



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

THE ASSEMBLY met in the Assembly Chamber, Shillong, at 11 a.m., on  
Wednesday, the 5th April, 1935.

QUESTIONS AND ANSWERS

STARRED QUESTIONS

(to which oral answers were given)

Monthly contribution to Sayidia Middle Madrassa by the Sayidia  
Estate

Maulavi MABARAK ALI asked :

\*256. Will Government be pleased to state—

- (a) Whether there was any condition for the grant of a monthly contribution to the Sayidia Middle Madrassa at Bharan, Karimganj, by the Sayidia Estate when it was handed over to the Court-of-wards ?
- (b) Whether the monthly contribution of the said Wards' Estate have fallen in arrears since August, 1935 ?
- (c) Whether the Deputy Commissioner of Sylhet received any petition from the Madrassa-Authority for the payment of the arrear contribution and for regular monthly payment of the same ?
- (d) Whether any action was taken in this respect ?
- (e) If not, do Government propose to take necessary steps in the matter ?

The Hon'ble Mr. FAKHRUDDIN ALI AHMED replied :

256. (a)—No.

(b)—At the time of taking over charge of the estate it was found that the Madrassa used to get a monthly grant of Rs.10. This grant was continued up to July, 1935 but was stopped from August, 1935 owing to financial stringency.

(c)—Yes.

(d)—The Secretary was informed that it was not possible to pay him any arrears for the reason that there was no money and that, it will be considered if a lump sum non-recurring grant could be given to the institution when the finances of the Estate improve. A sum of Rs.120 has been provided in the current year's budget and this amount will be paid by the 30th Chaitra 1345 B.S.

(e)—Does not arise.

Maulavi MABARAK ALI\* : Is it not a fact that when the Court of Wards takes charge of an estate, the entire liability of the estate is also taken ?

The Hon'ble Mr. FAKHRUDDIN ALI AHMED : Yes, Sir.

**Maulavi MABARAK ALI\***: Is this grant not a liability of the estate ?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED**: No, Sir, there was no condition by which the estate was bound to give this grant.

**Maulavi MABARAK ALI\***: But when the estate was taken over by Government was it not found that there was a condition that the Madrassa would get a grant of Rs.10 per month ?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED**: There was no such condition.

**Maulavi MABARAK ALI\***: Then how do Government admit that when they took over charge of this estate, it was found that the Madrassa used to get a grant of Rs.10 per month ?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED**: That was found, but there was no condition that the amount should be paid.

**Maulavi MABARAK ALI\***: Was this grant discontinued by the Government ?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED**: Not by the Government.

**Maulavi MABARAK ALI\***: Then how was it found ?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED**: As there was no money available from the fund of the estate, no grant could be given.

**Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI\***: When the Hon'ble Minister says that there was no condition to the effect that the Madrassa would get a monthly grant of Rs.10, at the time the estate was taken over by the Court of Wards, then how could Government find that the Madrassa used to get a monthly grant of Rs.10 ?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED**: This matter was brought to the notice of the Court of Wards.

**Maulavi MABARAK ALI\***: Did the Court of Wards recognise that this grant should be given every year ?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED**: When there is no surplus, the question of giving grant cannot arise.

**Maulavi MABARAK ALI\***: Will Government pay the arrears ?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED**: It has already been stated that for want of funds no grant could be given, but, this year, fund being available, something will be given.

**Maulavi MABARAK ALI\***: As regards previous arrears, I want to know whether Government is prepared to pay them up.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED**: No, Sir.

**Maulavi MABARAK ALI\***: Did not the Deputy Commissioner say, in reply to a petition submitted by the Madrassa authorities, that a lump sum would be given to the Madrassa ?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED**: The reply is that a lump sum of Rs.120 will be given.

**Maulavi MABARAK ALI\***: Will Government consider about the previous arrears ?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED**: No, Sir.



**Muslim Hostel of the Karimganj Government High School**

Maulavi MABARAK ALI asked:

\*257. Will Government be pleased to state—

- (a) Whether there has been paucity of seats in the Muslim Hostel, attached to the Government High School, Karimganj, for a long time?
- (b) Whether many candidates are refused admission into the hostel every year on that account?
- (c) If so, do Government propose to extend the Hostel in no time?
- (d) Whether it is in the contemplation of Government to transfer this Hostel from its present site to the abandoned Mission Girls' School site, at Karimganj?
- (e) If not, what alternative course do Government propose to adopt for the said extension?
- (f) If the answer to (d) above is in the affirmative, will Government be pleased to state the way in which the present site and Hostel buildings are going to be disposed of and the way in which the field contiguous to the east of the present Hostel will be utilised?
- (g) Do Government propose to reserve one room of the present Hostel buildings for the Industrial classes of the school and the existing prayer-room of the Hostel for the prayer-room of the school?

\*258. Are Government aware—

- (a) That a Hindu *Paniwala* supplied drinking water to the Muslim Hostel, attached to the Government High School, Karimganj, till August, 1938?
- (b) That guardians of some boarders of the Muslim Hostel as well as some gentlemen of the Karimganj Town approached the Hon'ble Education Minister of the last two Cabinets with petitions on the point and received assurances from both of them that a Musalman *Paniwala* will be appointed for the Muslim Hostel?
- (c) That a sum of Rs. 30 was granted by the Hon'ble Education Minister of the last Cabinet for a temporary Musalman *Paniwala* with the assurance of making the post permanent from the next financial year?
- (d) Do Government propose to make provision for a permanent Muslim *Paniwala* for the said Hostel from this session?

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

257. (a)—Yes.  
 (b)—Some are refused admission each year.  
 (c) and (d)—The Director of Public Instruction is considering an arrangement for transfer of the hostel to the Girls' School.  
 (e)—Does not arise.  
 (f) and (g)—The matter is under examination by the Director.



**Maulavi MABARAK ALI\***: Are Government aware that this question is pending for many years ?

**The Hon'ble Srijut GOPINATH BARDOLOI**: No, Sir.

**Maulavi MABARAK ALI\***: Then how can Government say, in reply to (b), that some students are refused admission each year ? Does it not show that this question is pending for a few years past ?

**The Hon'ble Srijut GOPINATH BARDOLOI**: So far as our knowledge is concerned, we are taking this matter into consideration now.

**Maulavi MABARAK ALI\***: May I know when Government are going to shift the hostel from its present site to the proposed site ?

**The Hon'ble Srijut GOPINATH BARDOLOI**: The reply is already there. It will be found that the matter is under examination by the Director.

**Maulavi MABARAK ALI\***: I can understand that, but when that examination is going to be finished ?

**The Hon'ble Srijut GOPINATH BARDOLOI**: That is very difficult to say just now.

**Maulavi MABARAK ALI\***: Will the Hon'ble Premier give me an approximate date ?

**The Hon'ble Srijut GOPINATH BARDOLOI**: No, Sir, it is not possible.

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

258. (a)—Yes.

(b)—The boarders approached the late Minister, but there is no record of any assurance being given.

(c)—Yes, except that there is no record of such an assurance.

(d)—The request will be met if it involves no increase in expenditure.

**Maulavi MABARAK ALI\***: May I know what does the Hon'ble Premier mean by "late Minister" ?

**The Hon'ble Srijut GOPINATH BARDOLOI**: It must have been the hon. Maulavi Munawwar Ali.

**Maulavi MABARAK ALI\***: May I know whether the late or ex-Minister as the case may be gave any verbal assurance regarding this matter ?

**The Hon'ble Srijut GOPINATH BARDOLOI**: As a matter of fact that cannot be known to us.

**Maulavi MABARAK ALI\***: Did Government care to enquire this fact from the ex-Minister, after receiving notice of my question ?

**The Hon'ble Srijut GOPINATH BARDOLOI**: No, Sir.

### UNSTARRED QUESTIONS

(to which answers were laid on the table)

**Head-clerkship in the office of the Civil Surgeon, Sylhet**

**Babu RABINDRA NATH ADITYA** asked :

285. (a) Is it a fact that Babu Jogesh Chandra Misra is the senior-most among the Head Clerks in the Civil Surgeons' Offices in this Province ?

(b) Is it a fact that the aforesaid Jogesh Chandra Misra is a native of the District of Sylhet and the Civil Surgeon's office at Sylhet is the biggest of all the Civil Surgeons' Offices in this province ?

(c) Will Government be pleased to state why his claim for being promoted to the Head-clerkship of the Civil Surgeon's Office at Sylhet was ignored ?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED** replied :

285. (a)—No.

(b)—Yes.

(c)—Government are not prepared to discuss the merits and demerits of an officer on the floor of the House.

*Re Babu Narendra Nath Sarma, a Constable of Sylhet*

**Babu RABINDRA NATH ADITYA** asked :

286. (a) Is it a fact that Babu Narendra Nath Sarma, constable, District Police, Sylhet, was appointed on 22nd November, 1934 and was discharged on 23rd January, 1935 ?

(b) Will Government be pleased to state the reasons for which the aforesaid Narendra Nath Sarma (of village Chandsri, Post Office Birasri) was so discharged ?

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

286. (a)—Yes, except that he was enrolled on 22nd November, 1935 and not on 22nd November, 1934 and was discharged on 24th January, 1936 and not 23rd January, 1935 as stated in the question.

(b)—He was found unsuitable for Police Service by the Department.

### **Choukidari Tax**

**Mr. BAIDYANATH MOOKERJEE** asked :

287. (a) Will Government be pleased to state whether the total Choukidari Tax realised every year is spent for Choukidars only ?

(b) If not, what percentage is spent for the Choukidars Board by Board and how the balance is spent head by head showing the percentage of the expenditure ?

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

287. (a)—The total Chaukidari Tax realised every year is spent on chaukidar's pay and uniform except 10 per cent. of the tax which is appropriated as commission by the collecting *panchayat*. The balance if any, after deducting irrecoverable taxes, is credited to the *Chaukidari* fund for reduction of assessment for the following year.

(b)—Does not arise.



*Re Grants-in-aid to Bojali Government Aided High School*

**Srijut KAMESWAR DAS** asked :

288. Will Government be pleased to state—

- (a) The number of High Schools and the number of Middle English Schools separately in each of the subdivisions of the Province, (i) in the Towns (ii) in the Muffosil areas ?
- (b) The number of Government aided High Schools and the number of Government aided Middle English Schools separately in each such subdivisions (i) in the towns (ii) in the mufosil areas, showing the total amount of their respective recurring monthly grants ?

289. (a) Is it a fact that the authorities of the Bojali Government Aided High School of Barpeta Subdivision have been making repeated representations for the past two years to the Inspector of Schools, Assam Valley Division, to the Director of Public Instruction and the Government for a non-recurring grant for the construction of an additional school building ?

(b) Is it a fact that the Inspector of Schools sent for the plan and the estimate for the purpose from the School authorities since about a year back ?

(c) Are Government aware that the school authorities commenced the work of construction of the building on the expectation of getting lump grant from Government, and that they are now greatly handicapped in the middle of their work owing to financial difficulty ?

(d) Does the Hon'ble Minister for Education propose to sanction at an early date, a building grant of Rs.2,500 to the authorities of the said school to enable them to tide over the difficulties ?

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

288. (a) and (b)—A list showing the particulars for each part of the question has been placed on the library table.

289. (a)—Yes.

(b) and (c)—Government have no further particulars.

(d)—Government are unable in the present state of their finances to provide funds for buildings. Ordinarily they consider that buildings should be provided by the local public and that provincial aid should be devoted to maintenance of the schools.

**Purchase of Madan Raja and Md. Natir Taluks**

**Mr. BAIDYANATH MOOKERJEE** asked :

290. (a) Is it a fact that Government purchased the Madan Raja and Md. Natir Taluks in the Habiganj Subdivision paying Re. 1 only in a Revenue sale ?

(b) If so, when ?

(c) What was the annual collection from those Taluks after the purchase by Government ?

(d) Will Government be pleased to state the total collections up to the end of January, 1939 (if one year has not yet elapsed up to the end of January, 1939) ?

### Government Bills

The Hon'ble Mr. FAKHRUDDIN ALI AHMED replied :

290. (a) —Yes, by paying Re. 1 for each estate.  
 (b) —Estate Syed Madan Raja was purchased on 19th January 1933 and Estate Syed Md. Natir on 26th September, 1934.  
 (c) —There was no collection up till 22nd April, 1938.  
 (d) —Rupees 31,781-2-9 upto 21st March, 1939.

### Motion of no-confidence in the Ministry

The Hon'ble the SPEAKER: Order, order. I have got notice of a no-confidence motion in the Ministry tabled by Maulavi Muhammad Magbul Hussain Choudhury.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHOUDHURY: I do not want to move the \*Motion, Sir.

### The Assam Agricultural Income-tax Bill, 1939

The Hon'ble the SPEAKER: Now we are to take up the Assam Agricultural Income Tax Bill, clause by clause. I shall take up clause 2 of the Bill first.

Maulavi Saiyid Sir MUHAMMAD SAADULLA: Has it been moved that the Bill be taken into consideration clause by clause?

The Hon'ble the SPEAKER: That is not necessary.

Maulavi Saiyid Sir MUHAMMAD SAADULLA: Mr. Speaker, Sir, I have got to raise a point of order.

This Agricultural Income-Tax Bill is a Bill imposing a new tax in the province. Under provision of section 82 of the Government of India Act, 1935 sub-section (1) such a Bill can only be introduced or moved on the recommendation of the Governor. Neither in the Bill itself, nor at any stage either of introduction or moving, have we heard from the Hon'ble Minister that he had such recommendation of the Governor. My submission, therefore, is that unless the House is told that recommendation of the Governor has been obtained, either in the Bill or at the time of introducing the Bill, *i.e.*, at the first speech of the Hon'ble Minister, we cannot take such Bill into consideration.

The Hon'ble Mr. FAKHRUDDIN ALI AHMED: Mr. Speaker, Sir, the hon. Leader of the Opposition has taken the objection that in introducing the Bill, the Government had not obtained permission of His Excellency the Governor.

Maulavi Saiyid Sir MUHAMMAD SAADULLA: I simply said, such a Bill cannot be introduced unless the previous recommendation of His Excellency is obtained. Neither in the Bill itself, nor in the speech introducing the Bill, nor at any subsequent stage has this House been told that this Bill has been introduced on the recommendation of His Excellency the Governor.

