Chapter III

ROLE OF THE SPEAKER

The office of the Speaker is essential in a popular legislature because on him primarily depends the quality of performance of the members. He is connected so very inseparably with the legislature that it is not too much to say that without the Speaker the House has no constitutional existence.\(^1\) The office of the Speaker is an exalted one. However, much depends on the personal qualities of the office-bearer himself and his capacity to conduct the business of the House in accordance with the rules framed under the Constitution.

The office of the Speaker is typically British and it had passed through a natural development without any pre-conceived design. The history of the office is more than six hundred years old. However, the title 'Speaker' was first given in 1377 and Thomas Hungerford was the first person to be designated as the Speaker in the House of Commons of the United Kingdom.\(^2\) In the beginning the Speaker was chosen by the feudal lords to speak on their behalf and carry the petitions and resolutions to the king. He was then described as the mouth of the parliament. During the Tudor period it was a prerogative of the monarch to select the Speakers and for many centuries this office was held by obedient servants to the monarch who were expected to carry out loyally the

\(^1\) May, Parliamentary Practice, 16th Edition, p. 223
\(^2\) Luce, Legislative Procedure, p. 433
royal commands. During the period of struggle for power between Parliament and King Charles I the Speaker began to pluck up courage. Charles I demanded of the House the surrender of five of its members who were accused of high treason. The House made no reply. Then the king asked the Speaker whether those members were present. Speaker William Lenthall said: "May it please your Majesty, I have neither eyes to see, nor tongue to speak in this place but as the House is pleased to direct me, whose servant I am here." The glorious and honourable position of the office of the Speaker was laid at that time. The Speakership passed through a hazardous career of politics, it was adventurous as also committed to the politics of the times. The necessity of serving two masters made this office really a difficult one. The neutral position of the Speaker was established in 1841 and the Parliament Act of 1911 empowering the Speaker to certify the 'money Bills' made his decision free from the review of any court.

The Constitution of India incorporated the office of the Speaker in the best traditions of the British system. The powers, position and privileges of the Speaker of the Indian legislatures are similar to those of their British counterpart. Since the inception of the Speakership in India, the office has carried with it an aura of dignity, honour and power. The election of the Speaker is the first ever business the House enters into after the members have

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3. Laundy, The Office of Speaker, p. 211
4. Plucknett, Taswell-Laughton's English Constitutional History, p. 595
5. More, Practice and Procedure of Indian Parliament, p. 67
taken their oaths. This is an indication of the high position the Speaker enjoys in the House. 6

A look at the historical background of the Speakership of the Assam Legislative Assembly shows that up to 1920 the head of the Government was the President of the legislature. 7 The legislature of Assam was constituted in 1912. From 1912 to 1918, Archdale Earle, the Chief Commissioner of Assam was the President of the Legislature of Assam. He was followed by Nicholas Dodd Beaton Wel (1918-1921) and John Campbell Arbuthnott (1921-22). They combined executive and legislative authority, participated in the debates and decided the policy and action of the Government. They could hardly be regarded as 'Speaker' in the usual sense of the term. Under the Government of India Act, 1919, the period of elected Presidentship began with the election of Rai Bahadur Nalini Kanta Roy Dastidar (1923-24) who was an elected member of the Council. He was elected as an Independent member, 8 from Sylhet. He was succeeded by Maulvi Abdul Hamid (1925-29), an elected member of the Council. He belonged to the Nationalist Party. Faizur Ali (1930-36) succeeded him. He was also an elected member of the Council and he belonged to the Swarajist Party. Under the Government of India Act, 1935, which came into force in 1937, the provincial legislature of Assam was made a bicameral one with two chambers known as the Assam Legislative Assembly and the Assam Legislative Council. Basanta Kumar Das (1937-45) was elected Speaker of the Assembly in 1937. He was

6. Mukherjee, Parliamentary Procedure in India, p. 41
7. The Charter Act of 1853; the Indian Councils Act 1861 s.15; the Indian Councils Act 1909 s.4
the first President to be designated as 'Speaker' of the Assembly. After him Debeswar Sarma (1946-47) was elected and he was in office for one year only. He was succeeded by Laksheswar Barua (1947-51). Kuladhar Chaliha (1952-57) was elected after him and Chaliha's successor was Dev Kanta Barooah (1957-59). Mohendra Mohan Choudhury was elected Speaker in 1960 and he held the office for a period of seven years till 1967. After him Hareswar Goswami was elected Speaker (1967-68). He held office for a brief period of fourteen months and died in harness. Mohi Kanta Das was elected on 26 August 1968 (1968-72) and he was succeeded by Ramesh Chandra Barooah on 22 March 1972.

During 1937-47 three presidents held office in the Assam Legislative Council. The first president was Monomohan Lahiri (1937-38). He died while in office and in the election that followed Heramba Prasad Barua (1938-42) was elected. The last president was Mrs Jubeda A. Rahman. She was the first lady President to have held this office (1943-47). The Assam Legislative Council came to be abolished under the Constitution of India. There was provision for the election of the Deputy Presiding Officers of both the Assembly and the Council. They performed the duties of the Presiding Officers during their absence. In 1920, the Legislature of Assam introduced the system of having a panel of Chairmen to officiate in the absence of the Presiding and Deputy Presiding Officers. The Government of India Act, 1935, also provided for the appointment of a panel of Chairmen. The Constitution of India as well as the Rules of the

9. Article 168 of the Constitution of India
10. Assam Legislative Council Rule 5 of 1920
11. Article 179(2) of the Constitution of India
Assam Legislative Assembly\textsuperscript{12} provide for nomination of a panel of Chairmen by the Speaker in the House. The Chairmen so nominated hold office until a new panel of Chairmen is nominated.

The election of the Speaker and the Deputy Speaker takes place in accordance with the provisions of the Constitution.\textsuperscript{13} Detailed procedures about these elections are laid down in the Rules\textsuperscript{14} of the House. The procedures in short are as follows: When at the beginning of the new Assembly or owing to a vacancy in the office of the Speaker the election of a Speaker is necessary, the Governor shall fix a date for the holding of the election, and the Secretary shall send to every member notice of the date so fixed. If more than one member has been so nominated, the Assembly shall proceed to elect a Speaker by ballot, and in case of two candidates the candidate obtaining the larger number of votes shall be declared elected. In case of equality of votes it shall be determined by the drawing of lots. Where more than two candidates have been nominated at the first ballot:

(a) One of such candidates, obtaining more votes than the aggregate votes obtained by the other candidates, is declared elected;

(b) if no candidate obtains more votes than the aggregate votes obtained by the other candidates the candidate who has obtained the smallest number of votes shall be eliminated from the election

\textsuperscript{12} Rule 9(1) of the A.L.A. 1969, p. 10
\textsuperscript{13} Article 178 of the Constitution of India
\textsuperscript{14} Rules 7 and 8 of the Rules of Procedure and Conduct of Business of Assam Legislative Assembly, 1969, pp. 5-10
and the balloting shall proceed. The candidate obtaining the smallest number of votes of each ballot gets excluded from the election, until one candidate obtains more votes than the remaining candidate or the aggregate of votes of the remaining candidates, as the case may be.

Where at any ballot any of three or more candidates obtain equal number of votes and one of them has to be excluded from the election, the determination as between the candidates whose votes are equal of the candidate who is to be excluded shall be by drawing of lots.

The same procedure is followed in the election of the Deputy Speaker of the Assam Legislative Assembly.

