



**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 2 p.m., on Friday, the 6th June, 1941.

*Present*

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

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**QUESTIONS AND ANSWERS**  
**SHORT NOTICE QUESTIONS**

(to which answers were laid on the table)

**Closure of Silchar-Doomughat road**

**Mr. C. W. MORLEY** asked :

5.(a) Are Government aware that the Silchar-Doomughat road is now closed through subsidence and that communication with Silchar for the public north of Udarbund is now by private roads only ?

(b) If so, will Government please state what steps have been taken or are being taken to maintain public communications for areas north of Udarbund with Silchar ?

(c) Is it a fact that Government has been repeatedly warned during the past two years of the condition of the road and its probable closure to the public for lack of maintenance ?

(d) Was Government's offer during the Budget Session, 1939-40, to consider the state of this road followed by any effective action to keep open communications ?

(e) Will Government be pleased to state how long will this road remain closed ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI** replied :

5.(a)—No intimation to this effect has been received by Government. The road is under the control of the Silchar Local Board.

(b)—Does not arise.

(c)—Yes.

(d)—Yes. A proposal for the inclusion of this road in the road improvement programme financed from the Road Fund was put before the Assam Communications Board at their 6th meeting held in August, 1940, *vide* paragraph VI(1), page 8 of the printed proceedings of that meeting but this proposal was rejected by the Board, *vide* paragraph VI(2) of the printed proceedings.

(e)—This is a matter for decision by Silchar Local Board. As this is not a Public Works Department road Government have no control over it.



**Mr. BAIDYANATH MOOKERJEE:** Is it a fact that this road was constructed out of the Tea Cess Road Fund?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** It is a fact.

**Mr. BAIDYANATH MOOKERJEE:** How is it that this road is now under the control of the Silchar Local Board?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** It was handed over to the Local Board.

**Mr. BAIDYANATH MOOKERJEE:** Was not any condition imposed on the Local Board to keep the road in proper order?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** I am not aware.

**Mr. BAIDYANATH MOOKERJEE:** Is it not the duty of the Local Board to keep the road in proper order?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** It is certainly their duty to keep the road in proper order within their resources.

**Mr. BAIDYANATH MOOKERJEE:** May I know, if the Local Board fails to keep the road in proper order, what can Government do in the matter?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** Government draw their attention to the fact.

**Mr. A. WHITTAKER:** May we know from the Hon'ble Minister-in-charge of Local Self-Government if Government can take any action?

**The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI:** The Local Boards do their duty within the small resources at their hands.

**Mr. NABA KUMAR DUTTA:** What will Government do if the Local Boards fail to do their duty?

**The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI:** Government generally draw their attention and at the time of distributing Government grants to Local Boards they make special grant for the improvement of the particular road.

**Mr. A. WHITTAKER:** In that case, will the Hon'ble Minister of Local Self-Government make a special grant to the Local Board?

**The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI:** We shall consider that point in making this year's grants to the Local Boards.

**Mr. A. WHITTAKER:** Thank you, Sir.

### Mail Service between Shillong and Surma Valley

**Mr. C. W. MORLEY** asked:

6.(a) Are Government aware of the long-continuing inconvenience caused by the mail service between Shillong and the Surma Valley going via Goalundo?

(b) Will Government be pleased to state whether Government have been able to persuade the Post Master General of Bengal and also the Central Government that the delay in the transit of these mails is unjustifiable?



(c) Do Government propose to forward a copy of these questions to the Government of India and to assure that Government that the Provincial Government share the dissatisfaction of the public over the present arrangements ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI** replied :

6.(a)—Yes.

(b)—The matter is under correspondence with the Director General of Posts and Telegraphs.

(c)—Yes.

**Mr. BAIDYANATH MOOKERJEE** : Since when the matter is under correspondence ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI** : Since a long time.

**Mr. BAIDYANATH MOOKERJEE** : What is the approximate date ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI** : I think, the last letter was in May last.

**Mr. BAIDYANATH MOOKERJEE** : Will the Hon'ble Minister please state whether he received any letter from any hon. member of this House in September last on the point ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI** : We have been receiving complaints ever since the traffic was diverted from the Shillong-Sylhet road.

**Dr. C. G. TERRELL** : May I ask if the Government is aware of the fact that owing to the inexcusable delay in re-establishing the mail service, the delivery of essential serums and vaccines from the Pasteur Institute to destinations in the Surma Valley is delayed to such an extent as to seriously jeopardise the prospect of saving life in certain cases ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI** : Government is aware of the fact.

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY** : Is the mail service still being carried *via* Goalundo ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI** : It is now going *via* Lumding.

**Maulavi MUHAMMAD AMJAD ALI** : When has it been diverted ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI** : In August last.

**Mr. BAIDYANATH MOOKERJEE** : What is the present position of the correspondence with the Postal Department ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI** : The present position is that the Postal Department are to enter into a contract with the existing Company for carrying the mail for Rs. 64 per month. The Company is not willing to accept it and Government have written to the Postal Department and the Central Government that the amount is not adequate and some adjustment should be made and some decision arrived at as early as possible.

**Mr. BAIDYANATH MOOKERJEE** : May I know whether our Government have urged upon the Central Government in the correspondence that on account of this mail service the general public have been put to great inconvenience ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI** : I can assure the hon. member that we have put the matter to the Central Government very strongly.



**Publication of an alleged objectionable article in the "Paigham"**

**Maulana ABDUL HAMID KHAN** asked :

7. Will Government be pleased to state—

(a) Whether it is a fact that the Deputy Commissioner, Goalpara, has recently submitted a report to the Government suggesting action against the Editor Maulvi Abdus Samad, B.A., Printer and Publisher, Babu Sisir Kumar Chakravarty and proprietor Maulana Abdul Hamid Khan, M.L.A., of the Monthly Bengali Newspaper "Paigham" for publishing an article alleged to be objectionable in the *Baisakh* issue of the paper ?

(b) If so, will Government be pleased to state the specific charge for which and the rules under which action has been suggested against the Editor, etc. of the paper ?

(c) Will Government be pleased to state what action, if any, has been or proposed to be taken by Government on this report of the Deputy Commissioner ?

(Maulana Abdul Hamid Khan put the questions in Bengali on the floor of the House which are as follows.)

7. (a) এই ঘটনা কি সত্য যে গোয়ালপাড়া জেলার ডিপুটি কমিশনার 'পয়গাম' পত্রিকার editor নৌলবী আব্দুস সামাদ বি.এ, printer এবং publisher বাবু শিশির কুমার চক্রবর্তী এবং স্বত্বাধিকারী মোলানা আব্দুল হামিদ খান উক্ত পত্রিকার বৈশাখ সংখ্যায় আপত্তিজনক একটি প্রবন্ধ প্রকাশ করার অপরাধে তাঁহাদের বিরুদ্ধে আইনতঃ কার্য্য করিবার জন্য গভর্ণমেন্টের আদেশ চাহিয়াছেন ?

(b) ইহা যদি সত্য হয় তবে গভর্ণমেন্ট কি আইনে, কোন rule এ কি charge করিয়াছেন উহা প্রকাশ করিবেন কি ?

(c) গভর্ণমেন্ট ডিপুটি কমিশনারের উক্ত রিপোর্টের উপর কি প্রতিকার করিয়াছেন তাহা প্রকাশ করিবেন কি ?

আমি আশা করি প্রধান মন্ত্রী মহোদয় বাংলায় উত্তর দিবেন ।

**The Hon'ble the SPEAKER:** The Hon'ble Premier should first answer in English and then translate the answer in Bengali.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA** replied :

7.(a)—Government's attention has been drawn to a poem therein.

(b)—The Government have been asked to decide whether the poem is actionable under section 153A, Indian Penal Code, as promoting enmity between classes.

(c)—The poem is being examined,



7. (a) প্রশ্নের উত্তর হইয়াছে—সে বিষয়ে গভর্ণমেন্টের দৃষ্টি আকর্ষণ করান হইয়াছে। উহাতে প্রকাশিত একটি পদ্য সম্বন্ধে ডিপুটি কমিশনারের রিপোর্টে গভর্ণমেন্টকে জানান হইয়াছে যে গভর্ণমেন্ট এবিষয়ে দৃষ্টি দিবেন।

(b) তারপরে তিনি বলিয়াছেন যে ঐ পদ্যটি এরকম ভাবে প্রকাশ করা হইয়াছে যাহাতে জমিদার ও কৃষক এই দুই শ্রেণীর ভিতর একটা বিচ্ছেদ ভাব আরম্ভ হয়। এজন্য উহাতে ভারতীয় দণ্ডবিধি আইনের ১৫৩(ক) ধারার অপরাধ হইয়াছে কিনা তাহা স্থির করিবার জন্য গভর্ণমেন্টকে অনুরোধ করিয়াছেন।

(c) গভর্ণমেন্ট উক্ত পদ্যটি এখন পরীক্ষা করিতেছেন এবং এবিষয়ে তাঁহাদের আইন বিশেষজ্ঞের পরামর্শ চাহিতেছেন।

**Maulana ABDUL HAMID KHAN :** গভর্ণমেন্ট কি স্বীকার করেননা যে দীর্ঘকাল যাবৎ জমিদারগণ প্রজাদের রক্ত শোধন করিয়াছেন?

**The Hon'ble the SPEAKER :** আপনার এই প্রশ্ন ঠিক প্রাসঙ্গিক হয় নাই।

**Mr. BAIDYANATH MOOKERJEE :** Sir, may we have some idea about the poem?

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY :** With regard to question No. 7(c), will the Hon'ble Speaker read out the poem?

**Maulavi MUHAMMAD AMJAD ALI :** Which part of the poem he means, Sir?

**The Hon'ble the SPEAKER :** This question relates to a poem and if the House wants to know what the poem is, I think, it should be read out.

**Khan Bahadur Maulavi KERAMAT ALI :** I want to know, Sir, the particular portion which has been objected to.

**Mr. A. WHITTAKER :** Mr. Speaker, Sir, if the poem in question is prejudicial, will it not be proper if it is not read out in the Assembly?

