

Proceedings of the Seventh 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 Saturday, the 2nd March, 1940

PRESENT

The Hon'ble Mr. Basanta Kumar Das, Speaker, in the Chair, the ten Hon'ble Ministers and 88 members.

QUESTIONS AND ANSWERS

STARRED QUESTIONS

(to which oral answers were given)

Mr. NABA KUMAR DUTTA: Yesterday, Sir, you told us that you would allow us to put supplementary questions on the starred question put by my hon. friend Mr. Jobang D. Marak. May I know if we can put supplementary questions?

The Hon'ble the SPEAKER: The starred questions which are in the order paper for to-day must first be finished. I will see if I can allow any supplementary questions to be put after that is finished.

Mr. JOBANG D. MARAK: But I have been allowed, Sir.

The Hon'ble the SPEAKER: Not now, but after the starred questions for to-day are finished.

Appointment of some Motor Vehicles Sub-Inspectors

Mr. C. GOLDSMITH asked:

*82. Will Government be pleased to state—

- (a) Whether it is a fact that some Motor Vehicles Sub-Inspectors have since been recruited by the Inspector-General of Police, Assam, without any advertisement?
- (b) Whether the selected candidates possessed any technical qualifications in the Motor Vehicles Department?
- (c) If so, what qualifications did they possess?
- (d) Whether the candidates appointed by the Inspector-General of Police underwent any training in the line after their appointments?
- (e) If so, why trained and technical passed students in the line were not called for those posts?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied:

82. (a)—Sub-Inspectors are appointed not by the Inspector-General but by the Superintendents of Police and they are not recruited specially for the Motor Vehicles Department. None have been recruited without advertisement.

(b)—Candidates for direct appointment as Sub-Inspectors are not required to have technical qualifications in *motor vehicles work*.

(c)—Does not arise.

(d)—Arrangements have been made for training serving officers of the Police in *motor vehicles work*, but men so trained will not be confined to work in the Motor Vehicles Department.

(e)—~~The~~ *men appointed* for this work is temporary and *selected candidates* will not remain always in the Motor Vehicles Department.

Mr. C. GOLDSMITH: Is it not good on the part of the Government to take technical passed students as candidates for this post, who will do better work than Police Department men?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Sir, the suggestion would be taken into consideration.

Re Hon'ble Minister-in-charge of Medical Department

Babu DAKSHINARANJAN GUPTA CHAUDHURI asked :

*83. (a) Is it a fact that the Hon'ble Minister-in-charge of the Medical Department was the Chairman of the Hailakandi Local Board before his acceptance of office as a Minister?

(b) If so, is it a fact that immediately after assumption of office, he took leave for 3 months from the said Board?

(c) Is it a fact that he is still continuing, both as a Minister-in-charge of the Medical Department and the Local Board Chairman on leave?

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI replied :

83. (a)—Yes.

(b)—No.

(c)—No.

Babu DAKSHINARANJAN GUPTA CHAUDHURI: With regard to (b), may we know the date when the Hon'ble Minister resigned the Chairmanship?

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI: It is difficult for me to give the date without reference.

Mr. NABA KUMAR DUTTA: Am I to understand that he resigned after he received the question from the hon. member?

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI: I cannot say off hand.

(Starred questions Nos.84-85 standing in the name of Maulavi Muhammad Amjad Ali were not put and answered as the questioner was absent.)

Grant of electric license for the Karimganj and Habiganj Towns

†**Babu LALIT MOHAN KAR** asked :

*86. Will Government be pleased to state—

- (a) Whether it is a fact that the order granting electric license for the Karimganj town to one Babu Barada Kumar Das was passed by the Congress-Coalition Ministry before they resigned ?
- (b) Whether it is a fact that the said order has been cancelled by the present Ministry ?
- (c) If so, why ?
- (d) If not, why the said order has not yet been published or communicated ?

*87. Will Government be pleased to state—

- (a) Whether it is a fact that the order granting electric license for the Habiganj town to Messrs. Choudhury Nag & Co., was passed by the Congress-Coalition Ministry before they resigned ?
- (b) Whether it is a fact that the said order has been cancelled by the present Ministry ?
- (c) If so, why ?
- (d) If not, why that order has not been published or communicated ?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI replied :

86. (a)—The late Hon'ble Minister came to a decision regarding the grant of a license to Mr. Das, but his order did not contain any specific reference to the various points requiring decision, and in one respect was based on an assumption that requires to be verified.

(b)—The order has not been issued, nor could it be issued since Government must examine a number of issues which the late Hon'ble Minister did not consider.

(c)—Does not arise.

(d)—This has been explained in the reply to (b).

Mr. FAKHRUDDIN ALI AHMED : The question with regard to (b) was whether the order passed by the previous Ministry was cancelled and the Hon'ble Minister has not said anything about it.

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI : Government have not come to any decision with regard to this matter

Mr. FAKHRUDDIN ALI AHMED : May we know whether that order has been cancelled ?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI : It has not yet been cancelled. Government have not yet come to any decision, the matter is under consideration.

Mr. FAKHRUDDIN ALI AHMED : Is it a fact that the present Government are contemplating to cancel this order ?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI : That is a theoretical question, Sir.

†Babu Dakshinaranjan Gupta Chaudhuri put questions for Babu Lalit Mohon Kar during his temporary absence on authorisation.

Mr. FAKHRUDDIN ALI AHMED: How can that be a theoretical question, Sir, when the question seeks to elicit an information from the Hon'ble Minister ?

The Hon'ble the SPEAKER: The answer really is that the Government have not yet decided whether they would cancel or confirm it.

Babu DAKSHINARANJAN GUPTA CHAUDHURI: May we know the various points referred to by the Hon'ble Minister in his reply ?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: Those are confidential, I am not prepared to disclose them.

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI replied :

87. (a)—No.

(b), (c) & (d)—Do not arise.

Maulavi ABDUR RAHMAN: Is it a fact that there was no such application from Messrs. Chaudhury Nag ?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: I cannot say off hand. I must have notice of that question.

Reports on the Retrenchment Committee

Maulavi ABDUR RAHMAN asked :

*88. Will Government be pleased to state whether the Reports on the Retrenchment Committee are ready for publication ?

*89. (a) Is it a fact that due to the restriction imposed by Government Notification No.6276-H., dated the 30th September 1937, all persons appointed to Government service after that date could not be confirmed up till now ?

(b) If so, do Government propose to withdraw that Notification immediately ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

88, 89. (a) and (b)—The hon. member is referred to the replies given to the starred questions 74, 75 (a) and (b) asked by Khan Bahadur Dewan Eklmur Roza Chaudhury, M.L.A., at this session of the Assembly.

Mr. BAIDYANATH MOOKERJEE: Will the Hon'ble Premier be pleased to state whether the recommendations laid on the table are complete or not ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: The recommendations so far as I am aware are complete.

Mr. BAIDYANATH MOOKERJEE: Is it a fact that the scales of pay of the Sub-Deputy Collectors and the Extra Assistant Commissioners are not there ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I am not in a position to say that, Sir. The list placed on the table is not before me.

The Hon'ble the SPEAKER: But I think something has been laid on the table and the hon. member may see it.

Mr. BAIDYANATH MOOKERJEE: Can I do it now ? I have only hurriedly gone through it.

The Hon'ble the SPEAKER: Before putting any supplementary question, the hon. member should have seen it.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: He has seen it.

Mr. BAIDYANATH MOOKERJEE: Yes, I have seen it and I could not find the scales for the Sub-Deputy Collectors and the Extra Assistant Commissioners. Will the Hon'ble Premier, therefore tell us whether the list of recommendations is complete?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: The list is long, I could not compare it personally so I left it to the office to prepare the list. If there be other omissions, I shall have it completed.

Mr. BAIDYANATH MOOKERJEE: When can we expect the complete list?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I am not in a position to say whether there are other omissions. But if these are the only two omissions, then he can have the complete list within this Session.

Mr. BAIDYANATH MOOKERJEE: Will the Hon'ble Premier be pleased to ask the Department so that a complete list may be put before us within a week?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Very well, Sir, that will be done.

Re Habiganj Municipal Board

Maulavi ABDUR RAHMAN asked :

*90. Will Government be pleased to state—

- (a) The total population of Habiganj town?
- (b) The percentage of Muslims and Scheduled class people in the town (within the Municipality)?
- (c) The total number of seats of Commissioners in the Habiganj Municipal Board at present?
- (d) The number of seats elected by the rate-payers and those nominated by Government?
- (e) The number of seats, Muslims are entitled to, according to Muslim population?
- (f) Whether it is a fact that during the pre-Reformed days, 3 nominated seats used to be given to the Muslim Community?
- (g) The names of persons who have been nominated in the Habiganj Municipal Board this year?
- (h) Whether they were recommended by the Local Government, *i.e.*, Deputy Commissioner or Subdivisional Officer?
- (i) The grounds under which such nominations were given this year?

*91. (a) Is it a fact that two of the party members of the (Congress-Coalition) Government approached the Hon'ble Minister-in-charge of the Local Self-Government with different recommendations?

(b) If so, what were those?

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI replied :

90. (a)—No up-to-date figure is available. The population of the town at the time of the 1931 Census stood at 7,577 but since then the Municipality was reconstituted by the addition of new areas.

(b)—The percentage of Muslims and Scheduled Castes stands respectively at about 28.59 and 11.08 on the basis of the figure given above.

(c)—Sixteen.

(d)—Elected	...	...	...	...	13
Nominated	...	...	...	...	3

(e)—If representation were to be strictly in proportion to strength of population, Muslims would be entitled to roughly 4.5 seats.

(f)—No.

(g)—(1) Maulavi Abdul Gaffur Chaudhury.

(2) Maulavi Md. Monowar Tarafdar.

(3) Babu Bepin Behari Das, M.L.A.

(h)—Government regret their inability to reply to this question as they cannot disclose in any form the recommendations—which are of a confidential nature—of their officers.

(i)—The available seats were allotted to communities which appeared under-represented.

Maulavi ABDUR RAHMAN: Was there no regular representation from the Muslim public that the Muslims should be given their due share of seats in the Municipality?

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI: It may be so, but I have got no definite information.

Maulavi ABDUR RAHMAN: According to population, it seems that Muslims are entitled to 4.5 seats. May I know why all the nominated seats were not given to Muslims as they are under-represented in the Municipal Board?

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI: Probably the cases of other under-represented communities had also to be considered.

Babu NIRENDRA NATH DEV: May I know what is the number of elected Muslim members in the Municipality?

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI: So far I understand, one.

Mr. BAIDYANATH MOOKERJEE: May I know the number of elected members so far as the scheduled caste is concerned?

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI: Probably one, but I cannot give a definite reply off-hand.

Maulavi ABDUR RAHMAN : Is it a fact that the then Hon'ble Minister in charge of the Department threw off the recommendations of the local authorities, i.e., Subdivisional Officer and Deputy Commissioner and nominated members on the recommendation of his party members.

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI : Government are unable to reply to that question.

Maulavi Dewan MUHAMMAD AHBAB CHAUDHURI : Is not the Scheduled community included in the Hindu community ?

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI : Yes.

Babu DAKSHINARANJAN GUPTA CHAUDHURI : May I know whether the hon. questioner means only the Deputy Commissioner and the Subdivisional Officer by the term 'Local Government' ?

Maulavi ABDUR RAHMAN : I meant either the Deputy Commissioner or the Subdivisional Officer.

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI replied :

91. (a)—The present Government have no information.
(b)—Does not arise.

Further supplementary questions on starred question No. 80.**

The Hon'ble the SPEAKER : As a special case I shall allow supplementary question to starred question No. 80.

Mr. JOBANG D. MARAK : May I know from the Government if they know that the Begar system had been abolished long ago by the Government of India in 1908 ? May I make a reference to that fact so that Government may be in a position to reply ? The Government of India in their letter No. 358-507-2, dated the 20th March, 1908 stated as follows on the question of Begar system : "As regards the system of Begar, the Government of India agree that the time has come to abolish impressment of labour. The

Free Labour System in the Garo Hill. **

Mr. JOBANG D. MARAK asked :

- * 80. (a) Are Government aware that Free Labour System is still extant in the Garo Hills ?
(b) Is it a fact that Government promised to do away with this system ?
(c) Will Government be pleased to state if they are taking any action for its abolition ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

80. (a)—Government are not aware of any case where free labour is exacted in the Garo Hills except a complaint that villagers are required to build *bashas* for touring officers.
(b) & (c)—Government cannot trace a pronouncement to this effect, but they are considering what arrangements should be made in regard to *basha* building in connection with the travelling allowance rates, and will see that any grievance is removed.

Lieutenant-Governor considers that it may still be necessary to resort to impressment of labour for the carriage of officer's baggage. The Government of India will see that impressment of Labour for this purpose is strictly regulated so as to cause as little hardship as possible, and that full payment is made for the Labour".

The Hon'ble the SPEAKER: It is not necessary to give all these details. The hon. member may wait for a reply.

The Hon'ble Maulavi Saiyid Sir MUHAMMAAD SAADULLA: This is an entirely new question. Yesterday, the same hon. member mentioned that in putting his question about the free labour system, he did not include the Begar system. However, I will enquire into that. When he has made a reference to the effect that it has been abolished under the Government of India orders, then I must take it to be true.

Mr. BAIDYANATH MOOKERJEE: May I know what is the meaning of free Begar system in the Garo Hills?

The Hon'ble the SPEAKER: I remember he also mentioned something of the Begar system in the statement he made yesterday.

Mr. JOBANG D. MARAK: There are two distinct Begar systems in the Garo Hills. One is paid Begar system and the other is free Begar system.

UNSTARRED QUESTIONS

(to which answers were laid on the table)

Duties of Assistant Surgeons and introduction of travelling dispensaries

Maulavi ABDUR RAHMAN asked:

85. (a) Are Government aware that Assistant Surgeons do more clerical and touring works than surgery and treatment?

(b) If so, what measure do Government propose to adopt, if any, to counteract this?

(c) Do Government propose to introduce travelling dispensaries to give more effective relief to the suffering masses in the villages?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTI replied:

85. (a), (b) and (c)—The hon. member's attention is invited to the replies given to questions Nos. 273 and 275 asked by him in the Budget Session of the Assembly in 1939.

Proposed connection of the Patharkandi-Juri Road with the Latu-Hingajia Road

Babu RABINDRA NATH ADITYA asked :

86. (a) Do Government propose to connect the Patharkandi-Juri Road with the Latu-Hingajia Road ?

(b) If so, do Government propose to connect both the roads at or near Dakshinbhag *via* Jamkandi, Kalacherra, Benodepur, etc. ?

(c) Are Government aware that this proposed route connecting the said roads would be less costly and would develop an undeveloped area ?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI replied :

86. (a)—Yes. The project "Improving the feeder road to Juri Railway Station" included in the priority class I list, has already been approved by the Government of India to be financed from the Petrol Tax fund.

It is hoped to commence work next (1940-41) working season. This will connect the two roads mentioned *via* Juri Railway Station.

(b) and (c)—No other project for the connection of these two roads has been placed before the Assam Communications Board.

Spread of Kala-azar and Yaws in the Goalpara district

Srijut JOGENDRA NARAYAN MANDAL asked :

87. Will Government be pleased to state—

(a) Whether the Hon'ble Minister in charge of the Medical Department is aware that *Kala azar* and *Yaws* are yet spreading rapidly in many parts of the district of Goalpara ?

(b) Whether recently any survey was held for *Kala azar* and *Yaws* patients in the district of Goalpara ?

(c) If so, will Government be pleased to state separately the number of patients who are being treated in each dispensary and of those who are suspected of contamination but without any treatment ?

(d) Do Government propose to depute a suitable party of doctors and mobilise the staff for actively combating the diseases in the said area ?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTI replied :

87. (a)—With the increased facilities for treatment, a greater number of *Kala azar* and *Yaws* cases are receiving treatment but there is no certain indication that the diseases are rapidly spreading.

(b)—Yes.

(c)—The number of patients treated in each dispensary is given in the statement placed on the table.

Monthly summary of Kala azar Treatment of the district of Goalpara for the month of November 1939

Names of Dispensaries	No. of cases continuing from previous month	No. of fresh cases	No. of deaths	No. of cases discharged cured	No. of cases stopped otherwise	No. of cases transferred to other centres	No. of cases remaining under treatment	Remarks
DHUBRI SUBDIVISION								
1. Dhubri (in)	6	1	..	1	3	..	3	
2. Dhubri (out)	4	..	1	2	..	..	1	
3. Rupshi	80	4	..	26	29	..	199	
4. Agomani	6	..	..	3	1	..	2	
5. Harirhat	11	3	..	8	..	..	6	
6. Gossaigaon	2	1	..	1	1	..	1	
7. Bilashipara	11	3	..	7	..	..	7	
8. Salkocha	20	1	..	3	3	..	15	
9. Chapor	62	5	1	21	5	9	31	
10. Falimari .. ..	..	12	..	2	..	..	10	
11. Bijni .. ..	..	..	..	..	..	..	..
12. Jamadarhat .. ..	..	..	..	..	..	..	..
13. Mankachar	36	11	..	10	3	..	34	
14. Sukchar .. ..	..	..	..	..	..	..	..
15. Tamarhat .. ..	..	..	..	..	..	..	..
16. Sapotgram .. ..	..	..	..	..	..	..	..
17. Bagribari	2	..	..	..	..	..	2	
18. Golokganj	45	42	..	20	..	..	67	
19. South Salmara	11	5	..	6	..	..	10	
20. Kanuri .. ..	..	..	..	..	..	..	..
.. ..	30	11	..	13	..	..	28	
Total	326	99	2	123	45	9	416	
PUBLIC HEALTH								
Basugaon	7	2	..	2	..	1	6	
Dholmara	12	5	..	3	..	..	14	
Total	19	7	..	5	..	1	20	
ESTATE								
1. Gauripur	9	4	..	1	2	..	10	
2. Kokrajhar	2	..	1	..	..	..	1	
3. Salakuti	10	1	..	..	..	..	11	
4. Fakiragram	3	2	..	..	..	..	5	
Total	24	7	1	1	2	..	27	
Total of Dhubri subdivision	369	113	3	129	47	10	463	

Monthly summary of Kala azar Treatment of the district of Goalpara for the month of November 1939—concl'd.

