



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

The Assembly met in the Assembly Chamber, Shillong, at 11 a.m., on Thursday, the 20th March, 1941.

PRESENT

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

## QUESTIONS AND ANSWERS

### STARRED QUESTIONS

(to which oral answers were given)

#### Assam Civil Service Examination

**Mr. BAIDYANATH MOOKERJEE** asked :

\*67. Will Government be pleased to state why the date of the Assam Civil Service Examination was again changed after it was intimated to some candidates that the said Examination would be held for the second time as the questions were out at the first time ?

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

67.—On representations received, the Commission was asked to reconsider the arrangements and meet the convenience of candidates.

#### Convicted members of the Central Assembly

**Maulavi ABDUR RAHMAN** asked :

\*68. (a) Has the attention of Government been drawn to the fact that His Excellency the Governor General has declared the seats of certain members of the Central Assembly vacant due to the members being imprisoned for more than one year ?

(b) If so, will Government be pleased to state whether the same principle will be applied in case of the members of this House who have since been sentenced to imprisonment for more than one year ?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN** replied :

68. (a)—Yes.

(b)—The hon. member does not appreciate the position properly. Under Section 317 of the Government of India Act, 1935, certain provisions of the Government of India Act of 1919, reproduced in Schedule IX of the present Act, govern the proceedings concerned with the Central Legislature till the coming into force of Part II of the present Act. One of the sections

of the 1919 Act embodied in Schedule IX of the present Act is section 64, under sub-section (1) (d) of which Rules may be made stating the qualifications for being members of the Council of State or Legislative Assembly. It is under Rules so framed that the seats of members have been declared vacant due to imprisonment for more than one year. Such a rule implies disqualification in the case of imprisonment for more than one year, but less than two years and a declaration on such lines in the case of a Provincial Legislature would be *ultra vires* of the provisions of section 69 (1) (e) of the Government of India Act, 1935, which are in force.

### Special Officer for the separation of the Executive from Judiciary

**Maulavi ABDUR RAHMAN** asked :

\*69. Will Government be pleased to state—

- (a) The amount of actual cost incurred by Government for the work of the Special Officer for the preparation of the report in connection with the separation of the Executive from Judiciary ?
- (b) Whether Messrs. Webster and Jack ever examined the question ?
- (c) If so, whether that was taken into consideration before another Special Officer was appointed for the purpose ?
- (d) Whether the Cabinet has considered the Report ?
- (e) If not, do they propose to do so before the close of the year 1941 ?
- (f) Do Government propose to place it before the House ?

**The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURY** replied :

69. (a)—The additional cost incurred on this account including stationery, etc., was, approximately Rs.2,000.
- (b)—The matter was examined by the Commissioner and Judges, including Messrs. Webster and Jack in 1922 and again by a Committee in 1924.
- (c)—Yes.
- (d)—Government are still examining the Report.
- (e)—The examination of this complicated question could not be completed before the budget for 1941-42 was prepared and Government see no reason to expedite their conclusions at the present moment.
- (f)—Undoubtedly, if and when it is decided to implement any of the proposals.

**Maulavi MUHAMMAD AMJAD ALI:** With regard to question No. 69 (f), do we understand that the recommendations will be placed before us during the next Session of the Assembly ?

**The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURY:** As soon as the consideration of the Report will be completed, Government will place their recommendations before the Assembly.

**Maulavi MUHAMMAD AMJAD ALI:** Can the Hon'ble Minister give us any idea how long it might take ?

**The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURY:** It is impossible to give an idea as the question is a very complicated one.

**Restriction of Jute cultivation**

**Maulavi MUHAMMAD AMJAD Ali** asked:

\*70. Will Government be pleased to state—

- (a) Whether it ever considered the question of restriction of jute cultivation in Assam?
- (b) If so, to what conclusion Government have arrived?
- (c) What steps Government propose to take for providing better marketing facilities to the jute growers of Assam so as to enable them to fetch higher prices for their commodity?

**The Hon'ble Dr. MAHENDRA NATH SAIKIA** replied:

70. (a)—Yes.

(b)—No final decision has been taken.

(c)—A co-operative sale society with a grading station has been organised at Nowgong as an experimental measure with the financial aid of the Indian Central Jute Committee.

**Maulavi MUHAMMAD AMJAD ALI:** With regard to question No. 70 (c), may I know why Nowgong was selected for the experimental centre instead of Goalpara?

**The Hon'ble Dr. MAHENDRA NATH SAIKIA:** It is a matter of opinion.

**Maulavi MUHAMMAD AMJAD ALI:** How is it a matter of opinion, Sir?

**The Hon'ble Dr. MAHENDRA NATH SAIKIA:** In the opinion of the Department, Nowgong was found to be a more suitable place for the purpose than any other place.

**Maulavi MUHAMMAD AMJAD ALI:** Is it not a fact that Goalpara grows much more jute than Nowgong and Goalpara requires more attention than any other part of Assam?

**The Hon'ble Dr. MAHENDRA NATH SAIKIA:** All the aspects of the matter were duly taken into consideration by the departmental officers.

**Assam-Bengal Cement Company, Chhatak**

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY** asked:

\*71. Will Government be pleased to state—

- (a) Whether there were any terms of agreement between Government and the Cement Company that has got its factory at Chhatak in the district of Sylhet?
- (b) If not, why not?
- (c) Whether there was any particular term therein regarding the appointment of officers, clerks and labourers (skilled and unskilled)?
- (d) If not, why not?

\*72. If the answers to question Nos. 71 (a) and 71 (c) are in the affirmative, will Government be pleased to state the following particulars with reference to the said terms:—

(i) How many officers, clerks and labourers, skilled and unskilled, the Company has appointed up till now?

(ii) The number of officers, clerks and labourers, skilled and unskilled, appointed in the said factory from the inhabitants of each district of Assam?

(iii) The number of appointments held as officers, clerks and labourers, skilled and unskilled, by outsiders in the said factory with the name of the province they come from?

\*73. Will Government be pleased to state—

(a) Whether there is any Committee appointed by Government to look after the interest of the Province so far as appointments under the said Company are concerned?

(b) If not, do Government propose to appoint a Committee?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN** replied:

71. (a)—Yes. Government have granted a lease for limestone to the Assam-Bengal Cement Company.

(b)—Does not arise.

(c)—Yes. There is a clause in the lease which lays down that natives of the province should be employed except that in so far as properly qualified candidates are not available from Assam they can be recruited from outside the province.

(d)—Does not arise.

**Maulavi ABDUR RAHMAN:** With regard to question No. 71 (a), the answer of the Government is simply this: "Government have granted a lease for limestone to the Assam-Bengal Cement Company." The question was whether there were any terms of agreement between the Government and the Cement Company.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** I have already stated, in reply to question No. 71 (c), that there is a clause in the lease.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN** replied:

72. (i)—593.

(ii)—405 mostly from Sylhet.

(iii)—A statement is laid on the table.

**Statement referred to in reply to starred question No.72(iii) asked by Maulavi Muhammad Maqbul Hussain Chaudhury**

*List of employees from outside the province of Assam in the Assam-Bengal Cement Company's Factory at Chhatak during the year 1940*

Germany	...	...	...	...	...	2
Bengal	...	...	...	...	...	101
Behar	...	...	...	...	...	25
Orissa	...	...	...	...	...	13
Madras	...	...	...	...	...	7
Bangalore	...	...	...	...	...	1
Bombay	...	...	...	...	...	2
Hyderabad	...	...	...	...	...	1
United Provinces	...	...	...	...	...	13
Punjab	...	...	...	...	...	12
Kashmir	...	...	...	...	...	1
Patiala	...	...	...	...	...	1
Travancore	...	...	...	...	...	1
Rajputana	...	...	...	...	...	3
Nepal	...	...	...	...	...	4
North-West Frontier Province	...	...	...	...	...	1

73. (a)—No.

(b)—No. Government cannot interfere directly in the matter of appointments.

**Construction of a road from Mewa (near Sheola) to Beani-bazar**

**Maulavi MABARAK ALI** asked :

\*74. Will Government be pleased to state, what steps they have taken regarding the proposal for construction of a road from Mewa (near Sheola) to Beani-bazar, so as to connect Beani-bazar with Karimganj and Sylhet ?

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

74.—Government have ascertained that the cost of the proposed road would be in the neighbourhood of Rs.  $\frac{1}{2}$  lakh. As no funds of this magnitude are likely to be available from any source in the near future no further steps can at present be taken.

### UNSTARRED QUESTIONS

(to which answers were laid on the table)

**Superintendent of the Muslim Hostel, Sylhet**

**Maulavi ABDUR RAHMAN** asked :

90. (a) Is it a fact that the Superintendent of the Muslim Hostel attached to the Government High School, Sylhet, has been removed by a recent order of Government ?

(b) If so, will Government be pleased to state the reasons therefor ?

91. Will Government be pleased to state—

- (a) If any enquiry was made before issuing the order of removal of the said Superintendent ?
- (b) Whether it is a fact that there were Departmental enquiries both by the Director of Public Instruction and Assistant Director of Public Instruction over the matter ?
- (c) If so, what was the result of those enquiries ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI** replied :

90. (a)—The Superintendent was relieved of his duties as Superintendent.

(b)—In the interests of public service.

91. (a)—Yes.

(b)—Yes, enquiries were made by both officers.

(c)—After careful consideration of the reports submitted as a result of the enquiries, Government while finding no fault with the Superintendent, came to the conclusion that he should be relieved of his duties as Superintendent in the interests of public service.

*Re communication in Goalpara district*

**Maulana ABDUL HAMID KHAN** asked :

92. (a) Will Government be pleased to state whether it is a fact that Inter-Class passengers in the Dhubri-Goalpara Ferry steamer are subject to much inconvenience and hardship owing to insufficient accommodation and peculiar location of the Inter-Class passenger room ?

(b) If so, do Government propose to impress upon the Steamer Company to remove the grievances of the passengers by improving the accommodation in the steamer and keeping the Zenana compartment apart from the male compartment ?

93. Will Government be pleased to state—

(a) Whether it is a fact that the lessee of Fakirganj-Dhubri Ferry runs the ferry by country boats during winter ?

(b) If so, are Government aware that this causes much inconvenience to the people crossing the ferry ?

(c) If the reply to question No.93(b) above is in the affirmative, will Government be pleased to state whether this fact was brought to the notice of the Hon'ble Minister-in-charge of Public Works Department ?

(d) What action, if any, was taken by the Hon'ble Minister to make the lessee to conduct the ferry by steamer ?

(e) Whether it is a fact that under the terms on which the ferry was leased to the lessee he is bound to maintain steamer service throughout the year ?

(f) If so, do Government propose to ask the lessee to maintain steamer service throughout the year in this ferry ?

94. Will the Hon'ble Minister-in-charge of the Public Works Department be pleased to state—after local inspection—(a) Whether he proposes to maintain the Public Works Department road from Fakirganj to Fulbari and to start immediately the construction of the road from Lakhipur to Mankachar?

(b) If so, does the Hon'ble Minister-in-charge propose to issue immediate orders for proper maintenance of the existing road between Fakirganj to Fulbari?

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

92. (a)—The information received by Government is that this is not the case. No complaints have been received.

(b)—Does not arise.

**Maulavi MUHAMMAD AMJAD ALI:** With regard to question 92 (a), is it not a fact that during the last Budget Session of the Assembly a cut motion to this effect was moved and the Ministry gave an assurance that the matter would be looked into?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** Yes, Sir, we called for a report from the Deputy Commissioner, and the Deputy Commissioner says that this is not the case.

**Maulavi MUHAMMAD AMJAD ALI:** When was the report called for and when was it received?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** It was received on the 8th of March 1941.

**Maulavi MUHAMMAD AMJAD ALI:** Are we to take it that the report was called for even before the cut motion was moved in the Assembly?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** I said 8th March, 1941.

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI** replied:  
93. (a) to (f)—The concession to run the Dhubri ferry by country boats in place of using the steam ferry has now been given for many years. The reason for this is that unless this concession is given the lessee will refuse to run the steam ferry at all, since running in the cold weather involves considerable loss daily.

Government therefore decided that it was preferable to have the advantage of the steam ferry during the rains by granting this concession, rather than refuse and thus lose the steam ferry entirely.

**Maulavi GHYASUDDIN AHMED:** Are Government aware that during this season (winter season) it is difficult to ply country boats and people cannot cross from either side?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** That is a matter of opinion, Sir.

**Maulavi GHYASUDDIN AHMED:** Is it not a fact that the lessee cannot ply boats during this season (winter season) and it is inconvenient to the travelling public?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** But the country boats ply between Dhubri and Fakirganj.

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI** replied:  
94. (a) & (b)—There is no Public Works Department road connecting Fakirganj with Fulbari. The only Public Works Department road in that area is the Fakirganj-Mankachar road which passes through South Salmara. This road is maintained as a cold weather road only.

similar to that from Lakhipur to Fakinganj. As regards the proposed extension of the Assam Trunk Road (West) from Lakhipur to connect with the Tura-Mankachar road, the Government of India have deleted this road from the recently sanctioned road improvement programme up to the 31st March 1945. There is therefore no prospect of taking it up until after that date.

### Re-organisation of the Public Health Department

Maulavi MUHAMMAD ABDUS SALAM asked :

95. Will Government be pleased to state whether they have received District Health Officers' Scheme or any other Scheme from the Director of Public Health, Assam, with a view to re-organise the procedure of working of the Assam Public Health Department ?

96. If the answer to question No.95 above is in the affirmative, will Government be pleased to lay on the table the proposal submitted by the Director of Public Health, Assam, and state what action has been taken or proposed to be taken on this ?

97. If the answer to question No. 95 above is in the negative, will Government be pleased to state—

(a) Whether it is under the contemplation of Government to re-organise the Public Health Department ?

(b) If so, when it is expected to materialise ?

(c) If not, why not ?

98. Is it a fact that the Public Health Department which was on a temporary basis has been made permanent since the year 1936 ?

99. Is it a fact that the Civil Surgeons, specially those promoted from Assistant Surgeons, have not got the requisite Public Health qualifications ?

100. Is it a fact that almost all the districts of the province have got Assistant Surgeons of Public Health Department ?

101. Are Government aware that almost all these Assistant Surgeons of Public Health Department are qualified to hold the posts of District Health Officers ?

102. If the answers to questions Nos.99 to 101 above are in the affirmative, do Government propose to consider the desirability of placing the District Public Health Administrations under the control of these Assistant Surgeons designating them as District Health Officers without delay or, do they propose to begin with one or two districts in each Valley as an experimental measure ?

103. (a) Is it a fact that the Assistant Directors of Public Health are now the only Inspecting Officers of that Department ?

(b) If so, do Government propose to utilise their services by giving them administrative works ?

104. Will Government be pleased to consider to put Public Health Administrations of Gauhati and Sylhet under the control of Assistant Directors of Public Health in view of the fact that they contribute heaviest public health work in the Province ?

105. Is it a fact that the arrangement suggested in question No.104 will not involve any extra expenditure excepting the transfer of heads of offices ?

**The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY** replied :

95.—Yes.

96.—Government do not consider that any useful purpose commensurate with the time and labour involved will be served by placing copies of the scheme on the table. The scheme, though approved generally, cannot be put into operation as a whole for want of funds. The question of giving effect to it in parts is under consideration.

97.—Does not arise.

98.—Yes, in respect of a part of the staff.

99.—It may be so, if the reference is to diplomas and degrees in Public Health.

100.—Yes.

101.—Yes.

102.—The suggestion will come up for consideration in connection with the question of putting the scheme into operation in parts.

103. (a)—Yes.

(b)—The hon. member's attention is invited to the reply to question No.102 above.

104.—The headquarters of the present two Assistant Directors of Public Health are now at Sylhet and Gauhati. The question of putting them in direct control of Public Health work will be considered when the whole or part of the scheme takes a definite shape.

105.—It may be so.

#### **Manager of the Dewan Manikchand Estate, Sylhet**

**Maulavi MUHAMMAD ABDUS SALAM** asked :

106. Will Government be pleased to state—

(a) The name of the present Manager of the Dewan Manikchand Estate, Sylhet ?

(b) Whether the present Manager is a Government Official ?

(c) If so, whether he is managing the Estate in addition to his own official duties ?

(d) What salary he is drawing and from where—whether from Government or from the Estate ?

(e) How he was appointed—whether the post was advertised by the Public Service Commission ?

(f) Whether there was any non-official candidate for the same post ?

(g) If so, why his case was not considered at the time of appointment ?

107. (a) Are Government aware that the Majumdars Estate and the Khan Bahadur Md. Yahia Estate, Sylhet, are being managed by non-official Managers ?

(b) If so, why in the case of Dewan Manikchand Estate, the case of a non-official was not preferred ?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN** replied :

106. (a)—Babu Ashutosh Dutta, Sub-Deputy Collector.

(b)—Yes.

(c)—No.

(d)—He draws Rs. 320 in the time-scale of pay of Sub-Deputy Collectors *plus* a special pay of Rs.50 per mensem. The pay *plus* special pay is borne by the Estate.

(e), (f) and (g).—The post was first advertised and the Public Service Commission was consulted. The Commission did not consider any of the candidates altogether suitable. The Court of Wards therefore appointed the present Manager as a temporary measure in the best interests of the Estate, which is much larger and involves far more complicated problems than any of the other Wards' Estates in Sylhet.

107. (a)—Yes.

(b)—The hon. member is referred to the answer given to question No.106 (e) to (g) above.

#### **Re Mechpara Estate**

**Kumar AJIT NARAYAN DEV** asked :

108. With reference to my question No.164(b) asked during the last November session of the Assembly, will Government be pleased to state—

(a) If the Deputy Commissioner as well as the proprietors of Mechpara Estate suggested Medortari as the suitable place for the removal of Zemadarhat Kachary ?

(b) Whether it is a fact that the Deputy Commissioner protested against the removal of the Kachary to Berkakali ?

(c) Who suggested the place Berkakali as the suitable place for shifting the said Kachary ?

109. With reference to question No.163 (a), (b) and (c), asked during the last session of the Assembly, will Government be pleased to state—

(a) When the quarters for the Officers were first built ?

(b) How many buildings were there which were used for accommodating the Estate Officers before the Court of Wards took up the management ?

110. Will Government be pleased to state—

(a) If it is a fact that the lessee of the Dakati-Char Beel in North Salmara Police Station has been given the monopoly right of fishing in a newly flooded place which is held by the villagers of Jhaubari, Abadi, etc., in Bijni Police Station under Pattas from Bijni Raj Ward's Estate ?

(b) Whether it is a fact that the villagers have protested to the Deputy Commissioner for giving such right to the said lessee ?

(c) Whether it is a fact that the *rai-yots* on whose land the flood water is standing used to catch fish since 1939 ?

(d) Whether it is a fact that they were ordered by the Deputy Commissioner neither to fish in the water nor to disturb the lessee ?

(e) Whether it is a fact that the boundary of the Dakati-Char Fishery Beel does not include the place mentioned above ?

(f) Whether it is a fact that no inquiry was made to find out if the land in question is really held by the *rai-yots* of Abadi, Jhaubari, etc. ?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN** replied :

108. (a)—Yes.  
 (b)—The Deputy Commissioner expressed a preference for Medortari.  
 (c)—The merchants of the locality and both the Local Board and the public were in favour of Berkakali.  
 109. (a)—During the pre-court time.  
 (b)—18.  
 110. (a) to (f)—The present Deputy Commissioner has on reconsideration since cancelled the lease.

### Joint Session of the Assam Legislature

**Babu KARUNA SINDHU ROY** asked :

111. Is it a fact that a joint session of the Assam Legislature is not now required for the Money-Lenders' Bill as it has been passed by both the Houses of the Assam Legislature ?  
 112. (a) Is it a fact that a joint session of the Assam Legislature is due now for discussing the Sylhet Town Land Tenancy Bill only ?  
 (b) If so, will Government be pleased to state when the said joint session for the discussion of the Sylhet Town Land Tenancy Bill will be summoned ?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN** replied :

- 111.—The hon. member is correct.  
 112. (a)—Yes.  
 (b)—In view of the expenses involved in a joint session of Legislature it is proposed to wait till after the current session of the Assembly has been completed as it is anticipated that some other Bills at present before the Legislature may be referred to a joint session.

### Persons interned in the district of Sylhet

**Babu KARUNA SINDHU ROY** asked :

113. Will Government be pleased to state—  
 (a) The names of persons who have been interned in the district of Sylhet, by the Government of Assam ?  
 (b) Whether the persons interned are given subsistence allowance to maintain their existence ?  
 (c) Whether comrade Dijen Das Gupta has been interned under the Police Station Balaganj ?  
 (d) Whether it is a fact that he has no means of livelihood under the Police Station Balaganj ?

- (e) Whether it is a fact that comrade Rajendra Kumar Nandy has been home-interned in his village Shologhar under the Police Station Sunamganj ?
- (f) Whether it is a fact that he cannot maintain himself there ?
- (g) Whether Government propose to make arrangement for granting subsistence allowance to comrades Djendra Nath Das Gupta and Rajendra Kumar Nandy ?
- (h) Why the aforesaid persons have been interned and also the names of officers who recommended their internment ?

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

113. (a)—None have been interned.
- (b)—Does not arise.
- (c)—No. He has been required to reside in that station jurisdiction, save for movements under special permission.
- (d)—His case is under enquiry.
- (e)—He has been restricted similarly to residence in that jurisdiction.
- (f)—Government are not aware of his circumstances.
- (g)—Not unless the need and justification for such allowances are demonstrated.
- (h)—It would not be in the public interest to disclose the recommendations received by Government, who were, however, fully satisfied that some control over these individuals was necessary to prevent them from acting prejudicially to public order.

### Political Prisoners

**Babu KARUNA SINDHU ROY** asked :

114. (a) Do Government propose to make arrangements for keeping together all the political prisoners (Satyagrahis, Congress, Kishan and Labour Workers) in separate wards or barracks in different jails in Assam or in a single separate jail ?
- (b) If not, do Government propose to class all the aforesaid prisoners in "B" division ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI** replied :

114. (a)—The hon. member appears to suggest that all those prisoners whom he designates political offenders should be kept together in a single jail containing no other prisoners, or in separate accommodation from all other prisoners in ordinary jails. If so it must be observed in the first place that the rules do not ordinarily permit Divisions A, B and C to be

kept together, and Government do not propose to change the salutary provisions of the rules regarding segregation of different classes of prisoners. In the second place, Government cannot accept the position that there is any one comprehensive class which can be called political offenders, irrespective of the nature of their offences. They are therefore not prepared to accept the suggestion.

(b)—No.

### **Treatment of Satyagrahi prisoners in Assam Jails**

**Babu KARUNA SINDHU ROY** asked :

115. (a) Will Government be pleased to lay on the table a copy of the recent Circular issued by Government in the matter of treatment of Satyagrahi prisoners in Assam Jails ?

(b) Will Government be pleased to state who are referred to as Satyagrahi prisoners therein ?

(c) Is it a fact that a number of persons have been and are being convicted for anti-war activities under the Defence of India Rules ?

(d) If so, will Government be pleased to state if the above circular is meant to cover the cases of this class of prisoners also ?