The Speaker is the spokesman and representative of the House and he is the Chairman of the meeting of members. His duties are mainly statutory and consist of interpreting and administering certain provisions of the Constitution and the Rules of the Assembly made thereunder. He presides over the debates and ensures that they are conducted in accordance with the formal procedures. But he does not participate in the debates. It has been rightly observed that the term 'Speaker' is somewhat paradoxical as he does not speak except in connection with his presidential duty and does not participate in the discussions of the House. 15 The Speaker interprets the standing orders, deals with points of order when they are raised and gives rulings when called upon to do so. He calls upon the members wishing to speak and uses his own discretion in selecting

15. Kaul and Shakdher, Parliamentary Practices in India, p. 94
then having scrupulous regard for the rights of the minorities. He is equipped with powers to limit obstruction and to check unruly behaviour. He exercises authority with strict impartiality and does not vote except in case of a tie in which case he has a casting vote. He never speaks except making announcements when occasions so arise. As the guardian of the privileges of the House he inflicts punishment on those found guilty of offending against its privileges. The office of the Speaker is above individuals and it is the office which commands the first respect of the members of the House.

Our survey of 1962-72 shows that the Assam Legislative Assembly witnessed certain usual and unusual events, which called for the power of judgement, impartiality, authority, knowledge of procedure and confidence of the Speakers in giving rulings on the matters at issue. All the Speakers of this period seemed to be impartial regarding matters raised by members irrespective of their party affiliations. An attempt is made in the following sections to make an assessment of the work of the Speakers in this regard for the period of our survey.

(1) **Rulings on Adjournment Motions**

The House rules provide that a motion for an adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the Speaker. The Chair shall decide whether the matter

16. One peculiar feature of the Speakers of the period under review is that all of them belonged to the ruling party prior to their election to the office of the Speaker of the Assembly.

17. Chapter XII, Rule 56, 57 of the Assam Assembly, 1969, pp. 38-40
to be discussed is definite and of urgent public importance under rule 57 of the House. Adjournment motions are subject to certain restrictions like: (i) not more than one such motion shall be made at the same sitting; (ii) not more than one matter can be discussed on the same motion, and the motion must be restricted to a specific matter of recent occurrence; (iii) the motion must not receive discussion on a matter which has been discussed in the same session; (iv) the motion must not anticipate a matter which has been previously appointed for consideration; (v) the motion must not deal with a matter on which a resolution could not be moved; (vi) the motion shall not deal with any matter which is under adjudication by a Court of Law having jurisdiction in any part of India; (vii) the motion shall not raise a question of privilege; and (viii) that it must not relate to a matter which is not primarily the concern of Government of the State.

The Speaker has to decide the admissibility of the adjournment motions in accordance with the rules. He gives a hearing to both sides of the House before giving his ruling. He can disallow adjournment motions when they fail to fulfil the conditions or when he finds that some other avenues are left open for discussing the matter. The rulings of the Chair cannot be challenged by anybody in the House. However, there is an instance in the period of our review when some members of the House, not being satisfied with the ruling of the Speaker, walked out of the House as a mark of protest. It happened on 9 August 1962 when Lakshmi Prasad Goswami (P.S.P.), Dulal Chandra Barua (Ind) and Tajuddin Ahmed (Ind) gave notice of an

adjournment motion to discuss the "No Work Day" observance by certain grades of employees of the Government of Assam. The Chair did not allow the adjournment motion in view of the explanation given by B.P. Chaliha (Chief Minister) and F.A. Ahmed (Finance Minister) that it was a continuous matter and that the Government appointed a Pay Committee to examine the situation. The Opposition walked out as a mark of protest. The next day Lakshmi Prasad Goswami (P.S.P.) through a letter to the Speaker expressed regret and tendered apology for the misunderstanding created by the adjournment motion. He stated that he had no intention either to cast aspersion on or show disrespect to the Chair. The Chair also reciprocated the feelings of the member and thanked him for his chivalrous spirit. During 1962-67 not a single adjournment motion was admitted by the Chair as none could fulfil the conditions laid down in the rules of the House.

The purpose of the adjournment motion is three-fold:

(a) to get information from the Government about an event of great public importance and of recent occurrence; (b) to censure the Government for its inability to tackle a situation; and (c) to raise discussion on a matter of public importance when all avenues are closed. The conditions being very strict, no adjournment motions could fulfil them during 1962-67. It was but natural on the part of the Opposition to complain that whenever such a motion was tabled it was disallowed, more often than not, on this or that pretext.

20. Adjournment motion is not a normal feature of the proceedings of the legislature. The Lok Sabha practices also provide that adjournment motions cannot be brought in and an extraneous matter cannot be introduced in the order paper unless the extent of the matter, its importance and its gravity justifies it to interrupt the business of the House. A.L.A.D., 28.3.67, p. 44
In the period 1967-72 the Speaker admitted six adjournment motions which fulfilled all the required conditions laid down in the rules of the Assembly. These were as follows:

(1) On 23 October 1967 Dulal Chandra Barua (Ind) and others gave notice of an adjournment motion to discuss the planting of a bomb in the Assam Secretariat Building and the explosion that took place damaging a part of the building. Hareswar Goswami, the then Speaker, found the incident of 17 October 1967 to be of an extraordinary nature and a direct challenge to the authority of the Government. The matter could not be ignored as a common incident of law and order. It was a matter of recent occurrence and police investigation did not make the matter sub-judice. Judging the incident on the basis of the rules of the House, the Speaker held that the House would be failing in its duty if the matter were not discussed after being raised by a member of the House. It would also be fit and proper to discuss the matter so that the Government could be benefitted by the views expressed by the members. The Government also would be able to stop recurrence of such incidents in future and bring a sense of security to the people. The Speaker rejected the plea of the Minister for Parliamentary Affairs that the Chief Minister could make a statement on the floor of the House on the matter or it could be discussed by a substantive motion to be brought by a member of the House since no member who gave the notice of the adjournment motion withdrew the notice. He further held that a statement without a substantive motion would not enable

21. Decisions from the Chair, 1967, p. 3
the House to discuss the matter fully and more so that would cause delay in discussing the matter which was so serious. He admitted the motion and fixed the time for its discussion at 9 P.M. on that very day. The ruling of the Speaker was applauded by the opposition.

(2) Speaker Hareswar Goswami admitted another adjournment motion on "Curfew in Tinsukia town since 4 P.M. of 30th March 1968" tabled by Dulal Chandra Barua (Ind), Ramesh Mohan Kauli (Swatantra) and supported by Glasuddin Ahmed (Ind), Kamini Mohan Sarma (C.P.I.) and Sailen Medhi (Ind). The adjournment motion satisfied all the conditions laid down in the rules. The situation at Tinsukia was also very grave so the Speaker could not rule it out of order and sent a team of members of the Assembly to Tinsukia. The matter was definite, of recent occurrence and of public importance. The Speaker could not accept the statements of B.P. Chaliha (Chief Minister) that it was a question of law and order and of Mahendra Mohan Choudhury (Revenue Minister) that it was a continuous matter.