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\* "That this House has no confidence in the present Council of Ministers".



**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** As the hon. Leader of the Opposition will see that the Bill was originally published in the Gazette, with the authority of His Excellency. Publication in the Gazette amounts to introduction in the House. Therefore, Sir, it is not proper for the hon. Leader of the Opposition to say that we have introduced this Bill without the sanction of His Excellency the Governor. He has also drawn our attention to section 82(3) of the Government of India Act, which says:—

“A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of a province shall not be passed by a Chamber of the Legislature unless the Governor has recommended to that Chamber the consideration of the Bill.”

As the hon. member will realise from the reading of the provision the recommendation from His Excellency to the Chamber as contemplated by the said section is required and necessary at any time before the Bill is passed by the House. This being so, it will be sufficient if such recommendation is sent by His Excellency in any time before I move a motion for the passing of this Bill. I undertake to obtain such permission in due course.

**Maulavi Saiyid Sir MUHAMMAD SAADULLA:** The Hon'ble Finance Minister has missed my point. I did not refer to sub-section (3) of section 82 of the Government of India Act. My objection is that on sub-section (1) of section 82, which says:

“A Bill or amendment making provision for imposing or increasing any tax.....shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council.”

Now, the pre-publication in the Gazette is not done under this section but under Rules of our Legislative Assembly. That has nothing to do with this point of order. My point is, whether this Bill has been introduced on the recommendation of His Excellency the Governor. It is needless for me to say, Sir, that you have ruled that in moving a demand for grant, as is laid down in section 82, it is to be on the recommendation of His Excellency the Governor and this phrase has to be put in moving every demand. So, as this is done under section 82 and as statement from the Hon'ble Minister that this Bill has been introduced on the recommendation of His Excellency the Governor.

**The Hon'ble the SPEAKER:** May I know if this Bill was considered in any Cabinet meeting?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Yes, Sir, it was passed. After we had obtained the recommendation of His Excellency, it was published in the Gazette. We, therefore, thought that it was not necessary to bring a specific order for that purpose, because the Bill was published in the Gazette and it is evident that Governor's sanction and recommendation must have been obtained. The Bill was discussed before a Cabinet meeting before it was published.

**Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I am sorry to trouble the House on this technical point. But it goes to the very root of the matter. If hon. members will look to the Bills—I have the Sylhet Tenancy Amendment Bill in my hand—it will be seen that the fact that previous sanction of the Governor has been obtained is written in the preamble of the Bill. Similarly in this Bill, there should have been such a statement,



The Hon'ble the SPEAKER: With regard to the point of order raised, I have heard the hon. Leader of the Opposition and the Hon'ble the Finance Minister.

The Hon'ble Mr. FAKHRUDDIN ALI AHMED: May I say something?

The Hon'ble the SPEAKER: No need. Now if section 82 be read carefully it would appear that the recommendation has to be from the Governor. It is said that a "Bill.....shall not be introduced or moved except on the recommendation of the Governor." Now the hon. members of the House will notice that it is not stated whether Governor would give his recommendation in his discretion or in his individual judgment. The word 'Governor' is only there. Wherever in the Act only the word 'Governor' occurs, it means 'Governor with the advice of his Ministers'. The Hon'ble Finance Minister has said that this Bill was considered in a Cabinet meeting. Whether that is so or not, in regard to a Bill which is sponsored by Government, recommendation of the Governor is presumed, when such a recommendation under section 82 (1) of the Act is a necessary preliminary to the introduction of the Bill. The obvious reason is that in a matter like this the Governor cannot but accept the advice of the Ministers.

A point has been raised that in the Bill there is nothing stated to show that the Bill has been introduced with the previous recommendation of His Excellency the Governor. The hon. Leader of the Opposition has pointed out that in the Sylhet Town Tenancy Bill there is that expression that previous sanction has been obtained from the Governor. The Sylhet Town Tenancy Bill required "previous sanction" of the Governor under section 299(3) of the Act. But here this Bill requires previous recommendation of the Governor under section 82(1). On a comparison of the provisions of the two sections, the hon. members will at once realise the difference. In sub-section (3) of section 299, which speaks about "previous sanction", the words are "the Governor in his discretion". Considering what is meant by Governor acting in his discretion it is necessary that there should be explicit words in a Bill requiring previous sanction that such sanction has been obtained. In the case of "previous recommendation" of the Governor as provided by sub-section (1) of section 82 recommendation is to be given on the advice of the Ministers; so if the Ministers themselves come and present a Bill requiring previous recommendation of the Governor, the Chair will presume that previous recommendation has been obtained. So, there will be nothing irregular arising from the absence of words in the Bill stating that recommendation has been obtained. Hon'ble Minister-in-charge of the Bill, however, says that the Bill was considered in a Cabinet meeting. Therefore, the point of order raised by the hon. Leader of the Opposition fails.

In regard to the Hon'ble Finance Minister's reference to section 82(3), which speaks of recommendation of the consideration of a Bill by the Governor to a Chamber as an essential condition for the exercise of its right to pass the Bill, here also the Governor would act on the advice of the Ministers; but there will be no scope for a presumption that such a recommendation has been made to the Chamber, in the absence of an actual message from the Governor. Section 82(3) speaks of "recommendation to the Chamber", which is something different from a mere recommendation for the introduction of a Bill. So it must be a distinct message to the Chamber through the Speaker, although on the advice of the Ministers. If on the advice of the Ministers the Governor considers that the Bill under discussion should not be passed in its ultimate stage, the Chamber may not get a message as contemplated by section 82(3). But



the House may proceed with the consideration of the Bill, as this is insisted by the Cabinet, for the simple reason that it can fairly be expected from what has been said by Hon'ble Finance Minister that the Cabinet would advise the Governor to send the message to the Chamber contemplated by section 82(3), before the ultimate stage of the Bill is reached. I may, however, point out that although previous recommendation from the Governor was necessary for the Ministers' Salaries Bill, the Speaker's Salary Bill and the Members' Emoluments Bill, there is nothing in the Acts passed to show that previous recommendation was obtained. The hon. members will remember that there was no difficulty on that score in regard to these Bills.

**Maulavi Saiyid Sir MUHAMMAD SAADULLA:** As you had altered the form of motions for demands for grants and added the words "on the recommendation of His Excellency the Governor", I think that some similar motion ought to have been made in this case as well.

**The Hon'ble the SPEAKER:** The question in regard to Budget Demands is quite different. There are other considerations, which necessitate, that the motions for grants should be in explicit terms.

**Bairu HIRENRA CHANDRA CHAKRAVARTY:** Mr. Speaker, Sir, I beg to move—

That in the first line of sub-clause (a) (1) of clause 2, the word "derived" shall be substituted by the word "received" and that after the said clause the following proviso shall be added:—

"Provided that this will not include any rent or revenue received from any land granted rent free to a person and to his family by His Majesty the King-Emperor of India to be enjoyed as such in recognition of a past service to the Crown."

Sir, first of all I wanted to substitute the word "derived" by the word "received". In my opinion the word "received" will be a better word. I think the word "derived" is not quite proper here. Now as regards the proviso I would like to give some protection to those who for their excellent service to the Crown had been awarded some land to be enjoyed by them or their families. I think when this land has been conferred by His Majesty the King the Local Government should not curtail this benefit by means of taxation on it and it would be improper on the part of the Local Government to tax such land.

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

**The Hon'ble the SPEAKER:** Amendment moved: "That in the first line of sub-clause (a)(1) of clause 2, the word 'derived' shall be substituted by the word 'received' and that after the said clause the following proviso shall be added:—

"Provided that this will not include any rent or revenue received from any land granted rent free to a person and to his family by His Majesty the King-Emperor of India to be enjoyed as such in recognition of a past service to the Crown."

**Srijut ROHINI KUMAR CHAUDHURI:** Mr. Speaker, Sir, I think this is a very reasonable amendment, and I hope the Hon'ble Minister will see his way to accept it. I would have liked to go a step further and include not only grants made by His Majesty the King-Emperor of India but also those grants which were originally made by previous Kings, for instance the Ahom Kings, and which have now been recognised by the present Government. The hon. members of this House know that the Ahom Kings made a large number of such endowments for religious and other purposes



and they were entirely revenue-free. In many cases such lands have been converted into *la hiraj* and *nisf-khiraj*, and some have also been converted into *khiraj* on account of the failure of the holders at the time to prove that they were absolutely revenue-free.

**The Hon'ble the SPEAKER:** I think that the amendment as worded will include the cases which the hon. member now mentions.

**Srijut ROHINI KUMAR CHAUDHURI:** I was just enquiring whether it would cover these cases or not. I should like this amendment to include those cases also.

My point is this: If it includes so far so good. The analogy which I draw is this. There are some grants which have been made by His Majesty the King-Emperor of India and there are grants which were made by the late Badshahs and which have been recognised by the Crown Grants Act. My question is this whether those grants which were made by the Emperors of the Indian Kingdom and which have been recognised as such by the present Government or by His Majesty the King-Emperor should come under the operation of this Act.

**The Hon'ble the SPEAKER:** The hon. member should have mentioned all these facts when the Bill was considered, so that this point could come before the Select Committee for their consideration.

**Srijut ROHINI KUMAR CHAUDHURI:** What I was saying is this. Sir, I will stand corrected; my legal position may not be quite correct. My point is that the effect of the Crown Grants Act is that those grants which have been recognised by His Majesty are on the same footing as the grants which were made by His Majesty the King Emperor himself. That is the point which I am urging. Now the reasonableness of this amendment consists in this: When the original grant was made the intention of the grantor was that the person who was to enjoy that grant should be always kept in a position of respectability and in a position above want and for this reason in some cases it has been held that those lands which were under these grants are inalienable. And I know some instances where on account of alienation of the land the advantages which originally was attached to the grant have been denied to the subsequent purchaser or subsequent transferee. That shows that the intention of the grantor has always to be respected and the main intention of the grantor in making such a grant is that the person to whom the grant is made should be in a position of affluence, should be in a position of that respectability and the honour which His Majesty wants to bestow on him should be preserved in fact. Therefore, I should consider that a taxation of this nature—a direct tax on the income of persons who were intended to derive great benefit from these grants is most objectionable.

Everyone knows the condition of the landowner to-day. He is a landowner in name only. A lot of rent may be said to accrue but in fact great difficulty is experienced in realising that rent. That difficulty is brought out not merely by the present uneconomic conditions of the tenants but also in some cases by a sense that there should be some recompense to the tenants on account of the sufferings they had in the past at the hands of the landowners. With this feeling of unequal distribution of wealth and with this grievance about their economic condition which has been allowed to go on for a long time and which according to the representatives of the tenants have grinded them for long long years—the result is that the landowners are in many cases landowners in name only. They do not practically get any benefit out of their tenancy.

My point therefore is this: when the condition of the country is such and as we know the persons who were sons of many noble families are in very miserable condition and as we know that the *jagir* holders have been reduced to extreme poverty on account of the doings of their predecessors, at such a



time when they are passing through such economic difficulty they should not be inflicted with further tax. These people who were originally granted these lands on account of some meritorious acts, on account of their learning or on account of their sacrifices for the country, dependents of such families ought not to be allowed to suffer. If the position of the present Government was that they did not recognise the grants which were made by His Majesty and therefore they want to deny this privilege which has been asked by the mover of the amendment, that would have been a different matter. But as we find the Government has recognised those grants and has strictly upheld the conditions in which those grants were made, the main intention of these grants ought to be respected by the present Government and they should not stand in the way of passing of this amendment. I do not think in this province there are any large number of such grants and I do not think also that if this amendment is accepted, the Government will stand to lose much. Government will show a noble spirit if they agree to the amendment which has been put forward by the hon. member.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, the first part of the amendment which has been moved by Mr. Chakravarty does not make out any sense. He only proposes to change the word "derived" to "received". Sir, I am not prepared to accept this amendment because the definition which we have copied here, is exactly the same as it appears in the Income-Tax Act.

Secondly, I could understand the anxiety of the mover of this amendment to have this property excluded from the definition of the Act, but I could not very well follow the line of arguments which were advanced by my friend Mr. Rohini Kumar Chaudhuri. (Srijut Rohini Kumar Chaudhuri: That is my misfortune). He has at the end admitted that such properties are very rare and very few. If that is so, we see no reason why Government should change the definition as provided in the Indian Income-Tax Act for the sole reason of accommodating one or two individuals.

**The Hon'ble the SPEAKER:** The question is: That in the first line of sub-clause (a) (1) of clause 2, the word "derived" shall be substituted by the word "received" and that after the said clause the following proviso shall be added:—  
"Provided that this will not include any rent or revenue received from any land granted rent-free to a person and to his family by His Majesty the King-Emperor of India to be enjoyed as such in recognition of a past service to the Crown".

The Assembly divided.

