Legislatures work through committees. It is not feasible to have a detailed examination, scrutinisation and recommendations on different aspects of legislative activities in legislatures at the first instance and, hence, these are left to be done by the committees. Some scholars are even prone to regard a modern Government as a 'Government by committees'. Prof. K.C. Wheare defined committees as "a body to which some task has been referred or committed by some other person or body."\(^1\) Thus, the notion carries with it the idea of a derived, secondary or dependent status. This naturally means that the committees do not possess original jurisdiction.

The tradition of appointing House Committees goes back to British Parliamentary traditions. In the Parliaments of James I and Charles I, Bills were referred to select committees. The first standing committee was set up in 1882 on a proposal of Mr Gladstone. This proposal attracted much opposition in the Cabinet as well as in the Parliament.\(^2\) Now the Parliament of the United Kingdom has a number of committees. However, the main work of the Parliament is performed in the House rather than in committees.\(^3\)

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1. Wheare, Government by Committees, p. 5
2. Jennings, Parliament, p. 269
The Indian Legislature appointed committees for the first time in 1854. In Assam the first committee was appointed in 1919 under the Government of India Act 1919. There was no committee in the Chief Commissioner's Council of Assam. The Public Accounts Committee was one of the first committees to be set up in the Legislature of Assam. Another committee was appointed to advise the Government in the framing of the budget. The Legislative Council appointed special committees to go into the details of special problems, whenever such problems arose. In 1924 such a committee was appointed to go into the question of separation of the executive and the judicial functions. In the same year another committee was appointed to advise on the assessment of land revenue. Such committees consisted of official and non-official members of the council. The size of the committees, mode of formation and the ways of working were decided by the Governor. During the dyarchical period under the Government of India Act 1919, though there was very limited scope for the proper development of the committees, the committee system worked effectively. Under the Government of India Act 1935, some other committees like the Rules Committee, Committee on Petitions and the Committee on Privileges were appointed. After independence, the Business Advisory Committee, Committee on Government Assurances, Library Committee, Committee on Subordinate Legislation and the Estimates Committee were appointed. The Constitution of India does not provide specifically for the appointment of the committees except in an indirect way. The powers of the legislature to appoint committees is implied in clauses (2) to (5) of Article 105 of the Constitution of India.

4. Reports of the Local Governments on the working of the Reformed Constitution, 1927, p. 237
The committees are called legislative committees, as they are appointed or elected by the House or nominated by the Speaker. The committees work under the direction of the Speaker. All the members of the committees are elected or nominated from among the members of the House and they submit reports to the House directly.

Committees may be divided into two broad categories, ad hoc committees and standing committees. Ad hoc committees are very temporary in nature and they cease to exist after the completion of their work. In view of specific problems which necessitate their appointment, these committees are called special committees. The ad hoc committees are of two types - (a) regular ad hoc committees and (b) incidental ad hoc committees. Select committees on Bills and joint committees are included in the first category, whereas in case of incidental circumstances, the second category of committees is appointed. The members of the ad hoc committees are chosen by a motion of the House. The standing committees are nominated by the Speaker in accordance with the rules of the House and in proportion to the strength of the parties. They may be elected by the House in accordance with the principle of proportional representation by means of single transferable vote. In the system of nomination by the Speaker, continuity of service of the members is ensured.

Each committee has to submit its report to the House on which there can be no debate except on rare occasions. The House

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7. Under the Government of India Act 1935 joint committees could be appointed with equal number of members. A joint committee of both Houses of Assam Legislature was appointed in 1938 to consider the rules of both the chambers.

8. Rule 220(2), Assam Legislative Assembly, 1969, p. 117
generally accepts the reports. However, the House is not bound to act according to the report of the committees. The House simply takes note of the reports and very often no action is taken on the reports of the committees.

The Chairmen of the committees are appointed by the Speaker from amongst the members of the committees. If the Deputy Speaker is a member of a committee, he is usually appointed its Chairman. The quorum to constitute a sitting of a committee is as near as may be one-third of the total number of members of the committee.  

The committees of the Assam Assembly may be classified as follows:

1. **Committees to inquire** - (i) Committees on Petition; (ii) Committee of Privileges; and (iii) Committee on Government Assurances.

2. **Committees to control** - (i) Committee on Subordinate Legislation; (ii) Public Accounts Committee; (iii) Committee on Estimates.

3. **Committees to advise** - (i) Business Advisory Committee; (ii) Rules Committee.

4. **House keeping committees** - (i) House committee; (ii) Library committee.

9. Rule 198(1), ibid., p. 109
10. Rule 200(1), ibid., p. 110
1. Committees to inquire

(1) Committee on Petition: In Assam the first Committee on Petition was set up in 1939 to deal with a petition submitted by the landlords of Sylhet district in connection with the Sylhet Tenancy (Amendment) Bill 1939. Through the petition the landlords requested the postponement of referring the Bill to a select committee for the time being.\(^{11}\) In the era of independence the Committee on Petition was appointed in the Assembly.\(^{12}\) During the period of our survey the committee submitted eleven reports to the House.\(^{13}\)

(ii) Committee of Privileges: The necessity of protecting the privileges of the members of the House brought into existence the Committee of Privileges. In England privileges of the members emerged as protective device against the autocracy of the king in the Lancastrian period.\(^{14}\) The ancient privileges were four in number. They were freedom from arrest, liberty of speech, access to the royal person and a favourable construction of all their proceedings which were regularly claimed from 1541.\(^{15}\) The Parliament held these privileges as part of its records and precedents to be interfered with only by the Parliament itself.

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11. Proceedings of the Committee on Petitions of Assam Assembly June 1939 - File/C/6LA, 1939


13. Reports of the Committee on Petitions, 1967-72


In India the privileges of the members of the legislatures were recognised by the Government of India Act 1919. After independence a Committee of Privileges was appointed in the Parliament in 1952 and, in the Assam Assembly, such a committee worked in the real sense of the term since 1954.