The Speaker admitted the adjournment motion on the ground that the members would be able to give concrete suggestions for easing the

22. A.L.A.D., 1.4.68, pp. 28-31

23. The matter was that at Tinsukia on 30.3.68 at about 1 P.M. a person with about 10 kg of beef and a raw hide in a gunny bag was seen by some people who took him to a Police station. On their way to Police station a crowd of about 600 people gathered and the man was manhandled by the crowd. A Police party came to rescue the person but the people started pelting of stone and shouted communal slogan. The magistrate of Tinsukia clamped curfew at about 4 P.M. when a mob of about 1000 people set fire to a stationery shop and burnt down the furniture of a Madrassa defying tear gas. A.L.A.D., 2.4.68, pp. 18-19
tension and for maintaining communal harmony.

(3) The third adjournment motion admitted during the period of our review was tabled by Lakhyadhar Choudhury (P.S.P.) on 28 April 1970 to discuss the situation at Lakhimpur in the district of Goalpara that arose out of a communal clash. Mahendra Mohan Choudhury (Minister, Parliamentary Affairs) also admitted that the matter was of public importance. The incident affected the security of the entire State as the place of occurrence of communal clash was situated in the Indo-Pakistan border. The Speaker, Mohikanta was declared the adjournment motion to be in order as it fulfilled all the conditions laid down in the rules. The Speaker constituted a delegation of nine members of the House to make an on the spot study of the affected areas. 24

(4) The fourth adjournment motion to be admitted during the period of our review was moved on 5 December 1970 by Dulal Chandra Barua (Ind). It related to the alleged decamping by Pakistani Spies with secret maps and documents from the Survey of India, Shillong Office. The contention of the member was that two Pakistani ladies came to Shillong and entered into the office where secret documents concerning the security of the country were kept and slipped off to Pakistan in a local taxi bearing No. ASA 6981 in which no less a person than one Major S.K. Kohli was involved. B.P. Chaliha (Chief Minister) made a statement which appeared to corroborate the statement of Dulal Chandra Barua (Ind). The Chief Minister informed the House about Police enquiry as well as departmental enquiry into the

24. A.L.A.D., 5.5.70, p. 58
matter. The Speaker observed that the matter was undoubtedly a definite matter of public importance. The Survey of India office was a repository of all secret documents concerning vital information including maps of international boundaries of the country. The entry of two ladies into the office who were alleged to be Pakistani Spies and their dispersal without detection after spending the night in the office was undoubtedly a serious matter affecting the security of the State. Through the adjournment motion the alleged failure of the Government to maintain the secrecy of the office was sought to be discussed. The Speaker found it to be in order under Rule 57 of the House.

(5) On 30 March 1971, Phani Bora (C.P.I.) tabled an adjournment motion to discuss the situation arising out of the mass killing in East Pakistan (now Bangladesh) in the walks of the liberating struggle of the people of East Pakistan. The Speaker allowed discussion on the matter. The participating members expressed deep shock and horror over the attack launched by the West Pakistani regime and condemned it in very strong terms. At the end of the discussion, the House unanimously adopted a resolution through which it condemned the violence and atrocities committed on the people of East Pakistan. It also urged the Government of India to recognise the provisional Government of 'Bangladesh'.

(6) The sixth adjournment motion to have been allowed in the period of our survey was on the 'situation arising out of the

25. Decisions from the Chair, 1970-71, pp. 9-10

26. A.L.A.D., 30.3.71, pp. 11-49
increased Pak sabotaging activities in Assam, specially in the border districts of the State and the abnormal situation arising in the State out of Bangladesh movement. Two notices were tabled separately; one by Dulal Chandra Barua (Ind) and the other by Lakhyadhar Choudhury (P.S.P.). The Chair clubbed the notices together and allowed discussion on the matters. After the discussion a resolution was adopted unanimously by the House, through which it urged the Government to take immediate steps to strengthen civil defence measures and improve transport and communications. The Government was also urged to control the price line by building up buffer stock with necessary imports. The House appealed to the people of the State to create a proper atmosphere so that unity and communal harmony could be maintained.

During the period of our survey it was found that the members of the Opposition appealed to the sentiments of the Chair to allow an adjournment motion when the same could not satisfy the conditions laid down in the rules or conventions of the House. For instance, on 6-11-67 the Opposition in the House gave a notice of an adjournment motion to discuss an incident of police firing in the Nowgong district. The Speaker Hareswar Goswami, had to face a difficult situation in the House. Dulal Chandra Barua (Ind) moved the adjournment motion under rule 144(2) of the House pressed


28. Rule 144(2) On a day allotted under sub-rule (1) of Rule 144 for the voting of demands for grants no other business shall be taken up before 4-30 P.M. or at 11-30 A.M. if it is a Friday or before 4 P.M. on all week days except Fridays if therein any Session of the Assembly from November 16 to January 15 except with the consent of the Speaker. Provided that nothing in this rule shall be deemed to prohibit, the asking and answering of questions during the time allowed under these rules, 1969, pp. 81-82.
the Speaker to allow it. The Speaker went through the rules but did not want to violate the convention of the House. Phani Bora (C.P.I.) requested the Speaker to change the general procedure followed in the House to discuss the police atrocities in Nowgong. Sailen Medhi (Ind), Kamini Mohan Sarma (C.P.I.), Atul Chandra Goswami (S.S.P.) also pressed hard to allow the adjournment motion. They were even ready to give up the private members' business for the sake of the adjournment motion and wanted to discuss the supplementary demands for grants the next day. The Speaker appreciated the anxiety of the members and agreed to take up the matter after 4-30 P.M. Disturbances and uproar followed the announcement of the Chair for which he had to adjourn the House for fifteen minutes. In that period he discussed the matter with the leaders of various political parties but could not arrive at any agreement with them. He did not exercise discretionary powers; on the other hand, he requested the members to take up the matter at 4-30 P.M. However, after the re-assembly of the House, continuous disturbances followed and the Chair adjourned the House till 2-30 P.M. In that period he contacted the Deputy Commissioner of Nowgong on phone and enquired about police firing in Nowgong and came to know that Police firing was not resorted to anywhere in the district. After the re-assembly of the House at 2-30 P.M., M.A. Mussawir Choudhury (Ind) held that Rule 144(2) was misinterpreted. The Speaker took exception to the remark and regarded it as an insult to the Chair. However, the member apologised for his remark. But the disorder in the House did not subside. The Opposition continuously interrupted the moving of supplementary demands from the Government side. There was shouting of slogans from the Opposition benches. Most of them left
their seats shouting slogans and stood in front of the Speaker's dais. The Speaker adjourned the House till 10 A.M. of the next day. Exertion of pressure could not make the Speaker deviate from the rules of the House in this case. It goes to the credit of the Opposition that thereafter similar incident did not occur in the House.