Ayes—40

- |   |  |
|---|--|
| 1. Babu Hirendra Chandra Chakravarty.       | 9. Maulavi Syed Abdur Rouf.                    |
| 2. Srijut Jogendra Narayan Mandal.          | 10. Maulavi Md. Abdus Salam.                   |
| 3. Srijut Rohini Kumar Chaudhuri.           | 11. Maulavi Dewan Muhammad Ahabab Chaudhury.   |
| 4. Maulavi Abdul Aziz.                      | 12. Maulavi Muhammad Amjad Ali.                |
| 5. Maulavi Abdul Bari Chaudhury.            | 13. Maulavi Ashrafuddin Md. Chaudhury.         |
| 6. Maulana Abdul Hamid Khan.                | 14. Maulavi Badaruddin Ahmed.                  |
| 7. Khan Bahadur Hazi Abdul Majid Chaudhury. | 15. Maulavi Ghyasuddin Ahmed.                  |
| 8. Maulavi Abdul Matin Chaudhury.           | 16. Maulavi Jahanuddin Ahmed.                  |
|   | 17. Maulavi Muhammad Maqbul Hussain Chaudhury. |
|   | 18. Maulavi Matior Rahman Mia.                 |



## Ayes—40—concl'd.

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|--|------------------------------------|
| 19. Maulavi Mabarak Ali.                           | 28. Mr. A. H. Ball.                |
| 20. Khan Sahib Maulavi Mudabbir Hussain Chaudhury. | 29. Mr. F. W. Blennerhassett.      |
| 21. Maulavi Munrawwar Ali.                         | 30. Mr. J. R. Clayton.             |
| 22. Maulavi Muzarraf Ali Laskar.                   | 31. Mr. W. R. Faull.               |
| 23. Maulavi Namwar Ali Barbhu'ya.                  | 32. Mr. F. W. Hockenhull.          |
| 24. Maulavi Sheikh Osman Ali Sadagar.              | 33. Mr. W. J. Gray.                |
| 25. Maulavi Saiyid Sir Muhammad Saadulla.          | 34. Mr. D. B. H. Moore.            |
| 26. Khan Bahadur Maulavi Sayidur Rahman.           | 35. Mr. R. A. Palmer.              |
| 27. Col. A. B. Beddow.                             | 36. Miss Mavis Dunn.               |
|  | 37. Srijut Binode Kumar J. Sarwan. |
|  | 38. Rev. L. Gatphoh.               |
|  | 39. Mr. Jobang D. Marak.           |
|  | 40. Mr. P. Parida.                 |

## Noes—54

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|---|---------------------------------------|
| 1. The Hon'ble Srijut Gopinath Bardoloi.        | 24. Srijut Jogeschandra Gohain.       |
| 2. The Hon'ble Mr. Fakhruddin Ali Ahmed.        | 25. Babu Kalachand Roy.               |
| 3. The Hon'ble Babu Kamini Kumar Sen.           | 26. Srijut Kameswar Das.              |
| 4. The Hon'ble Srijut Ram Nath Das.             | 27. Babu Karuna Sindhu Roy.           |
| 5. The Hon'ble Babu Akshay Kumar Das.           | 28. Mr. Kedarmal Brahmin.             |
| 6. The Hon'ble Maulavi Md. Ali Haidar Khan.     | 29. Srijut Krishna Nath Sarmah.       |
| 7. The Hon'ble Srijut Rupnath Brahma.           | 30. Srijut Lakshesvar Borooah.        |
| 8. The Hon'ble Khan Bahadur Maulavi Mahmud Ali. | 31. Babu Lalit Mohan Kar.             |
| 9. Kumar Ajit Narayan Dev.                      | 32. Srijut Mahadev Sarma.             |
| 10. Mr. Arun Kumar Chanda.                      | 33. Srijut Mahi Chandra Bora.         |
| 11. Mr. Baidyanath Mookerjee.                   | 34. Srijut Omeo Kumar Das.            |
| 12. Srijut Beliram Das.                         | 35. Srijut Paramananda Das.           |
| 13. Srijut Bepin Chandra Medhi.                 | 36. Rai Bahadur Promode Chandra Dutt. |
| 14. Srijut Bhuban Chandra Gogoi.                | 37. Srijut Purandar Sarma.            |
| 15. Srijut Bishnu Ram Medhi.                    | 38. Srijut Purna Chandra Sarma.       |
| 16. Babu Dakshinaranjan Gupta Chaudhuri.        | 39. Babu Rabindra Nath Aditya.        |
| 17. Srijut Debeswar Sarmah.                     | 40. Srijut Rajani Kanta Barooah.      |
| 18. Srijut Ghanashyam Das.                      | 41. Srijut Rajendra Nath Barua.       |
| 19. Srijut Gauri Kanta Talukdar.                | 42. Srijut Sankar Chandra Barua.      |
| 20. Srijut Haladhar Bhuyan.                     | 43. Srijut Sarveswar Barua.           |
| 21. Babu Harendra Narayan Chaudhuri.            | 44. Babu Shibendra Chandra Biswas.    |
| 22. Srijut Jadav Prasad Chaliha.                | 45. Srijut Siddhi Nath Sarma.         |
| 23. Srijut Jogendra Chandra Nath.               | 46. Maulavi Dewan Ali Raja.           |
|   | 47. Maulavi Muhammad Amiruddin.       |
|   | 48. Srijut Bhairab Chandra Das.       |
|   | 49. Srijut Bideshi Pan Tanti.         |
|   | 50. Srijut Dhirsingh Deuri.           |
|   | 51. Rev. J. J. M. Nichols-Roy.        |
|   | 52. Srijut Karka Dalay Miri.          |
|   | 53. Srijut Khorsing Terang.           |
|   | 54. Srijut Rabi Chandra Kachari.      |

**The Hon'ble the SPEAKER:** Order, order. Ayes 40 and Noes 54.  
The motion is lost.



At this stage I wish to draw the attention of the hon. members to rule 12 of the rules regarding the method of taking votes by division. Hon. members know that there are as many as 87 amendments to be disposed of by the House and if for every amendment a division is challenged and if on every occasion the members are required to go in to the lobbies, it will take away such a considerable portion of the time of the House that the Bill may not be disposed of within the days set out for it. We find that at least 13 minutes are taken for each division and if for every amendment a division is taken, at this rate of computation, the time lost to the House would be considerable. So, having regard to the number of amendments and having regard to the fact that there would be strong opposition to the disposal of amendments, and in view of the fact that the Bill is to be disposed of by to-morrow, I decide to enforce rule 12 of the Division Rules, which is to this effect:—"Just to save the time of the House the Speaker may, at his discretion, direct that the division be taken summarily in the Chamber. In this case, when any member challenges the provisional announcement of the Speaker, as in the rule, the division bells will, as usual, be rung for three minutes, and the Speaker may thereafter direct those who are in favour of and against the question to rise in their places, instead of going to the division lobbies, and, after counting the respective numbers, declare the numbers of 'Ayes' and 'Noes' and the consequent result."

Again, I would draw the attention of hon. members to a ruling of the President of the Central Assembly to the effect that there is power in the Chair not to grant a division, if he finds that the division has been challenged frivolously. I read out the ruling—"It is perfectly open to the President, if he is satisfied on the shout that there is a clear preponderance of opinion on one side and that the division is asked for frivolously and merely for purposes of delay, to refuse the demand for division."

**Srijut ROHINI KUMAR CHAUDHURI:** That will be quite true, Sir, in regard to an ordinary amendment, but in the case of those amendments where the question involved is rather important, I would request you not to exercise your discretion under rule 12.

**The Hon'ble the SPEAKER:** I shall consider which amendment is important and which is not, and if I have occasion to see that a division has been frivolously challenged, then only I shall have recourse to the rule.

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY:** I beg, Sir, to move that in item (i) of sub-clause (a) (2) of clause 2, after the word "agriculture" the words "excepting paddy, mustard seed and jute" shall be inserted.

Sir, this Session of the Legislative Assembly is a memorable one. It will be remembered by all the people of the province, because the Hon'ble Finance Minister has come forward with so many taxation schemes in one Session only. Victory be to Mr. Lalit Mohan Kar whose very name has been carrying all the taxation motions, because 'kar' in Bengali means "tax".

The term 'agriculturist', Sir, covers the tea-planters as well as ordinary cultivators. But every one knows the difference that exists between these two classes of agriculturists. Poet D. L. Roy has said:

"তুমি থাক ছতলায় আমি থাকি গাছ তলায়,

তুমি আমি ভিন্ন নয় মিলন আছে তলায় তলায়।"

which means—"you live in the cool shade of a two-storied building and we live under the shade of a tree. No matter, because both of us live in the shade." This is the difference between the tea-planter and an ordinary agriculturist, but the term covers both classes. Sir, the scope of this Agricultural Income-tax Bill is extensive. It covers all the agricultural products, including rice, paddy, tobacco, mustard, etc. The Hon'ble Finance Minister



will be remembered by the wife of the ordinary cultivator in her kitchen and as well as by the cultivator while enjoying his ever refreshing "Hukka" for his taxation schemes but certainly not with blessings. If I remember aright, the other day the Hon'ble Finance Minister said that his aim was not to tax the poor, and therefore he had fixed assessable limit up to Rs.2,000. The meaning of all this is that there will be no cultivator who will produce crops worth Rs.2,000 when only his income will be assessed. Paddy, Sir, is the only food crop in the province. Mustard seed also plays a very good part in the Indian kitchen. Jute is another money crop. This jute, paddy and mustard seed are generally sold in the Bengal markets. The Bengal businessmen come to our province and take away our produce and sell them in the markets of Mymensingh, Dacca, etc., where there is no such law. So those cultivators who can afford to sell their crops will certainly sustain a loss in competing in the market. I, therefore, urge on the Hon'ble Minister to leave paddy, jute and mustard from his scheme. I do not hold a brief for potato, because I leave it to Mr. Nichols Roy (*laughter*).

What is the gross yield of a cultivator in paddy? If we take some rough figures, we see that a cultivator has to spend Rs.24 towards rent, Rs. 70 for at least two bullocks, Rs. 10 for seeds, Rs. 5 for implements and about Rs. 40 for harvesting. That will come to about Rs. 150. And what will be the yield? Not more than Rs. 170 to Rs. 180. So, if the labour is his own, he gets so much; but if he engages servants, nothing remains for him. So, Sir, it will be found that the cultivators in this province only live from hand to mouth. But our Ministry are not forgetting them while sharpening their sword of taxation. Sir, while bringing these taxation Bills, I think the Cabinet have lost all sense of proportion. They are leaving practically nothing from the clutches of taxation schemes. Late Sir Md. Iqbal said as follows:—

*"Jonun ka nam khirad ower khirad ka nam junun,  
Ye ada teri husn kerishmah saz ki hai"*.

If whims to be called intellect and intellect whims, then this performance can only be expected from your most adorable grace. I see, Sir, this couplet applies most appropriately with the scheme of the Hon'ble Finance Minister. I will conclude with a quotation from late Lord Salisbury who said, "So far as it is possible to change the Indian system, it is desirable that the cultivator should pay a smaller proportion of the whole national charge. It is not in itself a thrifty policy to draw the mass of revenue from the rural districts where capital is scarce. The injury is exaggerated in the case of India, where so much of revenue is extorted without a direct equivalent. The lancet should be directed to the part where the blood is congested, or at least sufficient, not to those which are already feeble from the want of it". With these few words, Sir, I commend my motion to the acceptance of the House.

**The Hon'ble the SPEAKER:** The amendment moved: /

"That in item (i) of sub-clause (a) (2) of clause 2, after the word 'agriculture', the words 'excepting paddy, mustard seed and jute' shall be inserted."

**Maulavi Syed ABDUR ROUF:** Mr. Speaker, Sir, during the general discussion of the provisions of the Bill, I said that I had absolutely no objection to support the principles of the Bill, provided the income derived from the cultivation of paddy, mustard, and jute were not taxed. Sir, it is well-known to this House that the cultivators who produce paddy, mustard seed and jute are almost all illiterate. It cannot be expected that they will keep regular accounts of their expenditure incurred in cultivating these crops. Therefore it is almost an impossibility on their part to submit a correct account of their income and expenditure and there is



every likelihood of their being harassed by the officers, Sir, specially those cultivators who expect to derive an income of Rs. 3,000 or Rs. 4,000 have got innumerable enemies around them. It is also not unlikely that they will try to poison the ears of others. Sir, another question arises in this connection. It is known to this House that the Assam Provincial Gazette does not publish the price of jute. Different newspapers publish the prices of jute available in Calcutta and there is no way to determine the difference between the Calcutta price and the local price. Then, again, Sir, so far as the price of paddy is concerned, generally the Gazette publishes the price of the paddy in towns and the cultivators in mufassil have got to sell their paddy at a much lower rate. So far as the mustard seed is concerned, the Calcutta price is known but the price in the province is not known to anybody. Therefore it will be very difficult for the cultivators to prove that they have received actually this or that amount as price of their jute, mustard and paddy. In view of all these things, it is only desirable that the income derived from these crops should be excluded. It has been said many a time by the Government that it is not their intention to tax the poor cultivators of the province but if they do not accept this amendment, then their sincerity can very well be doubted. With these few words, Sir, I support this motion.

**Maulana ABDUL HAMID KHAN:** Mr. Speaker, Sir, ধান, পাট, সরিষা, কলাই ইত্যাদি ফসল যে সমস্ত কৃষকরা জন্মায় সেই কৃষকদের মাথা শতকরা অধিবাসীর সংখ্যার ভিতর ৮৫ জন। কৃষকদের ব্যবহার উন্নতি করিবার জন্ত গভর্ণমেন্ট সর্বপ্রকারে দায়ী কিন্তু গভর্ণমেন্ট কৃষকদের প্রতি লক্ষ্য রাখিয়া বা তাহাদের উন্নতির জন্ত কোন প্রকার চেষ্টা না করিয়া বর্তমানে যে tax ধার্যের ব্যবস্থা করিয়াছেন তাহা সম্পূর্ণ অত্যাচার। গভর্ণমেন্টের উচিত ছিল যে কৃষকদের ফসল বৃদ্ধি এবং উন্নতির জন্ত বাহারী ২,০০০/ অধিক ফসল জন্মাইবে তাহা দর জন্ত পুরস্কার ঘোষণা করা এবং যদি কোন কৃষক শারিরিক পরিশ্রমের দ্বারা কোন ফসলের উন্নতি করিতে পারিলে গভর্ণমেন্টের উচিত ছিল তাহাদের জন্ত পুরস্কার ঘোষণা করা। তাহা না করিয়া এবং কৃষকদের উন্নতির জন্ত কোন ব্যবস্থা করিতে না পারিয়া তাহাদের নিরক্ষর করিবার জন্ত গভর্ণমেন্ট এই গুরুভার tax ধার্যের ব্যবস্থা করিয়াছেন। গভর্ণমেন্টের অধিকার আছে কৃষকদের শোষণ করা কিন্তু কৃষকদের ও অধিকার আছে যে তাহাদের নিজেদের রক্ষার জন্ত নিজেদের পায়ে দাঁড়াইতে পারে এবং অত্যাচার প্রদেশে কৃষকেরা সত্যগ্রহ করিয়া গভর্ণমেন্টের ধংশ কাটনা করিতেছে এমন দিন এই প্রদেশে শীঘ্রই আসিবে যখন এই প্রদেশের কৃষকরাও কেবল কাউন্সিল ও এসেম্বলী মেম্বারদের দ্বারায় কথা বলাইবে না—তাহারা নিজেদের পায়ে দাঁড়াইবে এবং সত্যগ্রহ করিয়া এই ধনিক বনিক পরিচালিত গভর্ণমেন্টের ধংশ করিতে বন্ধশরিক হইবে। আমাদের কৃষকেরা নিরক্ষর তাহাদের কোন বিষয়ে কোন প্রকার অভিজ্ঞতা নাই যে তাহারা হিসাব রাখা করিতে পারে। গভর্ণমেন্ট দীর্ঘকাল যাবৎ এই আসাম দেশের শাসন ভার গ্রহণ করিয়াও শতকরা একটি লোককেও শিক্ষিত করিতে পারেন নাই এমতাবস্থায় গভর্ণমেন্ট কোন লজ্জায় এই tax ধার্যের ব্যবস্থা করিয়াছেন তাহা আমি বুঝিতে পারিতেছি না। গভর্ণমেন্টের প্রথম উচিত ছিল যে প্রজাদের বাধ্যতা মূলক শিক্ষা দিয়া, হিসাব রাখিবার



