



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

... met in the Assembly Chamber Shillong, at 2 p.m. on

**CORRECTION SLIP TO THE ASSAM LEGISLATIVE ASSEMBLY DEBATES (BUDGET SESSION OF THE ASSEMBLY HELD IN MARCH, 1941)**

*Correction Slip No. 2 of 1941.*

For the words "The Hon'ble Maulavi Munawwar Ali replied", wherever they occur below Unstarred questions, put and answered during the 1941 March Session of the Assam Legislative Assembly, substitute the words "The Hon'ble Dr. Mahendra Nath Saikia replied".

[File No.As.-17-L.A. of 1941.]

SHILLONG :  
The 15th July 1941.

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

A. G. P. (L.A.) No.85—500—16-7-1941.

\*75. Will Government be pleased to state the names of members of the Assam Civil Service and Assam Junior Civil Service who are at present employed on special works with their special pay ?

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

75.—The information is given in a statement placed on the table. The statement excludes the deputation posts specifically provided in the Assam Civil Service and the Assam Junior Civil Service cadres.

*Statement referred to in reply to starred question No. 75 asked by Maulavi Mabarak Ali*

**ASSAM CIVIL SERVICE**

Names	Nature of special duty	Special pay per month	Remarks
1. Maulavi Ahmed,	Alim-ud-din Temporary Additional District and Sessions Judge, Assam Valley Districts,	Nil	Draws pay according to senior time-scale for the Indian Civil Service.

Names	Nature of special duty	Special pay per month	Remarks
2. Maulavi Abdul Hye Choudhuri.	Deputy Secretary to Government in the Education and Local Self-Government Departments.	Nil ...	Gets consolidated pay at Rs.850—50—1,100.
3. Mr. Radharanjan Dhar	In connection with the Wards' Estate in Sylhet.	Rs. 140.	
4. Maulavi Muhammad Eahia Khan Choudhuri.	Publicity Officer to Government.	Rs. 100.	
5. Maulavi Muhammad Sultan.	Private Secretary to Hon'ble Premier.	Rs. 100.	
6. Maulavi Muhammad Madarris Choudhuri.	Development Schemes Officer.	Rs. 100.	

## ASSAM JUNIOR CIVIL SERVICE

1. Maulavi Muhammad Abdul Gafur.	With Debt Conciliation Board.	Rs. 50.	
2. Maulavi Zia-ud-din Yusuf.	Ditto	Rs. 50.	
3. Babu Surendra Kr. Chakrabatti.	With the Sylhet Municipality.	Rs. 50.	
4. Maulavi Muhammad Ali	With Debt Conciliation Board.	Rs. 50.	
5. Maulavi Muhammad Abdul Latif.	Ditto	Rs. 50.	
6. Maulavi Saiyid Aolad Hussain.	Ditto	Rs. 50.	
7. Srijut Barua. Sharat Ch.	In Manipur State	Rs. 50	Paid by the Mani p u r State.

**Persons of Sylhet serving as seamen abroad**

**Maulavi MABARAK ALI** asked :

\*76. Will Government be pleased to state—

(a) The number of persons of the district of Sylhet who are employed as seamen now ?

(b) The number of such persons who died at sea during the year

1940?

- (c) Whether Government propose to maintain a register of these persons (seamen) in the office of each Subdivisional Officer ?
- (d) Whether Government is aware that these persons are contributing to the prosecution of the War at the risk of their lives ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

76. (a) & (b)—Government regret they have no statistics, nor could they be obtained.

(c)—This is not practicable as the men do not "sign on" in Sylhet, but Government are considering a suggestion that the authorities should be moved to improve the system of recording particulars of seamen when they sign on, to facilitate the tracing of them and their families if required.

(d)—Yes.

(Starred questions Nos. 77-78 standing in the name of Mr. Naba Kumar Dutta were not put and answered as the questioner was absent.)

### Officers of Class III of Assam Education Service

Mr. KEDARMAL BRAHMIN asked :

\*79. Is it a fact that Government have sanctioned a number of posts of Assistant Lecturers in Class III of Assam Education Service on a scale of pay of Rs.100—225 (subject to revision) ?

\*80. Are Government aware that the qualifications, work, and responsibility of these Assistant Lecturers are in no way less than those of the Lecturers and Professors in Classes I and II of the Assam Education Service ?

\*81. Are Government aware that amongst them there are a few possessing the Doctorate degrees of foreign Universities ?

\*82. Is it a fact that this scale obtains nowhere else except in this province ?

\*83. (a) Is it a fact that the Retrenchment Committee appointed by the Government recommended a uniform scale of pay for college teachers starting with Rs.150 and ending with Rs. 500 ?

(b) If so, do Government propose to give effect to the policy underlying the said recommendation of the Retrenchment Committee ?

\*84. (a) Has the attention of Government been drawn to the memorial dated the 4th October 1940 submitted by the Assistant Lecturers ?

(b) If so, do Government propose to take any action on it and if so, on what line ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI replied :

79.—Yes.

80.—The academic qualifications of some of these Assistant Lecturers are as high as those of some Professors and some of them are competent to teach in the Degree classes. Their responsibilities are obviously less than those of the senior officers.

81.—Yes, only two.

82.—This may possibly be correct.

83.—(a) The Committee recommended a scale of Rs.125 to Rs.500.

(b)—The recommendation will be considered and disposed of on its merits.

84. (a)—Yes.

(b)—The matter is under consideration.

### Inspector of Schools, Surma Valley

**Maulavi ABDUR RAHMAN** asked :

\*85. Is it a fact that the post of the Assistant Inspector of Schools, Surma Valley, has not up till now been permanently filled up ?

\*86. Is it a fact that the Inspector of Schools, Assam Valley, is going to be promoted soon ?

\*87. Is it a fact that no Muslim ever held any of the posts of the Inspector of Schools in this Province ?

\*88. Are Government aware of the fact that a number of high class and suitable Muslim M.As. and M.Sc's. are out of employment at present in the Province ?

\*89. Is it a fact that the quota of Assam Valley Hindus in Education Service has been filled up ?

\*90. (a) Is it a fact that one Maulavi Abdul Kuddus Khan, a first class M.Sc. of Sylhet district, was a candidate for the lecturership of Chemistry in the Cotton College, Gauhati ?

(b) If so, why instead of taking him in, a second class Hindu was appointed in that post ?

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

85.—Yes.

86.—A proposal to place the officer on special duty is under consideration.

87.—Yes.

88.—The exact information is not available. Government are making inquiries as to the number of high class M.A. and M.Sc. Muslims of this Province still unemployed.

89.—Yes.

90. (a) & (b)—Government chose the only candidate nominated by the Assam Public Service Commission, namely Srijut Harish Chandra Goswami. For the temporary post they chose the same candidate, since he was the first nominee, while Maulavi Abdul Kuddus Khan had the third place.