(2) Rulings on Privilege motions

The Speaker is the guardian of the privileges of the members of the House which they enjoy under the Constitution of India. Subject to the provisions of the Constitution and to the rules and the standing orders regulating the procedure of the legislature, there is freedom of speech in every legislature in every state. No member is liable to be subjected to proceedings in any court in respect of anything said or any vote given by him in the legislature or committee thereof and no person is liable in respect of the publication by or under the authority of legislature of any report, paper, votes or proceedings. The powers, privileges and immunities of legislature and of the members and the committees of a House may from time to time be defined by the legislature by law and until so defined shall be those of the House of Commons of the United Kingdom and of its members and committees at the commencement

29. A.L.A.D., 6.11.67, pp. 28-61
30. Article 194 of the Constitution of India
31. However, the Prevention of Publication of Objectionable "matter Act, 1976 repealed the Parliamentary Proceedings (Protection of Publication) Act, 1956
of the Constitution. During the period of our survey the Speaker 
had to take up certain issues which involved the privileges of the 
members of the House. In all those cases the Chair was found to be 
working in accordance with the rules of the House. He duly referred 
the cases fulfilling conditions to the Committee of Privileges. 
The Chair was very careful in deciding the cases since the decisions 
became precedents of the House. Some of the important decisions of 
the Chair in privilege cases were as follows:

Mahendra Mohan Choudhury, as Speaker had to deal with a motion 
of breach of privilege which was based on a sensational and unprece­
dented event involving the arrest of two members of the Assam 
Legislative Assembly from the Assembly premises. The case in brief 
was as follows:

On 30 March 1965 Dulal Chandra Barua (Ind) and Tarapada 
Bhattacharyya (Ind) resorted to a hunger strike in order to draw the 
attention of the Government of Assam to the demands of the Assam 
Civil Secretariat Services Association relating to their pay scales 
and other amenities for which that Association underwent a pen-down 
strike. The two members of the House were arrested at about 11-30 P.M.
on 31 March 1965 by the Superintendent of Police accompanied by a large force of armed policemen. In the afternoon session of 1 April 1965, six members of the United Opposition Front of the House lodged a complaint of breach of privilege under Rule 167 of the House against the District Magistrate of Shillong and the Assam Police Force under the Command of the Superintendent of Police, Khasi and Jaintia Hills. Their main contentions were: that under Rule 167 of the House no arrest could be made within the precincts of the House without obtaining the permission of the Speaker; that under Rule 164, the Speaker had to be given intimation of the arrest; that the very presence of a large number of armed police force within the precincts of the House indicated that there was breach of privilege.

Earlier in the morning session of 1 April 1965 a notice of adjournment motion on the same subject was tabled. But this was ruled out by the Speaker on the ground, that he was given intimation by the Deputy Commissioner of the United Khasi and Jaintia Hills under Rule 164 of the House; that the room from which the members were arrested was excluded from the precincts of the House, and that the arrest was made in the course of administration of ordinary law which could not be the subject matter of an adjournment motion. The United Opposition Front walked out of the House as the members were not satisfied with the ruling of the Speaker. On 5 April 1965 the Speaker ruled out the privilege motion on the ground that on 1 April 1965 the Chief Minister went to the Chamber of the Speaker and expressed deep regret for what had happened on the previous night within the Assembly precincts without the knowledge of the

34. A.L.A.D., 1.4.65, p. 1600
Speaker and tendered apology to the Speaker for the omission committed by the officers of the Police Department. Referring to a similar incident that took place in the State Assembly in Madhya Pradesh on 27 July 1962, where under similar circumstances the Speaker did not allow a motion of breach of privilege, the Speaker asked the members of the Assam Assembly to drop the matter. He expressed anguish and displeasure over the manner in which the arrested members managed to enter the Speaker's room to evade arrest by exerting influence and persuading the night chowkidar to do so. He expressed the hope that such attempts would never be made in the future. However, the matter did not end there. On 10 September 1965, Dulal Chandra Barua (Ind) and Tarapada Bhattacharyya (Ind) tendered apology to the Speaker for their unauthorised entry into the Speaker's Chamber. On 11 December 1965 both of them tabled a motion of breach of privilege against the District Magistrate, Shillong, Superintendent of Police and his Police force, and the Commandant of the Second B.S.F. stationed at Shillong and against the City Inspector, Shillong, on the ground that while they were undergoing peaceful hunger-strike the police assaulted them at the time of their arrest. Moinul Haque Choudhury (Minister, Parliamentary Affairs) held that all use of force was not assault and about their alleged assault they did not write from the jail and nothing was mentioned by Tarapada Bhattacharyya (Ind). Moreover, the motion of breach of privilege came three months after the alleged incident. The Speaker ruled this privilege motion out of order.

35. A.L.A.D., 5.4.65, pp. 1610-1618
On 9 June 1967 two privilege motions were tabled, one by Dulal Chandra Barua (Ind) and the other by Gobinda Kalita (C.P.I.). Dulal Chandra Barua (Ind) complained that Ramesh Chandra Baruah (Minister, Supply) committed a breach of privilege of the members of the House by making a policy statement outside, when the House was not only in session but also was discussing a motion on food situation in the State. The Minister concerned submitted that he did not make any policy statement, but while talking to some people who called on him at his residence he gave some information about shortage of wheat products in the State. Among them there was a press representative. Gobinda Kalita (C.P.I.) read out his petition of complaint alleging that Kamakhya Prasad Tripathy (Minister, Finance) committed breach of privilege of the House by concealing truth and misleading the House by denying the fact that the Government of India gave financial help to the State Government in the matter of establishing a jute mill at Nowgong in the co-operative sector to which the member himself referred in the course of his Budget discussion of 1967-68. The Minister concerned submitted that the Central Government had no direct financial interest in the jute mill for which it granted only a loan to the State Government.

The Speaker in his ruling observed that the two cases were of serious nature as in a democratic State the Ministers had to make policy statements and about their implementation or otherwise in the House first when the House was in session. He held that in the absence of any law defining these privileges Indian legislatures followed the privileges of the British House of Commons. He, however, stated that judging by them the statement of the Minister for Supply could not be called a policy statement. The Speaker, however, held
that the Minister concerned deprived the House of valuable information by non-disclosure of such facts as were first available to the press; this amounted to discourtesy shown to the House. The Speaker referring to similar rulings of different state legislatures of India including those of the Lok Sabha and the House of Commons of England held that though the matter need not be referred to the Committee of Privileges, the Government should remember that such announcements be made in the House first before they are made available outside. These observations are in the nature of obiter dicta while the privilege motions were ruled out of order. The observations, however, were meant to be guidelines, if the independence, sovereignty and dignity of the House were to be maintained.\footnote{36. Decisions from the Chair, 1967, pp. 46-53}

Regarding the privilege motion tabled by Gobinda Kalita (C.P.I.), the Speaker observed that the Minister concerned had not given any false information to the House. So the privilege motion was ruled out of order.\footnote{37. ibid., p. 54}

During the period of our review the Chair was guided not only by the rules but also by the conventions in disposing of the privilege motions and thus maintained the impartial status of the office of the Speaker. For instance, in a privilege motion tabled by Dulal Chandra Barua (Ind) against Mahendra Mohan Choudhury (Chief Minister), the member alleged that the All India Radio, Gauhati, published a news bulletin on the morning of 22 March 1971 regarding protective measures on flood control. The member observed that the Chief Minister committed a breach of privilege since as a
parliamentary convention all important policy matters of the Government should be placed before the House when it was in session before disclosing the same to the public. The member further contended that while the Governor's Address was under discussion containing references to flood control measures and when a motion for discussing the 24th Report of the Estimates Committee relating to flood control and Irrigation wing of the P.W.D. was included in the agenda, he could not understand how the Chief Minister could divulge the assurances of the Prime Minister to the press or the Radio.\textsuperscript{38}

The Chief Minister in his reply submitted that it was far from his mind to show any disrespect to the House and expressed regret for being so charged. He stated that he did not disclose any policy matter outside the House as alleged and the script read out by the member concerned showed that there was nothing in the nature of a policy statement except certain oft-repeated routine matters and, therefore, no question of any breach of privilege arose on the basis of that script. The 24th Report of the Estimates Committee for 1960-70 which was under consideration had nothing to do with the departments as a whole or with the Brahmaputra Flood Control or anything else. The Brahmaputra Commission did not come into being at the time the report was conceived and so the 24th Report had no bearing on the statement. The Speaker in his ruling referred to 'Parliamentary Practices' of Kaul and Shakdher at page 211 wherein it was stated that announcement of a policy decision outside the House when the House was in session was technically not a breach of privilege or contempt of the House, although it was improper. \textsuperscript{38}

