amendment moved is that in sub-rule (*c*) of rule 6 for the words "which is payable" the words "and shall be paid" shall be substituted.

There is no other amendment, so I put this as a question. The question is.

"That in sub-rule (*c*) of rule 6 for the words 'which is payable', the words 'and shall be paid' shall be substituted".

The question was adopted.

The Hon'ble the SPEAKER: I shall now put the first part of the amendment already moved by the Hon'ble Premier.

The question is :

"That in the second line of sub-rule (*c*) of rule 6 for the words 'shall be Rs.4' the words 'shall not exceed Rs.4' shall be substituted".

The question was adopted.

Rule 10

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Before I move I find that there is an amendment by Mr. Whittaker.

The Hon'ble the SPEAKER: Are these two independent amendments ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: There is a slight difference, Sir.

The Hon'ble the SPEAKER: But if Mr. Whittaker's a endment is carried, will there be room for the Hon'ble Premier to move his amendment ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg to move :

"That in rule 10, the words in the third line 'not less than 18 years of age' shall be omitted and for the words 'to drive a motor vehicle on hire' in the first line of the proviso, the words 'to drive a transport vehicle as a paid employee' shall be substituted".

My motion is necessitated in order to avoid the repetition of the same thing both in the rules and the Act. The Act provides that no person of less than 18 years of age will be allowed to drive, and as transport vehicle is defined in the Act, we have substituted those words for the words that we had in our draft rules.

The Hon'ble the SPEAKER: Amendment moved :

"That in rule 10, the words in the third line 'not less than 18 years of age' shall be omitted and for the words 'to drive a motor vehicle on hire' in the first line of the proviso, the words 'to drive a transport vehicle as a paid employee' shall be substituted".

Mr. A. WHITTAKER: Mr. Speaker, Sir, I beg to move :

That for rule 10, the following shall be substituted :

"10. *Grant of Licence.*—A Licensing Authority may grant a driving licence to any fit person residing within his jurisdiction at the time of application, who satisfies him that he is of good character, a competent driver, and not disqualified for the time being from holding or obtaining a licence. Similarly, the Licensing Authority may renew any licence once granted anywhere in British India.

Provided that in the case of an application for an initial professional licence to drive a transport vehicle, the Licensing Authority may in the first instance grant only a provisional licence and shall not confirm it except on the advice of the Inspector of Motor Vehicles, given after examination of the driver."

Sir, mine is a very small amendment and in fact incorporates what the Hon'ble Sir Muhammad Saadulla has already moved. But since this House has not accepted Mr. Gawthrop's amendment relating to definition of "paid employee" I propose to omit the words "paid employee" and merely add the word "professional" between the words "initial" and "licence". If we are going to use the words "paid employee" it will have to be defined somewhere. I am trying to deal with the man who drives a transport vehicle not as a "paid employee" but as an owner. If the Hon'ble Premier's amendment is put as a "paid employee" somewhere in the rules, we shall have to take the trouble of defining "paid employee". This was also Mr. Gawthrop's amendment which has not been accepted. I suggest the words "paid employee" are redundant.

The Hon'ble the SPEAKER: Amendment moved:

"That for rule 10, the following shall be substituted:—

'10. *Grant of licence.*—A Licensing Authority may grant a driving licence to any fit person residing within his jurisdiction at the time of application, who satisfies him that he is of good character, a competent driver, and not disqualified for the time being from holding or obtaining a licence. Similarly, the Licensing Authority may renew any licence once granted anywhere in British India.

Provided that in the case of an application for an initial professional licence to drive a transport vehicle, the Licensing Authority may in the first instance grant only a provisional licence and shall not confirm it except on the advice of the Inspector of Motor Vehicles, given after examination of the driver'."

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I accept this amendment, Sir.

The amendment was then put and adopted.

Rule 11

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that for rule 11, the following shall be substituted.

"11. *Professional drivers to be tested by the Inspector of Motor Vehicles.*—Every person who has applied for initial licence to drive a motor vehicle as a paid employee and has received a provisional licence under the above rule shall appear for examination before the Inspector of Motor Vehicles at such time and place, as may be appointed. If he fails to appear, or to satisfy the said Inspector as to his ability to drive, the Licensing Authority may suspend or cancel the licence as he thinks fit".

The Hon'ble the SPEAKER: Amendment moved:

"That for rule 11, the following shall be substituted:—

'11. *Professional drivers to be tested by the Inspector of Motor Vehicles.*—Every person who has applied for an initial licence to drive a motor vehicle as a paid employee and has received a provisional licence under the above rule shall appear for examination before the Inspector of Motor Vehicles at such time and place' as may be appointed. If he fails to appear, or to satisfy the said Inspector as to his ability to drive, the Licensing Authority may suspend or cancel the license as he thinks fit'."

There is also an amendment in the name of Mr. Whittaker.

Mr. A. WHITTAKER: Mr. Speaker, Sir, I beg to move that for rule 11, the following shall be substituted:—

"11. Every person who has applied for an initial professional licence and has received a provisional licence under the above rule, shall appear for examination before the Inspector of Motor Vehicles at such time and place as may be appointed. If he fails to appear or to satisfy the said Inspector of his ability to drive, the Licensing Authority may cancel the licence".

Mr. Speaker, Sir, the object of my amendment is again to break away from the difficulty of 'paid employee' and I therefore propose to add the word "professional" before "licence", which I think covers that point. The second point is that I cannot find anywhere in the Act the power of the Licensing Authority to suspend a licence. It can cancel or withhold cancellation.

The Hon'ble the SPEAKER: It is a preliminary step to suspension.

Mr. A. WHITTAKER: In that case, Sir, if it is agreed that the Licensing Authority may suspend as well as cancel a licence, I only submit that the rest of my amendment be accepted except the last line which should be amended as "may suspend or cancel the licence".

The Hon'ble the SPEAKER: Amendment moved:

"That for rule 11, the following shall be substituted:—

'11. Every person who has applied for an initial professional licence and has received a provisional licence under the above rule, shall appear for examination before the Inspector of Motor Vehicles at such time and place as may be appointed. If he fails to appear or to satisfy the said Inspector of his ability to drive, the Licensing Authority may suspend or cancel the licence.'"

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I accept the amendment, Sir.

The Hon'ble the SPEAKER: Then I am putting the motion of Mr. Whittaker as a question before the House.

The question is:

"That for rule 11, the following shall be substituted:—

'11. Every person who has applied for an initial professional licence and has received a provisional licence under the above rule, shall appear for examination before the Inspector of Motor Vehicles at such time and place as may be appointed. If he fails to appear or to satisfy the said Inspector of his ability to drive, the Licensing Authority may suspend or cancel the license'."

The question was adopted.

Rule 12

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that for sub-rule (*a*) of rule 12, the following shall be substituted:—

"(*a*) The test of competence to drive as set forth in the Third Schedule to the Act shall be conducted by the Licensing Authority or by an officer appointed by him in this behalf in the case of private licences and by the Inspector of Motor Vehicles in the case of professional licences".

The Hon'ble the SPEAKER: Amendment moved is that for sub-rule (*a*) of rule 12, the following shall be substituted:

"(*a*) The test of competence to drive as set forth in the Third Schedule to the Act shall be conducted by the Licensing Authority or by an officer appointed by him in this behalf in the case of private licences and by the Inspector of Motor Vehicles in the case of professional licences".

Mr. A. WHITTAKER: Mr. Speaker, Sir, I am sorry to say that there has been an omission to my amendment. I wish to retain the same provision as appears in the Premier's amendment, *viz.*, 'or by an officer appointed by him in this behalf' after the words 'Licensing Authority'. My amendment which I want to move will read thus:—

"That for sub-rule (*a*) of rule 12 the following shall be substituted:—

'(*a*) The test of competence to drive as set forth in the Third Schedule to this Act, shall be conducted by the Licensing Authority or by an officer appointed by him in this behalf in the case of an applicant for private licence and by the Inspector of Motor Vehicles in the case of an applicant for professional licence'".

I have no comments to make on this as this draft has been accepted by the Hon'ble Prime Minister.

The Hon'ble the SPEAKER: Amendment moved is:

"That for sub-rule (*a*) of rule 12, the following shall be substituted:—

'(*a*) The test of competence to drive as set forth in the Third Schedule to this Act, shall be conducted by the Licensing Authority or by an officer appointed by him in this behalf in the case of an applicant for private license and by the Inspector of Motor Vehicles in the case of an applicant oir professional licence',"

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I accept the amendment, Sir.

The amendment was put and adopted.

Rule 14

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move: That for sub-rules (*a*) and (*b*), of rule 14 the following shall be substituted:—

"14.—*Appeals against orders refusing to issue or renew or revoking licences or disqualifying from holding a driving licence.*

(*a*) The authority empowered under sub-section (2) of section 13 and sub-section (3) of section 15 of the Act to hear appeals against the decision of a Licensing Authority refusing to issue or to renew or to revoke any licence or disqualify from holding a licence shall be the Inspector General of Police"; and

Sub-rule	(*c*)	shall be re-lettered as	sub-rule	(*b*)
,, ,,	(*d*)	,, ,,	,,	(*c*)
,, ,,	(*e*)	,, ,,	,,	(*d*)

The Hon'ble the SPEAKER: Amendment moved is:

"That for sub-rules (*a*) and (*b*), of rule 14 the following shall be substituted:—

'14.—*Appeals against orders refusing to issue or renew or revoking licences or disqualifying from holding a driving licence.*

(*a*) The authority empowered under sub-section (2) of section 13 and sub-section (3) of section 15 of the Act to hear appeals against the decision of a Licensing Authority refusing to issue or to renew or to revoke any licence or disqualify from holding a licence shall be the Inspector General of Police"; and

Sub-rule	(*c*)	shall be re-lettered as	sub-rule	(*b*)
,, ,,	(*d*)	,, ,,	,,	(*c*)
,, ,,	(*e*)	,, ,,	,,	(*d*)"

The Hon'ble the SPEAKER: There is an amendment tabled by three hon. members—Maulavi Abdul Bari Chaudhury, Maulavi Maqbul Hussain Chaudhury and Maulavi Abdur Rahman. Who is going to move the amendment?