Name of Dispensaries	No. of cases continuing from previous month	No. of fresh cases	No. of deaths	No. of cases discharged cured	No. of cases stopped otherwise	No. of cases transferred to other centres	No. of cases remaining under treatment	Remarks
Brought forward ..	369	113	3	129	47	10	463	
GOALPARA SUBDIVISION								
1. Goalpara (in) ..	..	..	..	..	..	..	..	..
2. Goalpara (out) ..	..	41	14	1	16	..	..	38
3. Mornai ..	..	28	4	..	15	2*	..	15
4. Dalgoma ..	..	12	8	..	2	3*	..	15
5. Lakhipur ..	..	3	2	1	..	..	..	4
6. Krishnai ..	..	27	11	..	..	..	..	38
7. N. Salmara ..	..	3	1	..	1	..	..	3
8. Rangjuly ..	..	34	7	..	6	..	..	35
9. Dhupdhara ..	..	..	..	..	..	..	..	..
10. Chunari ..	..	..	..	..	..	..	..	..
Total ..	148	47	2	40	5	..	148	*Discontinued treatment.
PUBLIC HEALTH								
1. Kharmuza ..	..	20	12	4	5	1	..	22
2. Garaimarighat ..	..	11	1	1	2	1	..	8
3. Agia ..	..	15	10	..	6	1	..	18
4. Dudnai ..	..	30	17	4	14	..	..	29
5. Dipkai ..	..	14	6	..	4	2	..	14
6. Uportala ..	..	12	3	..	3	..	..	12
7. Hirapara ..	..	..	..	..	..	..	..	..
Total ..	102	49	9	34	5	..	103	
ESTATE								
Abhayapuri (in) ..	..	..	..	..	..	..	..	..
Abhayapuri (out) ..	..	1	1	..	1	..	..	..
Baitamari ..	..	4	..	..	2	..	..	2
Total ..	5	1	..	3	..	..	3	
Grand total of Goalpara Subdivision ..	255	97	11	77	10	..	254	
District Total ..	624	210	14	206	57	10	717	

Monthly summary of Yaws Treatment in the District of Goalpara for the month] of
November 1939

Names of Dispensaries		No. of cases continuing from previous month	No. of fresh cases	No. of deaths	No. of cases discharged cured	No. of cases stopped otherwise	No. of cases transferred to other centres	No. of cases remaining under treatment	Remarks
DHUBRI SUBDIVISION									
1. Salkocha	.. ..	26	20	..	..	3	..	43	
2. Chapor	.. ..	57	22	..	5	1	..	73	
3. Dhubri	.. ..	..	..	..	..	..	..	..
4. Bijni	.. ..	..	..	..	..	..	..	..
Total		83	42	..	5	4	..	116	
PUBLIC HEALTH									
1. Basugaon	.. ..	3	8	..	..	..	..	11	
ESTATE									
1. Kokrajhar	.. ..	..	..	..	..	..	..	..
Total Dhubri Subdivision		86	50	..	5	4	..	127	
GOALPARA SUBDIVISION									
1. Krishnai	.. ..	59	24	..	2	17	..	64	
2. Goalpara	.. ..	32	17	..	15	..	..	34	
3. Rongjuli	.. ..	13	4	..	5	..	..	12	
4. Mornai	.. ..	8	1	..	4	..	..	5	
5. North Salmara..	.. ..	22	1	..	10	..	..	13	
Total		134	47	..	36	17	..	128	
ESTATE									
Baitamari	.. ..	14	4	..	3	4	..	11	
Bongaigaon	.. ..	..	..	..	..	..	..	..
Total		14	4	..	3	4	..	11	
PUBLIC HEALTH									
1. Agia	.. ..	59	24	..	14	..	..	69	
2. Dipkai	.. ..	29	8	..	2	2	..	33	
3. Dudnai	.. ..	12	1	..	2	3	..	8	
4. Hirapara	.. ..	..	..	..	..	..	..	..
5. Kharmuza	.. ..	75	27	..	11	29	..	62	
6. Dholmara	.. ..	6	3	..	3	..	..	6	
Total		181	63	..	32	34	..	178	
Total Goalpara Subdivision		329	114	..	71	55	..	317	
District Total		415	164	..	76	59	..	444	

(d)—Government have deputed a Sub-Assistant Surgeon for survey duty and are doing all they can to combat the diseases.

Srijut JOGENDRA NARAYAN MANDAL: From the statement it is found that there is indication that the number of cases has increased. May I know what steps have been taken to stop the cases?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTI: The reply is in 87(a) as regards the steps taken by Government.

Srijut JOGENDRA NARAYAN MANDAL: May I know what is meant by "number of cases stopped otherwise"?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTI: Certain number of patients do not come to dispensary regularly to take the injection.

Srijut JOGENDRA NARAYAN MANDAL: May I know what step has been taken for those cases?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTI: Government have instruction with the officers concerned to see that those persons who do not attend the dispensary should be made to attend.

Srijut PARAMANANDA DAS: May I know whether *Kala-azar* is spreading rapidly in Habraghat and Lakhipur thana areas and whether the Hon'ble Minister took these areas into consideration in replying to question No. 87?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTI: Certainly, Sir.

Maulavi GHYASUDDIN AHMED: May I know whether Government proposed to open public health dispensaries in those areas where *Kala-azar* is rampant?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTI: If the existing dispensaries are not sufficient to combat the disease, Government will certainly open more dispensaries.

Srijut PARAMANANDA DAS: I say that *Kala-azar* is spreading rapidly in Habraghat and Lakhipur thana areas. Is the Hon'ble Minister competent enough to refute me?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTI: There is no question of refuting. I am not prepared to say that *Kala-azar* is rampant there, but Government are taking step to combat the disease.

Mr. NABA KUMAR DATTA: May I know what steps have been taken?

The Hon'ble the SPEAKER: Order, order, the hon. member Srijut Paramananda Das has not finished yet.

Srijut PARAMANANDA DAS: What has been the result of the preventive measure adopted by the Government?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTI: The result is encouraging Sir. (*laughter*).

The Hon'ble the SPEAKER: Order, order.

Babu HARENDRA NARAYAN CHAUDHURI: Sir, in the reply we find that *Yaws* cases are receiving treatment. May I know which cases are called *yaws* cases?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTI: That is a kind of disease. People suffering get eruptions and sores all over the body. Any one who has visited the Dibrugarh dispensary knows what it is like.

Mr. NABA KUMAR DATTA: Does the Hon'ble Minister mean to say that this disease occurs only in Dibrugarh?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTI: No, Sir. There are cases in other places also. I know that *Fauz* cases are treated in the dispensary at Dibrugarh.

MR. BAIDYANATH MOOKERJEE: Does the Hon'ble Minister mean to say that one Sub-Assistant Surgeon is quite competent to serve the purpose?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTI: Government have got no reason to think otherwise at present.

Babu NIRENDRA NATH DEV: Is it a fact, Sir, that Government of Assam spent 47 lakhs of rupees for checking this disease during the last 15 years?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY: That is a new question, Sir.

Dibrugarh Government Girls' School

Srijut LAKSHESVAR BOROAH asked :

88. (a) Are Government aware that the Dibrugarh Government Girls' School is located at an unhealthy site and amidst undesirable surroundings?

(b) Is it a fact that in order to remove the school to a better site, a plot of land was acquired several years ago?

(c) If so, will the Hon'ble Minister for Education be pleased to state what amount was spent for the acquisition of this site?

(d) Will the Hon'ble Minister for Education be pleased to state whether the said acquired plot of land will be utilised for the purpose?

(e) If so, when?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI replied :

88. (a)—The School is overcrowded and stands on a cramped site. Government have no information regarding the alleged unhealthiness of the site or the undesirable nature of the surroundings.

(b)—Yes.

(c)—Rs.15,318-15-5.

(d) & (e)—Yes, as soon as funds become available, Government propose to consider the question later in the year in connection with the preparation of the budget for 1941-42.

Srijut LAKSHESVAR BOROAH: Will the Hon'ble Minister be pleased to make an inquiry about the alleged unhealthiness of the site?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Alright, Sir. I will have an inquiry made.

Policy in regard to distribution of Public Works Department contracts to contractors

Kumar AJIT NARAYAN DEV asked :

89. Will Government be pleased to state—

(a) The manner in which the contracts of the Public Works Department are disposed of and distributed to the contractors?

(b) Whether it is a fact that no contractor can get any contract unless his name is registered by the Department, and that no name can be registered unless the contractor has executed some work under the Department?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI replied :

89. (a)—A copy of paragraph 165 of the Assam Public Works Department Code and of Circular No.2-A., dated the 7th April 1934, which govern the disposal of contracts have been placed on the Library Table.

(b)—No.

Re. return of corrected speeches within 24 hours

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Sir, I am sorry to bring to your notice that I delivered my reply to the general discussion of the Budget on the 27th February, but up-to-now the transcript of my speech has not been placed before me for correction. I know you request each hon. member to return the speech corrected within 24 hours. Yesterday I enquired of my speech from the Stenographers but they also could not help me. So, if there be delay in returning my speech corrected, I hope I will not be blamed.

Srijut DEBESWAR SARMAH: I beg to say, Sir, that I am responsible for one day's delay and am extremely sorry for this delay. I took it day before yesterday to study the speech of the Hon'ble Premier and through oversight I left it yesterday. I have, however, returned it to-day.

The Hon'ble the SPEAKER: I wish to draw the special attention of the hon. members to the desirability of returning the transcripts of the speeches within the time that has been prescribed. If it is not done, a considerable dislocation of business occurs with the result that the publication of the proceedings is delayed and the hon. members know quite well that there have been complaints from time to time to the effect that the proceedings are not published as expeditiously as desired. It now appears that the transcript in question is now lying with Mr. Debeswar Sarmah.

Srijut DEBESWAR SARMAH: No, Sir, I returned it to-day.

The Hon'ble the SPEAKER: Very well, but it was lying with Mr. Debeswar Sarmah for one day and he said that he took it for the purpose of studying the speech of the Hon'ble Premier; but I may point out to him that that is not exactly the purpose for which the transcripts are sent to members. The transcripts are sent to a member for correcting his speech and in correcting his speech he might refer to the speech to which his speech may have reference. In this case Mr. Sarmah was not entitled to keep the speech of the Hon'ble Premier with him for such a time.

Srijut DEBESWAR SARMAH: On a point of personal explanation, Sir. I was absent on the day when the Hon'ble Premier delivered his speech and I thought that it would be even disrespect to him if I do not read his precious speech.

The Hon'ble the SPEAKER: There is no question of disrespect to anybody. No member would complain of disrespect if his speech is not read by other members. Why should the hon. member labour under that impression? His duty was to correct his speech and then return the speech to the office.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: The hon. member spoke just now that he was absent on the day when I delivered my speech. It raises another question of principle whether any hon. member is entitled to take the speech of any other member home with the purpose of reading it before it is corrected by the member concerned.

The Hon'ble the SPEAKER: I was under the impression that the transcript was given to him on the ground that there might have been a speech delivered by him; but now it appears that he took it simply for the purpose of reading the speech of the Hon'ble Premier. That is certainly not allowable by the rules.

Srijut DEBESWAR SARMAH: On a point of order, Sir. The Hon'ble Speaker has given a ruling on the subject that no member is allowed to read the speech of others.

The Hon'ble the SPEAKER: I hope the hon. member has heard what the Hon'ble Premier has said just now. He has said that unless and until the speech has been corrected by the member who spoke, that speech ought not to be shown to any other hon. member. I do not say that the hon. members are not entitled to read the speech of other members. The speech which has not been corrected by the member concerned should not be shown to any other member.

Maulavi Dewan MUHAMMAD AHBAB CHAUDHURI: On a point of information, Sir. Are not the hon. members of this House entitled to get an extra typed copy of the speech from the office?

The Hon'ble the SPEAKER: Up-to-now such a claim was not put forward to me by any hon. member but if such a claim be put forward by the hon. members then it would be necessary for me to increase the staff of the Reporters (*laughter*). With the present staff, it will be impossible to comply with the request of any hon. member to get a copy of his speech. Of course, I do not say that the members are not entitled to get a copy of their speech. I have seen that in other Assemblies if a member wants a copy or copies of his speech, then copies from the first proof sheet from the Press are given to the members. But here with the staff at my disposal, it would be impossible for me to comply with any such request from members to supply them with typed copies of their speeches.

Maulavi MUHAMMAD AMJAD ALI: Mr. Speaker, Sir, I have got to apologise to you for a short slip, Sir, for my being late by a few minutes in regard to two of my questions which appear in to-days agenda. If I remember aright, you, Sir, ruled that, if a member should come to the Hall within question hour and if time permits, he might repeat his question. I hope, Sir, that you will use your discretion in this matter and give me leave to put these two questions of mine now.

The Hon'ble the SPEAKER: The hon. member is not correct in quoting my ruling. My ruling was if a member absents himself at the time the question comes up, he cannot put the question later. I am sorry, I cannot relax the practice I have been following.

The Goalpara Tenancy (Amendment) Bill, 1939

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Sir, I beg to present the Report of the Select Committee on the Goalpara Tenancy (Amendment) Bill, 1939. I think all the hon. members of this House have got a copy of the report.

I now beg to move that the Bill, as reported by the Select Committee, be taken into consideration.

Sir, I need not make a long speech in moving this motion. Tenancy legislation in Goalpara has been before this House for a pretty long time. There is not a single member in this House who does not want that this much-needed relief to the tenants of Goalpara should be given as early as possible. I think, there is also no dissentient voice in this House that the Bill that was sponsored by the last Government is a distinct advance on the previous Government Bill so far as the concession to the rights and privileges of the tenants are concerned. So this Government, in order to pass the legislation with as much speed as possible, have decided to proceed with the Bill that has just emerged from the Select Committee.

It will be seen, Sir, that the Select Committee has made some important changes. It will also be seen that there are two minutes of dissent attached to that report of the Select Committee. One of these was by my hon. predecessor in office, Mr. Fakhruddin Ali Ahmed, and the other by Mr. Santosh Kumar Barua who, although he has not been returned from any separate constituency for zamindars, is supposed to represent the interests of the zamindars. In view of these minutes of dissent, the Government thought that it would be convenient if all the hon. members of Goalpara be invited to an informal conference here only to decide if any common measure of agreement could be reached. Accordingly Government invited all the members and the Report of the Select Committee with the minutes of dissent were discussed very freely among the members, as a result of which I am able to say that a certain agreement had been reached.

Government now propose, on the day when the Bill will be taken into consideration clause by clause, to move certain amendments on the lines of that agreement already reached. I hope and trust that hon. members of this House, to whatever party they may belong, will be pleased to lend their support to those amendments, which have been already agreed to by all the members concerned.

Sir, the object of tenancy legislation is to adjust the relationship between landlords and tenants in respect of land that forms the subject matter of tenancy. Hon. members will all agree with me that this relationship should be governed by the terms of the lease and also be subject to law and custom. They will certainly agree with me that any legislation that is put on the Statute Book should be fair to all the parties concerned. The object of this legislation has been as has been previously stated by my hon. predecessor in office, to meet the grievances of the tenants, to give them relief and to improve their status and condition. I do not claim that this Bill, as it has emerged from Select Committee, has been able to exhaustively deal with the grievances of the tenants. But I can assure the House that the Select Committee has attempted to reduce these grievances to an irreducible minimum. So in that view of the matter, I think at this stage I need not go into the amendments that have already been made by the Select Committee or the amendments that Government is going to propose later on. Suffice it to say for the present that these amendments are necessary and should be accepted by all. So I appeal to all the sections of this House to lend their co-operation and help to the smooth and speedy passage of this Bill.

The Hon'ble the SPEAKER : The Hon'ble Minister has referred to an agreement after the report of the Select Committee was submitted, and he has further stated that, in pursuance of that agreement, Government propose to bring in certain amendments. I think, for a fair debate on the motion that he has moved he ought to give an outline of the amendments he is going to propose and the nature of the agreement that has been arrived at.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: There was a clause in the original Bill—clause 4—in which the Select Committee thought that the occupancy transfer fee and landlord's registration fee should be substituted by a nominal mutation fee of 2 per cent. of the annual rent. The Select Committee entirely abolished the occupancy transfer fee, where it was also held that it should not be substituted by even the nominal landlord's registration fee. Now, in the Conference, it was generally agreed that the landlord's transfer fee should be converted into a nominal registration fee as in the original Bill.

Then in clause 19 of the Bill, the rate of interest on arrear rent was fixed at $6\frac{1}{4}$ per cent. in the original Bill. In the Select Committee the interest was reduced to $3\frac{1}{8}$ per cent. But in the Conference it was decided that the rate of interest should be $6\frac{1}{4}$ per cent.

Then in clause 30, it was agreed that sub-clause (4) to the proposed section 95A inserted by the clause should be deleted and the word 'may' occurring in sub-section (1) of the proposed section 95B should be substituted by the word 'shall'.

Then in clauses 31 and 32 the majority were of the opinion that the clauses of the original Bill should be retained by the substitution of security for the full amount so admitted to be due.

Then in clause 35, the general opinion was that it would be better to retain Chapter XII of the existing Act and do away with the new clause 35 in the original Bill.

Then in clause 17, it was decided that there was no objection to the number of instalments being four, if the landlord so wanted it.

These are the changes that were agreed upon in the Conference. I think in discussing the Bill later on, we will go into details.