**The Hon'ble the SPEAKER :** The hon. member knows that the proceedings of this House are privileged and there is no harm in having this poem printed in the proceedings of this House.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** If we are to express an opinion in the Legislature whether this poem is actionable or not according to my hon. friends, it may prejudice the ultimate issue.

**The Hon'ble the SPEAKER :** I have already said that if the House wants to know the poem, it should be read out. But any question intended to have an interpretation of the poem in order to ascertain if it is objectionable or not will not be allowed.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** The hon. members may go to the Assembly Library table and see the poem there.

**Khan Bahadur Maulavi KERAMAT ALI :** Will it not do, Sir, if copies of this poem are distributed among the hon. members.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** Very well, Sir, I will read the poem.



পদ্যটির নাম হইয়াছে “আর কতো কাল”। লেখক—আনহাজ্জ মওলানা আব্দুল হানীদ খাঁ, এম, এল, এ (ভাষাশীল মওলানা)।

“রৌদ্রে পুড়িয়া বৃষ্টিতে ভিজি’ কৃষকেরা চম্বে জনি,  
বুকের রক্ত ঘান হয়ে ঝরে সারাটি অল্প চুমি।  
কঠোর শ্রমের অজির্জিত ধন প্রজার কলস রাশি,  
খাজানার দায়ে নি’ছে জমিদার জৌকের মতন চুমি।  
জমিদারদের থানা-ইমারৎ উঠিয়াছে আজ গড়ি,  
প্রজার অস্থি মাংস হকের সুদৃঢ় ভিত্তি’ পরি।  
চাষার রক্তে পুষ্ট হয়েছে যতো সব জমিদার,  
পল্লীতে তাই উঠিয়াছে আজ মরণের হাহাকার।  
মহাজন আসে সঙ্গে লইয়া নীলানের পরওয়ানা,  
উচ্ছেদ হলো ধ্বংসদায়ে কতো গরীবের আশ্রানা।  
ধনীর ফীটন মটর চলেছে গরীবের বুক পিমে,  
এতটুকু যদি প্রতিবাদ করে ধরিয়াছে টুটা ক’সে।  
চাল-হীন ভান্ডা কুঁড়ে ঘর আর বুক ভান্ডা হাহাকার,  
এটুকু ল’য়েও বাঁচিবার আজ নাই তার অধিকার।  
তাদেরই হুকুমে জুতা বহি’ চলে হতভাগ্যের দল,  
ছেঁড়া কাপড়ের টুকরা পরণে সম্বল আঁখিজল।  
একদল শুধু ঘাটিয়া খাটিয়া অনাহারে দিবে প্রাণ,  
আরদল শুধু হুকুম করিবে, ভুড়ি নোটা গদিয়াণ।  
এই প্রভুদেরি পদতলে আনি যাহারা যোগায় ভাত,  
হাড় ভান্ডা শ্রম বিনিময় লভে তাহারাই পদাঘাত।  
ঘরে ঘরে আজ করে হাহাকার উৎপীড়িতের দল,  
খোদার আরসু কাঁপে থর থর, দুনিয়াটা টলমল।  
মানুষের প্রতি মানুষের এই এতবড় অপমাণ,  
আর কতো কাল? জাগো, সবে মিলে করো এর অবসান।  
মানুষ তোমরা! শির উঁচু করো, সম্মুখে দেখ চাহি,  
দুয়ারে তোমার “পরগাম” আসে সাম্যের গাণ গাহি।  
সম্ভব হও সবে আজ, বুকে আনো হিন্দুঃ।  
বিজয় ধ্বনিতে ধ্বসিয়া পড়ুক জালিমের ইমারৎ।

### STARRED QUESTION

(to which oral answers were given)

#### Posts of Income-tax Officers

Mr. NABA KUMAR DUTTA asked :

\*170. Will Government be pleased to state—

(a) Why the posts of two Income-tax Officers as advertised in the Assam Gazette of the 18th December, 1940 were not advertised by the Public Service Commission?



- (b) Whether the selection of candidates for these two posts is to be made by the Public Service Commission ?
- (c) Whether there is age limit for these appointments as in the case of other Government appointments ?
- (d) The names of the Assamese candidates with their qualifications who applied for these posts ?
- (e) The names of Assamese candidates for these posts who are now in Government service ?
- (f) The factors that will be considered in making these appointments ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA** replied :

170. (a)—The advertisement of 18th December, 1940, was for selection of stipendiaries for training, and hence the advertisement was issued departmentally and not by the Public Service Commission.

(b)—Yes.

(c)—The same age limit applies as for other Government services.

(d), (e) and (f)—The advertisement was issued as Government of India had declined to lend the services of the Income-tax Officers for assessment and collection of the Assam agricultural income-tax from 1st July 1941. After a great deal of correspondence, they were pleased to revise their decision and have agreed to collect the tax for us through their officers till end of June, 1942. Hence there has been no need to recruit officers of our own this year and the details asked for in the question, are not supplied. Fresh advertisement will be issued in due course.

### **Complaint regarding inefficient reporting of the Assembly proceedings**

**Mr. F. W. BLANNERHASSETT:** Mr. Speaker, Sir, there is a matter which with your permission I should like to refer to on the floor of this House. It concerns the manner in which speeches from these Benches are transcribed by the official reporters.

We have had several occasions in the past to complain. I say this in order to show you that it is no new thing—nothing which is peculiar to this Session—but something which has been a source of trouble and annoyance for the past several years.

When an hon. member comes to the House prepared with a written speech, he is fairly safe from being wrongly reported, but when, as often happens, he has to speak without notes, you will, I am sure, appreciate his difficulty in remembering exactly what he said when the time comes for him to check his speech over as it is presented to him by the reporters. Speaking personally, I can assure you, Sir, that I have frequently found it quite impossible to make any sense whatever of what I myself am supposed by these reporters to have said.

Official reporting, Sir, is a peculiar art which requires at least three qualifications.

Firstly, a very thorough knowledge of the language in which the speech is made.

Secondly, a very extensive vocabulary ; and

Thirdly, continued practice.



Possibly some of the reporters on your staff have at one time possessed the first two qualifications but perhaps, due to neglect of the third, have fallen by the way side.

I have taken the precaution of reading this speech and I hope fairly slowly. It will be interesting to see how it emerges from the reporters' room.

**The Hon'ble the SPEAKER :** I have received two complaints, one from Mr. Blennerhassett and also another from Dr. Terrell. The hon. member in his statement has also referred to the quality of reporting in other years also. I must assure the hon. members that it would be always my endeavour to improve the quality of reporting. And when he has referred to other years also, I should inform the House that since I came to hold this office, it has been always my best endeavour to have the reporting of the proceedings as efficiently done as possible. Of course from the complaint which I received from hon. members every now and then, I felt that I was not succeeding in my endeavour in this respect. There are however, some reasons why I failed to succeed, and without disclosing those reasons, I would assure the hon. members that in future I shall try my best to see that the reporting of the Assembly proceedings is done in the right manner.

So far as this session is concerned, I may inform the hon. members that unfortunately, for some unavoidable reasons, four of our permanent reporters have gone on leave and we had to take in four new hands just at the last moment. I think, that may be one of the reasons why the reporting this time is not as satisfactory as the hon. members desire and as I should also desire. So instead of making any lengthy statement on this matter, I can assure the hon. member that I hope, with the co-operation of hon. members and with the co-operation of Government I shall be able to improve the quality of reporting in future.

**Mr. F. W. BLANNERHASSETT :** Thank you very much, Sir.

**Enquiry regarding assent to the Assam Money-Lenders' (Amendment) Bill, 1937 and the Goalpara and the Sylhet Tenancy (Amendment) Bills, 1939.**

**Maulavi ABDUL AZIZ :** Sir, before you begin the business of the day, I want an information from the Hon'ble Premier about the Assam Money-Lenders' (Amendment) Bill and the two (Tenancy Amendment) Bills. These Bills were passed two months ago, and since we have no information about them. I should be glad to have a statement from the Hon'ble Premier regarding them.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** Mr. Speaker, Sir, these three Bills were sent in due course to His Excellency the Governor for his assent. After considering, he has submitted all of them to His Excellency the Governor General. We have not had any reply from him as yet.

**Suggestion of remedial measures to combat floods in the districts of Cachar and Sylhet**

**Mr. BAIDYANATH MOOKERJEE :** I shall only take two minutes, Sir. With your special leave, I wish to mention a word or two about the floods in the districts of Sylhet and Cachar. The matter was fully discussed on the floor of this House. It has been raining for the last four



days and my information is that in the districts of Sylhet and Cachar water is again rising. Unfortunately, none of us mentioned one thing. I mean the question of the remedy for these recurring floods. I hope our Government will try to give effect to the Drainage and Embankment Bill, which has been passed by both the Houses, at an early date. If in those districts which frequently suffer from floods, deforestation is not made on a large scale then I think it may be of some help to us in meeting the flood situation. Therefore, my suggestion is that while for the present floods Government will do their duty fully by arranging for gratuitous relief and loans, etc., at the same time they must also take care that in these parts of the Surma Valley which are frequently visited by floods there are sufficient number of embankments also. The silted water-ways must also be dredged, thereby enabling water to flow out freely even when there is the pressure of floods. The question of deforestation as I have stated above is another important factor to reckon with in this connection. This is my submission, Sir.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** The suggestion of the hon. member will be remembered and taken into consideration.

**Statement regarding the Report of the Select Committee on the Assam University Bill, 1941**

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI:** Mr. Speaker, Sir, I have to make a statement with regard to the Assam University Bill. The hon. members of this House will remember that in adopting the motion for reference of the Bill to the Select Committee it was agreed that the Report shall be submitted by the 30th June, 1941. For various reasons, we cannot hold the sitting of the Select Committee to discuss the Bill earlier than the 7th of July. So it will not be possible for the Select Committee to send their Report some time before the end of July next. I make this statement so that the House may know the actual position.