(e) If not, do Government propose to have them included also among the Satyagrahi prisoners ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI** replied :

115. (a)—Government are not prepared to lay on the table copies of correspondence with their officers. They are prepared to inform the House, however, that instructions were issued to the district officers and the Inspector-General of Prisons regarding the treatment of prisoners convicted for shouting anti-war slogans. They were to the effect that classification above Division "C" depends upon the social status, education and habit of life of the prisoner, while classification in Division "A" as distinct from "B" depends upon the prisoner being a non-habitual of good character, not proved guilty of certain categories of offence mentioned in the Jail Manual, paragraph 209-I. They were pleased to find that the persons convicted as aforesaid would not be excluded from Division A by the nature of their offence. It was, however, impossible to provide these A Division prisoners with the furniture provided in the rules, since there was no room for it and the supply would take too long.

(b)—The term was not mentioned in the Orders.

(c)—There are certainly persons prosecuted and convicted for offences against these rules, whether or not the activities were, in the words of the hon. member, "Anti-War".

(d)—Government are not prepared to order all offenders against the Defence of India Rules to be classified in the same division, irrespective of the character of the offence.

(e)—Does not arise.

### Announcement of the result of election to the Public Accounts Committee

**The Hon'ble the SPEAKER :** I now announce the result of the election of seven members to the Public Accounts Committee. They are :—

Mr. A. Whittaker,  
Srijut Rabi Chandra Cachari,  
Maulavi Naziruddin Ahmed,  
Babu Akshay Kumar Das,  
Maulavi Muhammad Amjad Ali,  
Mr. Baidyanath Mookerjee, and  
Maulavi Syed Abdur Rouf.

### Motion regarding extension of the term of the Agricultural Marketing Scheme

**The Hon'ble Dr. MAHENDRA NATH SAIKIA :** Sir, I beg to move that this House approves that the term of Agricultural Marketing Scheme which will expire on the 31st March, 1941, be extended till the end of the year 1941-42.

Sir, the hon. members of this House are all aware that the Government of India in the year 1935 granted Rs.2,00,000 for the development of marketing in the different provinces. The share of allotment to this province was Rs.50,000 to be spent over a period of 5 years. That term expired on the 31st January 1940. Then sanction was sought for extension of the marketing scheme for another year, and that was acceded to by this House. Now again, Sir, on the expiry of this term of one year, Government have to come forward with a motion for a further extension of the period by one year on the recommendation of the Retrenchment Committee.

When the Retrenchment Committee made some enquiries as regards the activities of this marketing section, in reply to a query made to the Director of Agriculture as to whether the producers of this province were directly benefited by this scheme, the Director replied in the negative. The reason was that, the scheme as it stood then, was not meant to give direct benefit to the growers of this province. On that very point alone, the Retrenchment Committee considered that before giving further extension to this scheme, the Legislature should be given an opportunity of discussing the whole question so that they can give their opinion in the matter. I may inform the House of the question put by the Committee and the Director's reply :—

**“Question :—**And for helping the local producers as yet nothing has been done ?”

**“Answer :—**We have not anything to do with the local producers yet under the scheme.”

The Scheme, as it stood, at the time the Retrenchment Committee was examining the whole question, did not provide so many facilities to the growers of the province. I may now read the recommendation of the Retrenchment Committee.

**“In view of the fact that the province of Assam does not directly benefit by the activities of the present marketing section, the Committee recommends that before an extension of the present arrangement is considered, the Government should place the matter before the Houses of Legislature and get their approval.”** On that recommendation, Sir, the Government are now required to come before the House, with this motion.

I can explain to the House that the scheme, as it stood then, is quite different from the scheme as it stands now. Now Sir, the local producers have been directly benefited by this scheme. I may make a little mention of the activities undertaken under the scheme, viz., as to what the Marketing section have got to do and to what extent the producers are benefited. They are as follows:—

“1. *Marketing survey of jute and cotton in Assam.*—These reports have been compiled and submitted during the year. These are the reports in addition to 30 marketing survey reports already submitted during previous year.”

I may mention that these reports contain various facts and figures regarding agricultural commodities, such as acreage under cultivation, the various local prices obtaining in the province, quantity produced etc.

These reports are submitted to the Central Government, who, after receiving the reports from the various provinces, give a digest of the facts and figures regarding the various commodities in the different provinces. Some of these provincial reports I can present before the House. Up till now some 32 reports have been prepared by the Agricultural Marketing section.

Then Sir, there is—

“2. *Grading of Mustard oil at Gauhati and Sylhet.*—Attempts have been made to start this and so far the possibilities are quite encouraging.” Here the other day, the hon. member Dr. Terrell was speaking at length about the dangers of adulteration of mustard oil on the human physique, and about the necessity of amending the Food Adulteration Act. I think, Sir, more benefit can be obtained from this marketing scheme than any amendment of the Food Act. Although, there may be cases of adulteration of food which of course should not be allowed to go on unchecked, still if the people know where to get the pure food-stuff, it will go a great way in improving matters. The department is contemplating to register authorised agents who will be selling unadulterated pure foods bearing the Agmark label. It is with the view that the public should know definitely where they can have the best food articles that this marketing section has been trying to register authorised agents for the purpose.

“3. *Grading of oranges at Gauhati and Sylhet.*—There are seven grading stations operating at Gauhati area and one at Tangla. So far 1½ lakhs of oranges are graded and sold at Calcutta through the Assam Government Fruit Marketing Scheme.”

“4. *Grading of eggs.*—Two such stations, one at Gauhati and the other at Shillong are operating and 10,000 eggs are graded and sold up to date.”

“5. *Propaganda for introduction and publicity for Agmark (Graded) products such as ghee, edible oils, oranges, etc.*” about which I have already stated a little while ago. As a result of this, the sale of graded ghee has considerably increased in Tinsukia, Dibrugarh, Gauhati and Sylhet. Now in Calcutta graded Assam Oranges are seen in various fruit shops.

“6. *Inspection and registration of dealers in Agmark ghee in important centres.*—A list has already been compiled, and as the number increases, it will be revised from time to time.”

“7. *Organisation of Co-operative Jute-grading Stations.*—The scheme has been already approved and a sum of Rs.1,500 has been sanctioned by the Indian Central Jute Committee, and the balance of Rs.2,353 which has to be paid by the local Government is under consideration. This is the result of the enquiries by the marketing section of the India Central Jute Committee carried out for the success of jute trade in Assam.”

“8. *Marketing of Assam pineapples and oranges in Calcutta.*—In 1940-41, 12,000 pineapples and nearly 15 lakhs of oranges have been disposed of in Calcutta through the Assam Government marketing scheme in Calcutta.

9. *Demonstration on picking and packing of pineapples and oranges in improved crates.*—This has been done by the Marketing Staff all over the province, and benefits derived by the growers have been much appreciated.

10. *Organisation and Association of Pineapple growers in Assam.*—One such Association has already been organised at Tezpur during the year, and efforts are being made to organise a few more of these next year.

11. *Registration of the names of important dealers in different centres to dispose of different crops whenever required.*—A list has been prepared after careful enquiry.

12. *Market News Service.*—Collection of weekly market prices of different commodities of the selected key markets—Calcutta, Jorhat, Gauhati, Tinsukia and Sylhet.—These are compiled at headquarters, and if anybody is in need of these prices, they are freely supplied.

13. *Collection of monthly market prices of the district and subdivisional towns in Assam.*—These are compiled and reported to Government of India showing rise or fall.

14. *Collection of monthly export and import figures of different commodities from Sylhet, Gauhati, Tinsukia and other important stations.*—These records are maintained in the office to see the actual position of commodities coming to Assam and going out of Assam.

15. *Rendering help to the producers and exporters by obtaining concessional rates in freight.*—Special concession rates for perishable commodities like pineapples, oranges, kagji lemons, are obtained during the year.”

Sir, in addition to all these duties, the marketing staff has been engaged in other marketing enquiries of hill products in the Naga Hills and the Khasi Hills, and supplying other statistics and information as far as available from previous enquiries.

From the list of works that I have stated before the House, it is quite evident what great benefits the producers of agricultural commodities and animal husbandry products in this province are receiving through this Department. Sir, the utility of this scheme has been explained many times on the floor of this House by the Hon'ble Premier and by the Minister-in-charge of this Department, so I think it requires no further elaboration.

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

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

“That this House approves that the term of Agricultural Marketing Scheme which will expire on the 31st March, 1941, be extended till the end of the year 1941-42.”

**Mr. C. W. MORLEY:** On a point of information, Sir. The Hon'ble Minister has mentioned this question of vegetable oils and ghee but I can see no provision whatever by which a dealer can be prevented from going to one of these pure food shops, or whatever they may be called, and buying these vegetable oils and ghee and retailing them again in an adulterated form at a profit.

**The Hon'ble Dr. MOHENDRA NATH SAIKIA:** The Marketing Section is now contemplating to register authorised agents to sell pure food such as mustard oil and other edible oils under Agmark labels. Products sealed by Agmark labels will be above suspicion as to its quality. The safest course will be for the public to go for food stuff bearing Agmark labels.

**The Hon'ble the SPEAKER:** Question is;

"That this House approves that the term of Agricultural Marketing Scheme which will expire on the 31st March, 1941, be extended till the end of the year 1941-42".

The question was adopted.

**Discussion on Supplementary Statement of Expenditure charged on the revenues of the Province during 1940-41**

**The Hon'ble the SPEAKER:** Discussion, if any, of Supplementary Statement \* of Expenditure charged upon the revenues of the Province during 1940-41.

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY:** Mr. Speaker, Sir, I rise to make a few remarks on the Supplementary Statement of expenditure charged on the Revenues of the Province during the year 1940-41 laid before the House.

Sir, I find under Major head.—8—Provincial Excise, sub-head A—Superintendence Rs. 4,150 is charged on account of the Pay and Travelling Allowance of the Commissioner of Excise. In the brief Explanatory Note of Excise was made at the rate of pay of his predecessor. Hence Rs. 4,000 more is required." It is clear from the explanatory note that the amount is not required for the usual increment of pay of the Officer, but his status has been raised recently. Sir, at a time when Government is following a principle of economy in the strictest possible manner and when Government is not able to provide more money for the expansion of much-needed primary education, this sort of benevolence is nothing but ill-conceived patronage.

In a separate supplementary demand, I find that another sum of Rs.2,080 is required in order to raise the status of the Personal Assistant of the Excise Commissioner. It is curious to notice that the Excise Department has established its effective influence upon Government. I sound my note of emphatic protest against such patronising provisions in the demands.

On page 5 of the list under head.—37—Education, sub-head—Travelling allowance of officers, Rs.500 is charged. While explaining the necessity of this item of expenditure Government said that the additional grant is required to meet the travelling allowance of the Director of Public Instruction who had to perform certain unexpected journeys in the demands. I do not know, Sir, what benefit the Province derived from such tours performed outside the Province. We sometimes find that Hon'ble Ministers undertake such journeys outside the province, even two at a time for the same purpose. I see very little justification in performing such journeys, most of which are unnecessary. I hope that Government will very cautiously allow officers to perform journeys outside the province in future.

On page 8 of the list under Major Head.—50—Civil Works (Establishment Charges) Rs.2,722 is provided. While explaining the aim of this item Government says that Rs.1,000 is to be paid to the Under-Secretary, Public Works Department, as honorarium for the revision of the Public Works Department Code, for which no budget provision was made. The headquarters of the Secretary is at Shillong, and I think the revision of the Code is a part of his own duty, for which no extra remuneration is necessary.

On the same page Rs.773 is provided under sub-head—B—Charges on construction (iv) 3—Allowances and Honoraria. The explanatory note on this provision is as follows:—"The extra sum is necessary to meet the cost of travelling allowance of I.S.E. Executive Engineers on account of increased touring, particularly the tractor demonstration held at Sylhet in December 1940." What benefit the Province derived from this demonstration is not known. To me there was no necessity at all for the presence of so many I.S.E. Engineers at the demonstration. The Executive Engineer, Sylhet, could very well open the demonstration without charging any extra allowance for travelling.

While replying to such discussion raised in connection with some cut motion the other day, the Hon'ble Minister for Local Self-Government remarked that the Government was not a charitable institution. From all that I have mentioned above, I find that the Government is nothing but what is called a charitable institution, only difference being that the charitable institutions give away their charities to deserving persons while Government fritter away their favours in undesirable directions.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Have we got any right of reply, Sir?

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

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Mr. Speaker, Sir, Mr. Maqbul Hussain Chaudhury's speech has been rather emotional than informative. I do not blame him for this. On the other hand I think, it is the very short explanatory notes that has led him to make the remarks that he has made. I hope my friend, the Hon'ble Finance Minister will, in future try to explain matters in more detail.

My hon. friend Maulavi Maqbul Hussain Chaudhury first started with the item of Provincial Excise. The position is very simple had it been explained in proper terms. We know that the son of the Excise Commissioner is studying in England, and in order to ensure in these times of difficult transit of mails a regular monthly supply of money to the student, he requested the Government of Assam to place at the disposal of the High Commissioner in London for India a sum of Rs.254-3-0 per mensem so that the High Commissioner may pay this money to his son. Government agreed and placed this sum there. It was no benevolence shown to the Khan Bahadur, but a similar amount was deducted from his pay paid in Assam. Thus there was no benevolence or extra patronisation to the Khan Bahadur. It was on account of the paternal anxiety of the Khan Bahadur that his son should not be stranded that this request was made for monthly remittance through the High Commissioner. I hope this will pacify my hon. friend.

The next item that my friend attacked was the payment of a small sum of Rs.500 to meet the cost of.....

**Babu KAMINI KUMAR SEN:** On a point of information, Sir, may I know from the Hon'ble Premier how in the explanatory note under provision of pay of Excise Commissioner Rs. 4,000 more is required?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** My hon. friend knows perfectly well that when he and his colleagues of the Congress Coalition Ministry took up office, they removed the Khan Bahadur from the post of Excise Commissioner and placed there Rai Bahadur Durgeswar Sarma. Now at the time, the Budget was framed, it was framed thinking that the Rai Bahadur would continue. This sum is necessary on account of the difference of the salary of the Khan Bahadur and Rai Bahadur Durgeswar Sarma. Therefore a slight adjustment was necessary.

**Mr. BAIDYANATH MOOKERJEE:** In that case previous explanation was not necessary.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** The extra sum was necessary to be paid. The salary of the Khan Bahadur was higher than that paid to Rai Bahadur Durgeswar Sarma. The explanation was so condensed by the Finance Department that hon. members have found difficulty in understanding it.

Next my friend has criticised the small excess expenditure of Rs. 500 to meet the travelling allowance of the Director of Public Instruction who had to perform certain unexpected journey to Madras and Simla. These tours outside the province should not be taken up at the cost of the public exchequer unless and until it is definitely proved that the province is going to be benefited by them. The conference at Madras was a conference of educational experts. Therefore it was necessary that the Head of Department in Assam should benefit by exchange of ideas with the experts of other provinces and also learn first hand new advancement in matters educational. So the money was well spent.

Incidentally my friend remarked that Ministers also indulged in attending such conferences, and said that two Ministers attended at the same time. Here too, this criticism is borne out of ignorance of facts. I think the attendance simultaneously of two Ministers refers to the attendance at two different conferences at Lucknow of myself and my Hon'ble Colleague the Minister-in-charge of the Industries Department. The Government of India convened two conferences, one Industrial and the other a meeting of the Council of Agricultural Research, at Lucknow to be held one after another. The meeting of the Council of Agricultural Research was very important, for Assam also puts up schemes to that body for financial aid. Therefore, it was necessary that some one should go there. The Hon'ble Minister-in-charge of the Agriculture Department was on tour in Sibsagar district at the time. He was thus unable to attend. The Government of India wanted to discuss the question of jute restriction which was being followed by Bengal. I have already stated on the floor of the House on a previous occasion that we could not agree in toto with the Bengal Government about the restriction of jute cultivation and they laid a complaint with the Government of India to force Assam to follow the same lines as Bengal. The conference was held on this matter early in December—about the 5th of December in Delhi. I was myself lying ill at the time so no one attended that meeting. The Government of India requested the Assam Government to send a member who will be able to discuss this very question at Lucknow along with the authorities of the Central Government and the Government of Bengal. As I had discussed this matter in April, 1940 with the Government representatives of Bengal at Calcutta, the Minister of Agriculture requested me that I should again go and place the case of Assam before the Government of India who had very nearly come to one-sided decision without hearing Assam. As I have explained before the House previously, it was on account of my explaining the position of Assam in the conference that the Government of India said that it was not a question of reduction but it is a question of standardisation. It was admitted by the Government of India that Assam has got such a vast quantity of arable land which can grow jute in future years and as such the hands of Assam should not be forced, but a standard should be laid down beyond which production should not go; in other words, they accepted the contention of the Government of Assam that instead of reducing our present area under

jute, we may be allowed certain expansion beyond which we should not advance. So it is up to my hon. friends here to judge whether my presence at that conference had not eased the situation and was beneficial not only to the province but also to those people who are wanting lands in Assam. Sir, the Industrial conference was held on the 16th and 17th and the Agricultural conference on the 18th. As I was present at Lucknow on those days I thought that with the consent of my Hon'ble Colleague, I should attend and also watch the interest of Assam in the Industrial conference. That is the genesis of the two Ministers attending the conference simultaneously. I hope the explanation that I have given will satisfy hon. members that no extra money was spent on behalf of the Government of Assam than was necessary under the circumstances.

The last criticism which my hon. friend has made is as regards the Public Works Department. There are two items to which exception has been taken by him; one is an honorarium of one thousand rupees and the other is an expenditure of Rs.773 which was incurred for extra travelling allowance for tractor demonstration. Here also a little more clarity or a little more detailed explanation probably would satisfy my hon. friends. We, for a long time, *i.e.*, for about twelve years now, have been maintaining certain instruments for improving our katcha roads and also to improve our graveled roads but these tractors are of an old type and cannot repair more than a mile or two per day. Since then enterprising European Firm at Calcutta had introduced in India a much improved tractor which can repair as much as seven miles per day and that Company demonstrated the action of these machines at Sylhet. The Public Works Department thought that it will be better if a few Executive and Assistant Engineers of their Department could see the demonstration so that they may have some idea whether these machines can be utilised with benefit on the roads over which they keep supervision. It was for this purpose and on account of this extraordinary circumstances, an expenditure of Rs.773 was incurred towards the travelling allowance of the Engineers attending the demonstration at Sylhet. So, Sir, this money was well spent. The machine may be suitable for the soil in Sylhet but it may not be suitable for the soil in Jorhat. The working of the machinery was seen first-hand by the Engineers concerned and therefore they were in a better position to say whether Government should invest any money in such machinery or not.

The last point is about Rs.1,000 incurred for revising the Assam Public Works Department Code. My hon. friend thinks that this was also a part of the ordinary duty of the Under-Secretary but I should say that it is not so. In every department when a code or a manual is revised, some special officers are entertained and I like to mention here only one instance. To revise the Excise Manual which has gone out of date, an Indian Civil Service Officer of the standing of Mr. Humphrey was appointed for some months before my time, *i.e.*, during the time of the Congress-Coalition Ministry and it was found that even many months' work could not finish the task and so now we have been compelled to put our senior Excise Superintendent to finish the work. As that Superintendent has come to an expensive place, he has got to be given a special allowance to revise the Manual. I am just mentioning this fact as an illustration to show that a special officer is necessary to revise any manual or code. The Public Works Department codes are very complicated but still the Under-Secretary of the Public Works Department, Mr. Gordon, during his leisure hours, revised various codes and so an honorarium of

Rs.1,000 which is a very cheap proposition, was given to that officer. I hope, Sir, I have explained all the criticisms that were levelled by my hon. friend Mr. Maqbul Hussain Chaudhury.

**Mr. BAIDYANATH MOOKERJEE :** On a point of information Sir. May I inquire two points from the Hon'ble Premier ? I find that an amount of Rs.3 lakhs was paid as commission and I want to know why such a big commission was necessary. I also want to know whether Government has decided to show the income of the excluded areas under different heads separately from non-excluded areas. I want this information just to have a clear idea as to what our provincial exchequer gets from the excluded area.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** Shall I reply, Sir ?

**The Hon'ble the SPEAKER :** When the hon. member wants the information, I think, it is better that the Hon'ble Premier should try to give the information.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** A business-man like Mr. Mookerjee ought to have spotted this expenditure at once. Sir, we have told on previous budget discussion that since 1937, i.e., under the new constitution Act, we cannot depend upon Government of India to be our bankers to lend us money at times of our deficit budgets. Since 1937, we have got to borrow money in the open market. Now in borrowing in the open market, we are compelled to take the help of the Reserve Bank. It is they who float loan for the Government. We expected, Sir, that we will be able to get this money from the public but as was mentioned in the budget discussion by one hon. member in the Upper House, very few of the investing public came and bought scrips of our loan with the result that the Reserve Bank which were acting as our loan writers had to produce the balance. Therefore, a greater portion of the loan was subscribed by the under-writers and a greater commission had to be paid to them. Another factor which necessitated the expenditure of some extra sum is that although we knew that the public would invest of some discount, we expected that our debenture would be sold at near about Rs.94, but on account of the poor income of the province the investing public would not buy our debenture at Rs.94 but they bought it at Rs.93, whereas the debenture of the richer provinces like the United Provinces and Madras, who have got 14 crores and 18 crores respectively as their annual income, has been bought at Rs.94. That is the reason why this extra expenditure had to be incurred.

Now as regards the second point, we have tried our best to have a separate budgetary account of the excluded areas, but the whole thing is so complicated and the expenditure is so interconnected that it has not been possible to bring the accounts to any accurate level. We can not have a separate budget but that would not convey the real and true state of affairs. Therefore we have given up that idea.

### Supplementary demands for grants

(8—Provincial Excise)

**The Hon'ble the SPEAKER :** Now we shall take up the Supplementary demands for grants.

**The Hon'ble Dr. MAHENDRA NATH SAIKIA :** On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs.38,730 be granted to the Minister-in-charge

to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head "8.—Provincial Excise".

Grant originally voted by the Assembly	Rs. 2,95,900
II.—Sub-heads under which the supplementary grant will be accounted for—	

A.—Superintendence—

(1) Pay of establishment	Rs. 1,900
(2) Contingencies (non-contract)	130
Total	2,030

B.—District Executive Establishment—

(1) Allowances and honoraria	Rs. 3,700
(2) Prohibition propaganda	33,000
Total	38,730

**The Hon'ble Dr. MAHENDRA NATH SAIKIA:** Sir, the Explanatory note is quite clear to show why this supplementary demand has been necessary. I read the explanatory note which runs thus:—

### EXPLANATORY NOTE

A.(1) The additional grant is required to meet the expenditures for the payment of arrear pay to the personal Assistant to the Commissioner of Excise on account of raising of his status to 1st class, fixation of enhanced initial pay and for payment of leave salary.

(2) The additional grant is required to meet the expenditure on account of the installation of a telephone connection in the residence of the Commissioner of Excise.

B (1) The increase in expenditure under this head is due partly to the fact that as a result of the introduction of the Prohibition Scheme and accelerated reduction of opium rations more extensive touring was necessary and for the reason that expenditure for payment of rewards had to be pushed up.