Rules of the Assembly provide for the composition, powers and functions of the Committee of Privileges. During the period of our review, the Committee of Privileges dealt with nineteen cases of breach of privileges out of the total of thirty four notices of motions on breach of privileges of the members of the House. Out of the nineteen cases, twelve were moved against the newspapers. In two cases, action was taken by the House itself without referring the matter to the Committee of Privileges. A brief account of the cases dealt with by the committee is as follows:

(1) On 22 August 1963, Dulal Chandra Barua (Ind) moved under Rule 158 of the Rules of Procedure and Conduct of Business in Assam Legislative Assembly a motion of breach of privilege against the Editors and the Publishers of the Assam Tribune (Gauhati, 5 August 1963) and the Statesman (Calcutta, 7 August 1963) for publishing a news item under the caption "Agricultural Pipe Scandal" criticising Mahendra Mohan Choudhury, one time Agriculture Minister and the then Speaker of the Assembly in an adverse and malicious manner. The member said that the premature publication of a confidential document of the Public Accounts Committee (P.A.C.) and the Report of the Ram Labhya Commission appointed by the Government of Assam under the

16. Mukherjee, Parliamentary Procedure in India, p. 353
Commissions of Enquiry Act 1952 (Act II of 1952) relating to the purchase and disposal of surplus American Pipes and couplings, was partial, perverse and distorted and that, it was not only unauthorised, but also extremely objectionable. The member alleged that by such publication the Speaker's image was lowered in the estimation of the public, and the dignity and sanctity of the P.A.C. and the House had been undermined; it had also positively handicapped the administration of the Government of Assam. He requested the Speaker to refer the matter to the Committee of Privileges for its consideration. On the same day and on the same topic Tarapada Bhattacharyya (Ind) moved another privilege motion.

The Speaker Mahendra Mohan Choudhury stated that after the alleged publication of the report he got a copy of the report on 9 August 1963 and his consent was not taken at the time of publication of the report. The question was whether such premature publication of a report which was the exclusive property of the P.A.C. or the House amounted to a breach of privilege of the House. The contention of the Speaker was that his position was very delicate so far as the report was concerned as he was the Agriculture Minister from 25 February 1952 to 31 December 1959 when the deal was alleged to have taken place. The Government had not given out the report and, as such, there could be no case of breach of privilege against the Government. Referring to May's Parliamentary Practice he said that premature publication of a report was a breach of privilege and that was confirmed by More. From it the publication amounted

19. May, Parliamentary Practice, p. 119
20. More, Practice and Procedure of Indian Parliament, p. 547
to breach of privilege of the House. He further held that the distorted version of the Assam Tribune that he wanted to resign from Speakership maligned and lowered him in public estimation. He referred to a similar news item published in another newspaper Janambhumi of 8 August 1963 which copied the substance from the Assam Tribune. He claimed protection as a member of the House and felt that the House should decide the case in his absence. He vacated the Chair for the Deputy Speaker to conduct the business of the House during the pendency of such discussion.

The Assam Assembly in this privilege case was faced with a very delicate situation. It was an unprecedented case in the history of Parliamentary procedure in which the Speaker of the Assembly was the subject matter of discussion and his privilege was alleged to have been breached by dragging him into the controversy and, furthermore, questioning his integrity. The Speaker himself took part in the discussion of the motion and he came to the definite conclusion that the privileges of the House had been infringed upon. Besides him, fifteen other members from both sides of the House took part in the discussion and the motion was referred to the Committee of Privileges for investigation under Rule 162 of the House.

The committee held seven sittings. In reply to the show cause notice the Editor, Publishers and Printers of Janambhumi and the Statesman expressed their regret and tendered apology for the unauthorised publication of the report. The Assam Tribune (Gauhati) requested for extension of time and filed applications before the Hon'ble High Court under Article 226 of the Constitution of India against the show cause notice of 17 October 1963 issued by the Secretary of the Assembly. On 24 October 1963, the Hon'ble High
Court of Assam and Nagaland delivered its judgment rejecting the petitions and discharging the rules issued on the Speaker, members of the Committee and the Secretary, Assam Legislative Assembly. Thereafter, the Chief Editor, the Printer and Publisher of the Assam Tribune admitted that they committed a breach of privilege and tendered unqualified apology. 21

2. On 6 April 1964, Mal Chandra Pegu (Cong) complained of breach of privilege by the Editor of the Natun Asamiya for his editorial of 25 March 1964. The subject matter of the editorial was as follows:

The Editor wrote about the privileges of the Indian legislatures and about the punishments given to those whom they considered to have been guilty of violation of the privileges. At length the Editor stated that the enthusiasm of the State legislatures was much more than that of the Parliament in inflicting punishment. In that context he referred to a case occurring a few years back in which the Editor of the Natun Asamiya was accused of violating the privileges of the Assembly. When the Editor wanted to file a petition to the High Court against the decision of the Committee of Privileges of the Assembly, then only the Assembly left the matter at that stage. 22

Mal Chandra Pegu (Cong) complained under Rule 161 of the Assembly that the Editor cast aspersions on the Committee of Privileges of the House and thereby lowered the prestige of the committee.

22. The Natun Asamiya (Gauhati) 25 March 1964
The Editor of the paper was excused only when he apologised to the Committee of Privileges and not when he threatened to file a case to the High Court. The Chair referred the case to the Committee of Privileges. On the recommendation of the committee, the Editor of Natun Asamiya was brought before the bar of the House and reprimanded. The press gallery pass issued to the representatives of the said newspaper was suspended.23

3. Another privilege case dealt with by the Committee of Privileges was a historic one in which it was alleged that there was an invasion of the sanctity of the proceedings of the Assembly where the members of the secretariat participated in tampering with documents of the House. The motion was tabled by Brington Buhan Lyndoh (A.P.H.L.C.) on 5 October 1964 against Lila Saikia, a reporter of the Assembly. Moving the motion the member stated that in the budget session of 1964 he had occasion to discuss the unfortunate police firings in Shillong of 17 February 1964 in which the police had opened fire three times in a single day. The Government immediately appointed a commission to enquire into the matter. The member alleged that from the very first day of the sitting of the commission, the State Government entered into the enquiry as the main contestant with a long memorandum of 50 pages justifying the police firings on all the three occasions. Almost all the 50 official witnesses of the Government who deposed before the commission distorted the facts and suppressed the truth. The member himself was cross-examined by the State Counsel regarding the speech delivered on the floor on the House on 5 March 1964. The Secretary of the Assembly produced a