The Hon'ble the SPEAKER: Motion moved:

"That the Goalpara Tenancy (Amendment) Bill, 1939, as reported by the Select Committee be taken into consideration".

A debate may follow now.

Srijut PARAMANANDA DAS: May I enquire of the Hon'ble Revenue Minister how the proposed section 95 B in clause 30 will read?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: "95B.(1). The Provincial Government shall on being satisfied that the exercise of the powers hereinafter mentioned is necessary in the interests of public order or of the local welfare, invest a Revenue Officer with the following powers or either of them, namely:—

(a) power to settle rents ;

(b) power when settling rents, to reduce rents if, in the opinion of the officer, the maintenance of existing rents would on any ground, whether specified in the said Act, or not, be unfair or inequitable.

(2) The powers given under this section shall be made exercisable within a specified area either generally or with reference to specified classes of cases.

(3) The Revenue Officer shall in the exercise of his power proceed in the prescribed manner.

(4) The order of the Revenue Officer shall be appealable before the Revenue Tribunal or such other authority as may be prescribed by the Provincial Government."

Srijut JOGENDRA CHANDRA NATH: Mr. Speaker, Sir, firstly I congratulate the Hon'ble Revenue Minister for having decided upon to proceed with the Goalpara Tenancy (Amendment) Bill in the shape in which it was brought forward by his predecessor in the Congress Coalition Cabinet. Sir, it is gratifying to note also that most of the hon. members coming from the Goalpara District are completely at one with us in this respect and in having used their influence on the Cabinet not to drop this Bill and bring in a new one. I hope, hon. members of my district who are sitting on the Government Benches will be equally jealous in their attempts to pass this Bill in this session and see that this legislation is enacted into law in this year *i.e.*, in 1940. As we are aware, all the Provincial Governments, since the inauguration of the new Constitution have already enacted their tenancy legislations. Some provinces, especially Bihar, have initiated the second instalment of the reforms by this time. If we make a comparative study of different legislations in the other provinces, we find that this Bill, though it was sponsored by the Congress Coalition Cabinet, falls far behind the tenancy legislations that have been enacted by the Congress Governments in other provinces, because this Bill fails to give relief—real relief—to the agriculturists in the matter of reduction of rents. In other provinces, specially in Bihar, provincial Governments having no hands upon private estates in the matter of rents, the Congress Party in the Bihar Assembly headed by Srikrishna Sinha, who is a zemindar, decided to reduce rent by making provision in the tenancy legislation itself and that reduction has been granted to the extent of 25 per cent. throughout the province. Sir, in some estates in our district—I mean, in the Goalpara District, especially in Mechpara, Bilashipara and Parbatjuar, rents are found exorbitant—even more exorbitant than that prevailing in the temporarily settled districts of Assam. After this House has reduced to the extent of 50 per cent. of land revenue in the temporarily settled districts of Assam, it is not just and proper that there should be a grievance of the agriculturists in the permanently settled estates as to the reduction of rent.

So, in the Select Committee, I proposed that a similar provision should be made for reducing rents in the permanently settled district of Goalpara by inserting a provision similar to that which had been inserted in the Bihar Tenancy Amendment Bill. In their Tenancy Amendment Bill in Bihar, they have made a provision for reducing rents by bringing the existing rents to the level of the rates of rent prevailing in the year 1911. Similarly, after making exhaustive enquiries we found out that the assessment of the year 1906 was reasonable, and since then, rents have been enhanced somewhat arbitrarily by the estates. We took up that year as the standard year for fixing the level of rates, and we proposed to insert a provision in the amending Bill to the effect that the rates prevailing in the year 1906 should be made the standard, and the present rates, wherever found exorbitant, should be brought down to that level. But unfortunately, I could not impress upon the then Revenue Minister, my hon. friend Mr. Fakhruddin Ali Ahmed, to accept my viewpoint, and so he submitted a note of dissent. But if the hon. members care to make an enquiry into the existing state of things it will be found that if we bring down the level of rates to that prevailing in the year 1906, the rates of rent prevailing in the major estates of Bijni and

Gauripore will not be touched at all. Only in the case of Mechpara, Bilashipara and Parbatjuar estates, the rates of rent will be reduced by about 3 to 4 annas in the rupee, and that will not be unfair in consideration of the rate of reduction that has been granted to the temporarily settled districts of Assam. In Mechpara, in the year 1927, the Court of Wards most arbitrarily enhanced the rates of rent by about 300 per cent. in case of *viti* lands, *i.e.*, they enhanced the rate from Re.1 per *bigha* to Rs.3-8-0 per *bigha*. This was done, as I have said, by the Court of Wards. If my suggestion were accepted, the rate would have been brought down to Re.1 per *bigha*. Sir, in other estates even now the rate of rent for *viti* land is lower than Re.1 per *bigha*. So, the provision embodied in sub-section (4) of proposed section 95A in clause 30 to the effect that "all enhancements of rents made by the landlords since the year 1906 till 1937 are hereby declared to be cancelled and the rates of rent brought down to the level of 1906" was most fair and just. But at the conference recently held, as has been told by the Hon'ble Revenue Minister, he decided to delete this clause in order to find a common measure of agreement between the landlords and the tenants, so that the tenancy legislation may be passed during this session without any opposition from our landlord colleagues in this House.

Sir, besides this, this legislation also fails to remove some vital grievances of the tenants of the district. When my hon. friend Mr. Fakhruddin Ali Ahmed toured throughout my district as the Revenue Minister of the Congress Coalition Cabinet, he was presented with representations from the Krishak Samities, and when he sat in conference at Dhubri with the representatives of the tenants and Zemindars, some agreement was reached. It was decided that some matters which affect the vital interests of the agriculturists should be provided for in drafting the amending Bill. But somehow or other these provisions were omitted. In the Select Committee, though we tried to discuss them thoroughly, we failed to provide for these rights because these being new rights could not be inserted at that stage.

So, Sir, I have given notice of another amending Bill, which covers those omissions, and I hope the hon. members of this House will agree to support that Bill, if it at all comes before them, and it should not be looked upon as the second instalment of reforms in succession, but as an attempt to provide for those omissions which vitally affect the interests of the agriculturists. The zemindars also will lose very little by this measure, as they relate to some forest rights, very elementary rights of the tenants. For example, the right to collect thatching grass, bamboo and fuel wood for agricultural implements necessary for the tenants to cultivate their land and construct their houses. These rights are already existing and are being enjoyed by the tenants for a long time. Only the officers of some estates, who are foreigners, are trying to encroach upon those agreed rights of the tenants with the result that endless litigation is going on for a long time owing to the lack of any statutory provision of this kind in the existing Goalpara Tenancy Act of 1929.

Maulavi MUHAMMAD. AMJAD ALI: On a point of information. May I know from the hon. member whether he suggested the insertion of these easementary rights, which are now being mentioned by him, to the then Minister when he was drafting the Bill?

Srijut JOGENDRA CHANDRA NATH: Yes, Sir, I suggested them, but somehow these things escaped his attention.

Maulavi JAHANUDDIN AHMED: Why did you not have them inserted by the Select Committee?

Srijut JOGENDRA CHANDRA NATH: This could not be done as the Select Committee could not provide for completely new principles.

Maulavi JAHANUDDIN AHMED: These were agreed principles, not new ones.

Mr. FAKHRUDDIN ALI AHMED: The hon. members are asking questions from him which he cannot answer, but if the hon. Mr. Amjad Ali will read the speech which I made in presenting this Bill he will find out why these things were not provided.

Srijut JOGENDRA CHANDRA NATH: There are two other important things to which I wish to draw the attention of the House. The first is that this Bill does not give relief to the real agriculturists — tillers of the soil—who as a class are gradually going to be extinct owing to keen competition for land. The Krishak Samitis have made various representations to the Government and to the members representing the agriculturists, that *pattan salami* that is realised by the landlords at the time of settling *khas* lands should be reduced so as to enable the poor agriculturists to purchase land or to take settlement of new land. Sir, *pattan* or *nazar salami* is realised in some estates even to the extent of Rs 25, Rs.50 and even Rs.100 per *bigha*. Sir, it is impossible for tribal, or scheduled agriculturists to pay even Rs.10 per *bigha* as *salami* at the time of taking settlement. So, lands now-a-days instead of going to the hands of the real tillers of the soil are passing into the hands of the middle classes who are speculating in land. This is a very deplorable state of thing and it is necessary to put an end to it as has recently been done in Bengal in the recent amendment to the Bengal Tenancy Act, in which *salami* has been abolished. But instead of repeated representations this thing could not be provided for in the Bill, and neither could we provide it in the select committee, as this was a new principle.

Secondly, the petition fee is being charged by the Zamindars on certain petitions filed by the agriculturists regarding certain matters relating to tenancy. Sir, there is no standard for this petition fee — in Bijni it is 13 annas, in Mechpara Rs.2 and annas 4, but in Parbatjuar it is as high as Rs.6. At Dhubri in a conference at which we sat together, the Zamindars and their representatives, when questions were put to them by the tenants to reduce the petition fee, denied that they realised any petition fee of 13 annas in the case of Bijni, Rs.2 and annas 4 in the case of Mechpara, and Rs. 6 in the case of Parbatjuar Estate. Sir, it will be seen how difficult it is for a poor agriculturist to pay a high sum like Rs.6 for a petition. So, it was decided at Dhubri that the petition fee should be brought down to annas eight per petition. But this thing also has failed in this Bill. So, Sir, this Bill while reducing the rate of interest, reducing the rate of transfer fee, fails to give relief where relief is really sought by the agriculturists, and if the hon. House is really desirous of giving relief to the tenants they should first try to reduce the rents and rates of fees, which in many estates, are found to be exorbitant, as in the case of Mechpara estate where the rent in case of *bhiti* lands is 200 or even 300 per cent. more than the rate of land revenue in the temporarily settled districts. So, I appeal to the hon. House that in discussing this Bill, clause by clause, they will retain sub-section (4) of proposed section 95A, which provides for giving reduction of rent to my district by inserting this clause, though it was decided in the recent conference to delete this provision. We should consider whether we can leave this to the whims of a revenue officer as provided in proposed section 95B. We cannot and the tenants cannot depend upon a particular individual for reducing the rent. The tenants fear that if this important question is left in the hands of a particular officer as has been done in this Bill, that particular individual

if he falls a victim to the machinations of the landlords when he is deputed to make an enquiry with a view to settle the rates of rent within the zamindari, they will be helpless. So, Sir, I appeal to the hon. House to consider whether they will retain sub-section (4) of proposed section 95A in clause 30 in order to give reduction of rent to the tenants of the permanently settled district of Goalpara.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: One hon. member from the Congress group has already supported the motion and I think, it is only waste of time to spend any more time on this question.

Mr. NABA KUMAR DUTTA: What does the Hon'ble Minister mean by waste of time, Sir?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: I merely meant that it was no more necessary to spend further time on the same point now that one hon. member has supported it from the Congress group.

Mr FAKHRUDDIN ALI AHMED: The Hon'ble Minister does not want to allow us even to make some observations.

The Hon'ble the SPEAKER: One hon. member from the Congress side has spoken. But I do not as yet know whether the Congress Party as a whole supports it. I also noticed that one hon. member from the Government side also stood up to speak.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: My intention is not at all to stifle discussion, Sir,

The Hon'ble the SPEAKER: I should give opportunities to other members who want to speak.

Maulana ABDUL HAMID KHAN: মাননীয় সভাপতি মহোদয়, এই 'বল সম্বন্ধে আমার মন্তব্য প্রকাশ করিবার পূর্বে আমি ভূতপূর্ব মন্ত্রী এবং আসামের প্রধান স্বাধীনতাকামী কংগ্রেস সরকারের প্রতিনিধি মাননীয় মিষ্টার ফখরুউদ্দিন সাহেবকে আমার আন্তরিক ধন্যবাদ প্রদান করিতেছি। (*Hear, hear*).

গোয়ালপাড়া জেলার প্রজাবৃন্দ দীর্ঘকাল যাবৎ গভর্ণমেন্টের নিকট, কংগ্রেসপার্টির নিকট এবং অগ্রাণু বিভিন্ন প্রতিষ্ঠানের নিকট যাবতন জানাইয়াছে যে তাহারা যোগ্যতায় স্বাধীন ভাবে জমি বিক্রয় করিতে পারে সেই স্বাধীনতা তাহাদের দান করা হউক। তাহারা স্বাধীনতার জন্ত সমস্ত জীবন উৎসর্গ করিয়াছেন, দুঃখ এবং পরিতাপের বিষয় এই যে তাহারা মাত্র কয়েকজন জমিদারের শৃঙ্খলে গোয়ালপাড়া জেলার কয়েক লক্ষ প্রজাকে সারাজীবন বাধিয়া রাখিবার জন্ত যেকোন কঠোর শৃঙ্খল রাখার জন্ত 'সলেক্ট কমিটিতে মন্তব্য প্রকাশ করিয়াছেন তাহাতে মনে হয় তাহারা স্বাধীনতার জন্ত মেটেই আগ্রহান্বিত নহেন—পরাদীনতার জন্ত তাহারা চেষ্টা করিতেছেন। (*laughter*) সামান্য কয়েকজন জমিদারের অত্যাচার এবং অনাচার হইতে প্রজাদিগকে রক্ষা করিবার জন্তও সাহস তাহারা পান নাই। প্রজাদিগের এই স্বাধীনতা যাহাতে ক্ষুণ্ণ না হয় আম আশায় বর্তমান রেভিনিউ মন্ত্রী তাহাঁর প্রতি বিশেষ দৃষ্টি প্রদান করিবেন।

আসামের বিভিন্ন জিলার খাস মহালের অন্তর্ভুক্ত প্রজাবৃন্দের করণ ভাবেদনে তাহাদের অবস্থাভেদে টাকা প্রতি ১০ আনা পর্য্যন্ত খাজানা হ্রাস করা হইয়াছে কিন্তু গোয়ালপাড়া জেলার প্রজার ভাগে খাজানা কমানো দূরের কথা হ্রাস রেহাই পাষ্টবার

ব-বস্থা করা হয় নাই। বাংলার সঙ্গে তুলনা করিয়া যদি সুদের হার নির্দ্ধারিত করা হয় তাহা হইলে আমার মনে হয় সম্পূর্ণ অবিচার করা হইবে। কারণ, বাংলার খাস মহালে যে সমস্ত প্রজা থাকে তাহাদের খাজানা রেহাই দেওয়া হয় নাই, অর্থাৎ তাহাদের খাজানার হার মোটেই কমানো হয় নাই। অথচ আসামের অধিকাংশ স্থানে খাজানা হ্রাস করা হইয়াছে। দেড় আসামের অবস্থা বাংলা দেশের অবস্থার সঙ্গে তুলনা করিয়া সুদের হার নির্দ্ধার করা সঙ্গীচীন নহে। সুদ সম্বন্ধে অধিকাংশ মেম্বার সিলেক্ট কমিটিতে যে মত পেশণ করিয়াছেন সেই ১১/০ আনার অধিক বাহাতে না হয় তৎপ্রতি বাহাতে বর্তমান রেভিনিউ মিনিষ্টার দৃষ্টি আকর্ষণ করেন তজ্জন্য আমি তাহার বিশেষ দৃষ্টি আকর্ষণ করিতেছি। অত্যাশ্রয় বিষয়েও অধিকাংশ সিলেক্ট কমিটির মেম্বারগণ প্রজাদের হিতার্থে নিজ নিজ মত ব্যক্ত করিয়াছেন; কিন্তু সামান্য কয়েকজন জমিদারের পক্ষে আকৃষ্ট হইয়া ভূতপূর্ব রেভিনিউ মিনিষ্টার যে মন্তব্য প্রকাশ করিয়াছেন সেই মন্তব্য যদি বর্তমান মন্ত্রী গ্রহণ করেন তাহা হইলে ইহা প্রজাস্বত্ব আইন না হইয়া জমিদার স্বত্ব আইন হইবে। (laughter) সুতরাং আমি আশা করি প্রজাদের উপকারার্থ প্রজাস্বত্ব আইন বাহাতে পাশ করা হয় তাহার জল্প তিনি চেষ্টা করিবেন। ইহাই আমার বক্তব্য।

Srijut PARAMANANDA DAS: Sir, at the outset, I would like to say that I stand to support the motion of the Hon'ble Revenue Minister. Whatever is contained in the amending Bill is welcome to us and in this connection I would like to say that people will go on agitating until the zemindars become only rent collectors and the tenants become the real proprietors of the soil. The Decennial Settlement Regulations overnight reduced the proprietors of the soil into mere tenants and made the rent collectors the proprietors of the soil. This unnatural order should be changed and until it is changed we must go on agitating.

Sir, the Bill is long overdue. The Act of 1929 was in some respects a retrograde step. For the people were enjoying some privileges and rights which were denied in that Act. Those rights and privileges have now been problematical with us. Unless we can prove that these rights have been enjoyed by us from time immemorial we cannot continue to enjoy those rights. Take for instance, the people in the Goalpara district used to cut *sal* tree posts for the construction of their own houses. And this *sal* tree post was of such a dimension that it could be carried by two men from the forest to their house. But now this right has been denied to us. We are now to prove in law courts that such a right actually existed before and that particular person enjoyed that right. Before the passing of the Act of 1929 people freely caught fish for home consumption. But nowadays no one is allowed to catch fish. Two criminal cases are still pending in the Subdivisional Officer's court in Goalpara in which the Bijni Raj Wards Estate and its lessees have prosecuted some 14 men for catching fish at Dalani and Tam range. Before the passing of the present Act no interest accrued within the agricultural year. Now we are subjected to pay interest after the lapse of the period of three months for which rent is due.