**Maulavi ABDUR RAHMAN**: Sir, the answer to question No. 85 is 'yes'. May I know from the Hon'ble Minister the approximate time when it will be permanently filled up ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI**: I hope to fill it up in a couple of months.

**Maulavi ABDUR RAHMAN**: For how long it is lying vacant ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI**: The post is actually not vacant. Mr. Khirode Purkayastha is holding the post and working as Assistant Inspector of Schools, since about the middle of 1938. I am speaking from memory.

### UNSTARRED QUESTIONS

(to which answers were laid on the table)

#### Registered Public Works Department Contractors

**Maulavi ABDUR RAHMAN** asked :

116. Will Government be pleased to lay on the table a list of the Public Works Department registered contractors in Assam and also those who come from outside the province without holding any domiciled certificate ?

117. (a) Is it a fact that attention of Government was drawn for times without number in the old Legislative Council and also on the floor of this House to the fact that people from outside Assam were working as contractors under the Public Works Department and it was also suggested that it should be stopped ?

(b) If so, do Government propose to issue necessary orders ?

(c) Is it a fact that every time Government agreed but it is not being acted upon ?

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

116.—There is no system of registration of contractors in Public Works Department. Collection of long lists of contractors (native and domiciled) covering the entire province will involve labour not commensurate with results obtained. If hon. member desires information with regard to any particular division or subdivision, it will be supplied to him.

117. (a)—Yes.

(b)—Orders have already been issued.

(c)—This is not the case.

#### A motorable road between Biswanath and Jagannathpur

**Khan Bahadur Dewan EKLIMUR ROZA CHAUDHURY** asked :

118. (a) Has the attention of Government been drawn to a public petition to the Chairman of the North Sylhet Local Board and Sunamganj Local Board for the construction of a motorable earth road between Biswanath and Jagannathpur *via* Bishnupur-Raikeli in the district of Sylhet, published in the "Sylhet Chronicle" dated the 13th January 1941 ?

(b) If so, do Government propose to take up the early construction of the said road ?

(c) If not, why not ?

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

118. (a)—Yes.

(b) & (c)—The matter will receive due consideration if and when recommended by the Assam Communications Board.

**Charchandi river near Biswanath**

**Khan Bahadur Dewan EKLIMUR ROZA CHAUDHURY** asked :

119. (a) Are Government aware that the river "Charchandi" near Biswanath in the district of Sylhet has silted up considerably ?

(b) Do Government propose to take up its excavation at an early date ?

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

119. (a)—Government have no information but are prepared to accept the hon. member's statement.

(b)—The proposal will first have to be investigated by the Embankment and Drainage Division to see if it is practical and whether the expenditure involved is commensurate with the benefit likely to accrue.

**Muslim Hostel of Karimganj Government High School**

**Babu BALARAM SIRCAR** asked :

120. (a) Are Government aware that Babu Balaram Sircar, M.L.A. sent a petition to the Director of Public Instruction, Assam, in 1939 demanding the Muslim Hostel of Karimganj Government High School to be utilised by the students of the Scheduled Castes communities ?

(b) If so, do Government propose to do the same as soon as it is vacated and make a provision of Rs. 100 a month in the next budget for the help of the poor Scheduled Castes students who will reside in that hostel ?

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

120. (a)—Government are informed that no such petition was received in the Office of the Director of Public Instruction, Assam, in 1939.

(b)—Does not arise.

**Babu BIPIN BEHARI DAS** : The answer to question No. 120 (a) is that 'no such petition was received in the office of the Director of Public Instruction.' May I know whether Government will consider the case if they receive any petition ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI** : This is a hypothetical question but all the same I can say that any petition received on this subject, will receive due consideration.

**Assistant Lecturers of Murarichand College, Sylhet**

**Maulavi Md. ABDUS SALAM** asked :

121. Have Government received a representation from the Assistant Lecturers of the Murarichand College, Sylhet to the effect that they are unable to maintain themselves with their poor salaries ?

122. Are Government aware that the house rent at Sylhet is very high ?

123. Are Government aware that conveyance charges for attending the College from the town is also exorbitant ?

124. Is it a fact that the Principal is the Superintendent of all the attached hostels and that he gets free quarters ?

125. Do Government propose to give some relief to those Assistant Lecturers by appointing them Superintendents of the attached hostels of the College ?

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

121.—Yes.

122.—Government have no information.

123.—Government are unable to reply unless the type of conveyance is specified.

124.—The Principal is in general charge of the entire institution including hostels for which there are separate Superintendents and he is given rent free quarters owing to the necessity to reside near the scene of his work.

125.—The representation of these officers is under consideration.

#### **A motorable Road between Biswanath and Jagannathpur**

**Babu AKSHAY KUMAR DAS** asked :

126. (a) Are Government aware that owing to want of road communications great difficulty has been experienced by the people of the area lying between Biswanath and Jagannathpur in the district of Sylhet ?

(b) If so, do Government propose to take early steps to remove the long-felt want of the locality by arranging the early construction of a motorable earth road from Biswanath to Jagannathpur ?

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

126. (a)—The reply is in the affirmative.

(b)—The hon. member is referred to the replies given to unstarred questions Nos. 118 (b) and (c) asked by Khan Bahadur Dewan Eklimur Roza Chaudhury, M.L.A., during the current Session of the Assembly.

#### **Deputy Inspectors and Sub-Inspectors of Schools, Assam Valley Circle**

**Mr. NABA KUMAR DUTTA** asked :

127. Will Government be pleased to state the number of Deputy Inspectors of Schools and Sub-Inspectors of Schools in the Assam Valley Circle community by community ?

128. Is it a fact that Sub-Inspectors in Class III of the Assam School Service are directly appointed as Deputy Inspectors in Class I in supersession of claims of senior teachers of both Class II and Class III officers of Assam School Service ?



129. If the reply to question No.128 is in the negative, in how many cases within the last 10 years, senior teachers of Classes II and III were appointed as Deputy Inspectors of Schools ?

130. Do Government propose to consider the claims of the senior teachers in Classes II and III in making appointments as Deputy Inspectors of Schools ?

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

127.—The figures are given below :—

	Deputy Inspectors	Sub-Inspectors
Muslims ... ..	3	6
Hindus, Assam Valley ... ..	9	16
Tribal, Hills... ..	1	2
Plains ... ..	...	2
	13	26

128.—Yes, ordinarily.

129.—Does not arise.

130.—The suggestion will be examined.