23. A.L.A.D., 6.4.64, pp. 27-28
copy of his speech before the commission. But the member felt that
certain words and sentences read from the said copy were not used by
him in his speech delivered on 5 March 1964. The member consulted
the original proceedings of the Assembly and found to his surprise
that some of his expressions occurring in the copy produced by the
Assembly Secretary before the enquiry commission were not there in
the original copy obtained from the Editor of the Debates. The member
was bewildered and he rushed to the office of the enquiry commission
to compare the debates. The enquiry commission refused to show him
the copy. The member requested the Speaker to refer the matter to
the Committee of Privileges to uphold the 'justice and integrity' of
the House. 24 Stanley D.D. Nichols Roy (A.P.H.L.C.) and Santi Ranjan
Das Gupta (Ind) also spoke about the serious nature of the privilege
motion. Bimala Prasad Chaliha (Chief Minister) also held that the
complaint was of a serious nature in which the forgery of the pro­
ceedings was alleged. The case was referred to the Committee of
Privileges. However, no report was presented. 25

4. On 10 September 1966, Santi Ranjan Das Gupta (Ind) under
Rule 158 and Rule 159 of the Assembly made a complaint of breach of
privilege committed against him by the Editor, Printer and Publisher
of the Assam Tribune (Gauhati, 4 August 1966) and the paper's Nowgong
 correspondent for causing the publication of a false, malicious and
defamatory news item under the caption "Hoarded paddy in M.L.A.'s
Mill seized". In the news item it was alleged that 1208 bars of
paddy kept illegally in a rice mill at Hojai were detected by a High

24. A.L.A.D., 5.10.64, p. 588
25. Priyadhar Barua, Secretary, Assam Legislative Assembly
said that the notice lapsed.
official in Nowgong. The paddy was seized and kept in the mill's custody pending further orders. The owner of the mill was a member of the Assam Assembly.

The member said in the House that the allegations in the news item were far from the truth. It was published and circulated to lower his prestige in the eyes of the people. He said that he sent a rejoinder to the Editor of the paper who in turn replied that as the news item did not mention the name of any M.L.A., the question of publishing a statement in clarification did not arise. The Chair referred the matter to the Committee of Privileges. Subsequently the matter was dropped on a clarification by the Editor of the paper.

5. A very interesting privilege motion was moved on 28 June 1967 by Jadunath Bhuyan (Cong) against Dulal Chandra Barua (Ind) in which instead of referring the case to the committee, the House itself took action then and there against the member. Jadunath Bhuyan (Cong) brought the allegation against Dulal Chandra Barua (Ind) on the ground that Dulal Chandra Barua (Ind) brought an allegation against Lakshmi Prasad Goswami (Minister, Agriculture) but could not substantiate the same. The complainant member contended that a breach of privilege was committed by Dulal Chandra Barua against the Minister and against the House on the following grounds:

(1) That he made a false and baseless statement against a member of the House who is also a Minister.

26. Satish Chandra Kakati, Editor, The Assam Tribune, said that the matter lapsed in the Committee of Privileges in view of a clarification published in the Assam Tribune (Gauhati).
(i) That he gave vent to a series of insinuations against the member.

(iii) That he tried to mislead the House.

(iv) That he interrupted the normal proceedings of the House by giving false and baseless information.

(v) That he tried to create evidence by bringing a tape recorded which was false and fabricated.27

The Speaker intimated to the House that Dulal Chandra Barua (Ind) had addressed a letter to him expressing regret and tendering unconditional apology. The Speaker read out the letter for the consideration of the House.

The next day, i.e. on 29 June 1967, Jadunath Bhuyan moved the following motion - "I beg to move that the House has heard the written statement of the Hon'ble member Sri Dulal Chandra Barua wherein he has accepted that his allegation against the Hon'ble Minister Shri Lakshmi Prasad Goswami, Minister, Agriculture has been disproved and has tendered unconditional apology to the Hon'ble Minister and the House. In view, however, of the seriousness of the baseless allegation he made with fullest responsibility and the unbecoming way in which he tried to substantiate his allegation and the challenging statement he made immediately after the Hon'ble Speaker gave his ruling, this House recommends that the Hon'ble member Shri Dulal Chandra Barua be expelled from the House for a period of one year as from today the 29 June 1967." Thereafter, the Speaker

27. A.L.A.D., 28.6.67, p. 1295
requested Dulal Chandra Barua to withdraw from the House under Rule 169 during the pendency of discussion of the matter and the member complied. Rathindra Nath Sen (Ind) moved an amendment verbally that the period of expulsion be for the rest of the session and not one year. He was supported by Stanley D.D. Nichols Roy (A.P.H.I.C.), Phani Bora (C.P.I.), Shamsul Huda (R.C.P.I.) and Dr Bhupen Hazarika (Ind). The House took up the privilege motion on 30 June 1967, and adopted it as amended by Rathindra Nath Sen (Ind). Dulal Chandra Barua informed the Speaker that he had accepted the verdict of the House and accordingly the member was expelled for the remaining period of the session from 30 June 1967.28

6. The Committee of Privileges dealt with a motion of breach of privilege the notice of which was given by Gauri Sankar Bhattacharyya (Ind) on 22 March 1968 against the Assam Tribune (Gauhati, 22 March 1968) for publishing a news item under the caption, "Gauhati incidents figure in Assam Assembly Debates". The member alleged that in the news item a false, distorted and mischievous report of his speech delivered in the House had been published and thus the Editor of the paper committed a breach of privilege of the members of the House. The Speaker considered the complaint as a serious one and referred that matter to the Committee of Privileges. In the meantime, the Special Representative of the Assam Tribune at Shillong wrote a letter to the committee expressing his regret for the wrong reporting of the speech. In response to the show cause notice of the Secretary of the Assembly, the Editor, the Publisher and Printer of the Assam Tribune expressed their

regret and tendered apology for the wrong publication. In view of the admission that a breach of privilege was committed for which regret was expressed and apology tendered, the committee recommended to the House that the matter be dropped.