**The Hon'ble the SPEAKER:** I think one of the terms was that the Report should be submitted by the 30th June. In that case if it is not possible to submit the Report before the 30th June, will it not be necessary to alter the date?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI:** The rules nowhere lay down that any particular date should be fixed for submission of the Report of the Select Committee. I am advised that in the circumstances it is unnecessary to bring any formal motion. If you hold that I am to make such a formal motion, with your permission, I may make it to-morrow.

**The Hon'ble the SPEAKER:** Of course, the rules nowhere lay down that if a date is fixed by the House for the submission of the Report of any Select Committee of a Bill and if there is any necessity for changing the date later on, there should be a decision by the House in that behalf. I quite agree with the Hon'ble Minister that there is no provision so far as the rules are concerned. But it will be establishing a happy convention if we do take the sense of the House on such a contingency. It is unnecessary that there should be a formal motion. If a statement is made by the Hon'ble Minister-in-charge that the date cannot be stuck to and if there is no dissentient voice and if there is no demand that the Report should be submitted on the date fixed, I take it that the House agrees to the change of the date. When there is no dissentient voice and no member is urging that the date should be adhered to, I take it that there is approval of the House to the change of the date.



**Maulavi MUHAMMAD AMJAD ALI:** No date has been fixed.

**The Hon'ble the SPEAKER:** The Hon'ble Minister has said by the end of July. When there is no objection, I take it that the Hon'ble Minister is given time up to the end of July.

**Statement regarding the Report of the Select Committee on the Assam Revenue Tribunal Bill, 1941**

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Mr. Speaker, Sir, with regard to the Revenue Tribunal Bill, the Report was to be placed before the House by the 30th June. It will not be possible to submit the Report by the 30th June. I hope the House will agree to the extension of the time till the 31st July.

(There was no dissentient voice)

**The Assam Motor Vehicles Rules, 1940**

*Original Rule 60 (re-numbered Rule 61)*

**The Hon'ble the SPEAKER:** Now we were dealing with rule 60 of the Motor Vehicles Rules. Amendment No. 68\* was moved by the Hon'ble Premier, and there was an amendment† to that motion which was also moved. In course of discussion a point arose whether without amending the schedule this amendment could be taken up or not. I think, I said that the consideration of the amendment should stand over till we reach the amendment to the schedule to which this rule has got reference.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** You were also pleased to make another observation, Sir, and that is whether it would be within the competence of the Legislature to discuss this question. According to section 44 of the Act, covering the province into different regions lies entirely with the Provincial Government.

**The Hon'ble the SPEAKER:** Yes, I mentioned that. But with regard to this I shall make a statement which I think will be helpful to the House.

Now, by the Act the rule-making power has been given to the Provincial Government, and by sub-section (2) of section 133 of the Act it has been provided that the rules are to come into force on the date of the publication of the rules in the Gazette, unless some later date is appointed for the purpose. The right that has been given to the Legislature by sub-section (3)

\*68. The Hon'ble Maulavi Saiyid Sir Muhammad Saadulla to move:—

That for rule 60 (re-numbered rule 61) the following shall be substituted:—

“61. 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.”

†69. Abdul Bari Chaudhury

Maulavi Maqbul Hussain Chaudhury

to move:—

Abdur Rahman

That for rule 60 (re-numbered rule 61), the following shall be substituted:—

“61. 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.”



of section 133 is only a right to make modifications to these rules. So it comes to this: that whatever rules Government have framed are to be scrutinised by the Legislature and are to be modified if the Legislature chooses to do so.

Now if the whole scheme of the Act is considered then it would appear that the Provincial Government has to frame rules for three purposes, *viz.*, to regulate the exercise of the powers given to it by the Act, to regulate the exercise of the powers that have been given to the Provincial Transport Authority and to Regional Transport Authorities, and thirdly, to regulate the application of the provisions of those sections of the Act which are general in character and have no relation to the conferring of powers either to Government or to the Provincial Transport Authority and the Regional Transport Authorities. The rules that the House are now considering come under these three categories. Therefore, it seems to me that under sub-section (3) of section 133 of the Act the House is to consider the rules presented before it irrespective of the question as to whether there are any rules which are intended to regulate the powers which have been conferred by the Act on the Government. Whichever category of the above three categories the rules may come under—they are to be considered by the House in the exercise of its right to suggest modifications thereof. To raise controversies as to the powers of the House as to whether it has any right to examine the rules which the Government has framed to regulate the exercise of its powers given by the Act, will unnecessarily complicate matters. I think the only business-like way would be to proceed with the amendments as they have been tabled and take the verdict of the House with regard to them, discussing the question of *vires* that may be raised with regard to any of them. If Government think that it has been *ultra vires* of the powers of the House to incorporate or amend any rules which relate to the powers of the Government given by the Act, Government may take legal opinion and decide whether such a rule has been *ultra vires* of the powers of the Legislature, and therefore a nullity.

I, therefore, think that after all the amendments are disposed of, a motion to the effect that Government do take steps to incorporate the amendments passed by the House into the body of the rules presented before the House, in the light of the discussions held on them, and with such re-numbering and relettering as would be necessary would be the simple way out of difficulties that have been created by reason of the controversy as to the competence of the Legislature with regard to some rules which Government consider are not within the powers of the Legislature to incorporate in the rules as amendments or modifications.

Now, in giving this suggestion I am following the procedure that was followed by the Bengal Legislative Assembly. If the hon. members will refer to the speech of the Hon'ble Home Minister there, they will find that he definitely assured the House that if there were any rules which were *ultra vires* he would take proper legal opinion and have those rules altered. The Hon'ble Home Minister said: "I would request the House therefore to accept the Report. If there is any member who feels that there is anything that is *ultra vires* I am prepared to give an undertaking to examine the question, and if our legal adviser maintains that it is *ultra vires* I am prepared to have it altered." So, after we have done with the amendments, if a motion be adopted to the effect that Government be requested to incorporate the amendments passed in the body of the rules, in the light of the discussions that have been held, then I think that should meet the purpose. So, we may go on. If any amendments are carried which Government think is not within the competence of the Legislature, Government



may take steps, if they like, to expunge the particular rule or rules by proper procedure.

Then, amendment No. 69 stands over, so does No. 70 as these two amendments are inter-related. I will now ask any of the three hon. members who have tabled the amendments to move amendment No. 71.

**Maulavi ABDUL BARI CHAUDHURY:** Mr. Speaker, Sir, I beg to move that for sub-rule (b), of rule 60 the following shall be substituted:—

“(b). The Regional Transport Authority shall consist of—

- (i) Deputy Commissioner of a district to be nominated by the Provincial Government ;
- (ii) The Executive Engineer or any other local officer of the Public Works Department to be nominated by the Provincial Government ;
- (iii) Chairmen of all Local Boards within the functional area ;
- (iv) Superintendent of Police to be nominated by the Provincial Government ;
- (v) Chairman of a Municipality to be nominated by the Provincial Government ;
- (vi) Not more than two other non-official members to be nominated by the Provincial Government ;
- (vii) The Superintendent of Police of the Regional Transport Authorities' headquarters to be Secretary whether he is or is not a member.”

Sir, here also I rely on section 68(2) of the Act. This amendment has been drafted on the lines of the identical amendment in Bengal.

**The Hon'ble the SPEAKER:** Yes, that view is well-known to the House.

Amendment moved is :

“That for sub-rule (b), of rule 60 the following shall be substituted:—

“(b). The Regional Transport Authority shall consist of:—

- (i) Deputy Commissioner of a district to be nominated by the Provincial Government ;
- (ii) The Executive Engineer or any other local officer of the Public Works Department to be nominated by the Provincial Government ;
- (iii) Chairmen of all Local Boards within the functional area ;
- (iv) Superintendent of Police to be nominated by the Provincial Government ;
- (v) Chairman of a Municipality to be nominated by the Provincial Government ;
- (vi) Not more than two other non-official members to be nominated by the Provincial Government ;
- (vii) The Superintendent of Police of the Regional Transport Authorities' headquarters to be Secretary whether he is or is not a member.”

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Mr. Speaker, Sir, I am sorry, I have got to oppose the motion on the same ground as I opposed a similar motion of my hon. friend Maulavi Abdul Bari Chaudhury, on the constitution of the Provincial Transport Authority. That amendment has been discussed threadbare yesterday and as such I need not make any long speech now on the subject.

The amendment was then put and negatived.



*Original rule 61 (re-numbered rule 62)*

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :**

I beg, Sir, to move that for rule 61, the following shall be substituted :—

“61. Conduct of business of Transport Authorities.—

(a) Subject to the provisions of the Act and these Rules and also subject to the approval of the Provincial Government, the Provincial or a Regional Transport Authority shall have the power to make bye-laws to regulate the conduct of its business and shall likewise have power to amend such bye-laws, and the business of such authority shall be conducted accordingly under the direction of the Chairman.

(b) The Authority shall meet at such places, dates and times as the Chairman may appoint and whenever summoned by the Chairman. In the case of the Provincial Transport Authority not less than 10 days' notice and in the case of the Regional Transport Authority not less than 7 days' notice shall be given and along with the notice shall be sent a copy of the agenda of the meeting.

(c) The members whose presence shall constitute a quorum for each Authority shall exceed one half of the members of that Authority.

(d) The Chairman of the Provincial Transport Authority if unable to attend a meeting shall nominate a member to act as Chairman at the meeting.

(e) The Chairman of the Regional Transport Authority if unable to attend a meeting shall nominate the Senior Superintendent of Police of the region concerned to act as Chairman at the meeting.

(f) The Chairman or acting Chairman nominated under sub-rules (d) and (e) shall have a second or casting vote.

(g) The Provincial Government may at any time remove a member of the Provincial or Regional Transport Authority.

(h) Save in the case of the hearing of an objection to the grant of a stage carriage permit or of a public carrier's permit and in the case of the hearing of a representation under sub-section (6) of section 57 of the Act, the Provincial or a Regional Transport Authority, as the case may be, may decide any matter, without holding a meeting, by the majority of the votes of members recorded in writing and sent to the Secretary (hereinafter referred to as procedure by circulation).