\textsuperscript{38} A.L.A.D., 22.3.71, p. 54
referred to the British practice where the making of announcements in the House, before that was done outside, was a matter of courtesy that had grown into a custom, the breach of which did not raise a question of privilege. He referred to a ruling of Speaker W.A. Ayyanger of Loksabha in which the Speaker following the custom of British Parliament held that the announcement of a policy outside the House while the House was in session was not a breach of privilege of members but a breach of courtesy. The Speaker of the Assam Legislative Assembly further referred to the rulings given by the Speakers of U.P. and Rajasthan in similar circumstances and to the ruling of Hareswar Goswami, late Speaker of the Assam Legislative Assembly, who in a similar case held that making of policy statement outside the House while the House was in session was not a breach of privilege. Finally, the Speaker observed that it was difficult to hold that the script of the All India Radio contained any policy statement. The assurance of the Prime Minister regarding Brahmaputra Flood Control could not be said to be a policy statement of the State Government and hence, he declared the privilege motion out of order.39

On 6 April 1971 there was a discussion in the House about the inadequate number of replies to the questions put by the members for the budget session of 1971. Giasuddin Ahmed (Ind) submitted that the failure of the Government to reply to the questions should be taken as of breach of privilege against the whole Government. His contention was that the right to put questions and get replies was a very valuable privilege of the members and by not giving replies to

39. Decisions from the Chair, 1970-71, pp. 17-18
the questions in time and in sufficient number the Government as a whole had committed breach of privilege of the members of the House. The Speaker Mohi Kanta Das referred to Rule of the House under which unless the Speaker otherwise directs, replies to questions, notice of which has been given by the Secretary to the Department concerned shall be sent within fifteen days from the date of receipt of the questions by the Department concerned. The Chair further referred to page 218 of Kaul and Shakdher's 'Parliamentary Practices' which stated that "breach of rules, conventions and practices are not regarded as breach of privilege. If breaches of rules etc. take place, they may invite the displeasure of the Speaker or censure of the House on a proper motion". The Speaker observed that not giving of reply to a question was not a breach of privilege. But he also expressed dissatisfaction at the poor performance of the departments and requested the Chief Minister to look into the matter personally. 41

The Speaker had to take up a very important issue regarding a private member's Bill. Gobinda Kalita (C.P.I.) introduced the Agricultural Produce Marketing Bill 1970. He made a complaint of breach of privilege against the Minister for Agriculture on 27 April 1971 for putting obstruction in the introduction of his Bill by delaying the submission of the comments of the State Government to the Government of India as required. He was supported by Sallen Medhi (Ind), Atul Goswami (S.S.P.) and Dulal Chandra Barua (Ind). Ataur Rahman (Minister, Agriculture) made a statement expressing regret for the delay and assured that the comments of the State

40. Rule 33(6) of Assam Legislative Assembly, 1969, p. 23
41. Decisions from the Chair, 1970-71, p. 23
Government would be sent very shortly to the Central Government. The Speaker, Mohi Kanta Das, in his ruling observed that the right to move for leave to introduce a Bill was a very valuable right given to a private member under Rule 65 of the Rules of the House and the time taken by the State Government to send its comments to the Central Government was inordinately long. The Speaker himself expressed regret for the delay. He emphasized that the comments should be sent without further delay and more importance and quicker attention should be given to such matters relating to the exercise of the rights of the private members. However, he found that the right of a member to move for leave to introduce a Bill was a right given under the Constitution and the rules and was not a privilege as envisaged under Article 194 of the Constitution. He quoted page 218 of Kaul and Shakhder's 'Parliamentary Practices' of Parliament wherein the breaches of rules, conventions and practices were not regarded as breaches of privilege. He stated that he never came across any decision or precedent where such lapses on the part of the Government had been treated as breaches of privilege and declared the privilege motion out of order.  

The matter did not end there and it led to another privilege motion which was tabled by the same member, Gobinda Kalita (C.P.I.) on 24 May 1971 against the Minister for Agriculture and the Secretary of the Department of Agriculture for the delay in sending comments on the Bill and for not complying with the directive of the Speaker. He was supported by Dulal Chandra Barua (Ind). The contention of the member was that there was no communication to the Assembly Secretariat about sending the

42. ibid., pp. 24-25
comments to the Government of India. The member submitted that the
Minister concerned and the Secretary to the Department of Agriculture
committed contempt of the House by not complying with the directive
of the Speaker. The Minister concerned replied that the delay was
caused as the Bill had to be processed by the Finance Department and
the same had to be sent to the Legal Remembrancer for his opinion.
There was no intention to show disrespect either to the Chair or to
the member concerned. The Minister further stated that in compliance
with the direction and in accordance with the assurance, comments
were sent out from the Agriculture Department on 20 May 1971 for
onward transmission to the Assembly Secretariat. In view of the
explanation given by the Minister concerned about the cause of delay
and in view of the fact that the comments were submitted in compliance
with the directive of the Speaker the Chair ruled the motion out of
order.43

Dulal Chandra Barua (Ind) gave notice of a motion of breach
of privilege against Kamakhya Prasad Tripathy (Minister, Finance) on
8 November 1971 on the ground that the Minister while giving reply
to a Calling Attention Notice of Tarapada Bhattacharyya (Ind) on
30 December 1965 regarding functioning of Metre Factory of Assam
State Electricity Board, Shillong, and also in his reply to a dis-
cussion on the Annual Financial Statement of Assam State Electricity
Board in the 12th Session of the Assam Legislative Assembly, made
statements about the successful and perfect planning and products of
the Metre Factory with various misleading arguments. The arguments
of the Minister were proved to be false in the Enquiry Commission

43. Decisions from the Chair, 1970-71, pp. 25-26
Report of the Assam Electricity Board at page 30, para 6(a) and (h) placed before the House. The member while moving the privilege motion quoted relevant portions of the proceedings of the House and submitted that the Minister was guilty of suppression of material facts from the House and made incorrect statements. He quoted from the Enquiry Commission Report to substantiate his point. Late Shri Anakhya Prasad Tripathy (Minister, Finance) denied that he made any false statement and submitted that the matter was not of recent occurrence. The Speaker, Mohi Kanta Das, had to decide whether the alleged incorrect statements or suppression of facts constituted a breach of privilege of the House. The Speaker referred to various rulings of the Speaker of the Lok Sabha wherein it had been held that for incorrect statements made by a Minister, there could be no breach of privilege of the House unless they were proved to be deliberate lies. He further referred to page 216 of Kaul and Shakdher's 'Parliamentary Practices' where it had been stated that 'incorrect statement made by a Minister cannot make any basis for a breach of privilege. It is only a deliberate lie, if it can be substantiated that would certainly bring the offence within the meaning of a breach of privilege ... .' The Speaker observed that in that particular case the findings of the Enquiry Commission Report were challenged by the Government in their statement placed before the House which showed that the findings of the Enquiry Commission Report were disputed. The Speaker ruled the privilege motion out of order as he found nothing in the statement of the Minister to mislead the House.