7. On 6 April 1968 M. Shamsul Huda (R.C.P.I.) under Rule 150 of the Assembly made a complaint of breach of privilege committed by the Frontier Times (Shillong, 25 February 1968), an English Daily for a news item published under the caption 'Debate on Governor's Address in Assembly'. The member complained that a distorted report of his speech delivered in the Assembly on 21 February 1968 was published. He said that such publication affected his public image and interfered with his free functioning as a member of the Assembly. The matter was referred to the Committee of Privileges and was dropped subsequently when the persons concerned apologised and assured that special care would be taken so that such mistakes were not repeated in the future in reporting the proceedings of the Assembly.29

8. The Committee had to take up a motion of breach of privilege moved on 8 March 1969 by Gauri Sankar Bhattacharyya (Ind) against Altaf Hussain Mazumdar (Minister of State, P.W.D. R & R). It was complained that the Minister concerned while moving a Government resolution asking for the approval of the Assembly for an expenditure of Rs 54,10,267.00 under the head 50-Public Works-State (Excluding Establishment, Tools and Plants) asked the House to approve the already incurred expenditure of Rs 1000.00 in a scheme which would

ultimately cost Rs 41,600.00. The expenditure was in connection with a scheme for the construction of an approach road to the guest house of the Haj Pilgrimage at Gauhati. The member submitted that no guest house of the Haj Pilgrimage existed at Gauhati and so there could be no question of construction of an approach road to the same. He further said that no money was spent for the construction of any such approach road, nor did the Government at any time take the consent of the House for such a scheme. The Minister thus misled the House in regard to the facts of the matter and committed a breach of privilege of the House in the very floor and in actual view of the Assembly. The Chair referred the case to the Committee of Privileges. The Minister concerned appeared before the committee and expressed regret for inadvertent omission of the word 'proposed' before the word 'guest house' in the printed list of Government resolutions concerning public works (R & B) Department for the budget session of the Assembly, 1969, while making a statement on the floor of the House. He apologised and the committee recommended to the House that the matter be dropped. 30

9. A breach of privilege was committed in actual view of the House by a visitor and he was taken to task by the House itself without referring the matter to the Committee of Privileges. It happened on 6 August 1969 while the House was discussing a resolution for the ratification of amendment to the Constitution of India proposed to be made by the Constitution (22nd Amendment) Bill 1969. One B. Bareh, a visitor in the east gallery of the House who was witnessing the Assembly on a valid pass, made a speech from the gallery

and threw some leaflets therefrom. The visitor was hauled up and taken to the Speaker's chamber. The Speaker informed the House that the man had committed a breach of privilege of the House in actual view of the House. He said that if the House agreed the man might be called to the bar of the House for receiving the reprimand. The House gave its approval and the visitor was produced before the House. The Speaker administered the reprimand and then the man was allowed to go away.

10. The Committee of Privileges investigated a motion of breach of privilege moved by Dulal Chandra Barua (Ind) on 18 March 1970 under Rule 159 of the Assembly against the Director and the Administrative Officer of the Regional Research Laboratory, Jorhat for showing disregard and refusing to allow the Employment Review Committee of the Assembly to visit the same on 2 February 1970 in connection with the review of the employment position and matters incidental thereto. The Employment Review Committee was constituted in the budget session in 1969 by the House to go into the employment potential in the different public and private sector undertakings under the Government of India and the State Government of Assam. The Committee of Privileges later accepted the apology and explanations of the Officers concerned of the Research Laboratory and recommended to the House that the matter be dropped. 31

11. The Committee of Privileges took up two cases against two newspapers, Asom Batorl (Gauhati, 11 September 1968) and Natun Assamiya (Gauhati, 9 September 1968) for publishing a distorted report of the

speech of Phani Bora (C.P.I.) and for a news item published under
the caption "Agent of the foreigners" respectively. The movers of
the motions felt that the privileges of the members and the House
were breached. The two cases were referred to the committee. The
persons concerned expressed regret and tendered apology. The
committee thus recommended to the House that the matters be dropped.

12. A privilege motion moved by Moinul Haque Choudhury (Cong)
on 24 January 1970 against the Hindusthan Standard (Calcutta, 21
January 1970) for publishing a distorted version of his speech under
the caption 'Assam C.L.P. Tussel Edge - in favour of Mahendra Mohan
Choudhury' was referred to the Committee of Privileges. Later, the
committee accepted the apology of the Editor, the Printer and Pub­
lisher of the paper and the matter was dropped.

13. Nameswar Pegu (C.P.I.) brought a motion of breach of pri­
vilege against the S.D.P.O. of North Lakhimpur for arresting him
without prior permission of the Speaker of the Assembly. The matter
was referred to the Committee of Privileges. As the Minister for
Parliamentary Affairs expressed regret for the incident, the commit­
tee felt that the matter should not be pursued and the matter was
dropped.

14. Atul Chandra Goswami (S.S.P.) brought a motion of breach
of privilege against an Assamese newspaper Dibrugarh Batori
(Dibrugarh, 15 April 1970) for publishing an article under the
caption 'Dibrugarh University and Rector Shri Lakshmi Prasad Dutta'.
The member felt that by the publication aspersions were cast and
motives imputed to the members and the Assembly as a whole for
having passed the Dibrugarh University Bill 1967. The matter was referred to the Committee of Privileges. It then accepted the apology of the said paper and the matter was dropped.  

15. The Committee of Privileges was seized of a privilege motion moved by Gobinda Kalita (C.P.I.) on 26 May against a minister, Abdul Matlib Mazumdar. The contention of the member was that the Minister concerned gave incorrect and misleading information regarding conviction of certain persons in connection with adulteration of food. The Speaker found that there was a prima facie case of breach of privilege and referred the matter to the Committee of Privileges for investigation and report. The Minister submitted a written statement by way of explanation in regard to the complaint and tendered unconditional apology. The committee held as many as 13 sittings and went through the relevant records and found that this was a case which concerned the merits of the case whereas the committee was supposed only to go into the question whether the Minister misled the House by his statement and not on the merits of the case. The committee, therefore, made no comments thereon as it felt that the matter required action by the Government. The Committee recommended to the House that the matter be dropped.