(i) In the event of procedure by circulation the Secretary shall send to each member of the Authority such particulars of the matter as may be reasonably necessary in order to enable the member to arrive at a decision and shall specify the date by which the votes of members are to be received in the office of the Authority. Upon receipt of the votes of members as aforesaid, the Secretary shall lay the papers before the Chairman who shall record the decision by endorsement on the form of application or other document, as the case may be, according to the votes received and the vote or votes cast by the Chairman. The record of the votes cast shall be kept by the Secretary and shall not be available for inspection by any person save by a member of the Authority at a regularly constituted meeting of the Authority. No decision shall be made upon procedure by circulation if, before the date by which the votes of members are required to reach the office of the Authority, not less than one-third of the members of the Authority by notice in writing to the Secretary demand that the matter be referred to a meeting of the Authority.

(j) The number of votes, excluding the Chairman's second or casting vote, necessary for a decision to be taken upon procedure by circulation shall not be less than the number necessary to constitute a quorum.



(k) The Provincial or the Regional Transport Authority, as the case may be, may summon any applicant for a permit to appear before it and may decline to grant the permit until the applicant has so appeared either in person or by an Agent authorised by him in writing and until the applicant has furnished such information as may reasonably be required by the Authority in connection with the application.

(l) When a matter is decided by the votes of members present at a meeting of the Provincial or a Regional Transport Authority, no person other than a member of the Authority shall be entitled to be present and no record of the voting shall be kept save of the number of votes cast on either side :

Provided that when any matter is decided by the exercise of the second or casting vote of the Chairman the fact shall be recorded.

(m) The Provincial or a Regional Transport Authority may by general or special resolution recorded in its proceedings, and subject to such conditions as may be specified in the resolution, delegate to the Secretary power to grant contract carriage or private carrier's permits :

Provided that the power so delegated shall not extend to the refusal to grant any permit, or to the grant of a permit for a contract carriage when any representation may have been made by any person under the provisions of section 50 of the Act, unless the Secretary has, by a resolution of the Authority, been authorised to refuse a permit or to grant such a permit in any particular case.

**The Hon'ble the SPEAKER :** I shall not take the time of the House by reading the amendment again. It is a long amendment. I will simply say that motion moved is amendment No. 72 printed in the order paper. There are two other amendments in the name of Mr. Naba Kumar Dutta.

**Mr. NABA KUMAR DUTTA :** I beg, Sir, to move that sub-rule (d) inserted according to the recommendation of the Joint Conference, be substituted by the following :

"(d) In the absence of the Chairman of the Provincial Transport Authority, the members present shall elect one among themselves to act, as Chairman at the meeting".

Sir, by this amendment, I don't think for a moment that Sir Muhammad Saadulla who will be the President of the Provincial Transport Authority will make nomination in such a manner as will be repugnant to the members of the Committee. My point is this that in all cases when the Chairman is absent, the Vice-Chairman presides and in the absence of the Vice-Chairman, the members present elect one among themselves to preside over the meeting. I don't see any reason, Sir, why there should be an exception to this in this case. With these words, I move my motion for the acceptance of the House.

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

"That for sub-rule (d) in the amendment moved by the Hon'ble Premier the following shall be substituted—

"(d) In the absence of the Chairman of the Provincial Transport Authority, the members present shall elect one among themselves to act as Chairman at the meeting".

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** Mr. Speaker, Sir, this was considered by the Joint Conference and after some deliberation it was thought better to leave this matter to the Chairman to nominate. The consensus of opinion was that if the Chairman nominates the President for the meeting, he will nominate such a man who is in possession of all facts and figures and if it is left to the hon. members to elect one from them to preside, they may elect someone who may not be



in possession of all informations and it was for this reason, Sir, it was left to the decision of the Chairman.

**The Hon'ble the SPEAKER:** The question is:

"That for sub-rule (d) in the amendment moved by the Hon'ble Premier, the following shall be substituted.

'(d) In the absence of the Chairman of the Provincial Transport Authority, the members present shall elect one among themselves to act as Chairman at the meeting'."

The question was negatived. Mr. Naba Kumar Dutta may move his next amendment.

**Mr. NABA KUMAR DUTTA:** I will not move the next amendment,\* Sir,

**Maulavi ABDUL BARI CHAUDHURY:** I beg, Sir, to move that sub-rule (h) of rule 61 be deleted.

Sub-rule (h) reads as follows:—"When a matter is decided by the votes of members present at a meeting of the Provincial or a Regional Transport Authority, no person other than a member of the Authority shall be entitled to be present and no record of the voting shall be kept save of the number of votes cast on either side."

**The Hon'ble the SPEAKER:** Are you speaking on the original rule 61?

(At this Maulavi Abdul Bari Chaudhury did not proceed with his amendment.)

**The Hon'ble the SPEAKER:** Then there is no other amendment. I am putting the question. The question is:

"That for rule 61, the following shall be substituted:—

'61. Conduct of business of Transport Authorities.—(a) Subjects to the provisions of the Act and these Rules and also subject to the approval of the Provincial Government, the Provincial or a Regional Transport Authority shall have the power to make bye-laws to regulate the conduct of its business and shall likewise have power to amend such bye-laws, and the business of such authority shall be conducted accordingly under the direction of the Chairman.

(b) The Authority shall meet at such places, dates and times as the Chairman may appoint and whenever summoned by the Chairman. In the case of the Provincial Transport Authority not less than 10 days' notice and in the case of the Regional Transport Authority not less than 7 days' notice shall be given and along with the notice shall be sent a copy of the agenda of the meeting.

(c) The members whose presence shall constitute a quorum for each Authority shall exceed one half of the members of that Authority.

(d) The Chairman of the Provincial Transport Authority if unable to attend a meeting shall nominate a member to act as Chairman at the meeting.

(e) The Chairman of the Regional Transport Authority if unable to attend a meeting shall nominate the Senior Superintendent of Police of the region concerned to act as Chairman at the meeting.

(f) The Chairman or acting Chairman nominated under sub-rules (d) and (e) shall have a second or casting vote.

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\* Mr. Naba Kumar Dutta to move:

That sub-rule (e) of rule 61, inserted according to the recommendation of the Joint Conference, be substituted by the following:

"(e). In the absence of the Chairman of the Provincial Regional Authority, the members present shall elect one among themselves to act, as Chairman at the meeting."



(g) The Provincial Government may at any time remove a member of the Provincial or Regional Transport Authority.

(h) Save in the case of the hearing of an objection to the grant of a stage carriage permit or of a public carrier's permit and in the case of the hearing of a representation under sub-section (6) of section 57 of the Act, the Provincial or a Regional Transport Authority, as the case may be, may decide any matter, without holding a meeting, by the majority of the votes of members recorded in writing and sent to the Secretary (hereinafter referred to as procedure by circulation).

(i) In the event of procedure by circulation, the Secretary shall send to each member of the Authority such particulars of the matter as may be reasonably necessary in order to enable the member to arrive at a decision and shall specify the date by which the votes of members are to be received in the office of the Authority. Upon receipt of the votes of members as aforesaid, the Secretary shall lay the papers before the Chairman who shall record the decision by endorsement on the form of application or other document, as the case may be, according to the votes received and the vote or votes cast by the Chairman. The record of the votes cast shall be kept by the Secretary and shall not be available for inspection by any person save by a member of the Authority at a regularly constituted meeting of the authority. No decision shall be made upon procedure by circulation if, before the date by which the votes of members are required to reach the office of the Authority, not less than one-third of the members of the Authority by notice in writing to the Secretary demand that the matter be referred to a meeting of the Authority.

(j) The number of votes, excluding the Chairman's second or casting vote, necessary for a decision to be taken upon procedure by circulation shall not be less than the number necessary to constitute a quorum.

(k) The Provincial or the Regional Transport Authority, as the case may be, may summon any applicant for a permit to appear before it and may decline to grant the permit until the applicant has so appeared either in person or by an agent authorised by him in writing and until the applicant has furnished such information as may reasonably be required by the Authority in connection with the application.

(l) When a matter is decided by the votes of members present at a meeting of the Provincial or a Regional Transport Authority, no person other than a member of the Authority shall be entitled to be present and no record of the voting shall be kept save of the number of votes cast on either side :

Provided that when any matter is decided by the exercise of the second or casting vote of the Chairman the fact shall be recorded.

(m) The Provincial or a Regional Transport Authority may by general or special resolution recorded in its proceedings, and subject to such conditions as may be specified in the resolution, delegate to the Secretary power to grant contract carriage or private carrier's permits :

Provided that the power so delegated shall not extend to the refusal to grant any permit, or to the grant of a permit for a contract carriage when any representation may have been made by any person under the provisions of section 50 of the Act, unless the Secretary has, by a resolution of the Authority, been authorised to refuse a permit or to grant such a permit in any particular case.' "

The question was adopted.



*Original rule 63 (re-numbered rule 64)*

**Maulavi ABDUL BARI CHAUDHURY:** I beg, Sir, to move that in rule 63 (re-numbered rule 64), the words "A permit cannot be claimed as of right" shall be deleted.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Before that, Sir, I shall move mine.

**The Hon'ble the SPEAKER:** Very well, the Hon'ble Premier may move his amendment.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I beg, Sir, to move: That in rule 63 (re-numbered rule 64), the words "A permit cannot be claimed as of right" shall be substituted by the words "the Transport Authority may refuse any application for a permit without assigning any reason".

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

"That in rule 63 (re-numbered rule 64), the words 'A permit cannot be claimed as of right' shall be substituted by the words 'the Transport Authority may refuse any application for a permit without assigning any reason'."

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Sir, here also is the same difficulty. My friend's amendment is on the original draft rule.

**Maulavi ABDUL BARI CHAUDHURY:** Sir, in case the amendment now moved by the Hon'ble Premier is rejected, my amendment will come in.