B.(2) During the budget session of 1939 the Assembly agreed to a motion on a resolution presented by the then Minister-in-charge of Excise for expenditure upto Rs.2,50,000 for two years in connexion with the experiment of prohibition of opium in the Dibrugarh and Sibsagar subdivisions. It is estimated that total expenditure on this account in the current year would come up to Rs.33,000 under the following heads:—

1. Pay of establishment	Rs. 19,400
2. Travelling allowance of establishment (for the jamadars and peons).	3,000
3. House rent and other fixed allowance to official establishment.	3,600
4. Contingencies	7,000
Total	33,000

**The Hon'ble the SPEAKER:** Explanatory notes are really very brief and as the Hon'ble Premier has said, are not sufficient to give an adequate idea to the House as to the reason for a particular demand. It would be better if the Hon'ble Minister makes a speech.

**The Hon'ble Dr. MAHENDRA NATH SAIKIA:** I may explain to the House why we are required to come before the House with this supplementary demand. During the year 1939-40, as no provision was made in the Budget to meet the expenditure on prohibition propaganda while the question was finally decided to introduce total prohibition in the Dibrugarh and Sibsagar subdivisions, the then Government came before the House with a motion requesting the House to accept the motion by which Government would be empowered to incur expenditure to the extent of 2½ lakhs in connection with prohibition propaganda over a period of 2 years. During that year, on the strength of that motion accepted by this House, Government incurred expenditure to a certain extent and it was met by a supplementary demand just in the way as we have been required to come before the House now. Similarly, this year on the strength of that motion, we have incurred expenditure to the extent we have shown here on prohibition propaganda and I hope hon. members will accept the motion.

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

"That an additional sum of Rs.38,730 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head "8.—Provincial Excise".

There is a cut motion standing in the name of Maulavi Muhammad Maqbul Hussain Chaudhury. Is he moving it?

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY:** Yes, Sir, I beg to move that the provision of Rs.2,030 under Supplementary Demand No.1, Major head—8.—Provincial Excise, Minor head—A. Superintendence (total) at page 1 of the list of Supplementary Demands for Grants for 1940-41 be reduced by Re.1, i.e. the amount of the whole Supplementary Demand of Rs.38,730 do stand reduced by Re.1.

The Hon'ble Minister-in-charge of Excise wants a supplementary grant for Rs.2,030 on account of pay of establishment and supplementary (non-contract). In the Explanatory Note it is said that the contingencies is required to meet the expenditure for the payment of arrear grant Personal Assistant to the Commissioner of Excise on account of raising his status to 1st class, fixation of enhanced initial pay and for payment of leave salary. In the Supplementary Statement of Expenditure charged on the Revenues of the Province during the year 1940, there is another provision made on this head. In these days of prohibition this sort of demand is not at all welcome to me. I do not know how this Department could single out itself by fortunately enlisting the kind patronage of Government at a time when the recommendations of the Retrenchment Committee are under careful consideration of Government. To me this demand is not useless. Government should, without showing unnecessary favour to a particular occupant of a particular post withdraw this demand, thus checking the waste of money unnecessarily. With these words, I commend my motion to the acceptance of the House.

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

"That the provision of Rs.2,030 under Supplementary Demand No. 1, Major head—8.—Provincial Excise, Minor head—A.—Superintendence (total) at page 1 of the list of Supplementary Demands for Grants for 1940-41 be reduced by Re.1 i.e., the amount of the whole Supplementary Demand of Rs.38,730 do stand reduced by Re.1."

**The Hon'ble Dr. MAHENDRA NATH SAIKIA :** Sir, this is a matter relating to the Finance Department. I think, hon. members of this House are aware that the raising of the status of the Personal Assistant to class I service is based on certain principles and the office in-charge of which he has been placed, satisfied all the factors that are required to give him the benefit of Class, I. After taking all these factors, Government considered it justified to raise his status to Class I.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** Sir, may I supplement the case as it was done in my time and my Hon'ble Colleague is not aware of all the facts ?

The position is this, Sir. The Commissioner of Excise also does some functions for the Government of India in two Departments—one is about Insurance and the other for Joint Stock Companies. Now on account of the addition of the Insurance work under the new Insurance Act, there have been added a certain number of clerks in that office. There is a standard laid by the Assam Government that after a certain number of Assistants has been reached in an office that office is held as Class I and the Personal Assistant is given First Class status. On account of the additional hands, the Personal Assistant of this office became automatically a First Class Officer. We have represented to Government of India that this extra expenditure has been caused to Assam on account of the new dispensation under the Insurance Act, and, therefore, they should bear the extra expenditure. The matter is still under correspondence with the Government of India and we hope, Sir, that a part of this increase will be recouped from contribution of the Central Government.

**Mr. BAIDYA NATH MOOKERJEE :** Sir, one point relating to B(2) in the explanation is not clear to me. It has been explained by the Hon'ble Minister that :

“During the budget session of 1939 the Assembly agreed to a motion on a resolution presented by the then Minister-in-charge of Excise for expenditure upto Rs.2,50,000 for two years.”

Sir, I understand that these two years were 1939-40 and 1940-41 in connection with the expenditure on prohibition of opium for Dibrugarh and Sibsagar subdivisions. Then it has been noted down, Sir, “It is estimated that total expenditure on this account in the current year”—by current year the Hon'ble Minister means 1940-41—“would come up to Rs.33,000 under the following heads”. So it is not quite clear, Sir, whether that sum of Rs.2,50,000 was entirely spent during 1939-40.

**The Hon'ble Dr. MAHENDRA NATH SAIKIA :** The Government was authorised by the House to incur an expenditure up to the extent of Rs.2,50,000, if it was so required, but the entire sum was not spent and the amount that was incurred in the year 1939-40 was met by supplementary demand like this. That was brought up before the House. To the extent required upto a sum of Rs.2,50,000 we had to incur the expenditure on the strength of the Resolution and now the House will be required to vote on this amount. Government have not incurred expenditure exceeding Rs.2,50,000 during these two years.

**Mr. BAIDYA NATH MOOKERJEE :** In that case Sir, the point becomes rather more obscure. Sir, when there was a provision of Rs.2,50,000 already, as it has been stated by the Hon'ble Minister, that was sufficient. Then why this extra amount is necessary ? Is this an additional amount or it is a new item altogether for which there was no provision in the original Budget, Sir ?

**The Hon'ble Dr. MAHENDRA NATH SAIKIA:** There was no provision made in the Budget. Only the House agreed to a motion by which Government was authorised to incur an expenditure to the extent of Rs.2,50,000 within two years. Now to that extent, on the strength of the motion, the expenditure will have to be met by a supplementary demand as there was no provision made in the Budget showing that Rs.2,50,000 would be provided for prohibition.

**Mr. BAIDYANATH MOOKERJEE:** So far as the year 1939 was concerned, that may be quite satisfactory. But so far as 1940-41 is concerned, why the Government did not make any provision for that and they have come now with a new provision under this supplementary demand?

**The Hon'ble Dr. MAHENDRA NATH SAIKIA:** It is clear here in the explanatory note, Sir, that is, an expenditure up to the extent of Rs. 2,50,000, could be incurred by Government within two years. During 1939-40, the amount that was spent for Prohibition Propaganda was met by supplementary demand, and in this year, in the same way, we have come forward with the demand on the strength of that motion as there was no provision made in this year's Budget.

**The Hon'ble the SPEAKER:** Does the hon. member press his motion?

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY:** In view of the statement made by the Hon'ble Premier, I do not want to press my motion, Sir.

The motion was, by leave of the House, withdrawn.

**The Hon'ble the SPEAKER:** The question is: That an additional sum of Rs. 38,730 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head '8.—Provincial Excise."

The question was adopted.

9—Stamps.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Sir, on the recommendation of His Excellency the Governor of Assam, I beg Sir, to move that an additional sum of Rs. 7,240 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March, 1941, for the administration of the head "9.—Stamps".

Grant originally voted by the Assembly	Rs.
II.—Sub-heads under which the supplementary grant will be accounted for—	39,400

D. Cost value of stamps supplied from Central Stores	Rs.
	7,240

### EXPLANATORY NOTE

The need for the additional grant is due to the increase in the manufacturing cost of non-postal stamps.

Sir, this demand has been explained in the explanatory note that due to the war there was an increase in the price of paper and consequently more money had to be spent on the value of stamps and this is why the sum is required, Sir.

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

"That an additional sum of Rs. 7,240 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March, 1941, for the administration of the head '9.—Stamps'."

(After a pause)

Then I take it that there will be no debate.

The question is :

"That an additional sum of Rs. 7,240 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March, 1941, for the administration of the head '9.—Stamps'."

The question was adopted.

(10.—Forests)

**The Hon'ble Srijut RUPNATH BRAHMA :** Sir, on the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs 25,500 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March, 1941, for the administration of the head "10.—Forests":—

Grant originally voted by the Assembly	...	Rs.
		9,26,200

II. Sub-heads under which this supplementary grant will be accounted for by the Forest Department—

A.—Conservancy and works (non-excluded areas)—

Communications and buildings	...	...	Rs.
			6,740

B.—Establishment (non-excluded areas)—

(a) Pay of establishment	...	...	Rs.
(b) Allowances and honoraria	...	...	3,290
(c) Non-contract contingencies	...	...	10,670
			4,800

18,760

Total	...	...	Rs.
			25,500

### EXPLANATORY NOTE

A.—*Conservancy and works*.—This extra expenditure is mainly required for building programme to cope with increased revenue-earning business.

B.—*Establishment*.—The excess under "Pay of Establishment" is due to entertainment of some extra staff in connection with the supply of war timber and that under "allowances and honoraria" to travelling allowance of officers and subordinates for greater activities in connection with the war supply. The excess under "Contingencies" is due to increase in the rate of postage, increased correspondence in connection with supply of war timber and money order commission for increased revenue.

Sir, from the Budget speech it will appear that there has been an increase in the forest revenue due to War, and this additional demand is mainly due to War demands. We had to entertain extra staff; we had also to construct more roads and temporary houses in different places for the supply of timber. So, I hope this demand will be passed by the House without any opposition.

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

"That an additional sum of Rs. 25,500 be granted to defray certain charges which will come in the course of payment during the year ending the 31st March, 1941, for the administration of the head '10.—Forests'."

(After a pause)

I am putting this as a question.

The question was then put and adopted.

### (11.—Registration)

**The Hon'ble Miss. MAVIS DUNN:** On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs. 5,200 be granted to the Minister-in-charge to defray the charges which will come in the course of payment during the year ending the 31st March, 1941, for the administration of the head "11.—Registration".

The grant that was originally voted by the Assembly was Rs. 1,49,700  
The supplementary grant required is for the following items:—

				Rs.
Pay of Establishment	...	...	...	5,000
Allowances and Honoraria	...	...	...	200
Total	...	...	...	5,200

Each hon. member has a copy of the explanatory note\* attached to this supplementary demand and the fact that there is no cut motion indicates that no further elucidation is necessary.

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

"That an additional sum of Rs. 5,200 be granted to defray the charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head '11.—Registration'."

(After a pause)

I am putting this as a question.

The question was then put and adopted

### \*EXPLANATORY NOTE

The additional sum of Rs. 5,000 under the head "Pay of Establishment" is required partly owing to the drawal of arrear pay by a clerk and a Muharrir who were under suspension in connection with the Balaganj Sub-Registry Office forgery case and partly to increase in expenditure under "Temporary Establishment" due to increase in the number of documents registered.

And the additional sum of Rs. 200 under the head "Allowances and honoraria" is required partly owing to increase in expenditure of postings and transfers of Sub-Registrars and staff in leave vacancies and partly to the inspection of Sub-Registry offices and Muslim Registry offices.

## (29.—Police).

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Mr. Speaker, Sir, before I move this demand I ask your help in order to correct some figures. It appears, Sir, that since the demand was printed, the Police Department found some saving, and the amount that will be necessary has therefore been reduced. A correction slip is in the Press, and I have got only a proof-copy. So, with your permission, I want to correct certain figures. Each hon. member will be supplied with a correction slip as soon as it comes out from the Press. I will give the corrected figures first.

On the main motion, in place of Rs. 57,946 the amount will be Rs. 50,046.....

**The Hon'ble the SPEAKER:** I think, it will minimise time if the Hon'ble Premier reads out the corrected figures instead of pointing out the mistaken figures first. After moving the demand he will read out the figures.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Very well, Sir.

On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs. 50,046 be granted to the Minister-in-charge to defray the charges which will come in the course of payment during the year ending the 31st March, 1941, for the administration of the head "29.—Police".

			Rs.
Grant originally passed the Assembly	...	23,52,100	
II.—Sub-heads under which the supplementary grant will be accounted for—			
			Rs.
A.—Superintendence—			
Pay of Establishment	...	...	1,236
Contingencies (non-contract)	...	...	988
Contingencies (contract)	...	...	821
B.—District Executive Force—			
(a) District Police—			
Allowances and honoraria	...	...	9,660
Contingencies (non-contract)	...	...	940
(c) Other Police—			
Civic Guards	...	...	1,000*
Deduct—recoveries from Central Government.			—333
			<hr/>
			667*
E.—Special Police—Additional police for agency functions			
F.—Railway Police—			
(a) Supervising staff—			
Contingencies (non-contract)	...	...	4,690

\*The additional grants for Civic Guards and Criminal Investigation Department are included under section 78 (2) of the Government of India Act, 1935, for the due discharge of the special responsibilities of His Excellency the Governor.

## (b) Crime Police—

Contingencies (non-contract) ...	...	3,400
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## (c) Order Police—

## Assam-Bengal Railway—

Contingencies (non-contract) --	...	2,975
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Deduct—recoveries from Railway Board ...	—2,975	
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## G.—Criminal Investigation Department—

Pay of Establishment	...	23,974*
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Allowance and honoraria	...	3,670*
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Total	...	<u>50,046</u>
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\*The additional grants for Civic Guard and Criminal Investigation Department are included under section 78 (2) of the Government of India Act, 1935, for the due discharge of the special responsibilities of His Excellency the Governor.

Sir, as hon. members will find, this supplementary demand consists of two parts, one part is the ordinary expenditure subject to the vote of the House, but those items which are marked with asterisks have been included under section 78 (2) of the Government of India Act for the due discharge of the special responsibilities of His Excellency the Governor.

Now, as regards the voted items, firstly, the extra demand is due to an excess under "Pay of Establishment" as the Head Clerk of a particular office was not given leave before his superannuation. In the interest of the public duties, the Head Clerk was continued in active service up till his superannuation day and he was given leave after his superannuation. There is such a provision in our Financial Rules. Nobody could foresee that the officer would not be granted leave, which was due to him, at the time when the Budget was framed.

Another item which necessitated extra expenditure under "Contingencies" is partly due to the buying of more reference books for the Police Department, and partly due to the commission charges for passage warrants issued by the district officers. Hon. members know that when our Gurkha and up-country constables go on leave they are given passage warrants in place of travelling allowance.

The cost of these passage warrants is collected by the Railway administration at the end of the year. So it is difficult to know what will be the exact amount that will be debited to this Government by the Railway Authorities. For some reason, there were many such warrants issued by the district officers, and therefore the excess.

Then the second item is the excesses under "Allowances and Honoraria" and that has been explained as partly due to the adjustment of travelling allowances of Superintendents of Police in the Provincial Service who remained on an officiating basis pending consideration of promotion by higher authority and partly to more touring and transfers. The excess under "Contingencies" is mainly due to the rise in the price of clothing articles.

All the other extra charges have been explained thoroughly in the explanatory notes, and I need hardly add anything further.

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

"That an additional sum of Rs.50,046 be granted to the Minister-in-charge to defray the charges which will come in the course of payment during the year ending the 31st March, 1941, for the administration of the head '29.—Police'."

The motion was then put and adopted.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Before you take up the next item, Sir, may I know whether the statement which is printed at page 20 of the demand list is printed in our proceedings?

**The Hon'ble the SPEAKER:** We do not print it.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I wanted to know because necessary corrections will have to be made there. If it is not printed I do not want to make any change.

### 37.—Education (European and Anglo-Indian Education).

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI:** On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs.883 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March, 1941 for the administration of the head "37.—Education (European and Anglo-Indian Education)."

Sir, the Grant originally voted by the Assembly was Rs.75,800.

The sub-heads under which the supplementary grant will be accounted for are—

				Rs.
(i)	Pay of officers	...	...	383
(ii)	Pay of establishment	...	...	200
(iii)	Allowances and honoraria	...	...	300
	Making a total of	...	...	883

Under pay of officers and pay of establishment the extra grants are required to meet leave allowances drawn by mistresses of the Pinemount School.

Under allowances and honoraria the additional amount is required to meet expenditure incurred for the medical treatment of mistresses of the Pinemount School. I may explain, Sir, that one of the mistresses had to be removed to the Welsh Mission Hospital under the instructions of the Civil Surgeon, and as the Civil Surgeon certifies that such a necessity existed, the amount is payable under the rules.

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

"That an additional sum of Rs.883 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March, 1941 for the administration of the head '37.—Education (European and Anglo-Indian Education)'."

The motion was then put and adopted.

(37.—Education—other than European and Anglo-Indian Education).

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI:** Sir, on the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs.38,798 be granted to the Minister-in-charge to defray certain charges which will come in course of payment during the year ending the 31st March, 1941, for the administration of the head "37.—Education (other than European and Anglo-Indian Education)".

	Rs.
The Grant originally voted by the Assembly was ...	37,91,500
Supplementary grant obtained in the November session of the Assembly.	66,457
Making a total of ...	<u>38,57,957</u>

Then I come to Sub-heads under which the supplementary grant will be accounted for they are :

They are—	Rs.
(i) University Education—	
B.—Grants to non-Government Arts Colleges	8,620
(ii) Primary Education—	
J.—Grants to Local Bodies for Primary Education.	7,810
(iii) Special Education—	
N.—Direct grants to non-Government Special Schools.	4,992
(iv) General Charges—	
T.—Miscellaneous—other Miscellaneous Charges—Allowances, etc. ...	1,000
(v) V.—Charges in England—	
Expenditure of the High Commissioner for India—	
Other Charges ...	1,600
(vi) H.—Works (Secondary)—	
Original works ...	2,000
(vii) F.—Secondary Education—	
Direct grant to non-Government Secondary Schools.	12,776
Making a total of ...	<u>38,798</u>

The additional grant to the extent of Rs.8,620 in item (i) is required to give grants-in-aid to certain non-Government Arts Colleges, viz., Sylhet Girls' College, Madhab Chaudhury College, Barpeta, and St. Anthony's College, Shillong, as the college authorities find it very difficult to manage the institutions with their inadequate income.

This amount in item (ii) is required to meet the additional expenditure incurred in connection with the taking over of more Venture Primary Schools than was originally intended.

The amount of Rs.2,068 in item (iii) is required for grants to the Women Teachers' Training School at Silchar. Due to the deputation of less number of teachers the expected savings did not accrue under the head "Secondary Schools for Boys" as the provision under the head was reduced by Government by Rs.20,155 as probable savings. A part of the amount is also required for grant to the Imperial Telegraph and Commercial Institute at Jorhat. The sum of Rs.2,924 is required to give aid to aided schools for flood damage repairs as I will explain later.

The additional grant in item (iv) is required to meet the unexpected expenditure in the shape of travelling allowance to the non-official members of the Tribal Educational Conference held in Shillong in November last.

The amount in item (v) is required to meet the payment of Rs.200 per month to the son of late Dr. S. C. Gupta, Inspector of Schools, Surma Valley and Hill Districts, in England through the High Commissioner. The corresponding amount was deducted from the pay of the late Dr. Gupta. The excess in the High Commissioner's budget would have been met from the saving under the head "Inspection—Pay of Officers" but this saving did not materialize due to drawal of arrear pay by Mr. H. W. Momin, Deputy Inspector of Schools, Garo Hills.

The sum of Rs.2,000 in item (vi) was donated by Miss Sarajini Das, B.A. B.T., daughter of late Rai Bahadur Saday Charan Das for the departmental construction of a hall named "The Sarada Memorial Hall" for the Government Lady Keane Girls' Middle English School at Jail Road, Shillong. The amount having been credited as a receipt under the audit rules, a similar sum is required on the expenditure side to meet the cost of erection departmentally of the proposed hall.

As to the last item, I may say that in view of the decision of the North Sylhet Local Board, not to maintain Middle Vernacular Schools Government have decided to contribute towards the seven schools which were previously maintained by the Board. The total amount of Rs.1,236 which was sanctioned to this Board for Secondary Education has been transferred to the disposal of the Director of Public Instruction for giving grant-in-aid to these schools with effect from 1940-41. But this amount being quite insufficient for the purpose the demand for an additional grant of Rs.7,476 has become necessary.

A sum of Rs.5,300 included in this item is required to give aid to such Aided Schools the buildings of which are in need of immediate and urgent repairs of damages caused by recent storms and which the authorities concerned are unable to carry out without aid from Government.

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

"That an additional sum of Rs.38,798 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment

during the year ending the 31st March, 1941, for the administration of the head '37.—Education (other than European and Anglo-Indian Education)'''.

**Mr. BAIDYANATH MOOKERJEE:** Mr. Speaker, Sir, I welcome some of the items in the demand, but as regards items (iv) and last part of (v) I have got something to say.

As regards (iv) I cannot understand why it was necessary to call a meeting of the non-official members on the Tribal Educational Conference when there are more than 8 hon. members in this House to represent their interests. And, Sir, as regards the last part of (v) it has been stated that it was due to the drawal of arrear pay of Mr. H. W. Momin, Deputy Inspector of Schools, Garo Hills. What was the reason of this arrear? Why was the pay not drawn in time? I want to hear an explanation about all these from the Hon'ble Minister.

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI:** Mr. Speaker, Sir, as regards item No. (iv) I may explain that the tribal members of this House, as well as of the Assam Legislative Council, put in a long list of tribal schools which they wanted Government to take over, and as this subject could not be discussed in the House, we thought that a small conference of the tribal members would be very helpful, and therefore, the tribal members of this House as well as members of the Upper House, were invited in order to discuss and find out their real needs.

**Mr. BAIDYANATH MOOKERJEE:** Why were the non-officials invited?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI:** This was a meeting only for the Members of the Legislative Assembly and the Members of the Legislative Council and some Education Officers—the Director of Public Instruction, the Inspectors and some Deputy Inspectors—but the travelling allowance of the Education Officers does not come under this head—this is only for non-official Members of Assembly and Members of Legislative Council.

As regards the point raised in item (v), I may explain that Mr. H. W. Momin's promotion was held up for some time to watch his work, and the Government having satisfied themselves that he had worked satisfactorily and gave permission that the promotion which was held up should be given and therefore it became necessary.

**Maulavi MUHAMMAD AMJAD ALI:** On a point of information, Sir. There were certain special scholarships created, but I do not find them in the List. I wish to be enlightened under which head they will be taken up.

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI:** The expenditure incurred for these special scholarships was met from the ordinary budget.

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

“That an additional sum of Rs.38,798 be granted to the Minister-in-charge to defray certain charges which will come in course of payment during the year ending the 31st March, 1941, for the administration of the head '37.—Education (other than European and Anglo-Indian Education).”

The question was then put and adopted.

## (38.—Medical)

**The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY:**  
Mr. Speaker, Sir, on the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs.8,700 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March, 1941, for administration of the head "38.—Medical."