Again before the passing of that Act, partial relinquishment was allowed of one's holdings. But now under the present Act it is strictly prohibited. We want to reinstate our former right. Then before the passing of that Act

squatting was allowed and the squatter was made to pay three years' rent and people enjoyed the occupancy right in respect of that portion of land if that tenant was an occupancy tenant or raiyat at fixed rate. Now under this Act the squatter has to pay 10 times the annual rent and at the same time he will not enjoy any occupancy right in respect of that holding. No doubt that Act gave the *jotdars* some status. It made the *jotes* inheritable and transferable. But here again we must point out that the raiyat's position was made worse. The *jotdars* only try to make as much as he can, without taking into consideration the sad plight of the raiyats. This class came into existence at the sweet will of unfit Zemindars who could not develop their own estates and so employed intermediaries to do that business; and Zemindars remained content to live at Calcutta, Darjeeling or Shillong.

Sir, this class is quite unnecessary one. Those Zemindars who cannot manage their own estates and look into the welfare of their tenants, should prove the necessity of their existence in this hard 20th century.

Sir, the report of the Select Committee on the Goalpara Tenancy legislation as has been presented to us to-day is the fruit of the labour of the Select Committee which sat at Shillong. A subsequent conference was held at Shillong. The original report of the Select Committee contained some drastic changes embodying some of the demands put forward by the people of the district. Mr. Fakhruddin Ali Ahmed recorded a minute of dissent and so also Mr. Santosh Kumar Barua. The conference took into consideration all those minutes and came to some sort of agreement with Mr. Santosh Kumar Barua who pleaded Zemindars' interests in the conference.

But, Sir, the original Bill contained some shortcomings inasmuch as there was no provision to make some exactions illegal, such as Chan-ban tax, Khutgari tax. It also omitted to deal with the easementary rights which we the people are enjoying and which are going to be extinguished as the people cannot cope with the Zemindars in litigation. All the Zemindars of Goalpara district—I should say Zemindars of all permanently-settled areas are fond of litigation. They go to Privy Council in very small matters. So the poor raiyats cannot cope with the powerful Zemindars. So there still remains the seed of dispute between the landlords and the tenants, which, I hope, will be removed by other subsequent legislation in near future. And I request the Hon'ble Revenue Minister to bring such a legislation in the near future, for without giving those rights to the people this amendment will remain incomplete.

The report of the Select Committee as presented to-day embodies the least demand from the people's side. Mr. Santosh Kumar Barua also agreed. So I hope there will not be further trouble in passing this Bill which is long overdue.

Sir, clause 30D, sub-section (4) of proposed section 95A was added in the Select Committee with a view to give reduction to those tenants whose rents were increased since 1906. This is a very salutary addition. But in the conference we consented to do away with that addition on the understanding that proposed section 95B will be so improved as to give necessary relief to the tenants. But this sort of wording will not do. "The Provincial Government shall, on being satisfied"—but who will satisfy that provincial Government—the raiyats or somebody else? So this sort of wording will confer no benefit after all. The very clause hinges upon this sentence.

The Hon'ble the SPEAKER: At this stage detailed examination of the clauses is not necessary.

Srijut PARAMANANDA DAS : Then as regards the petition fee, Sir, we came to an agreement on the question. At Dhubri when Hon'ble Mr. Fakhruddin Ali Ahmed went there and held a conference we came to an understanding that it should be 8 annas throughout the district. So there should be some expressed provision on this and the omission of such a provision has disappointed me. I hope there will be some rules after passing of this amending Bill and Government will take care to include in those rules the amount of petition fee which the Zemindars will be allowed to realise. With these few remarks, I support the motion of the Hon'ble Revenue Minister.

Mr. FAKHRUDDIN ALI AHMED : Mr. Speaker, Sir, I am sorry that my hon. friend Mr. Amjad Ali, who I see, is now absent, wanted some information from my hon. friend Mr. Nath. Mr. Jahanuddin who, I see present will, I hope, give him the information which he wanted. The question relating to Abwabs was raised by Maulavi Amjad Ali last year when this Bill in consideration stage came up for discussion and as the hon. members are aware, I made the position of our Ministry very clear as far as this matter was concerned. I would therefore only read from the proceedings for the benefit of these hon. members what I said on that occasion. I spoke thus :—" Another question has been raised with regard to Abwabs and easementary rights. If we have not made any provision with regard to these matters it is not because we do not want to give relief on these accounts to the poor tenants but our difficulty is that, if we make a list of these illegal exactions, such enumeration instead of helping the tenants will be doing them harm, for the simple reason that Zamindars will realise those dues not mentioned in the Act. It is this difficulty which I would like hon. members to realise fully before taking further action in this connection. We are providing legislation in order to give protection to the tenants and in this Bill we can only bring those matters which relate to them in their capacity as tenants".

Maulavi JAHANUDDIN AHMED : May I interrupt him, Sir ? Is it not a fact that this legislation was brought forward in order to give relief to the poor tenants ?

Mr. FAKHRUDDIN ALI AHMED : Sir, this is the view we held at that time and I hope, my successor, the present Revenue Minister, has in the meanwhile given thought to this matter and he will therefore be in a position to support me when I say that in a Bill of this nature, the grievances of the peasants which my friend, Mr. Jahanuddin, wants to remove cannot be provided. There are other ways and means by which relief for these grievances can be provided. I hope, Sir, that in this connection the position taken by me last year will have the heartiest support of my hon. friend, Khan Bahadur Sayidur Rahman, the present Revenue Minister. Sir, I thank the hon. Maulana Abdul Hamid Khan for congratulating me for bringing this Bill for the purpose of removing the grievances of the tenants, but I cannot agree and therefore be grateful to him when he says that, while the Congress is striving for the independence of the country, we are instrumental in putting into the position of servitude 9 lakhs of tenants, we are instrumental in putting into the clear. We are to-day striving for the independence not of our class of people but for all including the peasants. Sir, our position in this regard is very India becomes free the position of the peasantry cannot be improved and until would like it to be. Then, Sir, I am glad that to-day providence has placed Hon'ble Khan Bahadur Sayidur Rahman in a position where he is not expected only to look to the interest of the Zemindars but also to those of the poor tenants. I remember, last year, when he took his stand on the floor of

this House at the time of discussion of this Bill he shed a few crocodile tears for the lamentable condition of the poor Zemindars who according to him were not fully represented in this House.

The Hon'ble the SPEAKER: Why should the hon. member say crocodile tears?

Mr. FAKHRUDDIN ALI AHMED: Because he said, Sir, that he was feeling very much for the poor Zemindars who, according to him, were not adequately represented in this House.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: I still maintain the view that I wanted to effect a compromise.

Mr. FAKHRUDDIN ALI AHMED: If I remember aright, my hon. friend only last year said that the question of compromise cannot and should not arise. May I for his benefit quote his own speech which is as follows:—“Now because the Act of 1929 which gave relief to the tenants of Goalpara was based on a compromise and how can there be further compromise when the Zemindars have already yielded to what they wanted.”

The Hon'ble the SPEAKER: What will the hon. member do by quoting his speech?

Mr. FAKHRUDDIN ALI AHMED: What I want to show is that my hon. friend though speaking for compromise now, only last year stated that there was no basis and necessity for a compromise because the Zemindars had already yielded what was legitimately expected of them.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: That was in 1929 and this is now 1940.

Khan Bahadur Maulavi KERAMAT ALI: May I inform the hon. member that Khan Bahadur Sayidur Rahman is now Member of the Government and therefore he should look to the interest of all concerned.

Mr. FAKHRUDDIN ALI AHMED: He further said, Sir:—“My submission is that the compromise was effected when the Act of 1929 was passed. After that the rights of the Zemindars are gradually being taken away and the present Government is only concerned with the persistent demand of the tenants, the Zemindars being reduced to the position of being rent collectors.” Sir, I am very glad that after an experience of one year he has realised that the Bill introduced by our Ministry contained proposals for providing relief to the tenants without taking away the equitable and legitimate rights of the Zemindars. Sir, it is gratifying to find that not only the Bill introduced by me has the approval of my hon. friend and his colleagues in the present Government but also the note of dissent submitted by me has their approval. Sir, last year I was accused by my friends Mr. Amjad Ali, Mr. Ghyasuddin Ahmed and others for introducing this Bill, which, in their opinion, did not help the tenants but strengthened the hold of the Zemindars over tenants, but, to-day, I find Sir, they are enthusiastic to support that very measure which about a year ago they regarded as an evil piece of legislation. I was told that I had betrayed the cause of the tenants, but I am glad to find that to-day in that so-called betrayal I have the company of my friends who had levelled that very charge against me last year. Sir, last year I was criticised when I provided, at least to recognise the rights of the Zemindars, a nominal registration fee at two per cent. of the annual rent in the Bill. But I am glad to find that better sense has after all prevailed on those members, who have now agreed to keep my proposal in tact. As I understand from my hon. friend Khan Bahadur Sayidur Rahman, an agreement has been reached between the representatives of the tenants and Zemindars and he will be bringing amendments in accordance with that agreement.

Maulavi ABDUR RAHMAN: On a point of order, Sir. Is my hon. friend quite correct to give a reply to the debate which took place last year? The position has changed; my hon. friend was there but now Hon'ble Khan Bahadur Sayidur is there.

Mr. FAKHRUDDIN ALI AHMED: My point, Sir, is that even as a member of Opposition I am saying what I said last year as a Member of the Government. I have been consistent in my views both as a Government member and as a member of the Opposition, which position, Sir, my hon. friend will find difficult to maintain to-day.

Khan Bahadur Maulavi KERAMAT ALI: Is the hon. member speaking on the motion?

The Hon'ble the SPEAKER: The hon. member is defending his past conduct which has been made a matter for discussion.

Mr. FAKHRUDDIN ALI AHMED: No Sir, I am concerned with justifying the note of dissent which I have submitted as a member of the Select Committee and which I wish to explain to the hon. members.

The Hon'ble the SPEAKER: Nothing of the note of dissent remains now after what the Hon'ble Minister has said.

Mr. FAKHRUDDIN ALI AHMED: I was not present at the time when the compromise was arrived at.

The Hon'ble the SPEAKER: But he has given all the details of the compromise.

Mr. FAKHRUDDIN ALI AHMED: He has given only an impression, but has not given the details.

The Hon'ble the SPEAKER: I think the hon. member should not go on like this.

Maulavi ABDUR RAHMAN: He is simply clearing his conduct.

Mr. FAKHRUDDIN ALI AHMED: Another point, which is also of importance and on which the members of the Select Committee were divided, is with regard to clause 25. This is a matter which has not been referred to by my hon. friend, the Revenue Minister. This is a very important matter as far as this Bill is concerned, because it is a matter which relates to.....

Maulavi MUHAMMAD AMJAD ALI: On a point of order, Sir. May I know whether the hon. member can refer to what happened in Select Committee?

The Hon'ble the SPEAKER: The proceedings are secret, but the report is not. The report is before the House and the hon. member might not have stood up and called for a point of order.

Mr. FAKHRUDDIN ALI AHMED: I can very well understand the purpose of my hon. friends, in describing me like this. It is in their interest that I should forget what I have to say to-day.

What I wanted to draw the attention of the House was with regard to clause 25, which seeks to provide that the tenants should have a right to surrender that portion of their holding which has materially deteriorated owing to causes beyond his control after the tenancy has come into existence. I do not know, Sir, whether this matter was actually discussed when the representatives of the two sides met at the conference which was convened by the Hon'ble Minister. But, Sir, this is a matter in which I can inform him that I found the opinion sharply divided when I met the representatives of the Zemindars and the tenants at Dhubri. After giving a good deal of consideration to this matter, I came to the conclusion that provision provided in the Bill would not serve the interests of both the parties. I hope the Hon'ble Revenue Minister will be able in his reply to give us the information as to what was decided in the conference regarding this matter.

Sir, another matter which, I am glad, has the approval of the representatives of the tenants. Last year we were told that.....

Maulavi JAHANUDDIN AHMED: May I ask the hon. member.....

The Hon'ble the SPEAKER: The hon. member should be allowed to go on without interruption. He should be allowed to finish his speech.

Mr. FAKHRUDDIN ALI AHMED: Sir, I am awfully sorry that my speech is so much pinching the hon. member that he would not allow me to go on.

Sir, the hon. members hailing from Goalpara were in favour of the deleting of Chapter XII which deals with the certificate procedure. As the hon. members are aware, I said last year that as this procedure was not applied either in Goalpara or in Sylhet, I did not think it necessary to include any provision regarding the matter in the Bill. Some hon. members insisted upon this inclusion, but to-day, Sir, I find that those very hon. members have now seen the wisdom of leaving out that matter from the provision of the Bill.

The Bill which has now emerged from the Select Committee, if amended in accordance with the agreement arrived at, will, to a great extent, provide relief to the peasantry, for which it was meant. It is certainly true that this Bill has not taken into consideration the cent. per cent. claim of the peasants which, it is difficult for any Government to do. But, Sir, in going for such a legislation we have to appreciate the real grievances of the peasants and adjust their demands with the rights of the Zemindars.

Mr. BAIDYANATH MOOKERJEE: Sir, up till now only one side has been represented in the debate. I hope you will be kind enough to hear the other side. If you think, Sir, that the other side also should be heard, you can then give me some time.

The Hon'ble the SPEAKER: What does the hon. member mean by the 'other side'?

Mr. BAIDYA NATH MOOKERJEE: I mean, Sir, the landlord side. If you are pleased, you may kindly give me some time.

The Hon'ble the SPEAKER: The hon. member already had that opportunity. If the hon. member had told me at the proper time, I would have allowed him. That was after the speech of Srijut Jogendra Chandra Nath. When the Hon'ble Minister asked me whether any support was coming from the Opposition, I told the House that up till then I was not sure whether the Congress Party would support the Bill. Then another member spoke. If after that the hon. member had risen, I would certainly have permitted him to speak. Anyhow I want to know how long the hon. member will take.

Mr. BAIDYA NATH MOOKERJEE: I want only five minutes. I am not short-sighted. I know what the result of my speech would be. So I wish to touch only one or two points.

The Hon'ble the SPEAKER: From what I have gathered from the speeches made up till now I think the general opinion is that the Bill should be taken up for consideration. On a motion like this, if there be any real opposition, then I should certainly allow time to members who want to speak early, what is the use of speaking now? The amendments will be coming up and in connection with those amendments the hon. members may put forward their points of view.

Mr. BAIDYANATH MOOKERJEE : As stated in the Statement of Objects and Reasons, there are only two objects of this Bill. The first is to give some relief to the tenants, and it has been stated there that "the position of all classes of the lower grade tenants has been sought to be improved. With the curtailment of the landlord's privileges, it has been considered equitable to provide for special procedure for recovery of their dues should circumstances arise in which the existing legal remedies fail to achieve their purpose."

For this reason only one clause was included in this Bill—I mean clause 35. But from the report of the Select Committee we find that "by a majority of 7 to 1 the Committee decided that the proposed section 170A is not necessary. They further recommend that the existing Chapter XII shall be omitted altogether."

What I mean to say is this, Sir, that the Bill when it came before the House had two definite objects, but when it has come out of the Select Committee one object has altogether been left aside. My point is that Government should take note of this, that they are here to represent all sections of the people and not to represent only tenants. They are for all and not for one section. And especially the interests of the minority community—I mean the landlords—should be considered. Sir, one member has stated that the Zemindars are mere rent collectors. I shall presently quote a decision of the Privy Council here. Their Lordships held in the Privy Council in a case between Raja Bhupendra Narayan Singha Bahadur of Nasipur and Rajaswar Prasad Bhakat, reported in Calcutta Weekly Notes, Volume XXXII, page 27.

Their Lordships said. "I take it that the framers of the Puttni Regulation had the same idea in their minds as the framers of the Settlement of 1793, whereby they recognised and proceeded upon the following that the Zemindars are the actual proprietors of the land". So it shows that they are not rent collectors.

Sir, I do not find any justification for this procedure in the report of the Select Committee. I mean the procedure of robbing Peter to pay Paul without any compensation to the aggrieved parties.

So, Sir, I hope that when Government will bring amendments they will consider the case of the landlords also. I mean speedy realisation of rent. I yield to none in the matter of giving relief to tenants where they are actually aggrieved, but I cannot be a party to giving unjust relief where there is no real grievance. Real grievance must be removed. So, Sir, my only point is that Government should not be guided by emotion. They must consider this point also while bringing their amendments. This is my only point, Sir, which I press on behalf of the Zemindars.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN : I am obliged to all the members of the Opposition for lending their support to this motion. I will not make a very long reply. But I must reply to one of the points raised by my friend Mr. Fakhruddin Ali Ahmed. He has asked whether clause 25 of the Bill was considered in the Conference. Now, Mr. Santosh Kumar Barua in his note of dissent has also raised this point. He has said: "I cannot agree to the majority of the Committee's recommendation for the partial surrender of a holding. Ajustment of rent payable for the remaining portion of the holding will be always a thorny question and difficult of solution." This item was discussed in the Conference and as a result of the discussion my friend Mr. Barua agreed to give up his contention in this matter. So the matter was thoroughly discussed at the Conference. As regards Chapter XII, that was also as a result of the discussion.

It was decided that it should be retained. I may inform the hon. members of this House that a similar chapter has been retained in the Sylhet Tenancy Bill also. As regards the suggestions that have been made from different quarters, these will be borne in mind.

As regards the inclusion of the easementary rights I have to reply that Government is in agreement that these are enjoyed as a concession only. There should be a policy of give and take. Government feel that it would be unfair on their part to agree to a legislation of this nature encroaching on the statutory rights and privileges of Zemindars, but Government at the same time consider that it would be better for the Zemindars to see whether they are in a position to make some concessions to their tenants on the lines of what is done by Government for their own Khiraj pattadars in regard to grazing, forest produce from unclassed estate forests and fishing. Grazing grounds for the benefit of villagers have been constituted by Government wherever necessary and possibly Khiraj pattadars have as a concession been allowed to help themselves to certain forest produce from unclassed States forests for domestic purposes and lessees of Government fisheries are required to let raiyats of neighbouring villages to catch fish for their own consumption with net, basket or other instruments on payment of a small fee not exceeding four annas. The Government also consider that there is no justification for some of the cesses which Sir Abraham Lainé found in vogue 20 years ago and that in others there is no reason why this levy should not be regulated by principles which should be uniform in all zemindaries. To me the only panacea appears to be the preparation of a record of rights.