**The Hon'ble the SPEAKER:** Mr. Mookerjee may also move his amendment.

**Mr. BAIDYANATH MOOKERJEE:** Sir, I beg to move that in rule 63 (re-numbered rule 64), the words, "The Transport Authority may refuse any application for a permit without assigning any reason" inserted according to the recommendation of the Joint Conference, shall be deleted.

Sir, my reason is quite simple. If you kindly go through section 57, sub-section (7) it will be seen that when a Regional Transport Authority refuse an application for a permit of any kind, it shall give to the applicant in writing reason of its refusal, and in the Joint Conference also I stated the other day that it was decided that the first portion should go and as regards substitution I cannot say definitely, but I have an idea that it was among our decisions that such a thing should be inserted. I was the person who moved this amendment then that "a permit cannot be claimed as of right" should go. If there is any right in the Act that right cannot be taken away by rules and if there is no right then there is no necessity of mentioning this. That was my argument which was accepted. But now I find, Sir, that the portion which has been added is absolutely unnecessary and at the same time according to me it is beyond our jurisdiction because as I have already said that sub-section (7) of section 57 states that the reasons for refusal must be given in writing.

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

"That in rule 63 (re-numbered rule 64), the words 'the Transport Authority may refuse any application for a permit without assigning any reason', inserted according to the recommendation of the Joint Conference, shall be deleted."

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Mr. Speaker Sir, I am obliged to my friend Mr. Mookerjee for drawing our attention to sub-section (7) of section 57. He is perfectly correct, Sir, that according to the Act the Regional Transport Authority shall give in writing the reason for refusal. Therefore, I accept his amendment.



**The Hon'ble the SPEAKER:** Then I am putting the amendment of Mr. Mookerjee to the vote first.

The question is:

"That in rule 63 (re-numbered rule 64) the words 'The Transport Authority may refuse any application for a permit without assigning any reason', inserted according to the recommendation of the Joint Conference, shall be deleted."

The question was adopted.

**The Hon'ble the SPEAKER:** Does the amendment\* of Maulavi Abdul Bari Chaudhury stand after this amendment has been carried.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** That is not necessary.

**The Hon'ble the SPEAKER:** Very well.

*Original rule 64 (re-numbered rule 65)*

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I beg to move, Sir, that in sub-rule (b) of rule 64 the word "Chairman" shall be substituted by the word "Secretary".

**The Hon'ble the SPEAKER:** There is no amendment and so I put the question before the House.

The question was put and adopted.

*Original rule 65 (re-numbered rule 66)*

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I beg Sir, to move that in sub-rule (b) of rule 65, the words "fourteen days" shall be substituted by the words "twenty-one days."

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

"That in sub-rule (b) of rule 65, the words 'fourteen days' shall be substituted by the words 'twenty-one days'."

There is no amendment in this motion and so I put the question.

The question was put and adopted.

*Original rule 66 (re-numbered rule 67)*

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I beg, Sir, to move that the following shall be inserted as sub-rule (c) of rule 66 and the existing sub-rule (c) shall be re-lettered as sub-rule (d):—

"(c) In either case mentioned in sub-rules (a) and (b) the parties shall be given a hearing by the Transport Authority."

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

"That the following shall be inserted as sub-rule (c) of rule 66, and the existing sub-rule (c) shall be re-lettered as sub-rule (d):—

"(c) In either case mentioned in sub-rules (a) and (b) the parties shall be given a hearing by the Transport Authority'."

There is no other amendment and so I am putting the question.

The question was then put and adopted.

*Original rule 67 (re-numbered rule 68)*

**The Hon'ble the SPEAKER:** Original rule 67. There is no amendment from the Hon'ble the Prime Minister.

**Dr. C. G. TERRELL:** I beg, Sir, to move that sub-rule (a) of rule 67 shall be deleted and sub-rules (b) and (c) shall be renumbered as sub-rules (a) and (b); or alternatively, in sub-rule (a) of rule 67, the word

\* That in rule 63 (re-numbered rule 64), the words "A permit cannot be claimed as of right" shall be deleted.



"Provincial" shall be substituted by the word "Regional" and sub-rules (b) and (c) of rule 67 shall be made a separate rule as rule 68 and re-lettered as sub-rules (a) and (b). The reasons are .....

**The Hon'ble the SPEAKER:** I think the hon. member should first move his amendment No.82. If that is lost then I think the hon. member will read out amendment No.84 but I think he should first move No.82.

**Dr. C. G. TERRELL:** I beg, Sir, to move that sub-rule (a) of rule 67 shall be deleted and sub-rules (b) and (c) shall be re-numbered as sub-rules (a) and (b).

By referring to rule 73 the reason for this amendment will become obvious. Rule 73, sub-rule (a) specifies, "subject to the provisions of section 63 of the Act, a Regional Transport Authority" and so on. Page 54, section 63, sub-clause (1) of the Motor Vehicles Act reads as follows:—

"Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region" and so on.

It will therefore be understood that rule 67, sub-rule (a) is incorrect and should read "unless countersigned by the Regional Transport Authority" instead of "Provincial Transport Authority."

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

"That sub-rule (a) of rule 67 shall be deleted and sub-rules (b) and (c) shall be re-numbered as sub-rules (a) and (b)."

Mr. Mookerjee has got exactly the same amendment. He may speak in support of the motion and give the grounds more clearly.

**Mr. BAIDYANATH MOOKERJEE:** Sir, I find that in section 63, sub-section(1), it is stated—"Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region, and a permit granted in any one province shall not be valid in any other province unless countersigned by the Provincial Transport Authority of that other province or by the Regional Transport Authority concerned". The word "prescribed" as used in "Except as otherwise prescribed" means prescribed by rule, and it has been prescribed by rule 67(a) in the present case. So if prescribed means prescribed by rule, then the Legislature has got full power to prescribe any such rule as it deems fit.

**Mr. A. WHITTAKER:** Is Mr. Mookerjee moving the amendment?

**Mr. BAIDYANATH MOOKERJEE:** No.

**Mr. A. WHITTAKER:** If Mr. Mookerjee is not moving, I should suggest that the word "Provincial" in rule 67(a) is a printing mistake. The whole permit operating is regulated by section 63. Section 63 is already referred to in rule 73. So, rule 67(a) is unnecessary.

**The Hon'ble the SPEAKER:** I think the Hon'ble Premier has followed the argument.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADUDLA:** Mr. Speaker, Sir, the reason why this rule was framed by Government is that it is the function of the Provincial Transport Authority as laid down by the Act, sub-section (3) of section 44, to co-ordinate and regulate the activities of the Regional Authority in any part of the province. So, Government think that when the Regional Transport Authority want that the permit issued by them shall operate in other regions, it will be better to signify the assent through the Provincial Authority and placed the rule to that effect. As Mr. Mookerjee has pointed out, in section 63 of the Act—except as may



be otherwise prescribed—prescribed means prescribed by the Local Government and so Government has power to frame rule on the subject.

**Mr. A. WHITTAKER:** May I make a point for submission, Sir? I am not questioning the validity of the argument put forward by the Hon'ble Premier in favour of the Provincial Transport Authority to be the countersigning authority for permits operating in two regions, but I wish to draw the attention of those hon. members of the Surma Valley who have asked that there should be two regional authorities in the Surma Valley to the disadvantage of making every permit operating from Silchar to Sylhet require the countersignature of the Provincial Transport Authority. I think the inconvenience caused by the authority in requiring the countersignature of the Provincial Transport Authority will make Dr. Terrell's amendment necessary.

**The Hon'ble the SPEAKER:** Then, I am putting the question. The question is:

"That sub-rule (a) of rule 67, shall be deleted and sub-rules (b) and (c) shall be re-numbered as sub-rules (a) and (b)."

The question was adopted.

Then there is an amendment in the names of Messrs. Abdul Bari Chaudhury, Maqbul Hussain Chaudhury and Abdur Rahman.

**Maulavi ABDUL BARI CHAUDHURY:** Does it stand, Sir?

**The Hon'ble the SPEAKER:** Yes.

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY:** I beg, Sir, to move, that the following proviso be added after sub-rule (b) of rule 67:—

"Provided that in regulating the number of such permits, all special interests such as Local Boards and Municipal Boards within the functional area shall be consulted."

Sir, the Local Boards and Municipal Boards spend some money for roads on which motor vehicles run. So, when regulating the number of permits the authority should consult the Local Boards and also the Municipal Boards. I therefore move this amendment.

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

"That the following proviso be added after sub-rule (b) of rule 67.

'Provided that in regulating the number of such permits, all special interests such as Local Boards and Municipal Boards within the functional area shall be consulted.' "

**Dr. C. G. TERRELL:** Mr. Speaker, Sir, I should very much like to support this amendment, because it is an important matter indeed and should have the consideration of the House before this rule is passed over. I would like to suggest that if the following or similar procedure were adopted the necessity for, and number of, appeals would be considerably reduced.

"A Regional Transport Authority after receiving applications for the issue of permits shall—in addition to their publication in the Gazette—submit its proposals for permits, with full details, to local authorities for general circulation and information of all those in the areas concerned, including contractors and fiduciary agents and all connected with the upkeep of the particular roads in that area. Any relevant criticisms, suggestions or recommendations to be forwarded by them to the Regional Transport Authority within one month for the further consideration of this Authority before the final issue of permits."

**Mr. A. WHITTAKER:** May I make one point, Sir. I do not like the phrase "all special interests." It seems to me very ambiguous and will give rise to quite a lot of acrimonious correspondence. I should like enlightenment from the mover of the amendment.



**The Hon'ble the SPEAKER :** He has given an illustration of what this special interest is, such as Local Boards and Municipal Boards.

**Maulavi ABDUL BARI CHAUDHURY :** They have got their own roads.

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY :** Sir, I mean Local Boards and Municipal Boards only.

**The Hon'ble the SPEAKER :** If the words "all special interests" are deleted, then it will be quite explicit what the intention of the hon. mover is. If we want only Local Boards and Municipal Boards then we can change the amendment in this way that :—

"Provided that in regulating the number of such permits Local Boards and Municipal Boards within the functional area shall be consulted".