16. The Committee of Privileges took up three cases against three papers The Natun Asamiya (Gauhati, 8 May 1970), The Assam Tribune (Gauhati, 8 December 1970) and the Dainik Asom (Gauhati, 9 December 1970) for allegedly publishing distorted reports of the

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proceedings of the Assembly. The notices were given by Soneswar Bora (S.S.P.) on 27 May 1970, Phani Bora (C.P.T.) on 16 December 1970, and by Dr Bhupen Hazarika (Ind) on 17 December 1970 respectively. The persons concerned from those papers tendered apology and the matters were dropped.

17. Another privilege motion taken up by the Committee of Privileges was on a complaint brought by Mal Chandra Pegu (Cong) under Rule 159 of the Assembly on 24 July 1972 for alleged breach of privilege committed against Maulana Abdul Jalil Choudhury, W.I.A., in particular and the House in general by:

(1) the D.P.I. and the Chairman, Assam State Madrassa Board (A.S.M.B.)

(2) Syed Shamsul Huda, Secretary (A.S.M.B.)

(3) Five other members of the said Board.

The case in short was that Maulana Abdul Jalil Choudhury (Cong) gave notice of the resolution No. 29 on 23 June 1972 to be moved by him during the June-July Session, 1972. The resolution was as follows: 'In order to protect the main objective of the Madrassa Education which is prevailing by the scheme submitted by the Secretary, Madrassa Board, this Assembly is of opinion that the scheme framed by Nadwalut Zamir, Assam, on the basis of the Assam Provincial Jamiat Ulamai Hind be introduced.' The 25th Annual General Session of the Madrassa Board adopted a resolution, No. 14, which according to Mal Chandra Pegu (Cong) ran counter to the privileges of the members of the House and obstructed Maulana Choudhury in the discharge of his duties as a member of the House.
The Committee of Privileges came to the conclusion that reflection on a member in the discharge of his parliamentary duties was one type of contempt. Similarly intimidation, obstruction and influencing a member in the discharge of his parliamentary duties were other types of contempt of the legislature. The Madrassa Board did not administer threats to the M.L.A., neither did it obstruct or seek to exert any influence on him. The committee found no material for substantiating the complaint of breach of privilege and recommended that the matter be dropped.

18. Kandarpa Kumar Das (Ind) made a complaint under Rule 158 of the Assembly against a paper Amar Desh (15 September 1979). The member complained that the paper published a news item which was defamatory in nature and that the publication lowered the prestige of the House in the eye of public. The committee, however, found no material to substantiate the allegation and hence, the matter was dropped.34

The Committee of Privileges, during the period of our review, investigated the cases referred to it by the Chair and tried its best to uphold the privileges of the members of the House. The committee was found to be working in accordance with the rules laid down for the purpose.

(iii) Committee on Government Assurances

This committee is purely an Indian innovation.35 Assurances are given by the Ministers in the House especially during the Question

34. Report of the Committee of Privileges, No. 15, 1972-73
35. Morris-Jones, Parliament in India, p. 314
Hour. But in most cases the assurances are found to be easily forgotten afterwards. Consequently, the members of the House have to face difficulty in getting the assurances implemented. To check and watch over the implementation of the assurances, a committee on Government Assurances was constituted for the first time in 1953 in the Lok Sabha. This committee came into existence largely due to the untiring efforts and solid pressure of the back benchers. It consisted of the members belonging to different political parties in the House and the Chairman was always appointed from the opposition party. In the Lok Sabha this committee approved a standard list of 34 forms of assurances and fixed a period of two months within which the assurances ought to be implemented, since beyond this period the assurances lost their value and public interest.36

The Assam Legislative Assembly appointed such a committee in 1958 to scrutinize the promises, assurances, undertakings etc., given by the Ministers from time to time on the floor of the House and to report on the following aspects:

(a) the extent to which such assurances, promises etc., have been implemented, and,

(b) whether such implementation has taken place within the minimum time necessary for the purpose.

Rules37 of the Assembly provide for the composition and functions of the Committee on Government Assurances. Ministers cannot be members of this committee. It consists of seven members

36. Jena, Parliamentary Committees in India, p. 85
nominated by the Speaker of the Assembly. It makes comments on delays in implementing the assurances and on the actions taken thereon. The officers are answerable to this committee. The assurances are examined in detail so that no department can ignore the proceedings of the House.

A look into the reports of the committee during the period of our survey shows that the committee submitted altogether eleven reports. Some observations of the committee during the period of our review were as follows:

The committee constituted on 26 March 1962 presented the 7th and 8th reports during its tenure. It examined 75 assurances out of a total of 175 assurances given in various sessions of the Assembly in 1960-61. The committee expressed regret over the slow progress in the implementation of assurances. It recommended to the departments that they should submit their replies about the unimplemented assurances within 15 days. The committee observed that some departments did not give proper importance to the assurances given by the Ministers. Moreover, the implementation did not take place within the prescribed time. The departments also did not state the circumstances under which implementation was delayed. In many cases the departments did not mention the exact date of implementation of the assurances, evidently with an intention to be on the safe side. The committee found undue delay in the implementation of the assurances in the Departments of General Administration and Forest.

The committee observed with surprise that the Revenue Department did not collect the information from the local officers even after a lapse of one year which clearly indicated lack of
administrative control over the district officers. Another observation of the committee made in the 11th report was that even after the publication of the proceedings in the Official Gazette various departments of the Government were not aware of the assurances given by the Ministers. The committee recommended that to avoid such a state of affairs, the Chief Secretary who was in charge of the Department of Parliamentary Affairs should issue instructions to all the Secretaries to the Government to maintain a register of assurances and put it up to the officers periodically so as to be aware of the assurances in time as soon as they are published. Incomplete, evasive and interim replies in most cases required the committee to send back a large number of replies to the departments concerned for furnishing complete and categorical information relating to those assurances.

The Committee on Government Assurances of the Assembly visited the Indian Parliament in 1969 on its invitation to discuss internal procedure and working of the committee and after coming back, it made the following points concerning the procedure of its working:

(1) Assurances given from time to time should be collected from the manuscript proceedings, so that these could be transmitted to the Government for implementation. It also expressed the hope that the Department of Parliamentary Affairs would take effective steps in this regard.