Now, Mr. Nath is coming forward with a Bill which will be discussed later. Government will express their views in that connection later.

With these words, I beg to move that this Bill be taken into consideration.

The Hon'ble the SPEAKER: Order, order.

The question is:

"That the Goalpara Tenancy (Amendment) Bill, 1939, as reported by the Select Committee be taken into consideration."

The motion was adopted.

Adjournment

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

After lunch

Sylhet Tenancy (Amendment) Bill, 1939

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Mr. Speaker, Sir, I beg to present the Report of the Select Committee on the Sylhet Tenancy (Amendment) Bill, 1939.

I beg to move that the Bill as reported by the Select Committee be taken into consideration.

Sir, as I said in the case of the Goalpara Tenancy (Amendment) Bill, the Government are anxious to give relief to the tenants of Sylhet as soon as possible. It is with that object in view that they have decided to proceed with the Sylhet Tenancy (Amendment) Bill, which was sponsored by the last Government, as it has emerged from the Select Committee. The Select Committee did not make many changes. So far as I see there is only one change made about the definition of "tenant". The definition of "tenant" that was sought to be widened by clause 2 has been omitted in view of clause 33 as revised. A new sub-clause (5) has been added to clause 33 to the effect that "Notwithstanding anything contained elsewhere in the said Act, a person

holding land under another person on condition of rendering service to that person shall, for the purposes of this section, be deemed to be a tenant”.

Then, Sir, in the original Bill by clause 29, power was given to prescribe special procedure for recovery of rent at times when the ordinary procedure failed. Now, this provision has been omitted by the Select Committee as unnecessary and undesirable. Now, as in the case of Goalpara Tenancy (Amendment) Bill, Government took the opportunity to invite most of the members of Sylhet to a conference, to consider if they could reach any agreement about the amendments. As it always happens, I am sorry to say that no agreement could be reached at the conference except in only one point, *viz.*, that as regards clause 6 the majority were of opinion that security to the satisfaction of the Court should be substituted for compulsory deposit of half the admitted dues.

As regards deletion of clause 29, it was commented upon by various members in their minutes of dissent ; several members were in favour of Babu Dakshinaranjan Gupta Chaudhuri's amendment to the following effect that “in case where the rent remains in arrears for three consecutive years, the landlord, on application to the Deputy Commissioner, shall be allowed to have his one year's rent realised by certificate procedure as a demand under the Public Demands Recovery Act by giving one month's notice to the defaulting tenants”. Unfortunately, however, we could not attain unanimity of opinion on this particular amendment.

Mr. BAIDYANATH MOOKERJEE : What was the majority opinion, Sir ?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN : Majority favoured this amendment. So, Government even thought of tabling an amendment to this effect, and they want to make it clear to the House that if either Babu Dakshinaranjan Gupta Chaudhuri or any other member tables such an amendment, the Government would lend support to that amendment.

As regards Part II of Chapter X, *i.e.*, about certificate procedure, that chapter has been retained by the Select Committee, whereas the Select Committee on the Goalpara Tenancy (Amendment) Bill, did away with that.

There is another difference between the Goalpara Tenancy and the Sylhet Tenancy (Amendment) Bills. In cases of disputes the Revenue Officer will enquire into them, but any decisions of that Revenue Officer was made appealable, in the case of Goalpara Tenancy (Amendment) Bill, to the Revenue Tribunal, but in the case of Sylhet Tenancy (Amendment) Bill, the words “Civil Court” have been substituted in place of “Revenue Tribunal”.

So, these are the points of difference that we have in the case of the two Bills. I hope, Sir, that as this tenancy legislation has already been delayed it is up to all the members of the House, whatever party they may belong to, to do their best to make the passage of this Bill speedy and smooth. I must also say that it will be to the credit of the House to place on the Statute Book a legislation which will not only concede to the raiyats the rights and privileges to which they are entitled, but at the same time will not take away the rights and privileges without which the Zamindars as a class will not be able to maintain their position and dignity.....

Mr. BAIDYANATH MOOKERJEE : That is a misnomer.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN : So I seek for co-operation from all the members of the House to make this legislation on a fair basis.

With these remarks, I move that the Bill be taken into consideration.

The Hon'ble the SPEAKER: Motion moved:

"That the Sylhet Tenancy (Amendment) Bill, 1939, as reported by the Select Committee, be taken into consideration."

Babu KARUNA SINDHU ROY: Mr. Speaker, Sir, though I do not oppose the motion for consideration of the Sylhet Tenancy (Amendment) Bill, 1939, as amended by the Select Committee, I must inform the House that the provision made in the amending Bill for the amelioration of the condition of the raiyats falls far short of our expectations. I did not submit any minute of dissent to facilitate early passage of the Bill, which when it becomes an Act, would give at least some relief to the poor tenants. But now I shall have to suggest some amendments in favour of the tenants considering the present economic condition of the tenantry of the district with the breaking out of the war, which when it will end will not in any way benefit the Indian people.....

The Hon'ble the SPEAKER: You said that you wanted to move some amendments.

Babu KARUNA SINDHU ROY: Yes, Sir.

The Hon'ble the SPEAKER: But if you move any amendments they must be within the scope of the Bill.

Babu KARUNA SINDHU ROY: The economic condition of the tenants has become worse; prices of articles of consumption have gone high, though there has been no proportionate rise in the price of agricultural produce. So it cannot be denied that war has aggravated the distressed condition of the peasants. There is no doubt that the indirect aim of the imperialistic war is to keep down the power of the tenantry and labourers, *i. e.*, to prevent the toiling population of their respective countries from having the upper hand in the administration of their respective countries. The British people are circulating that Britain is fighting for the freedom of the world.....

The Hon'ble the SPEAKER: Why is the hon. member digressing so much?

Babu KARUNA SINDHU ROY: I am coming to the point, Sir.

The Hon'ble the SPEAKER: I do not think the speech is relevant.

Babu KARUNA SINDHU ROY: I am detailing the grievances of the tenantry.

Khan Bahadur Maulavi KERAMAT ALI: If he details all the grievances of the agriculturists the remaining 19 days will not be sufficient.

The Hon'ble the SPEAKER: He may do so at a later stage.

Babu KARUNA SINDHU ROY: It is a sad irony indeed that the country keeping India in subjugation and Indian people in bondage can fight for the people of the world.....

The Hon'ble the SPEAKER: The hon. member is straying too far away from the subject. I cannot allow such a speech to go on.

Babu KARUNA SINDHU ROY: Most of the landlords and the capitalists of the district of Sylhet are in co-operation with the reactionary Government. They are ready to assist the war by subscribing money and by various other means. There can be no doubt that they are the stumbling blocks to the path of Indian independence. They are averse to democratic rule.....

The Hon'ble the SPEAKER: I thought that the hon. member was going to make some observations on some amendments which he proposes to table. He began by saying that he is not opposing the motion.

Babu KARUNA SINDHU ROY: Yes, Sir, I am making my amendments and am explaining how the amendments are necessary.

The Hon'ble the SPEAKER: Then the hon. member may do so later on.

Babu KARUNA SINDHU ROY : The first Surma Valley Conference, which was held at Beheli in 1936, formulated the minimum demands of the tenants.....

The Hon'ble the SPEAKER : It is well known and therefore this Bill is before us.

Mr. ARUN KUMAR CHANDA : The hon. member is trying to make known to the House the demands of the tenants. He is trying to show how the war has created complications and he is trying to develop his arguments on those lines. (*Laughter.*)

The Hon'ble the SPEAKER : Of course the hon. members know that there is no time limit on speeches on Bills, but I appeal to the hon. members that they will try their best to make their speeches relevant.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN : Besides, we have got a number of important Bills to deal with.

The Hon'ble the SPEAKER : As I listened to the speeches in connection with the other Bill—the Goalpara Tenancy (Amendment) Bill—I noticed a repetition of arguments—same arguments by many hon. members. Therefore, I was thinking whether I should introduce the system of “closures by compartments”, or the “kangaroo method”. In connection with demands for grants a time limit is fixed, and in connection with the general discussion of the Budget we arrange by consulting the leaders of Parties as to the number of hon. members who are to take part in the debate and the time limit to be fixed for each speech. Similarly for the purpose of expediting business in connection with Bills I was thinking of adopting the procedure which is called “closure by compartments” ; for doing that I shall have to ask the Leaders of the Parties in the House to meet in a Conference and to decide what time should be allowed to the consideration of a Bill and what time should be allowed to all the clauses of the Bill and to ask members to finish their speeches within the time fixed. I hope hon. members will not compel me to adopt that method.

Babu KARUNA SINDHU ROY : I only wanted to put before the House the minimum demands of the tenants that were passed in the Surma Valley Conference. Because we may then be able to compare what provisions have been left out in this amending Bill and what more is necessary to be incorporated in it. May I go on, Sir ?

The Hon'ble the SPEAKER : The hon. member has not yet satisfied me as to what he really wants by making this speech.

Srijut GOPINATH BARDOLOI : May I be permitted to point out, Sir, that when a particular member wants to bring in amendments to any Bill in any form he should be allowed time to explain the principles underlying the amendments that he proposes to bring in at this stage at which we have arrived: for example, stage of the report of the Select Committee being taken into consideration. I think, if he wants to make his submission before the House in pursuance of that wish, he should be allowed.

The Hon'ble the SPEAKER : In that case also the hon. member will have to show that all the amendments which he proposes to bring forward would be within the scope of the Bill. There may be numerous grievances of the tenants and some of them may have been provided for in the provisions of the Bill. And certain amendments may not be permissible in connection with this Bill because the amendments may be beyond the scope of the Bill. At the next stage when this Bill will come up for consideration, clause by clause, members may move their amendments and whatever is to be said in support of the amendments can be placed before the House then as fully as possible.

Mr. ARUN KUMAR CHANDA: May I submit, Sir, that we did not anticipate the adoption of these drastic methods. In the past we have been allowed to go on with our speeches unhampered and the House may remember that on the last occasion the hon. member, Mr. Jahanuddin, took as much as 2½ hours.....

The Hon'ble the SPEAKER: But that was the time when a motion was made before the House for referring the Bill to a Select Committee. This is not such a motion and we are to take into consideration the Bill as reported by the Select Committee.

Mr. ARUN KUMAR CHANDA: With due respect, Sir, the "kangaroo" should not take us by surprise. We must be allowed some concession this time.

Babu KARUNA SINDHU ROY: I only want to put before the House the recommendations of the District Congress Committee on this Bill.

The Hon'ble Maulavi MUNAWWAR ALI: On a point of information, Sir, did the hon. member bring these amendments to the notice of the Congress Coalition Government while that Government was drafting this Bill?

Mr. FAKHRUDDIN ALI AHMED: How is that relevant?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: My hon. friend was a member of the Select Committee and I think he had ample opportunities to bring forward his amendments before that Select Committee.

Babu KARUNA SINDHU ROY: That does not preclude me now.

The Hon'ble the SPEAKER: The point is perfectly relevant, i.e., whether he brought up any amendments which he now proposes to before the Select Committee.

Babu KARUNA SINDHU ROY: Yes, I brought forward the amendments.

The Hon'ble the SPEAKER: Will the proceedings show that? And if he brought forward any amendments and they were not accepted in the Select Committee then he should have submitted a note of dissent which, the hon. member said in the beginning, he did not.

Babu KARUNA SINDHU ROY: I have already submitted the reasons why I did not submit a minute of dissent.

The Hon'ble the SPEAKER: The hon. member then waived his right and he cannot press his right here.

Babu RABINDRA NATH ADITYA: Mr. Speaker, Sir, the urgency of reform of the tenancy law cannot be over emphasised; and these amendments of the Sylhet Tenancy Bill have not come a moment too soon. After the Bill has passed out of the Select Committee we have been hearing comments everywhere that in this Bill the interests of the middle class people, whose number is quite large in the district, have been jettisoned and this charge has been chiefly levelled against the Congress group. Sir, if the support of the legitimate interest of the tenant means some loss to our landlord classes, I fervently request them not to be perturbed over slight concessions. It is an undoubted fact that our middle classes contributed most in the fight for independence and even for the new constitution to which we owe our existence in this Assembly their contributions are by no means negligible. Still I would appeal to the members of the middle classes that if for the sacrifices they have already rendered to the cause of nationalism they think they should be rewarded by certain reactionary concessions in the form of tenancy laws, they are mistaken. I will only submit to them that this is not the way for their salvation. It is an undoubted fact that all the recommendations that we have made will not go to touch the

fringe of the problem of the tenants. The tenants are groaning under a burden of accumulated debts. They have other difficulties and the reform of the tenancy law in some sections of the Act cannot go to cure them of all the maladies they are suffering from. Still he would be a bad physician who would not give relief to the symptoms of the disease even though he is unable to prescribe a radical treatment that goes to the root of the disease. So, this attempt on our part is like administering an aspirin tablet which is meant for a temporary relief to the painful symptoms. Sir, one of the most complex problems of human life is the relation of man with land. The hierarchy of interests of overlord has made it most complicated. Like air and light, land is the free gift of nature but human ingenuity has contrived to reserve its control to some powerful people and deprive others. So, as the hon. Mr. Fakhruddin Ali Ahmed said in connection with the Goalpara Tenancy Bill, unless independence is achieved we cannot give proper relief to the tenantry. Unless we have complete hold of the steering wheel of the state machinery we cannot give them the relief which they really need. Sir, the district of Sylhet has got some specialities inasmuch as it is divided into a number of small estates and perhaps the number exceeds 50,000. If the number of estates is 50,000 I think the number of landlords would be double that figure. So, our small landlords want to make the best use of the small estates they possess and the result is that the tenants are rack rented. These landlords want to exact as much as they can and try to get a living out of the rents they receive from the tenants. This is why in the district of Sylhet we find the rate of rent is perhaps the highest compared with other districts of the province and also with the districts in the neighbouring province of Bengal. Sir, the incidence of tenancy and rate of rent is not to be determined with reference to the status, condition and dignity of the landlord as has been said by the Hon'ble Revenue Minister. The incidence of tenancy and rate of rent is to be fixed with reference to the condition of the tenants as also the condition of land and the return available from the land. Sir, these are the criteria on which the incidence of tenancy should be based. Moreover we find that the situation has been aggravated in the district of Sylhet on account of the topographical position. It is a low lying district surrounded by hills on three sides and is scattered with big *haors* and unremunerative land. So the income from land is perhaps most meagre. The main cultivation of the people is the paddy cultivation. Sir, we all know that paddy is the most unremunerative of all cultivations. So the tenants are extremely poor in the district.

The Hon'ble the SPEAKER: Is the hon. member opposing the motion ?

Babu RABINDRA NATH ADITYA: I am not opposing, but I have got to refer to the note of dissent that I submitted. I am discussing the whole thing in the light of the statement of the Hon'ble Revenue Minister delivered in the House to-day. Now I will try to show to the House that the note of dissent I submitted is quite reasonable with the hope that the House will support me in the amendments when tabled in the light of my note.

Khan Bahadur Maulavi KERAMAT ALI: Is not the hon. member entitled to move amendments in the lines of his note of dissent ?

The Hon'ble the SPEAKER: Yes.

Khan Bahadur Maulavi KERAMAT ALI: In that case he will have ample time to speak on his amendments.

Babu RABINDRA NATH ADITYA : As the Bill has come out of the Select Committee, I think, discussion should take place on the report of the Select Committee and on the notes of dissent that have been submitted by different members of the Select Committee. So in the light of the discussion that takes place to-day, amendments may be moved by the members and voting on those amendments may be influenced by the discussion that takes place to-day.

Maulayi ABDUR RAHMAN : Sir, being a member of the Select Committee, I think, he cannot go beyond the note of dissent.

Babu RABINDRA NATH ADITYA : Why the hon. member presumes that ? So, Sir, I submit that the topographical position of the district makes the condition of the tenants very acute inasmuch as there is every chance of failure of crops. The chance is almost 9 to 10. There is failure due to flood, there is failure due to the attack of water-hyacinth. Also there are other reasons, such as deterioration of fertility which makes agriculture one of the most unremunerative pursuits of life. So, in view of the conditions obtaining in the district of Sylhet, I ventured to submit my note of dissent in the Select Committee's report. I quite confess at the same time as we were confined within the limits prescribed in the original Bill we could not submit note of dissent with regard to other sections although we attempted to move certain other amendments with regard to other provisions of the Act in the Select Committee. But as we were confined to the amending Bill we have submitted our notes of dissent with regard to the points which were subject of discussion in the Select Committee.

Sir, only three substantial reliefs have been granted. The first is with regard to landlord's transfer fee. That transfer fee has been totally abolished. Secondly, in addition to the present machinery of the civil court a quicker machinery has been set up for easy reduction in the rate of rent. Thirdly, it is the right to commute service into rent. These are the three main reliefs that have been granted by this Act.