Well, I think, it would be quite sufficient to meet the case. Then I am putting the motion that the following proviso be added after sub-rule (b) of rule 67 now as sub-rule (a) on account of the amendment of Dr. Terrell that in regulating the number of such permits Local Boards and Municipal Boards within the functional area shall be consulted.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** Sir, I will have no objection to accept this amendment provided that there will be a further amendment. I am told, Sir, that there are certain Local Boards in Assam now over whose roads a great deal of inconveniences are experienced in plying buses. Will it be necessary to consult such Local Boards, Sir ?

**The Hon'ble the SPEAKER :** Only those Local Boards whose interests are involved may be consulted.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** Then the amendment should be drafted as follows :—

"Provided that in regulating the number of such permits Local Boards and Municipal Boards within the functional area whose interests are involved shall be consulted".

**Maulavi ABDUL BARI CHAUDHURY :** The original amendment meant to include all Associations, tea gardens, etc., and other interests.

**The Hon'ble the SPEAKER :** No, when the amendment was drafted originally there was no limit as to the number of such interests. It was an unlimited something.

**Mr. A. WHITTAKER :** I do not think it will do. It should include only those Local Boards over whose roads buses run.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** Your draft will mean that every Local Board where buses are permitted to run or not shall have to be consulted.

**The Hon'ble the SPEAKER :** Then on account of the amendment of Dr. Terrell I am putting the question in an amended form. The question is :—

"That the following proviso be added after sub-rule (b) [now sub-rule (a)] of rule 67 :—

Provided that in regulating the number of such permits, Local Boards and Municipal Boards within the functional area whose interests are involved shall be consulted."

The question was adopted.

(Original Rule 68 (re-numbered rule 69))

**Mr. BAIDYANATH MOOKERJEE :** I beg to move that sub-rule (b) of rule 68 be deleted.

Sir, my point is that when applications are once submitted before the Regional or the Provincial Transport Authority, as the case may be, they must be taken as final and there should not be any change regarding the



terms. Sir, from our practical experience, as we have heard in our Valley, some gentlemen who did not even apply in time subsequently got permits. While others praying for two have been granted three. So, Sir, there is every danger of this being misused and I hope the Hon'ble the Premier will accept my amendment. Such a rule should not be passed, as will make it possible for the Regional or the Provincial Transport Authority to make any change in the terms at their sweet will and thereby inflict some injustice on the public.

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

"That sub-rule (b) of rule 68 be deleted."

**Mr. A. WHITTAKER:** May I suggest that the operation of sub-rule (b) is not likely to have such a sinister effect as my hon. friend Mr. Mookerjee suggests? The kind of case that I have in my mind is that supposing a man has got a permit to run a bus to carry 28 passengers by miscalculation of the laden weight; whereas on correct calculation it can only carry 25 passengers. Surely it should be within the power of some authority to make that alteration in the permit. If we take away this discretion from the authorities, I think, we are likely to do much more injustice than Mr. Mookerjee apprehends will be done by sinister use of the power under sub-rule (b).

I therefore oppose the amendment, Sir.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:**

Sir, what I had to say Mr. Whittaker has already said. What the Government as well as the Joint Conference want by this rule is to give powers to the Provincial and Regional Transport Authorities to make such variation upon the application and condition on which permits will be issued. What my hon. friend Mr. Mookerjee has in view is something different. He says that in certain cases the man who has not applied got the permit.

**Mr. BAIDYANATH MOOKERJEE:** If the authority should make some change.....

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:**

Let me read the rule. That will remove the difficulty of Mr. Mookerjee.

"In granting any permit the Provincial or the Regional Transport Authority, as the case may be, shall have power to modify the terms of the application in a reasonable degree, and in such a case the application shall be deemed to be an application for the permit in the form granted".

**The Hon'ble the SPEAKER:** Very well. I am putting the question.

"The question is that: sub-rule (b) of rule 68 be deleted."

The question was negatived.

*Original rule 72 (re-numbered rule 73)*

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:**

I beg, Sir, to move that for sub-rule (a) of rule 72, the following shall be substituted.

"(a) Temporary permits including permits for Public Works Department or other Departmental Contractors may be granted by the Secretary of the Provincial Transport Authority or the Secretary of the Regional Transport Authority, as the case may be, under section 62 of the Act to any person whether he is the registered owner of the vehicle or vehicles to be used thereunder or not"; and that the word 'specified' in the last but one line under sub-rule (b) shall be omitted and the words 'not exceeding fifteen days' shall be inserted after the word 'period' in the last line of the sub-rule."



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

"That for sub-rule (a) of rule 72, the following shall be substituted:—

"(a) Temporary permits including permits for Public Works Department or other Departmental Contractors may be granted by the Secretary of the Provincial Transport Authority, or the Secretary of the Regional Transport Authority, as the case may be, under section 62 of the Act to any person whether he is the registered owner of the vehicle or vehicles to be used thereunder or not; and that the word 'specified' in the last but one line under sub-rule (b) shall be omitted and the words 'not exceeding fifteen days' shall be inserted after the word 'period' in the last line of the sub-rule."

There is no other amendment, so I am putting the question.

The question was put and adopted.

*Original rule 74 (re-numbered rule 75)*

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:**

I beg, Sir, to move that for rule 74, the following shall be substituted:—

"74. (a) The fee for each private carrier's permit shall be Rs. 5 for each year or part thereof. The fees for any other permits shall be such as the Provincial Government may specify by notification in the Official Gazette.

(b) If any holder of a permit fails or refuses without reasonable cause to pay the permit fee fixed, when due, the fee shall be realised as an arrear of land revenue."

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

"That for rule 74, the following shall be substituted:—

"74. (a) The fee for each private carrier's permit shall be Rs. 5 for each year or part thereof. The fees for any other permits shall be such as the Provincial Government may specify by notification in the Official Gazette.

(b) If any holder of a permit fails or refuses without reasonable cause to pay the permit fee fixed, when due, the fee shall be realised as an arrear of land revenue."

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

The question was put and adopted.

**Mr. A. WHITTAKER:** There is an amendment in the printed list, Sir.

**The Hon'ble the SPEAKER:** Does Mr. Abdul Bari Chaudhury want to move his amendment\*?

**Maulavi ABDUL BARI CHAUDHURY:** Yes Sir, I wish to move it. It is rather important. It wants to prescribe a maximum and minimum permit fee.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** It relates to private carriers' permits regarding tea gardens.

**Maulavi ABDUL BARI CHAUDHURY:** Very well, Sir. I am agreeable to withdraw it.

*Rule 75*

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I beg, Sir, to move that rule 75, be deleted.

It is unnecessary in view of the other rules.

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\*That in rule 74 (re-numbered rule 75) after the words, "such fees", the words, "not exceeding a sum of Rs. 10 per vehicle per annum" shall be inserted and that the figure "10" in the last line shall be substituted by the figure "5".



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

"That rule 75, be deleted."

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

The question was put and adopted.

### Rule 76

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I beg, Sir, to move that in sub-rule (a) the word "Nothing" shall be substituted for the words "No goods" and after the word "stage" the words "or contract" shall be added. Sub-rule (g) shall be substituted by the following:—

"(g) In no circumstances shall goods be carried in a compartment in which passengers are travelling"; and

that the following shall be added as sub-rules (h) and (i):—

"(h) When goods or luggage are carried in a stage or contract carriage—

(1) the goods shall be of such a nature and shall be so packed and secured on the vehicle that no danger, inconvenience, or discomfort is caused or is likely to be caused to any passenger;

(2) the *bona fide* personal luggage of passengers may be carried on top of the vehicle or in the compartment in which passengers are travelling; provided that the number of seats specified in the permit shall be kept free and unimpeded for the use of passengers. The amount of such personal luggage to be taken in the same compartment as the passenger shall be determined by the driver or conductor of the vehicle:

Provided always that the maximum permissible laden weight is not exceeded and provided that the access to the entrances and exits of the vehicle required in Chapter V of these rules shall be unobstructed.

(i) Subject to the provisions of sub-rule (a) passengers' cycles may be carried in a stage or contract carriage provided always that they are properly secured in the vehicle and no cycles shall be carried in the compartment intended for passengers."

**The Hon'ble the SPEAKER:** This is a long amendment. I shall simply say that motion moved is amendment No. 90, printed in the order paper.

There is an amendment standing in the name of Mr. Morley, but I do not know what is the difference between this and Sir Muhammad's.

*A voice:* The words "in the vehicle" shall be omitted.

**Mr. A. WHITTAKER:** The point is, Sir, that you cannot secure a cycle inside the vehicle.

**The Hon'ble the SPEAKER:** Yes, I understand. Mr. Morley may move his amendment.

**Mr. C. W. MORLEY:** Mr. Speaker, Sir, I beg to move that for the new sub-rule (i) of rule 76, inserted on the recommendation of the Joint Conference, the following shall be substituted:—

"(i) Subject to the provisions of sub-rule (a) passengers' cycles may be carried in a stage or contract carriage provided always that they are properly secured and are not carried in the compartment intended for passengers."

Mr. Whittaker has already pointed out the specific point that you cannot secure a cycle inside the vehicle.



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

"That for the new sub-rule (i) of rule 76, to be inserted in the amendment moved by the Hon'ble Premier, the following shall be substituted:

'(i) Subject to the provisions of sub-rule (a) passengers' cycles may be carried in a stage or contract carriage provided always that they are properly secured and are not carried in the compartment intended for passengers'."

This motion is intended to delete the words "in the vehicle" in the motion moved by the Hon'ble Premier.

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

**The Hon'ble the SPEAKER:** Then, I am putting the question arising out of the amendment moved by Mr. Morley before the House. The question is:

"That for the new sub-rule (i) of rule 76, to be inserted in the amendment moved by the Hon'ble Premier, the following shall be substituted:—

'(i) Subject to the provisions of sub-rule (a) passengers' cycles may be carried in a stage or contract carriage provided always that they are properly secured and are not carried in the compartment intended for passengers'."