#### Realisation of War subscriptions

**Babu KARUNA SINDHU ROY** asked :

131. Will Government be pleased to state—

- (a) The amount of war subscriptions realised in the province up till now ?
- (b) The amount of war subscriptions realised by the officers of the executive Department of Assam Government ?
- (c) The amount of war subscriptions realised by officials of other Departments of the Assam Government ?
- (d) The amount of war subscriptions realised by non-official bodies or persons ?
- (e) The names of private persons who have realised war subscriptions mentioning the amount realised by each of them ?
- (f) Whether considerable time of the departmental officers mentioned in question No.131(c) above has been spent in war subscription realisation works ?
- (g) Whether it is a fact that prominent persons of non-official bodies and other persons mentioned in question No.131(d) above, have been remunerated for such realisation works ?
- (h) The names of persons from whom, sums of Rs.2,000 or more each have been realised as war subscription ?
- (i) Whether each of the above persons had paid the sum voluntarily ?
- (j) Whether any high Government officials have induced the said persons to pay, on the promise of investing titles or giving Government service to them or to their relatives ?

132. Will Government be pleased to state—

- (a) The number of persons from whom sums amounting to Rs.1,000 to Rs.1,999 each have been realised as war subscriptions ?
- (b) Whether the aforesaid persons have made voluntary payments ?
- (c) If not, whether any officers of Government have induced them to pay on the promise of showing any Government favour such as withdrawal of any civil or criminal cases pending against them or have compelled them to pay by threats of levying or raising income-tax ?

133. Will Government be pleased to state—

- (a) The names of persons from whom sums less than Rs.1,000 each have been realised as war subscriptions ?
- (b) The names of such persons who have made voluntary payments ?
- (c) The names of officers who have realised the above subscriptions by going from door to door both in towns and villages ?
- (d) The names of officers who have collected the subscription in Criminal Courts and in Sub-Registry offices, showing the amount collected by each of them ?

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

131. (a) to (e)—Government have no information save such as has been made available to the House in answer to another hon. member.

(f)—Government have no reason to think that Government servants have given this assistance at the detriment of their ordinary work.

(g)—No.

(h)—Government have not this information and must refer the hon. member to the reply given to questions of the same nature by Maulavi Md. Maqbul Hussain Chaudhuri at this session.

(i)—Does not arise.

(j)—Certainly not.

132.(a) & (b)—The replies are identical with those to parts (h) and (i) of the previous question.

(c)—Does not arise.

133.(a), (b), (c) & (d)—Government have no information to give in reply to these questions, as the fund is organised by a Board, the Secretary and Treasurer of which, may probably have the details asked for.

#### **Construction of a road between Mewa and Bairagibazar**

**Babu KARUNA SINDHU ROY** asked :

134.(a) Is it a fact that the inhabitants of Panchakanda area have been agitating for a long time to have a road constructed between Mewa and Bairagibazar in the subdivision of Karimganj ?

(b) Is it a fact that recently the Karimganj Local Board has adopted a resolution recommending to Assam Government for the construction of the said road ?

(c) Do Government propose to make arrangements for the early construction of the said road ?

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

134.(a)—(c)—The hon. member is referred to the reply given to Question No. 74 (Starred) asked by Maulavi Mabarak Ali, M.L.A., on the same subject during the current session of the Assembly. This proposal was not included in the list of schemes submitted by the Karimganj Local Board to be financed from their share of the Motor Vehicles Taxation Fund.

### Sailors of the district of Sylhet who died Overseas

**Babu KARUNA SINDHU ROY** asked :

135. Will Government be pleased to state—

(a) Whether the Deputy Commissioner of Sylhet has been able to collect information as stated by the Hon'ble Premier in reply to my question asked in the November Session of the Assembly, about the number of deaths of the sailors of the district of Sylhet, due to enemy aggression while serving in British vessels, from the date of the break-out of the War up till now ?

(b) If so, will Government be pleased to state whether arrangements have been made for giving pensions to the relatives of the dead sailors ?

136. If the reply to question No. 135 above is in the affirmative, will Government be pleased to state—

(a) The names of the sailors who died overseas due to enemy aggression ?

(b) The names of the relatives of the dead sailors who have been granted family pensions ?

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

135.(a)—Government only undertook to make enquiries about any specific case in which information may be desired. No requests have been received by Government, but of course the Deputy Commissioner has made numerous enquiries on references to him.

(b)—The Deputy Commissioner corresponds direct with the Marine Officers about cases of pension and compensation. Government have not therefore any information about individual cases.

136.(a) and (b)—Does not arise.

### Supplementary demands for Grants

#### (63.—Extraordinary Charges)

**The Hon'ble the SPEAKER** : We shall now resume discussion on item No. 14 of the list of Supplementary demands for Grants *i.e.*, 63.—Extraordinary charges.

**Mr. JOBANG D. MARAK** : Mr. Speaker, Sir. I think, this demand should be passed. Because, Sir, so far as the defence of India is concerned, co-operation with the existing Government must be compulsory and we must bear the full share of the burden of an adequate army, navy and air force.

An inclination not to co-operate in this matter surely means non-co-operation. But we are not the believer in the gospel of non-violence, the founder of which is the great Gandhiji.

The action of *Satyagraha* led a good number of noble Congressmen into jails for which we are very sorry indeed, and their sufferings will bring out not a better outcome whatsoever for the country than what is really going to happen after the war will be over. It is my personal belief, Sir. The principle of non-violence has very little to do in the life of a nation, says Mr. S. Srinivasa Iyyanger, the former President of the Indian National Congress. He further said, "The gospel of non-violence is good only for a *Sanyasi*, who has renounced the world, a man who finds happiness in surrender. But this will not do for one who wants to live an active life, much less so for a nation". Further he went on saying, "To accept this creed is not patriotism, it is a direct invitation to other powerful countries to invade India and plunder the country". What is this plunder and ransack of a country we have no experience in our life, but if we read some ancient and modern histories we shall learn something about plunder and ransack. If we read about the war between Hector, the hero of Carthage of North Africa and Aeneas, the Grecian hero, we shall find that in those days these Roman army used to plunder and ransack the countries through which they passed. Those very things will be happening in our country and at our home as they are happening in England to-day. What about London, what about Liverpool and other big towns in England? What damage the Nazi bombs are doing to those big and important towns? The same thing is going to happen in India, Assam and our towns, etc., if we allow Nazism and Fascism to prevail. Sir, if we remember the last great war, we can still recollect how many millions of the population became homeless, orphans, fatherless, without relatives and without uncles, etc. In this war also the people of Europe are making great sacrifices and undergoing great trials and tribulations. The same thing will be coming to our country also.

Sir, we have heard that there may be some technicalities standing in our way to help the British Government. But, Sir, in some cases the quibblers of law are sometimes disregarded. These technicalities must be omitted for the greater good and interest of the people. Sir, I will not take much time of the House. It is my personal opinion that everybody should willingly and ungrudgingly render such a help of the noble purpose. Unless and until we can defeat Nazism and Fascism there will be something serious happening in our own country, own home and to our own children, because as Mahatma Gandhi says that in this war whoever will be something serious not be able to recover his former position and whoever will be the victor will be crushed for good. So I think even if there be some legal and technical difficulties, we should pass this grant unanimously.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:**  
Mr. Speaker Sir, I have got to reply to two different matters in the summing up of the debate and on the point of order raised. In the first portion, I will devote to reply to the criticisms of my hon. friends Mr. Kamini Kumar Sen and Mr. Baidyanath Mookerjee and in the second portion, I will reply to the cut motion moved by my hon. friend Maulavi Maqbul Hussain Chaudhury.