The landlord's transfer fee is also connected with the question of pre-emption. Because if we understand rightly the clause with regard to pre-emption, it was enacted in 1936 Act with a view to check under-valuation being put on the Kabala to defeat the landlord's claim to transfer fee so that if there was any under-valuation of the holding transferred, the landlord would at once buy out the purchaser. I think, those who will represent the landlords will also agree that there was no dispute with regard to the question of the abolition of the landlord's transfer fee. I do not really know on what logical basis the landlord's transfer fee can be justified. It is, as I said during the discussion at an earlier stage of this Bill, a penalty that has to be paid by a tenant for his poverty. If a tenant is in affluent circumstances, he has no necessity to sell his holding ; in that case it may so happen that even for a century the landlord may not get anything as landlord's transfer fee. But if a tenant is poor he may be driven by necessity to sell a portion of his holding and in that case he must pay something to the landlord. So it is a penalty for a poor tenant. It is well and good that it has been abolished and I think no sort of objection should be raised from any corner of this House with regard to the abolition of this fee. Now with the abolition of the landlord's transfer fee, the necessity of pre-emption also automatically goes away. If the landlords are anxious to see that their lands are not transferred to undesirable hands, what is the remedy ? If the landlord is in good terms with the tenants the question of pre-emption does not arise but the difficulty comes in when there is a strained relationship between the landlords and the tenants. In such a case, the claim for pre-emption can easily be evaded by a tenant writing a fabulous price in the deed of

conveyance. He can easily frustrate the intention of the landlord by putting a very high price in the Kabala and the landlord will not be able to prove that the actual consideration was less than what has been stated in the Kabala. So, if there is a strained feeling between the landlord and the tenant, then no amount of legal help can save the landlord from seeing his land transferred to other hands. In this view of the thing, the pre-emption, as I have said, was intimately connected with the question of landlord's transfer fee. When that has been abolished, the pre-emption also naturally loses its significance.

The next question which is a most vital one is a question of reduction of rent. That machinery has been introduced for an easier reduction of rent and the proposed section 116 (B) in clause 25 reads as follows:—“(1) The Provincial Government, may on being satisfied that the exercise of powers hereinafter mentioned is necessary in the interest of public order or of local welfare, invest a Revenue Officer with the following powers or either of them namely:—(a) power to settle rents, (b) power when settling rents, to reduce rents, if in the opinion of the Officer, the maintenance of existing rents would on any ground, whether specified in the said Act or not, be unfair or inequitable. (2) The powers either generally or with reference to specified classes of cases. (3) The Revenue Officer, shall in the exercise of his power proceed in the prescribed manner. (4) The order of the Revenue Officer shall be appealable to a Civil Court as a decree of the Court of the First Instance.” Sir, the tenants in the district of Sylhet have been crying for a long time for being relieved of a high rate of rent which they are paying to their landlords. Sir, during the boom period it did not matter much and most of the vigilant landlords took the advantage of increasing their rate of rent on the basis of rise in the price of staple food-crops. But since the economic depression set in from the year 1929, the tenants were hard hit and they found almost impossible to pay up their dues regularly and the result is that huge arrears of rent have accumulated during all these years. Now as is well-known to the hon. members, there are certain provisions even in the existing Act for the purpose of reduction of rent but the procedure is so very difficult and the proof required by the Court is so very stringent that it is almost impossible for a tenant to get relief from Civil Court. Moreover the cost involved in the procedure is also prohibitive. That is why a simple and easier method was wanted by the tenants from the Government. Now this method of having a rent settled by the Revenue Officer may be quite good. This is a new experiment to be made and unless the experiment has functioned for sometime, it is practically difficult to say how far this machinery will be able to give proper relief to the tenantry. Of course, two conditions that are laid down for putting the machinery in motion are rather embarrassing.

The Hon'ble the SPEAKER: In the minute of dissent the hon. member did not disagree with the provision.

Babu RABINDRA NATH ADITYA: Yes, Sir, I agreed with it. I expected that this machinery of the Government should be invested with more powers, for reduction of the arrear rent. That is what I said.

The Hon'ble the SPEAKER: Did the hon. member mention this in the minute of dissent?

Babu RABINDRA NATH ADITYA: Yes, Sir, I said that the Revenue Officer must be invested with powers for reducing arrears. That is the note of dissent I have submitted. I do not know how far it will be really useful for the purpose for which it is intended. I have still doubts as to the

efficacy of this machinery and unless some experiment is made it is also very difficult to foresee whether the real purpose will be served by this machinery of the Revenue Court for effecting a reduction of rent. The public order and the local welfare are the two conditions which set the machinery of the Government in motion. Now who is to determine whether in the interest of public order or of the local welfare the reduction of rent is necessary? Perhaps it is the Subdivisional Officer or the Deputy Commissioner who will have to determine whether in the interest of the public order, or of the local welfare Revenue Officer should be deputed for purpose of settling or reducing the rent as the case may be. But I beg to submit that it is more or less a case of personal discretion with the officer concerned. One officer may think that the essential condition of public order or of local welfare exists whereas another officer may hold a different view and say that the interest of public order or of local welfare does not justify the deputation of an officer. So I would submit, Sir, that more detailed procedure may be laid down for the guidance of the Revenue Officer. The clause lays down that one Revenue Officer, shall in the exercise of power proceed in a prescribed manner. This prescribed manner should be such as may give scope for uniform exercise of discretion by the Officers concerned. With regard to my minute of dissent I submit that when an officer is deputed for the purpose of settling the rent, he must also be empowered to reduce the arrears if the arrears are attributable either partially or wholly to a higher or excessive amount rent. Why does the interest of public welfare or local welfare come in? It comes in this way. If there is already in existence a high or exorbitant rate of rent, and the tenants fail to pay up their dues properly, the result would be an accumulation of arrears giving rise to general discontent. Unless there is an accumulation of arrears, there is little chance of a disturbance of local welfare or public order. So, when there is a disturbance of the public order, it is to be presumed that the rate of interest that is prevailing in the locality for sometime past is unfair to the tenants. If that be the view, Sir, on which this machinery of Government begins to function, then it is also necessary that the officer in order to satisfy the local welfare or restore the public order, remits arrears on account of which the public welfare was disturbed. And in that view, the arrears must be remitted, and the Revenue Officer must be invested with the power to remit arrears.

There is another question, Sir, as regards the fixing of a maximum of rent and a note of dissent to that effect has been submitted by my hon. friends, Mr. Dakshina Ranjan Gupta Chaudhuri and Mr. Bipin Behari Das. The Select Committee of course gave their fullest consideration to this matter. In the district of Sylhet the rate of rent varies in a most discordant manner. In Baniachang and other villages the rent is only 4 annas per *keir*, whereas in some parts of the subdivision (Karimganj) from which I come the rate of rent goes up to 14 rupees per *keir*. So within a range of 4 annas to Rs.14 it is very difficult to fix a maximum or a minimum. If that is possible, I would certainly welcome it.

My friend, Mr. Gupta Chaudhuri, has proposed to fix this maximum with an eye to conditions obtaining in his subdivision. But I am afraid the suggestions given by him will not be quite acceptable to all concerned or may not be able to satisfy the demands of all the aggrieved parties throughout the district.

The Hon'ble the SPEAKER: Then throw out the Bill.

Babu RABINDRA NATH ADITYA : Then where will it stand ?

The Hon'ble the SPEAKER : There are two courses open to the hon. member ; he may throw out the Bill or ask for a re-committal of it to the Select Committee.

Babu RABINDRA NATH ADITYA : But the point is that delay cannot be tolerated by the tenantry any longer and in that view of things we have acquiesced in many things, which otherwise we would not. So, whether a maximum is fixed or not, I think there is scope for some improvement of the section by framing suitable rules. For the guidance of the Revenue Officers the Government may issue certain instructions as to how the rent is to be determined. The rent may be determined with reference to the conditions of fertility, output from the land for ten years on an average, susceptibility to failure of crop on the land, the nature of the crop.....

The Hon'ble the SPEAKER : I think that all these would be very relevant at the last stage, that is to say, when the motion is put that the Bill be passed. Any observations of the hon. member as he is making now or as to what the Government should do as regards other matters—all these would come in only at the last stage of the Bill.

Babu RABINDRA NATH ADITYA : But, Sir, in the light of these discussions some members may bring amendments, if possible.

The Hon'ble the SPEAKER : When the hon. member says that some provisions should be made by rules, what is the use of making all these observations now ?

Babu RABINDRA NATH ADITYA : I do not know if there is any bar to discussing these things at this stage. But if you rule so, I must submit.

Khan Bahadur Maulavi KERAMAT ALI : May I request you, Sir, that you enquire of the hon. members whether any of them is going to oppose this motion ?

The Hon'ble the SPEAKER : I shall consider that suggestion afterwards.

Babu RABINDRA NATH ADITYA : Sir, the next important provision for the raising of the tenantry from the status of helots is the clause (clause 33) with regard to service tenure. There is message of redemption for the service tenants. But I am afraid that the proposed section 201(B)(1) as worded might take away much from the intention of the Legislature with regard to this section. The section reads as follows :—

“A person who for a period of twelve years, whether wholly or partly, before or after the 2nd March 1939 has continuously held as a tenant, on condition of rendering service, any land outside the proprietor's private lands as defined in section 143 of the said Act, excepting a homestead contiguous to the proprietor's private land pertaining to his landlord, shall be deemed to have acquired a modified right of occupancy in such land.”

Now, Sir, section 143 defines proprietor's private land. That definition is vague and it may include within its ambit lands which are now used by the service tenants for their homesteads or for agricultural purposes. So I think that even though the proprietor's private land has been defined in section 143 for other purposes, at least for the purpose of this section, *viz*, that of redeeming a large number of our fellow countrymen from the position of helots, I think the definition of proprietor's private land should be more restricted, so that a greater number of people might be benefited by the provision of this Bill. My submission is that only those persons who live in the land which is essentially necessary for the personal use of the landlord

may be exempted from the operation of this section. All other service tenants should get the benefit of acquiring a modified right of occupancy under proposed section 201 (B).

Then, Sir, we have made a change in this clause in the Select Committee. In the original Bill it was provided that the operation of this section would be limited to three years from the date of the passing of this Bill. One really finds no justification for this distinction. If the existing tenants get this relief by submitting a petition within three years from the date of passing of this Bill, why should not others who come in subsequently as service tenants get the same benefit. There should be no bar on a tenant desired to convert their service rent into money rent. So we have deleted this time-limit and made the remedy available for all service tenants for all time.

With regard to other notes of dissent that I have submitted, I would like to say a few words. In clause 17 it is said that the payment by a tenant may be allowed to be credited at the option of the landlord; but the difficulty comes in when the arrear is disputed. If the arrear is disputed and the landlord credits at his own option, he thereby forces the tenant to litigation. Why should tenants be forced to such litigation? If there is any discrepancy with regard to the question of arrears then the landlord can go and seek relief in a Court. So my submission to the hon. members of the House is that by giving the landlord the option of crediting payment you force the tenants to costly litigation which a poor tenant of the district of Sylhet can ill afford to bear. So my note is that the payment by a tenant may be allowed to be credited at the option of the landlord when the arrear is undisputed and admitted by the tenant; otherwise it should be applied to cover the arrears due on admission of the tenant. Supposing a tenant sends his rent by postal money order. He clearly states that he pays rent for a certain year. Now if the landlord does not accept, or by accepting the rent instead of crediting for the year for which the amount was sent, he credits it according to his own sweet will, he puts the tenant thereby into a disadvantageous position. I, therefore, appeal to hon. members not to drag the tenants to litigation, on account of the action of the landlord.

I will now speak as regards clause 26. There is a penal provision for compulsory deposit of half the admitted amount while filing defence in a rent suit. The outlook on the question is that the dues of the landlord is sacred; it is given precedence over all other dues. To this question we cannot agree. In all other suits in the Civil Court we have no where found that the amount may be deposited as a condition precedent.....

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Sir, we have decided to have an amendment on this line.

Babu RABINDRA NATH ADITYA: Still a provision for giving security will be substituted. It operates as a bar to the trial. This special provision lays a clog on the right of contest. I know of some cases during my professional career in the Civil Court in which tenants dispute certain payments which are not accounted for and pray for instalment or time.....

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: On a point of order, Sir. My point of order is that no hon. member may speak at length on the motion which has been presented by the Hon'ble Revenue Minister. I just draw your attention to rule 64:

"The report of the Select Committee on a Bill shall be presented to the Assembly by the member-in-charge of the Bill.

In presenting a report the member-in-charge shall, if he makes any remarks, confine himself to a brief statement of fact."

Then rule 65 says:

“ After the presentation of the final report of a Select Committee on a Bill the member-in-charge may move—

(i) that the Bill as reported by the Select Committee be taken into consideration, but any member may object to its being so taken into consideration if a copy of the report has not been available for the use of members for seven days,.....

(ii) that the Bill be recommitted, either

(a) without limitation, or

(b) with respect to particular clauses or amendments only, or

(c) with instructions to the Select Committee to make some particular or additional provision in the Bill.

(2) If the member-in-charge moves that the Bill be taken into consideration any member may move, as an amendment, that the Bill be recommitted.”

So I think all these motions must be made by the member-in-charge. I think such lengthy speeches on the merits and demerits of the Bill should not be allowed.

The Hon'ble the SPEAKER: The rule says that there may be a motion for recommitment of the Bill, also that the Hon'ble Minister-in-charge should move the motion by a brief statement. That is all. But if an hon. member opposes the motion, then of course he will be entitled to speak and the Hon'ble Minister knows that there is no limit for such a speech. I find that no member is opposing the Bill, but all are really supporting the Bill. But it may be that after that a member may rise and oppose the motion. Therefore the very fact that the Minister is only to make a brief statement cannot lead me to hold that any other hon. member making a speech should also be brief.

Maulavi ABDUR RAHMAN: In supporting a particular motion can any hon. member speak on the merits and demerits of a Bill. We have found that he was all along criticising the Bill.

The Hon'ble the SPEAKER: He is making suggestions which may be taken up by other members.

However, the hon. member will please finish soon.

Babu RABINDRA NATH ADITYA: Sir, I will finish just now. I was speaking on the question of compulsory deposit about which the Hon'ble Minister has said that he is agreeable to make an amendment relating to security to the satisfaction of the Court instead of depositing half the amount of the admitted dues.

I submit, Sir, that it is not fair on the tenant. As I have said, the tenant may dispute only a certain technical matter or dispute certain payments, but for other things it may be necessary to ask for instalments only in order to make payment. In these circumstances, if he has to deposit that amount the very ground is cut under his feet. What he wants really is extension of time from the Court to pay up arrears. What he wants really is him to give deposit or security? What security can he give except his holding? That would certainly not be a good security to be accepted by the Court. The Court most probably will not be satisfied with the occupancy holding as security. Tenant has no security to offer, except his plough and cattle. So this provision either for deposit or for security must be deleted for the benefit of the tenantry.

The Hon'ble the SPEAKER: The hon. member should finish.

Babu RABINDRA NATH ADITYA: I have almost finished, Sir. I want to say a few words about the appeal from the decision of the Revenue Officer to the Civil Court. Sir, Civil Courts look at things from one standpoint, and the revenue authorities here look at things from a different

standpoint. The standpoint of the revenue authority is the promotion of local welfare or public order ; that may not be quite identical with the outlook of the Civil Court, which is assessment of fair and equitable rate of rent. Even if the rate be not fair and equitable, it may satisfy public order. In that view of the case the revenue authorities may arrive at certain conclusions with which the Civil Court may rightly differ. So, if there is any provision for having the decision of the revenue authority challenged by way of appeal in a Civil Court, I submitted, in my note of dissent, that appropriate rules for an easy disposal from an indential angle of vision may be framed for the purpose. Otherwise, the Civil Court may bring one outlook to bear on the question while the revenue authorities, a different outlook and the real importance of the decision of the revenue authority may be lost sight of by the Civil Court in appeal.

Sir, I had many things to say, but as I have been asked to finish my speech, I resume my seat.

Babu NIRENDRA NATH DEV : Mr. Speaker, Sir, I think I shall be failing in my duty if I do not bring to the notice of this House that notwithstanding all the good intentions behind the presentation of this Bill the fact remains that the present Bill does not go to the root of the problem. Sir, it was only in the year 1936 that the Sylhet Tenancy Act was passed and before that year was over it was felt necessary to bring in this present amending Bill, and I am afraid, Sir, with the change of this House another amending Bill may be brought forward in the year 1942. This only proves that there must be something very seriously wrong behind this whole system. I submit, Sir, it is high time that we should go to the root of the problem instead of every year administering some medicines to the symptoms only, as has been stated by my hon. friend Babu Rabindra Nath Aditya. Of course, I admit that there is necessity also for administering some medicine as the symptoms occur, but, Sir, at the same time we must not forget that it is very urgently necessary, if not more at least equally necessary, that we should deal with the real problem at its very root. I submit, Sir, that this permanent settlement itself is an anachronism, a relic of the feudal system. If we really want any good of the people this must go as early as possible. It is our bounden duty, as legislators of the province, to consider the matter very seriously, in the interest of the peasants, in the interest of the Zemindars, in the interest of the province as a whole.

The Hon'ble the SPEAKER : The hon. member will please make his speech relevant to the subject.

Babu NIRENDRA NATH DEV : I quite appreciate, Sir, that the exact things I want to impress upon the House may not be very strictly relevant to the subject-matter before us. But my submission in this connection, Sir, is that we are very unfortunate that His Excellency could not give his assent to the Estates Acquisition Bill, of which notice was given by some hon. members ; otherwise, I would not have to speak these things here now. What I want to impress upon the present Cabinet is the urgent necessity of dealing with the problem at its very root.

Sir, yesterday there was a lot of talking about the exact position—this side of the House was talking with regard to the Postponement of the Execution of Decrees Bill. The Hon'ble Speaker himself pointed out that it was due to some observations of the Select Committee itself that the Cabinet were not justified in presenting that measure unless some other permanent and specific measure was in contemplation. Similarly, Sir, in this case also the Select Committee ought to have gone at the very root of the problem and recommended to the Government that the time had come

when the Government should make up their mind as to whether they were going to abolish the permanent settlement itself.

The Hon'ble the SPEAKER: I think the hon. member should not go on like this. He is not really speaking on the motion before the House. It would be better for him to bring in a separate motion for discussion of this subject. But here, in connection with the motion that is before the House, his speech is hardly relevant.

Babu NIRENDRA NATH DEV: I quite appreciate your ruling, Sir, but I submit that I would not have spoken these things had it not been for the fact that the permanent settlement itself is at the root of all evils.