শিক্ষা লাভের পর tax ধাৰ্য্য করা ; তাহা না করিয়া গভৰ্ণমেন্ট—এই গুফতার tax ধাৰ্য্য করিতে বাইতেছেন ইহা সম্পূৰ্ণ অজ্ঞান। এই অজ্ঞানের প্রতিকার করিবার ক্ষমতা কৃষকদের আছে এবং গভৰ্ণমেন্ট শীঘ্রই দেখিবেন যে এই সমস্ত tax ধাৰ্য্য করার পরিণাম কি ? গত election-এর সময় কৃষকদের বলা হইয়াছিল যে খাজানা কমান হইবে, cart tax ইত্যাদি সমস্ত tax রহিত করা হইবে এখন তাহা না করিয়া আরো নুতন নুতন tax ধাৰ্য্য করিয়া আসাম গভৰ্ণমেন্ট কৃষকদের ধংশ করিবার ব্যবস্থা করিতেছেন ; ইহা কেবল কয়েকজন লোকের স্বার্থের জন্ত। সেইজন্য আমাদের প্রত্যেকেরই কর্তব্য কৃষকদের পক্ষ লইয়া তাহাদের রক্ষা করিবার জন্ত চেষ্টা করা। চা বাগানের মালিকদের সঙ্গে কৃষকদের তুলনা হইতে না পারে। কৃষকদের উন্নতির উপরই দেশের উন্নতি নির্ভর করে কৃষকেরা যদি নষ্ট হইয়া যায়, তাহা হইলে গভৰ্ণমেন্টের কোন দরকার হইবে না—মন্ত্রিকুলের কোন দরকার হইবে না। মন্ত্রীদের এই আসন গুলি খালি থাকিবে। আমি আশা করি বর্তমান গভৰ্ণমেন্ট এই tax ধাৰ্য্য করিয়া কৃষকদের ধংশ না করিয়া তাহাদের উন্নতির জন্ত চেষ্টা করিবেন অত্যা এই মন্ত্রি মণ্ডলী স্বর ধংশ হইবে—ইহা অনিবার্ধ্য।

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, the hon. member, in moving this amendment, has prefaced his remarks by saying that I shall be remembered by the housewives of every cultivator. (*A voice*: Having no wife yourself). Yes, Sir, having no wife myself. It is true that I shall be so remembered, but not for the reasons given by the hon. mover. If I shall be remembered, it will be for the fact that by this taxation I want to get an income from the rich for spending on nation building departments and for the benefit of those very housewives of the poor cultivators. Sir, the hon. Maulana Abdul Hamid Khan has waxed eloquence and tried to impress the House that the incidence of this taxation will fall on the cultivators and the poor people. I wish there had been in our province cultivators who derive a net income of Rs.3,000. If that had been the case, I think no one would have been justified in raising the cry on behalf of these helpless people.

Sir, there seems to us no reason to exclude some crops, whether they are food crops or money crops, for in the last resort all crops are money crops in the sense that they are saleable and have to be sold. Therefore, Sir, I do not accept the amendment moved by my hon. friend Maulavi Maqbul Hussain Choudhury. His purpose will be served by the fact that we have raised the taxable amount from Rs.2,000 to Rs.3,000. I can more-over assure him that no poor cultivator will come within the purview of this taxation or will be affected by this tax.

Secondly, Sir, I also want to raise a point of order in this connection. This is a definition clause and therefore, I think, it is not in order that such amendments should have been moved under this clause. There is another clause dealing with deductions and exemptions and I think it would have been better if the hon. members had moved these amendments under that particular clause. With these words, Sir, I oppose this amendment.

**The Hon'ble the SPEAKER:** I need not give any ruling now on the point of order raised.

The question is "that in item (i) of sub-clause (a)(2) of clause 2, after the word "agriculture", the words "excepting paddy, mustard seed and jute" shall be inserted."

(A summary division was taken by asking the members to rise in their places).



The House divided with the following result :—

Ayes	...	31.	✓
Noes	...	54.	

The motion was negatived.

**Maulavi JAHANUDDIN AHMED :** Mr. Speaker, Sir, we want that our names should be recorded when divisions are taken.

**The Hon'ble the SPEAKER :** No, when I have dispensed with the necessity of asking the hon. members to go to the lobbies, I do not think that names should be recorded.

**Maulavi JAHANUDDIN AHMED :** The names may be recorded by the Secretary, Sir.

**The Hon'ble the SPEAKER :** Order, order, that will be considered. Babu Hirendra Chandra Chakravarty to move his amendment No.7.

**Babu HIRENDRA CHANDRA CHAKRAVARTY :** I beg Sir, to move that after item (ii) of sub-clause (a)(2) of clause 2 the following proviso shall be added :—

“Provided that this will not include any crop received by a person from any other person or persons cultivating his land as *Hali*, *Bhogi*, *Bhag* and *Bagia*”.

Sir, the intention of moving this amendment is to give some relief to the poor agriculturists. There is a class of agriculturists in our country.

**The Hon'ble the SPEAKER :** How will the hon. members get the meaning of these words ?

**Babu HIRENDRA CHANDRA CHAKRAVARTY :** These words occur in the Assam Tenancy Act.

There is a class of agriculturists in our country who cannot pay to the landlords their rent in cash, nor can they pay full rent. These people get land from the landlord and cultivate that and give to the landlord a portion of the crop they receive. This crop is not regarded as rent now. This is calculated on the market value of the crop in proportion to the rate of land the landlord demands from other tenants as rent in cash. Suppose in a plot of land the landlord demands Rs.4 as cash rent but in this arrangement, if the market value of paddy is Re 1 per maund, he would not demand Rs.4 but give the land to the tenant for 2 maunds of paddy. This is only to give some relief to the poor cultivators. If the market value of the paddy is taken into consideration, the landlord is entitled to at least Rs.4 from the tenant. In this arrangement he is content if he gets 2 maunds of paddy, so under these arrangements the paddy is not received in lieu of rent. If an agricultural tax is imposed on such paddy, then the tenant will have to give the landlord a larger quantity of paddy just to enable the landlord to make up the amount of tax if he is to bring the crop to the market. On this ground, I beg to move this amendment and I think in these arrangements between land owner and cultivator of the *hali*, *bhogi*, *bhag* or *bagia* land, the cultivator is required to give to the landlord a quantity of paddy received by him, not in lieu of rent, so such crops should not be taxed.

With these words, I commend by amendment to the acceptance of the House.

**The Hon'ble the SPEAKER :** Amendment moved :  
“That after item (ii) of sub-clause (a)(2) of clause 2 the following proviso shall be added :—

“Provided that this will not include any crop received by a person from any other person or persons cultivating his land as *Hali*, *Bhogi*, *Bhag* and *Bagia*.”



**Srijut ROHINI KUMAR CHAUDHURI:** Mr. Speaker, Sir, the hon. mover of the amendment has tabled amendment on the ground that those who pay rent of this kind are generally poorer people. I support this amendment on two other grounds. My point is that those who pay this kind of rent are generally poorer people. They are unable to cultivate or manage the property properly and therefore they have got to depend on rent in kind.

**Srijut BEI IRAM DAS:** On a point of information, Sir. Is it not a fact that those who have got more land, give some of their land on these *Hali*, *Bhogi*, and *Baiga* system?

**Srijut ROHINI KUMAR CHAUDHURI:** Not necessarily. Those who have some land can let out the land on *sukhani*, i.e., payment in cash. Generally, by payment in cash, they do receive less than in kind. I hope the hon. member would not indulge in unnecessary interruption in future. I hope, Sir, that the ejaculation from the hon. members are not recorded; if they are I shall be in a very awkward and shameful position as we come from the same constituency.

However, this is one point. Now I shall come to the other point. I think there will be a difficulty of assessment of this kind of income as there is always some amount of trouble if the share of the landlord is to be exactly divided by half or one-fourth or like that. In Kamrup there is a system of *dhan sukani*—certain fixed doles are to be paid. It is not difficult to ascertain. But if certain fraction are fixed then the difficulty arises. There will be difficulty in the assessment of income-tax and the greater will be the harassment of the assessee. The poorer classes of assessee cannot file an appeal against the assessment. They have not the wherewithal to prefer an appeal. In many cases I find that instead of putting up a case on appeal, they think that it should be more wise to pay the income-tax, because the preferring of an appeal means the engagement of lawyers and more expenditure.

So, Sir, I would ask the Hon'ble Minister to accept this amendment. He would lose nothing by accepting this amendment; on the other hand, a good deal of relief would be given to the poorer classes of landlords.

**Maulavi JAHANUDDIN AHMED:** Mr. Speaker, Sir, I would like to speak on this amendment. I would like to point out to the Hon'ble Minister only one word. Sir, as we all know every kind of taxation, whatever it may be, whether upon the rich or poor, has a tendency to percolate through and fall upon the poor class of people. So, Sir, from that consideration, if these grants are not excluded from the assessment of tax, then I think the purpose of the Bill will be wholly frustrated. Because, Sir, to whom lands under these conditions are given as *Bhogi*, *Bhag*, etc., they are given to the poorer classes of people by those who have got sufficient lands and who cannot cultivate themselves all the lands they have got. Now, Sir, if these lands are not excluded, what will the land owners do? It is sure that in order to pay the income-tax they will try to realise more from their *hali*, *bhogi*, *bhag* or *baiga-dars*, i.e., the poor people who have taken the land from them, and it is in this way that this tax will fall on the poorer class of people, and in that consideration, I think the Hon'ble Minister will kindly see his way to accept this amendment, and by doing so exempt the poorer class from the heavy burden of taxes that will ultimately fall upon them.

With these few words, I support the amendment.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I oppose the amendment moved by my friend Mr. Chakravarty. The reason given by the mover is that by this amendment he seeks to give some relief to the poorer class of people. As I have already explained, the purpose



of this Bill is not to tax such people. Therefore, it is difficult for me to see how the question of giving relief to such people can arise. I oppose the amendment.

**The Hon'ble the SPEAKER:** The question is: 'that after item (ii) of sub-clause (a) (2) of clause 2 the following proviso shall be added:—

'Provided that this will not include any crop received by a person from any other person or persons cultivating his land as *Ilali*, *Bhogi*, *Bhag* and *Baiga*.' "

The motion was negatived.

**Mr. J. R. CLAYTON:** Mr. Speaker Sir, I beg to move that in Clause 2(a) of the Bill in sub-clause (2) the Explanation shall be omitted and the following Explanation shall be substituted:—

"*Explanation:*—Agricultural income derived from such land by the cultivation of tea means that portion of the income derived from the cultivation, manufacture and sale of tea as is defined to be agricultural income for the purposes of the enactments relating to Indian Income-tax."

Under the Government of India Act, Schedule 7, List II item 41 the Provincial Government can only tax agricultural as distinct from non-agricultural income. Agricultural income is defined in the Government of India Act, Section 311(2) to mean whatever is treated as agricultural income in the Indian Income Tax Act. The definition of agricultural income contained in Clause 2(a) (2) without the explanation; and in the particular case of tea companies, the Government of India, in exercise of its rule-making powers, (Rule 24) has laid down that the income shall be computed as ordinary business income in the first place and 40 per cent. of such income shall then be deemed to be business income liable to central tax. The Provincial Government cannot go beyond this definition and tax anything except the remaining 60 per cent. of the income so computed.

The explanation to Clause 2(a) is apparently meant as an attempt to conform to the Central definition but it is a most unsatisfactory attempt for it would have the effect of extending and not clarifying the definition. It will be observed that under the explanation any portion of the income exempted from liability to Central tax would be treated as agricultural income. Now, in computing business income, certain allowances are granted for the purposes of Central Income-Tax and under the present wording of the explanation it could be argued that the sums covered by those allowances had been exempted from liability to tax and were thus covered by the definition of agricultural income to be taxed by the Province.

Our amendment is intended to make the position clear and to conform with the Central Acts and will, we believe, be found acceptable to Government.

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

"That in clause 2(a) of the Bill in sub-clause (2) the Explanation shall be omitted and the following Explanation shall be substituted:—

*Explanation:*—Agricultural income derived from such land by the cultivation of tea means that portion of the income derived from the cultivation, manufacture and sale of tea as is defined to be agricultural income for the purposes of the enactments relating to Indian Income-tax."

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir. This is more or less a verbal amendment, and I have no objection to accept the amendment moved by Mr. Clayton,



**The Hon'ble the SPEAKER:** The question is: "that in clause 2(a) of the Bill in sub-clause (2) the Explanation shall be omitted and the following Explanation shall be substituted:—

*Explanation:—*Agricultural income derived from such land by the cultivation of tea means that portion of the income derived from the cultivation, manufacture and sale of tea as is defined to be agricultural income for the purposes of the enactments relating to Indian Income-tax."

The motion was adopted.

**Maulavi ABDUL BARI CHAUDHURY:** Mr. Speaker, Sir, I beg to move that in sub-clause (2) of clause I the "full stop" after the last word "appoint" shall be deleted and the following shall be added thereafter:—

"and shall extend to the whole of Assam excepting the permanently settled areas".

Sir, my intention in moving this amendment is to exclude the permanently settled areas in the province from the operation of this Act.

Sir, the revenue paid by the landlords in the permanently settled areas is really an income-tax. Over and above, they pay also large amounts of local rates. So, it will not be fair to tax them anew. It will mean a second income-tax to the proprietors in the permanently settled areas in Sylhet and Goalpara. So, it will not be fair to tax them any more.

Further we doubt very much whether a Provincial Government is competent enough to impose this tax in the permanently settled areas. With these words, I commend my motion to the acceptance of the House.

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

"That in sub-clause (2) of clause I the 'full stop' after the last word 'appoint' shall be deleted and the following shall be added thereafter:—

and shall extend to the whole of Assam excepting the permanently settled areas".