Mr. Kamini Kumar Sen has not urged any new point except what he raised in November Session of this House. Again he has raised the same three objections to the passing of this demand.

(1) According to his

opinion such a demand is not covered by section 150 of the Government of India Act ; (2) even if it is held to be so covered, this cannot come by way a supplementary demand and (3) that the demand as presented before the House is defective in form.

Sir, I had replied at length in November last on all these points and in your very lengthy ruling on that point you did not touch his arguments Nos. (2) and (3) thereby clearly showing that there was no substance on those two points. The substantial point that you covered in your ruling was about the interpretation of section 150. Sir, the implication of section 150 was given by my learned friend, the Advocate General. If you will permit me to read from a newspaper report — I have not seen the proceedings of the Bengal Assembly as yet because it is very recent — I would like to point out that this very point was raised by the Hon'ble Premier of Bengal when he came before the House with a token motion of Re. 1 to get the permission of the House to make a contribution of one lakh of rupees to the London Air Raid Victims' Fund started by the Mayor of Calcutta. The learned Premier talked about the constitutional aspect of the question. I have read it in to-day's *Statesman*. I will now make a very brief reference to this. "Speaking on the constitutional aspect of the proposed expenditure, he said it was the considered opinion of the Bengal Government that the expenditure that they had in view was permissible under the Government of India Act, 1935. A final and conclusive interpretation of the relevant section could be given only by the Federal Court, or on appeal by the Judicial Committee of the Privy Council. But until occasion arose for those courts to make a relevant pronouncement, action had in any particular case to be taken on the basis of the best view that could be formed by the executive authorities as the correct interpretation of the relevant section of the Act.

He thought he could argue that the proposed contribution was one from which this province might expect to derive no material benefit, but the Government were advised that the words 'purposes of India' in section 150(1) of the Act should be construed as including any activity the pursuit of which was in the country's interests. Such interests need not necessarily be in the nature of a specific and measurable benefit and would include among other things broad considerations of the reputation and dignity of India and of her place in the comity of nations. And so, he would prefer to lay their proposal before the House as one well worthy of its approval.

The Premier added that in sanctioning this payment, Bengal would pay her tribute to the 'courage and fortitude' with which the people of London are facing their terrible ordeal and would thereby range herself on the side of those nations which oppose aggression and violence as an instrument of policy."

Sir, section 150, as has been admitted even by the learned member who has raised the point of order, is very wide in its scope and it has been left practically so vague and I stated before the House on the last occasion that the particular relevant section which was in the older Act has been withdrawn. Repeating what I said last time, I would like to remind the members of this House what I stated then :

"The learned raiser of this point has placed before the House the earlier Act of 1919 and had read to the House section 22 thereof. It is a well-known principle of law that if in the existing constitution a certain provision restricting a power is there and that in a later modification of that law that restriction is removed, then it will be held that the subsequent constitution gives that power by implication. Now section 22, which he has placed before the House and which I am constrained to place again, runs to this

effect: "Except for preventing or repelling actual invasion of His Majesty's Indian possessions, or under other sudden and urgent necessity, the revenues of India shall not, without the consent of both the Houses of Parliament, be applicable to defraying the expenses of any military operations carried on beyond the external frontiers of those possessions by His Majesty's forces charged upon those revenues". He has also read the annotation of Mr. Rajagopala Aiyangar in his Book 'The Government of India Act', where he says 'The aforesaid provisions are not reproduced in this Act.....'. I lay stress on this portion of the annotation. There was this bar in the earlier Constitution Act of 1919, but that specific provision has been removed under the new Act".

Sir, as I interpret the intention of the Parliament who framed this Act, the bar of spending any money that was placed by section 22 of the earlier Constitution Act, is a clear indication that payments can be made from the provincial revenues under the circumstances in which this payment has been made by the Ministry.

My learned friend said that since the war, the Governor-General had assumed greater powers under section 126 and without a direction by him this payment could not be made. I am sorry, Sir, that my friend has raised such a point for he knows perfectly well what kind of direction the Governor-General can give under section 126. We had recently a taste of such a direction, *i.e.*, re-instatement of the Criminal Investigation Department which His Excellency the Viceroy and Governor-General thought that the province must have. It is under his direction that the Governor has indicated the amount. The question what amount should be paid and for which purpose, is not subject to any direction from high above but it is on the policy of the Cabinet that the Finance Department agrees to make such a payment.

Then my friend has characterised this motion as an endeavour on the part of the Ministry to ratify an unauthorised expenditure. In this statement, Sir, he is partially correct, *i.e.*, all expenditure not covered by statute or if a statute makes a provision that any expenditure can be met with the approval of the House then we must come before the House. The question of moving such a demand under supplementary estimates is not a new one. Sir, not only in the past but even in the present session many supplementary demands have been made, the expenditure of which has already been incurred by the Ministry, only for the ratification of which the supplementary demands have been made. My hon. friends never questioned that these supplementary demands were subterfuge to get ratification of unauthorised expenditure. My hon. friends may say that supplementary demands for new services cannot be had. But if I had moved this motion before the House, I had only followed or torn a leaf out of the book of my hon. friend's Cabinet, when he was himself a member. Sir, as I mentioned in the last session which I repeated again that my hon. friends contributed a sum of money, however small it may be, to the Congress Industrial Planning Committee without obtaining the vote of the House. After having incurred this expenditure or after having made this payment to the Congress Industrial Planning Committee they came before the House with a supplementary demand. That was an entirely new service. We had nothing whatever of the nature in our Budget before. Similarly, Sir, although we had a 10 per cent. cut in the opium reduction, my hon. friends in the Congress Ministry introduced total prohibition of opium in two subdivisions of the Province and incurred expenditure before the approval of the House. It is after the expenditure had been incurred that they came before the House with a motion authorising them to spend money upto 2½ lakhs of

rupees. Sir, the spending of money on a particular cause which, if the Ministry had the backing of a majority party behind them is nothing unusual; it is the usual procedure to come later on before the House with a supplementary demand. Therefore, this supplementary demand is neither unique nor unauthorised. The only thing is whether the majority party in the House backs the Ministry in the action they have taken, or in other words, whether the majority party in the House accepts the policy of helping the British in the psychological hour of life and death struggle.