Grant originally voted by the Assembly	Rs.	10,77,700
Supplementary grant voted by the Assembly at the November session.	2,200	
Total	...	10,79,900

II.—Sub-head under which this supplementary grant will be accounted for by the Medical Department—

E.—Mental Hospital,

(a) Mental Hospital, Tezpur—

Contingencies (non-contract)	Rs.	8,700
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## EXPLANATORY NOTE

E.—The excess expenditure is due to heavy expenditure under "Diet of patients" and "Clothing and bedding" on account of rise in prices and also to the increased population. A large number of blankets and garments had also to be replaced owing to high destruction by the patients.

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

"That an additional sum of Rs. 8,700 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March, 1941 for administration of the head "38.—Medical".

(After a pause).

The motion was put and adopted.

## (39.—Public Health)

**The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY:**  
Mr. Speaker, Sir, on the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs. 62,358 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head "39.—Public Health"—

Grant originally voted by the Assembly	Rs.	8,25,900
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II.—Sub-heads under which the supplementary grant will be accounted for—

A.—Public Health Establishment—

(a) Superintendence and other Establishment—

Allowances and honoraria	...	7,000
Contigencies (Contract)	...	1,300

C.—Epidemic Diseases—				
(a) Malaria—				
Non-contract Contingencies	...	...	...	3,700
Contract Contingencies	...	...	...	1,300
(b) Other Epidemics—				
Contingencies	...	...	...	37,000
E.—Pasteur and Vaccine Institute—				
(a) Pasteur Institute—				
Pay of Officers	...	...	...	6,389
Allowance and Honoraria	...	...	...	4,219
F.—Works—				
Public Health—				
Original works	...	...	...	1,450
				<hr/> 62,358 <hr/>

## EXPLANATORY NOTE

A.—The additional amount is required mainly to meet the increased expenditure on account of travelling allowance of Sub-Assistant Surgeons and Assistant Surgeons in connection with survey of Kala-azar affected areas owing to the recrudescence of the disease in several parts of the Province.

C.—(a) The extra amount is required to meet the increased expenditure incurred in connection with anti-malarial measures owing to the rise in prices of quinine and other materials due to the War.

(b) The additional grant is required partly to meet the increased expenditure on account of medicines, diet of patients and medical stores brought about by the opening of several new dispensaries to cope with the recrudescence of kala-azar in several parts of the Province and partly to meet the increased expenditure incurred on account of cholera vaccine and bacteriophage owing to the outbreaks of cholera epidemic in the districts of Sylhet, Cachar and Nowgong.

E.—The excess expenditure is due to posting of Dr. C. G. Pandit as officiating Director of the Pasteur Institute, expenditure of which was debited to voted grant, *vice* Lieut.-Colonel L. A. P. Anderson, I.M.S., appointed as officiating Inspector-General of Civil Hospitals, Assam.

F.—The additional amount is mainly required to meet the cost of certain improvements made in the Golaghat Kala-azar Hospital which was built during the preceding year.

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

“That an additional sum of Rs. 62,358 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March, 1941, for the administration of the head—‘39 Public Health’.”

The motion was then put and adopted.

## 50.—Civil works—(Excluding Tools and Plant and Establishment).

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs. 10,600 be granted to the Minister-in-charge to defray certain charges which will come in course of payment during the year ending the 31st March, 1941, for the administration of the head "50.—Civil Works (excluding Tools and Plant and Establishment)"—

	Rs.
Grant originally voted by the Assembly ...	49,16,500
Supplementary grant voted by the Assembly in the November session.	7,000
	<hr/> 49,23,500 <hr/>

II. Sub-head under which this supplementary grant will be accounted for by the Public Works Department—

## A.—Original Works (b)—Communications—

	Rs.
1. Ordinary Roads ... ..	10,600

The reason for this motion has been explained in the explanatory notes.\* Out of this sum of Rs. 10,600, Rs. 9,600 would be required for a bridge on the Surma Trunk Road and Rs. 1,000 for damage done to the Nalbari Dham Dhama Road.

**The Hon'ble the SPEAKER :** Motion moved.

"That an additional sum of Rs. 10,600 be granted to the Minister in charge to defray certain charges which will come in the course of payment during the year ending the 31st March, 1941, for the administration of the head—'50 Civil works (excluding Tools and Plant and Establishment')."

**Mr. BAIDYANATH MOOKERJEE :** Sir, can we have some idea from the Hon'ble Minister about this bridge No.45/2—I mean about its location?

## \*EXPLANATORY NOTES

I. Bridge No. 45/2 on the Surma Trunk Road (East) taken over from the Karimganj Local Board was found to be incapable of coping with the volume and intensity of traffic which is developing day by day. It was therefore considered expedient to take up its reconstruction and work was commenced in anticipation of a supplementary grant in order to prevent the delay which would otherwise have arisen as the work involved land acquisition. The current year's requirement on the work is Rs.9,600 against an estimate of Rs. 11,855.

II. The Nalbari Dham Dhama road was heavily damaged by flood in July 1939 necessitating a diversion of the road in the 5th mile which involve acquisition of land. The work was therefore taken up during 1939-40 in anticipation of a supplementary grant but as acquisition of land could not be effected no expenditure could be incurred last year. This position arose too late in the year to admit of any provision being made in the budget. The current year's requirement on this account is Rs. 1,000 against an estimate of Rs. 5,980.

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** I am afraid, I cannot give the exact location. It was a road taken over from the Karimganj Local Board by the Public Works Department. The bridge was in charge of the Local Board and when it was transferred it was found that it required reconstruction.

**Babu KAMINI KUMAR SEN:** It was probably on Lederkhal between Bhanga and Badarpur.

The motion was put and adopted.

50.—Civil works—Provincial—(Establishment charges)

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs. 8,386 be granted to the Minister-in-charge to defray charges which will come in the course of payment during the year ending the 31st March, 1941 for the administration of the head “50.—Civil Works—Provincial—(Establishment Charges)”—

Grant originally voted by the Assembly ... Rs. 8,12,400

II. Sub-head under which the Supplementary grant will be accounted for by the Public Works Department:—

B.—Charges on Construction—

Rs.

3. Allowances and Honoraria ... 8,386

The reason has been explained in the Explanatory Notes which I read out as follows.

EXPLANATORY NOTES

“The total anticipated excess is Rs. 11,500 against which a sum of Rs. 3,114 is available for re-appropriation from savings under other heads. The original budget provision under the travelling allowance heads was reduced by Government in anticipation of the fact that revised travelling allowance rules might come into force which, however, did not materialise. Hence the budget provision proved insufficient to meet actual requirements. The tractor demonstration held at Sylhet in December 1940 is also partly responsible for increased travelling allowance expenditure.”

The Hon'ble the Premier has explained in detail about the tractors and I have hardly anything more to add to that.

**The Hon'ble the SPEAKER:** Motion moved.

“That an additional sum of Rs. 8,386 be granted to the Minister-in-charge to defray charges which will come in the course of payment during the year ending the 31st March, 1941 for the administration of the head—“50 Civil Works—Provincial—(Establishment charges).”

**Mr. BAIDYANATH MOOKERJEE:** It has been said that in the original budget, provision under the travelling allowance heads, was reduced by Government in anticipation of the fact that revised travelling allowance rules might come into force which, however, did not materialise. May we know in this connection the reason why the coming into force of the revised rules did not materialise?

In this connection, we find that the demonstration of tractors is responsible for a large amount of expenditure even under the charged expenditure. It is found that about Rs. 2,000 were spent and shown charged. Here also, we find that this is partially responsible for a big amount. I think, out of this amount of Rs. 11,500, a major portion has also

been spent under this head. So, Sir, whether such a big amount should have been spent for such a purpose requires more explanation from the Hon'ble Minister.

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** Sir, as regards the reason why the revised rules of travelling allowance did not come into force, I think, representations were received from Government officials about the inconvenience that will be caused if the revised rules for travelling allowance came into operation. So it was suspended for the time being.

As regards the tractor demonstration, the reason has been explained by the Hon'ble Premier. The hon. member wants to know why such a big sum has been spent on this demonstration. Besides Executive Engineers and Assistant Engineers, Subdivisional officers also came from various subdivisions and were asked to visit the demonstration. So the item is necessary.

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

"That an additional sum of Rs. 8,386 be granted to the Minister-in-charge to defray charges which will come in the course of payment during the year ending the 31st March, 1941 for the administration of the head—“50—Civil Works Provincial—(Establishment Charges)”.

The question was adopted.

(57.—Miscellaneous.)

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:**  
Mr. Speaker, Sir.

On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs. 1,15,200 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March, 1941, for the administration of the head “57.—Miscellaneous”.

	Rs.
Grant originally voted by Assembly ... ..	3,27,100
II.—Sub-head under which this supplementary grant will be accounted for—	Rs.
C.—Donations for charitable purposes ... ..	1,000
D.—Special Commission of enquiry ... ..	14,200
F.—Irrecoverable temporary loans and advances written off.	1,00,000
	—————
Total	1,15,200

Now expenditure under Head ‘C’ is due to increase under “Miscellaneous contingencies”. The expenditure under ‘D’ is due to the appointment of the All Assam Ministerial Services Reorganisation Committee. This appointment was made after the Budget was framed and so this expenditure has been incurred and lastly there was a provision of Rs. 10,000 for the writing off of irrecoverable temporary loans and advances but the total expenditure has been one lakh ten thousand as explained below:

- (a) Local officers reported that there are some old outstanding loans in certain districts of both the valleys, which cannot be realised without great hardship to the borrowers. They therefore recommended to write them off. A sum of Rs. 1,07,606 representing agricultural loans and land improvement loans had accordingly

to be written off as irrecoverable in both the Valleys i.e., Rs 40,757 in Surma Valley and Rs.66,849 in the Assam Valley.

- (b) A sum of Rs. 2,394 was also outstanding as the balance of cost of survey operations and boundary marks due from certain landholders for many years in the district of Lakhimpur. As the amount proved irrecoverable it had to be written off on the recommendation of the local officers.

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

"That an additional sum of Rs.1,15,200 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head—'57.—Miscellaneous'."

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY :** Mr. Speaker, Sir, I beg to move that the provision of Rs.1,15,200 under supplementary demand No. 13, Major head—57.—Miscellaneous (total), at page 15 of the list of Supplementary Demands for Grants for 1940-41 be reduced by Re.1, i.e., the amount of the whole supplementary demand of Rs.1,15,200 do stand reduced by Re.1.

My aim of moving this motion is to raise a discussion about the personnel of the Assam Ministerial Services Re-organisation Committee. The Committee was formed with Rai Sahib Dinesh Chandra Das, as President, Mr. A. S. Chakravarty Ayyanger, as Secretary and Mr. Nilanath Sarma, as Member. One clerk and one Stenographer also were attached to the Committee. Whether the result of the labour of the Committee will be commensurate with the expenditure involved is doubtful, but it is curious to notice that not a single Muslim has been taken in the Committee. I admire the idea that worked in the mind of the authority that formed the Committee in intelligently leaving out Muslim member from the Committee though there was no dearth of suitable Muslims who could serve efficiently in the Committee. But I cannot admire the practical acuteness of judgment when the authority appointed Rai Saheb Dinesh Chandra Das who himself is the President of the Ministerial Officers Association, as President of the Committee and a Madrasi Non-Muslim who is a Stenographer of this House and who presumably knows very little about the nature of work of the Ministerial officers of the province, on a special additional pay, if I am correct, of Rs.200 per month. Though the Secretary of the Committee himself is a Stenographer, still another Stenographer has been attached to the Committee which means sheer wastage of public money. The way in which the Committee was formed is not at all satisfactory. The way I cannot but record my emphatic protest against it.

With these few words, Sir, I commend my motion for the acceptance of this House.

**The Hon'ble the SPEAKER :** Cut motion moved :

"That the provision of Rs.1,15,200 under Supplementary Demand No.13, Major head—57.—Miscellaneous (total), at page 15 of the list of Supplementary Demands for Grants for 1940-41 be reduced by Re.1, i.e., the amount of the whole Supplementary Demand of Rs.1,15,200 do stand reduced by Re.1".

**Mr. A. WHITTAKER :** Mr. Speaker, Sir, I am in search of an information about this Committee. We know that it has been working for a long time and I would like to know from the Hon'ble Finance Minister whether there is a time limit for this Committee because I agree with my hon. friend Mr. Maqbul Hussain Chaudhury that if the expenditure goes in this way, the result will be incommensurate with the amount of money we are spending.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** The Committee was originally asked to complete their labour by the 31st March, but on their further requisition, Government have extended the time to 15th of May.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Mr. Speaker, Sir, two hon. members have raised the question whether the money entirely spent by this Committee will be commensurate with the result obtained. Of course, we cannot presume what will be the result; but both the Chairman and other members of this Committee have seen me and what little I could gather from the conversation with them, I can say that we can expect very good result from the report of this Committee. They have traversed a very vast ground collecting a large amount of data and if after the receipt of their report we cannot benefit from their labour, it will not be the fault of the Committee but of the authorities that may function at the time. Now in this connection, I cannot but mention that unfortunately in various parts of this province a systematic defalcation of stamp revenue is going on. The Committee is giving their close attention to this aspect of the matter and probably they will make certain recommendation which will ensure that Government money cannot be defalcated, or at least they will suggest something in their report so that chance of such defalcation may be rare.

My hon. friend Maulavi Maqbul Hussain Chaudhury has criticised the Government for not putting any Muslim member in this Committee and he says that there was no dearth of suitable Muslim members. Sir, I agree with him that there is no Muslim member in this Committee and that there was no dearth of suitable Muslim member. When I constituted this Committee, on recommendation from the Ministerial Association, I thought of bringing in this Committee men with sufficient experience of every kind of work that goes on in this province. The Chairman, Rai Sahib Dinesh Chandra Das, started his office career in the office of a Head of Department and thereafter he was transferred to the Secretariat and there he became not only the Registrar but also acted for sometime as Under-Secretary. So he had the experience of the office of a Head of Department as well as of the Secretariat. Next I selected Rai Sahib Nila Nath Sarma from the Assam Valley because he was originally in the district establishment, that is, in the office of a Deputy Commissioner, and on account of his special merit, he was transferred to the Commissioner's office where he rose to the post of Personal Assistant. So he has got experience of the district office as well as the office of the Commissioner. As these two gentlemen have been schooled in the ideas from which they have got sufficient experience within the province and as I thought that a man of experience outside the province may be helpful to us, I put in a third man, Mr. Chakravarty Ayyanger, who has vast experience of office work of the Secretariat as well as the High Court in the Madras Presidency and who was also a Private Secretary of a Ruler of a Native State and has worked as a stenographer in various committees under me. Hon. members who have sat with me at different committees know the worth of this particular officer. Therefore, to get advantage of his experience outside the province, I put him in. So, Sir, if I am wrong in selecting these three men I plead guilty, but I will leave the judgment to the vote of the House. It is unfortunate that I could not put in any Muslim as my hon. friend complains, but I thought that the question of Muslim interest or any particular interest did not come in here. We are waiting to see the report; it has been reported to us that in some offices maximum labour is not exacted from assistants while there is duplication of labour in other offices, or a matter which could be dealt with by

one assistant goes to two or three. Similarly, we have not up till now any standard for increasing hands in a office. We are simply following the rule of the United Provinces, that is, if an office receives three thousand letters from outside and issues two thousand, it will have a certain number of assistants. If the number increases it will claim more assistants. That is a misleading step. For instance, the receipt of a Gazette from the Press is taken as a receipt. Really that should not be. It is a mechanical work; the clerk has not spent any time in going through the Gazette. Only those receipts are to be counted for increase of staff on which the clerk has got to put up a note. It is to find out these materials which are common to Hindus and Muslims alike that the Committee was appointed and therefore the question of communal representation in the personnel of the Committee did not arise.

**The Hon'ble the SPEAKER:** Does the hon. member like to press his motion?

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY:** As the Hon'ble Premier has pleaded guilty to the charge, I do not like to press my motion and beg leave of the House to withdraw it.

The motion was, by leave of the House, withdrawn.

### Adjournment

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

### After lunch

**Khan Bahadur Maulavi MUFIZUR RAHMAN:** Mr. Speaker Sir, may I know how the money under "C.—Donations for charitable purposes" was spent?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** The hon. member will find under C.—It is explained that the increase is under 'Miscellaneous contingencies'. If he refers to the Budget Memorandum, he will find that the donations for charitable purposes represent charges on account of passage and diet money of lunatics and lepers, charges for the relief of distress, burial charges of paupers and contributions to certain societies. Now the charges incurred under this head was on account of diet money of lunatics, relief of distress and burial charges of paupers.

**Maulavi MUHAMMAD AMJAD ALI:** Will the Hon'ble Minister take note of the fact that certain difficulties are experienced in jails relating to the burial expenses of the dead bodies of convicts and under-trials?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Yes, Sir, if proper representation is made, the matter will be looked into by the Administrative Department.

**Maulavi MUHAMMAD AMJAD ALI:** Will the Hon'ble Minister take it as a notice from me, Sir?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Yes, Sir, that will be borne in mind.

**Mr. BAIDYANATH MOOKERJEE:** As regards F(b), "A sum of Rs.2,394 was also outstanding as the balance of cost of survey operations and boundary marks due from certain landholders for many years in the district of Lakhimpur. As the amount proved irrecoverable it had to be written off on the recommendations of the local officers."

Sir, when this money is due by the landlords why this should be considered irrecoverable and should be written off? Sir, I would like to protest against this. Why this amount should be written off, as, I think, it can be recovered because it is due from landlords. (Cheers.)

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Sir, as I said, this amount is outstanding since 1909-10. Of course, it is unfortunate that these arrears should have been dragged on till now and should have been adjusted long ago; but attempts were made now to recover it but it was found on enquiries that these landlords were dead and gone.

**Mr. BAIDYANATH MOOKERJEE:** What about their lands? Whether their lands were also dead and gone?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** This amount is recoverable from the proprietors under Rule 101 of the Assam Land and Revenue Regulations. Now in a survey and settlement operation, a village has to be demarcated and the boundary marks of permanent nature are to be erected where the boundary of three villages meets. It is laid down that the expense of this erection and repair of boundary marks will be realised from the proprietors and land-holders entitled to receive rent in respect of such land and this amount is not payable in advance but is recoverable as arrears of land revenue. So if diligent action were taken, these could have been recovered immediately after the survey, but after such a length of time it would not be possible to realise the amount.

**Mr. BAIDYANATH MOOKERJEE:** Sir, is it barred by limitation? If there is no legal bar, why should this amount be written off?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** It is difficult to trace the proprietors now. They are mostly dead and gone.

**Mr. BAIDYANATH MOOKERJEE:** Lands are there and so it is very easy to trace the landlords.

**The Hon'ble the SPEAKER:** The hon. member ought to have tabled a cut motion for the refusal of the amount. If he had moved a cut motion, there would have been a discussion. What is the use now in discussing these things. Moreover, the Hon'ble Minister has given some reasons for this.

**Mr. BAIDYANATH MOOKERJEE:** I shall oppose the whole amount of this grant unless I get any satisfactory explanation. So I am quite within my limit, Sir.

**The Hon'ble the SPEAKER:** Will the Hon'ble Minister add anything further?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** I do not want to add anything further, Sir.

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

"That an additional sum of Rs.1,15,200 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head '57.—Miscellaneous'."

A division being claimed, a summary division was taken inside the Chamber by asking the members to rise in their places with the following result:—

Ayes	—	36.	Noes	—	7.
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The question was adopted.

No.15

## 25.—GENERAL ADMINISTRATION

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs.48,000 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head "25.—General Administration",

Grant originally voted by the Assembly ... Rs. 21,07,100  
 II. Sub-head under which this supplementary grant will be accounted for—

District Administration—  
 1. General Establishment—

				Rs.
(i) Pay of Officers	...	...	...	30,000
(ii) Allowances and Honoraria	...	...	...	8,000
(iii) Contingencies	...	...	...	10,000
				<hr/> 48,000

Sir, the excess is due to the promotion of certain provincial service officers to officiate as Deputy Commissioners. There will thus be a saving under "Charged" expenditure 50% in excess of this figure.

The second item, which is 'Allowances and Honoraria', is due to transfers and increased touring.

In the last item 'Contingencies' the excess is due to the increase in the rates of postage, general rise in prices of articles and increase of correspondence due to census, opium prohibition, mass literacy and census work.

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

"That an additional sum of Rs.48,000 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head '25.—General Administration'."

The motion was then put and adopted.

No.16

27.—ADMINISTRATION OF JUSTICE

**The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI:** On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs.27,700 be granted to the Minister-in-charge to defray the charges which will come in the course of payment during the year ending on the 31st March 1941, for the administration of the head "27.—Administration of Justice".

Grant originally passed by the Assembly ... Rs. 7,17,400  
 II. Sub-heads under which the supplementary demand will be accounted for—

				Rs.
1. D.—District and Sessions Judges—				
Pay of Officers	...	...	...	18,100
Allowances and Honoraria	...	...	...	5,300
2. I.—Criminal Courts—				
Contingencies	...	...	...	4,300
Total	...	...	...	<hr/> 27,700

Sir, with regard to item No. 1 the explanation is that at the instance of the Hon'ble Judges of the Calcutta High Court, Government sanctioned additional posts of temporary Judges and Munsifs to clear up arrears of

Civil and Criminal Cases as the existing staff was inadequate to cope with the work. Then with regard to Contingencies, the additional amount is required to pay higher charges for "Diet and Road money of witnesses" due to the rise in prices and the increase in the number of cases. The expenditure under this head is uncertain.

This Assembly is, therefore, requested to vote a supplementary grant of Rs. 27,700 to meet the additional charges.

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

"That an additional sum of Rs. 27,700 be granted to the Minister-in-charge to defray the charges which will come in the course of payment during the year ending on the 31st March, 1941, for the administration of the head '27.—Administration of Justice'."

The motion was then put and adopted.

#### No.17

#### 28.—Jails and Convict Settlements

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI:** On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs. 67,241 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending on the 31st March, 1941, for the administration of the head "28.—Jails and Convict Settlements."

Rs.

The Grant originally voted by the Assembly was 4,60,400

The sub-heads under which the supplementary grant will be accounted for are—

Rs.

#### A.—District Jails—

1. Pay of Officers	...	...	...	2,341
2. Pay of Establishment	...	...	...	2,000
3. Allowances and Honoraria	...	...	...	2,200
4. Contingencies (Non-Contract)	...	...	...	35,800
5. Contingencies (Contract)	...	...	...	2,800
D. Jail Manufactures—Contingencies (Non-Contract)	...	...	...	18,000
B. Charges for police custody	...	...	...	4,100

Making a total of ... 67,241

Sir, the excess in item 1 is due to posting of voted officers in place of charged ones. There is a corresponding saving under charged.

The excess in item 2 is due to estimate under Warder's Establishment having been cut down by Rs.2,400.

The excess in item 3 is due to more transfers.

The excess in item 4 is due to rise in prices of almost all the articles such as foodstuff, medicines, clothing and bedding and uniform and also due to admission of *Satyagrahi* prisoners and detention of lunatics in jails for want of accommodation in the Mental Hospital.

The excess in item 5 is due to increased rate of service postage stamps and increase in the price of almost all articles.

The excess in D is due to purchase of raw materials such as iron, brass, yarn, etc., at increased rate due to War and also to more supply of Jail-made articles to other Departments of Government.

The expenditure in B is due to the fact that an additional amount is required to meet the diet and conveyance charges of under-trial prisoners the number of whom has increased since the budget was framed and to the general rise in the prices of all commodities, which would mean increased income to the jails.