**Maulavi MUNAWWAR ALI:** Mr. Speaker, Sir, I beg to support this amendment. This amendment really aims at the very intricate legal question that I raised by means of a point of order and subsequently developed further by my hon. friend Khan Sahib Maulavi Mudabbir Hussain Chaudhuri and myself on another occasion.

Sir, it was suggested that item No.41 of Schedule VII of the Government of India Act is a bar to such an objection. That is to say, item No.41 allows the Provincial Government to impose such a tax. I do not question that but what I question is the scope of item No.41. What is the scope of that item? Well, if there is a bar in certain kind of lands, that item cannot operate on that. There are lands permanently settled and there are lands temporarily settled and item No.41 can operate on those areas where there is not a bar under Regulation, 1793. Regulation, 1793 fixed the land revenue in permanently settled areas in perpetuity and land revenue is an income-tax. Those hon. members who are conversant with the history of land revenue in the permanently settled areas will bear me out when I say that the land revenue was fixed on the actual income of a *taluk*. What was the income of each proprietor within a specified boundary not within a unit of area, that was the criterion. A *taluk* was bounded on four sides and then it was found what its income was. That income was found out first and 10/11ths of that income was fixed as land revenue and that was fixed in perpetuity. Now, as I have just now stated, land revenue is an income-tax and that income-tax is fixed in perpetuity. Item No.41 of the Government of India Act cannot operate upon that. The Hon'ble Revenue Minister, I am sure, will come forward with the Privy Council Ruling on Srijut Prabhat Chandra Barua *vs.* the Secretary of State reported in 51—Calcutta and the Privy Council ruling reported in 38 C. W. N. and I am



sure, he knows, if he has carefully gone through the rulings, that the issue raised in that litigation was one quite different from the one under consideration of this House. That was a matter in relation to a fishery. My warning to this Government is that when the issues are different and when there are landlords in this province as well who would not hesitate to drag this question before the Federal Court and even before the Privy Council, should they not have done well and better in the interest of Government themselves and in the interest of the province to consult the highest legal authority—I mean the Advocate General of Bengal who is one of the highest legal authorities in India, who is very well conversant with the land laws in the permanently settled areas. That suggestion I threw out in the interest of the Government and in the interest of the people of this province but it was not heeded to. It seemed to fall jarring upon the ears of the Hon'ble Finance Minister. I still hold fast to the view I held the other day and I am grateful to my hon. friend Maulavi Abdul Bari Chaudhury who has moved this motion which I whole heartedly support.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** Mr. Speaker, Sir, with my colossal knowledge of law I am not going to charge the Hon'ble Minister in charge about the legal defects or anything of that kind. What I want to say is that from the point of view of equity and justice, the people of Sylhet should not be taxed. We find that the people of this province are going to be taxed on the ground of the prospective loss in revenue on account of the introduction of prohibition of the use of opium, the grant of liberal remissions of land revenue and to finance other beneficial projects—the lists of which are not given.

In view of the fact that the use of opium is not much prevalent so far as the district of Sylhet is concerned and that the remission of land revenue granted in the temporarily settled areas concerns only a small portion of the subdivision of Sylhet, I find no equity in this case that the people of Sylhet, mostly in the permanently settled areas, should be taxed. Furthermore, I find, of course it is a debatable point, that there is much difference between this case and the case of Prabhat Chandra Barua vs. the Secretary of State. That was a case in connection with income derived from fishery and that income cannot be taken as an agricultural income. So, it is very difficult to say that it stands on the same footing. I have already said that so far as Sylhet is concerned, the case is quite different and I would ask the Hon'ble Minister whether he has carefully gone through the provisions in the Permanent Settlement Act. Of course people in this world are very ambitious. We know that our friend became ambitious on the very day when he stepped as a member of this legislative body. But so far as our people are concerned, we should like that before going for any Act or before bringing any Bill to the Statute Book, it will be better to have it first scrutinised and obtain advice from authorities in this question. We find from the minute of dissent on the report of the Select Committee that the benefit of an expert was suggested to be placed at the disposal of the Government, but Government refused that. It shows that they are too ambitious and the expert knowledge is the monopoly of them. What I find recently is that in Dacca certain suits have already been filed regarding certain legislations in the Bengal Assembly by Zemindars of Bengal.

In this case, without going hurriedly about taxation and without looking fully well into the question whether it would be advisable or proper to tax again or it would be well to accept the suggestion so ably and wisely put forward by my hon. friend Maulavi Munawwar Ali, the Government should not do anything. I suggest that this is an important question on which the



Government should consult the Advocate General of Bengal. So, with these few words, I support the motion.

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHOUDHURY:** Sir, I support the motion. The entire aim of this taxation Bill is to rob Paul to pay Peter. So, I think, Sir, that the permanent settled areas should not be further saddled. Because the Land Revenue paid by the landlords of permanently-settled areas is a tax.....

**The Hon'ble the SPEAKER:** But what are the provisions of the Government of India Act? Was not the point considered by the authors of that Act?

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHOUDHURY:** I am quoting from the Indian Taxation Enquiry Committee Report, page 416. It says "The two important direct taxes, the land tax and the income tax, I hold a land revenue, as tax on Agricultural income." So, Sir, I think where the landlords pay land revenue, this agricultural income-tax cannot be extended. The hon. Maulavi Munawwar Ali has elaborately dealt with the subject and I endorse all that he has said. With these words, I support the motion.

**Maulavi Dewan MUHAMMAD AHBAB CHAUDHURY:** Mr. Speaker, Sir, I belong to the district of Sylhet and I know that Sylhet is a permanently-settled district. Unlike Bengal, there is no-zemindari system or the so called landlordism in Sylhet. It may be a surprise to some of the hon. members of the House to hear that the so called big landlords of Sylhet are all peasant proprietors. The District Gazetteer of Sylhet will bear me out. Therefore, the plea of the Hon'ble Finance Minister that the Bill will not affect the poor peasants cannot delude the House any longer.

Moreover, Sir, that it is not within the competence of any legislature in India, whether provincial or central, to impose the tax upon the proprietors of the permanently-settled areas of Sylhet and Goalpara. No doubt, tax on agricultural incomes has actually been imposed by the Government of Bihar, but these facts do not establish the lawfulness of such imposition.

The proposed enactment will have the effect of imposing a second income tax upon a class of proprietors in the permanently settled areas since the land revenue paid for estates in such areas is neither rent, nor cess, nor rate but an ungraduated tax on incomes of the proprietors fixed in perpetuity. It will appear from a reference to the fifth report of the Select Committee on the affairs of the East India Company in 1812 that the land revenue was assessed at 10/11ths of the then income of the owners of an estate. As such, this land revenue was indisputably a tax on income fixed in perpetuity, because the initial assessment was unquestionably heavy. As a matter of fact the two cesses in Bengal and local rates in Assam go to the district and local board respectively and are spent for the uplift of the tenantry of the areas which pay the cess or the rates. These impositions have not been and cannot be spent for purposes of general administration or for making up deficits. Now, Sir, with these words, I beg to support the motion.

**Maulavi JAHANUDDIN AHMED:** I like to point out to the Hon'ble Minister and the hon. member of this House what the Hon'ble Minister has expressed in the Statement of Objects and Reasons of the Goalpara Tenancy Amendment Act. I will just read it. "The prolonged general depression has affected the financial condition of the agriculturists. Various ameliorative measures, legislative and executive, have in recent years been taken in the shape of the Assam Money Lenders Act and the Assam Debt Conciliation Act and remission of revenue in the temporarily-settled areas, etc. In the permanently-settled districts the relation between



the landlord and tenants have been sought to be placed by legislative enactment on a better basis. It is considered however that in this area greater amount of relief is necessary." I emphasise this line, Sir, and I will read that out again: It is considered, however, that in this area (that means permanently-settled areas) a greater amount of relief is necessary. The same thing has been stated in the Statement of Sylhet Tenancy (Amendment) Bill. It has been admitted by the Hon'ble Minister-in-charge who himself sponsored the Goalpara and Sylhet Tenancy (Amendment) Bills and who has also sponsored this Agricultural Income-tax Bill, that a greater amount of relief is necessary in the permanently-settled areas. Now let us consider the relief that the Government has been able to give so long to the permanently-settled areas. In the temporarily-settled districts this House passed a resolution for a 33 per cent. land revenue reduction and they have had it and are enjoying it still now. But what is the fate of the permanently-settled districts? Government have not yet been able to relieve the tenants of these permanently-settled districts. They have not given any sort of relief to the agriculturists. I do not mean the zemindar class, but there are the middle class agriculturists in our district also whose income may be more than Rs.2,000. Now I will just say that, due to the trade depression and various sorts of havoc caused by earthquakes, floods, etc., the condition of the agriculturists of the permanently-settled areas, whether poor or middle class, has become worse than in the temporarily-settled areas. So, it is really in view of these facts that these should be excluded from the present Agricultural Income-tax that the Hon'ble Finance Minister wants to impose upon the people. With these words, Sir, I support the motion of the hon. mover.

### Adjournment

The Assembly then adjourned for lunch till 2 p.m.

### After adjournment

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED :** Mr. Speaker Sir. From the arguments which have been advanced by the hon. mover of this amendment and other hon. members who have spoken in support of this amendment, it is apparent that their contention is that the revenue 'jama' fixed on permanently-settled estates is a tax on agricultural income. Sir, so far as the Government is concerned, we do not hold the same opinion. The land revenue, whether it is derived from the permanently-settled estates or from the temporarily-settled estates, is rent and not income-tax. Apart from the theoretical question, the permanently-settled estates contribute much less to the general exchequer than the temporarily-settled areas. If the income from the latter is liable to taxation, I don't see any justification why the income from the permanently-settled area should also be liable to taxation. As a matter of fact the income from the former is much more. In Goalpara permanently-settled area, the landlords hardly pay a pice per acre as land revenue, while the Zemindars may make as much as a rupee out of that acre. It is for these reasons, Sir, that we think that there is no justification in putting forward this amendment and so I oppose it.

**Maulavi Syed ABDUR ROUF :** On a point of information, Sir. May I know whether according to the terms of the *Kabuliat* and *Patta*, the Zemindars would be in a position to levy the tax upon the *raiya*s?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED :** How can they levy tax on the *raiya*s?

**The Hon'ble the SPEAKER :** That is quite another matter.



The question is :

"That in sub-clause (2) of clause 1 the "full stop" after the last word "appoint" shall be deleted and the following shall be added thereafter :—

"and shall extend to the whole of Assam excepting the permanently-settled areas".

The motion was negatived.

**The Hon'ble the SPEAKER:** Then, I think, amendment No. 9\* standing in the name of Maulavi Abdul Bari Chaudhury falls through.

The question is :

That clause 2 as amended stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** Amendments to clause 3 of the Bill will be taken up now.

**Mr. J. R. CLAYTON:** I beg, Sir, to move :

That in clause 3 of the Bill the words "Annual Assam Finance Acts" shall be omitted and the words "Schedule to this Act" shall be substituted.

This amendment taking in conjunction with amendment No. 42 involves two separate points, namely fixing of the tax at a definite rate instead of allowing it to vary from year to year and secondly to fix the rates lower than it is proposed in the Bill itself. Although the two amendments are taken as separate they are logically bound by one with another and in order to save time, I would like to refer to two together.

**The Hon'ble the SPEAKER:** One is dependent upon the other. So is also amendment No. 87. Amendments 10, 11, 42 and 87 are all connected amendments and dependent upon one another.

**Mr. J. R. CLAYTON:** I am sorry, Sir, I mean amendment No. 87 and not 42. May I then discuss the two together ?

**The Hon'ble the SPEAKER:** The schedule will come last of all. If this amendment be carried, then of course, the schedule will come in ; but if this amendment be lost then the schedule will not come in at all.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** I want to raise a point of order, Sir. The amendment which is now moved by Mr. Clayton is against the principle of this Bill and therefore should be ruled out of order. We have provided the rates of the tax in the Assam Finance Act and on the basis of that provision, I think, members of this House have given notices of their amendments. If the amendment suggested by Mr. Clayton is accepted, the hon. members will be deprived of the right of moving amendments suggesting variations and alterations in the rates as given by him. Therefore, Sir, I think, his amendment is out of order.

**Mr. F. W. HOCKENHULL:** Sir, the Finance Act is really a separate measure and if any amendment takes place in this Bill and is accepted by the House then whatever be the consequences regarding the Finance Act, that consequence must take that chance. I don't think we can correlate two separate Bills.

**The Hon'ble the SPEAKER:** The point which has been raised by the Hon'ble Finance Minister is that the schedule describes some rates and now if the amendment by which the schedule is being proposed is put before the House, then the other members will have also the right of moving some amendments to these very rates proposed in the amendment prescribing a

\*That in item 2(l) of sub-clause (a) (2) of clause 2, the words and  
Sylhet Tenancy Act, 1936

figures \_\_\_\_\_ shall be omitted,  
Goalpara Tenancy Act, 1929.



schedule. I see that the amendments have been tabled to those provisions of the Assam Finance Bill which prescribe rates. As a matter of fact, I find, that to the Finance Bill two amendments have been proposed, one by the Hon'ble Finance Minister and one by Khan Bahadur Maulavi Sayidur Rahman. Leaving aside the amendments which have been proposed by the Hon'ble Finance Minister, I find, that the amendment which has been proposed by hon. Khan Bahadur Maulavi Sayidur Rahman is quite different from the amendments which have been proposed in that schedule now proposed by amendment No.87. So, if there was a schedule to the Agricultural Income-Tax Bill as it was introduced or as it has emerged from the Select Committee, the amendments which have been tabled to the Finance Bill, would have been tabled to this Bill also. I hope, the hon. members will appreciate the difficulty I point out.

**Mr. J. R. CLAYTON:** Sir, in this Bill itself, there is a limitation. The rate is there limited by the Central rate. We can discuss now about that.

**The Hon'ble the SPEAKER:** I think, the schedule itself appears to be a Bill and that it would be difficult now to give any opportunity to the House to table any amendment to the schedule proposed. If there would have been originally a schedule to this Bill, then, of course, the members would have been entitled to table amendments just as Khan Bahadur Maulavi Sayidur Rahman has done in regard to the Finance Bill. So, this is the difficulty. Now, I like to know what the hon. member has got to say on this.