Maulavi ABDUR RAHMAN: I beg, Sir, to move—

That for sub-rules (*a*) and (*b*) of rule 14, the following shall be substituted:—

" '14. *Appeals against orders refusing to issue or renew or revoking licences or disqualifying from holding a driving licence.*

(*a*) The Authority empowered under sub-section (2) of section 13 and sub-section (3) of section 15 of the Act to hear appeals against the decision of a Licensing Authority refusing to issue or to renew or to revoke any licence or disqualify from holding a licence shall be the Minister-in-charge of the Public Works Department'; and

Sub-rules (*c*), (*d*) and (*e*) shall be re-numbered as sub-rules (*b*), (*c*) and (*d*)."

I need not advance any argument. My point is that instead of preferring an appeal to the Inspector General of Police, the appeal should be preferred to the Hon'ble Minister-in-charge of the Public Works Department. He will be the proper authority to hear such appeals.

Mr. BAIDYANATH MOOKERJEE: May I know why the Hon'ble Minister in charge of the Public Works Department has been selected ?

Maulavi ABDUR RAHMAN: There is an apparent mistake.

The Hon'ble the SPEAKER: Is the hon. member going to perpetuate the mistake ? Is he going to correct it ?

Maulavi ABDUR RAHMAN: Very well, Sir. In place of the Hon'ble Minister in charge of Public Works Department, I suggest the Hon'ble Minister in charge of the Home Department.

The Hon'ble the SPEAKER: Amendment moved is :

"That for sub-rules (*a*) and (*b*) of rule 14, the following shall be substituted :—

'*14. Appeals against orders refusing to issue or renew or revoking licences or disqualifying from holding a driving licence.*

(*a*) The Authority empowered under sub-section (2) of section 13 and sub-section (3) of section 15 of the Act to hear appeals against the decision of a Licensing Authority refusing to issue or to renew or to revoke any licence or disqualify from holding a licence shall be the Minister in charge of the Home Department' ; and

Sub-rules (*c*), (*d*) and (*e*) shall be re-numbered as sub-rules (*b*), (*c*) and (*d*)."

Mr. BAIDYANATH MOOKERJEE : May I ask one question, Sir ? Whether the Hon'ble Premier will have sufficient time to hear all the appeals—even the refusal to grant a motor driving licence. (*A voice*—There is the Commissioner.)

The Hon'ble the SPEAKER : There are other persons who can hear the appeals.

Maulavi ABDUR RAHMAN: There is only one Commissioner. He has not got much time.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Mr. Speaker, Sir, my friend thinks that because they have carried a motion that the Licensing Authority should be the District Magistrate, therefore they think that the appellate authority over him should be one who has authority over him in administrative affairs. They want that the Hon'ble Minister in charge of the Home Department should be the appellate authority. They have forgotten to notice that to test whether a particular man is fit for a driving licence, a man with some technical knowledge is required. I confess I have not got that technical knowledge. The Inspector General of Police possesses that knowledge. A Deputy Commissioner is technically in charge of the District Police and, therefore, in that sense, he is subordinate to the Inspector General of Police. Therefore the Inpector General of Police will be the fit person to hear appeals from the Licensing Authority.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY: May I speak a few words, Sir ? This amendment is inter-related with amendment No.4 regarding Licensing Authority which has already been carried. For the sake of consistency we have put in this amendment.

The Hon'ble the SPEAKER: The Hon'ble Premier has said that there is nothing inconsistent if the Inspector General of Police remains the appellate authority.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY: The District Magistrate has been made the Licensing Authority in place of the Superintendent of Police. We do not like to have any connection with the Police Department by making the Inspector General of Police the appellate authority. That is the idea.

The Hon'ble the SPEAKER: But the Hon'ble Premier has got a different idea. In considering these rules under the Motor Vehicles Act I shall exercise my right to sum up the debates that would take place on the various points that may be raised, and I think, this is a fit case in which I should sum up the various points of arguments advanced.

One point of view urged is that as the Deputy Commissioner has been made the Licensing Authority there should not be any appeal from his decision to the Inspector General of Police. But with regard to that the Hon'ble Premier has given very good reasons why the Inspector General of Police should remain the appellate authority. He says that to hear appeals on these matters there should be one who have got some technical knowledge of the matter. According to him the Hon'ble Minister in charge of the Home Department cannot be expected to have such technical knowledge, therefore it would be better to have the Inspector General of Police as the appellate authority. The Inspector General is not like an ordinary police officer ; all the grievances the hon. members may entertain against police control are against the subordinate ranks. So far as the Inspector General of Police is concerned he is a very high official. The Hon'ble Premier has said that in a sense the Deputy Commissioner is also subordinate to the Inspector General because the Deputy Commissioner is also technically held to be in charge of the District Police. The House is certainly to weigh the two sets of opposing arguments and gives its decision.

Mr. JOBANG D. MARAK: May I say a word, Sir, in this connection ? The Hon'ble Premier says that he has not got any technical knowledge to be able to hear appeals about driving licences. But is it necessary for the appellate authority to re-examine a driver ? The things will come to him from below through files, and it does not require any technical knowledge to exercise his functions as appellate authority.

Mr. BAIDYANATH MOOKERJEE: Will he be judged by appearance or by qualification ?

Mr. JOBANG D. MARAK: By qualification, and the merits of the appeal petition certainly.

The Hon'ble the SPEAKER: Then I am putting the question. I shall first put the amendment moved by Maulavi Abdul Rahman. The question is :

"That for sub-rules (*a*) and (*b*) of rule 14, the following shall be substituted :—

'*14. Appeals against orders refusing to issue or renew or revoking licences or disqualifying from holding a driving licence.*

(*a*) The Authority empowered under sub-section (2) of section 13 and sub-section (3) of section 15 of the Act to hear appeals against the decision of a Licensing Authority refusing to issue or to renew or to revoke any licence or disqualify from holding a licence shall be the Minister in charge of the Home Department.' "

The last part of the amendment is only for re-lettering and there is no necessity of putting it,

The Assembly divided.

AYES—20

1. Srijut Joges Chandra Gohain.
2. Mr. Naba Kumar Dutta.
3. Srijut Purandar Sarma.
4. Srijut Ramnath Das.
5. Maulavi Abdul Aziz.
6. Maulavi Abdul Bari Chaudhury.
7. Maulana Abdul Hamid Khan.
8. Khan Bahadur Hazi Abdul Majid Chaudhury.
9. Maulavi Abdur Rahman.
10. Maulavi Dewan Muhammad Ahbab Chaudhury.
11. Maulavi Muhammad Amjad Ali.
12. Maulavi Badaruddin Ahmed.
13. Khan Bahadur Dewan Eklimur Roza Chaudhury.
14. Maulavi Jahanuddin Ahmed.
15. Maulavi Muhammad Maqbul Hussain Chaudhury.
16. Maulavi Matior Rahman Mia.
17. Maulavi Mabarak Ali.
18. Maulavi Namwar Ali Bharbhuiya.
19. Shams-ul-Ulama Maulana Abu Nasr Md. Waheed.
20. Mr. Jobang D. Marak.

NOES—34

1. The Hon'ble Maulavi Saiyid Sir Muhammad Saadulla.
2. The Hon'ble Maulavi Munawwar Ali.
3. The Hon'ble Srijut Hirendra Chandra Chakravarty.
4. The Hon'ble Khan Sahib Maulavi Mudabbir Hussain Chaudhuri.
5. The Hon'ble Dr. Mahendra Nath Saikia.
6. The Hon'ble Khan Bahadur Maulavi Sayidur Rahman.
7. The Hon'ble Srijut Rupnath Brahma.
8. Mr. Baidyanath Mookerjee.
9. Babu Balaram Sircar.
10. Babu Bipin Behari Das.
11. Srijut Jogendra Narayan Mandal.
12. Babu Kalachand Roy.
13. Babu Kamini Kumar Sen.
14. Babu Lalit Mohan Kar.
15. Khan Bahadur Maulavi Keramat Ali.
16. Khan Bahadur Maulavi Mufizur Rahman.
17. Maulavi Muzarrof Ali Laskar.
18. Maulavi Naziruddin Ahmed.
19. Mr. N. Dawson.
20. Mr. E. H. S. Lewis.
21. Mr. D. B. H. Moore.
22. Mr. C. W. Morley.
23. Dr. C. G. Terrell.
24. Mr. P. Trinkle.
25. Mr. A. Whittaker.
26. Mr. Benjamin Ch. Momin.
27. Srijut Bhairab Chandra Das.
28. Srijut Bideshi Pan Tanti.
29. Rev. L. Gatphoh.
30. Mr. C. Goldsmith.
31. Srijut Karka Dalay Miri.
32. Srijut Khorsing Terang.
33. Srijut Rabi Chandra Kachari.
34. Babu Sanat Kumar Ahir.

The question was negatived.

The Hon'ble the SPEAKER: I am now putting the amendment moved by the Hon'ble Premier.

The question is:

"That for sub-rules (*a*) and (*b*), the following shall be substituted:—

'14. *Appeals against orders refusing to issue or renew or revoking licences or disqualifying from holding a driving licence.*

(*a*) The authority empowered under sub-section (2) of section 13 and sub-section (3) of section 15 of the Act to hear appeals against the decision of a Licensing Authority refusing to issue or to renew or to revoke any licence or disqualify from holding a licence shall be the Inspector General of Police.' "

The last part of the amendment is only for re-lettering and it need not be put.

The question was adopted.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in sub-rule (*e*) of rule 14 the word "certified" shall be inserted after the words "obtaining a " and the words "and one copy of such order shall be granted free" shall be added at the end of the sub-rule.

The Hon'ble the SPEAKER: Amendment moved is:

"That in sub-rule (*e*) of rule 14, the word 'certified' shall be inserted after the words 'obtaining a' and the words 'and one copy of such order shall be granted free' shall be added at the end of the sub-rule". There is no other amendment.

Then I am putting this as a question.

The question was put and adopted.

Rule 15

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that the words "through the proper channel" in the second line of sub-rule (*a*) and also sub-rule (*b*) of rule 15 shall be omitted and the sub-rule (*c*) shall be re-lettered as sub-rule (*b*) and substituted by the following :—

"(*b*) The Appellate Authority after such enquiry, if any, as it may deem necessary and after giving an opportunity to the appellant to be heard, may confirm, vary, or set aside the order against which the appeal is preferred, and shall make an order accordingly".