44. Decisions from the Chair, 1971 October-December, pp. 4-5
On 26 October 1971 Dulal Chandra Barua (Ind) gave a notice under Rule 301 of the Assam Legislative Assembly to raise discussion on a matter relating to unpleasant behaviour of a Minister of State for Industries, towards a nurse in a certain Hospital at Silchar. On an assurance from the Chief Minister that the matter would be enquired into and reported to the House, the discussion on the matter was kept in abeyance. During the time when the House was seized of the matter, the Minister of State concerned made a statement to a weekly paper Azad (27 October 1971) in utter violation of the conventions of the House. Thereafter Dulal Chandra Barua (Ind) moved a motion of breach of privilege against the Minister. He was supported by Gauri Sankar Bhattacharyya (Ind), Sailen Medhi (Ind) and Giasuddin Ahmed (Ind). The Minister for Parliamentary Affairs opposed the motion stating that the statement of the Minister of State concerned referred only to a news-item published in a local paper of Silchar and not to any proceedings of the Assembly; that Dulal Chandra Barua (Ind) while raising the discussion under Rule 301 of the Rules of Assam Legislative Assembly did not mention the name of any Minister; and that the Minister concerned was justified in contradicting a defamatory report and so the motion was inadmissible. The Speaker observed that the usual practice was that when a report concerning the ministry or a minister was published in any newspaper, the

45. Rule 301 of the Assam Legislative Assembly states that a member who wishes to bring to the notice of the House any matter which is not a point of order shall give notice to the Secretary in writing stating briefly the point which he wishes to raise in the House together with reasons for wishing to raise it, and he shall be permitted to raise it only after the Speaker has given his consent and at such time and date as the Speaker may fix; 1969, p. 156
Government or the Minister concerned issued a statement either contradicting the report or clarifying their position. On that ground as the action of the Minister did not constitute a breach of privilege of the House, the motion was disallowed by the Speaker. 46

The Speaker at times consulted the Advocate-General on certain legal problems. The following issue provides an example:

Gobinda Kalita (C.P.I.) gave notice to move for leave to introduce a Bill, namely the Gauhati Corporation Bill on 10 July 1969. On scrutiny it was found that the Bill required recommendation of the Governor under Article 207(1) before its introduction. The Bill was sent to the Government for obtaining the recommendation of the Governor under Rule 65(2) 47 of the House. On 28 July 1969 the Government also gave a notice to introduce a Bill, namely the Gauhati Municipal Corporation Bill, 1969 and the Bill was introduced on 16 August 1969 in the House. The Bill was referred to a Select Committee. On 20 January 1970 Gobinda Kalita (C.P.I.) and others raised the following four points regarding the private member's Bill on which notice was given for introduction:

(i) that Kalita's Bill was not a Money Bill and so did not require recommendation of the Governor;

46. Decisions from the Chair 1971, October-December, pp. 3-4

47. Rule 65(2) - If the Bill is a Bill which, under the Constitution, cannot be introduced without the previous sanction or recommendation of the President or the Governor, the Secretary shall take necessary steps with a view to obtaining the sanction, or recommendation of the President or the Governor, as the case may be. A copy of the Bill shall be sent to the Minister concerned for information. If no such sanction or recommendation is obtained, the notice shall not be valid and the Bill shall not be introduced, moved or taken into consideration; 1969, p. 43
(ii) that the Government Bill on the same subject was introduced without Governor's recommendation;

(iii) that in no case Kalita's Bill required recommendation of the Governor before leave to introduce the Bill was asked for; and

(iv) that the notice of the Government Bill should be removed from the list of pending notices under Rule 65(1) as the notice for Kalita's Bill was given earlier.

As these points were complicated and involved interpretation of constitutional provisions, the Speaker consulted the Advocate-General and requested him to address the House on 29 April 1970. The Advocate-General in his address to the House gave views on the following points:

(a) whether the two Bills were money Bills

(b) whether the two Bills required the recommendations of the Governor before introduction under Rule 207(1), or whether one required such recommendation and the other did not.

After hearing the Advocate-General the Speaker, Mohikanta Das, observed that the two Bills were not money Bills as defined in Article 199(1) of the Constitution. Article 207 of the Constitution states that a Bill or amendment making provision for any of the matters specified in sub-clause (a) of clause (1) of Article 100 shall not be introduced or moved except on the recommendation of

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48. Rule 65(1) - Any member, other than a Minister, desiring to move for leave to introduce a Bill, shall give notice of his intention and shall, together with the notice, submit a copy of the Bill and an explanatory Statement of Objects and Reasons which shall not contain argument; provided that the Speaker may, if he thinks fit, revise the Statement of Objects and Reasons; Assam Legislative Assembly, 1969, pp. 42-43
the Governor. So these two Bills under Article 199(1) which deals with imposition of taxes required previous recommendation of the Governor. But Article 199(2) of the Constitution excluded some Bills from the purview of Article 207(1). The Chair found that in Kalita's Bill the Corporation had not been expressly authorised to impose the tax and so the Bill was not protected from the mischief of Article 207(1) by clause (2) of the said Article. So the Speaker held that the recommendation of the Governor was necessary. But in the meantime the Governor declined to recommend the Bill of Kalita to be introduced in the House.\(^49\) So Kalita's Bill could not be introduced or moved or taken into consideration. The Chair held the motion as nugatory.\(^50\)

(3) **Rulings on Points of order**

A point of order,\(^51\) according to Rule 300(1 and 2) of the House shall relate to the interpretation or enforcement of these rules or such Articles of the Constitution as regulate the business of the House and shall raise a question which is within the cognizance of the Speaker. A point of order may be raised in relation to the business before the House at any moment with the permission of the Speaker and his decision thereon shall be final. No debate is allowed on a point of order. During the period of our review:

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\(^50\) Decisions from the Chair, 1968-70, pp. 50-53

\(^51\) Rule 300(1 and 2) of Assam Legislative Assembly, 1969, pp. 154-155
several points of order raised by the members were disposed of by the Speaker. In doing so the Chair acted with due caution as the decisions of the Chair become precedents of the House. On 25 March 1963 an important event took place in the House. The Deputy Speaker who was in the Chair put all the Demands for Grants in the House at the end of the business hour. The Opposition in the House raised a point of order but could not get any reply from the Chair and so they walked out of the House as a mark of protest. On 25 March 1963, Tajuddin Ahmed (P.S.P.) raised a point of order under Rule 144 of the House. He referred to May's 'Parliamentary Practices' which states: "the House of Commons has come to use the discussion of estimates primarily as an opportunity for the criticism of administration, and wishes, therefore, to keep them 'open' till near the end of the session." The member felt that the passing of the demands for grants on 25 March 1963 was not according to law and so was irregular. He was supported by Lakshmiprasad Goswami (P.S.P.), Dulal Chandra Barua (Ind), Tarapada Bhattacharyya (Ind), Khagendra Nath Barbarua (R.C.P.I.) and Madhusudhan Das (P.S.P.). The Speaker, Mahendra Mohan Choudhury, expressed his gratitude to the members for bringing the matter to his notice which had happened in the House in his absence. He referred to