**Mr. J. R. CLAYTON:** Well, Sir, I am told that there was a schedule to the original draft.

**The Hon'ble the SPEAKER:** I don't think so.

**Mr. J. R. CLAYTON:** In any case, Sir, I definitely like to discuss about it.

**The Hon'ble the SPEAKER:** I find that there was no schedule in the original Bill.

**Mr. J. R. CLAYTON:** I would like to move that schedule be introduced in the Bill.

**The Hon'ble the SPEAKER:** There is the difficulty that if this Schedule be placed before the House, other members will not be entitled to table amendments. So, I think, I should give a ruling on this point.

**Mr. J. R. CLAYTON:** May I not move amendment No. 10 of its own?

**The Hon'ble the SPEAKER:** Very well, the hon. member may move the amendment, but before I put it to vote, I shall have to give my ruling.

**Mr. J. R. CLAYTON:** Regarding amendment No. 10, there are two main arguments in favour of having a definite Schedule of the rates of taxes. In the first place, in these days when costs of production are increasing, when every bit of expenditure has to be weighed, it is most important that industrial concerns should know in advance what taxation they have to bear. Secondly, if the tax has to be fixed every year, limited as it is by the rates of the Central income-tax, proper budgeting will be quite impossible for Government. The Finance Minister will not know until the end of March in each year what rates of income-tax have been passed by the Central Assembly, and it may easily happen that alterations in the rates of Central income-tax and therefore in the rates at which agricultural income-tax can be levelled will make the whole of his Budget meaningless, for it must be remembered that the preparation of the Provincial Budget begins in about November each year. It is true that in case of Central income-tax, rates are fixed from year to year but when the Finance Member of the Central Government prepares his Budget, he knows what rate of income-tax he intends to



propose, whereas the Provincial Government's Finance Minister begins preparing his Budget in November when he will not know what rate of agricultural income-tax he may propose under the law. In the case of Centre, two of the main causes of revenue, *viz.*, Customs and Railways, are particularly liable to great fluctuation, and so elasticity of the rates of Central income-tax is necessary. Provided a proper policy is adopted in regard to remission of land revenue, there is not the same liability of severe fluctuation in provincial revenues. There is, therefore, not the same need for annual fixation of the rates of agricultural income-tax.

**The Hon'ble the SPEAKER:** Did the hon. member say anything about this Schedule in the speech he delivered when the Bill came up for consideration?

**Mr. J. R. CLAYTON:** I did not speak of it as a Schedule, but I spoke very much on the rates which Government proposed in the Finance Bill. I said that in my opinion, these rates were excessive:

**The Hon'ble the SPEAKER:** But nothing was specifically said as to the necessity of having a Schedule to this Bill.

**Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I raised that point in my speech delivered at the consideration stage. I said that instead of leaving the rates to be fixed by the annual Finance Acts, they should be definitely fixed by a Schedule appended to this Bill.

**Mr. J. R. CLAYTON:** I also made the same point though I did not use the word "schedule". I said that definite rates should be fixed.

**The Hon'ble Mr. FAKHRUDDIN ALIAHMED:** Has not the hon. Leader of the Opposition accepted, in the Select Committee, that the rates should be specified in a Finance Act instead of those being mentioned in a Schedule to this Bills?

**Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Yes, Sir, I had to submit to the majority, but I have not accepted that principle.

**The Hon'ble Mr. FAKHRUDDIN ALIAHMED:** But he has not recorded any note of dissent.

**Maulavi Saiyid Sir MUHAMMAD SAADULLA:** But I can raise my dissent here.

**Rai Bahadur PROMODE CHANDRA DUTT:** (From a seat behind the Hon'ble Revenue Minister): May I raise a point of order.....

**Srijut ROHINI KUMAR CHAUDHURI:** On a point of order, Sir. The hon. member cannot speak from that seat. The other day you did not allow an hon. member to speak from a seat which he does not ordinarily occupy.

**The Hon'ble the SPEAKER:** The other day I also made Srijut Debeswar Sarmah to come to his seat before he spoke. But to-day I see that from the very first hour of the meeting the hon. member is occupying that seat. If I find at the very beginning that an hon. member is occupying a particular seat when the Assembly meets on a particular day, I shall of course allow him to sit there for that day.

**Rai Bahadur PROMODE CHANDRA DUTT:** I invite your attention to section 82 (1) (a) of the Government of India Act, 1935, which says "A Bill or amendment making provision for imposing or increasing any tax..... shall not be introduced or moved except on the recommendation of the Governor". Now, the Schedule suggested by the other side seeks to impose certain rates, which is tantamount to imposing taxes. Can they introduce such a Schedule without the recommendation of the Governor? I submit, Sir, they cannot. The recommendation of the Governor is necessary before the hon. member is allowed to move that amendment.



**Mr. J. R. CLAYTON:** I submit, Sir, that if the Government has got sanction of the Governor to introduce this Bill at all, no recommendation is necessary in case of my amendment.

**The Hon'ble the SPEAKER:** Government's obtaining previous recommendation to move a Bill will not help any hon. member who wants to amend a taxation measure, by proposing definite amendments relating to the very taxation proposed by the Bill.

**Rai Bahadur PROMODE CHANDRA DUTT:** It is with regard to the Bill, not to the amendment.

**The Hon'ble the SPEAKER:** I quite see the point which has been raised by hon. Rai Bahadur Promode Chandra Dutt. I hold that previous recommendation is necessary for moving this amendment. The Ministry is opposing this amendment yet, as the Bill will be taken up to-morrow also, I shall try to get the previous recommendation of the Governor. As regards the point whether this amendment is within the scope of the Bill or not, I am in doubt. Therefore, I shall not give any ruling just now. I postpone this clause to be taken up to-morrow so that the whole point may be considered by me to see what really is the position.

Now, if amendment 10 be postponed, I think amendment 11 will also have to be postponed.

I now take up clause 3A, amendment No. 12.

**Mr. J. R. CLAYTON:** I beg to move that in clause 3 A of the Bill the words "Except as provided elsewhere in this Act" shall be omitted.

Sir, this amendment is only intended to carry out what we assume to have been the intention of the Select Committee and of Government. Under clause 3, the tax can be charged on every individual, company, firm, etc. Clause 3A is intended to prevent double assessment between a company and its share-holders, a firm and the partners, a Hindu undivided family and its members. But its effect will be vitiated by the words "Except as provided elsewhere in this Act" at the beginning of clause 3A. As long as these words remain in view of the very general wording of clause 3, the danger of double taxation will still exist, and clause 3A will be valueless. It may be noted that apart from the words, which we seek to delete, clause 3A is copied from section 14 of the Indian Income-Tax Act, 1922, where no such words appear.

In the Select Committee Report the insertion of this clause has been made with the intention of preventing double taxation under this Act. I submit, Sir, that intention can be fully carried out if these words are left out in that clause. And with this intention, I move this amendment.

**The Hon'ble the SPEAKER:** Amendment moved: "That in clause 3A of the Bill the words 'Except as provided elsewhere in this Act' shall be omitted".

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I oppose this amendment. In clause 25, provision is made for assessing and re-assessing income-tax upon those which escaped full assessment and at rates which would have been charged if they did not escape assessment and at rates may be a member of an association holding land and deriving agricultural income. Supposing at a former assessment he is assessed to a lower rate, he is liable to be re-assessed afresh.

I oppose this motion.

**The Hon'ble the SPEAKER:** The question is: "That in clause 3A of the Bill the words 'Except as provided elsewhere in this Act' shall be omitted."  
(A summary division was taken by asking the members to rise in their places.)



The House divided with the following result:—

Ayes—33.

Noes—53.

The motion was negatived.

**The Hon'ble the SPEAKER:** The question is that clause 3A stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** Amendment No.13 to clause 4 stands barred owing to the rejection of amendment No.4.

**Mr. F. W. HOCKENHULL:** Mr. Speaker, Sir, I think amendment No.14, 14A and 15 are all consequential on our taking No.10. I suggest these should be left over until a decision on the point of order is given.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Amendment No.14 is connected, but not 14A and 15. The amount may be changed.

**Mr. F. W. HOCKENHULL:** 14A and 15 are connected. I suggest that if the schedule were adopted, these would be unnecessary.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** In 14A the taxable amount is lower while the rate is increased. This is, therefore, not connected. But amendment 14 has some connection with the point of order which I have raised and therefore cannot be discussed now.

**The Hon'ble the SPEAKER:** 14A may be taken up. I shall put clause 4 to the vote of the House after this amendment is disposed of.

**Mr. F. W. HOCKENHULL:** I beg, Sir to move that in clause 5 of the Bill the figures '3,000' be omitted and the figures '2,000' be substituted.

The reason for this is to make the provision conform with the Central Income-Tax provision. It is also not logical for a person who is engaged in non-agricultural pursuits and is taxed on an income of Rs.2,000 should be taxed and that person who has derived his income from agriculture should be immune as between Rs.2,000 and Rs.3,000. In times of emergency even an income of Rs.1,000 has been taxed. So, Sir, we wish to conform to the Central Income-Tax Act.

**The Hon'ble the SPEAKER:** Amendment moved:  
"That in clause 5 of the Bill the figures '3,000' be omitted and the figures '2,000' be substituted."

(After a pause)

The question is "That in clause 5 of the Bill the figures '3,000' be omitted and the figures '2,000' be substituted."

The motion was negatived.

**The Hon'ble the SPEAKER:** As amendment No.13 stands barred out, I will put clause 4.

The question is that clause 4 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** Now clause 5.

**Maulavi ABDUL BARI CHAUDHURY:** Mr. Speaker, Sir, I beg to move that in the third line of clause 5, the figures "3,000" shall be substituted by the figures "5,000".

Sir, by this amendment I want to limit the scope of the Bill. It should not touch the small producers, specially the growers of paddy. Perhaps this was also in view of the hon. members of the Select Committee when they increased the amount of taxable income from Rs.2,000 to Rs.3,000.



Sir, the Hon'ble Revenue Minister said during the consideration stages of the Bill that it was not his intention to tax the ordinary cultivators. If he really be earnest in his remarks, he should not object to this amendment. If this amendment is accepted it will virtually exclude all the tillers of the soil. The rest will not grudge to pay an income-tax. Further, the Congress Government of Bihar have taken these facts into consideration and have accepted Rs.5,000 as the minimum taxable agricultural income. Assam is decidedly poorer than Bihar, so we should not fix a smaller limit.

With these words I ask the House to accept my amendment.

**The Hon'ble the SPEAKER:** The amendment moved is, "that in the third line of clause 5, the figures '3,000' shall be substituted by the figures '5,000'.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:**\* Mr. Speaker, Sir, I rise to support this amendment. So far as my intimate knowledge of our locality is concerned, I may say that there are joint illiterate families with three or four sons that manage to make an agricultural income amounting to something between Rs.3,000 and Rs.5,000. But it has already been stated that these cultivators are illiterate and do not keep any account and it will be very difficult for them to satisfy the Income-Tax authorities. Even we, with our note-books and accounts find it very difficult to satisfy them. So, if we take the case of these people who live together with a number of dependents and work together and derive an income of over Rs.3,000 will not be able to satisfy the Income-Tax authorities. So, I welcome the suggestion of the hon. mover of this amendment, and I hope the Hon'ble Finance Minister will accept the amendment taking the case of these poor illiterate people into consideration.

**Maulavi JAHANUDDIN AHMED:** Mr. Speaker, Sir, I would like to say a few words on the amendment, and point out to the Hon'ble Minister and the hon. members of the House that we should leave some scope to our agriculturists to help them to have some high ambition to increase their income to at least Rs.5,000, and let us not tax our agriculturists whose income is below Rs.5,000, keeping in view just to give an encouragement to the agriculturists to raise their income to Rs.5,000. With this view I support the amendment of the hon. mover so that no pressure is brought to bear upon the agriculturists to raise their income to Rs.5,000, otherwise these agriculturists would not like to increase their income above the limit that has been given in this Bill.

With these few words, I support the amendment.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I oppose this amendment.

**The Hon'ble the SPEAKER:** The question is: "That in the third line of clause 5, the figures '3,000' shall be substituted by the figures '5,000'.

(A summary division was taken by asking the members to rise in their places.)

The House divided with the following result:—

Ayes—14

Noes—54

The motion was negatived.

**The Hon'ble the SPEAKER:** As amendment No.14 cannot be taken up now, I cannot put clause 5 now to the vote.

\*Speech not corrected.



**The Hon'ble the SPEAKER:** Clause 6.

(\*Amendment No. 16 in clause 6 standing in the name of Babu Hirendra Chandra Chakravarty was not moved as the member was absent.)

**Khan Bahadur Maulavi SAYIDUR RAHMAN:** Sir, I beg to move that in the first line of sub-clause (c) of clause 6 the figure "15" shall be replaced by the figure "20".

Now the hon. members are aware that in the original Bill the figure was 12½ per cent but in the Select Committee it has been raised to 15. My proposal is to raise it still higher to 20. I will explain how I have arrived at that figure.

From the administration report on the management of Wards' Estates, I find that the cost of management of the estates in the Surma Valley is above 25 per cent. and the cost of management in the Assam Valley districts is about 18 per cent. Taking a mean of this figure I have calculated at 20 per cent. Sir, hon. members know that this is excluding the legal expenses. It will be known to the hon. members that the zemindars have to spend a good lot as legal expenses. They have to file rent suits for collection of arrears of rent, but these legal charges are not deducted. So I think it will be fair and quite reasonable that the percentage should be increased to 20 per cent. That will be a quite reasonable figure. With these words, I commend my motion to the acceptance of the House.

**The Hon'ble the SPEAKER:** This clause aims at making provisions as to how the income should be determined by allowing some deductions. This also relates to a scheme of taxation and is in regard to collection of rents.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** No. Sir, it will not come within that section. It will be covered by the section which the hon. Mr. Clayton wants to include.

**The Hon'ble the SPEAKER:** Very well. Then the amendment moved is:

"That in the first line of sub-clause (c) of clause 6 the figure '15' shall be replaced by the figure '20'".