The question was adopted.

**The Hon'ble the SPEAKER:** Now I am putting the amendment of the Hon'ble Premier as amended by the acceptance of the amendment of Mr. Morley as a question before the House.

The question is:

"That in sub-rule (a) the word 'Nothing' shall be substituted for the words 'No goods' and after the word 'stage' the words 'or contract' shall be added. Sub-rule (g) shall be substituted by the following:—

'(g) In no circumstances shall goods be carried in a compartment in which passengers are travelling'; and

that the following shall be added as sub-rules (h) and (i):—

'(h) When goods or luggage are carried in a stage or contract carriage—

(1) the goods shall be of such a nature and shall be so packed and secured on the vehicle that no danger, inconvenience, or discomfort is caused or is likely to be caused to any passenger;

(2) the *bona fide* personal luggage of passengers may be carried on top of the vehicle or in the compartment in which passengers are travelling; provided that the number of seats specified in the permit shall be kept free and unimpeded for the use of passengers. The amount of such personal luggage to be taken in the same compartment as the passenger shall be determined by the driver or conductor of the vehicle;

Provided always that the maximum permissible laden weight is not exceeded and provided that the access to the entrances and exits of the vehicle required in Chapter V of these rules shall be unobstructed.

(i) Subject to the provisions of sub-rule (a) passengers' cycles may be carried in a stage or contract carriage provided always that they are properly secured and are not carried in the compartment intended for passengers'."

The question was adopted.

#### Rule 77

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I beg, Sir, to move that rule 77 be deleted. I need not press for the rest of the amendment as there will be a comprehensive motion regarding them later on.



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

"That rule 77 be deleted".

It appears from the report of the Joint Conference that the deletion was recommended on account of legal opinion obtained. I would like that the Hon'ble Premier should state what the legal opinion was so that the House may know the reasons for deletion.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** Sir, this rule referred to a section of the original Act ; but this rule has become out of date on account of efflux of time. This was the legal opinion that was given to us. The section of the Act is section 134. So, it is no longer necessary to have this rule.

**The Hon'ble the SPEAKER :** It is quite apparent to the House that when the report was not very happily drawn up it was necessary to state the legal opinion on which the conference relied. It is now agreed that the report was not drawn up in a business-like manner, therefore I wanted that the legal opinion should be placed before the House so that the House may know the reasons why this rule should be deleted.

The question is :

"That rule 77 be deleted."

The question was adopted.

*Original rule 79 (re-numbered rule 78)*

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** I beg, Sir, to move that in the second line of sub-rule (a) of rule 79, the words "two months" shall be substituted by the words "six weeks".

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

"That in the second line of sub-rule (a) of rule 79, the words "two months" shall be substituted by the words "six weeks."

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

The question was put and adopted.

*Original rule 82 (re-numbered rule 81)*

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** I beg, Sir, to move that clause (i) of sub-rule (b) of rule 82, shall be omitted, and that the proviso after this sub-rule shall be deleted.

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

"That clause (i) of sub-rule (b) of rule 82 shall be omitted, and that the proviso after this sub-rule 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 83 (re-numbered rule 82)*

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** I beg, Sir, to move that clause (i) of sub-rule (b) of rule 83, shall be omitted.

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

"That clause (i) of sub-rule (b) of rule 83, shall be omitted."

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

The question was put and adopted.



*Original rule 86 (re-numbered rule 85)*

**Khan Bahadur Maulavi KERAMAT ALI:** Sir, I beg to move that in sub-rule (e) (i) of rule 86, after the words "transfer fee" in the last line, the following words shall be added:—

"unless such transfer is due to inheritance."

Sir, this amendment is too simple and innocent to need any speech in its support. I commend the amendment to the acceptance of the House.

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

"That in sub-rule (e) (i) of rule 86, after the words 'transfer fee' in the last line, the following words shall be added:—

'unless such transfer is due to inheritance'."

The hon. member should explain what he intends by this amendment.

**Khan Bahadur Maulavi KERAMAT ALI:** If a permit-holder dies, his heirs should not be called upon to pay any transfer fee.

**The Hon'ble the SPEAKER:** But will the wording convey the intention of the hon. member? It should be re-worded in a better way, I think. Does it not mean that there will be a transfer fee for inheritance?

**Khan Bahadur Maulavi KERAMAT ALI:** No, Sir, the wording is "unless such transfer is due to inheritance", not *transfer fee*.

**The Hon'ble the SPEAKER:** Very well, this will do I think.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Sir, I doubt whether this amendment is necessary in view of the provisions of section 61 of the Act. The Act says: "Where the holder of a permit dies, the person succeeding to the possession of the vehicles covered by the permit may, for a period of three months, use the permit as if it had been granted to himself:

Provided that such person has, within thirty days of the death of the holder, informed the transport authority which granted the permit of the death of the holder and of his own intention to use the permit:

Provided further that no permit shall be so used after the date on which it would have ceased to be effective without renewal in the hands of the deceased holder.

(2) The transport authority may, on application made to it within three months of the death of the holder of a permit, transfer the permit to the person succeeding to the possession of the vehicles covered by the permit."

Probably, Sir, these wordings are clear and no fee is to be charged for this change. That is why there is nothing in the rule. If the hon. members think that it should be specifically made clear in sub-rule (e) of rule 86 I have got nothing to say.

**Mr. BAIDYANATH MOOKERJEE:** It is better that it should be made clear.

**The Hon'ble the SPEAKER:** Yes. It does not also become inconsistent with the provision.

The question is:

"That in sub-rule (e) (i) of rule 86, after the words 'transfer fee' in the last line, the following words shall be added:—

'unless such transfer is due to inheritance.'

The question was adopted.

*Original rule 87 (re-numbered rule 86)*

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I beg, Sir, to move that in sub-rule (e) of rule 87, the words "Rs.5" shall



be substituted by the words "Rs.3" and the words "Rs.2" by the words "Rs.1."

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

"That in sub-rule (c) of rule 87, the words 'Rs.5' shall be substituted by the words 'Rs.3' and the words 'Rs.2' by the words 'Rs.1'."

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

The question was put and adopted.

#### Rule 89

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I beg, Sir, to move that rule 89 shall be deleted.

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

"That rule 89 shall be deleted."

Now there is an amendment standing in the names of Maulavi Abdul Bari Chaudhury, Maulavi Maqbul Hussain Chaudhury and Maulavi Abdur Rahman.

**Maulavi ABDUL BARI CHAUDHURY:** I beg, Sir, to move that in sub-rule (a) of rule 89, the words "in the case of motor cabs", occurring in the second line shall be deleted.

Sir, my intention in moving this amendment is that for all kinds of transport, the Provincial Transport Authority as well as the Regional Transport Authority should fix the maxima and minima rates of fare. Such action will no doubt check undue competition in the business and the passengers will be saved from arbitrary imposition of fares. With these words, I commend my motion to the acceptance of the House.

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

"That in sub-rule (a) of rule 89, the words 'in the case of motor cabs', occurring in the second line shall be deleted."

I think, the hon. members will please note that if rule 89 is deleted, then there will be no scope for moving the amendment of Maulavi Abdul Bari Chaudhury. But if rule 89 stands then there will be necessity of putting the amendment of Maulavi Abdul Bari Chaudhury to vote. Therefore I am putting the amendment of the Hon'ble Premier first.

The question is:

"That Rule 89 shall be deleted."

The question was adopted.

The amendment of Maulavi Abdul Bari Chaudhury therefore falls through.

#### Original rule 90 (re-numbered rule 88)

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I beg, Sir, to move that in sub-rule (a) of rule 90, the words "a Board of three Ministers constituted with the approval of the Governor" shall be substituted by the words "the Revenue Tribunal" and after the word "order" in the last line of the same sub-rule, the words "which shall be granted free" shall be added.

Sir, this rule refers to the appellate authority. We discussed threadbare in the Joint Conference whether the appellate authority should vest in a Board of Ministers constituted *ad hoc* by Government or some outside body. After a good deal of discussion, the Joint Conference thought that the appellate authority should be the Revenue Tribunal.

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

"That in sub-rule (a) of rule 90 the words 'a Board of three Ministers constituted with the approval of the Governor' shall be substituted by the



words 'the Revenue Tribunal' and after the word 'order' in the last line of the same sub-rule, the words 'which shall be granted free' shall be added". There is an amendment in the names of three hon. members.

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY :** I beg, Sir, to move that in sub-rule (a) of rule 90, after the word "Ministers" the words "including the Prime Minister" shall be added.

Sir, on 3rd June, I discussed the point threadbare. Now under rule 90, the appeal against the decision of the Provincial Transport Authority shall lie before a Board of Ministers constituted with the approval of the Governor. The Joint Conference changed this rule. At page 7 of the report of the conference, we find that the conference decided that the Revenue Tribunal should be the authority to hear appeals from the Provincial Transport Authority. Consequent on this, the words "a Board of three Ministers constituted with the approval of the Governor" in the 3rd line of sub-rule (a) shall be omitted and the words "the Revenue Tribunal" inserted instead. Sir, I have objection to this. The meetings of the Provincial Transport Authority will be presided over by Hon'ble Premier who is the Leader of the House. If this amendment is accepted, the Member of the Revenue Tribunal shall have the power to review the decision arrived at the meeting of the Provincial Transport Authority under the Presidency of the Hon'ble Premier.

If this power is given to the Member, Revenue Tribunal, I think the position of the Hon'ble Prime Minister will be lowered and hence I have objection to this and the aim of my amendment is that a Board of three Ministers including the Premier shall have the authority to hear appeals. With these words, Sir, I commend my motion for the acceptance of the House.

**The Hon'ble the SPEAKER :** Is not the Hon'ble Premier in the Provincial Transport Authority and will he not hear the appeal against his own decision ?

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY :** He will review the decision with the help of his colleagues as is done in High Court Full Bench.

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

"That in sub-rule (a) of rule 90 after the word 'Ministers' the words 'including the Prime Minister' shall be added".