Sir, the original draft rule was to the effect that when an appeal is lodged, the appellant shall inform the authority against whose order the appeal is preferred. This is a cumbrous procedure for the appellant was burdened with the duty of informing the authority to which he was appealling. Hence is the change.

The Hon'ble the SPEAKER: Amendment moved is:

"That the words 'through the proper channel' in the second line of sub-rule (*a*) and also sub-rule (*b*) of rule 15 shall be omitted and the sub-rule (*c*) shall be re-lettered as sub-rule (*b*) and substituted by the following :—

'(*b*) The Appellate Authority after such enquiry, if any, as it may deem necessary and after giving an opportunity to the appellant to be heard, may confirm, vary, or set aside the order against which the appeal is preferred, and shall make an order accordingly.' "

As there is no other amendment, I am putting this as a question.

The question was put and adopted.

Adjournment

The Assembly then adjourned for lunch till 2 P. M.

After lunch

Rule 16

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in sub-rule (*b*) of rule 16, the words "one month" shall be substituted by the words "two months".

The Hon'ble the SPEAKER: The motion moved is: "That in sub-rule (*b*) of rule 16, the words 'one month' shall be substituted by the words 'two months' ".

There is no other amendment.

The amendment was then put and adopted.

Rule 17

The Hon'ble the SPEAKER: There is no Government amendment. There is only one amendment in the names of Maulavis Abdul Bari Chaudhury, Maqbul Hussain Chaudhury and Abdur Rahman. Are they going to move ?

Maulavi ABDUL BARI CHAUDHURY: I beg, Sir, to move that in sub-rule (*g*) of rule 17, the word and figure "Rs. 5" shall be replaced by the word and figure "Rs.3."

My point is that the fee for duplicate licence should be reduced.

The Hon'ble the SPEAKER: Amendment moved is:

"That in sub-rule (*g*) of rule 17, the word and figure 'Rs.5' shall be replaced by the word and figure 'Rs. 3' ".

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Sir, the Joint Conference discussed this point very carefully. They kept the fee at Rs. 5 so that there may be no premium for negligence or carelessness. A driver who does not keep his licence in proper order is unmindful. If he carelessly loses his licence, he has got to take a duplicate. In that sense the Joint Conference thought that the fees should be Rs.5 as they did not want to put a premium on neglience and carelessness.

The Hon'ble the SPEAKER: The question is:

"That in sub-rule (*g*) of rule 17, the word and figure 'Rs. 5' shall be replaced by the word and figure 'Rs. 3'."

The question was adopted.

Rule 18

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in sub-rule (*d*) of rule 18, the words "Rs. 5" shall be replaced by "Rs. 3".

The Hon'ble the SPEAKER: Amendment moved is:

"That in sub-rule (*d*) of rule 18, the words 'Rs. 5' shall be replaced by 'Rs. 3'."

There is no other amendment to this rule.

The amendment was put and adopted.

Rule 19

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in sub-rule (*c*) of rule 19, the words "Rs. 3" shall be substituted by "Rs. 2" and the words "if the licence is more than five years old and in other cases, Rs. 5" shall be deleted.

The Hon'ble the SPEAKER: Amendment moved is:

"That in sub-rule (*c*) of rule 19, the words 'Rs. 3' shall be substituted by 'Rs. 2' and the words 'if the licence is more than five years old and in other cases, Rs. 5' shall be deleted".

The amendment was put and adopted.

Rule 21

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in sub-rule (*a*) of rule 21, the words "on demand by the holder" in the sixth line shall be omitted.

The Hon'ble the SPEAKER: Amendment moved is:

"That in sub-rule (*a*) of rule 21, the words 'on demand by the holder' in the sixth line shall be omitted."

The amendment was put and adopted.

Rule 22

The Hon'ble the SPEAKER: There is no Government amendment to this rule. Mr. Naba Kumar Dutta may move his amendment.*

Mr. NABA KUMAR DUTTA: I will not move, Sir.

Rule 25

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in rule 25, the following shall be added after sub-rule (*b*) as sub-rule (*c*):—

"(*c*) In all cases of refusal of renewal of licences the fee paid shall be refunded."

The Hon'ble the SPEAKER: Amendment moved is:

"That in rule 25, the following shall be added after sub-rule (*b*) as sub-rule (*c*):—

'(*c*) In all cases of refusal of renewal of licences the fee paid shall be refunded'."

The amendment was put and adopted.

Rule 29

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in clause (*iii*) of sub-rule (*g*) of rule 29, the words "fitted with dual controls" shall be omitted.

The Hon'ble the SPEAKER: Amendment moved is:

"That in clause (*iii*) of sub-rule (*g*) of rule 29, the words 'fitted with dual controls' shall be omitted."

The amendment was put and adopted.

Rule 31

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in the second line of rule 31, the word "motor" shall be inserted before the word "road-roller."

The amendment is self-explanatory. Road-rollers propelled by steam are not within the purview of the rule. In order to make it clear the amendment is moved.

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*Mr. NABA KUMAR DUTTA to move:

That at the end of sub-rule (*a*) of rule 22, the following sentence shall be added:—

"Further that no driving licence should be granted to any one who cannot produce a learners' licence or a licence valid in some other province or country.

The Hon'ble the SPEAKER: Amendment moved is:

"That in the second line of rule 31, the word 'motor' shall be inserted before the word 'road-roller'."

The amendment was put and adopted.

New rule to be inserted after rule 32

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that after rule 32, the following new rule shall be inserted as rule 33:—

"33. No fee shall be charged for the members of the Police Force or Fire Brigade when licences to drive Police, or Fire Brigade motor vehicles are issued to them."

That consequent on the insertion of this rule, all the subsequent rules down to rule 74 shall be re-numbered.

The Hon'ble the SPEAKER: Amendment moved is:

"That after rule 32, the following new rule shall be inserted as rule 33:—

'33. No fee shall be charged for the members of the Police Force or Fire Brigade when licences to drive Police or Fire Brigade motor vehicles are issued to them'.

That consequent on the insertion of this rule, all the subsequent rules down to rule 74 shall be re-numbered."

There is no other amendment to this motion, so I put this as a question before the House.

The question was put and adopted.

Original rule 33 (re-numbered as rule 34)

Maulavi ABDUL BARI CHAUDHURY: I beg, Sir, to move that in sub-rule (*a*) of rule 33, for the words "first day of July, 1940", the words "first day of April, 1941" be substituted.

The section under which this rule has been framed reads as follows:—

"23. (2) A motor vehicle already registered under any enactment in force in British India at the commencement of this Act shall be deemed to be registered under this Act until the 1st day of April, 1941 and on the application of the owner before that date shall be registered under this Act without payment of any registration fee."

So the period up to 1st April, 1941 is covered by this section itself. So the rule as worded has hardly any meaning. The intention of this section is that the vehicles registered under the old Act shall not be required to be registered again under the new rules up to 1st April 1941, after which date compulsory registration shall take place. I think there is no difficulty in accepting this amendment.

The Hon'ble the SPEAKER: Amendment moved is:

"That in sub-rule (*a*) of rule 33, for the words 'first day of July, 1940', the words 'first day of April 1941' be substituted."

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Just a little point that emerges out of this amendment. My friend is not perfectly clear what section 23(2) says:

"A motor vehicle already registered under any enactment in force in British India at the commencement of this Act shall be deemed to be registered under this Act until the 1st day of April. 1941".

But that refers to registration, Sir, but here the point is entry in the certificate of registration. What is wanted is that even after the first day of July, 1940, no owner shall permit any goods vehicle to be driven in any public place, being a goods vehicle deemed to be registered under the Act by virtue of the provisions of sub-section (2) of section 23 of the Act unless the registered laden weight is stated in the certificate of registration and exhibited on the vehicle in the manner specified in rule 44. Because the weight has now been regulated so this original draft rule is in order.

The Hon'ble the SPEAKER: I am putting this as a question before the House. The question is:

"That in sub-rule (*a*) of rule 33, for the words 'first day of July, 1940', the words '1st day of April, 1941' be substituted".

The question was negatived.

The Hon'ble the SPEAKER: Maulavi Abdul Bari Chaudhury to move the next amendment.

Maulavi ABDUL BARI CHAUDHURY: This is not our amendment, Sir. Probably there might have been some mistake somewhere.

The Hon'ble the SPEAKER: But you may move it.

Maulavi ABDUL BARI CHAUDHURY: Very well, Sir, I beg to move that in sub-rule (*d*) of rule 33, the word "entered" shall be substituted by the words "shall enter".

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I accept this amendment, Sir. The words "shall enter" make better sense.

The Hon'ble the SPEAKER: Amendment moved is:

"That in sub-rule (*d*) of rule 33, the word 'entered' shall be substituted by the words 'shall enter'."

I shall now put this as a question before the House.

The question was put and adopted.

Original rule 37 (re-numbered rule 38)

Maulavi ABDUL BARI CHAUDHURY: I shall not move amendments Nos.44* and 45† standing in our names.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in the note under sub-rule (*b*) of rule 37, the word "certified" shall be inserted before the word "copy" and the words "and one copy of such order shall be granted free" shall be added after the Note.

ORIGINAL RULE 37 (re-numbered rule 38)

* 44. Maulavi Abdul Bari Chaudhury / Maqbul Hussain Chaudhury / Abdur Rahman to move :—

That in sub-rule (a) the words "Inspector-General of Police" shall be substituted by the words "Minister in charge of Public Works Department."

† 45. Maulavi Abdul Bari Chaudhury / Maqbul Hussain Chaudhury / Abdur Rahman to move :—

That in sub-rule (b) the words "Inspector-General of Police" shall be substituted by the words "Minister in charge of Public Works Department".

The Hon'ble the SPEAKER: Amendment moved is:

"That in the note under sub-rule (*b*) of rule 37, the word 'certified' shall be inserted before the word 'copy' and the words 'and one copy of such order shall be granted free' shall be added after the Note".

As there is no a nendment, I am putting this as a question before the House.

The question was put and adopted.

Original rule 38 (re-numbered as 39)

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in the second line of sub-rule (*a*) of rule 38, the words "through the proper channels" shall be omitted and after the word "against" in the fourth line of the same sub-rule, the words "which shall be granted free" shall be added.