Two or three other things have been mentioned by my hon. friend which are not really germane to the proceedings just now, but he stated those by way of reply to certain points that I had raised. I will very briefly touch on those points because, in my opinion, it is not necessary to enter into a discussion on those points. My learned friend Mr. Sen mentioned the ruling of the late V. J. Patel, President of the Central Assembly, on the Public Safety Bill, in the year 1929. That was under the old Act when there was no provision for a Federal Court with absolute jurisdiction to interpret the sections of the Constitution. As has been pointed out in the ruling of 1939 by the Hon'ble President of the Council of State, where the Constitution provides a machinery by which to thrash out these legal interpretations, it will not be fair on the part of the Chair to decide on such a matter.

Then, my hon. friend said that the ruling of the Hon'ble President of the Council of State was as regards a Bill, and not on a financial motion. But, Sir, what is the difference between a legislative enactment and a financial demand? Both are motions placed before the House. A Bill consists of different clauses each one of which the Hon'ble Speaker has to place before the House and get their approval. Therefore a Bill is nothing but an aggregate of different motions which are converted into legal enactment. Here it may be a financial matter, but the Chair has got to put the motion before the House and get their approval. Therefore the same principle applies whether it is a single motion on a financial matter or it is a group of motions, as is generally the case in regard to a Bill. There have been Bills each with only a single clause; such Bills can very well be compared to a demand of this nature. Sir, we must look into the principle and not whether it is a Bill or a motion for passing a demand.

While discussing the Burma High Court case and the ruling by the Hon'ble Speaker of the Burma Assembly, both my learned friend as well as you, Sir, mentioned what happens if a disqualified member comes and sits in the House and casts his vote. So far as the British Parliament is concerned, what I gather from the 'Outlines of Constitutional Law' by Chalmers and Asquith is this: "When a member of Parliament commits a crime he is arrested like any one else, and if he is convicted the Judge notifies the Speaker. The papers are then laid before the House at their request, and the question of expulsion is considered". But here we have sub-section (3) of section 69 which says, "Where a person who, by virtue of a conviction or a conviction and a sentence, becomes disqualified by virtue of paragraph (d) or paragraph (e) of sub-section (1) of this section is at the date of the disqualification a member of a Chamber, his seat shall, notwithstanding anything in this or the last preceding section, not become vacant by reason of the disqualification until three months have elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of, but during any period during which his membership is preserved by this sub-section, he shall not sit or vote". So,

there is a distinct provision in our Act, which, I am constrained to say, leaves the matter to the integrity and honesty of the disqualified member that he should not come, sit or vote in the House.

Sir, I am again constrained to remark that my hon. friend Mr. Mookerjee has not lived up to his usual reputation in his speech yesterday. I found him blowing hot and cold in the same breath. He said that he yielded to none in his anxiety to see that Nazism and Fascism are defeated, that the British come out victorious, and that he was all for helping Britain by way of voluntary contributions. But he said that jealous as he was of his own rights in this House he could not help Government in the motion and therefore he opposed it. I say, Sir, that if his speech is not a contradiction of terms I do not know what will be the meaning of "contradiction" in the English language.

**Mr. BAIDYANATH MOOKERJEE:** On a point of personal explanation, Sir. Most probably the Hon'ble Premier did not care to hear me properly. I said that Government had tried to kill democracy in this House, *i.e.*, our right to consider a demand before the expenditure is incurred has been taken away. It was my contention that while helping democracy in one hand we should not kill it by the other. If the Government say that they had done it hurriedly, and that it was a mistake on their part as they did not take the previous sanction of this House, I am ready to consider it. But if they say that they can do anything and everything before coming to us, simply because they have got the majority behind them, I cannot support them in their contention rather I should oppose them. That was my point. The Hon'ble Premier is twisting my speech in such a way as to give it a double meaning and not only that, a wrong meaning too.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Sir, I am not putting any undue construction on the speech of my hon. friend. I took very careful notes, as I always do, knowing the amount of thought and labour that he usually puts in his speeches. I may not agree with him, but I always admire his research. As a matter of fact, I have got something to say about his research in finding Keith's Book of 30 years ago. But in whatever way he might have spoken the idea is there: "Yes, I agree with you that the British Government deserve all help, but for the reason that you did not consult me, or every member of the House, I am going to oppose the demand". This, in other words, is nothing else than the Bengali saying "নিজের নাক কেটে পরের যাত্রা ভঙ্গ."

Sir, it would have been much better if my hon. friend did not dive deep into the past and find a 30 years' old precept in Keith's Book. Nobody denies that what Keith says is absolutely correct. Sir, I have myself admitted now that we cannot spend any money, unless specifically authorised by the statute, without coming before the House and getting their approval to that. Keith has stated only this age-old and well-known constitutional principle and nothing else. My friend said that eleven experts made a mistake. He refers to the Ministry thereby. An amateur lawyer made a mistake. I be far wrong if I use an English term and say, a sea-lawyer, or shall my friend is not much better fitted to construe an abstruse section of the Constitution Act.

My friend had also criticised us by saying that our action could not come under section 81. I have already instanced two cases in which the previous Ministry, of which my hon. friend Mr. Sen was a member and Mr. Mookerjee an ardent admirer, came before the House after incurring expenditure and which he gladly supported.



Lastly, Sir, my hon. friend said that no province has yet made such a grant. Well, Sir, grant of the exact nature has not been made, but if we are to go by the press reports, I have seen that Punjab has proposed to give a decent sum, and, as I have mentioned earlier, Bengal is following suit with a donation of one lakh, though not to the fighting forces but for helping the air-raid victims. These are all expenditure not meant for the purposes of India in the terms of reciprocity in the opinion of my friend because he asked the other day—'What benefit the Assam Government is going to derive by these?' As I mentioned the other day, Sir, the benefit is that a strong Britain would be able to protect India if and when the time comes; and as Assam is part and parcel of India, therefore the defence of India is one of the purposes of India and the help to Britain to fight the totalitarian powers is in the best interest of India and Assam.

**The Hon'ble the SPEAKER:** The Hon'ble Premier will perhaps give a reply to Maulavi Maqbul Hussain Chaudhury's cut motion\* which he moved yesterday.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I am obliged to you for reminding me. Mr. Maqbul Hussain Chaudhury's cut motion is directed to criticise us for our inability to control prices.

Sir, this is a very difficult question. Ever since the war started, Government had adopted every precautionary measure to check any sudden and inordinate rise in prices. As early as September 1939, Government issued the Assam Control of Prices order, 1939, under Rule 82(2)(b) of the Defence of India Rules and in every district price Control Committees were set up to keep a watch that food-stuffs and other articles might not be sold at higher prices than the pre-war rates. Provision was also made in the order that, if any dealer contravened the order, he would be liable to punishment, both in fine and imprisonment. Government took all sorts of precautions against abnormal profiteering and the maximum prices of some articles were fixed, but later on it was found inconvenient for both dealers and consumers, as dealers refused to sell to consumers their articles of daily use unless a reasonable rise in prices was given to them. Under these circumstances, the order about maximum prices was suspended in Sylhet, Lakhimpur and Kamrup districts.