52. More, Practice and Procedure of Indian Parliament, pp. 116-118
53. Rule 144(1) - The voting of demands for grants shall take place on such days as the Speaker in consultation with the Leader of the House and the Business Advisory Committee may allot for the purpose; 1969, p. 81
pages 116-118 of 'Parliamentary Practices' of S.S. More which stated that "any one aggrieved by or disagreeing with the ruling of the Chair cannot appeal to the House to set it aside. The House, though otherwise sovereign cannot dissent from the same and the ruling given by one occupant of the Chair has to be followed by other occupants of the Chair." The Speaker held that if sometime in future the same point were raised in the House the Chair could as well revise the decision of the Chair given on 23 March 1963. While disposing of the points of order the Chair usually referred to all relevant rules and practices. For instance, on 5 June 1970, Kamakhya Prasad Tripathy (Minister, Finance) begged for leave to introduce the Assam Purchase Tax (Amendment) Bill 1970. At this stage Dulal Chandra Barua (Ind), Sailen Medhi (Ind), Giasuddin Ahmed (Ind), and Phani Bora (C.P.I.) raised a point of order on the ground that an appeal was pending in the Hon'ble High Court of Assam against the original Act over which there was a stay order. So the present amendment Bill could not be entertained by the House and as such the motion was out of order. Giasuddin Ahmed (Ind) referred to Rule 279(1) under which a member while speaking could not refer to any matter of fact on which a judicial decision was pending. He submitted that as the matter was pending before the Hon'ble High Court there could not be any discussion on the motion under the rules of the House. The Minister for Finance submitted that the motion did not violate any rule of the House or any Article of the Constitution. The Speaker in his ruling observed that on the basis of the stay order of the Hon'ble High Court the power of the legislature to

55. A.L.A.D., 25.3.63, pp. 1037-1038
legislate could not be affected. He cited an ordinance of the President of India and held that though a petition was pending before the Court challenging the validity of an Act, the legislature could exercise power either to amend or change the Act as a whole and so the Bill was in order.

(4) Rulings of the Chair on maintenance of discipline in the House

It is one of the fundamental duties of the Chair to maintain order in the House. No member can challenge the decisions of the Chair in the interest of maintaining discipline in the House. However, the House has the last say in matters of order of the House, i.e., the Speaker may order a member to withdraw from the House for a certain period, generally for the remainder of the sitting but the House only can inflict a serious penalty on a guilty member by adopting a resolution. Erskine May defined the chief features of maintenance of order which entails the following types of functions: (a) the duty of the Chair to call a member to order and require the withdrawal of offensive words etc., coupled with the right of any member to draw the attention of the Chair to breaches of order; (b) the power of the Chair to name a member for the purpose of referring his actions to the judgment of the House; and (c) the right of a member to move that offensive words be taken down with a view to appropriate action being taken.

56. Banking Companies (Acquisition and Transfer of Undertakings Ordinance), Ordinance No. VIII of 1969
57. Decisions from the Chair, 1970-71, pp. 27-29
If the Speaker hears a remark which he judges to be offensive he will direct the member to retract and may call for an apology from the member. If his attention is drawn to a remark which he may not have heard he must give a ruling on it. The naming of a member for disorderly conduct is a very old procedure and was initiated in the British House of Commons during the Speakership of William Lenthall.59

Under the Rule60 of the House if the Speaker is of the opinion that words have been used in debates which are defamatory, indecent, unparliamentary or undignified, he may, in his discretion, order that such words be expunged from the proceedings of the House. During the period of our review the Speaker expunged unparliamentary words or directed members who used such words to retract and while doing so he acted impartially.61 No member can withdraw a speech delivered without the direction of the Speaker. For instance, on 23 February 1963 Mal Chandra Pegu (Cong) spoke about reduction of the size of the Council of Ministers and after that requested the Chair to expunge a particular portion of his speech from the proceedings. The Speaker, Mahendra Mohan Choudhury, did not expunge his speech on the ground that there was no case of withdrawal of a speech delivered by a member on the floor of the House; only the Speaker could decide whether certain portion of a speech should be expunged or not from the proceedings.62

59. Laundy, The Office of Speaker, p. 79
60. Rule 304 of the Assam Legislative Assembly, 1969, p. 157
61. Details in Chapter IV, Conduct of the Members: Attitude to the Ruling Party
62. A.L.A.D., 23.2.63, p. 100
During the period of our survey the Chair was found to be very careful about the expressions of the members inside the House, since whatever was uttered inside had a great bearing outside the House. On 7 March 1963 Lakshmi Prasad Goswami (P.S.P.) participating in the debate on the Address of the Governor spoke about infiltration of Pakistanis into Assam and alleged that the Muslims committed the major criminal offences such as trespass, kidnapping, murders, dacoities and the like against the Hindus. The Speaker, Mahendra Mohan Choudhury, held that such allegations did not serve any purpose; rather they created ill-feeling and disaffection between the communities. So he ordered expunction of that portion of the speech of the member from the proceedings. In the course of maintaining order in the House the Speaker was found expelling member for unparliamentary remarks.

Absence of the Ministers in the House when their departments were under discussion made it sometimes difficult for the Speaker to maintain order in the House. For instance, during the budget discussion of 1966, Dulal Chandra Barua (Ind) brought allegations against Moinul Haque Choudhury (Minister, Agriculture). The next day the Minister requested the Speaker to be very strict in preventing the abuse of the rights and privileges of the members of the House. The Minister regretted that in spite of the intervention of the Speaker the member continued in the game of hurling allegations and that no action was taken against him, neither his

63. A.L.A.D., 23.3.63, p. 220-223
64. Details in Chapter IV, Conduct of the Members : Attitude to the Ruling Party
65. A.L.A.D., 18.3.66, p. 896
speech was expunged. The Speaker, Mahendra Mohan Choudhury, in his ruling on the procedure to be followed while bringing allegations against any person held that the Speaker could intervene in the proceedings only when a question was raised by some member either on a point of order or on a matter of unparliamentary remark or any irrelevant statement contrary to the rules. When no such point was raised the Speaker might not take cognisance of them. Still on his own he cautioned the member concerned not to bring in names of persons who are not present in the House to answer to the charges. But as the Minister concerned was not present when the member was speaking, the Speaker was not in a position to stop as he did not know anything about the truth or otherwise of the allegations. The Speaker expressed the hope that in future the Ministers would be present in the House when their departments were discussed.

On 31 May 1967, a problem arose in the House when Kamakhya Prasad Tripathy (Minister, Finance) presented the final estimates of receipts of the expenditure of the Government of Assam for the financial year 1967-68 in English. A member of the Opposition objected to his speech being delivered in English and insisted that he should speak in Assamese. The Chair observed that though the members had the right to speak in their own languages no member could insist that a particular member should speak in a particular language only. Speaking in English was neither unconstitutional nor improper. 66

66. Decisions from the Chair, 1967, pp. 43-44
Throughout the period of our survey the Speaker assured full freedom of debate to the members in the House and saw to it that while doing so the members worked in accordance with the rules of the House. For instance, on 13 June 1967 in course of general discussion of the budget for 1967-68, Soneswar Bora (S.S.P.) referred to the Cabinet as one dominated by "Kayasthas and Brahmins", Pushpadhar Chaliha (Cong) and Jadunath Bhuyan (Cons) resented the expression of the S.S.P. member and objected to it as unparliamentary. The atmosphere in the House became tense after it. The Speaker referring to the Constitution which prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth observed that the sweeping remark of the member seemed to impute unavowed motives by insinuating description against certain sections of the society. Though such expression was not unparliamentary it was undignified. He further held that attacks on so-called communal character of the ministry smacked of communalism and so such approach of unsavoury taste should be deprecated to avoid adverse repercussions outside the House. The concern of the Speaker for the prestige of the members of the House was so deep that on very delicate matters he circulated his decisions to the members under secret and confidential covers. The sensational case of enquiry conducted by the Speaker, Hareswar Goswami, against Lakshmi Prasad Goswami (Minister, Agriculture) for his alleged taking of illegal gratification of Rs 30,000.00 also proved that the Speaker was impartial in his duties towards the members of the