Before making assurances, it would be desirable for the Minister concerned to ascertain the fund position so that the assurances could be implemented within the specified time.

The committee reiterated that schemes concerning the health and hygiene of people should get prompt attention.

It would not be desirable on the part of a Minister to give assurances unless he knows the actual position.

The committee observed that on many occasions the departmental witnesses did not appear before the committee when called for. The committee held that such practice should not recur in future and that a serious view should be taken in case of such lapses.

The following table shows the number of assurances implemented satisfactorily or otherwise during the period under review as found in the eleven reports submitted during the period 1969-1979 to the Assembly.

Table No. 1

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>No. of report</th>
<th>Sitting of the committee</th>
<th>No. of assurances satisfactorily implemented</th>
<th>No. of assurances implemented of which is not satisfactory</th>
<th>No. of assurances sent back to departments for further information</th>
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<tr>
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<td>58</td>
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<tr>
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<td>11th</td>
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<td>128</td>
<td>23</td>
<td>nil</td>
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<tr>
<td>6.</td>
<td>12th</td>
<td>8</td>
<td>42</td>
<td>12</td>
<td>23</td>
</tr>
<tr>
<td>7.</td>
<td>13th</td>
<td>No record of sitting</td>
<td>27</td>
<td>10</td>
<td>30</td>
</tr>
<tr>
<td>8.</td>
<td>14th</td>
<td>do</td>
<td>35</td>
<td>38</td>
<td>07</td>
</tr>
<tr>
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<td>15th</td>
<td>do</td>
<td>23</td>
<td>nil</td>
<td>107</td>
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<tr>
<td>10.</td>
<td>16th</td>
<td>do</td>
<td>38</td>
<td>80</td>
<td>99</td>
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<tr>
<td>11.</td>
<td>17th</td>
<td>6</td>
<td>11</td>
<td>81</td>
<td>37</td>
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</table>

Source: Reports of the Committee on Government Assurances, 1962-72

The records show that the committee during the period of our review tried to find out the assurances given on the floor of the House by the Ministers. It also made recommendations regarding the implementation of the assurances and did not hesitate to draw the attention of the departments concerned for their slackness in implementing the assurances.

2. Committees to control

(1) Committee on Subordinate Legislation:

The delegation of legislative power to the executive agencies has led to the appointment of the Committee on Subordinate Legislation so that it can ensure control of the House over subordinate legislation. The volume of legislative authority of the executive departments has increased so much that from time to time it seems to threaten legislative authority of the legislature. In
England the Cabinet checked the appointment of such a committee till 1944 on the ground that the 'Cabinet would tolerate no rivals in its authority in the House of Commons.' In that year the first select committee on the Statutory Rules and Order was appointed. The Chairman of this Committee in the House of Commons of England is appointed from the Opposition as a matter of convention.

In the Parliament of India the first Committee on Subordinate Legislation was nominated by the Speaker in 1953. A convention has grown up since then by which the leaders of all political parties represented in the House are consulted before nominating the members to the committee. The Assam Assembly nominated such a committee for the first time in 1958 with a member of the Opposition as its Chairman. This practice of appointing the Chairman from the Opposition was continued till 1962.

Rules of the House provide for nomination of this Committee by the Speaker with seven members. No Minister can be a member of this committee. It is required to submit its report to the House. During the period of our survey, it presented eleven reports to the House. The committee observed that the Government departments did not inform the committee about the implementation of their recommendations for appraisal by the committee. So it recommended that Government departments should keep the Assembly Secretariat informed about implementation of the recommendations contained in the committee's reports without fail as soon as the recommendations are

39. Wheare, Government by Committees, p. 206
40. Rules 250, 251, 252, 253, 254, 255, Assam Legislative Assembly, 1969, pp. 131-134
implemented. It also recommended that the departments should invariably send a complete set of all original rules and acts along with the copies of rules to be considered for the use of the members of the committee. 41

The Committee on Subordinate Legislation is intended to see to it that the Government does not exceed the powers of legislation conferred on it by the Assembly. The rules made by the executive to fulfil the major provisions of the Acts are subsequently checked by the committee, by requiring it to submit the same before the legislature. The matters of differences between this committee and the Government are resolved through discussion.

The working of the committee during the period of our survey has shown that it has worked as a responsible body in a non-partisan manner.

(ii) Public Accounts Committee: The origins of the Public Accounts Committee (P.A.C.) date back to British Parliamentary practice and the legislative practices in pre-independence days in India. In the House of Commons of England this committee was set up in 1861 under the administration of Mr Gladstone. By convention it represents the political parties of the House in proportion to their voting strength and by convention, the Chairman is appointed from the Opposition. In India the origin of the P.A.C. dates back to 1923 with partly elected and partly nominated members. 42 The credit for the setting up of the P.A.C. in India goes to Sir Frederic Gauntlett, the then Auditor-General in India.  

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41. Reports of the Committee on Subordinate Legislation, 1962-72
42. Morris-Jones, Parliament in India, p. 279
of the Government of India Act, 1935, also made a specific provision for the submission of the Accounts and the Audit report thereon before the legislature. The rules of the legislature provided for the appointment of the P.A.C. under the Act of 1935. Under the Constitution of India the legislatures continued to constitute the P.A.C. The committee exercises financial, judicial, deterrent, non-party and post-mortem control.

In Assam the P.A.C. was constituted for the first time in the council of 1921-23. The finance member of the Executive Council of the Governor was its Chairman. Under the Government of India Act, 1935, the Finance Minister was its ex-officio Chairman. Under the Rules of the present Assembly the members of the P.A.C. are elected on the principle of proportional representation by means of single transferable vote. It consists of nine members and reflects the party composition of the House. Ministers are not elected to this committee. The continuity of the membership is maintained by re-electing a good proportion of the old members. The Chairman is appointed from the Opposition. The term of office of the members cannot exceed 30 months from the date of the first formation. The functions of the P.A.C. include examination of the accounts showing the appropriation of sums granted by the Assembly for expenditure by the Government of Assam, the annual finance accounts of the Government, and such other accounts laid before the Assembly.