Then, Sir, the Assam Government have been keeping a very close watch on the price levels, and as we get the all-India index we circulate the same to all District Officers so that the District Officers and the Control of Prices Committees may watch the rise and fall of prices in their own localities.

According to the all-India index rate, Sir, it has been found that the general rise between August 1939 and August 1940 was only 11 per cent. This could not be said to be an abnormal rise, as the prices of other commodities which are imported from outside have gone up and consequently by the law of political economy there cannot but be a rise in other commodities. But, Sir, we are handicapped in Assam to a certain extent. There are very few wholesale transactions. The matter lies both on import and export and particularly on transport. We know, Sir, that we have got no big markets, nor our own ports. If we fix the minimum price for any article here, but if there be no such prices fixed in the neighbouring province of Bengal from which we get most of our necessities, and also in the United

(To criticise Government for not taking effective measures for controlling prices.)

\*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.

Provinces from which we get most of our grains and cereals, then, instead of benefiting the public, it will be working to their detriment for our prices may not have any correlation with the prices obtaining in those provinces.

Then, Sir, in regard to one set of articles, namely medicines, we have been trying our level best to control the prices, if it is feasible. But all drugs are imported into Assam from Bengal, and if we fix prices, the result will be that supplies may not be delivered. Therefore, practically speaking, this Government, having no control over the wholesale rates in Bengal, have had to rely on the good offices of the Government of India and the Government of Bengal. But we have been keeping a very watchful eye and our present policy is to investigate any complaints that there has been recently any abnormal rise. Fortunately, Sir, there have not been many complaints of this nature.

**Mr. JOBANG D. MARAK:** Mr. Speaker, Sir, on a point of information. May I know why in the case of small articles like zigzag paper the price has gone up from one anna to four annas? Is it due to a policy of prohibition of smoking? (*laughter*).

**The Hon'ble the SPEAKER:** Is it addressed to me or the Hon'ble Premier?

**Mr. JOBANG D. MARAK:** I want to know from the Hon'ble Premier why the price of such a small article as I have specified has gone up.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** For the matter of that, Sir, I am not a smoker myself. But I can tell the hon. member that what he calls zigzag paper is Ritz paper which was manufactured in France and goes under the name of zigzag paper because it is packed in a zigzag way. But since France has been overrun by Germany, there has been no production of that article or very little of it and consequently there has been no supply, and the demand being very high and consequently demanding very high prices. To those hon. members who are accustomed to use zigzag paper for smoking, I may say that henceforward they will be well-advised to use ordinary country-made thin paper.

**Mr. JOBANG D. MARAK:** The price of the country-made paper has also gone up.

**The Hon'ble the SPEAKER:** I am afraid I cannot allow the hon. member to discuss the matter.

We have no other business to-day except disposing of this demand. I would like to adjourn the House up to 3-30 so that in the meantime I may consider what the Hon'ble Premier has said and give my ruling on the point. We meet again at 3-30.

#### Adjournment

The Assembly was then adjourned till 3-30 p. m.

#### After adjournment

**The Hon'ble the SPEAKER:** Order, order. The point of order raised in regard to this demand by hon. Mr. Sen really relates to rupees one lakh and two hundred, which represents contribution made to the British War Fund in July of rupees one lakh and the loss by exchange on account of the payment made to the British Treasury. The point of order has been

raised exactly on the same grounds, on which he raised a point of order in regard to the contribution of rupees one lakh when it was brought before the House as a supplementary demand during the last session and which was ruled by the Chair as out of order, not on the grounds urged by Mr. Sen, but on other grounds which were fully explained in the ruling which was then delivered from the Chair. In the ruling it was explained to the House that from the insufficient discussion that was held on the legal question involved in the demand a real debate was not possible then on such an important matter. It was also pointed out that the House was not going to have a scope for a fair debate by reason of the manner in which the demand was brought before it. It was in the sense, therefore, that a fair and reasonable debate on the motion was not going to be held, that the motion was then declared to have been out of order. The Chair, did not, however, decide about the legality of the demand in respect of which a decision was wanted from it. On the contrary, it was indicated to the House in the ruling what appeared to the Chair, the considerations from which real doubts arose, whether it was the duty of the Chair to give a decision on a legal question unconnected with the rules of procedure of the House.

While moving for the demand yesterday the Hon'ble Premier thought it necessary, perhaps in anticipation, that a similar course of not placing the demand to the vote of the House might be urged to be adopted by the Chair this time also, to raise firstly, the question how far the Chair would be within its rights from withholding the motion on the ground that a reasonable and fair debate would not be possible with regard to the question brought before the House, and, secondly, whether the Chair would be also within its rights to decide a legal question. I may at once point out to the House that these questions are not required to be elaborately dealt with by me on the point of order raised in view of the case that has been presented before the House this time in regard to the contribution of rupees one lakh to the British War Fund and also in view of the manner in which discussion has taken place on the Government case now presented. But when the questions have been raised, I may briefly give my views on them.

With regard to the question whether the Chair would be within its right in withholding a motion from the vote of the House, hon. Mr. Sen referred the House to the ruling that was given by the Hon'ble President of the Indian Legislative Assembly in regard to the Public Safety Bill introduced in that House in 1929. The debates of the Indian Legislative Assembly—pages 2652-54 of 2nd April 1929, pages 2795-97 of 4th April 1929, pages 2855-91 of the 5th April 1929, pages 2987-91 dated 11th April 1929—would give a clear idea to hon. members of the reasons which led the Hon'ble President of that august Assembly to answer the question in the affirmative. The Hon'ble Premier has practically reproduced the arguments that were advanced on behalf of the Government in connection with that point of order in the Indian Legislative Assembly and those arguments were very effectively and in a very illuminating manner disposed of by the Hon'ble President. I feel that it is not necessary to repeat those arguments here, but I should point out to the hon. members that the general principle of the rules of procedure of a Legislature was to secure to it a right of reasonable debate. The Speaker of a Legislature, as the guardian of its rights, should protect the House against possible chances of such a right being taken away. And, in doing so, he must be the sole judge to decide under what circumstances and what conditions and in what situation he should not put a motion before the House on the ground that that would be an infringement of the right of the House to have a fair debate. This right of the Chair is definitely recognised by the rules in all Legislatures in India,

relating to a motion for closure. In the Rules of this House, rule 50 relates to the question of closure, and hon. members would see that this rule definitely provided that the Speaker is to see whether the allowing of a motion for closure would infringe the right of reasonable debate on any particular motion.