The Hon'ble the SPEAKER: Amendment moved is:

"That in the second line of sub-rule (*a*) of rule 38, the words 'throu h the proper channels' shall be omitted and after the word 'against' in the fourth line of the same sub-rule, the word: 'which shall be granted free' shall be added".

As there is no other amendments to it, I put this as a question before the House.

The question was put and adopted.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that the sub-rule (*b*) shall be omitted.

This is in line with the previous one. In an appeal against an order of the Registering Authority according to the Government Provisional Rules, the burden of informing the Authority was left to the appellants. The Joint Committee thinks that such a burden should not be put upon them.

The Hon'ble the SPEAKER: Amendment moved is:

"That sub-rule (*b*) of rule 38, shall be omitted".

There is another amendment in the name of Mr. Morley.

Mr. C. W. MORLEY: I beg, Sir, to move that for sub-rule (*b*) of rule 38, the following shall be substituted:—

"(*b*) When a revision is lodged, the petition shall be filed in duplicate and one copy shall bear court-fee of Re.1 and it shall be accompanied by a certified copy of the appellate order which shall be granted free".

This amendment was suggested by Rai Sahib Apurba Kumar Ghosh at page 14 of the report of the Joint Conference and has already been accepted by the Hon'ble the Premier. Therefore, it needs no elaboration from me.

With these words, I commend my motion for the consideration of the House.

The Hon'ble the SPEAKER: Amendment moved is:

"That for sub-rule (*b*) of rule 38, the following shall be substituted:—

'(*b*) When a revision is lodged, the petition shall be filed in duplicate and one copy shall bear court-fee of Re.1 and it shall be accompanied by a certified copy of the appellate order which shall be granted free'".

Mr. BAIDYANATH MOOKERJEE: I rise to oppose this amendment. I remember, this matter was fully discussed in the Joint Conference and we unanimously came to the decision that persons who will appeal to court would be put to unnecessary inconvenience and difficulties. I think, Sir, this sub-rule (*b*) to rule 38 should be deleted altogether as moved by the Hon'ble Premier. The fees has already been prescribed somewhere I believe and I do not think that there is any necessity of submitting the petition in duplicate.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I am afraid, Mr. Mookerjee has missed the point. Under rule 37(*b*) there is a revisional power left to the Inspector-General of Police, but no procedure has been prescribed. Therefore Rai Sahib Apurva Kumar Ghosh suggested that a procedure should be laid down by means of this rule, and therefore the amendment which Mr. Morley has moved should be accepted. Probably, if I read the rule, my friend will see the point—"Any person aggrieved by any order made by an Inspector of Motor Vehicles in respect of a certificate of fitness may, within thirty days of the date on which he has received notice of such order, appeal to the Registering Authority concerned, whose orders shall be final, subject to the powers of revision by the Inspector-General of Police". So against the orders of the Registering Authority a revisional petition may lie with the Inspector-General of Police.

Mr. BAIDYANATH MOOKERJEE: Why should a duplicate copy be submitted ?

The Hon'ble the SPEAKER: This is another matter. The question is whether there should be any such rule.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Generally this petition will be typed and a duplicate kept. This duplicate copy is to be sent to the appellate authority for explanation.

The Hon'ble the SPEAKER: May I take it that the Hon'ble Premier accepts this amendment ? I shall now put the motion of Mr. Morley. The question is:

"That for sub-rule (*b*) of rule 38, the following shall be substituted :—

'(*b*) When a revision is lodged, the petition shall be filed in duplicate and one copy shall bear court-fee of Re. 1 and it shall be accompanied by a certified copy of the appellate order which shall be granted free.' "

The question was adopted.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I will just make a slight amendment to my motion.

I beg, Sir, to move that sub-rule (*c*) of rule 38 shall be substituted by the following :—

"(*c*) The appellate authority after such enquiry if any, as it may deem necessary and after giving an opportunity to the parties to be heard may confirm, modify, or set aside the order "

The Hon'ble the SPEAKER: Amendment moved is:

"That sub-rule (*c*) of rule 38, shall be substituted by the following :—

'(*c*) The appellate authority after such enquiry if any, as it may deem necessary and after giving an opportunity to the parties to be heard may confirm, modify, or set aside the order.' "

There is no other amendment. I am putting this as a question before the House.

The question was put and adopted.

Original rule 40 (re-numbered rule 41)

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in sub-rule (*b*) of rule 40, the words "or part of the vehicle" shall be inserted after the words "surface of a plate".

The Hon'ble the SPEAKER: Amendment moved is:

"That in sub-rule (*b*) of rule 40, the words 'or part of the vehicle' shall be inserted after the words 'surface of a plate.' "

There is no other amendment. I am putting this as a question before the House.

The question was put and adopted.

Original rule 44 (re-numbered rule 45)

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that clauses (*vi*), (*vii*), (*viii*) and (*ix*) of sub-rule (*a*) of rule 44 shall be omitted.

This refers to the particular things to be exhibited or painted in a transport vehicle. To the public it will mean nothing. I do not think any travelling public or the general public will understand anything from these items. So these things are much too technical and these we propose to omit.

The Hon'ble the SPEAKER: Amendment moved is:

"That clauses (*vi*), (*vii*), (*viii*) and (*ix*) of sub-rule (*a*) of rule 44 shall be omitted."

There is no amendment. I am putting this as a question before the House.

The question was put and adopted.

Original rule 45 (re-numbered rule 46)

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in the 3rd line of sub-rule (*a*) of rule 45, the words "for the purpose of this rule" shall be replaced by the words "of public service vehicles" and a "full stop" shall be put after the word "year" in the fourth line and the words "and the certificate so granted shall be valid for 6 months from the date of issue or last renewal" shall be omitted.

The Hon'ble the SPEAKER: Amendment moved is:

"That in the 3rd line of sub-rule (*a*) of rule 45, the words 'for the purpose of this rule' shall be replaced by the words 'of public service vehicles' and a 'full stop' shall be put after the word 'year' in the fourth line and the words 'and the certificate so granted shall be valid for 6 months from the date of issue or last renewal' shall be omitted."

There is no other amendment. I am therefore putting this as a question before the House.

The question was put and adopted.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that sub-rule (*b*) of rule 45 shall be re lettered as sub-rule (*c*) and sub-rule (*c*) shall be re-lettered as (*b*) and the words "In the case of all other transport vehicles" shall be inserted before the words "The Inspector of Motor Vehicles by whom" and in the second line the word "may" shall be substituted by the word "shall".

The Hon'ble the SPEAKER: Amendment moved is:

"That sub-rule (*b*) of rule 45 shall be re-lettered as sub-rule (*c*) and sub-rule (*c*) shall be re-lettered as (*b*) and the words 'In the case of all other transport vehicles' shall be inserted before the words 'The Inspector of Motor Vehicles by whom' and in the second line the word 'may' shall be substituted by the word 'shall'."

There is no other amendment. I am putting this as a question before the House.

The question was put and adopted.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in sub-rule (*d*) of rule 45, the words "sub-rule (*c*)" shall be substituted by the words "sub-rule (*b*)".

This is a consequential amendment.

The Hon'ble the SPEAKER: Amendment moved is:

"That in sub-rule (*d*) of rule 45, the words 'sub-rule (*c*)' shall be substituted by the words 'sub-rule (*b*)'."

There is no other amendment. I am putting this as a question before the House.

The question was put and adopted.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in sub-rule (*h*) of rule 45, the words "on the occasion of the first of each inspection" shall be omitted and against the word "Rs." the words "per annum" shall be added.

The Hon'ble the SPEAKER: Amendment moved is:

"That in sub-rule (*h*) of rule 45, the words 'on the occasion of the first of each inspection' shall be omitted and against the word 'Rs.' the words 'per annum' shall be added."

There is no other amendment. I am putting this as a question before the House.

The question was put and adopted.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in clause (*ii*) of sub-rule (*h*) of rule 45, the word " transport " shall be inserted before the word " vehicle " and that clause (*ii*) shall be re-numbered as clause (*iii*) and in place of the words " Rs.10," the words " Rs.6 " shall be substituted.

The Hon'ble the SPEAKER: Amendment moved is:

"That in clause (*ii*) of sub-rule (*h*) of rule 45, the word 'transport' shall be inserted before he word ' vehicle ' and that clause (*ii*) shall be re-numbered as clause (*iii*) and in place of the words 'Rs.10,' the words 'Rs.6' shall be substituted".

There is no other amendment. So I am putting this as a question before the House.

The question was put and adopted.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that clause (*iii*) of sub-rule (*h*) of rule 45 shall be re-numbered as clause (*ii*) and " Rs.6 " shall be replaced by " Rs.10 " and that in the *Nota bene* " Rs.5 " shall be substituted by " Rs.3 " and " Rs.3 " by " Rs.5."

This is another consequential amendment, Sir.

The Hon'ble the SPEAKER: Motion moved is:

"That clause (*iii*) of sub rule (*h*) of rule 45 shall be re-numbered as clause (*ii*) and 'Rs.6 ' shall be replaced by 'Rs.10 ' and that in the *Nota bene* 'Rs.5 ' shall be substituted by 'Rs.3 ' and 'Rs.3' by 'Rs.5'. "

There is no other amendment. I am putting this as a question before the House.

The question was put and adopted.

Original rule 46 (re-numbered rule 47)

Maulavi ABDUL BARI CHAUDHURY: Sir, I beg to move that in sub-rule (*d*) of rule 46, the figure " 5 " shall be replaced by the figure "2".

By this amendment I wish to lower the rate of fee for temporary registration of vehicles. Perhaps this sub-rule has escaped the notice of the members of the Joint Conference. A sum of Rs.5 appears to be excessive. Like Bengal it should be fixed at Rs.2.

The Hon'ble the SPEAKER: Amendment moved is:

"That in sub-rule (*d*) of rule 46, the figure ' 5 ' shall be replaced by the figure '2'."

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Sir, I leave it to the hon. members of the House to decide whether the fee should be fixed at Rs.5 or Rs.2. This fee is prescribed for temporary registration only.

The Hon'ble the SPEAKER: The question is:

"That in sub-rule (*d*) of rule 46, the figure '5' shall be replaced by the figure '2'."

The question was adopted.