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

"That an additional sum of Rs. 67,241 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending on the 31st March 1941, for the administration of the head '28.—Jails and Convict Settlements'."

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY :** On a point of information, Sir. Will the Hon'ble Minister please explain which officers does he mean by the term "voted officers"?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI :** In place of certain I. M. S. officers, who have been transferred elsewhere, non-I.M. S. officers have been placed in charge of Jails. Therefore, there has been an increase in expenditure under the voted item. As I have said before, there will be a corresponding saving under charged.

**Maulavi ABDUR RAHMAN :** Mr. Speaker, Sir, before the demand is put to vote I would like to make a few observations with regard to under-trial prisoners. It has been stated in the explanatory note that the increase is due to the admission of *Satyagrahi* prisoners and increase of under-trial prisoners the diet money expenses have increased.

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI :** Which item?

**Maulavi ABDUR RAHMAN :** Demand No. 17, Sir. We have seen that in jails under-trials are unnecessarily detained. The Magistrates make unusual delay in disposing of the cases, and therefore the prisoners are allowed to be in *hajrat* for a longer period. If the Government kindly direct the Magistrates not to keep under-trials in jails for an unreasonable time, the diet money on that account would be saved to a greater extent. At the same time there will be another benefit.

**The Hon'ble the SPEAKER :** Is there anything in the demand relating to the expenses of under-trials?

**Maulavi ABDUR RAHMAN :** There is reference in the demand relating to diet money, contingencies, etc.

**The Hon'ble the SPEAKER :** But how does the question of under-trials come in? The hon. member knows that he cannot discuss any matters which arise from estimates in the original budget. He can confine his observations only to the items that are put before the House. Now he is discussing matters which can very well be discussed at the time of the main budget demand. I think this discussion is quite irrelevant so far as the supplementary demand is concerned. The hon. member will get time to discuss these matters when the demand for 1941-42 will be taken up.

**Maulavi ABDUR RAHMAN :** Very well, Sir.

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

"That an additional sum of Rs. 67,241 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending on the 31st March 1941, for the administration of the head '28.—Jails and Convict Settlements'."

The question was adopted.

### 63.—Extraordinary charges

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs. 1,00,457 be granted to the Minister-in-

charge to defray certain charges which will come in the course of payment during the year ending the 31st March, 1941, for the administration of the head "63.—Extraordinary charges".

Grant originally voted by the Assembly ... Nil

II. Sub-heads under which this supplementary grant will be accounted for by Finance Department—

	Rs.
A.—Charges in India—	
Charges incurred as a direct result of War...	257
B.—Charges in England—	
Contribution to the War Fund ...	1,00,000
C.—Loss by exchange ...	200
Total ...	1,00,457

Sir, out of these three items which I have just now read, the second item, *viz.*, the contribution to the War Fund, to the extent of one lakh was moved before this House in the last November session by me. A point of order was raised. Thereafter, Sir, you advised Government to take legal opinion and bring the matter up again.

The third item, loss by exchange, is consequential on the item of one lakh ; and the first item, which represents the pay of two clerks entertained in the office of the Deputy Commissioner, Sylhet, to cope with the increased work necessitated by control of prices, has nothing whatever to do with the items B and C.

Sir, during the discussion of the last session you were pleased to say that the situation created by this motion had no precedent in India and therefore you wanted a full dress debate. You had also stated, Sir, that, without full legal opinion, you were not in a position to decide whether the demand was within the purview of section 150 of the Constitution Act as the Government had taken it to be. So, since then, we have consulted legal opinion, both of our Advocate General and of the Government of India. Government has been advised by our legal expert as well as by the Government of India that the demand is quite *intra vires* of this Legislature.

Sir, two issues arise out of this ruling of yours. The first one shall have to be dealt with first before we come to the main issue. The first one is whether the Hon'ble Speaker is entitled to rule a demand out of order on the ground that the purposes for which the money has been spent are not purposes under section 150 of the Government of India Act, 1935. Thereafter, if it is answered in the negative, then alone the second question will come, *viz.*, that a grant of money out of the provincial revenues to His Majesty's Government for the prosecution of the war is a legitimate imposition of a burden on the provincial revenues or in other words, for the purposes of India. Sir, my request to you will be that you will be pleased to take up the first question, so that, if the answer be in the negative, then the second question alone will arise.

**The Hon'ble the SPEAKER :** Will the Hon'ble Prime Minister please repeat the first question ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAAUDLLA :** That question is whether the Hon'ble Speaker is entitled to rule a demand out of order on the ground that the purposes for which money is being demanded are not purposes of India within the meaning of section 150 of the Government of India Act, 1935.

Sir, if I have read your ruling aright of the last occasion, you mentioned, Sir, this :—

“It seems to me that, if this House agrees to grant this amount, it may tend to have far-reaching consequences in future. It is, therefore, that I am saying that this demand has raised a great constitutional issue, the decision of which depends on the interpretation of section 150 of the Government of India Act.

Now, in going to decide this point of order, I shall have to see whether the expenditure is *prima facie* necessary on the ground stated by the Government in the supplementary statement and in the speech of the Hon'ble Premier. But that is not the only question I am to consider in connection with this motion, because the House has asked from me an interpretation of section 150 of the Government of India Act. These are the considerations which lead me to think that I have got a very great responsible duty to perform in connection with this motion. The question that is troubling me is how I am to direct this House. The decision really involves, as I have already shown, an interpretation of section 150. Should I, as Speaker, interpret section 150 of the Government of India Act and ask the House to accept that interpretation, or should I ask the House to decide by their vote that such and such is the interpretation of that section? These are considerations that have arisen in my mind. As to what should be the interpretation of this section, the debate that has taken place gives me no light whatsoever in favour of the view placed on behalf of Government”.

That is why I say that as I read your ruling, I first wanted you to decide whether the Speaker has the power to disallow any motion for a grant. The Speaker is a creature of the Statute and section 65 of the Constitution Act lays down the procedure about the appointment of the Speaker, but nowhere in the Act itself have I found any specific mention of the duties and functions of that great, onerous and responsible office...

**The Hon'ble the SPEAKER :** That is to be found in the Rules.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** The Rules are only a creation under the Statute. Now, if we look into the different sections of the Constitution Act, we find under section 71 the privileges of members---(and I include the Hon'ble Speaker within the category of one of the members). Under sub-section (3) of section 71, it is definitely laid down, “notwithstanding anything in the foregoing provisions of this section, nothing in this Act, shall be construed as conferring, or empowering any Legislature to confer, on a Chamber thereof or on both Chambers sitting together or any committee or officer of the Legislature” (in my opinion the Hon'ble Speaker is an officer of the Legislature) “the status of a court, or any punitive or disciplinary powers other than the power to remove or exclude persons infringing the rules or standing orders”. The marginal note to section 65 mentions “Officers of Chambers”. Therefore there can be no doubt that the Speaker is an Officer of the Legislature, and section 84 has set forth the machinery to frame Rules for regulating the procedure, and all that is laid down there is that the “Chamber of a Provincial Legislature may make rules for regulating, subject to the provisions of this Act, their procedure and the conduct of their business :

Provided that, as regards either a Legislative Assembly or a Legislative Council, the Governor shall in his discretion, after consultation with the Speaker or the President, as the case may be, make rules—

(a) for regulating the procedure of, and the conduct of business in, the Chamber in relation to any matter which affects the discharge of his functions in so far as he is by or under this Act required to act in

his discretion or to exercise his individual judgment ;

(b) for securing the timely completion of financial business ;

(c) for prohibiting the discussion of, or the asking of questions on, any matter connected with etc., etc."

So here also we do not find what are the exact duties of the Hon'ble Speaker. But as you said, Sir, that his duties are defined by the Rules that have been framed, and all that the Rules say is that, "the Speaker shall decide all points of order that which may arise, and his decision shall be final". Now here, Sir, the first point for decision is whether the legal interpretation of section 150 of the Government of India Act is a matter relating to the business or procedure of the House, or whether such an interpretation of section 150 is one of the legitimate duties of the Hon'ble Speaker.

**The Hon'ble the SPEAKER :** Or in other words, whether it is a point of order ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** Yes, Sir, whether it is a point of order. Sir, you stated yourself in your ruling that this was a point of very great difficulty. You said:—"In connection with Bills, points of order are oftentimes raised as to the competence of this Legislature to legislate on any particular matter. In that connection the Chair interprets relevant sections of the Government of India Act and guides the House ; but this is a matter which is not really analogous to that. Section 150 of the Government of India Act relates to financial matters of the Province and is not related to any rules or procedure to be followed in the House. In some quarters it has been doubted whether the Speaker should arrogate to himself the duty of interpreting sections of the Government of India Act even in matters of legislation and ask the House to guide itself according to the opinion that he may express. There is also some doubt as to the procedure that is followed in some Parliaments that when the Chair cannot decide a legal question he is to leave it to the House to decide.

I have tried to look up precedents so far as India is concerned, and I have not as yet come across any precedent which tells me that when the Chair feels doubt on any purely legal question he should leave it to the House. These are practical difficulties that are confronting me in regard to the question whether I should arrogate to myself the duty of interpreting a section of the Government of India Act when it relates to financial matters. Is it a part of the duty of the Speaker to dictate to the House and thus to Government that a particular expenditure incurred or to be incurred by Government is legal or otherwise, by interpreting relevant sections of the Government of India Act ? Therefore, I was asking Government to withdraw this demand and come forward with this demand before the end of the financial year so that these matters may be examined by me fully in order to get light as to what my duty should be in case Government cannot produce any legal opinion which should be binding on the House." Sir, in another place you have remarked:—"So from what I have said it would appear to the House that this supplementary demand involves a very big question and my opinion is that that the decision of the House on such a big question should not have been sought by means of a supplementary demand in the way in which it has been brought before the House. The House must get time to consider these points before the hon. members come to a decision as to whether they should sanction this amount." In ruling the motion out of order, you were pleased to quote a ruling which the Hon'ble President of the Assam Legislative Council gave on a motion in regard to a supplementary demand on the 16th September 1933. You said:—"That was a supplementary

demand brought forward before the House to make the post of Live-Stock and Dairy Expert permanent on a new scale of pay. The President said that that was a very big question, *i. e.* a big principle underlying the grant, and then he said that he could not allow the House to discuss that motion. If that was really a big question, the present question is a very very big one and the course that he followed in connection with that demand was that he did not even allow the Hon. Finance Member then to move the motion. He said, 'this is a very big question, which the House should have a full opportunity of discussing and deciding upon and which should not be put to the House by a supplementary demand of such a nature. I would accordingly like to advise the Government to bring this question before the House in March next when it can be fully discussed'.

Now, Sir, with regard to the general question whether the Speaker is bound to put all motions to the vote, Redlich at page 221 of Vol. II says—

**The Hon'ble the SPEAKER :** That point is not relevant. The Hon'ble Premier is really discussing a ruling on a point of order. That is strictly a point of order and when the Speaker gives a ruling on it, that can never be discussed in this fashion. There is also another way of discussing a ruling on a point of order. I think that does not arise now. He cannot challenge that ruling.

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

I am not challenging your ruling in any way, Sir.

**The Hon'ble the SPEAKER :** The Hon'ble Premier stated that only two questions arose. Firstly—whether the Chair can decide a legal question and secondly, whether the Chair can refuse to put to the vote of the House any question discussed on the floor of the House. I think, the Hon'ble Premier is anticipating what the Opposition would urge and I think he has got good grounds for anticipating that. But I would ask the Hon'ble Premier not to discuss in such a way as would go to challenge the act of the Chair.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** Far from challenging the Chair, I was trying to place before the House the rules that obtain in other Parliaments about the general question whether the Speaker is bound to put every question to the vote or not.

Redlich at page 221, Vol. II of the Procedure in the House of Commons, says:—

"The possibility of the Speaker's refusing to allow a motion to be voted upon can only arise in the case of motions which are out of order either in their subject-matter or in their form. Such are motions which contain unbecoming expressions, infringe the Rules of the House or contain reflections upon a vote of the House."

It does not appear from this that the Hon'ble Speaker is entitled not to put a motion to the vote because the Speaker was unable to decide. His grounds were that there was no opportunity of a fair debate before the House. When there is such a state of things that the House is not getting a fair opportunity with regard to the debate, the Speaker has got a right not to put to the vote.

**The Hon'ble the SPEAKER :** It was not because I was unable to decide, but it will be seen from the whole trend of my ruling that no opportunity was given to the House for a reasonable debate on the question. Therefore it was not put.

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

If I remember aright, you surely mentioned that a full-dress debate ought to take place on this question. Along with that you were pleased to

ask that Government should follow the procedure laid down in section 213 of the Constitution Act, that is submitting the case to the Governor-General to be placed before the Federal Court. Therefore, the question of a full-dress debate as well as want of legal interpretation were in your mind.

**The Hon'ble the SPEAKER :** What I referred to was that that was a legal question.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** At the time of giving your ruling it was in your mind that the House should get an opportunity of having a full-dress debate on the question, and secondly, you were unable, or rather unwilling, to interpret the section of the Constitution Act. Therefore, you advised the Government to take legal opinion about the interpretation. Therefore, I was touching on the point about interpretation.

Sir Erskine May at page 190 of his latest edition, the 13th edition on Parliamentary practice—I wonder if you have got the latest edition—says :

“The Speaker is responsible for the due enforcement of the rules, rights, and privileges of the House, and when he rises he is to be heard in silence. In accordance with his duty, he declines to submit motions to the House which obviously infringe the rules which govern its proceedings ; such as a motion which would create a charge upon the people and is not recommended by the Crown ; a motion touching the rights of the Crown, which has not received the royal consent ; a motion which anticipates a matter which stands for the future consideration of the House, which raises afresh a matter already decided during the current session, or is otherwise out of order, and decides whether a motion, brought forward as a matter of privilege, comes within that category.”

It will thus be seen, Sir, that a motion could be ruled out of order if it encroached upon any rules or rights and privileges of the House.

I have not been able to find any express authority to the effect that where the Hon'ble Speaker differs as regards the legal interpretation of a section on which a motion is based, he can rule the motion out of order. The question, however, came up recently before the Council of State, and I find, Sir, a very relevant ruling by the Hon'ble President of the Council of State which is reported in Volume I, 1939 at page 328. The ruling was on the point whether a Bill which was contended to be *ultra vires* of the constitution should be decided by the President or House. There the question was as regards a Bill relating to the Shebaity right and the office of Shebaita and the devolution of such right or office in Hindu Debuttering opinion thereon. Objection was taken to this Bill on the ground that since 1935 Act, this subject is entirely of provincial jurisdiction and therefore the House cannot discuss it. I would read from page 329 certain portions which would show that the question should not be decided by the Chair. The Hon'ble President spoke thus :—“The important question that I have now to decide whether it is competent to the President and also whether it is his duty to refuse to allow this Chamber to entertain a Bill the enactment of which is in his opinion beyond the jurisdiction of the Central Legislature. If I answer that question in the affirmative, it would be necessary for me to determine whether on notice being given of a Bill which in my opinion is not within the jurisdiction of this Chamber, I should allow any Motion with reference to the Bill to be placed on the list of business and on the Motion being reached in its turn in the House I should hear arguments before giving my decision whether the Motion could not be made. In other words, the question is whether it is within the competence of the Chair to give a decision or he should leave the House as a body to decide whether the

particular Bill is *ultra vires* of the Constitution. I may mention that on this important question two views have been expressed in the past. On the one hand it has been contended that it is the province of the Federal Court to interpret the Constitution and that the President howsoever convinced that the Bill sought to be introduced is beyond the jurisdiction of the Legislature should not take it upon himself to kill the Bill on a point of order, but should leave the Bill as presented to the vote of the Legislature with the effect of leaving the question regarding the validity of the Bill in the event of its enactment by the House to be determined by the Federal Court. It would be a denial of this right if the Chair were to rule out a Bill as *ultra vires*, for in that case the question can never be taken to the Federal Court. On the other hand, with great force the view has been expressed that if a Bill sought to be introduced, *per se* falls within the purview of subjects exclusively included in List 2 the obvious course for the President to adopt is to prevent waste of public time to permit the Chamber to entertain the Bill. The point to be decided is the same whether the Bill is a private Bill or a Government Bill. "Then again he goes on to say "the question for my decision now is what course I should follow in the event of a private Member of the Indian Legislature seeking to introduce a Bill which in the opinion of the President is not within the jurisdiction or competence of the Central Legislature as determined by the Government of India Act, 1935." Then he refers to a Bill which was discussed in the Legislative Assembly in October, 1937. In that case, the question arose whether the President had the power to stop a Bill himself or whatever the nature of the consideration may be it was the duty of the House to come to the conclusion whether a legislative measure was *ultra vires* of the constitution and should be passed or not. It was admitted by the President then that the practice had been hitherto for the Chair to decide such questions, but under the Act of 1935, this question was of special importance and the more so, because similar questions were likely to arise in the future with respect to legislation in the Assembly and perhaps in other Legislatures. In that case, that Bill was introduced before the present Government of India Act, 1935, came in force but the Bill came up for discussion on the 7th October, 1937. But the decision of the vital question on that occasion was averted by a compromise arrived between the Government and the Leader of the Opposition. At page 331 he says, "I would like at this stage to take a brief survey of the practice and procedure adopted by the Dominions and to see if I could get any assistance from them." Then he says, Sir, in the next page, "It is necessary to refer to the practice prevailing in Great Britain as no such contingency has arisen there in the past nor it is likely to arise in future. The Constitution of England is based on quite a different footing. There are no Federal ties, constitutional conflicts or differences. The Constitution is one for the whole United Kingdom, and the laws are framed for the country by the integral Government through Parliament. Both the Houses of Parliament, possess unlimited and unrestricted powers for framing laws suitable for the requirements of the country. There is no question of a Bill being introduced there which would be *ultra vires* of the Constitution. If any such enactment is passed by one House the other House would doubtlessly veto it. We cannot therefore find any solution of our difficulty by references to the British Constitution. However, the Constitution of the Dominions of Australia and Canada closely resemble that of India and there would be no justification in my opinion to create a position in India either by framing fresh standing orders or rules

which would enable the President or Speaker of the Central Indian Chamber himself to rule out of order any Bill on the ground of *ultra vires*. Having carefully considered all these matters I have come to a definite decision that as long as I occupy this Chair I shall not make any attempt now or on any future occasion to secure the destruction of a private or Government Bill which is *ultra vires* by Presidential ruling. I shall be quite content to follow the practice prevailing in the two Dominions stated above and leave to the combined judgment and experience of this House to decide whether any particular Bill is legally valid or not or offends against the Constitution of the country. If the House passes any Bill which is either a private or Government one, it is clearly open to Government or any Member of the House or the public to question the legality of the enactment in the Federal Court established under the Act of 1935. There is a distinct advantage in relegating the decision upon such a question to the House itself. Conflicts of this kind between Central and Provincial legislative powers are often likely to arise in a Federal Constitution and if the decision goes up for determination to the Federal Court ample justice will be done to the question". Then again he goes on to say "I indeed I should regard it as a grave and unjustified interference with the powers and privileges of this House for the Chair to arrogate to itself the function of adjudicating upon questions of constitutional law for which a special tribunal under the Act has been created. In fact it would be a negation of that right if the Chair were to rule out a Bill as *ultra vires*, for in such a case the Bill would be permanently barred from the jurisdiction of the Federal Court. For the reasons, stated above I shall abstain from giving my ruling.

Sir, since then the question in another shape came up before the Burma Legislature. You may remember, Sir, that last year a certain member obtained Commission in the Army, the Chair took upon itself the right to declare that the seat of that member became vacant. This question was brought to the High Court of Burma and the High Court has ruled that the Chair is not empowered to arrogate such a power *i.e.*, the powers of a court.

**The Hon'ble the SPEAKER :** To declare a member disqualified ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** Yes, Sir, to declare a seat vacant. The case was first heard by Mr. Justice Sharpe and in his judgment he stated, "I think that it would not be wrong to say that the Speaker sought to attract to himself something very little, if at all, removed from the status of a Court ; and that is something directly opposed to the clear terms of Section 27 (3), Government of Burma Act. The fact that the Speaker concluded his speech by expressly stating that he was not acting as a Court but was only giving a ruling on a point of order does not to my mind in any way alter the true effect of the facts which to my mind clearly show that, whether or not the Speaker was acting as a Court in this matter, he was certainly doing something more than merely regulating procedure or maintaining order". The judgment was challenged in an appeal and in appeal also the same dicta was upheld. These are both reported in the All-India Reporter 1941, January and February issues.

**The Hon'ble the SPEAKER :** I think the decision of the Speaker was found to be correct. The member was declared disqualified to be a member of the House and that decision was found to be correct.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** He may be disqualified for some reasons, but the point was whether the Speaker was within his right to declare the seat vacant on grounds of disqualification.

**The Hon'ble the SPEAKER:** Supposing a member is really disqualified and supposing he is in the House and he votes either for the Opposition or in favour of the Government, then that becomes obviously a wrong thing. Why the Speaker should not then prevent him from voting? These are the difficulties.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** That may be one of the questions. But we are trying to construe the difficult position of the Hon'ble Speaker and so far my contentions are concerned, I seek the support from these dicta of the two High Court judgments. In the Appellate Court the learned Chief Justice said, "The Speaker derives his authority and powers from the Government of Burma Act, and in deciding a disputed question as to whether a duly elected and sitting member of the House of Representatives had since become disqualified under section 25(1)(a) of the Act by reason of having accepted an office of profit under the Crown he arrogated to himself the status of a Court and furthermore in his ruling of 2nd April, which is nothing more or less than a considered judgment, he purported to inflict a penalty of Rs.500 per day on the appellant. As regards the argument that in the absence of any provision of the Government of Burma Act declaring the authority which shall determine whether a seat is vacant or not, by implication, the Speaker must be that authority, I do not understand, nor has it been explained to us, how any such implication arises".

So, Sir, I have placed before you the latest ruling of the Hon'ble President of the Council of State and also placed before you the interpretations of the powers of the Hon'ble Speaker—all matters very much akin to our own point at issue. Sir, the dictum is applicable if you decide to refuse to put a demand to the vote of the House on the grounds involving imposition of a burden otherwise for the purposes of India.

Now, Sir, I believe I have placed sufficient materials before you and through you before the hon. members of the House as to the position of the Hon'ble Speaker in this matter. You will be pleased to say, Sir, that one reason for giving your ruling in November last was that the House had not had a chance of having a full-dress debate. Sir, I see no reason why the House could not have a chance of a full-dress debate. At the time when I made the motion, the House was full, for only a point of order was raised by my hon. friend Babu Kamini Kumar Sen and you could have given an opportunity to the hon. members of the House to discuss either on the merits or other points. As a matter of fact the learned Leader of the Opposition—the *ex*-Premier—and another *ex*-Minister took part in that debate, if I remember aright. Then, Sir, they had every opportunity to discuss this matter to any length they liked. Now, Sir, if there was anything wrong either with the form or the substance of this supplementary demand that would have been a point of order which we could and should have decided. But there is nothing wrong in the supplementary demand by way of the form or of the substance. I need not mention to you, Sir, that in the Manual of Procedure of the House of Commons such a supplementary estimate is allowed. I read paragraph 229. "An estimate must be presented for a supplementary or additional grant when—

- (1) the amount named in the ordinary estimates for a particular service is found to be insufficient for the purposes of the current year; or
- (2) a need arises during the current year for expenditure upon some new service not contemplated in the ordinary estimates for that year".