The Hon'ble the SPEAKER: But permanent settlement is not on its trial before us now. The hon. member should remember that the motion before the House is that the Report of the Select Committee on the Sylhet Tenancy (Amendment) Bill be taken into consideration. That is the motion.

Babu NIRENDRA NATH DEV: Very well, Sir. The next point I think I should try to impress upon the Cabinet is the very urgent necessity of having record-of-rights prepared before we can expect to offer any benefit to the tenant by passing this legislation. Sections 117, 137 and the following sections in the Sylhet Tenancy Act give some authority to Government for having record-of rights prepared.

A Voice: It is not mentioned in the original Bill or in the Select Committee's Report.

Babu NIRENDRA NATH DEV: But it was within the scope of the Select Committee. It is a very urgent matter. All the good intentions of giving relief to the peasants will be null and void unless we have record-of-rights. In the absence of any record-of-rights.....

The Hon'ble the SPEAKER: These remarks will be perfectly relevant at the last stage of the Bill, *i.e.*, when the motion for passing of the Bill is before the House. At that time the hon. member can say what Government should do or should not do; he can then give all his suggestions to Government.

I wish to know if there is any hon. member who is going to oppose this Bill.

Mr. BAIDYANATH MOOKERJEE: As I said before, while we were discussing the Goalpara Tenancy (Amendment) Bill, I have got some points which have not at all been touched upon by any hon. member. I mean both the Hon'ble Ministers and the hon. members who have taken part in the debate so long. At that time also I was expecting that some one with knowledge of law to take up this point, and I did not like myself to speak because not being a lawyer I am not a good speaker so as to be able to tackle the legal problems.

The Hon'ble the SPEAKER: Why does the hon. member think so?

Mr. BAIDYANATH MOOKERJEE: Sir, that is a point of law and I am not a lawyer.

The Hon'ble the SPEAKER: It is a question of interest and any one who is interested in the question is quite entitled to speak.

Mr. BAIDYANATH MOOKERJEE: That is why I want to speak. I want to give some suggestions from the landlord's viewpoint. I also submitted a note of dissent.

Khan Bahadur Maulavi KERAMAT ALI: The note of dissent might be explained when moving the amendments.

Mr. BAIDYANATH MOOKERJEE: I do not want a ruling from my friend the Khan Bahadur.

Khan Bahadur Maulavi KERAMAT ALI: I do not want to waste the time of the House.

Mr. BAIDYANATH MOOKERJEE: This is most objectionable, Sir, however, as I submitted a note of dissent, I wish to explain it, like other members.

The Hon'ble the SPEAKER: The hon. member can explain his note of dissent if he wants.

Mr. BAIDYANATH MOOKERJEE: Sir, the Bill had two main objects as was clearly stated in the Statement of Objects and Reasons, but by the deletion of clause 29 one of the said objects of the Bill has been demolished and the Bill as it has come out of the Select Committee has become completely one-sided and has defeated the very object with which the task of legislation was originally undertaken. This point has not been discussed by any hon. member who has taken part in the discussion, nor has it been touched upon by the Hon'ble Minister. So, I would like to make this observation that the Hon'ble Minister who is the representative of all sections of the people here, should take note of this and bring the necessary amendment to that effect from the Government side. And I should like to say to the other hon. members that the process of reform should be evolutionary and not revolutionary, as it will be found from the report of the Select Committee that it is practically revolutionary. Revolution, as I may say it, is a negation of democracy. So long my hon. friends are for democracy I am entirely with them in all matters whenever just and proper, but let us stand on some secure footing. We should not lose a step in the middle when there is a chance of falling down. So my humble request to the Government is this that they will take notice of clause 29, which has been omitted and for which fact the object of the Bill has been frustrated.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: I would request the hon. member to come to the side of the Government.

Mr. BAIDYANATH MOOKERJEE: Sir, if you will kindly allow me I will go and sit along with him (*laughter*).

The Hon'ble the SPEAKER: Order, order.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: This is not in the Select Committee's report.

Mr. BAIDYANATH MOOKERJEE: I am extremely sorry. It is very mean and disgraceful on the part of the Hon'ble Minister to suggest that because I am not sitting behind the Government benches my case will not be considered. If the policy of the Government of Assam be so very mean and heinous, I am sure the unfortunate province of Assam is going to be doomed very soon. (*Loud laughter.*) I hope, however, that better sense will prevail and my Hon. friend the Khan Bahadur will try to mend his disgraceful ways and will really stand up for all the people for whose interest he is here. He should not think that while he is occupying the position of a Minister he is to think of his party alone. He should think for all alike.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: I am sorry that my hon. friend has misunderstood me. I only made a suggestion that he might come over to our side.

Mr. BAIDYANATH MOOKERJEE: I beg to explain, Sir, that this portion of my speech namely request to reinsert clause 29 was meant for the Hon'ble Minister in the hope that as clause 29 had been omitted, Government should bring in an amendment to reinsert it so that it may be discussed afresh at the third stage; the other part of the speech about evolution and revolution was meant for the other hon. members on this side of the House who took part in the debate.

The other point is that I am in favour of a policy of adjustment of relationship between the two parties in the light of the minute of dissent which I have submitted in brief.

Babu DAKSHINARANJAN GUPTA CHAUDHURY: Mr. Speaker, Sir, it has been well represented in the Statement of Objects and Reasons that there was a general depression in the country, and as a result of that economic depression the Government felt the necessity for bringing some legislation to give some relief to the people of Sylhet. It has been stated in the Statement of Objects and Reasons: "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 Assam Money-lenders' Act, the Assam Debt Conciliation Act, remission of revenue in temporarily-settled areas, etc. In the permanently-settled districts the relations between landlords and tenants have been sought to be placed by legislative enactments on a better regulated basis. It is considered, however, that in these areas a greater amount of relief is necessary. The Bill seeks to provide relief for all classes of tenants by reducing the rate of interest, abolition of damages on arrears of rent and facilitating the division of interest, and distribution of rents. The spectre of enhancement of rent will, so far as the cultivating classes are concerned, vanish from the scene for a period of ten years. Relief is made possible in cases where the existing rents are found to be excessive. Landlord's transfer fees are reduced to nominal mutation fees. Impediments to *bona fide* litigation have been to a certain extent removed. The position of all classes of the lower grade tenants including service tenants outside the proprietor's private lands and agricultural labourers has been sought to be improved. With the curtailment of the landlord's privileges, it has been considered equitable to provide for special procedure for recovery of their dues, should circumstances arise in which the existing legal remedies fail to achieve their purpose."

The whole basis of the Bill is, as we understood from the speech which the Hon'ble *ex*-Revenue Minister delivered, was that there should be an adjustment between the landlords and tenants and with that object in view the Hon'ble *ex*-Revenue Minister toured round the whole of the district of Sylhet and placed himself in touch with the representatives of the tenants as well as the landlords and held a conference of the representatives of the tenants and the landlords. As a result of that conference this Bill was evolved. In that view of the matter, proposed section 116B in clause 25 and clause 29 are most important, and they form the basis of the whole Bill. Therefore, Sir, I find that this clause 29 and section 116B proposed to be inserted by provincial Government may, on being satisfied that the exercise of the powers hereinafter mentioned is necessary in the interests of public order or of the local welfare, invest a revenue officer with the following powers or either of them, namely...". Here, Sir, I ask the House to mark the use of the words "in the interests of public order or of the local welfare". So far as this Bill is concerned we are dealing with economic relationship between the landlords and tenants. Therefore, I submit that the question as to what would be "in the interests of public order" possibly could not be definitely defined. It is for the authorities in charge of law and order to deal with and that provides only for remedies under certain circumstances and contingent upon the happening of certain circumstances. The requisite relief is to be given only when the Government is convinced that the circumstances have arisen in a particular area and that there is a necessity on a large scale for the reduction of rent. In that view of the matter I submit that proposed section 116B does not make any provision for permanent relief or relief of a substantial character to the tenants. What I submit on behalf of the tenants is that we want some relief in the shape of a permanent character, some relief which on

examination of the question should be undertaken and therefore I submitted in my minute of dissent that on an examination of the quality and quantity of land there should be a maximum rent fixed. It may be Re.1, Rs.2 or Rs.3, whatever it is. My main point was that the maximum rate of rent be fixed having regard to the economic depression in the country and the poor condition of the peasantry.

Then as a corollary to that section is clause 29. My submission is this, that we should give every relief to the poor peasants but if we grant something to the landlords, let it be four annas or six annas or one rupee, that the landlord should be in a position to realise it. It should not only be a paper transaction and landlords should have some means to get it. Clause 29 is a corollary and also provides for rent realisation under extraordinary circumstances only when Government is convinced that in some area a body of landlords have been compelled to such a position that realisation of rent is impossible. But, Sir, I submit that in regard to this matter also we want that there should be some measure put in in the Statute Book by which the landlords may be able to realise the rent on a permanent basis.

These two clauses form the main basis of the Bill and I submit before discussing other points that my minute of dissent with regard to these clauses should be considered. And before we come to the objects expressed in the Statements of Objects and Reasons we must discuss proposed section 116B and clause 29, with a view to eliminate them and substitute in their places other clauses framed in the light of the suggestions made by me.

The Hon'ble the SPEAKER: I hope the hon. member will finish.

Babu DAKSHINARANJAN GUPTA CHAUDHURY: There is also another point that I wish to make. So far as these two sections are concerned the procedure laid down is a lengthy one. First there is no clear definition so far as 116B is concerned. There is the question of the provincial Government being satisfied that it is necessary. But who is to satisfy them? There is no machinery set up. Moreover, when there is a change of Government, as we find specially in this province, the circumstances under which the Government will be satisfied may vary from time to time and as a result the tenants will be left at the mercy of the Government of the day as to how the expression is interpreted. Therefore, I would suggest that some specific clause or definition should be found out by which the provincial Government may be satisfied and the vagueness of these remarks may be eliminated.

The next question is the interests of public order and local welfare. In any law we shall have always had difficulty about defining what tantamounts to local welfare and public order. They will also assume different meaning according to the complexion of the Government and in a democratic Government this is likely to change from day to day specially in a province like ours.

Then under proposed section 116B(2) in clause 25, "the powers given under this section may be made exercisable within a specified area either generally or with reference to specified classes of cases".

The Hon'ble the SPEAKER: A detailed examination of the case is not necessary.

Babu DAKSHINARANJAN GUPTA CHAUDHURY: It should be deleted, that is my suggestion. Unless I criticise this clause, I shall not be able to make a case for deletion. However, I bow down to your ruling, Sir.

The Hon'ble the SPEAKER: Of what use is it? The hon. member can table amendments.

Mr. FAKHRUDDIN ALI AHMED : I wish to make one or two observations which concern the report of the Select Committee and particularly in regard to the *Khanebari*.

The Hon'ble the SPEAKER : Very well, he will please finish his speech soon.

Mr. FAKHRUDDIN ALI AHMED : I am awfully sorry, Sir, if at this stage I have to take a few minutes of the House and make a few observations with regard to the Bill which is before us to-day. I appreciate the anxiety felt by my hon. friend, the Minister-in-charge, to have this stage of the Bill passed to-day, so that it may be taken up clause by clause on the next day allotted for Government Bills. We are, with regard to this Bill, not in such a happy position as we were in the case of the Goalpara Tenancy Bill ; because in that case the Hon'ble Revenue Minister by his persuasion at a conference of the representatives was able to bring about an agreement between the two representatives, and in the case of the Sylhet Tenancy Bill no such agreement was found possible. We are confronted with the task of adjusting the claims of the tenants with the rights of the Zemindars which if settled by agreement, would have made an easy passage for the Bill. In this connection I would like the Revenue Minister to note one particular item, namely, the provision incorporated in clause 2 of the Bill. That is a matter which relates to service tenure *chakran* and *nankar*, etc., and with which the question of *Khanebari* is interconnected. Sir, I do not know if the Hon'ble Revenue Minister has during his brief term of office, the experience of understanding what this *Khanebari* means. But I would place at his disposal the experience I had during the few months I was in office and which I collected when I went to Sylhet in connection with a dispute between the Zemindar and tenant at Golapganj. There it is still a matter of dispute as to what should constitute a *Khanebari*. It was our intention to do away with the service union except in that area which is Zemindar's *Khanebari* or his private compound. And, therefore, unless and until the *Khanebari* is properly defined, Government will find it very difficult to incorporate an amendment which would give relief to the tenants. So, I would ask the Hon'ble Revenue Minister to make a further attempt to bring to a conference the representatives of these two sides and see if an amendment based on agreement can be brought forward by him so that it may satisfy the demands of the tenants on the one hand and leave the Zemindars without much infringement of their rights on the other. This is a question in which both Zemindars and tenants are equally and vitally interested and I would therefore request him not to treat this matter very lightly but exert his influence and persuasion for an amicable and agreed settlement.

Sir, another point which I should like to raise in this connection is with regard to clause 25 about which I have submitted a note of dissent. The Hon'ble Minister is aware that in the Select Committee the power of appeal which we had intended to give to the Revenue Tribunal has been taken away and it has been suggested that the power should be exercised by the Civil Court. I do not know what view the present Government takes with regard to this matter, but I feel that in a matter where the dispute mainly would be with regard to the rent, the Revenue Tribunal will be more competent to deal with than the Civil Court. The Hon'ble Minister is aware that at present in such matters the Civil Court has jurisdiction and, as experience has shown us, neither the tenants nor the Zemindars are satisfied with the procedure in vogue because the experience of the Munsif or the Civil Court does not extend to settlement rules and practices. I had expected that the Hon'ble Revenue Minister would throw some light on Government's intention with regard to this matter, but I do not know

whether they accept the amendments suggested by the Select Committee or they propose to restore the original provision of the Bill. Sir, though with regard to this Bill we are not in such a happy position as in the case of Goalpara, but as the Hon'ble Revenue Minister has said, the items on which notes of dissent by the members of Select Committee are submitted, are very few and taking this fact into consideration, I hope he will try to bring the two parties together and give such suggestion which will be acceptable to both and which will facilitate the passage of this Bill. With these words, I support the motion.

The Hon'ble Khan Bahadur SAYIDUR RAHMAN: Sir, the matter has been amply dealt with and I do not think it requires any reply from the Government side. The suggestions that have been made from different quarters including that of Mr. Fakhruddin Ali Ahmed will be borne in mind by the Government.

The Hon'ble the SPEAKER: The question is:

"That the Sylhet Tenancy (Amendment) Bill, 1939, as reported by the Select Committee be taken into consideration."

The motion was adopted.

The Assam Ministers (Salaries and Allowances) Bill, 1940.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Sir, I beg to introduce the Assam Ministers' (Salaries and Allowances) Bill, 1940.

(After a pause)

Sir, I beg to move that the Assam Ministers (Salaries and Allowances) Bill, 1940 be taken into consideration.

I have already stated in detail the reasons which have prompted the present Government to bring this Bill. The Bill follows the same lines of the previous Government and provides a salary as well as a house and motor car allowance. But as I had mentioned before, the party to which we belong, is not tied to the Congress mandate of having Rs.500 as the maximum salary. Therefore a salary of Rs.750 for each Minister has been laid down along with a house allowance of Rs.125 and an allowance of similar amount for maintenance of a motor car. For the Prime Minister, on account of added responsibilities, the provision of pay is made at Rs.1,750 with the same allowances. Sir, while I am mentioning these terms I must mention that I have already given notice of an amendment which I propose to move at the proper time under these allowances. At present there are no rules guiding the principle followed in granting travelling allowance to the Ministers. Under audit objection, this has to be regulated and Government would be given power by the Act to frame rules for travelling allowance. The same procedure is going to be followed as regards the Speaker, the Deputy Speaker, the President and the members of the Legislature. The cases of travelling allowance of all these officers and members are not covered by our Fundamental and Subsidiary Rules and therefore under audit objection Government has to be given power to frame appropriate rules.

Maulavi MABARAK ALI: May I know whether any Bill is necessary for the amount which has been charged upon the revenues of the province by His Excellency?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: The amount charged under the present Act is already there. The additional amount which is provided under the Act is also in the Budget. But it is for the House to decide, what salary they will provide for the Ministers.

Maulavi MABARAK ALI: As we find from the Budget, the whole amount of Rs.96,000 has been charged upon the revenues of the province. So does there arise any question of cut motion?

The Hon'ble Maulavi Saiyid Sir Muhammad SAADULLA : On account of a Finance Department procedure the whole amount has been shown as charged, but the hon. members will have the right to criticise that or even move cut motion on the total demand.

Maulavi MABARAK ALI : Will it be in order to move cut motion on the total demand ?

The Hon'ble the SPEAKER : I said what I had to say on this matter yesterday.

Motion moved :

“ That the Assam Ministers' (Salaries and Allowances) Bill, 1940 be taken into consideration.”

Babu KAMINI KUMAR SEN : Mr. Speaker, Sir, I rise on a point of order, and my submission is that the Bill called the Assam Ministers' (Salaries and Allowances) Bill, 1940, which has just now been introduced is absolutely illegal and *ultra vires* and out of order, (*Hear, hear*). Sir, it will be evident from the Preamble that this is a Bill under section 51 of the Government of India Act and as such it must be governed by the expressed provision of the Government of India Act, section 51. I think, Sir, I would do well to read the section 51, sub-section (3), to explain my position. It runs thus:— “ The Salaries of the Ministers shall be such as the Provincial Legislature may from time to time by Act determine and until the Provincial Legislature so determine, shall be determined by the Governor.