**Mr. A. WHITTAKER :** Mr. Speaker, Sir, I am very glad to hear that Maulavi Maqbul Hussain Chaudhury is far more royal than the King. But during the Joint Conference some of my colleagues also raised this question of prestige and I think all were convinced by the Hon'ble Prime Minister's own disclaimer. There are however two practical reasons why the Revenue Tribunal is the appropriate appellate authority. The first reason is that this officer is a touring officer. I do not think we can expect a chariot of three Ministers to go touring round the province hearing appeals from the Regional Transport Authorities. Secondly, I think, there is a Section in the Government of India Act which lays down quite clearly that appeals in revenue matters shall be heard by the Revenue Tribunal. There are many rules which we have been examining to-day, which I do not think, any one will refuse to say that they are not revenue matters. Permit fees and the like will have a very appreciable effect on the revenues of the province. There are, therefore, I think, two sound practical reasons why the Revenue Tribunal is the appropriate authority and there is no reason whatever why my friend Mr. Maqbul Hussain Chaudhury's view about the



Prime Minister's prestige being lowered should be accepted. I therefore oppose the amendment.

**Maulavi ABDUR RAHMAN :** I am sorry I cannot agree with the argument advanced by Mr. Whittaker. He said that the Revenue Tribunal is a touring body and they will get better facility to hear such appeals ; but in that case also I would remind my friend that the Revenue Tribunal will not go to the Mufosil town without getting any remuneration and for that we will have to bear the cost of their travelling allowance. I will suggest that it will be in the fitness of things that the original rule which was framed by the Government and presented before the Joint Conference that three Hon'ble Ministers should form the Board be retained and these three Hon'ble Ministers will be appointed by His Excellency the Governor. I am more in support of the retention of the original rule that the Appellate Board should be constituted by the three Ministers with the approval of the Governor. The amendment which Maulavi Maqbul Hussain Chaudhury has moved is that the Hon'ble Prime Minister be one of the members of the three ; as was pointed out by the Hon'ble Chair, the Hon'ble Prime Minister being the Chairman of the Provincial Transport Authority, it does not look to be consistent that he should review his own decision. So I am not in favour of the amendment which has been moved by my friend Maulavi Maqbul Hussain Chaudhury and so I oppose both the amendments and I am in favour of the retention of the original rule. The Revenue Tribunal is the subordinate body of the Hon'ble Minister.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** Sir, when I heard my hon. friend Maulavi Abdur Rahman I rubbed my eyes to see whether he is not a signatory to the amendment—my hon. friends have joined their heads together and they are responsible for a number of constructive amendments for which I have already thanked them. In this present amendment they expect the Prime Minister to be a superman, that he will pass certain order along with the members of the Transport Authority and the Prime Minister is again asked that on the advice of two Ministers he will review the order that he has already passed. Sir, that is a position which is rather unique and the Prime Minister should not be pushed into it.

There is some force in what my hon. friend Mr. Whittaker said that most of these rules now before us refers to permit fees, registration fees and funds of the sort and as they will be merged in the general revenue, the Revenue Tribunal should form the appellate body. But as I have already said Government is keeping an open mind and Government will be guided by the vote of the members.

**Maulavi ABDUR RAHMAN :** One word, Sir, in explanation. The Hon'ble Prime Minister said that I also put my signature in the amendment of Maulavi Maqbul Hussain Chaudhury. In our former amendment in connection with the constitution of the Provincial Transport Authority we proposed the Chief Secretary to be the Chairman, but our amendment was lost and the Hon'ble Premier has been selected as the Chairman and so it seems inconsistent if the Hon'ble Prime Minister is included to be one of the three Ministers to constitute the Board to hear the appeals.

**The Hon'ble the SPEAKER :** The question is :

“That in sub-rule (a) of rule 90 after the word ‘Ministers’ the words ‘including the Prime Minister’ shall be added.”



The Assembly divided.

Ayes—8

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| 1. Srijut Joges Chandra Gohain.            | 5. Maulavi Jahanuddin Ahmed.                  |
| 2. Maulavi Abdul Bari Chaudhury.           | 6. Maulavi Muhammad Maqbul Hussain Chaudhury. |
| 3. Maulana Abdul Hamid Khan.               | 7. Maulavi Muzarrof Ali Laskar.               |
| 4. Maulavi Dewan Muhammad Ahbab Chaudhury. | 8. Maulavi Namwar Ali Barbhuiya.              |

Noes—22

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| 1. Mr. Baidyanath Mookerjee.             | 12. Mr. F. W. Blennerhassett.   |
| 2. Babu Balaram Sircar.                  | 13. Mr. N. Dawson.              |
| 3. Babu Bipin Behari Das.                | 14. Mr. E. H. S. Lewis.         |
| 4. Babu Kamini Kumar Sen.                | 15. Mr. D. B. H. Moore.         |
| 5. Babu Lalit Mohon Kar.                 | 16. Mr. C. W. Morley.           |
| 6. Mr. Naba Kumar Dutta.                 | 17. Dr. C. G. Terrell.          |
| 7. Srijut Purandar Sarma.                | 18. Mr. P. Trinkle.             |
| 8. Srijut Ramnath Das.                   | 19. Mr. A. Whittaker.           |
| 9. Srijut Santosh Kumar Barua.           | 20. Srijut Bhairab Chandra Das. |
| 10. Khan Bahadur Maulavi Keramat Ali.    | 21. Srijut Bideshi Pan Tanti.   |
| 11. Khan Bahadur Maulavi Mufizur Rahman. | 22. Mr. C. Goldsmith.           |

The question was negatived.

**The Hon'ble the SPEAKER:** I am now putting the amendment of the Hon'ble Premier.

The question is :

“That in sub-rule (a) of rule 90, the words ‘a Board of three Ministers constituted with the approval of the Governor’ shall be substituted by the words ‘the Revenue Tribunal’ and after the word ‘order’ in the last line of the same sub-rule, the words ‘which shall be granted free’ shall be added.”

The Assembly divided.

Ayes—25

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|--|---------------------------------|
| 1. Mr. Bidyanath Mookerjee.              | 12. Mr. F. W. Blennerhassett.   |
| 2. Babu Balaram Sircar.                  | 13. Mr. N. Dawson.              |
| 3. Babu Bipin Behari Das.                | 14. Mr. E. H. S. Lewis.         |
| 4. Babu Kamini Kumar Sen.                | 15. Mr. D. B. H. Moore.         |
| 5. Babu Lalit Mohon Kar.                 | 16. Mr. C. W. Morley.           |
| 6. Mr. Naba Kumar Dutta.                 | 17. Dr. C. G. Terrell.          |
| 7. Srijut Purandar Sarma.                | 18. Mr. P. Trinkle.             |
| 8. Srijut Ramnath Das.                   | 19. Mr. A. Whittaker.           |
| 9. Srijut Santosh Kumar Barua.           | 20. Mr. Benjamin Ch. Momin.     |
| 10. Khan Bahadur Maulavi Keramat Ali.    | 21. Srijut Bhairab Chandra Das. |
| 11. Khan Bahadur Maulavi Mufizur Rahman. | 22. Srijut Bideshi Pan Tanti.   |
|  | 23. Srijut Dhirsingh Deuri.     |
|  | 24. Mr. C. Goldsmith.           |
|  | 25. Srijut Khorsing Terang.     |



## Noes—18

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| 1. Srijut Jogendra Narayan Mandal.          | 10. Maulavi Muhammad Amjad Ali.                 |
| 2. Srijut Joges Chandra Gohain.             | 11. Maulavi Jahanuddin Ahmed.                   |
| 3. Maulavi Abdul Aziz.                      | 12. Maulavi Muhammad Maqbul Hussain Chaudhury.  |
| 4. Maulavi Abdul Bari Chaudhury.            | 13. Maulavi Mabarak Ali.                        |
| 5. Maulana Abdul Hamid Khan.                | 14. Maulavi Muzarrof Ali Laskar.                |
| 6. Khan Bahadur Hazi Abdul Majid Chaudhury. | 15. Maulavi Namwar Ali Barbhuiya.               |
| 7. Maulavi Abdur Rahman.                    | 16. Maulavi Naziruddin Ahmed.                   |
| 8. Maulavi Dewan Muhammad Ahbab Chaudhury.  | 17. Shams-ul-Ulama Maulana Abu Nasr Md. Waheed. |
| 9. Maulavi Muhammad Amiruddin.              | 18. Mr. Jobang D. Marak.                        |

The question was adopted.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I beg, Sir, to move that in sub-rule (b) of rule 90, the word "may" shall be substituted by the word "shall". That clause (i) of this sub-rule be deleted and clause (ii) be re-numbered as clause (i).

That the words "in that case" in the second line of this clause shall be deleted and the words "Rs. 100" shall be substituted by the words "Rs. 50" and the following be added as a Note below:—

*Note.*—The prescribed period of thirty days shall exclude the time required for obtaining a certified copy of the order against which the appeal is preferred and one copy of such order shall be granted free."

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

"That in sub-rule (b) of rule 90, the word 'may' shall be substituted by the word 'shall'. That clause (i) of this sub-rule be deleted and clause (ii) be re-numbered as clause (i).

That the words 'in that case' in the second line of this clause shall be deleted and the words 'Rs. 100' shall be substituted by the words 'Rs. 50' and the following be added as a Note below:—

*Note.*—The prescribed period of thirty days shall exclude the time required for obtaining a certified copy of the order against which the appeal is preferred and one copy of such order shall be granted free'."

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

The question was put and adopted.

### Adjournment

The Assembly was then adjourned till 11 A. M. on Saturday, the 7th June, 1941.

SHILLONG:

A. K. BARUA,

The 18th July, 1941.

Secretary, Legislative Assembly, Assam.



**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.

**MEMBERS OF THE COUNCIL OF MINISTERS**

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 GHANDRA 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.
10. The Hon'ble Srijut RUPNATH BRAHMA, B.L., in charge of Forest Department.