Sir, we have got a similar provision in our Act for submitting a supplementary demand. I need hardly say that when the budget was framed about October-November the sum which we require, through the

supplementary demand, was not obviously in contemplation and this sum was spent on some new service which was not contemplated in the ordinary estimates for that year. Therefore there was nothing wrong either in the form or in the substance and there was no question of any point of order. The point of order raised by my hon. friend was a request to you to interpret a particular section of the Constitution Act.

I hope, Sir, I have placed sufficient materials before you to come to a decision that it will be a dangerous principle to interpret the sections by you when the constitution has set up the elaborate institution of the Federal Court to decide such questions.

**The Hon'ble the SPEAKER :** Motion moved :—

"That an additional sum of Rs.1,00,457 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head '63.—Extraordinary charges' "

There is a cut motion standing in the name of Maulavi Maqbul Hussain Chaudhury.

**Babu KAMINI KUMAR SEN :** I think, Sir, I shall have to rise on a point of order again.

**The Hon'ble the SPEAKER :** Very well, i.e. the cut motion be moved and then I shall allow the hon. member.

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY :** Sir, I beg to move :—

"That the provision of Rs.1,00,457. under Supplementary Demand No.14, Major head—63.—Extraordinary Charges (total) at page 16 of the list of Supplementary Demands for Grants for 1940-41 be reduced by Re.1, i.e., the amount of the whole Supplementary Demand of Rs.1,00,457 do stand reduced by Re.1."

My aim is to criticise Government for not taking effective measures for controlling prices. Sir, I find in the explanatory note at page 16 of the list of Supplementary Demands that the services of two clerks in the office of the Deputy Commissioner, Sylhet, were required to cope with increased work, necessitated by control of prices, etc. In this connection I beg to say that the Deputy Commissioner, in other words, Government was quite unable to control the prices. In support of my contention I may mention that at pages 18 and 19 of this list of demands Government have come forward with supplementary demands due to rise, in prices. So, Sir, it is clear that Government could not control the prices and under these circumstances this money allotted for the service of two clerks in connection with the work of control of prices is uselessly provided and I emphatically protest against it. With these few words, I commend my motion for the acceptance of the House.

**The Hon'ble the SPEAKER :** Cut motion moved :—

"That the provision of Rs.1,00,457 under Supplementatry Demand No. 14, Major head—63.—Extraordinary Charges (total) at page 16 of the list of Supplementary Demands for Grants for 1940-41 be reduced by Re.1, i.e., the amount of the whole Supplementary Demand of Rs.1,00,457 do stand reduced by Re.1"

**Babu KAMINI KUMAR SEN :** Mr. Speaker, Sir, I rise on a point of order on the grounds stated in last November when the same motion was brought forward in the shape of a Supplementary Demand. My contention is, as before, :—Firstly, that the grant is not covered by section 150 of the Government of India Act. Secondly, that a Supplementary Demand does not lie under section 81 of the Government of India Act and thirdly that it is defective in form.

I gave my reasons for the contentions I now put forward and I do not think I need waste the time of the House in recapitulating all that I said during the last November Session. But, Sir, it seems that the Hon'ble Premier has anticipated a point of order on this and has raised another issue. I would like to take up that issue before I make my further submission in support of my contention.

Sir, the only point newly pressed by the Hon'ble Premier is about the Hon'ble Speaker's authority to decide a question of law. I am sure, Sir, you are quite competent to take care of yourself, but yet, I think, I shall be failing in my duty if I do not make some observations with regard to the question raised. But before I do so, Sir, I would like to point out that the Hon'ble Speaker in this case did not like to arrogate to himself the duties of interpreting this particular section of the Government of India Act. I would read from your learned ruling, Sir, to show that apart from the question of legality, apart from the question of propriety of the Hon'ble Speaker's interpreting a particular section, you yourself, Sir, in your earlier ruling clearly directed the Government not to leave this question to the Hon'ble Speaker but to seek other course, which is prescribed in the Government of India Act. That is what you said, in your learned ruling:—

"This being a very vital matter so far as the revenues of this province are concerned it is my opinion that the Government should have followed the procedure that has been laid down in section 213(1) of the Government of India Act, which provides that on any 'question of law that has arisen, or is likely to arise which is of such a nature and of such public importance that it is expedient to obtain the opinion of Federal Court upon it', that matter may be referred to the Federal Court of course through His Excellency the Governor-General. It goes without saying that this matter was a matter of such a nature and was of such public importance that instead of consulting the Auditor-General the Federal Court ought to have been referred to".

Then Sir, you said:

"Now if I decide here and now that the expenditure has no justification in terms of section 150 of the Government of India Act and that the House is not to decide the question by their vote, Government will have no other alternative than to produce such legal opinion as would be binding on the House."

Further you said, Sir: "If the Government in the meantime come with any legal opinion binding on the House, then the question of the Chair interpreting section 150 of the Government of India Act will not arise. If such opinion is not obtained, then I shall have to consider whether I should direct the House that such an expenditure is warranted by the provision of section 150 or it is not, or whether I should direct the House that they should decide the question by their vote. If the Government thinks that it is not advisable for them to obtain any legal opinion which may be binding on this House, then I shall have to conduct myself in the way I have indicated".

So, Sir, it was absolutely clear that you were reluctant to take upon yourself the duty of interpreting the section, apart from the question of legality. But may I know, Sir, what is the reason that has induced the Government to ignore your advice? I think a ruling from the Federal Court would have set at rest all controversy over the question and the Hon'ble Premier would not have been required to take trouble of searching for ruling and authorities or to take one hour's time to argue the question. If they think that the matter is simple and clear or if they are so sure of their

legal position, what was the harm in their going to the Federal Court? Regarding the necessity of reference to the Federal Court in a matter like this, I again refer to your ruling. This is what you said:

"Now the constitution given by the Government of India Act is a written and a rigid constitution and for the interpretation of that constitution the establishment of a Federal Court was thought absolutely necessary. So there was no difficulty in the way of Government to ask His Excellency the Governor-General to obtain the opinion of the Federal Court if really the Government felt that it was an imperative duty of them to contribute to the War Fund."

It has been very rightly said by you, Sir, that this constitution is a written and rigid one. Besides that it is also not possible for any constitution to provide for every possible contingency and so for interpreting this particular constitution, Federal Court has been established and a special provision in the shape of section 213 has been provided in the Government of India Act for meeting a case like this. Moreover, Sir, you also referred in your ruling that without an authoritative interpretation of the section the House will have an initial difficulty in deciding the issue. I do not think, Sir, the Hon'ble Premier denies the gravity of the issue or refuses to accept the position that without an authoritative interpretation the House will not have proper guidance to come to a decision. If that is so, I do not see any reason why he should be so reluctant to go before the Federal Court, and why he should prefer to take the trouble of looking into precedents of Burma, Council of State and other places. I see absolutely no necessity for doing all these things, if he simply referred the question to the Federal Court according to the advice given in your earlier ruling. Sir, my point is that although you expressly directed them to obtain the opinion of the Federal Court the Government did not like to utilise that opportunity. If they did so, there would have been no necessity for you, Sir, to interpret the section at all. Now, if by their own action or inaction, they compel the House to ask for an interpretation from you, Sir, I think the Government should have no reason to complain.

Now, coming to the question of your authority to interpret particular section of the Act, the Hon'ble Prime Minister has quoted some sections of the Government of India Act; the first is section 71. I do not think, Sir, it can be said that the Hon'ble Speaker does not possess any more rights and privileges than an ordinary member of the House. I do not think, Sir, this section applies at all. The section reads: "21(3) Nothing in any existing Indian law, and, notwithstanding anything in the foregoing provisions of this section, nothing in this Act, shall be construed as conferring, or empowering any Legislature to confer, on a Chamber thereof or on both Chambers sitting together or any committee or officer of the Legislature, the status of a court or any punitive or disciplinary powers other than the power to remove or exclude persons infringing the rules or standing orders, or otherwise behaving in a disorderly manner." In this matter the Hon'ble Speaker had or has no occasion to take upon himself the status of a court or any punitive or disciplinary powers. In this matter a point of order was raised, and the Speaker gave his ruling. There was no question of the Speaker arrogating to himself the status of a court, or any punitive or disciplinary powers. So, I think, Sir, this section does not at all apply.

Then, Sir, the Hon'ble Premier has taken the trouble of quoting from Redlich, but I am sorry, Sir, that he did not read the last lines of that quotation. I would refer him to the sentence at page 145 of Volume II, where it is stated, "it is entirely in the Speaker's discretion to judge whether

and when to call for such decision of the House. If he deems it unnecessary to do so, his ruling is final." So, Sir, it is evident from the authority, the Hon'ble Premier has himself quoted that the Speaker has got absolute right to say when and whether to call for a division. I do not think anybody can question the Speaker's right in this. Sir, if the Hon'ble Speaker is not to interpret particular sections of the law, I do not know what will be the position of this House. As you have rightly pointed out, Sir, that the main reason for your refusal to put the motion for discussion of the House was that without an authoritative interpretation from a Court, whose opinion will be binding on the House, the House will not have proper guidance to come to a proper decision. There will not be a fair and real debate. Section 150 of the Government of India Act says "No burden shall be imposed on the revenues of the Federation or the Provinces except for the purposes of India or some part of India." Of course I admit, Sir, that this provision is rather wide, but unless we know what the words "purposes of India" mean, unless we get an authoritative interpretation from an authority whose opinion will be binding on us, how will it be possible for the House to decide this question? For this reason, Sir, you, in your earlier ruling, advised the Government to go to the Federal Court because by doing so Government will not be prejudiced in any way; on the other hand, the House will know whether the purpose mentioned in the supplementary statement of expenditure or the purpose stated in the introductory speech of the Hon'ble Premier comes within the criterion which the Federal Court prescribes to determine the meaning of the words "purposes of India". So, Sir, I submit that if the Chair does not interpret a section and if, in spite of his direction, the Federal Court is also not consulted, the House will never have any opportunity to have a full and fair debate on the matter. There will be no proper guidance for the House to come to a decision on the issue involved.

Sir, it has been held by the President of the Central Assembly in 1929, in connection with the Public Safety Bill, that unless the House gets the opportunity of a fair and real debate on the question before it the Chair has ample authority to refuse to put the motion for the decision of the House. You also pointed out in your earlier ruling that in absence of an authoritative interpretation of the section, the House cannot have proper guidance to come to a decision. So, Sir, I submit that in the present case, the House has no chance of having a fair or real debate and that on this ground alone, you have ample authority to rule the motion out of order.

Then, Sir, the Hon'ble Premier has quoted a ruling from the Council of State. From what I have heard from the Hon'ble Premier it seems to me that that ruling related to a Bill; whether a particular Bill was *ultra vires* of the Central Legislature or not. The question was entirely different. Further, the Hon'ble President seems to have based his ruling on conscientious consideration and not on an exposition of the legal position. He said that as long as he was in the Chair he did not like to kill a legislation by his ruling. His view seems to be that let the aggrieved party go to the Federal Court. Sir, the President of the Council of State decided the question on conscientious consideration, and that related to a Bill, which was an entirely different matter. So, I do not think that the ruling of the Council of State applies at all.

With regard to Burma ruling I must admire the perseverance of the Hon'ble Premier for his adventurous journey to Burma in search of a ruling. But Burma has got a different constitution and it is not expected that we should follow the rulings of the Burma Legislature. Moreover, Sir, here also the ruling related to an entirely different matter.

The Speaker of the Burma Legislature disabled a member by his ruling. I do not think, Sir, that was within the jurisdiction of the Hon'ble Speaker.....

**The Hon'ble the SPEAKER :** The Hon'ble Prime Minister's point is that that is also deciding a legal question.

**Babu KAMINI KUMAR SEN :** On that point, Sir, the High Court upheld that the member had incurred a disability, but the High Court objected to the procedure followed by the Hon'ble Speaker in disabling the member. They held that it was the duty of the Court and not of the Hon'ble Speaker to disqualify a particular member.

**The Hon'ble the SPEAKER :** Can the Government also disqualify a member ?

**Babu KAMINI KUMAR SEN :** No, Sir, I do not think so.

**The Hon'ble the SPEAKER :** Then, what is the position ? If a particular member is disqualified and he comes to the Chamber and casts his vote who is to declare him as disqualified ?

**Babu KAMINI KUMAR SEN :** I think Government can do that through the Law Court.

**The Hon'ble the SPEAKER :** Should the Government go to the Court on every occasion to ascertain whether a particular member is disqualified or not ?

**Babu KAMINI KUMAR SEN :** There is no provision, by which a particular member can be automatically disqualified.

**The Hon'ble the SPEAKER :** But there should be somebody to declare him disqualified.

**Babu KAMINI KUMAR SEN :** I think Government can have it done through the Law Courts.

**The Hon'ble the SPEAKER :** That means that on every occasion the Government will have to go to the Court.

**Babu KAMINI KUMAR SEN :** Otherwise there is no provision for that.

**The Hon'ble the SPEAKER :** Somebody should declare him disqualified.

**Babu KAMINI KUMAR SEN :** Yes, Sir, that is so. I think, Sir, the matter was entirely different and the High Court also agreed that the member had incurred a disqualification for which the Chair gave that ruling. I do not think that can be applied in support of the case put up by the Hon'ble Premier.

The Hon'ble Premier has further told the House that you, Sir, said that there was no full dress debate and therefore you refused to put that motion. I think by 'full dress debate' you meant that the House had not the proper guidance to have a fair debate or correct decision. This point I have already dealt with and I still stick to it ; even in spite of the opinion quoted by the learned Premier, I think there is no denying the fact that these opinions are not binding on the House. In spite of these opinions we cannot say that we have proper guidance for fair debate and if that is so, the motion should not be allowed to be discussed.

In this connection, I think Sir, I should quote the ruling of the President of the Central Assembly, to which I have already referred. The Hon'ble President in that ruling said, "it is a matter of common knowledge that conventions and precedents of the House of Commons are being quoted repeatedly in the Legislative Bodies in India and acted upon. It was only last year that the Chair exercised its inherent power to disallow the introduction of a very important Bill on the ground that the course proposed was an abuse of the forms and procedure of this House and violated its

proprieties. If the contention of the Hon'ble the Law Member is upheld and the Chair restricted to the powers expressly conferred on it by the Rules and Standing Orders of this House, the business of this House would become impossible." So, Sir, if you think that there is no chance of a fair debate, if you think that the House has not got proper guidance to decide the point, you have got ample authority to rule that a motion is out of order.

Now, Sir, I expected that the Hon'ble Premier will deal with the facts of the case, but as he has not done so, I do not think I need take the time of the House now by repeating what I said before.

But, Sir, my second contention seems to have been totally ignored. That point is this. Even if the grant be legal under section 150, it is unnecessary and it also contravenes section 81 of the Government of India Act and as such cannot come by way of a supplementary demand. A grant may be legal, but that does not mean that it is necessary. It seems that nothing has been said by the Hon'ble Premier on this point, and I do not know whether he has got to say anything on this point. Any way, Sir, I refer him to my arguments made in November last on this point. I still press the contentions made at that time and I like to put forward some additional reasons why I consider that the grant was not necessary as contemplated by section 81. But before doing so, I think it would be better if I read section 81. It runs thus:

"If in respect of any financial year further expenditure from the revenues of the province becomes necessary over and above the expenditure theretofore authorised for that year, the Governor shall cause to be laid before the Chamber or Chambers a supplementary statement showing the estimated amount of that expenditure, and the provisions of the preceding sections shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement and the expenditure mentioned therein." I tried to show in my earlier speech in last November that the expenditure was not or did not become necessary. On this point I would like to draw the attention of the House to another point. Sir, in making this grant this Cabinet took upon itself the initiative. They did not get any direction from the Government of India. They did not get any information from the Governor-General saying that the international position was so grave that some form of support moral or material from the Provinces was necessary.

I think, I need not remind the House that defence and external relations are in the sole charge of the Governor-General and a reference to section 11 of the Government of India Act will make the position clear. Section 11 of the Government of India Act says, "(1) The functions of the Governor-General with respect to defence and ecclesiastical affairs and with respect to external affairs, except the relations between the Federation and any part of His Majesty's dominions, shall be exercised by him in his discretion, and his functions in or in relation to the tribal areas shall be similarly exercised.

(2) To assist him in the exercise of those functions the Governor-General may appoint counsellors, not exceeding three in number, whose salaries and conditions of service shall be such as may be prescribed by His Majesty in council."

So I say, Sir.....

**The Hon'ble the SPEAKER:** The hon. member is relying on this section, but who is to interpret it?

**Babu KAMINI KUMAR SEN:** I say, Sir, that the Chair is the proper authority to decide it. If there is nobody to decide, we are practically helpless.

**The Hon'ble the SPEAKER:** That also requires interpretation.

**Babu KAMINI KUMAR SEN:** Yes, Sir. But we are not all lawyer conversant with the intricacies of constitutional law and if there is non-interpret, we shall have to go in our own way. Anyway, Sir, what I am saying is that the Governor-General is in sole charge of these departments and the provinces are not expected to know anything about the international situation without an intimation from the Governor-General. If that is so, and if the Governor-General did not give any intimation about the gravity of the situation, or did not give any direction that help was necessary—whether material or moral—somewhere in the war zone, I do not think, Sir, the Ministry can act merely on Reuter's news or claim that any contribution made out of their own free will on such unauthentic report is an expenditure which was really necessary.

I would in this connection, Sir, draw the attention of the House to the fact that this particular function of the Governor-General has been made more clear by the recent amendment of the Government of India Act in 1939. I would refer to the amended section 126A which runs:—

“(1) After section 126 of the Government of India Act, 1935, there shall be inserted the following section:—

“126A. Where a Proclamation of Emergency is in operation whereby the Governor-General has declared that the security of India is threatened by war—

(a) the executive authority of the Federation shall extend to the giving of directions to a Province as to the manner in which the executive authority thereof is to be exercised, and any directions so given shall for the purposes of the last preceding section be deemed to be directions given thereunder...”

These amendments were particularly taken up to meet war situation, and this amended section 126A definitely states that the Governor-General will have authority to give direction to the Provinces as to the manner in which the executive authority thereof is to be exercised for the purpose of preventing any grave menace to the peace or tranquility of India or of any part thereof, at least with regard to the international situation. If the situation was really such as would justify outside help can it be believed that the Governor-General even after the recent amendment of the Act, would not have given direction to the Provinces or would not have rendered help from the Central Government? As there was no such direction from the Governor-General that the situation was so grave that financial help was necessary I say, Sir, that the Ministry acted on their own initiative, or rather acted on the news summarily supplied by Reuter. They made a voluntary gift not being forced by circumstances and as such this contribution cannot be called ‘necessary’ in terms of section 81.

Then Sir, I maintain, that it is illegal for the Government to come up with a supplementary demand for money already spent. This amount has already been spent; and the money was transmitted in the month of July. It is therefore an unauthorised expenditure and the Government is now coming up to ratify an unauthorised expenditure which they cannot do under section 81. Section 81, which is the only section under which supplementary demands can be put, says—“If in respect of any financial year further expenditure from the revenues of the Province becomes necessary over and above the expenditure theretofore authorised for that year, the Governor shall cause to be laid before the Chamber or Chambers a supplementary statement showing the *estimated* amount of that expenditure”. I draw your particular attention to the words ‘estimated expenditure’. If the money has already been spent the question of estimate does not arise at all. In England, I think, there is a provision for making supplementary

demands after the money has been spent, but I think that is done with the authority of the Appropriations Act, but there is nothing like Appropriations Act here and we must be guided by section 81 of the Government of India Act.

Lastly, Sir, I would say a few words about the position of the House with regard to this demand. I submit, Sir, that in this matter the House has been most unfairly treated. First of all the Cabinet comes forward with a supplementary demand for money that was spent long ago without their sanction, so the House is placed at an initial disadvantage. Had the Government come up with a demand before the money was spent, I think, there would have been some hon. members who would have been reluctant to vote for it, but now that the money has already been spent they cannot but vote for it at least to save the prestige of the Ministry, if not for anything else.

Secondly, with regard to the legal position I say, Sir, that in spite of your direction Government have not gone to the Federal Court and as such the House has been deprived of proper guidance to decide the issue involved in this grant.

Thirdly, I maintain that the Government is shifting its case from day to day. First of all when they first came up with this supplementary demand for the money which has already been spent they said that they made this grant only to show sympathy and moral support (I do not remember the exact words.) I think, I will do better to read out from the speech that the Hon'ble Prime Minister delivered when he introduced the supplementary demand. This is what he said on that occasion.

"All the dominions forming the British Commonwealth have come liberally to the aid of the British Government and have passed through their different Parliaments substantial sums for the prosecution of the war. The present Ministry of the Assam Government thought, as a gesture of good will and sympathy for the British Government, that we, the Provinces of India should also go to their aid. England found herself fighting a ruthless enemy all along at the time of the collapse of France and overrunning of that country by the German hordes. At the time when England was in sore need, if not of material help, of moral support at least, the Assam Ministry, as I have already said, as a gesture of our sympathy and moral support (A voice :—In an immoral cause) made this contribution of one lakh of rupees to the British Exchequer. Compared to the daily expenditure of over nine crores of rupees of the British Government for the prosecution of the war, our contribution of a lakh of rupees cannot be said to be of any material help. But it was only a moral support."

So it is clear that Government's original case was that they gave the grant to show sympathy and moral support, but afterwards in course of debate they changed their position and contended that the grant was for the defence of India. Here too, I think, I would do well if I read what the Hon'ble Premier said in replying to the debate on this point of order. This is what he said :—"We are entirely dependent on British Army for the defence of India. In view of these circumstances, this Ministry is of opinion that the defence of India is intimately connected with the defence of Britain, and as I read in section 150 sub-section (1) 'for the defence of India' I would say 'for the purposes of the defence of India'". Grant to show moral support is not the same thing as a contribution for defence of India. It will thus be evident that Government have shifted their position and it is impossible for the House to have a fair discussion when the facts are not correctly known and when there is so much controversy over the legal position I think, Sir, you can on this ground alone declare the motion to be out of order, if you do not consider my other contentions.

**The Hon'ble the SPEAKER:** I propose that the discussion on this point of order, and also the discussion on the merits of the motion, should go together. I would also invite a discussion on the legal aspect raised as it will be very necessary in this case. As the point has been raised as to whether the Chair has the right to refuse to put to the vote of the House any question discussed, I wish that, that point should also be discussed.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Mr. Speaker, Sir, when I began my speech I definitely mentioned that I would divide this matter into two questions—firstly raising a issue whether the Speaker can give interpretation to this section. As regards the next I did not speak anything.

My hon. friend Babu Kamini Kumar Sen complained on the length of time I took, but at the same time he took as much time as myself. He has reiterated many times that this Government fought shy of the Federal Court. In order to dispel any such misrepresentation, I may inform the House that as required by section 213, we placed the whole fact before the Governor-General so that he might place the matter up before the Federal Court. The Government of India in reply says that the Central Government consider that the presentation of the supplementary demand was an ordinary item of business properly placed before the Legislature. It was therefore not that we fought shy to go before the Federal Court, but that it was a question of procedure and did not require to be placed before the Federal Court. They were also of opinion that the matter was very very simple. India herself being belligerent, any part of India can subscribe for war purposes. The Viceroy has already declared that a state of emergency exists.