Provided that the salary of a Minister shall not be varied during his term of office.” The Hon'ble Ministers of the present Cabinet took office on the 17th of November, 1939 and I am sure all the Hon'ble Ministers have since drawn their salaries for the last four months according to the provision of the present Act. So, Sir, the provision that they have made in the Bill is nothing but varying the salary they have already drawn. Sir, an attempt has been made to override the difficulty just mentioned in the proviso. They have made a provision in the Bill giving retrospective effect to it. I refer to clause 2 of the Bill. It runs thus:—“ It shall have effect from the 17th of November, 1939 ” and there is another clause, I mean, clause No.5 “ the Assam Ministers' Salaries Act, 1939, is hereby repealed ”. I shall come to the aspect of the retrospective effect later on but, Sir, my submission is that even with these provisions for retrospective effect, if the Bill is passed into law, will not the effect be to vary the salary they have already drawn ? Would it not be varying the salary already accepted by the Ministers ? They accepted office on the 17th of November knowing full well that the salary provided by the Assam Ministers' Salaries Act of 1939 is Rs.500. They knew full well that under the proviso to section 51 they are not entitled to vary their salary during their term of office. How can they now vary the salary against the expressed provision of the Government of India Act ? If they have made a provision to give retrospective effect, it has been done only with a purpose to override the difficulty referred to in section 51. But, Sir, I am sure that in spite of this contrivance, it is nothing but varying the salary which they have already accepted and drawn. So, Sir, I say that this Bill which is going to override the expressed provision of section 51 of the Constitution Act is nothing but illegal and *ultra vires*.

Now, Sir, with regard the provision for retrospective effect that has been sought to be given in this Bill, I am not aware of any legislation in which a whole enactment has been repealed with retrospective effect. I do not know of any legal precedent whereby one whole legislation has been nullified with retrospective effect.

The Hon'ble the SPEAKER : Is this a point of order to be considered in connection with the question whether a Bill can be introduced to give retrospective effect? That is not a point of order. That is really a discussion of the merits of the Bill.

Babu KAMINI KUMAR SEN : What I intend to press, Sir, is that even by providing for giving retrospective effect which has no legal precedent, they cannot get rid of that section. Moreover, Sir, by providing for retrospective effect in a case like this they are creating a very dangerous precedent. I will cite one example in this respect to explain my contention. During the last Congress-Coalition Ministry a Bill was brought forward and passed into law fixing the salary of the Ministers at Rs.500. Before that, the previous Ministry drew a salary of Rs.2,500 and Rs.1,500. Now if we take it, that the Legislature can or should give retrospective effect in such legislation the Congress-Coalition Ministry would have certainly the right to give retrospective effect in their Bill from the first of April, 1937. If they did so and carried it with the majority they had in the Legislature, what would have been the position of the Hon'ble Ministers who were in the first two Cabinets of Sir Saadulla? The result would have been, that they would have to refund a considerable part of the amount they drew. Now, Sir, even if the present Bill is passed fixing the salary of the Ministers at less than Rs.500, will not the present Hon'ble Ministers be compelled to refund a part of their salary? This is a position which the law maker certainly did not contemplate and which no Legislature should encourage. So, Sir, I say that retrospective effect in such cases, besides being bad in law, will create a very dangerous precedent. The Hon'ble Premier has mentioned that the Bill has been drawn according to the line of the previous Bill that was brought forward by the Congress-Coalition Ministry but, Sir, from the copy of the Act as passed by the Congress-Coalition Ministry it appears that the clauses are not identical. Section 2 of the existing Act provides that the Act should come into force at once. There was no provision for giving retrospective effect and the old Assam Ministers' Salaries Act was repealed as soon as the new Bill was passed. So, Sir, I submit that this Bill which seeks to vary the salaries which have already been accepted and drawn by the Hon'ble Ministers, is illegal and *ultra vires*.

The Hon'ble the SPEAKER : Has the Hon'ble Premier got anything to say?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Yes, Sir. The contention of our *ex-Judicial* Minister can be simply met by sub-section 3 of section 51 which he has read to the House. There it is definitely laid down, that the salaries of the Ministers shall be such as the Provincial Legislature may, from time to time by an Act, determine. If the contention of my hon. friend Mr. Sen is correct then there is absolutely no meaning for the words 'from time to time'. The proviso to that sub-section says 'provided that salary of the Minister shall not vary during his term of office'. Salary can be provided only at the inception of the Reform by the Governor. Thereafter, it is left to the Legislature to decide what salary the Ministers should get. In the first Ministry, the salary was fixed by Governor at Rs.2,800 for Chief Minister and Rs.1,800 for his Colleagues. Then, by an Act of Legislature, it was fixed at Rs.2,500 and Rs.1,500 respectively. That Act was repealed when my predecessors of last year were in office. They took office in the month of September when that Act was in force; then they changed that Act in December 1938 only. Of course they could say that they did not draw their pay that was mentioned in the first Act. I am not sure what they drew, probably they drew what

was allowed to them by Congress High Command. But the fact remains that, after they assumed office for three months the old Act had been in operation. Then only the old Act was changed by another provision made by the Legislature. Similarly, Sir, we are here for three months after the last Government vacated office. This is the first time that the Legislature has met and we have availed of the first opportunity to come before the House with this Bill.

The Hon'ble the SPEAKER : There is no bar, provided the salary of the Ministers shall not be varied during their term of office. The House is given the right to vary it from time to time and it is open to them to see what salary should be given to the Ministers even now.

Babu KAMINI KUMAR SEN : Sir, the Hon'ble Premier has just said that when we accepted office the old Act was in force. But we actually drew salary as provided in the subsequent Act. So in our case there was no question of varying the salary. Even if for argument's sake, it is contended that we did something illegal in passing that Act, does it mean that the illegality should continue for ever ?

Babu DAKSHINARANJAN GUPTA CHAUDHURI : I would also point out, Sir, that the sections quoted are *ultra vires*.

The Hon'ble the SPEAKER : That is a question for this House to decide. It cannot be a point of order.

The Hon'ble the SPEAKER : With regard to the point of order that has been raised, I wish to draw the attention of hon. members to the ruling I gave on the 1st of September 1937 in connection with the first Ministers' Salaries Bill which was introduced then. It was the same hon. member who has now raised this point of order that asked me then whether that Bill was providing salaries for the Ministry which was in office then or for all time to come. When he made that query he gave the same interpretation of the proviso to sub-section (3) of section 51 of the Constitution Act, as he has placed now. I said that that Bill, as was framed, was a Bill to provide salaries for the Ministers for all time to come, and incidentally I also gave a ruling, interpreting sub-section (3) of section 51, that its proviso allowed that the Ministers' salaries can be varied by a legislation, if the salaries were not fixed during the tenure of office of the Ministry who seek to vary the salary provided by the Act. I said also that, if a Ministry brings forward a Ministers' Salaries Bill and if, after the Bill is passed into an Act, the Ministers accept the salaries provided by that Act, then those salaries cannot be varied. I may read one portion of that ruling :—

“So in that view I hold that the salary which this House will fix is a salary without any reference to the existing personnel of the Ministry. Of course the salaries are being fixed during the term of the present Ministry and so long as they will be holding office, these salaries cannot be varied. But there may be an occasion to amend the Act and fix different salaries in case there be a change of Ministry. It may be argued, that the salaries even if accepted by a new Ministry may be varied on the ground that they were not fixed during their tenure.”

Of course I did not elaborate the grounds in connection with the ruling I gave then. But since then I have given my best thought to this point, especially in connection with the Bill that was brought forward by the late Ministry for the purpose of repealing the previous Ministers' Salaries Act that is for the purpose of bringing into existence the present Ministers' Salaries Act. Having given my best thought to this question, I am disposed to stick to the view that I held then. But for elucidating the points further I may give my grounds to this hon. House now.

Sub-section (1) of section 51 of the Constitution Act provides. "The Governor's Ministers shall be chosen and summoned by him, shall be sworn in as members of the Council and shall hold office during his pleasure. Then sub-section (3) provides that. "The salaries of Ministers shall be such as the Provincial Legislature may from time to time by Act determine, and, until the Provincial Legislature so determines shall be determined by the Governor." Although sub-section (1) indicates only the one way in which a Minister or the whole body of a Ministry may go out of office there are other ways in which there may from time to time be a change in the personnel of a Ministry either wholly or partially. Thus the changes in a Ministry from time to time being always a possibility, the necessity for the provision in sub-section (3) to the effect that the Legislature in exercise of their right to fix the salaries of Ministers can do it from time to time, is quite apparent and sub-section (3) is therefore a natural corollary to sub-section (1). The right to fix the salaries of Ministers who may be a changing body involves in it the right to vary the same from time to time, and therefore sub-sections (1) and (3) being considered together it comes to this that in every change in the Ministry the Legislature may get opportunities to exercise its right of fixing the salaries of Ministers. Under what conditions that opportunity would arise is now to be considered. To give such an opportunity to the Legislature such an Act which a Legislature can pass may not be an Act in general terms fixing the salaries of Ministers for all time to come. Without a Ministry being in office, a Legislature cannot function, and when a Legislature passes such an Act, a Ministry must be in office. So in this view a legislation for providing salaries of Ministers, can be shaped in such a way as to contain a clear reference to the personnel of the Ministry during whose tenure of office the legislation is to be passed and is to remain in force. It is not difficult to shape such an Act making its provisions to be operative only in regard to the Ministers during whose term of office the Act is passed, taking into consideration at the same time the various exigencies of circumstances under which a change in the personnel of the Ministry may take place. That the provisions of a Ministers' Salaries Act may be given such a limited operation is evident from the phraseology of the proviso to sub-section (3) which appears to restrict the right to vary the salary of a Minister during his term of office. Again the words "shall not be varied during his term of office" in the proviso may be considered to be significantly appropriate to bring out the intention of the framers of the Constitution Act that the provisions of a Minister's Salaries Act must be limited to the tenure of office of the Minister during whose term of office the Act is passed. The principle underlying the proviso when considered along with the provisions of sub-sections (2) and (3) appears to be that the salary of a Minister once fixed by an Act after he has come into existence should not be varied by the legislature during his tenure of office. In other words, the restriction, as contained in the expression 'shall not be varied during his term of office' presupposes that such a salary that cannot be varied must be a salary fixed during his term of office. Recognising this to be the principle underlying the whole provision of section 51 of the Act, the Legislature may have still scope to alter salaries of Ministers who were not in office at the time the Act in force fixing Ministers' salaries for all time to come was passed and was brought into force.

The present Ministers' Salaries Act is such an Act which the present Bill tabled seeks to repeal. It came into force when the present Ministry was not in office. So even if the present Ministers are drawing under the Act their salaries, it comes to this then that the salaries that are being drawn by the

Ministers were not fixed during their tenure of office. So according to the interpretation of the proviso to sub-section (3) as has been explained, there cannot be any bar to the variation of the salaries of the present body of Ministers even though the Act is in general terms and has fixed the salaries of Ministers for all time to come. To hold that the present Act is a bar to the exercise of the right of the Legislature to fix salaries of Ministers from time to time will be to take away the very right which has been given to the Legislature to vary the salary of a Minister not fixed during his tenure of office. That would mean the ignoring of the very principle underlying the provision of section 51 of the Constitution Act relating to the matter of Ministers' salaries. It will be practically nullifying the whole principle on which the right of the Legislature to vary the Ministers' salaries is based. If the present Act is held to have this effect, it must have also the same effect after a general election when a new Ministry is bound to be formed. Remembering that a Legislature cannot function to legislate on any matter until there be a Ministry, the successor of this House then would not be entitled to fix the salaries of the Ministers who would form the Ministry even if the number of Ministers is to be greater than the present number and even if the considerations arising out of the financial position of the province or some other exigencies may require lesser or higher salaries than now to be provided for the Ministers.

Even if the interpretation I have given of sub-section (3) and its proviso of section 51 be not accepted as correct, the considerations, which, I have shown, do arise for a proper interpretation, tend to give rise to a reasonable doubt as to what the real interpretation is and as to whether an amending or repealing Bill as the one that is being sought to be introduced on behalf of a Ministry, which was not in existence at the time the existing Act was passed, would be in order or not. Having regard to the well known principle that when there arises a case of doubt as to the competency of a Legislature in regard to any legislation on any matter, the benefit of the doubt should be given to the Legislature in favour of proceeding with the legislation and the Bill should be held to be in order.

There is, however, another view in favour of holding that this Assembly should be allowed to legislate in terms of the Bill that is being sought to be introduced to repeal the existing Ministers' Salaries Act. The point of order raised really seeks an interpretation of the proviso to sub-section (3) of section 51 of the Act by asking this House to take note of the fact that the present Ministry has come into existence when the existing Act is in operation and that they have accepted the salaries fixed by the Act. The contention is that by reason of the acceptance of the existing salaries by the Ministers the said proviso becomes a bar to amend or repeal the existing Act in order to vary the salaries fixed. The hon. member has urged that the late Ministry properly invoked the authority of the Legislature to vary the salaries of Ministers fixed by the first Ministers' Salaries Act, because the late Ministry did not accept the salaries fixed by the Act. The point of order raised therefore, really urges that the present members of the Ministry have no right to get salaries in newer scales as provided by the Bill that is being sought, to be introduced. So whether the proviso to sub-section (3) of section 51 of the Act is a bar to the salaries that are going to be fixed by an amendment or repeal of the existing Act and that being drawn by the Ministers who have come into existence during the operation of the existing Act which is being sought, during their tenure of office to be repealed, is a legal question involving an interpretation of a provision of a section of the Constitution Act and relates to the rights of that existing body of Ministers. In other

words the question reduces itself to this: When an existing Act is amended or repealed in order to fix a different scale of salaries for Ministers than the scales fixed by the existing Act whether the Ministers who come into existence and function during the operation of the existing Act accepting the salaries prescribed shall be entitled to draw at the newer scales of salaries to be fixed by the Bill if passed into law. So the real point urged is whether the acceptance of the salaries already fixed stops the present Ministry from bringing this legislation for getting higher salaries. To take cognisance of the fact that a body of Ministers having come into existence during the operation of the existing Ministers' Salaries Act and have also accepted the salaries and to hold that an amending or repealing Bill during the tenure of office of that Ministry to vary the salaries fixed by the existing Act is not permissible, would be really an adjudication on the rights of the Ministers and the Chair would not be justified on an adjudication against the Ministry to hold that the amending or repealing Bill which is being sought to be introduced would be *ultra vires* of the Legislature. Even if there is a clause in the Bill to the effect that the salaries would be given retrospective effect, it may be considered in this connection that if the Ministry which is in existence and whose salaries as fixed by the existing Act are being sought to be varied and fixed at higher scales, choose, for some reasons, to resign after such a Bill is passed and get themselves again sworn in, there cannot be any objection to their drawing the salaries that would be fixed by the new Act from the date of such reconstitution of the Ministry. So, the Act would be quite a valid piece of legislation. Only the provision of giving retrospective effect will be useless and inoperative. Again the question whether the provision to give retrospective effect is legal or not is not a question which arises in connection with the competency or otherwise of the Legislature to undertake the legislation. The competency of the Legislature to vary Minister's salaries from time to time is admitted. The question is whether under the given circumstances that competency stands curtailed. Therefore in the view that the point of order involves adjudication of a legal question involving an interpretation of a provision of the Constitution Act affecting rights of a particular body of existing Ministers under certain given circumstances, the Chair would not assume the role of an interpreter of that provision and hold that the Bill would be *ultra vires* of the Legislature. A decision on the question to be final and binding on all concerned must be obtained from the proper forum which is functioning in the land. The very same considerations would have also arisen if the present Bill were a Bill fixing a lower scale of salaries than the existing Act does and would have led the Chair to hold this view. Therefore the Bill is allowed to be considered by the House.

A Voice: Sir, the time is up.

The Hon'ble the SPEAKER: If the House desire we may sit half an hour more. I would ask the Hon'ble Leader of the House, if there is any possibility of the business being finished.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: In that case I would request the help of the Chair to suspend the operation of rules to allow on the same day the consideration stage as well as the final business of this kind.

Mr. FAKHRUDDIN ALI AHMED: The Hon'ble Minister should find another day for the consideration clause by clause.

The Hon'ble the SPEAKER: From the provisional programme it appears to me that even if I am disposed to suspend the operation of some rules, it will be very difficult to get through all the Bills that are put down in the list. Now, these Bills will come up on the 16th and 18th, and so the present motion before the House, that the Bill be taken into consideration, will come up on the 16th. If this motion takes, say, an hour and a half or two hours, then consideration of the Bill clause by clause may not come up on that day, because the Finance Bill will come up before that. So, I would request the Hon'ble Premier to get some more days from His Excellency the Governor, *i.e.*, to extend the sitting of the House by not proroguing it on the 21st March next. Otherwise it would not be possible to finish all the Bills put down for this Session.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Sir, 7th being a holiday, we can very well sit on the 6th.

Srijut GOPINATH BARDOLOI: It will not be possible for us to sit on the 6th.

The Hon'ble the SPEAKER: Very well, we shall see to that later on, but so far as to-day is concerned, it is not the desire of the House to sit longer. So I adjourn the House till 11 a.m. day after tomorrow.

ADJOURNMENT

The Assembly was then adjourned till 11 a.m. on Monday, the 4th March, 1940.

SHILLONG:

A. K. BARUA,

The 6th April 1940.

Secretary, Legislative Assembly, Assam.

CORRECTION SLIP TO THE ASSAM LEGISLATIVE ASSEMBLY
DEBATES (MARCH-APRIL SESSION, 1939), DATED THE
25TH MARCH, 1939 PUBLISHED IN THE ASSAM GAZETTE
DATED THE 7TH JUNE, 1939, PART VI-A

Correction Slip No.1

At page 755, after the expression

“ **Srijut GOPINATH BARDOLOI:** Yes, Sir ”
and before the expression

“ **The Hon'ble the SPEAKER:** His case does not arise at all ”
insert the following:—

“ **Babu KARUNA SINDHU ROY:** Will the Hon'ble Prime Minister
consider the case of Babu Jyotish Chandra Das, late a Lecturer of the
Murarichand College ? ”

A. K. BARUA,

Secretary, Legislative Assembly, Assam.