**Maulavi MUNAWWAR ALI:** Mr. Speaker, Sir, I beg to support this amendment. The hon. mover has brought to the notice of this Assembly that the cost of collection in the Surma Valley regarding Wards' estates is above 20 per cent. and that in the Assam Valley it is about 18 per cent. excluding the cost of litigation. The Wards' estates generally are big estates and the proportion of cost is necessarily smaller, but an estate of smaller size will be brought under the purview of this Bill. The smaller the estate, it must be admitted, the larger is the cost of collection. That being so, the figure should be higher. It has been brought to the notice of the House the number of estates in the Sylhet district is innumerable and almost all are very small. They are simply innumerable small peasant proprietors and according to that calculation the cost of collection would rise above 40 per cent. I am sorry that my hon. friend Mr. Hirendra Chandra Chakravarti is absent. He gave notice of a motion for raising the figure to 33 per cent. and if he had moved that motion I would have certainly supported it. But in the absence of that I have no other alternative but to support this motion.

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\*That in sub-clause (c) of clause 6 the figure and the words "15 per cent." occurring in the first line shall be substituted by the figure and words "33 per cent." and the word "which" in the second line of the same sub-clause shall be deleted and the words "accrued due" occurring thereafter in the third line shall be substituted by the word "realised".



Sir, in these days when the economic conditions of the tenants do not permit them to pay up their dues to the landlords, the actual income of the landlords generally in my district is far below 50 per cent. With reference to that figure of 50 per cent. the cost of collection becomes double because all the paraphernalias — the officers, peons, etc. are to be maintained and those people were engaged with reference to the entire income, but the actual income on account of depression has now come below 50 per cent. Therefore, the cost with reference to that figure becomes double. I do not see my way why Government should not be able to accept this amendment. Government do not want that the gross income should be taxed. It is the net income that should be taxed. If that is the intention of the Government, knowing all the facts, I see no reason why they should not be able to accept this amendment.

Then as regards the cultivators' agricultural produce: there are big agriculturists and small agriculturists. Well, Sir, I do not know if in coming to the figure of 15 the Hon'ble Finance Minister had taken into account all the factors that are operative in the cost of agricultural produce, particularly paddy, mustard and such other things. Cattle mortality is taking place every year in huge number and many other agents are oppressing the cultivators. The figure for the cost of production as I have computed in my side of the country comes up to no less than 45 per cent.

Sir, if it is his intention not to hit these people, it should not be impossible for him to accept this amendment which gives a very moderate figure. The figure of 33 proposed would have scarcely sufficed and the figure of 20 is much below that which ought actually to be deducted. I think, Sir, the Hon'ble the Finance Minister would readily accept this amendment.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED\***: I oppose the amendment moved by my hon. friend Khan Bahadur Maulavi Sayidur Rahman. Under the Indian Income-Tax Act, deduction on such amount is given to an extent of 6 per cent. Hon. members will also bear me out that we pay the mauzadars for collection of rent and land revenue to an extent of 10 per cent. for the first Rs. 10,000 and then 5 per cent over and above the Rs. 10,000. The deduction given in Bihar is to the extent of 12½ per cent. Taking all these facts into consideration we maintain that by giving 15 per cent. on account of this item, I think the Government have not done any injustice to the people and, therefore, I oppose the amendment.

**The Hon'ble the SPEAKER**: The question is "that in the first line of sub-clause (c) of clause 6 the figure '15' shall be replaced by the figure '20'".

(A summary division was taken by asking the members to rise in their places.)

The House divided with the following result:—

Ayes—38.

Noes—54.

The motion was lost.

**The Hon'ble the SPEAKER**: Then there are three amendments which stand in the name of (1) Hon'ble Mr. Fakhruddin Ali Ahmed (2) Mr. Arun Kumar Chanda and (3) Babu Rabindra Nath Aditya.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED**: These are more or less verbal amendments of which notices have been given by the hon. members Mr. F. W. Hockenull, and Mr. J. R. Clayton also. I shall accept this amendment and not move mine.



**Mr. H. W. HOCKENHULL:** Mr. Speaker, Sir, I beg to move that in clause 6 (*f*) of the Bill after the words "any capital asset" the word "used" shall be inserted.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** I accept this amendment.

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

"That in clause 6(*f*) of the Bill after the words 'any capital asset' the word 'used' shall be inserted."

The motion was adopted.

**Maulavi ABDUL BARI CHAUDHURI:** I beg to move—

That after item (*l*) of clause 6 the following new item shall be added as item (*m*) and the existing item (*m*) shall be renumbered accordingly: "*(m)* price of total amount of agricultural produce required for the annual consumption of the family of the assessee"

Sir, this is a much needed amendment. Clause 2 of the Bill defines agricultural income as any income derived from land which is used for agricultural purposes. But nowhere the amount of agricultural produce required for annual consumption of the assessee has been omitted. If, however in case of a cultivator, agricultural income means the net cash income out of paddy when brought to market, this amendment will be unnecessary. But in the absence of such a clear provision, it is only proper that this amendment should be accepted.

The agriculturists on villages so often have to maintain big families and a very big quantity of paddy is required for their annual consumption. This should not be taken into consideration in assessing the income-tax.

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

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

"That after item (*l*) of clause 6 the following item shall be added as item (*m*) and the existing item (*m*) shall be renumbered accordingly—

" (*m*) price of total amount of agricultural produce required for the annual consumption of the family of the assessee."

**Maulavi JAHANUDDIN AHMED:** Mr. Speaker, Sir, I should like to support the amendment moved by the hon. member. It is really a most reasonable amendment that has been moved by the hon. mover. Sir, really we were surprised to hear from the Hon'ble Minister that he has not excluded the amount that is required for the consumption of the agriculturists themselves.

It will be really going against the principle of the Hon'ble Minister who very often advocates that he wants to help the poor agriculturists. I would therefore request him to accept the amendment and I am sure he will accept this most reasonable amendment. With these words, I support the motion.

**Maulavi Muhammad MAQBUL HUSSAIN CHOUDHURY:** Mr. Speaker, Sir, I rise to support this amendment. I find there is a long list of deductions and I do not see why this amount also should not come in that list. The proposed Bill is innocent on its face, but actually it means indirect taxation on the poor people. I, therefore, urge upon the Hon'ble Minister that he would very gladly accept this amendment and thus relieve the poor cultivators from payment of taxation on this amount.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I oppose this amendment on the ground that there is no precedent for such a deduction either in the Indian Income-tax Act or in the Bihar Agricultural Income-tax Act.



Neither of these Acts make any allowance for family maintenance and I think, Sir, that is very unreasonable that such an amendment should be pressed before the House.

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

"That after item (l) of clause 6, the following new item shall be added as item (m) and the existing item (m) shall be renumbered accordingly.

'(m) price of total amount of agricultural produce required for the annual consumption of the family of the assessee.' "

The motion was negatived.

**The Hon'ble the SPEAKER:** Then comes amendment No. 22.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** That is also time-barred, Sir.

**The Hon'ble the SPEAKER:** I exercise my discretion and allow Khan Bahadur Maulavi Sayidur Rahman to move this amendment.

**Khan Bahadur Maulavi SAYIDUR RAHMAN:** I beg to move, Sir, that after sub-clause (m) of clause 6 of the following shall be added as new sub-clause (n):—

"(n) Any amount spent for religious or charitable purposes such as gratuitous relief in times of calamities, relief of the poor, education, medical relief and advancement of any other object of general public utility."

Sir, it is hardly necessary for me to make a long speech on this amendment. Every member of this House has got personal experience as to what diverse calls are made on their purses on account of religious and charitable purposes. They can well infer what greater call there are for religious and charitable purposes on the purses of the rich. So, I think it stands to reason that the amount spent on such charity should be deducted in assessing the income from agriculture. With these words, Sir, I commend my motion for the acceptance of the House.

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

"That after sub-clause (m) of clause 6 the following shall be added as new sub-clause (n):—

'(n) Any amount spent for religious or charitable purposes such as gratuitous relief in times of calamities, relief of the poor, education, medical relief and advancement of any other object of general public utility.' "

**Maulavi Muhammad MAQBUL HUSSAIN CHOUDHURY:** Mr. Speaker, Sir, I rise to support the amendment which I think is a very reasonable amendment, as the words themselves show. The Cabinet stands for doing benefit to the poor. I hope the poor people for whose benefit the amendment is meant will not be deprived of the support of the Cabinet. I would therefore ask the Hon'ble Minister of Finance to accept the amendment without any opposition.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, the purpose for which the hon. member has moved this amendment has been provided for in clause 8, and if he were to look into that clause, he will find that, if there is a trust, relief has been given for such expenditure. If that is so, I cannot understand the purpose for which the hon. member has moved this amendment.

**Khan Bahadur Maulavi SAYIDUR RAHMAN:** Even without a trust we have to spend a lot on charity.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** We are not in a position, Sir, to give such an exemption, unless deduction is claimed on behalf of a trust, for the simple reason that there will be fictitious claims and it will be very difficult for Government to control such claims. Therefore, Sir, I oppose this amendment.



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

"That after sub-clause (m) of clause 6 the following shall be added as new sub-clause (n):—

'(n) Any amount spent for religious or charitable purposes such as gratuitous relief in times of calamities, relief of the poor, education, medical relief and advancement of any other object of general public utility."

(A summary division was taken by asking the members to rise in their places)

The House divided with the following results—

Ayes—37.

Noes—54.

The motion was negatived.

**The Hon'ble the SPEAKER:** The question is that clause 6 as amended stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** Then comes clause 7. The first amendment under this clause is No. 23 by Maulavi Abdul Bari Chaudhury.

**Maulavi ABDUL BARI CHAUDHURY:** Sir, I beg to move that in the first line of item (d) of sub-clause (2) of clause 7 after the word "cultivating" the words, "and harvesting" shall be added.

Sir, this is a very simple and harmless amendment and so it should be accepted by the Hon'ble Revenue Minister. "Cultivation" does not include harvesting and so the words "and harvesting" should also be adopted. It being a very simple amendment, should, I think, be accepted by the Hon'ble Minister.

**The Hon'ble the SPEAKER:** The amendment moved is:—

"That in the first line of item (d) of sub-clause (2) of clause 7 after the word 'cultivating' the words 'and harvesting' shall be added".

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, the word "cultivation" includes everything such as ploughing, sowing, transplanting, harvesting and marketing and so it is, I think, unnecessary and therefore I oppose this amendment.

**The Hon'ble the SPEAKER:** The question is "that in the first line of item (d) of sub-clause (2) of clause 7 after the word "cultivating" the words "and harvesting" shall be added".

The motion was negatived.

**Mr. F. W. HOCKENHULL:** Sir, I beg to move that in clause 7(2) of the Bill in sub-clause (f), sub-clause (ii) be omitted and the following sub-clause be inserted:—

"(ii) in respect to current repairs to any capital asset used for the purpose of deriving such agricultural income from such land the amount paid on account thereof".

In point of fact, Sir, the amendment to be moved later on by the Hon'ble Finance Minister more or less covers the same intention as that of No.24 and I would put it to him that the wording of the amendment which I am now proposing is quite similar to the wording of the Central Income-Tax Act and is therefore preferable for the sake of uniformity.

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

That in clause 7(2) of the Bill in sub-clause (f), sub-clause (ii) be omitted and the following sub-clause be inserted:—

"in respect to current repairs to any capital asset used for the purpose of deriving such agricultural income from such land the amount paid on account thereof".

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Sir, this amendment, which is in respect of current repairs is unnecessary in view of what has already been provided in the Bill. Therefore, I hope the hon. member will not press his amendment.



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

“That in clause 7(2) of the Bill in sub-clause (f), sub-clause (ii) be omitted and the following sub-clause be inserted—

“(ii) in respect to current repairs to any capital asset used for the purpose of deriving such agricultural income from such land the amount paid on account thereof”.

The motion was negatived.

**The Hon'ble the SPEAKER:** Then, I think, amendments 25, 26, and 27 are same.

**Mr. F. W. HOCKENHULL:** Mr. Speaker, Sir, I beg to move that in clause 7(2) of the Bill in sub-clause (f) (ii) the semi-colon and the word ‘force’ shall be omitted.

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

“That in clause 7(2) of the Bill in sub-clause (f) (ii) the semi-colon and the word ‘force’ shall be omitted”.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Sir, as we have also given notice of the similar amendment, I accept this one.

**The Hon'ble the SPEAKER:** The question is: “that in clause 7(2) of the Bill in sub-clause (f) (ii) the semi-colon and the word ‘force’ shall be omitted”.

The motion was adopted.

**Mr. J. R. CLAYTON:** I beg, Sir, to move that in clause 7(2) of the Bill in sub-clause (f) (v) the words “provided that notwithstanding anything contained” to the end of the sub-clause shall be omitted.

Sir, the words which this amendment seeks to delete appear to result from some confusion of thought. It does not follow that the money recovered from the Insurance Company should necessarily be assessable, for such money may need be capital and not income. No similar provision appears in the Central Income-tax Act. Moreover it is open to considerable doubt whether the money recovered from the Insurance Company can be held to be covered by the Indian Income-tax Act's definition of the agricultural income. If it is not so covered, the clause will be *ultra vires*. If, on the other hand it is so covered then the payment being agricultural income will in any case be taxable and the words which I am proposing to delete are therefore unnecessary.

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

“That in clause 7(2) of the Bill in sub-clause (f) (v) the words ‘provided that notwithstanding anything contained’ to the end of the sub-clause shall be omitted”.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, we cannot agree to this amendment for the simple reason that, unless these words are there, the sum received from the Insurance Company will not be agricultural income under the definition of the terms or under the provisions of the Bill.

**The Hon'ble the SPEAKER:** The question is “that in clause 7(2) of the Bill in sub-clause (f) (v) the words ‘provided that notwithstanding anything contained’ to the end of the sub-clause shall be omitted”.  
(A summary division was taken by asking the members to rise in their places.)

The House divided with the following result—

Ayes:—41.

Noes:—54.

The motion was negatived.



**Mr. J. R. CLAYTON:** Sir, I beg to move that in clause 7(2) of the Bill in sub-clause (f) (e) after the words "received by him from the insurance company in any year" the words "to the extent to which the same is by way of compensation for loss of agricultural income" shall be inserted.

As the measure is at present framed, money recovered from the insurance company as compensation for loss in respect of an asset not concerned with agricultural portion of the income would be liable to agricultural income-tax. Supposing for example the factory of a tea estate were burnt down, it cannot be the Government's intention that the compensation received from an insurance company on this account should be treated as agricultural income. But such would be the case under the present form of the clause, as not only applying to building, it can also apply other forms of assets such as to actual trees themselves. The amendment seeks to remedy that defect and to confine the operation of the clause to compensation received on account of loss of crop or of agricultural income. Such being the case, Government should have no difficulty in accepting this amendment.