Original rule 49 (re-numbered rule 50)

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in rule 49, the words "accompanied by the prescribed fee" at the end of the second line of sub-rule (*a*) and whole sub-rule (*c*) shall be omitted.

The Hon'ble the SPEAKER: Amendment moved is:

"That in rule 49, the words 'accompanied by the prescribed fee' at the end of the second line of sub-rule (*a*) and whole sub-rule (*c*) shall be omitted.

As there is no other amendment I am putting this as a question before the House."

The question was put and adopted.

Original rule 51 (re-numbered rule 52)

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in sub-rule (*a*) of rule 51, the words "the prescribed fee" shall be substituted by the words "a fee of Rs.2 payable by the transferee" and sub-rule (*c*) shall be deleted.

The Hon'ble the SPEAKER: Amendment moved is:

"That in sub-rule (*a*) of rule 51, the words 'the prescribed fee' shall be substituted by the words 'a fee of Rs.2 payable by the transferee' and sub-rule (*c*) shall be deleted."

There is no other amendment. So I am putting this as a question before the House.

The question was put and adopted.

Original rule 54 (re-numbered rule 55)

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that in sub-rule (*e*) of rule 54, "Rs.10" shall be replaced by "Rs. 5" and "Rs.5" by "Rs.3"

The Hon'ble the SPEAKER: Amendment moved is:

"That in sub-rule (*e*) of rule 54, 'Rs.10' shall be replaced by 'Rs.5' and 'Rs.5' by 'Rs.3'."

As there is no other amendment, I am putting this as a question before the House.

The question was put and adopted.

Original rule 57 (re-numbered rule 58)

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that the following shall be substituted for sub-rule (*c*) of rule 57:

"(*c*) The fee payable annually in advance for trade certificates shall be Rs.50 in respect of any number of certificates up to five and Rs.10 in respect of each additional certificate"; and

that in the third line of sub-rule (*j*), after the words "one district to another" the words "or from the jurisdiction of one Regional Transport Authority to another" shall be added.

These amendments concern cars which are in the hands of the dealers or manufacturers for sale.

The Hon'ble the SPEAKER : Amendment moved is :

" That the following shall be substituted for sub-rule (*c*) of rule 57 :—

'(*c*) The fee payable annually in advance for trade certificates shall be Rs.50 in respect of any number of certificates up to five and Rs. 10 in respect of each additional certificate ; and

that in the third line of sub-rule (*j*), after the words 'one district to another' the words 'or from the jurisdiction of one Regional Transport Authority to another' shall be added.

There is no other amendment. So I am putting this as a question before the House.

The motion was adopted.

Original rule 59 (re-numbered rule 60)

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I think, Sir, befor. I move my amendment it would be better if my hon. friend Maulavi Abdul Bari Chaudhury move his amendment No.65, because he seeks to make an addition.

Maulavi ABDUL BARI CHAUDHURY : I may be allowed to move amendment No.66 first, because that is an independent amendment.

The Hon'ble the SPEAKER : Yes, if amendment No. 66 is carried all other amendments will fail through. Very well, I will allow amendment No.66 to be moved first.

Maulavi ABDUL BARI CHAUDHURY : Sir, I beg to move that for Sub-rule (*a*) of rule 59, the following shall be substituted :—

(*a*) The Provincial Transport Authority shall consist of :

(*i*) The Chief Secretary to the Government of Assam—Chairman;

(*ii*) The Inspector-General of Police ;

(*iii*) The Chief Enginer, Public Works Department ;

(*iv*) Two Chairmen of Local Boards to be nominated by the Government of Assam ;

(*v*) One Chairman of Municipal Board to be nominated by the Government of Assam ;

(*vi*) Four non-official members to be nominated by the Provincial Government ;

(*vii*) An official in the service of the Provincial Government appointed by the Provincial Government to be a member and also Secretary and Executive Officer of the Authority.

Sir, legal difficulties have been raised by the Hon'ble Leader of the House about the power of the Provincial Legislature to discuss or amend this rule. I tried to follow his arguments which were mainly based on the interpretation of section 44 of the Indian Motor Vehicles Act. Rules 59 and 60 are the two very important rules which deal with control and constitution of the Provincial and Regional Transport Authorities, and before we surrender our right of discussion of these rules to the executive authority of Government I beg to make a further submission on this matter. Sir, rule 59 as drafted by Government reads as follows :

"The Provincial Transport Authority as required by section 44 of the Act, shall consist of the following." I lay special stress on the words 'as required by section 44 of the Act' which show that in drafting this rule and when including it in the body of the rules for discussion in the Legislature,

Government have given their full consideration to the meaning and interpretation of section 44. Either Government thought at that time that section 44 was no bar to such inclusion or they wanted to obtain the sanction of the Provincial Legislature over this important matter. But it seems now that Government have changed their mind.

Rule 59 does not contemplate to appoint the personnel of the Provincial Authority which matter, the Hon'ble Premier argued, is the inherent right of the Government under section 44 ; but this rule only lays down certain principles on which the personnel are to be selected and these principles, I submit, are included within the meaning of the words "terms of appointment in sub-section 2 of Section 68". Under these terms of appointment, Government are to appoint the personnel of the Provincial Transport Authority.

I am indebted to my learned friend Mr. Whittaker for this information that this particular item did not find place in the draft rules published by the Government of Bengal and other provinces. But this has not been the case here in Assam. This particular rule has got a prominent place in the main body of the rules which have been placed before the House for our consideration and adoption. In the circumstances I still hold that this Hon'ble House is competent to adopt or amend this rule.

Now coming to the merits of the amendment itself, we maintain, Sir, that the Hon'ble Minister-in-charge of the Home Department should preside over the Board of the Ministers, forming the Appellate Authority under rule 90 and should not be a member of the Transport Authority. The Chief Secretary as suggested by me, may be the Chairman of the Provincial Transport Authority and he will be in a better position to acquaint the Hon'ble Minister with all relevant facts that may be required to be brought before the House. The Local Boards and the Municipalities to some extent being vitally interested in the control and administration of motor traffic in the country, I suggest their inclusion. With these words, Sir, I beg to commend this motion for acceptance of the House.

The Hon'ble the SPEAKER: Amendment moved is:

That for sub-rule (*a*) of rule 59, the following shall be substituted :—

(*a*) The Provincial Transport Authority shall consist of:

(*i*) The Chief Secretary to the Government of Assam—Chairman ;

(*ii*) The Inspector-General of Police ;

(*iii*) The Chief Engineer, Public Works Department ;

(*iv*) Two Chairmen of Local Boards to be nominated by the Government of Assam ;

(*v*) One Chairman of Municipal Board to be nominated by the Government of Assam ;

(*vi*) Four non-official members to be nominated by the Provincial Government ;

(*vii*) An official in the service of the Provincial Government appointed by the Provincial Government to be a member and also Secretary and Executive Officer of the Authority."

Khan Bahadur Maulavi KERAMAT ALI: Mr. Speaker, Sir. I beg to oppose this motion. I oppose this motion not because I object to the personnel suggested by the hon. mover in his amendment but because, I think, this House will be going beyond their jurisdiction if they accept the amendment. Section 44 has been read out to this House by different members more than once and it is very clear that this House has not the power to suggest the personnel of the Provincial or Regional Authority. The Section is this—"The Provincial Government shall, by notification in the official Gazette, constitute (mark the word) for the province a Provincial Transport

Authority to exercise and discharge the powers and functions specified in sub-section (3) and shall in like manner constitute Regional Transport Authorities to exercise and discharge throughout such areas as may be specified in the notification, in respect of each Regional Transport Authority, the powers and functions conferred by or under this chapter on such Authorities." Now Sir, my hon. friend the mover of the amendment wants to suggest that the word "term" used in Section 68 of the Indian Motor Vehicles Act, gives power to this legislature to nominate the personnel of the Authorities. Sir, the word "term" has been used in different Acts and I think my lawyer friends in this House know what this word "term" means. The word "term" can never mean or include the constitution of the Provincial or the Regional Authority. The word "term" can only mean travelling allowances and such other things. Travelling allowances as the hon. members will see, have been provided under the rules.

Maulavi ABDUL BARI CHAUDHURI: I did not mean "personnel"; I meant the principles on which the personnel were appointed.

Khan Bahadur Maulavi KERAMAT ALI: Sir, "term" does not include even principles. If this amendment is accepted or voted for by this House, I am afraid, the people outside this Legislature will say that the members of this Legislature do not know their own limits. So I oppose this motion.

The Hon'ble the SPEAKER: What does the hon. member mean by the word "term"?

Khan Bahadur Maulavi KERAMAT ALI: It means condition, Sir.

The Hon'ble the SPEAKER: Is there any word like this?

Khan Bahadur Maulavi KERAMAT ALI: The word 'term' will be found in this Act as well as many other Acts and we know what is the meaning of this word. The word "term" can never include the constitution of the Provincial or Regional Authority or the personnel of the Authority and if this House put a wrong interpretation upon this word, we shall be ridiculed by people outside this House.

Maulavi ABDUR RAHMAN: Mr. Speaker, Sir, my hon. friend Khan Bahadur Maulavi Keramat Ali, I understand, was a member of the joint conference. From the report of the joint conference, I find that no such objection was ever raised by any of the hon. members of the conference. They have suggested certain amendments in recasting the previous rules which were prepared by Government and presented before the conference. Now my hon. friend Khan Bahadur Keramat Ali comes forward with the argument that the whole House would be put to ridicule if we go beyond the jurisdiction of the limit of this House. I do not understand whether this House has not got the power which would regulate the motor vehicles business of the province. Sir, section 44 gives scope to constitute the body which will regulate the Motor business of the province. But it has been taken objection to by the Hon'ble Premier that this does not give power to this House that they should constitute such a body. My hon. friend Maulavi Abdul Bari Chaudhury has argued and has laid much stress upon the word "term". Section 68, sub-section 2 (*a*) runs thus:—the period of appointment and the terms of appointment of and the conduct of business by Regional and Provincial Transport Authorities and the reports to be furnished by them".