With regard to the second question whether the Chair would be within its right to decide a legal question, I myself raised it in my last ruling. The House would remember that on that occasion both sides of the House wanted from the Chair a decision about the legality of the demand that was brought forward, and no member did ever raise the question that the Chair was not to give such a decision. I indicated to the House then that sometimes the Chair was required to interpret certain provisions of the Government of India Act which are connected with the rules of procedure of the House for the conduct of its business. The Hon'ble Premier referred the House to a ruling recently given by the Hon'ble President of the Council of State in connection with a Bill in which he has ruled that the Chair ought not to decide the question of *vires* in regard to a Bill or any particular clause of a Bill. From what I have read of the proceedings of the other Legislatures in India and have otherwise been able to know of them, I may at once tell the House that all the Speakers and Presidents of the different Legislatures in India are not unanimous on this point. When the question about the competence of a Legislature with regard to any Bill that is sought to be introduced is raised the provisions of the Government of India Act regarding the allotment of subjects for legislation by the Federation and the Provinces, as the case may be, come to be scrutinised and on such scrutiny the competence of a Legislature may or may not be clearly understood, and naturally very often in Legislatures of India questions as to their competency in regard to Bills are often raised. As to how these questions can be dealt with, three different views are held.

First, that the Chair should give its ruling, which ruling should be final as on a point of order ;

Secondly, the Chair should exercise its discretion whether to consult the House or not or to take the decision of the House. The Chair might give its ruling and the House is expected to accept that as final ; and

Thirdly that the matter should be left entirely to the decision of the House itself.

The grounds that have been assigned by the Hon'ble President of the Council of State in the ruling cited by the Hon'ble Premier against the first two views are no doubt weighty ; but the third view may be considered to be also unsound for the practical difficulties that may arise by reason of the fact that the decision of a House consisting of a large number of members may be a very uncertain factor leading to contrary rulings resulting in chaos.

When the competence of a particular Legislature becomes very clear to the Chair, it may at once give its ruling in favour of the competence of the Legislature, but when this is not so, it should be left to the sound discretion of the Chair whether it should allow the legislation to go on as if there has been a doubt as to the question of competence raised. Leaving aside the question so far as it relates to matters of legislation, I should point out to the hon. members that there are numerous provisions in the Government of India Act which have a direct bearing on the nature and the manner of business of a Legislature and how such business is to be transacted. These provisions are, so to say, of a procedural nature, and certainly the Speaker of a Legislature would be quite within his right to interpret these provisions in order to guide the House as to how these

provisions should be followed. I may illustrate my point by referring to the very section 65 of the Government of India Act which the Hon'ble Premier referred to yesterday. The question of interpretation of such provisions of the Government of India Act may legitimately be called to be a point of order. A point of order is nothing but a complaint on an apprehension of a breach of a rule or rules of procedure of the House or of mis-application thereof on account of some ambiguity occurring therein. The Chair is given the right by the House to interpret the rules of procedure and its interpretation is binding on the House.

The Hon'ble Premier referred to a recent decision in the Burma High Court in which it has been held that the Speaker of the Burma Legislature acted illegally when he declared that a certain member was disqualified under provisions of section 69(1)(a) of the Government of India Act on the ground that he accepted an office of profit under the Crown other than an office declared by an Act of that Legislature not to disqualify its holder. From that the Hon'ble Premier contended that the Chair is not to give a legal interpretation of any section of the Government of India Act. But the question would always remain what really is a legal interpretation, and when the Chair or Legislature takes cognisance of certain undisputed facts and applies the clear provisions of the Government of India Act to those facts does he really interpret a section? In the case referred to by the Hon'ble the Premier, there, it seems to me, was really such a position.

I may further illustrate my point by taking a hypothetical case. Suppose an hon. member of this House accepts an office of profit under the Crown in India other than an office declared by an Act of the Provincial Legislature not to disqualify its holder and that fact is notified in the gazette. Should the Chair refuse to take cognisance of that notification and allow the hon. member to function as a member of this House? That the Chair is sometimes required to take cognisance of indisputable facts and is required to apply particular provisions of the Government of India Act to these facts would appear from the provisions made in sub-section (3) of section 69 of the Government of India Act just referred to by the Hon'ble Premier.

"Where a person who, by virtue of a conviction or a conviction and a sentence, becomes disqualified by virtue of paragraph (d) or paragraph (e) of sub-section (1) of this section is at the date of the disqualification a member of a Chamber, his seat shall, notwithstanding anything in this or the last preceding section, not become vacant by reason of the disqualification until three months have elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of, but during any period during which his membership is preserved by this sub-section, he shall not sit or vote."

I need not take much time of the House by dilating on this point. I may at once state here my opinion that the Chair should not decide a purely legal question which is not connected with the rules of procedure of the House, which really constitute Parliamentary law and which alone the Speaker is authorised by the rules of procedure settled by the House itself to decide for the guidance of the House.

Now coming to the point of order, it seems to me, Mr. Sen really asks from the Chair a decision on some facts on the basis of an interpretation of section 150 of the Government of India Act. He has urged a point that the case now presented before the House on behalf of the Government is different from the case that was urged on the last occasion. It is for the House to decide if really the Government have presented a case different

from the one that was presented on the last occasion and whether on that ground they are to give their verdict against Government. On the last occasion the question of an interpretation of section 150 of the Government of India Act appeared to be essentially necessary by reason, no doubt, of the case that was presented then before the House. The provision of section 150 of the Act was relied upon by Government then as affording justification for expenditure of rupees one lakh as having been legally incurred in anticipation of the vote of the House on the strength of some legal opinion. Therefore I felt that the whole question before the House was a mixed question of law and fact and that an authoritative and if possible an opinion which would be binding on the House as to the scope of this section should have been obtained by Government before asking for the vote of the House, specially in view of the grounds that were stated in the supplementary demand and were explained by the Hon'ble Prime Minister while presenting the same before the House as constituting the Government case for making the payment as an extraordinary expenditure in England, and also in view of the fact that the granting of such a demand as a new item of expenditure having become necessary beyond the budgeted items of expenditure sanctioned by the House in the current year might give rise to far reaching consequences. It appeared to me that the expression "purposes of India or some part of India", occurring in section 150 of the Government of India Act required elucidation in order to see that the purposes stated in the supplementary statement of expenditure and explained by the Hon'ble Prime Minister in his speech constituted a purpose within its purview. I, therefore, placed before the House the considerations which I felt that the House might look into for comprehending the full implications of the provisions of that section.

The imperative necessity of the payment made, as explained in his speech by the Hon'ble Prime Minister on the 4th November last while presenting the supplementary demand was to make a gesture of good will and sympathy on behalf of the province to the British people then engaged in a ruthless fight against Germany in France. A gesture of good will will be a tangible act to symbolise an expression of sentiment. Tangible act in this case has been the giving of a lakh of rupees to the British people which the Hon'ble Premier described as nothing as a material help to them if their daily war expenditure was taken into consideration. He said that if the moral support to the British people prompted by considerations which the supplementary statement which have been referred to by some members in their speeches here on this occasion. Now Government have not obtained an opinion on the question which was perceived by me to have been involved in the demand, on a consideration of the case that have been before the House. But the Hon'ble Premier has informed that was presented they did forward a case to the Government of India to be presented before the Federal Court, but that the Government of India have declined before and that they have pointed out to the Government here that India has been a belligerent country at war with Germany on the basis of a declaration made by His Excellency the Governor-General by a notification, dated the 3rd September, 1939 under section 102 of the Government of India Act. Now, therefore, the case is made out that the defence of India is involved and that help to the British people who are also engaged in war with Germany was for the purpose of the defence of India and was therefore a 'purpose' within the meaning of section 150 of the Government of India Act. The hon. Mr. Sen has, however, laid stress that there has not been any opinion obtained from the Federal Court as was directed by me on the last occasion.