**The Hon'ble the SPEAKER:** What was the date.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** 3rd September 1939. It runs to the following effect:

"I, Victor Alexander John, Marquess of Linlithgow, Governor-General of India and *ex-officio* Vice Admiral therein being satisfied thereof by information received by me do hereby proclaim that war has broken out between His Majesty and Germany."

India being a dominion or a dependency and part and parcel of the British Empire, has therefore become one of the warring parties. India has thus become belligerent. Therefore the money has been given for the purposes of India, i.e., for the defence of India.

**Babu KAMINI KUMAR SEN:** Can we take up this question now, Sir? The grant was made for certain purposes. It was made for the purpose of showing our moral support and sympathy. I do not think the House can take any notice of any other purposes than for which the grant was made. So, I think, the question whether India is belligerent or not does not come in at all. We are concerned only with the case presented originally and can not take any notice of any subsequent improvement.

**The Hon'ble the SPEAKER:** Is there any authority in the Chair to prevent Government coming forward with as many cases as they like?

**Babu KAMINI KUMAR SEN:** If Government goes on shifting its ground there is no chance of any reasonable and fair debate.

**The Hon'ble the SPEAKER:** It is for the House to take into consideration the cases Government may like to place before the House.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I was not shifting grounds. We are distinctly helping the prosecution of the war.

**Mr. C. GOLDSMITH:** It has been said that the contribution was made in order to show our moral support. If this is not moral support, is he makes the contention on any moral consideration?

**The Hon'ble the SPEAKER:** I may tell the House that I am ready to sit up to 5 p.m. to have a full discussion on the matter. I must get a clear and a full discussion on all the points urged so that I may be in a position to give my ruling.

**Mr. A. WHITTAKER:** The majority of the members of this House happen to be lay-men and I may be forgiven if my legal arguments are not so tortuous as the other speakers.

I was going to raise the question about the interpretation of section 213 of the Government of India Act, 1935. It says:

"If at any time it appears to the Governor-General that a question of law has arisen....." to the query whether a question of law has arisen, my answer is in the negative. And that is the answer which the Prime Minister explains has been given by the Government of India. What I am concerned with is where the Speaker will be driven if he follows the advice of Mr. Sen. Have we not got a right to assume that when Government brings forward a supplementary demand, the best legal advice has been taken? It would appear from the Prime Minister's statement that Government had taken legal advice. What does Mr. Sen require? He wishes you to act as our appellate court over the advice tendered to the Provincial Government. According to him the Provincial Government's opinions are not good enough. He is going to land the Hon'ble Speaker in a very embarrassing and extremely difficult position. India has been declared belligerent. India's destiny is now linked with the United Kingdom, with Greece and with America. A more important point for hon. members is that the authors of the new order namely Hitler, Mussolini and Japan have also taken the view that India's destinies are linked with those of Great Britain. For better or worse India's destiny is to remain with Great Britain. India's defence must depend on the success of the Commonwealth's arms.

The majority of the House considers that the grant of one lakh is completely admissible under the very wide definition and drafting of section 150. Even Mr. Sen admits that that section is very wide in that it is for the purpose of India or some part of India. Mr. Sen takes another point and stresses not only the illegality of the donation but the propriety of not securing the consent of this House. He also questions the necessity and declares that the Government of Assam, when they made this donation in June last, were not really aware what was happening in Europe merely because the Government of India had not told them. He proclaims that the Ministry were relying on Reuter's message. I do not think Mr. Sen will take anything from this bench as other than a prejudiced statement, but I would ask him to take notice of a statement made by one of the Congressmen for whom most of us have great respect. In June of last year, Mr. Rajagopalachariar, the *Ex-Prime Minister* of Madras, made this statement—"Brute force is gaining ground, Hitler and Hitlerism must be defeated and routed and it must be the wish of all that Hitler should be defeated. We must all pray for the success of the allies in this war". When a man of Mr. Rajagopalachariar's distinction has reached the stage of praying, I do not question the gravity of the situation.

**Babu KAMINI KUMAR SEN:** On a point of information, Sir, Can the Government of Assam be expected to act on the instruction or opinion given by Mr. Rajagopalachariar?

**Mr. A. WHITTAKER:** I don't say that Sir. Mr. Rajagopalachariar's statement is proof, but it has got a special value and coming from that quarter it can be accepted (*laughter*). I would like to mention the circumstances during which this gift was made because I think Mr. Sen has forgotten what these circumstances were. The months of June and July

were the darkest hours of the war. A gesture was made by Assam when the whole of France was submerged and when the British Expeditionary Force of 3,30,000 men was in danger of being trapped at Dunkirk. They narrowly escaped by what most of us, at that time, thought was a miracle. A gesture at such a time had an enormous value. Mr. Sen is a very jealous custodian of the rights of the individual members of this House. He may be quite correct in making his protest; but there are circumstances which must transcend all these objections. The occasion was unique; the situation was desperate and I hope, Mr. Sen will agree after hearing other speakers on this side, that the technical objections should not be little the moral significance of this gift (*cheers*).

**Mr. BAIDYANATH MOOKERJEE:** Mr. Speaker, Sir, myself not being a lawyer do not like to enter into the intricacies of law; but still I will touch a few points and I will try to deal with the merits of the point that has been raised by Mr. Sen. Sir, it has been said by the Government that they made this grant of one lakh of rupees to the British Exchequer in July, 1940 to help the Crown in its struggle for democracy. The purpose of the present war is not one of British Imperialism, but it is one undertaken to safeguard the peace, liberties, self-government and progress of the world and so upon the successful resistance of the British Commonwealth of Nations to the brute forces of the totalitarian powers which aim to dominate the world, depends not merely on the peaceful economic progress of India but also on the political development in the direction of that Indian nationhood which every Indian patriot desires. In recognition of what this struggle means to every man, woman and child in Assam, the Government of Assam decided to offer a lakh of rupees as their contribution to war fund and the amount was credited to the British Exchequer in July last as stated above. Sir, it has also been said that to help the Crown in its present struggle against Fascism, the Dominions, the Colonies, the Dependencies of the Crown and the Indian States have placed their financial resources as well as their man power at the disposal of the Crown. Well and good. I am not one of those who do not like to extend their helping hand to the British Government in their fight for democracy against the Dictator, but, Sir, I am one of those who are always quite alive to preserve one's own right. Sir, if the struggle of the British Crown against Fascism to protect the rights of democratic people is considered to be laudable and praise-worthy to which view I also subscribe, I hope my endeavour to protect our own rights in this House will also be taken up in the right spirit and will receive support from one and all. Sir, I do not like to contradict that the grant has been legally made under section 150 of the Government of India Act, 1935. As I have already said, myself not being a lawyer, I will not enter into that question but, Sir, what about section 81 of the said Act. Sir, new service means new expenditure which was not thought of at the Budget Session, but the opinion of the House ought to have been taken as to whether it approves of this sort of expenditure proposed to be incurred. To incur a new expenditure in anticipation of the sanction of this House is to flout the opinions of the House. Then, Sir, there was no such necessity that this expenditure could not be delayed until the sanction of this House was obtained.

**The Hon'ble Māulavi Saiyid Sir MUHAMMAD SAADULLA:** Sir, what is the section my hon. friend was quoting?

**Mr. BAIDYANATH MOOKERJEE:** It is section 81. The British Government was spending about 20 crores of rupees a day, so the grant of a lakh of rupees could not have made such difference that it could not be delayed for a few months. Supplementary demands have always been looked upon with suspicion even as regards existing services for it weakens the control of the House over financial disbursements. To spend money on a new service without the sanction of the House is to face the House with an accomplished fact which is against the very fundamental rule that no money should be spent without the sanction of the representatives of the tax-payers. In England, the House of Commons grant money to the King but here it is this House which can grant money to His Excellency the Governor who represents His Majesty the King under the existing constitution. It is significant that no other province—even those who are under the bureaucratic hands, have made any grant from the revenues of the province and I should like to know whether there was anything special to this province which rendered such a grant absolutely necessary and in such an indecent hurry. The Hon'ble Premier as Finance Minister said that they had been considering the question of the grant sometime before the grant was actually made and they also took the legal opinion, and that the collapse of France and the tragedy of Dunkirk forced them to make that grant. These calamities were known to other provinces as well but none of them took such an extraordinary step, namely expenditure of the tax-payer's money upon a service to which they have no opportunity of saying their say. The Hon'ble Premier has done a thing which from the constitutional point of view is absolutely unjustifiable. The conduct of Government in making the grant is extremely arbitrary and I appeal to the House, even if the position taken by the Hon'ble Premier is not altogether incorrect, to show by their votes that they will not allow their opinions to be flouted in a matter in which they have the ultimate voice. No Finance Minister, however distinguished he may be, has a right to play with people's money in this way.

**Maulavi ABDUR RAHMAN:** If I remember aright, on one occasion the Hon'ble Chair was pleased to give an opinion while my friend Dewan Muhammad Ahbab Chaudhury was reading his written speech that the hon. member should not deliver his speech in the manner as if he was reading out an essay. What Mr. Mookerjee is doing now, Sir?

**The Hon'ble the SPEAKER:** Did I not allow Dewan Muhammad Ahbab Chaudhury to read his speech afterwards? When I find that hon. members do not listen to my advice and go on reading their speeches it is useless to insist on not reading written speeches.

**Mr. BAIDYANATH MOOKERJEE:** Sir, I realise that India should do her best to assist the British War Fund to fight for democracy and that in fact is the reason why people rich and poor have been contributing their mite to the British War Fund. Where was the necessity for the Government to come forward with a grant on the top of it all? Sir, compared to the resources of Assam her contributions to the War Fund have been acknowledged as magnificent. In opposing this grant I am influenced by the consideration that no money should be spent out of the provincial revenues without consulting this House. Sir, I yield to none in my desire to help Britain to fight against Dictatorship, but I cannot rest content with only giving a silent vote that our undoubted right has been so ruthlessly encroached upon. Sir, it was said that it was a moral support. But may I enquire whose moral support this Government gave? If it was a moral

support of the Cabinet I have nothing to say, but if it is said that it was the moral support of the people of Assam in that case I must say that as the Government gave this moral support without consulting the representatives of the people of the province it cannot be regarded a real moral support of the general public of Assam. As I have said before, Sir, that moral support of the people was quite evident from their individual contribution, but our Government to take some credit by topping the list of the Provincial Governments in the matter of assistance to Great Britain did something which is unique under the present constitution. Sir, even as far as 30 years back this kind of expenditure was flouted with contempt. I shall quote a portion from Keith's 'Responsible Government in the Dominions', published in 1912 in Volume I, Chapter V, page 441, under the heading, 'Privileges and Procedure—Control of Expenditure'. "In every Dominion the rule of course is that moneys can only be raised and expended with the consent of Parliament. It is illegal either to levy duties or to spend money without the consent of Parliament, and the first action has been tested in the Courts and declared to be illegal, when an attempt was made to levy customs duties in Victoria without an Act of Parliament. As regards expenditure the matter is difficult to bring into court: there is no very obvious way to deal with expenditure which is not obviously merely theft, and as a matter of fact the spending of money in the expectation of Parliamentary action is a regular part of Parliamentary practice in some Colonies, and still prevails in the Australian States to a degree which is decidedly unsatisfactory". Sir, it was published in 1912. Even then it was considered that to spend public money without the consent of the representatives of the people was most unsatisfactory. Now even at this period if this state of things continue even to-day, it is really most deplorable. Sir, in the name of helping democracy our Government is treading on democracy and trying to kill democracy. If Government admit that due to their ignorance they committed this unhappy mistake—I call it unhappy because it is unpardonable that eleven experts would commit such a mistake after a full deliberation—if they say that it was their mistake, in that case I am agreeable to excuse them. But, if they do not admit their mistake, I am sorry, a lover of democracy as I am, I cannot but oppose this motion for grant.

**Mr. F. W. BLENNERHASSETT:** Mr. Speaker, Sir, are we discussing the point of order or the merits of the grant?

**The Hon'ble the SPEAKER:** We are discussing the point of order.

**Mr. F. W. BLENNERHASSETT:** May I speak now?

**The Hon'ble the SPEAKER:** No, the Advocate-General will speak on the legal aspect of the matter now?

**The Advocate-General (Rai Bahadur PROMODE CHANDRA DUTT):** Mr. Speaker, Sir, we are in a somewhat delicate position. This motion came up before the House in November last and on a point of order then raised, you gave a certain ruling which, sitting here, we are not entitled to challenge. All that is open to us to do here is to ask you to reconsider your decision and it is in the hope of obtaining a reconsideration that I will make a few observations.

The Hon'ble Premier has informed the House that the position of India in relation to the present war is that of a belligerent. In making this statement he has the support of the Government of India. Whatever doubts may therefore exist as to the exact implications of the expression "purposes of India" in section 150 there can be no doubt that any contribution made to a co-belligerent as Britain undoubtedly is to assist her was efforts is a contribution for a purpose of India. Would you, Sir, now be so

pleased as to reconsider your ruling seeing that the difficulty which influenced your decision no longer exists? If you could kindly express an opinion at this stage it would save a lot of time and probably I might stop here.

The Hon'ble Premier has disclaimed any intention of challenging your ruling on the floor of this House but he has raised the general question how far it is competent to the Chair to rule a motion out of order on the ground that in his opinion it is not for a purpose contemplated by section 150. He has exhaustively dealt with the point he has raised and there is nothing that I can usefully add. You will doubtless give our decision on that point apart from the ground on which I have asked for a reconsideration.

**The Hon'ble the SPEAKER :** If it be the case that the grant was made for the defence of India on the ground that India is also a belligerent country, I think, there can be no two opinions that it is for the purposes of India. It is so clear a thing that it is not necessary to go into the question of what is for the purposes of India or not and hon. Mr. Sen has practically admitted that. In the point of order he has said that there is no requisition from the Governor-General to this Government to spend any money for the defence of India and he has assailed this grant on the ground that although it may be for the defence of India, this Government was not at all within its right to spend the money when no requisition came from His Excellency the Governor-General, who has got a function to exercise with regard to the defence of India. So, he has practically admitted that. But the question will be whether the Government was justified to spend the money without being asked by the Governor-General.

**The ADVOCATE-GENERAL :** This I submit is not a valid objection. The matter is one between this Government and the House. No direction from any quarter is a condition precedent. If a province thinks that a contribution to the British War Fund will serve a purpose of India it is perfectly at liberty to make a grant. I would ask you to hold, Sir, that India being a belligerent any money spent for the purpose of assisting the war efforts of a co-belligerent against Germany is a purpose of India.

**The Hon'ble the SPEAKER :** If it is for the defence of India, I think.

**The ADVOCATE-GENERAL :** Assisting the war efforts of a co-belligerent is assisting oneself. Therefore the difficulty you felt when you ruled the motion out of order no longer stands in the way.

**The Hon'ble the SPEAKER :** Yes, therefore I would not like that the time of the House be taken up for going into that question.

**The ADVOCATE-GENERAL :** I venture to think, Sir, that if at the time you gave the ruling you had no doubt that the grant had been made to help forward India's war operations against Germany your ruling would have been different.

**The Hon'ble the SPEAKER :** But there may be one section in the House who may not accept that it was for the defence of India. Whether that amount was at all justified as an act of gesture and whether an act of gesture constituted a "purpose of India or some part of India" under section 150 of the Government of India Act was the matter for the House to consider. If, however, it be for the purposes of the defence of India, there cannot be any doubt that it was for the purposes of India. But the question is whether the payment as a gesture is justified under section 150 of the Government of India Act.

**Babu KAMINI KUMAR SEN :** That is the position on which I raised my point of order. I think it will be clear if I read out a few lines from the speech I delivered last November.

"With regard to my first contention, Sir, I would refer to the statement that has been made by the Hon'ble Premier a few days ago in this connection as well as the explanatory note that has been attached to this particular demand. The Hon'ble Premier has told us in his statement that this grant would give no material help to the British Government in view of the fact that they have to spend more than 9 crores of rupees a day for prosecuting the war; this will be a very insignificant amount in consideration of their daily expenditure, but it is only with the purpose of showing the moral support of the Government of Assam that this grant has been made. He has also told us that the money has been transmitted to the British Exchequer in the month of July. Now, Sir, I contend that these are no grounds under which a grant can legally be made under section 150."

That was the position, Government took last November and on the basis of that position, the point of order was raised. I do not think, Sir, we can now take any notice of any subsequent improvement made in an attempt to apply the section.

**The ADVOCATE-GENERAL:** I shall come to this question of gesture later on. Your ruling, Sir, was based on the fact that there was no authoritative interpretation of section 150 for the guidance of the House. Now you are satisfied that the money.....

**The Hon'ble the SPEAKER:** I am not to be satisfied if it is for the purposes of India. There is no question of the Chair being satisfied. It is the House that is to be satisfied whether the expenditure is justified for the defence of India.

**The ADVOCATE-GENERAL:** The hon. members may vote in accordance with the views they hold of the section. Government has explained its views and can do no more.

**The Hon'ble the SPEAKER:** Yes, no doubt, but it cannot be said that whatever the House will decide to be a "purpose of India or some part of India" will be a "purpose" as contemplated by section 150 of the Government of India Act; that will be begging the question.

**The ADVOCATE-GENERAL:** The House will take that into consideration when voting on the demand. Whether the demand should be put before the House is the question I was addressing myself to. The House has now a clear idea as to what the purpose of the grant was.

**The Hon'ble the SPEAKER:** Some may say it is not for the purpose of India.....

**The ADVOCATE-GENERAL:** I was addressing myself to the question whether in view of the statement made by the Hon'ble Premier you will not reconsider your ruling.

**The Hon'ble the SPEAKER:** When it has been stated that it is for the defence of India I cannot but put it to the vote of the House because the House has the right to decide whether the amount should be granted or not.

**The ADVOCATE-GENERAL:** Sir, I take it that you hold that in view of the fact that India's war efforts whether for offence or defence constitute a purpose of India you would put the motion to the House.

**The Hon'ble the SPEAKER:** As I was telling, certain section of the House may want to know what is really meant by the "purposes of India or some part of India".

**The ADVOCATE-GENERAL:** But that raises a somewhat different question, namely, the question of the general interpretation of section 150. I am however concerned with your ruling, at the moment. Will you put the motion to the House? If you put it to the House.....

**The Hon'ble the SPEAKER :** When Government says that it is for the defence of India, I cannot but put it to the vote of the House.

**The ADVOCATE-GENERAL :** That clears the ground and I might stop here, but as you have expressed a desire that I should address the House as 150, I shall briefly state my views. Sub-section (1) where the expression occurs imposes a limitation on the power of this House to make a grant. Members of this House are the custodians of people's money and it is for them to determine how that money is to be spent. They can indeed make a grant for any purpose they like provided that purpose is among the purposes of India. That is the only limitation. Another thing worth notice is that the sub-section uses the expression the "purposes of India or some part of India" and not the 'purposes of British India or some part of British India'. India has been defined in section 311 as follows:—

" 'India' means British India together with all territories of any Indian Ruler under the suzerainty of His Majesty, all territories under the suzerainty of such an Indian Ruler, the tribal areas, and any other territories which His Majesty in Council may, from time to time, after ascertaining the views of the Federal Government and the Federal Legislature, declare to be part of India".

Sir, substitute for 'India' the areas defined as such ; the section will mean that the revenues of the Federation or the provinces can be spent for purpose not only of British India but also of tribal areas or of any Indian State or of any part of the world which may be declared by His Majesty to be a part of India with the concurrence of the Federal and Provincial Legislatures. This enlarges the scope of the expression "purposes of India" very considerably.

Secondly, Sir, if the expression "purposes of India" has not been defined in the Act, its meaning will be clear if we look at the three Lists which comprise the Seventh Schedule to the Constitution Act. This Schedule refers to the purposes with respect to which the Federation and the provinces can make laws ; Federation can make laws with respect to matters contained in List I ; the provinces can make laws with respect to matters contained in List II ; and the Federation and the provinces share the power to make laws with respect to matters contained in List III. Generally speaking any purpose with respect to which the Federation or the provinces can make laws is a purpose of India. There are then the Federal purposes operating in the Federal sphere and the provincial purposes operating in the provincial sphere.

The further question and the really more difficult one is whether the purposes of India include any purpose outside the Federal or the Provincial sphere and with respect to which the Federation or the Provincial make laws. The Joint Select Committee has answered the question in the affirmative. In their Report, paragraph 178, which relates to employment of Indian troops outside India they say, "There have been many occasions on which the Government of India have found themselves able to spare contingents for operations overseas in which considerations of Indian Defence have not been involved ; and we may presume that such occasions will recur". Later on in the same paragraph they say, "Although in the circumstances we are discussing the defence of India would not be involved, it might on occasions be in India's general interests to make a contribution towards the cost of external operations. A proposal in the White Paper reproduces the provision of section 20(1) of the Government of India Act that 'the revenues of India shall be applied for the purposes of the Government of India alone' ; and a contribution in the general interests of India would come within the scope of that provision".

So, Sir, in the opinion of the Committee the three Lists do not exhaust the purposes for which money can be spent out of the Federal or provincial revenues. To illustrate the Committee's meaning, let us assume for a moment that the present war does not involve any question of India's defence, that her safety is not in any way in danger and that she does not stand to lose even if she does not help Britain. In the Committee's opinion it would still be in the general interests of India to come to Britain's help. India is a part of the British Empire and if the Empire is to stand together and not disintegrate each part of it should be ready to come forward to help any other part when the latter is in danger. When all the Dominions and the British possessions have rushed to Britain's help, what would be India's position in the Empire if she is held aloof? Could she expect help from any quarter of the Empire when she might herself be in danger? It would therefore be in what the Committee calls the general interests of India to help Britain. Such a help may not bring her any present benefit, but it is the part of wisdom to recognise the implications of the Imperial connection in her own interests. That I submit was what the Hon'ble Premier had in mind when he spoke of a gesture to the British Government. But here of course apart from the question of gesture there was a more substantial reason that, viz., India herself was in danger from the war and she had every motive of self-interest to see Germany defeated by assisting war efforts directed to that end.

I do not, Sir, remember all the arguments of Mr. Sen, but I have noted down some points. He firstly said that the Defence was a Central responsibility.....

**The Hon'ble the SPEAKER:** That was his original argument. But there is soundness in the argument that even if it be for Federal object the provinces can contribute.

**The ADVOCATE-GENERAL:** Sub-section (2) provides for that.

**The Hon'ble the SPEAKER:** Does not the 'purpose' mean the end in view which when attained would serve a need of India or any part thereof?

**The ADVOCATE-GENERAL:** That is the general definition of the word 'purpose', i. e., something in view.

But I submit, Sir, that even if no direct benefit results to India from the present contribution, it can still be regarded as made in the general interests of India in view of its possible reaction throughout the British Empire.

The expression "purposes of India" is extremely wide in its implications and has been deliberately made so, as to include a grant in India's general interests.

Therefore I submit, Sir, that the contribution of one lakh made to the British War Fund from the revenues of this province was in the circumstances of the case for a purpose of India.