I again put stress on these lines—the period of appointment, the terms of appointment and the conduct of business by Regional Transport Authorities. He has tried to explain to the House that this gives an indication

to the hon. members of the House that they are quite within the jurisdiction to constitute the body, *i.e.*, the Provincial Transport Authority and the Regional Transport Authority which will regulate or conduct the business. If this can be beyond the jurisdiction of the House, I do not find any reason why the Hon'ble Premier would have come forward with the draft rules which were framed long before, as well as the reason why he did not raise any objection to the Joint Conference. Again the House has got to look whether by taking the opportunity of constituting the two bodies, the Regional Transport Authority and that of the Provincial Transport Authority, it is doing anything wrong. If the House does not do anything wrong, I do not see any reason why this should be objected to. This is more fair that the House should frame their own bodies in order to regulate motor business. With these words Sir, I support the amendment.

Mr. A. WHITTAKER: Mr. Speaker Sir, when lawyers begin to quarrel about what is the interpretation of any special term it is not the province of a layman to intervene. Whatever the meaning of terms, as decided by my hon. friends Khan Bahadur Maulavi Keramat Ali or Maulavi Abdur Rahman, what I would suggest is this that if section 68 meant to bring the personnel of these authorities within the scope of the Legislature's examination the framers could not conceivably have left any ambiguity about such an important matter as the personnel. The personnel therefore, would, as a layman I suggest, appear in section 68, had it been the intention of the Central Legislature to bring personnel within the scope of the examination of this Legislature.

Mr. BAIDYANATH MOOKEJEE: Mr. Speaker, Sir, I like just to add a few words in support of what my hon. friend Khan Bahadur Maulavi Keramat Ali has said. Sir, I think, the whole point depends upon the word 'constitute'. If the meaning of the word 'constitute' is quite clear to us, in that case there will be no difficulty. It runs like this:

"The Provincial Government shall by notification in the official gazette, constitute for the province a Provincial Transport Authority to exercise ..... and so on."

So Sir, it is quite clear here that it is the Provincial Government who will constitute the body of the Provincial Transport Authority or the Regional Transport Authority. So there is no ambiguity about it. It is perfectly clear. It is the Provincial Government and the Provincial Government alone that will constitute the body and after constituting this they are to notify it in the official gazette. This is my submission, Sir.

Maulavi ABDUR RAHMAN: Will Mr. Mookerjee define it ?

The Hon'ble the SPEAKER: The period and terms are to be prescribed by rules.

Mr. BAIDYANATH MOOKERJEE: Yes Sir, that we have already done in the Joint Conference.

The Hon'ble the SPEAKER: What is the meaning of section 68(1) ? It is too wide and too general. The Provincial Government may make rule for the purpose of carrying into effect the provisions of this chapter. What is the interpretation of that ?

Mr. BAIDYANATH MOOKERJEE: But, Sir, in (2) it is quite clear. Without prejudice to the generality of foregoing power, rules under this section may be made in respect of all or any of the following matters, *viz.*

It is quite clear there Sir, and in (1) the Provincial Government may make rule for the purpose of carrying into effect the provisions of this chapter. But without prejudice to the generality of foregoing power, rules under this section may be made with respect to all or any, etc.

The Hon'ble the SPEAKER : There are certain particular matters in respect to which Government may frame rules under section 68(2). But that does not effect the power given by section 68(1).

Mr. BAIDYANATH MOOKERJEE : Again in section 44 it has been made so very clear that by this section we cannot take away the power of the Government to constitute..... .....

The Hon'ble the SPEAKER : This is not taking away the power of the Government. The Government is to constitute the Transport Authority and if the Government think that there will be a rule as to how the Transport Authority is to be constituted, then that rule is to be placed before the House, as Government have framed the rules and placed them before the House. The House is to accept or reject them to carry out the purpose. The rule has certainly been framed to carry out the purpose of the provisions of the chapter in which the rule giving power to Government constitute the authority occurs. That rule has been placed before the House and the House can, it seems to me amend it, and the question whether it is within its competence to do so does not arise in view of the provisions of section 133 of the Act.

Babu KAMINI KUMAR SEN : Sir, may I make a little submission ? By the amendment that has been moved by my friend Maulavi Abdul Bari Chaudhury it is not proposed to fix the personnel but it is only to enunciate the principle on which the personnel will have to be fixed. Sir, the power given to the legislature by section 68(1) is too wide and by virtue of that provision, I think there is ample authority for framing rules in order to enunciate the principle of appointment of the members of the Provincial Transport Authority. In the rule it is not possible to fix the personnel and so it is left to the Government to make the same. Section 44 only means that the Government will choose the personnel and publish it whereas the period and terms of appointment of that personnel are to be settled by the rules. So, Sir, the rule which is meant only to enunciate the principle of appointment cannot be said to override the provision of section 44. Moreover, Sir, the draft rule has already been placed before the House and I do not think the Government can now go back upon it on plea of interpretation of a particular section. Even supposing that the framing of these rules becomes illegal, I think, it will be the business of the law court to see to it. Once it has been placed before the House, I think, Government cannot withdraw their draft rule. The amendment does not name the personnel but only enunciate the principle and such a rule is certainly for carrying out the purpose of the provision of this chapter. Under the circumstances, I submit that such a rule is not *ultra vires* of the power conferred on the legislature.

The Hon'ble the SPEAKER : That is as to how the Transport Authority should be constituted and about what would be the personnel will be for the Government to choose. I don't like to give my opinion and the House is also not bound to accept my opinion on the point. But there is some force in the argument of hon. Mr. Sen.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Mr. Speaker. Sir, three issues have emerged from the discussions on this amendment. The first issue is whether Government by quoting the provisional rule 59 and the draft rule which was considered by the Joint Conference and which are now before the House is precluded from saying that that rule is out of place in this consideration and that such rule cannot be dealt with by the House. The second issue that you yourself have enunciated, Sir, is that by enacting rule 59 Government have accepted the position that they are only to enunciate the policy which will guide them to constitute the Provincial and Regional Transport Authority as laid down by

section 54 and, therefore, there is scope for discussion by the House. Of course, Sir, you have been good enough to say that, that is the first impression which Government can contest. The third issue is one which has been raised on the word "terms". The hon. mover of this amendment thinks the word "terms" is tantamount or equivalent to "principle" and that instead of the words "terms of appointment" in sub-section (2) of section 68, we should read "principle of appointment". I will take them categorically as I have enunciated them. Government by enacting this rule definitely say that the Provincial Transport Authority, as required by section 44 of the Act, shall consist of the following. They mention section 44 categorically in this rule in order to keep themselves in a position to say that the constitution of the bodies is entirely left to the Provincial Government. From a reading of section 44, there cannot be any doubt that the Central Legislature on the authority of the Indian Motor Vehicles Act, 1939 want that these bodies should be constituted by the Provincial Government rather than by the Provincial Legislature. The main argument advanced for the opposite view is that in section 68, sub-section (2), the words "terms and period of appointment" are mentioned. If the legislature wanted that the constitution of the body and the principle which should guide the Government in forming these bodies should be in the hands of the legislature, in that case, there is absolutely no reason why in place of the phraseology of clause (*a*) of sub-section (2) the wording should not have been definite and different. I fail to see, Sir, whether by any legal interpretation or common Dictionary meaning the word "terms" can be converted into the word "principle." Anybody knows what the word "terms" means.

Maulavi ABDUL BARI CHAUDHURY: In my opinion the word "terms" includes "principle".

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Sir, whether my hon. friend has got any legal interpretation of the word "terms" I do not know. But I if am to go by the Dictionary meaning—I refer to the Chambers Twentieth Century Dictionary—I find that the word "terms" means— any limited period: the time for which anything lasts: the time during which the courts of law are open: certain days on which rent is paid: that by which a thought is expressed: a word or expression, etc. So, it is abundantly clear from the Dictionary meaning that the word "terms" cannot include "principle". The absolute power of forming these bodies has been given to the Provincial Government, and nowhere the legislature has got the power to dictate the principle upon which this body is to be constituted. I therefore say, Sir, that the construction or interpretation which my hon. friend and his supporter are giving to the word "terms" cannot stand.

As I mentioned the other day, Sir, while the Joint Conference was discussing this clause, they had to take the legal opinion and the Legal Remembrancer gave his opinion that under section 44, the constitution of the body is left in the hands of the Provincial Government and it is not subject to the dictating power of the legislature.

The second point that I have mentioned is that the issue is, even if we admit that the constitution lies in the hands of the Provincial Government, whether the legislature has the power to dictate the principle, I say, Sir, it has not. Therefore, I am afraid, Sir, my hon. friend's motion, either in constituting or dictating the constitution or suggesting the principle of the constitution of the body, goes beyond the jurisdiction of this House.

The last thing that I have got to say is this. That the local bodies—the Municipal and Local Boards—should be represented in the Provincial and Regional Transport Authorities as motor buses and lorries run on their roads, is a suggestion to which the Local Government will give due consideration.

Babu KAMINI KUMAR SEN: Sir, the Hon'ble Premier has said that in my speech I meant that the word "terms" includes "principles." But I think he could not clearly understand my point of view.

The Hon'ble Maulavi Sir Saiyid MUHAMMAD SAADULLA: I did not refer to Mr. Kamini Kumar Sen.

Babu KAMINI KUMAR SEN: The Hon'ble the Premier has argued on the basis that the word "term" includes principle, but I think he has not clearly understood my point. I have not said that the word "term" includes principle.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I never referred to Mr. Sen.

Babu KAMINI KUMAR SEN: Sir, my point is this that even supposing the word 'term' does not include principle, I submit that the provincial Legislature can frame rules to enunciate principle on the basis of the power conferred by section 68(1).

Khan Bahadur Maulavi KERAMAT ALI: On a point of information, Sir. Will it not be prejudicial to section 44 ?

The Hon'ble the SPEAKER: No. I have got a few points to ask the Hon'ble the Premier. Now, I think Mr. Sen's contention relying upon section 68(1 —that is what I also raised—requires some answer, admitting that section 44 gives authority to the Provincial Government by notification to constitute the Provincial Transport Authority. To constitute means to fix the personnel. Is it not so?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: To choose the personnel.

The Hon'ble the SPEAKER: Yes. In choosing the personnel, will not the Government follow certain principle ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: We need not follow any principle, Sir.

The Hon'ble the SPEAKER: But in the selection of personnel, will not any principle be discernable there ? Well, it is up to them to follow any principle or not. But my point is that when Government frame a Rule embodying the principle to be followed in the matter of choosing the personnel of the Provincial Transport Authority, then that rule can be considered by the House, for there is a rule framed for carrying out the purpose of the chapter under section 68(1).