44. From 1962 to 1966 a ruling party member was appointed Chairman of the P.A.C. Since 1967 to 1972 a member of the Opposition was appointed Chairman of the P.A.C.

45. Rule 242(2), Assam Legislative Assembly, 1969, p. 128
The P.A.C. during the period of our review submitted reports to the Assembly. The following table shows the number of P.A.C. sittings year-wise:

Table No. 2

<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Year</th>
<th>No. of sittings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>1962-63</td>
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<tr>
<td>2.</td>
<td>1963-64</td>
<td>22</td>
</tr>
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<td>3.</td>
<td>1964-65</td>
<td>28</td>
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<tr>
<td>4.</td>
<td>1965-66</td>
<td>43</td>
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<tr>
<td>5.</td>
<td>1966-67</td>
<td>47</td>
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<tr>
<td>6.</td>
<td>1967-68</td>
<td>35</td>
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<td>7.</td>
<td>1968-69</td>
<td>10</td>
</tr>
<tr>
<td>8.</td>
<td>1969-70</td>
<td>36</td>
</tr>
<tr>
<td>9.</td>
<td>1970-71</td>
<td>28</td>
</tr>
<tr>
<td>10.</td>
<td>1971-72</td>
<td>28</td>
</tr>
<tr>
<td>11.</td>
<td>1972-73</td>
<td>17</td>
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</table>

Total: 281

Source: Reports of the Public Accounts Committee, 1962-72

The P.A.C. of 1962-63 examined the annual accounts of the Assam State Electricity Board for the year ending 31 March 1960 and its Audit Report 1960. In course of the examination the P.A.C. stressed that in the interest of the State, proper record of deviations from the agreed principles should invariably be kept. The committee observed that the Board had not dealt with the meter case with sufficient vigilance. It recommended that the State Government might lay down broad principles in the matter of giving price
preference for indigenous electricity meters. In the examination on para 5 at pages 65-66 of the Audit Report, 1963, the Committee had commented upon the loss suffered by the Home Department due to purchase of defective boots. The committee regretted that the Department did not obtain quotations from original manufacturers and there was no penalty clause in the tender notice to bring the supplier to book in case of their failure to conform to the sample shown earlier to the department. The committee recommended that precautions should be taken in future in such transactions and agreements ought to be drawn up in such a way that the Government may not be put to any loss by such transaction. The committee in course of examination of the Audit Report for 1965, Appropriation Accounts 1963-64 and Finance Accounts 1963-64, found certain cases involving serious financial irregularities. It also detected abnormal delay on the part of the Government in taking disciplinary or departmental action against the delinquent officials. Cases were pending for more than five years without final departmental measures. The committee felt that this sort of abnormal delay in taking departmental action sometimes helps the guilty officials to retire from service before the responsibility could be fixed. The committee asked the Government to ensure prompt and adequate disciplinary action. The committee examined the Annual Accounts of the Assam State Electricity Board for the year ending 31 March 1961 and Audit Report 1962 and observed that according to section 69(5) of the Electricity (Supply) Act, 1948, the State Government was required to cause the accounts of the Board

47. ibid.
48. ibid., 1966-67
together with the Audit Report thereon forwarded to it under subsection (4) for placing them annually before the State Legislature. The committee was constrained to observe that the provisions of the Act had not been followed by the Government. There was inordinate delay in laying the Audit Reports before the House: the Audit Report for 1963 was presented on 18 March 1966 but the Audit Report of 1966 was placed before the House as late as 31 March 1967. The committee also found that the Government was not able to exercise proper control over the affairs of the Board as a result of which the Board went merrily in its own way without caring to maintain proper and commercial accounts in conformity with the existing rules. The committee recommended that the Government should exercise proper control over the Board so that money sanctioned as loan to the Board was properly and purposefully utilised and the Board's financial transactions were done strictly in conformity with the rules.

The P.A.C. during the period of our review performed duties in accordance with the rules laid down for the purpose. However, its work consisted mainly of the post-mortem examination of the expenditures. But the fear of having to appear before the committee had a great deterrent effect on the work of the departments of the Government and kept the officers on the path of rectitude. However, the usual inordinate delay in implementing the recommendations of the P.A.C. reduced the effectiveness of the P.A.C. to a very great extent.

(iii) Committee on Estimates: It is a financial committee through which some sort of control is exercised over the Government.

The term 'estimate' is taken to mean the 'current expenditure'. As the House as a whole cannot go into the minute details of estimates of expenditure, this committee helps in carrying out the process of estimates.\textsuperscript{50}

In England the first Committee on Estimates was appointed in 1921.\textsuperscript{51} In Indian Parliament it was appointed for the first time in 1950. Prior to the appointment of this committee, a standing Finance Committee was functioning. This committee was a Government committee. The move to appoint a stronger financial committee in 1937, 1938, 1939 and in 1944 could not materialise due to the apathy of the Government. After independence, this committee was formed in the country's Parliament as well the State legislatures. In the Assam Assembly the first Committee on Estimates was constituted in 1955\textsuperscript{53} with the Finance Minister as its ex-officio Chairman. The rules of the Assembly of 1957 forbade Ministers from entering the committee. Under the rules of 1969 also no Minister can be either member or chairman of the Estimates Committee. It consists of eleven members elected every year from amongst the members of the House according to the principle of proportional representation by means of single transferable vote. It is provided that the term of office of members of the committee shall not exceed 30 months from the date of its first formation.\textsuperscript{54} The functions of the committee are:

\textsuperscript{50} Wheare, Government by Committees, p. 204

\textsuperscript{51} Jennings, Parliament in India, p. 308

\textsuperscript{52} Morris-Jones, Parliament in India, p. 298

\textsuperscript{53} A.L.A.D., 3.3.55, Vol. I, p. 29

\textsuperscript{54} Rule 244(1),(2), Assam Legislative Assembly, 1969, p. 120
(a) to report what economy, improvements in organisation, efficiency or administrative reform, consistent with the policy underlying the estimates may be effected;

(b) to suggest alternative policies in order to bring about efficiency and economy in administration;