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

"That in clause 7(2) of the Bill in sub-clause (f)(v) after the words 'received by him from the insurance company in any year' the words 'to the extent to which the same is by way of compensation for loss of agricultural income' shall be inserted".

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Sir, I oppose this amendment.

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

"That in clause 7(2) of the Bill in sub-clause (f)(v) after the words 'received by him from the insurance company in any year' the words 'to the extent to which the same is by way of compensation for loss of agricultural income' shall be inserted".

(A summary division was taken by asking the members to rise in their places.)

The Assembly divided with the following result:—

Ayes—42.

Noes—52. ✓

The motion was negatived.

**Mr. F. W. HOCKENHULL:** Mr. Speaker, Sir, I beg to move that in clause 7(2) of the Bill in sub-clause (f)(vii) the words "incurred wholly or exclusively" shall be omitted and the words "laid out or expended wholly and exclusively" shall be substituted.

I have very little to say with regard to this amendment except that it conforms to the Indian Income-tax Act on which decisions of the Court had been made, and it is of value that we should have uniformity in the language as far as possible. I feel sure that the Hon'ble Finance Minister will see no difficulty in accepting this amendment.

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

"That in clause 7(2) of the Bill in sub-clause (f)(vii) the words 'incurred wholly or exclusively' shall be omitted and the words 'laid out or expended wholly and exclusively' shall be substituted".

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** I have no objection in accepting this amendment, Sir.



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

"That in clause 7(2) of the Bill in sub-clause (f)(iii) the words 'incurred wholly or exclusively' shall be omitted and the words 'laid out or expended wholly and exclusively' shall be substituted".

The motion was adopted.

**The Hon'ble the SPEAKER:** I think amendments Nos. 31, 32 and 33 are interconnected. If No. 31 is accepted others fall through.

**Mr. J. R. CLAYTON:** No, Sir, only 32 would fall through, not 33. Sir, I beg to move that in clause 7(2) of the Bill the first proviso shall be omitted and in the second proviso in the first line the word "further" shall be omitted.

This proviso is both unnecessary and confusing. In the case of income assessed under section 7, section 6 has no application. Does this proviso mean that in the case of a person who has some income assessable under section 6 and some income assessable under section 7, he cannot get any allowances in respect of this section assessment, if his income assessed under section 6 has been subject to allowances? If so, it is manifestly unjust. If it does not mean this it means nothing at all. If the proviso means that because his non-agricultural income may have been subject to allowances in his assessment to agricultural income-tax, it is clearly unjust. If it does not mean this it is unnecessary and meaningless.

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

"That in clause 7(2) of the Bill the first proviso shall be omitted and in the second proviso in the first line the word 'further' shall be omitted."

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, we cannot agree to the omission of the proviso which provides against double deductions in the assessment under the Indian Income-tax Act and again under the Provincial Agricultural Income-tax Act.

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

"That in clause 7(2) of the Bill the first proviso shall be omitted and in the second proviso in the first line the word 'further' shall be omitted."

The motion was negatived.

**Mr. J. R. CLAYTON:** I beg, Sir, to move that in clause 7 (2) of the Bill the first proviso shall be omitted and the following proviso shall be substituted:

"Provided that in assessing agricultural income mentioned in sub-clause (2) of clause (a) of section 2 no deduction shall be allowed under this section, if the same shall have already been allowed under the provisions of section 6 of the Act or under any provisions of the Indian Income-tax Act by virtue of the next proviso."

Sir, I have already explained why the proviso in itself is unsatisfactory. I failed to get my amendment accepted and I submit a slightly altered amendment which appears to me to be better than the one in the Bill.

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

"That in clause 7 (2) of the Bill, the first proviso shall be omitted and the following proviso shall be substituted:

"Provided that in assessing agricultural income mentioned in sub-clause (2) of clause (a) of section 2 no deduction shall be allowed under this section, if the same shall have already been allowed under the provisions of section 6 of the Act or under any provisions of the Indian Income-Tax Act by virtue of the next proviso'".



**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I oppose this amendment. I see no reason why we should change the language of the clause. The provision which we have made is more suitable and will meet the cases which we intend to provide under that proviso.

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

"That in clause 7 (2) of the Bill the first proviso shall be omitted and the following proviso shall be substituted:

'Provided that in assessing agricultural income mentioned in sub-clause (2) of clause (a) of section 2 no deduction shall be allowed under this section, if the same shall have already been allowed under the provisions of section 6 of the Act or under any provisions of the Indian Income-tax Act by virtue of the next proviso.' "

(A summary division was taken by asking the members to rise in their places).

The House divided with the following result :

Ayes—41.

Noes—54.

The motion was negatived.

**Mr. J. R. CLAYTON:** Sir, I beg to move that in clause 7 of the Bill after the second proviso the following words be added:

"For the purposes of this proviso the computation made in the Indian Income-tax Officer's assessment order shall, subject to the deduction of allowances authorised under this Act as aforesaid, and to any variation of such order resulting from any appeal, revision or correction, be final and binding."

Sir, in the interests of the revenue and of the tax-payer to avoid a multiplicity of work and disputes, it is desirable, in the case of tea garden assessments, where the 60:40 ratio will apply, to see that the Indian Income-tax Officer's assessment order is taken as the basis for the agricultural assessment. Any other arrangement is bound to lead to difficulties. For instance, tea gardens belonging to Companies with complicated forms of accounts are habitually assessed by Income-tax Officers having the special experience necessary, and if an Income-tax Officer in the province who has no experience of these complicated assessments is independently to compute the profits as for Indian income-tax, there will be endless difficulties apart from the fact that the company concerned may have to send voluminous accounts, vouchers, records and documents to the Agricultural Income-tax Officer. Again in dealing with such items as depreciation under the Indian Income-tax Act, the Agricultural Income-tax Officer would not be able to compute this without first obtaining details from the Indian Income-tax authorities at the place where the Indian assessment is made and all previous records kept.

The arrangement under the Assam Bill is for the Indian Income-tax Department to administer the Assam Act and the amendment therefore will appeal to the Department as much as to the tax-payer.

I commend this to the acceptance by the Government.

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

"That in clause 7 of the Bill after the second proviso the following words be added:—

'For the purposes of this proviso, the computation made in the Indian Income-tax Officer's assessment order shall, subject to the deduction of allowances authorised under this Act as aforesaid, and to any variation of such order resulting from any appeal, revision or correction, be final and binding'."



**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** We cannot accept the addition of this amendment. We cannot wait for compilation for assessment purposes for the result of an appeal or revision in Assam under the Indian Income Tax Act. It will be recovered by the person who pays this in regard to appeal, revision or correction. When the agricultural income-tax has been paid in excess he would apply for refund.

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

"That in clause 7 of the Bill after the second proviso the following words be added:—

'For the purposes of this proviso the computation made in the Indian Income Tax Officer's Assessment order shall, subject to the deduction of allowances authorised under this Act as aforesaid, and to any variation of such order resulting from any appeal, revision or correction, be final and binding.' "

(A Summary division was taken by asking the members to rise in their places.)

The House divided with the following result:—

Ayes—43

Noes 54.

The motion was lost.

**The Hon'ble the SPEAKER:** The question is that clause 7 as amended stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** There are no amendments to clause 8. The question that clause 8 stands part of the Bill. The motion was adopted.

**The Hon'ble the SPEAKER:** Clause 9; the hon. Khan Shahib Maulavi Mudabbir Hussain is absent. So amendment No.31\* goes out.

**Maulavi ABDUL BARI CHAUDHURY:** Mr. Speaker, Sir, I beg to move that both the provisos of clause 9 shall be omitted. Sir, by clause 9 some sort of relief is sought to be given to the Muslim Trusts, but the first proviso to the clause practically nullifies the effect. Most of the Muhammadan *wakfs* now-a-days are *wakf al-al-aulad* created mainly in the interests of the beneficiaries. The *wakf al-al-aulad* is equally sacred like a general *wakf*, so there can be no justification for this discrimination in the case of the beneficiaries under an *wakf al-al-aulad*.

Sir, in the absence of a Provincial legislation in Assam about the *wakf* properties, these estates are generally mismanaged and the beneficiaries are in great difficulties. They are seldom regularly paid. This proviso will place an additional handicap in their way.

The second proviso is dependent on the first proviso.

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

**The Hon'ble the SPEAKER:** The amendment moved is—

"That both the provisos of clause 9 shall be omitted."

\* That in the third line of clause 9 after the word "before" the words "or after" shall be added.



**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** Mr. Speaker, Sir, in the Select Committee's Report I find that so far as the definition of beneficiary is given, the explanation at the end of the clause has been omitted as being unnecessary as the beneficiary under a *wakf-alal-aulad* is necessarily the settler and member of his family. Originally we find that the meaning of beneficiary was given as the settler, his family, children and descendants, but that the beneficiaries need not be actually members of his family or his descendants is evident from the Muhammadan Law, as well as from other laws under the Muhammadan Law may mean any member of the *wakif's* family or "others". It is a known fact that beneficiaries under the Muhammadan Law would not necessarily mean, son, wife or their descendants, it may also include people who would not in the ordinary course have inherited the property. Unfortunately, the Hon'ble Minister in charge of the Bill has had no opportunity to see any of the *wakf* deed in the district of Sylhet. I can inform the hon. members that *wakf* is a very common thing. So far as the district of Sylhet is concerned, I can say without any fear of contradiction that there will be found no less than a thousand *wakf* deeds, and it will appear from these that sometimes the *wakif* has even disinherited members of his family in order to make provision for others who in the ordinary course would not have inherited the property. Particularly I would mention the case of one *wakf* deed which was drafted by the hon. Rai Bahadur Promode Chandra Datta. That is a *wakf* in which we find that even the *wakif* has disinherited his own son. He has made provision for persons who in the ordinary circumstances would not have inherited him. Now we find that these properties given for charitable purposes are going to be taxed. Sir, there are *wakfs* where the *wakifs* have not made any specific allocation of the amount meant for charitable purposes. At least I can mention one case of this nature and I think the record of that case has now come to the Hon'ble Minister in charge *i.e.* Kanihati' *wakf* case. In that case the point was raised whether the Deputy Commissioner or the Collector under section 10 is given any power or not and whether any specific allocation has been made for the purpose of charity. So there will be many such cases for the Income-tax officer to determine what amount is spent for charitable purposes and these things will be left to the discretion of the Income-tax officer. It is really very significant that the law is going to be enacted over subjects such as *wakfs* by the Hon'ble Minister without caring to know what effect it will have on the *wakfs*.

Sir, we found the other day in Bihar that Hon'ble Mr. Syed Mahmud also placed before the Bihar Assembly a Bill relating to the question of *wakf* estates. It may be said that when the Agricultural Income-tax Bill was under consideration of the Bihar Legislative Assembly nobody could say at that time that no figures were collected as to the *wakf-alal-aulad* and furthermore I have got to submit that the condition of Bihar is not the condition of Assam. On a perusal of the Agricultural Income-tax Bill and the provision that has been made for the *wakfs* I am sorry to say that the circumstances at any rate indicate that the Hon'ble Minister had no time to go even through this, otherwise he being the author of this Agricultural Income-tax Bill would have been the last person to surrender the proviso and come forward to omit such an explanation at the end of clause 9. It is stated in Select Committee's report that the explanation at the end of this clause has been omitted as being unnecessary as the beneficiaries under a *wakf-alal-aulad* are necessarily the settler and members of their family. Sir, I would be the last man to believe that a Muhammadan at least would make



such a serious blunder that the *wakf-alal-aulad* are necessarily the settler and members of his family and no body else. Sir, there are hundreds of *wakf-alal-aulad* in my district where the majority of the property has been given for charitable purposes.

Sir, as I have said that when we go to look to a definition like this even in the Sylhet Tenancy Act which was framed with great pain by a judicial officer we find that he defined this *wakf-alal-aulad* and made certain provisions regarding that. Some separate provision must be made for beneficiaries and others who are treated in a different footing. So, I say that in this case particularly we find no provision has been made as to whether all are to be treated equally or not. Sons and their dependants may come under the operation of this Act but others who are not now beneficiaries in the sense although they are members of the *wakf* should not be taxed. As I said Bihar case is something different. In Bihar we find that Government received various deputations from different groups of persons and opinion was invited and a long time was allowed to discuss over this matter. And what is the condition of those *wakifs*? They are not like the *wakifs* of the district of Sylhet. The *wakifs* of Sylhet are mostly poor people. In this case as I have said various mistakes will occur and great hardship will be caused by leaving to the Income-tax officer to find out which are to be taken as *wakf-alal-aulad* and which are to be taken as outside this branch. With these words, I support this amendment.

### Adjournment

The Assembly was then adjourned till 11 a.m. on Thursday, the 6th April, 1939.

SHILLONG :

The 30th June 1939. }

A. K. BARUA,

Secretary, Legislative Assembly, Assam.



ASSAM LEGISLATIVE ASSEMBLY

GOVERNMENT OF ASSAM

GOVERNOR OF ASSAM

His Excellency Mr. H. J. TWYNAM, C.S.I., C.I.E., I.C.S.

MEMBERS OF THE COUNCIL OF MINISTERS

1. The Hon'ble Srijut GOPINATH BARDOLOI, M.A., B.L., in charge of Home and Education Departments.
2. The Hon'ble Mr. FAKHRUDDIN ALI AHMED, Barrister-at-Law, in charge of Finance and Revenue Departments.
3. The Hon'ble Babu KAMINI KUMAR SEN, B.L., in charge of Local Self-Government, Legislative, Judicial and General Departments.
4. The Hon'ble Srijut RAMNATH DAS, B.L., in charge of Medical, Public Health, Welfare of Labour, Boilers, Factories and Electricity Departments.
5. The Hon'ble Babu AKSHAY KUMAR DAS, B.L., in charge of Excise and Agriculture Departments.
6. The Hon'ble Maulavi Md. ALI HAIDAR KHAN, in charge of Public Works Department.
7. The Hon'ble Srijut RUPNATH BRAHMA, B.L., in charge of Forest and Registration Departments.
8. The Hon'ble Khan Bahadur Maulavi MAHMUD ALI, in charge of Co-operative Societies and Industries Departments.