Babu KAMINI KUMAR SEN: Has not the Provincial Legislature anything to do, Sir.

The Hon'ble the SPEAKER: The question of Legislature does not come at all. As soon as Government frame rules for certain purposes, they will have to place those rules before the Legislature. That is, the Legis ature comes in afterwards. It is the Government who are to frame rules, and if they choose to frame rules to guide their selection of personnel, those rules should be placed before the House.

Babu KAMINI KUMAR SEN: Sir, in reply to the Hon'ble Premier's statement that the Government is not bound to follow any principle in choosing the personnel, my submission is that if the personnel is not known and if even the principle of selection of the personnel is also not known, it is impossible to fix up the terms of the appointment.

The Hon'ble the SPEAKER: There is also another thing. It requires careful examination of the various sections of the Act, which give some powers to the Government and some powers to the Provincial and Regional Transport Authorities. Now by examining this power it would be seen that Government can frame rules to regulate the exercise of all these powers. I think what Government choose to frame rules to regulate the exercise of the powers given to Government, they become rules to be considered by the House. Is it not so? I have not been able to go carefully through the rules but I think there are rules framed to indicate the procedure and the principles to be followed in exercising those powers.

Khan Bahadur Maulavi KERAMAT ALI: All those rules have been deleted.

The Hon'ble the SPEAKER: I do not know whether that has been proper to delete them. I am in doubt as to the legality of what has been done.

Maulavi ABDUR RAHMAN: If after framing those rules, Government place them before the Legislature, what will be the position of the Legislature then? Whether we are simply to read out and give our consent.

The Hon'ble the SPEAKER: It is under sections 21, 41, 68, 70 and 91 that the Government have got the powers to frame rules. Now, in framing the rules they have framed many rules for the purpose of regulating the exercise of their powers, which have given exclusively to them. These rules have been placed before the House and the House has got the right to accept or reject or amend them. Because it would appear to be so from an examination of the provision of section 133 of the Act and also from an examination of the sections conferring rule-making powers to Goverment. Objects of the provisions of the various Chapters of the Act would also include the exercise of the powers exclusively given to Government and if Government frame rules as to how these powers should be exercised, they come to be amended by the House, if it likes to do so, under section 133 of the Act.

Now I am putting this as a question before the House.

The question is :—That for sub-rule (*a*) of rule 59, the following shall be substituted :—

"(*a*) The Provincial Transport Authority shall consist of :—

(*i*) The Chief Secretary to the Government of Assam—Chairman ;

(*ii*) The Inspector General of Police ;

(*iii*) The Chief Engineer, Public Works Department.

(*iv*) Two Chairmen of Local Boards to be nominated by the Government of Assam.

(*v*) One Chairman of Municipal Board to be nominated by the Government of Assam.

(*vi*) Four non-official members to be nominated by the Provincial Government.

(*vii*) An official in the service of the Provincial Government appointed by the Provincial Government to be a member and also Secretary and Executive Offier of the Authority."

The Assembly divided.

AYES—23.

1. Babu Akshay Kumar Das.
2. Babu Balaram Sircar.
3. Babu Bipin Behari Das.
4. Srijut Joges Chandra Gohain.
5. Babu Kamini Kumar Sen.
6. Babu Lalit Mohon Kar.
7. Mr. Naba Kumar Dutta.
8. Srijut Ram Nath Das.

9. Srijut Santosh Kumar Barua.
10. Maulavi Abdul Aziz.
11. Maulavi Abdul Bari Chaudhury.
12. Maulana Abdul Hamid Khan.
13. Khan Bahadur Hazi Abdul Majid Chaudhury.
14. Maulavi Abdur Rahman.
15. Maulavi Dewan Muhammad Ahbab Chaudhury.
16. Maulavi Muhammad Amiruddin.
17. Maulavi Muhammad Amjad Ali.
18. Maulavi Muhammad Maqbul Hussain Chaudhury.
19. Maulavi Matior Rahman Mia.
20. Khan Bahadur Maulavi Mufizur Rahman.
21. Maulavi Naziruddin Ahmed.
22. Mr. Jobang D. Marak.
23. Babu Sanat Kumar Ahir.

NOES—31

1. The Hon'ble Maulavi Saiyid Sir Muhammad Saadulla.
2. The Hon'ble Srijut Rohini Kumar Chaudhuri.
3. The Hon'ble Maulavi Munawwar Ali.
4. The Hon'ble Srijut Hirendra Chandra Chakravarty.
5. The Hon'ble Khan Sahib Maulavi Mudabbir Hussain Chaudhuri.
6. The Hon'ble Dr. Mahendra Nath Saikia.
7. The Hon'ble Maulavi Abdul Matin Chaudhuri.
8. The Hon'ble Khan Bahadur Maulavi Sayidur Rahman.
9. The Hon'ble Miss Mavis Dunn.
10. The Hon'ble Srijut Rupnath Brahma.
11. Mr. Baidyanath Mookerjee.
12. Babu Kalachand Roy.
13. Maulavi Jahanuddin Ahmed.
14. Khan Bahadur Maulavi Keramat Ali.
15. Maulavi Muzarrof Ali Laskar.
16. Maulavi Namwar Ali Barbhuiya.
17. Mr. F. W. Blennerhassett.
18. Mr. N. Dawson.
19. Mr. E. H. S. Lewis.
20. Mr. D. B. H. Moore.
21. Mr. C. W. Morley.
22. Dr. C. G. Terrell.
23. Mr. P. Trinkle.
24. Mr. A. Whittaker.
25. Mr. Benjamin Ch. Momin.
26. Srijut Bhairab Chandra Das.
27. Srijut Bideshi Pan Tanti.
28. Srijut Dhirsingh Deuri.
29. Rev. L. Gatphoh.
30. Mr. C. Goldsmith.
31. Srijut Khorsing Terang.

The question was negatived.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move: That for rule 59 (re-numbered rule 60), the following shall be substituted:—

"60. Period of office and terms of appointment of members of the Provincial Transport Authority and Regional Transport Authorities—

(*a*) The Provincial Government shall appoint members of the Provincial Transport Authority and the Regional Transport Authorities in an honorary capacity for a period of three years and thereafter until their successors are appointed:

Provided that when any member dies or is removed or vacates office, his successor shall be appointed for the remainder of the period of office of the member whose place he takes and thereafter till his successor is appointed.

(*b*) Non-official members of the Provincial Transport Authority and the Regional Transport Authorities shall be entitled to receive travelling and halting allowance at the scale and on the conditions admissible to members of the Provincial Legislature for all meetings of the Authorities, and any such member performing any journey, other than to attend a meeting of the Authority, in connection with the business of the Authority, shall with the sanction of the Chairman be entitled to receive travelling and halting allowance likewise."

The Hon'ble the SPEAKER: Amendment moved is:

"That for rule 59 (re-numbered rule 60), the following shall be substituted :—

'60. Period of office and terms of appointment of members of the Provincial Transport Authority and Regional Transport Authorities—

(*a*) The Provincial Government shall appoint members of the Provincial Transport Authority and the Regional Transport Authorities in an honorary capacity for a period of three years and thereafter until their successors are appointed :

Provided that when any member dies or is removed or vacates office, his successor shall be appointed for the remainder of the period of office of the member whose place he takes and thereafter till his successor is appointed.

(*b*) Non-official members of the Provincial Transport Authority and the Regional Transport Authorities shall be entitled to receive travelling and halting allowance at the scale and on the conditions admissible to members of the Provincial Legislature for all meetings of the Authorities, and any such member performing any journey, other than to attend a meeting of the Authority, in connection with the business of the Authority, shall with the sanction of the Chairman be entitled to receive travelling and halting allowance likewise.' "

Now, the next amendment, *i.e*, amendment No.65 can also be moved. It seeks to add a second proviso to the proposed rule 59(*a*). Any of the three hon. members may move this amendment.

Maulavi ABDUL BARI CHAUDHURY: Sir, I beg to move that in sub-rule (*a*) of new rule 59, inserted on the recommendation of the Joint Conference, the following shall be added as the second proviso :—

"Further provided that in making such appointments, of members to the Provincial Transport Authority and Regional Transport Authorities, the Provincial Government shall adequately safeguard the interests of the local bodies and municipalities."

Sir, after what the Hon'ble Prime Minister has just now said I think he will have no difficulty in accepting this amendment.

The Hon'ble the SPEAKER: The Amendment moved is:

"That in sub-rule (*a*) of new rule 59, inserted on the recommendation of the Joint Conference, the following shall be added as the second proviso :—

'Further provided that in making such appointments, of members to the Provincial Transport Authority and Regional Transport Authorities, the Provincial Government shall adequately safeguard the interests of the local bodies and municipalities.' "

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Mr. Speaker, Sir, I will stultify myself if I accept this amendment as requested by my hon. friend. I have taken my stand that this legislature has no right to dictate principles of the constitution of transport authorities. What I said at an earlier stage is that this suggestion will be carefully considered by Government, but it cannot form part of the rules.

The Hon'ble the SPEAKER: I shall first put the Government amendment, and then I shall place the amendment of Maulavi Abdul Bari Chaudhury.

Maulavi ABDUL BARI CHAUDHURY: May I know from the Hon'ble Prime Minister whether he would consider my suggestion so far as the existing authorities are concerned ? If so, I shall withdraw my amendment.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I cannot give any assurance. After these rules are passed by both the Houses, I shall go through them carefully and see whether the request made by my hon. friend, which seems to be reasonable, can be acted upon. I shall have to place the matter before the Cabinet.

Maulavi ABDUL BARI CHAUDHURY: In view of what the Hon'ble Prime Minister has said I do not like to press my amendment.

The Hon'ble the SPEAKER: I am now putting the amendment of the Hon'ble Premier as a question before the House. The question is:

"That for rule 59, (re numbered rule 60), the following shall be substituted :—

'60.—Period of office and terms of appointment of members of the Provincial Transport Authority and Regional Transport Authorities—

(*a*) The Provincial Government shall appoint members of the Provincial Transport Authority and the Regional Transport Authorities in an honorary capacity for a period of three years and thereafter until their successors are appointed :

Provided that when any member dies or is removed or vacates office, his successor shall be appointed for the remainder of the period of office of the member whose place he takes and thereafter till his successor is appointed.