(c) to examine whether the money is well laid out within the limits of the policy implied in the estimates; and

(d) to suggest the form in which the estimates shall be presented to Assembly. 55

Different Committees on Estimates during 1967-72 presented altogether sixteen reports to the House along with recommendations. The recommendations were of advisory nature only, and hence, these could not bind the Government. The fact that the recommendations of the committee were not given effect to fully was discussed in the House on 11 June 1970. Dulal Chandra Barua (Ind) under Rule 160A of the House moved a motion as follows: 'The Assembly do now take into consideration the 24th Report of the Estimates Committee on the Department of Public Works (Flood Control and Irrigation Wing) presented to the House on 1st April 1970'. He brought the motion with a view to discussing some points in regard to the committee system of the House. The contention of the member was that the recommendations of the P.A.C. and the Committee on Estimates were not given effect to by the various departments of the Government. The purpose of setting up such committees was to go through the working of various departments in order to find out the financial irregularities, acts of omissions and commissions, if any, so that they

55. Rules 243, Assam Legislative Assembly, 1969, p. 128
could be rectified. The performance of the departments could also be improved on the basis of suggestions of the committees. One of the main responsibilities of the financial committees was to see to it that money provided for particular purposes was utilised properly. The member expressed surprise at the non-implementation of various recommendations of the Committee on Estimates. To substantiate his observations, the member cited an example from his personal experience when he was a member of the Committee on Estimates during 1962-63. The committee went through the working of the Medical Department. With the aim of improving the works of the department the committee suggested some important measures. The member regretted that even after nine long years not a single recommendation of the committee was implemented properly by the concerned department. 56

The working of this committee during the period of our survey shows that while the members of the committee worked in a non-partisan spirit, its main weakness was that it could examine selected subjects only. Moreover, its recommendations were advisory in nature. However, the committee suggested alternative policy. Both the P.A.C. and the Committee on Estimates were able to perform their duties without interfering with the day-to-day activities of the departments of the Government. Thus they could fulfil the broad legislative purposes like the scrutiny of the estimates and the expenditures of the Government departments.

56. A.L.A.D., 11.6.70, p. 77
3. Committee to advise

(i) Business Advisory Committee: The entire time of the House is controlled by the House itself. As in the Parliament of the United Kingdom, the Houses of the Indian Parliament also are the final authority in the allotment of time for different types of business. The Constituent Assembly of India constituted a 'Business Committee' to recommend the 'order of business' of the Constituent Assembly and thus guide the members in their work. Following this practice, the Lok Sabha constituted a Business Advisory Committee in 1952. In the legislature of Assam, the first Business Advisory Committee was constituted in 1958. According to the Rules,\(^\text{57}\) at the commencement of the House or from time to time the Speaker nominates this committee consisting of not more than seven members. The Speaker is the Chairman of the committee. Unlike in other standing committees, the ministers are appointed to this committee. To make the committee more representative, the party leaders are nominated to it.

The functions of this committee are defined in the Rules\(^\text{58}\) of the House. Its main function is to recommend allocation of time for the discussion of the stage or stages of such Government Bills and other business as the Speaker in consultation with the Leader of the House may direct for being referred to the committee. It has power to indicate in the proposed time-table the different hours at which the various stages of the Bill or other business shall be completed. No variation of the allotted time can be made except on the request of the Leader of the House.

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57. Rule 228, Assam Legislative Assembly, 1969, p. 119
58. Rule 229, ibid., p. 120
By convention the reports of the Business Advisory Committee are always adopted unanimously by the House. The decisions of the committee are always unanimous representing the collective view of the House.

(ii) Rules Committee: The House can make rules for the conduct of business. The Constitution of India states that a House of the Legislature of a State may make rules for regulating, subject to the provisions of the Constitution, the procedure and conduct of its business. The Rules of the Assam Assembly provide for the nomination of this committee by the Speaker with nine members including its Chairman. The Speaker is the ex-officio Chairman of this committee. The recommendations of the committee are laid on the table of the House and within seven days any member may give notice for any amendment. The Rules committee of the Assam Assembly during the period of our review submitted three reports. One report was submitted in August 1966. In that year the committee had four sittings. The committee submitted the second report in August 1968. It had seven sittings. The third report was submitted in March 1969. This committee also had seven meetings.

4. House Keeping Committees:

(i) House committee: The first House Committee in the legislature of Assam was constituted in 1938. The Speaker was its ex-officio Chairman. He nominated six members to the committee.

59. Article 208(1) of the Constitution of India
60. Rules 258-260, Assam Legislative Assembly, 1969, p. 135
Under the present rule of the House, the committee consists of nine members nominated by the Speaker at the commencement of the first session in each year. The committee considers and gives advice on all matters connected with the comfort and convenience of members of the Assembly. The Secretary of the Assembly is the ex-officio Secretary of the Committee. The functions of the committee as an advisory body are:

(a) to deal with all questions relating to residential accommodation of members of the Assembly;

(b) to exercise supervision over facilities for accommodation, food, medical aid and other amenities accorded to members in the Members' Hostels;

(c) to look to the comfort, convenience of the members as well as maintenance of general discipline in the Hostels.

Rules framed by the committee are to be laid on the table of the House.

(ii) Library Committee: The first Library committee of Assam Assembly was constituted in 1957. Under the Rules, the committee consists of nine members nominated by the Speaker. Four members form a quorum for the purpose of constituting a meeting of the committee. The Chairman is appointed by the Speaker from among its members. During the period of our review this committee was responsible for organising the Assembly Library with the aim of helping the members in using the Library books and papers.

62. Rule 312, Assam Legislative Assembly, 1969, p. 160
63. Rule 313, ibid., 1969, p. 161
The committee system of the Assam Assembly is based on the British pattern. The members of the committees are not generally specialists in their fields. However, during the period of our review the committee system worked with commendable success. The temporary tenure of membership and absence of rules to compel the Government to take action as recommended by the Committees undoubtedly reduced the effectiveness of the committee system to a noticeable extent. Further, inordinate delay in implementing the recommendations specially of the financial committees tended to defeat or neutralise the recommendations of the committees.