But having regard to the fact that the question of the defence of India is now prominently before the House as justifying the reasons for the contribution to the British War Fund, there was no necessity of an interpretation of section 150 of the Act because whatever may be the interpretation of section 150, defence of India must undoubtedly be one such purpose. But it is not the duty of the Chair to decide whether the defence of India is really involved in the war that is being fought by the British people with Germany. It is for the House to decide if India is at war with Germany and if it so chooses, it can decide that India is not at war with Germany even in the face of the declaration made by His Excellency the Governor-General under section 102 of the Government of India Act. On the last occasion it was when the hon. Leader of the Opposition wanted to make out that the defence of England was not necessarily the defence of India, the learned Premier spoke of the defence of India only to show that the Leader of the Opposition was not correct in his contention. But the case that the contribution was an act of gesture of good-will and sympathy was the main case argued and it appeared to be so to me, specially when the Hon'ble Premier, on my query, said that any contribution to the war fund of Greece would not be justified under section 150 of the Government of India Act. If the contribution was really for the defence of India being a belligerent country at war with Germany, as the case is now presented before the House, a contribution to the war fund of Greece would certainly have been also legal. That position taken up by the Hon'ble Premier created my difficulty and I therefore thought that Government ought to have obtained an opinion of the Federal Court or of any competent legal authority on the question whether the payment as an act of gesture of good-will and sympathy to the British people, prompted by considerations stated in the supplementary statement, then constituted a 'purpose of India or some part of India'; because I felt that the need or interest that appeared to have been made out by those considerations to be served by the contribution might appear to a section of the House to be very vaguely prospective and at the same time controversially speculative. But now that the question of defence of India is prominently before the House the whole aspect of the question stands changed.

The learned Advocate General has also addressed the House and has given an interpretation of the expression 'purposes of India or some part of India' occurring in section 150 of the Government of India Act. The House has, therefore, got some guidance as to the interpretation of section 150 from a competent legal authority and may act upon it, if there be nothing apparently fallacious in his arguments.

On consideration of what has been said by the Advocate General and giving my best thought to what I pointed out to the House on the last occasion, interpretation of the expression 'purposes of India or some part of India' in section 150 is, that any end in view, which, when attained, would serve any need or interest of India, or some part of India, is to be considered to be a purpose of India or some part of India. Interpreting sub-section (2) of section 150 it may be seen that any interest or any need that may be desired to be served will include any need or interest of the people of India as a whole or of a part of India and need not necessarily be a matter in regard to which the Federation or a province, as the case may be, has power to legislate under the provisions of the Government of India Act. So such an interest or need may arise in regard to a matter or matters which may be unconnected with either Federation or any part of India so far as its affairs of administration may be concerned. The expression 'purposes of India or some part of India' is no doubt very wide, but contribution for the

defence of India shall undoubtedly be a purpose of India even if this meaning be not taken to be so wide. What would serve any need or interest of India is no doubt a question of fact ; but it cannot be said that whatever may be decided by the House to be a purpose of India or some part of India will be a purpose within the meaning of the expression 'purposes of India or some part of India' used in section 150. Needs or interests of India or part of India as contemplated by section 150 of the Government of India Act should be clearly in view before deciding whether a burden of expenditure to be undertaken by a province or by the Federation would serve that need or interest.

As the case now stands before the House, it is asked to take into consideration the constitutional position arising out of the notification of His Excellency the Governor-General under section 102 of the Government of India Act making out the case that India is also at war with Germany and that her defence is also imperilled just like the defence of England and the House to decide if it should accept the constitutional position, and so whether the expenditure in question was necessary or not for the defence of India in the circumstances in which the payment was made is a question of fact of which the sole judge must be the House itself under section 81 of the Government of India Act. That is, the House will have to decide whether the expenditure became imperatively necessary to be paid even before taking previous approval of the House. Again conceding that the present case, as presented before the House, is different from the case that was presented before it on the last occasion, it is for the House to say whether they should afford a ground for rejecting the demand. It is not a question for the Chair to take into consideration as a ground to declare the motion as out of order.

Further the other question urged by Mr. Sen on the basis of section 11, 126A and other provisions of the Government of India Act that the Government was not justified in undertaking the expenditure without any requisition in that behalf from His Excellency the Governor-General of India, who has got the sole right to exercise all functions with respect to the defence of India, is not also a question to be considered by the Chair, but even conceding that his interpretations of sections 11 and 126A of the Government of India Act are correct, it is a question which the House has to consider in giving its verdict on the demand. I, therefore, allow the motion to be considered by the House and give its verdict on the question of granting Rs 1,00,200 as the contribution to the British War Fund.

While concluding, I cannot help making some observations in regard to the practice of placing supplementary demands for new services in regard having incurred the expenditure for the same. Such a practice after old it may be, when resorted to by Government for a new service, however principles or considerations on which a sharp difference of opinion is likely to exist among members, gives rise to a legitimate grievance on the part of the minority party in the House and the Chair is rendered helpless in affording any protection to it against the chance of the judgment of the House being influenced by considerations that are bound to arise on account of the expenditure having been already incurred. I pointed out to the House on the last occasion that the proper procedure for Government would have been to come before the House with a resolution first for securing the approval of the House in advance of the payment. From what has been said before the House by the Hon'ble Premier to-day it appears that in Bengal the Government have followed practically the same procedure of obtaining the verdict of the House in advance in regard to the grant of 1 lakh they propose to make to the Calcutta Mayor's Fund for the aid of



air raid victims in England. I also find that what I wanted to stress in this respect stands to a certain extent recognised by the Finance Department here by the rules that they have framed laying down the procedure to be followed in presenting supplementary demands. (*Applause.*)

Does Mr. Maqbul Hussain Chaudhury like to press his cut motion\* ?

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY:** In view of the statement made by the Hon'ble Premier, I beg leave of the House to withdraw the motion.

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

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

"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'."

The question was adopted.

### Adjournment

The Assembly was then adjourned till 11 A.M. on Saturday, the 22nd March 1941.

SHILLONG :

A. K. BARUA

*The 17th May 1941.*

*Secretary, Legislative Assembly, Assam.*

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\* 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.

(To criticise Government for not taking effective measures for controlling prices.)