(*b*) Non-official members of the Provincial Transport Authority and the Regional Transport Authorities shall be entitled to receive travelling and halting allowance at the scale and on the conditions admissible to members of the Provincial Legislature for all meetings of the Authorities, and any such member performing any journey, other than to attend a meeting of the Authority, in connection with the business of the Authority, shall with the sanction of the Chairman be entitled to receive travelling and halting allowance likewise. "

The question was adopted.

The Hon'ble the SPEAKER: Amendment No.67* falls through.

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*67. Maulavi Abdul Bari Chaudhury / Maqbul Hussain Chaudhury / Abdur Rahman to move :—

That item (*i*) of sub-rule (*a*) of rule 59, shall be substituted by the following :—

"(*i*) The Chief Secretary to the Government of Assam—Chairman"

and

That in item (*iv*) of the same sub-rule, after the words "non-official members", the words "of whom two shall be Chairmen of Local Boards" shall be added.

Original rule 60 (re-numbered rule 61)

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I beg, Sir, to move that for rule 60 the following shall be substituted :—

"60. The regions for the purposes of section 44 of the Act, shall be three in number and shall comprise the areas as set forth in the Fourth Schedule to these rules."

The Hon'ble the SPEAKER: Amendment moved is:

"That for rule 60 the following shall be substituted :—

'60. The regions for the purposes of section 44 of the Act shall be three in number and shall comprise the areas as set forth in the Fourth Schedule to these rules."

There is an amendment in the names of Maulavi Abdul Bari Chaudhury and two other hon. members.

Maulavi ABDUL BARI CHAUDHURY: Sir, I beg to move that for rule 60, the following shall be substituted :—

"60. The regions for the purposes of section 44 of the Act shall be five in number and shall comprise the areas as set forth in the Fourth Schedule of the rules".

By this amendment we intend to increase the number of regional transport authorities to five, two for the Surma Valley and three for the Assam Valley districts. An increase in the number of regions will mean better control and efficient management. The districts of Assam are so widely scattered that persons connected with the motor industry are experiencing a great amount of inconvenience. Incidentally, I may mention here that in Bengal there are as many as 25 regional authorities, one for each district.

As regards expenditure, I may assure the hon. members that there will be hardly any rise in expenditure, as travelling allowances will be minimised. For instance, I may say that a Sylhet member shall not be required to go to Silchar.

With these few words, I commend my amendment to the acceptance of the House.

The Hon'ble the SPEAKER: Amendment moved is:

"That for rule 60 the following shall be substituted :—

'60. The regions for the purposes of section 44 of the Act shall be five in number and shall comprise the areas as set forth in the Fourth Schedule of the rules."

Mr. A. WHITTAKER: Mr. Speaker, Sir, I find that Maulavi Abdul Bari Chaudhury has referred to Bengal regions in connection with this amendment. I think I am correct in saying that Sir Nazimuddin, when this question was raised in the Bengal Assembly, admitted that the figure "12" was probably too high and said that he would consider reducing it after two or three years' experience. I find myself on this occasion in the rare position of agreeing with Mr. Bari so far as Surma Valley is concerned. Certain members of my group residing in Surma Valley have a good deal of sympathy with the proposal to divide Surma Valley into two regions. And therefore with the permission of the Hon'ble Leader of the House the members of my group will be free to vote as their inclinations take them on Mr. Abdul Bari's amendment (*hear, hear*).

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Mr. Speaker, Sir, I mentioned day before yesterday that we think that constitution of more regional authorities would lead the province into extra expenditure. My own idea was that we should see the effects of dividing the province into three regions for a year or two. If it is found that this arrangement is not working satisfactorily, we can increase the number. What my hon. friend Maulavi Abdul Bari said may be correct so far as Surma Valley is concerned. The other day he said that the subdivisions of Karimganj and Silchar should form one region and the others will form the second. Similarly, in the other valley he wanted the old Public Works Department division, *i.e.*, Upper Assam, Central Assam and Lower Assam divisions. Even then there are certain difficulties. Only yesterday I was given to understand by a member from the Lower Assam Valley Regional Authority that the area covered by the North Lakhimpur subdivision should be brought under the Lower Assam Valley Region for they are connected with Darrang district and the mighty Brahmaputra river separates this part from the Upper Assam Region. There is certain force in what this hon. member told me and if his request is to be accepted then there will be a centre at Gauhati to regulate the traffic in distant North Lakhimpur. Government want to gain some experience with these existing regions but if the House thinks that it is better to divide the province into five regions, then Government will consider the suggestion. This matter is entirely in the jurisdiction of Local Government under section 44 of the Act.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY: Mr. Speaker, Sir. Can we constitute a Regional Transport Authority connecting Karimganj with Cachar ? I think, we cannot do that.

The Hon'ble the SPEAKER: No it cannot be done.

Dr. C. G. TERRELL: Mr. Speaker, Sir, may I say a word on this subject ? When members of the House were requested by the Secretary, Provincial Transport Authority, to submit criticisms of the rules, I in company with other members included among other suggestions one concerning the constitution of the Regional Transport Authority.

Discussion on this subject has been ruled as being beyond the scope of the Assembly and as such cannot be considered. It has occurred to me, however, that a similar object to that visualised in the proposals submitted on this subject might be attained in the Surma Valley by the formation of two Regional Transport Authorities, one for Cachar and one for Sylhet. There is, I think, a good deal to be said in favour of this proposal including the important one that if adopted, more consideration would certainly be given to local road conditions in the light of more intimate knowledge and interest, before permits were issued.

The extra expense involved by establishing a second Regional Transport Authority in the Surma Valley would in my opinion be more than compensated for by the resulting increase in efficiency.

Mr. A. WHITTAKER: Sir, can there be any amendment to the fourth schedule at the same time ?

The Hon'ble the SPEAKER: Are there any amendments to fourth schedule ?

Maulavi ABDUL BARI CHAUDHURY: There are amendments but they have not come. The amendments to fourth schedule have been tabled.

Mr. A. WHITTAKER: If there be any amendment, should it not coincide with this ?

The Hon'ble the SPEAKER: I am inquirying whether there is any amendment to fourth schedule.

Mr. A. WHITTAKER: Can we be told what amendments there are to the fourth schedule ?

The Hon'ble the SPEAKER: I have not yet got the printed list.

Maulavi ABDUR RAHMAN: The areas have been divided—Cachar under one regional authority, Sylhet under one and Upper Assam has been divided into three parts.

The Hon'ble the SPEAKER: Now may I inquire what section gives authority to this legislature to constitute the regions ? Is it the function of the Government ?

Mr. A. WHITTAKER: I think, Sir, it is the function of the Government.

Maulavi ABDUL BARI CHAUDHURY: The amendment of the Government is that the regions for the purposes of section 44 of the Act, shall be three in number and shall comprise the areas as set forth in the fourth schedule to these rules. I have tabled an amendment which runs thus—"The regions for the purposes of section 44 of the Act, shall be five in number and shall comprise the areas as set forth in the fourth schedule of the rules".

Mr. A. WHITTAKER: May I suggest, Sir, that it is exactly parallel to the previous motion ?

Maulavi ABDUL BARI CHAUDHURY: It is not parallel.

The Hon'ble the SPEAKER: But the Joint Conference did not think it necessary to increase the regions. When Government choose to frame rules for the purpose of exercising their power then it becomes really necessary that it should be considered by the Legislature.

Mr. BAIDYANATH MOOKERJEE: What will be the position if the Hon'ble Premier withdraws the motion ?

The Hon'ble the SPEAKER: No, I think, it will be considered by the House.

Mr. BAIDYANATH MOOKERJEE: My point is that amendment No. 69 is based on amendment No. 68 but if the Hon'ble Premier withdraws 68, then in that case the question of 69 cannot come in. Is that the position, Sir ?

The Hon'ble the SPEAKER: Of course, if 68 is withdrawn, then the other members will also like to table amendments.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Sir, my amendment refers to draft rule 60(*a*), (*b*) is taken out entirely and then (*c*), (*d*) and (*e*) are relegated to another rule. My motion is exactly the word for word as 60 (*a*). Sir, under section 44 of the Act, it is left to the Provincial Government to constitute a Provincial Transport Authority to exercise and discharge the powers through such areas, as may be specified in the notification.

The Hon'ble the SPEAKER: What does the Hon'ble Premier propose to do ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Sir, even if I withdraw it, you will allow other members to put in substantial amendments which will complicate matters.

The Hon'ble the SPEAKER: Very well, we shall take up this matter to-morrow. We have got only 10 minutes more. There will be some points to look into regarding the question whether the legislature has any authority to prescribe regions under section 44 of the Act. This should be considered again to-morrow.

Adjournment

The Assembly was then adjourned till 2 P.M., on Friday, the 6th June, 1941.

SHILLONG:
The 12th July, 1941.

A. K. BARUA,
Secretary, Legislative Assembly, Assam.

A. G. P. (L. A.) No. 125—125—17-7-1941.

ASSAM LEGISLATIVE ASSEMBLY
GOVERNMENT OF ASSAM

GOVERNOR OF ASSAM

His Excellency Sir ROBERT NIEL REID, K.C.S.I., K.C.I.E., I.C.S.

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1. The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA, M.A., B.L. in charge of Home Department.
2. The Hon'ble Srijut ROHINI KUMAR CHAUDHURI, B.L., in charge of Education Department.
3. The Hon'ble Maulavi MUNAWWAR ALI, B.A., LL.B., in charge of Agriculture and Veterinary Departments.
4. The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY, B.A., in charge of Medical and Public Health Departments.
5. The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURY, B.L., in charge of Judicial and Local Self-Government Departments.
6. The Hon'ble Dr. MAHENDRA NATH SAIKIA, L.M.P., in charge of Excise Department.
7. The Hon'ble Maulavi ABDUL MATIN CHAUDHURI, B.L., in charge of Public Works Department and of Labour.
8. The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN, M.A., B.L., in charge of Finance, Revenue and Legislative Departments.
9. The Hon'ble Miss MAVIS DUNN, B.A., B.T., B.L., in charge of Registration, Industries and Co-operative Departments.
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