67. Article 15(1) of the Constitution of India
68. Decisions from the Chair, 1967, pp. 35-36
69. A.L.A.D., 16.6.67, p. 40
However, for the first time in the history of the Assam Legislative Assembly a no-confidence motion was tabled against the Speaker, Mohi Kanta Das, by the Opposition on his alleged partisanship, incapacity and failure to maintain the decency and decorum of the House. On 8 August 1969 an unprecedented scene was enacted in the House when the Opposition members 'gheraaed' the Speaker, Mohi Kanta Das, snatched away the microphone and tore the order paper from his hand in a bid to prevent him from giving his ruling on the question of granting of industrial loan to Syed Abdul Malik, which practically led to the notice of no-confidence against the Speaker. The case in brief was as follows:

On 8 August 1969 M. Shamsul Huda (R.C.P.I.) wanted to know through a question whether Prof. Md. Syed Abdul Malik applied for an industrial loan to install a printing press and whether it was a fact that the loan petition was rejected. He wanted to know the reason for rejecting the petition. Biswadev Sarma (Minister, Industries) stated that the person concerned applied for loan on 17 January 1968 and his petition was rejected due to adverse police report. In reply to a supplementary about the nature of the report, the Minister replied that it was about anti-national activities. To this reply some members of the Opposition raised some objection and demanded that the Minister lay the police report on the table of

70. Details in Chapter VIII, Role of the Opposition
71. A.L.A.D., 11.8.69, pp. 29-30
72. Starred Question No. 89, A.L.A.D., 8.8.69, p. 5
the House. After some discussion B.P. Chaliha (Chief Minister) stated that police reports could not be placed on the library table in public interest. The Chief Minister further stated that at that stage he could only re-examine the matter. The members of the Opposition were not satisfied and continued their demand for placing the police report on the table of the House and cited rule 295 of the House in support of their demand. Replying to a point of order of Gauri Sankar Bhattacharyya (Ind), the Speaker held that it was entirely for the Government to decide as to what constitutes 'public interest'. He also referred to a ruling of late Sir Abdur Rahim, one time President of Central Legislative Assembly who held, "The Chair understands public interest is an well-known phrase. Whether a particular matter is or is not in public interest, it is entirely for the Govt. to judge." The Speaker held that under the circumstances he had no justification to compel the Minister to lay the document on the table of the House. The Speaker hereafter took up the agenda amidst unprecedented shouting of slogans and disturbances. In the afternoon session the no-confidence motion against the Speaker was tabled. On 12 August 1969 B.P. Chaliha (Chief Minister) appealed to all members to maintain decorum and decency.

73. Rule 295 - If, in answer to a question or during debate a minister discloses the advice or opinion given to him by any officer of the Government or by any other person or authority, he shall ordinarily lay the relevant document or parts of document containing that opinion or advice, or a summary thereof on the table; Assam Legislative Assembly, 1969, p. 152

74. A.L.A.D., 11.8.69, pp. 21-25

75. Central Legislative Assembly Debates, 3.4.37, p. 2631

76. The Opposition damaged the mikes in front of the Speaker. Inspite of it, the Assam Separation of Judicial and Executive Functions Bill 1969, was introduced and Grants No. 1 to 15 were passed; A.L.A.D., 11.8.69, pp. 26-28
in the House and requested them to express resentment through democratic means. Gauri Sankar Bhattacharyya (Ind), Phani Bora (C.P.T.), Lakhyadhar Choudhury (P.S.P.) responded to the appeal of the Chief Minister and the immediate gesture was the withdrawal of the motions of breach of privilege and also the motions suggesting disciplinary action against five Opposition members for their part in the incident. Dulal Chandra Barua (Ind) withdrew two motions of breach of privilege that he tabled against B.P. Chaliba (Chief Minister) and Riswadev Sarma (Minister, Industries). But the Opposition members did not withdraw the notice of no-confidence motion against the Speaker. The notice however lapsed under Rule 263 of the House on the prorogation of the Assembly. Rule 135 of the House read with Article 179(c) of the Constitution provides that no such resolution can be moved unless at least 14 days' notice is given of one's intention to move such a resolution. The Assembly was prorogued on 16 August 1969 as originally decided. So the requirement of 14 days' notice was not complied with before the Assembly was prorogued. 77

This brief survey shows that the Speakers of the period worked in accordance with the rules of the House framed under the Constitution. This enhanced the prestige and position of the office. The Speakers were impartial in their treatment of the members of the House from both sides. Being graduate in law all of them were competent both academically and professionally to adorn the office. Speaker Hareswar Goswami was a barrister. All Speakers of this period commanded respect inside and outside the House. For instance, Mahendra Mohan Choudhury was a person with vast experience in public

77. A.L.A.D., 20.1.70, p. 3
life: he was connected with public life since his student days. He made great sacrifices for the cause of the freedom movement of our country. His unanimous election to the office in 1962 which he adorned since 1959 was a great tribute to the qualities of head and heart. He was a member of the Assam Legislative Assembly since 1946. 78 His successor Hareswar Goswami was a person endowed with sharp intellect, indomitable urge for work and great courage. He was a devout Socialist and a front-ranking leader of the Congress movement since 1940. In 1948 he left Congress and formed the Socialist Party which became a major political party of the State. In the General Elections of 1952 and 1957 he was elected as a P.S.P. candidate and became the leader of the Opposition. In 1964 he rejoined the Congress Party and was elected to the Assam Legislative Assembly in the General Election of 1967 as a Congress candidate. He was elected Speaker of the House and served the House in that capacity only for 14 months and died in harness. During this short span of time as Speaker, Goswami earned the regards and affection of all due to his conspicuous impartiality, accommodating spirit and qualities of head and heart. He not only maintained the high traditions of the House but also made outstanding contributions to its growth by his rulings. He was a 'shining star in the political firmament of Assam', 79 and established healthy traditions, exemplary convention and left marks of notable change in almost every sphere of activity of the House. Mohi Kanta Das who succeeded Hareswar Goswami was elected in a straight

78. A.L.A.D., 23.3.62, pp. 5-8
79. A.L.A.D., 26.8.68, pp. 3-6
contest with Lakhyadhar Choudhury (P.S.P.). Prior to his election as Speaker he served the House as its Deputy Speaker. He also made sacrifices in the freedom movement. He was one of the most senior members of the House; he served as a member of the Assam Legislative Assembly continuously since the first General Election of 1952. Ramesh Chandra Barooah who succeeded him in 1972 was unanimously elected to the high office. His unanimous election was a tribute both to the strength of the ruling party and his own personal qualities. He was the Minister for Supply during 1967-72.

In the United Kingdom the Speaker became neutral in 1841.80 In India also the independence of the Speaker is maintained by the fact that the Speaker cannot be removed even after the dissolution of the House and continues until the first meeting of the new Assembly.81 If the British convention, in accordance with which the Speaker does not keep any party connection after his election to the office of the Speaker is faithfully observed, the office of the Speaker can have stronger foundation and more impartial status.

80. Laundy, The Office of Speaker, p. 23
81. Mukherjee, Parliamentary Procedure in India, pp. 66-67