**Mr. F. W. BLENNERHASSETT:** Mr. Speaker, Sir, having listened to the *pandits* and wise men expounding on the legal aspects of this question, my mind—the mind of a common man—is rather bewildered. But there are one or two points arising out of the discussion which has just taken place which even I can understand. I am most indebted to the Hon'ble Advocate-General for his charitable interpretation of section 150—a correct interpretation and an interpretation which I, as a common man, can appreciate. He said, "If the purpose of India or any part of India is served"...and if it be just that surely it was a proper purpose to say "Good luck, we wish you well at this time when all your forces have been surrounded and almost lost; our

hearts and sympathies go out towards you." If only for that reason alone, Sir, surely this grand purpose would have been fulfilled by the Government's generous gesture, and that action deserves, and I hope will get the support of every section of this House.

I take it, Sir, we all agree that the path of freedom is the way we would continue to walk in. The very fact that we are discussing this matter at all shows me two things. Firstly, it shows me we live, and have our being as a Legislative Assembly under democratic rule. Secondly, it shows me we are still free men. Need I remind the House that under the scourge Great Britain and her allies are now resisting, such a discussion could not even be initiated, for what a Dictator does is not open to discussion nor is it debatable by any body of people in public or in secret. The German Reichstag gave up long ago all pretence at legislating and its only function now, when indeed it meets at all, is to listen to Hitler's commands and to obey them.

It has been said by some very foolish people that even supposing Hitler and Mussolini, with their hordes of wicked accomplices, did win the war, India could be no worse off under their rule than under British rule. We have a saying, "Better the devil you know than the devil you do not know." India anyway knows British rule and the worst it can do. It does not yet know the best it can do. But India unlike Poland certainly does not know the worst Hitler and Company could do, though we have learned much from our newspapers. May we here remind ourselves of Hitler's record in qualities which inspire confidence or trust as a substitute for British rule in this land. He is the man who ordered, and practically saw his orders carried out, the killing of his best friends, friends who had helped him to power, for no better reason than that they did not see eye to eye with him on all subjects and appeared likely to stand in the way of his advancement. He is the man who confiscated the function of the German Parliament, such as it was, to himself, and were he here, he would have had my mouth closed within five minutes of starting this speech and would have my head chopped off for saying no more than I have already said; for let me remind you he has substituted the axe and the block for the gallows. He is the man who persecuted, and ordered all Germans to persecute, the Jews for no other reason than that they were Jews. He is the man who created the Gestapo—that sinister institution—the secret police force to whom little German children are taught to betray the fire-side confidences of their parents, so that not even the home is sacred from the prying and spying of Hitler's beasts of prey. He is the man who instituted the concentration camps in Germany to be filled with those who dare to differ from his ethics and are tortured till they agree or die. He is the man who has said that, unless a man's skin is white and hair yellow, that man is on a low plane in the animal world, and should not be allowed to rise from it. In *Mein Kampf* he writes that Indians were destined, aforetime, to forever remain a subject people and the servants of what he is pleased to call the Aryan race. Well, is he the kind of ruler you would prefer to the British?

**The Hon'ble the SPEAKER:** I quite appreciate the sentiments of the hon. member, but I would ask him to confine himself strictly to the points.

**Mr. F. W. BLENNERHASSETT:** I shall come to that, Sir. It has been said, Sir, that the conflict now raging is an Imperialist war—Britain's war—and I want, Sir, to show that it is neither. I must confess that I am not perfectly certain what the expression "Imperialist war" really means, for the expression like so many others is very loosely and

unthinkingly used. Usually, however, the words signify a war which is waged for the spoilation of a weaker nation or a group of weaker nations, having as its motives the enlargement of an empire—the acquisition of land and territory. Well, Sir, if that is the meaning of Imperialist war, let us see how this war compares to the definition. Is Great Britain fighting to acquire more territory? I do not think so. Is Holland, or Norway, or Denmark, or Belgium, or the little Duchy of Luxemburg, or Poland, or Czechoslovakia, or Greece, or Egypt, or Turkey or who else you like fighting to gain more land? If so, they are setting about their business in a strange manner. As for Britain, it appears that the years of almost criminal disarming and weakening of herself in which she indulged, were hardly fitting preparation for such a motive, and when one remembers that, added to this, the then Prime Minister of Britain went twice to Germany to beseech the only man alive in the world in whose hands the choice of peace and war lay, to preserve peace: When one remembers, I say how large a piece of humble pie Mr. Chamberlain had to eat in this cause—one is forced to the conclusion that he did not want war. Here may I be permitted to quote from the speech of the Hon'ble Sir Zafarullah Khan in the Central Legislative Assembly on the 1st November 1940? This is what he said:—

“Did Munich indicate a desire on the part of Britain to embark upon any Imperialist war or any kind of war? Surely this is a strange type of Imperialist war when the victim is non-existent; where there is no hint of aggression, where elementary precautions about defence had been neglected and it was actually entered upon to put a period to the aggression of a gangster against his weaker neighbour.”

No, Sir, this is no Imperialist war so far as we are concerned, and no amount of parrot-like reiteration that it is, nor its endless repetition on a gramophone record of His Master's Voice Type will turn it into one.

**The Hon'ble the SPEAKER:** I hope the hon. member will finish. Whether this war is an Imperialistic war or war of democracy is not so very important in this debate. The question is whether for this war any contribution is to be made or not. It has been said that India is also one of the belligerent countries along with Britain.

**Mr. F. W. BLENNERHASSETT:** I will come to that point, Sir. But it is necessary that we should understand the *pros* and *cons* before we vote in favour of the motion or against it.

What kind of war then is it? What indeed are its motives? If there is any doubt in this House on this score, then this House stands almost alone in the world. This war is a war of principles and not principalities. It is a war of right against wrong. Here, I can almost hear the cynic saying “yes, it will end in victory for the strongest and the best armed side”. He will then proceed to quote that rather stupid and well-worn catch-phrase “God is always on the side of the big battalions”. Is He? Was He on the side of the Germans and their vastly superior forces in the first battle of the Marne in 1914? Was He with the German multitudes at Mons when what the Kaiser called, “the contemptible little British army” held them up? Was He with those grey crawling beasts who followed close on the heels of the first poison gas attack in history when the Canadians at Ypres, coughing blood, and dying of gas-poisoning, stemmed their advance? Was He with the vastly superior German forces in France in May last year, when the entire British army of 3,30,000 were surrounded; yet all escaped? Need I go on? No, Sir, God is where He always was—on the side of right and justice. If this war is going to achieve anything, it is going to end forever that unholy deception of the devil that might is bound to win, for I am as certain as I stand here that the cause of our arms will triumph and that *right will prevail*.

**The Hon'ble the SPEAKER:** I think, this will be sufficient. The hon. member should finish now.

**Mr. F.W. BLENNERHASSETT:** I have another point, Sir, and I crave your indulgence to allow me to finish it. I will finish off with just a reference to what we are up against because I think it is desirable that we should get a fair view of the whole picture.

Here, Sir, I would like to say that some of us here think that it would have been more proper had India's consent been asked before she was declared a belligerent in this war. We know the good-will of the vast majority was on the side of right, and had this been done much misunderstanding would have been avoided.

We, British, are not proud of all we have done in the past, nor do we defend the work of those we call "Old Gang". We are not proud of distress and unemployment, of slums and overcrowding, but we are proud and desperately jealous of the freedom of our way of life. It is a precious heritage hammered out on the anvil of reform with the hammer of courage and sacrifice. And this forging was initiated in the fields of Runnymede over seven hundred years ago. Since then social reformers have pointed out the better way of life, and we know we are now fighting that last long battle which will see an end to all the dross and impurities. I appeal with all humility and earnestness to all men of good-will to join with us in this cause.

I had a lot to say, Sir, but I have no time. I will refer shortly to the attitude of the great Congress party whose benches are vacant. We regret very much that they are not with us. We regret the attitude they have taken in this war. That they should have indulged in deliberate hindrance of our cause is most regrettable. We do hope that even yet they will let bygones be bygones and will co-operate with us in this most just cause. The Government of Assam has translated its sympathies into very practical aid by the handsome donation of one lakh of rupees to the War Fund. This has gone to the general fund for certainly the help of India, and the help of all free men. We heartily support their action and applaud their sentiments and we say to all others—"go thou and do likewise".

Before I resume my seat, Sir, may I remind this House of the immensely valuable part India by her units of armed forces and their ancillary services, together with her immense industrial effort is playing in this conflict? We are justifiably proud of this effort, and all we can do is to hope that as time passes, it will grow stronger. The enemy is at our doors, nay, would be inside our houses save for those armed friends of ours who are resisting him at the front door in Egypt, and at the back door in Singapore. We know they will not fail.

And as a final word, Sir, let us take heart from the knowledge that America is now committed to a policy of total aid to smash the Dictators. President Roosevelt pledging the aid of his people to Britain, Greece, China, India, Yugoslavia, if they stand firm, and any other country resisting Nazism, says—"Our country is going to be the Arsenal of Democracy. It is going to play its full part, and when the dictatorships disintegrate—and pray God that it will be sooner than any of us now dares to hope—our country must continue to play its part in world reconstruction". (Applause.)

**Mr. C. GOLDSMITH:** Mr. Speaker, Sir, it is a pity that the demand for this grant should come up again. However, as it has come, we have got the opportunity to be able to associate ourselves with the view that Assam as a province should stand by Britain in her trial and during her life and death struggle.

Sir, by now all the leaders of India have realised the value of India allying with one great power like England and not aspire to be totally independent to be swallowed up by a third power and lose whatever privileges she already enjoys. One independent country after another—large or small—has been losing its independence, in the wake of Nazi and Fascist aggression, which throws a challenge to all the countries of the world to revise their views regarding total independence and isolation. To-day one country may be ideally independent but practically and virtually in abject slavery. Indian leaders of to-day and any hon. members of the Assembly here who may have still any misgivings as to the part India should take in this war should consider this question seriously before trying to impede the war-efforts of India and Assam.

In this light, I lend support to this grant as a token of Assam's loyalty to His Majesty the King. I believe there is none here to-day who will object to this demand. *(Applause.)*

**The Hon'ble the SPEAKER:** Will the Hon'ble Premier give a reply now?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I am quite ready to reply, Sir, but it is now 5 o'clock. I think it will do if I reply to-morrow.

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

#### Adjournment

The Assembly was then adjourned till 2 P.M. on Friday, the 21st March 1941.

*Shillong,*

*The 15th May, 1941.*

A. K. BARUA,

*Secretary, Legislative Assembly, Assam.*

## APPENDIX E

**SUPPLEMENTARY STATEMENT OF EXPENDITURE CHARGED  
ON THE REVENUES OF THE PROVINCE DURING 1940-41,  
LAID BEFORE THE ASSEMBLY UNDER SECTION 81 OF  
THE GOVERNMENT OF INDIA ACT**

*(To be discussed by the Assembly on the 21st March 1941)*

**CHARGED—NON-EXCLUDED AREAS**

**No. 1**

**8. Provincial Excise—**

Amount originally included in the authenticated schedule	Rs.
Additional amount now required	27,100
II.—Sub-heads under which the supplementary appropriation will be act counted for—	4,150
A.—Superintendence—	
(1) Pay of Officer—Commissioner of Excise ( <i>Charged</i> )	...
(2) Allowances and Honoraria—Travelling Allowances of Officers	1,458
H. Charges in England—Allotment of Pay of Officers	150
Total	2,542
	4,150

**EXPLANATORY NOTE**

The provision of pay, etc., of the present Commissioner of Excise was made at the rate of pay of his predecessor. Hence Rs. 4,000 more is required.

The Excise Commissioner has authorised the High Commissioner for India to draw a sum of Rs. 254-3-0 per mensem in England out of his pay to meet the educational expenses of his son, which is debitable to the head "Charges in England" out of the additional sum of Rs. 4,000, Rs. 2,542 will be drawn in England and Rs. 1,458 in India.

For increased touring Rs. 150 more is required.

**No. 2**

**12.—Charges on account of Motor Vehicles Taxation Act—**

Amount originally included in the authenticated schedule	Rs.
Additional amount now required	Nil
	14,858

## II.—Sub-heads under which the additional amount will be accounted for—

	Rs.
A.—Charges for collections—	
Pay of officers ... ..	6,101
Expenditure from Road Fund—	
Pay of officers ... ..	4,696
Allowances and Honoraria ... ..	61
	<hr/>
	10,858
D.—Charges in England ... ..	4,000
	<hr/>
Total ...	14,858

## EXPLANATORY NOTE

The additional grant under this head is required to meet the pay, travelling allowance and overseas pay of Mr. Lloyd Rees, I. P., who was placed on special duty for the revision of the Motor Vehicles Manual from March to November 1940 and has now been appointed as Secretary to the Provincial Transport Authority from December last. Half of his pay from December 1940 will be met by the Government of India from the Central Road Fund for a period of two years. The expenditure is shown in two sums for the several periods but the whole is recoverable from the Petrol Fund.

## No. 3

## 22.—Interest on Debt and other Obligations—

Amount originally included in the authenticated schedule Rs.5,66,600

## II.—Sub-head under which the additional grant will be accounted for—

## 2.—Floating Loans—

Discount on 3 per cent. Assam Government Loan, 1952 ... Rs.1,93,000

## EXPLANATORY NOTE

A loan of Rs. 50 lakhs at 3 per cent. interest redeemable at par in 1952 was floated in the open market in September 1940 to undertake various beneficial schemes involving large capital expenditure, to grant loans to local bodies for improving water-supply in urban areas, to fund floating debt, etc. The issue price of the loan was 94 per cent. and Rs. 3 lakhs had accordingly been paid as discount in connection with the raising of the above loan. The additional amount of Rs. 1,93,000 asked for represents the nett amount required to meet the excess expenditure, the balance being met by reappropriation from other heads.

## No. 4

## 37.—EDUCATION—EUROPEAN AND ANGLO-INDIAN

	Rs.
Amount originally included in authenticated schedule ...	800
Additional amount now required ... ..	65

II.—Sub-head under which the additional amount will be accounted for—

(a) Pay of officers	Rs.
...	65

## EXPLANATORY NOTE

Due to the increase in the number of boarders in the Pinemount School provision for the allowance of the Civil Surgeon has fallen short.

No. 5

37.—*Education*—Other than European and Anglo-Indian—

Amount originally included in the authenticated schedule	Rs.
Additional amount now required	57,200
...	500

II.—Sub-head under which the supplementary grant will be accounted for :—

General Charges—

Travelling allowance of officers (charged)	Rs.
...	500

## EXPLANATORY NOTE

The additional grant is required to meet the travelling allowance of the Director of Public Instruction who had to perform certain un-expected journeys in attending Conferences at Madras and Simla.

No. 6

38. Medical—

Amount originally included in the authenticated Schedule	Rs.
Additional amount now required...	1,67,300
...	19,743

II. Sub-heads under which the additional amount will be accounted for :—

1.A.—Medical Establishment—

(a) Superintendence—

Pay of Officers	...	Rs.
Allowances and Honoraria	...	12,547
...	...	200

2. (b) District Medical Officers—

Pay of Officers	...	4,916
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3. (c) Reserve Medical Subordinates—

Pay of Officers	...	574
Allowances and Honoraria	...	1,506
...	...	19,743

Total

## EXPLANATORY NOTE

1.—The excess expenditure is mainly due to the leave salary of the Inspector-General (Colonel E. S. Phipson, I.M.S.) for the period from 4th April to the 27th August 1940 being drawn in India and debited to this Government.

2.—The excess expenditure is due to the fact that less provision was made on the presumption that some of the I.M.S. Officers would be granted leave outside India but subsequently the outbreak of war has upset the calculation.

3.—The excess expenditure is due to the posting of one I.M.S. (Captain Caverhill) Officer on supernumerary duty at Shillong.

## No. 7

## 50.—CIVIL WORKS—PROVINCIAL (EXCLUDING ESTABLISHMENT AND TOOLS AND PLANT)

Rs.

Amount originally included in the authenticated schedule	...	52,200
Additional amount now required	...	5,398

II.—Sub-head under which the additional appropriation will be accounted for by the Public Works Department :—

Rs.

(i) General administration (*Charged*)—

Non-Excluded areas	...	5,398
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## EXPLANATORY NOTE

The additional sum is required due to decision by Government to undertake the work of the extension of the Governor's Secretariat at Shillong during the current year.

## No. 8

Rs.

## 50.—Civil Works—(Establishment charges)—

Amount originally included in the authenticated schedule	...	1,74,700
Additional amount now required	...	2,722

II.—Sub-heads to which the additional appropriation will be accounted for by the Public Works Department :—

A.—Direction charges—

(a) Chief Engineer and Secretary, Public Works Department—

Rs.

(i) 3. Allowances and Honoraria ( <i>Charged</i> )	...	1,350
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(b) Superintending Engineers—

(ii) 1. Pay of officers ( <i>Charged</i> )	...	99
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(iii) 3. Allowances and Honoraria ( <i>Charged</i> )	...	500
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## B.—Charges on Construction—

Rs.

(iv) 3. Allowances and Honoraria ( <i>Charged</i> )	...	773
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Total	...	<u>2,722</u>
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## EXPLANATORY NOTE

(i) The extra sum of Rs. 1,350 under this head includes Rs. 1,000 to be paid to the Under-Secretary, Public Works Department, as honorarium for the revision of the Assam Public Works Department Code for which no budget provision was made. The balance, Rs. 350, is required to meet Chief Engineer's travelling allowance the budget provision having proved insufficient for the purpose.

(ii) The extra sum required is small and needs no comment.

(iii) The original budget provision of Rs. 5,500 for two Superintending Engineers has proved insufficient and an extra Rs. 500 will be required to meet the cost of their travelling allowance up to the end of the year.

(iv) The extra sum is necessary to meet the cost of travelling allowance of I. S. E. Executive Engineers on account of increased touring particularly the tractor demonstration held at Sylhet in December 1940.

No. 9

55. Superannuation Allowances and Pensions and 83.—Payment of commuted value of pensions:—

		Rs.
Amount originally included in the authenticated schedule		8,78,500
Additional amount now required	...	12,313

II.—Sub-heads under which the additional amount will be accounted for:—

83.—Payment of commuted value of pension—

		Rs.
J.—Payment of commuted value of pensions	...	12,313
Total	...	<u>12,313</u>

## EXPLANATORY NOTE

An additional sum of Rs. 17,073 is required to meet the cost of commutation of a portion of the pensions of some officers of the All-India Services who retired during the year. It is obligatory to sanction the commutation of pensions in such cases once the necessary medical certificate has been produced. A saving of Rs. 4,760 is anticipated under other heads of the grant which will be utilised to meet the excess in part and an additional grant of Rs. 12,313 is therefore necessary.

## EXCLUDED AREAS

No. 10

## 7. Land Revenue—

	Rs.
Amount originally included in the authenticated schedule ...	25,400
Additional amount now required ...	825

## II.—Sub-heads under which the additional amount will be accounted for—

	Rs.
A.—General Establishment—	
Allowances and honoraria ...	37
D.—Charges on account of land revenue collections ...	463
G.—Land Records—Kanungo Establishment—	
1. Pay of establishment ...	160
2. Allowances and honoraria... ..	150
3. Contingencies (non-contract) ...	15
Total ...	825

## EXPLANATORY NOTE

A.—The amount is required for payment of remuneration to copyists which could not be accurately determined beforehand as it depends on the number of copies required by the public.

D.—The amount is required for payment of commission on land revenue, poll, hoe and house-tax collections, the charges being of a fluctuating nature.

G.—1 & 2. Due to appointment of a new Supervisor Kanungo for the Balipara Frontier Tract.

3. Owing to the necessity for purchase of some mathematical instruments for Sadiya.

No. 11

## 8.—Provincial Excise—

	Rs.
Amount originally included in the authenticated schedule ...	16,400
Additional amount now required ...	150

## II.—Sub-head under which the additional amount will be accounted for—

## B.—District Executive Establishment—

	Rs.
Allowances and honoraria ...	150

## EXPLANATORY NOTE

The excess is due to payment of rewards in the Naga Hills in connection with an opium smuggling case detected there.

No.12

## 38. Medical—

	Rs.
Amount originally included in the authenticated schedule ...	2,06,700
Additional amount now required... ..	1,720

II.—Sub-head under which this demand will be accounted for—

## H.—Charges in England—

(a) Expenditure of the High Commissioner ... ..	1,720
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## EXPLANATORY NOTE

The expenditure is required to meet the overseas pay of medical officers now serving in Excluded areas as the original budget did not provide anything under this head.

No.13

## 50.—Civil Works—(Establishment Charges)—

	Rs.
Amount originally included in the authenticated schedule ...	97,500
Additional amount now required ... ..	1,178

II.—Sub-heads under which the additional appropriation will be accounted for by the Public Works Department:—

## B.—Charges on construction—

	Rs.
(i) 2.—Pay of Establishment (Charged) ... ..	478
(ii) 3.—Allowances and Honoraria (Charged)... ..	700
Total ... ..	1,178

## EXPLANATORY NOTE

(i) and (ii). The extra sums are necessary to meet actual requirements. The original budget provision under these sub-heads have proved insufficient.

# STATEMENT SHOWING BY MAJOR HEADS THE AMOUNTS OF SUPPLEMENTARY STATEMENT OF EXPENDITURE CHARGED ON THE REVENUES OF THE PROVINCE DURING 1940-41

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## APPENDIX

[20TH MAR. 1941]

Heads	Amount included in the authenticated schedule			Additional amount now required			Amount as it will finally stand			Number of demand
	Non-excluded areas	Excluded areas	Total authenticated amount	Non-excluded areas	Excluded areas	Total amount	Non-excluded areas	Excluded areas	Total amount	
1	2	3	4	5	6	7	8	9	10	11
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
7.—Land Revenue ..	..	25,400	25,400	..	825	825	..	26,225	26,225	10
8.—Provincial Excise ..	..	16,400	43,500	4,150	150	4,300	31,250	16,550	47,800	1 and 11
12.—Charges on account of Motor Vehicles Taxation Act.	..	..	..	14,858	..	14,858	14,858	..	14,858	2
22.—Interest on Debt and other obligations.	5,66,600	..	5,66,600	1,93,000	..	1,93,000	7,59,600	..	7,59,600	3
37.—Education—European and Anglo-Indian.	800	..	800	65	..	65	865	..	865	4
37.—Education (other than European) ..	57,200	..	57,200	500	..	500	57,700	..	57,700	5
38.—Medical ..	1,67,300	2,06,700	3,74,000	19,743	1,720	21,463	1,87,043	2,08,420	3,95,463	6 and 12
50.—Civil Works (excluding establishment and tools and plant).	52,200	..	52,200	5,398	..	5,398	57,598	..	57,598	7
Ditto (Establishment) ..	1,74,700	97,500	2,72,200	2,722	1,178	3,900	1,77,422	98,678	2,76,100	8 and 13
55.—Superannuation allowances ..	8,78,500	..	8,78,500	12,313	..	12,313	8,90,813	..	8,90,813	9
Total ..	19,24,400	3,46,000	22,70,400	2,62,749	3,873	2,66,622	21,71,149	3,49,873	25,27,922	

A. G. P. (L. A.) No.311—125—21-5-1941.

**ASSAM LEGISLATIVE ASSEMBLY**  
**GOVERNMENT OF ASSAM**

**GOVERNOR OF ASSAM**

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

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