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| Resolution regarding extension of Majuli Public Works Department Road to Muwaidubighat—the opposite bank of the Subansiri Steamer ghat. (Withdrawn).  | 1921—1924 |
| Resolution regarding sanction of Rs.4,00,000 for conversion of the bridle path into a motorable road between Mawngap and Mairang. (Withdrawn).  | 1924—1931 |
| Resolution for Indianising the Officer Grade Services of All foreign concerns like the European owned tea gardens, Assam Oil Company, River Steam Navigation and India General Navigation Company, etc., in Assam. (Ruled it out of order.)             | 1932—1935 |
| Resolution regarding repealing of the Assam Sales Tax Act as amended up-to-date with Rules made thereunder and formation of a Non-official Enquiry Committee to go into the question of a Sales and Purchase Tax in the State. (Ruled it out of order). | 1938—1940 |

**Proceedings of the Fourth Session of the Assam Legislative  
Assembly assembled after the first General Election  
under the Sovereign Democratic Republican  
Constitution of India**

The Assembly met in the Assembly Chamber, Shillong, at 10 A.M., on Thursday, the 27th August, 1953.

**PRESENT**

Shri Kuladhar Chaliha, B.L., Speaker, in the Chair, ten Ministers, two Deputy Ministers, two Parliamentary Secretaries and eighty-two Members.

**Oath of Allegiance**

The following hon. Member was sworn in :—  
Maulavi Mehrab Ali Laskar.

**Adjournment Motion for general strike by the teachers of  
Government Aided High Schools of Assam demanding  
enhancement of their pay and allowances.**

**Mr. SPEAKER :** I have received notice of an \*Adjournment Motion. I want to know, before allowing this Motion to be moved, from the Education Minister what he has got to say about it.

**Shri BISNURAM MEDHI (Chief Minister) :** May I say a few words in this connection ?

**Mr. SPEAKER :** Yes.

**Shri BISNURAM MEDHI (Chief Minister) :** Sir, the so-called strike apparently took place on the 25th and 26th and the first opportunity was not taken by the hon. Member to move an Adjournment Motion. They have already resumed their work ; so there is no urgency in the matter. We have already informed the parties concerned that the matter is receiving our consideration and we are consulting other States.

**Mr. SPEAKER :** I find that it is not necessary to move this Motion and specially when there is a Resolution standing in the name of an hon. Member of the Opposition. Strikes and processions have become normal things in our political life.

If we are to discuss about these, it will be difficult on the part of the House to proceed with any other business. Therefore I disallow it.

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\*Shri Radhacharan Chaudhury to move :—

That this Assembly do now adjourn to discuss a definite issue of urgent public importance and of recent occurrence, namely the general strike by the teachers of the Government Aided High Schools of Assam on the 25th and 25th August, 1953 demanding enhancement of their pay and dearness allowance.

**The Assam Non-Agricultural Urban Areas Tenancy Bill, 1953**

**Mr. SPEAKER :** Though this item has passed consideration stage but I gave an assurance that anybody who is willing to speak anything on it will be duly recorded.

**Maulavi TAJUDDIN AHMED :** Mr. Speaker, Sir, I take my stand to give my opinion and view on the Assam Non-Agricultural Urban Areas Tenancy Bill, 1953.

Sir, this is a most important Bill. I have seen in many places that the landlords are ejecting and evicting their tenants without considering their difficulties and hardship. Moreover, the tenants who are in possession of their lands for more than 12 years, they are not allowed to dig wells and ponds and to cut trees on the lands without the consent of the landlord. Therefore, the relationship between the landlord and the tenant should be regularised and for that reason it is an important Bill. This Bill should have been passed long before, but I cannot blame this House for this because this Bill was drafted, redrafted, introduced and passed and it was sent for the assent of the President and for the comment of the Union Government. Every time it was sent, assent on it was not forthcoming and it was turned down. Considering the important nature of the Bill, I think, that this Government could not impress the Central Government or the President about it ; so it was not passed or given assent to. They considered that some provisions of this Bill are repugnant to the provision of Article 19(1) (f) of the Constitution of India.

**Mr. SPEAKER :** Government should have represented properly and they have failed to do so to the President. Is that the idea ?

**Maulavi TAJUDDIN AHMED :** Yes, Sir. The Bill as it seems to be was not considered as it was against the fundamental right and interest of the landlords, but we have to see to the interest of the general public. This Bill ought to have been passed with that end in view. However, according to the Report of the Select Committee now they confine to the ejectment and restriction of enhancement of the rent. Half a loaf is better than no loaf. Something is to be done for the benefit of the tenants. So this Bill is to be passed.

In clause 4 it is stated that occupancy right is given to the tenants who are occupying the land for more than 12 years. In my opinion it should be 6 years.

Sir, I have come from Barpeta. I have seen the same difficulty of the tenants of Barpeta. So this Bill should be extended to the town of Barpeta also.

**Shri GAURISANKAR BHATTACHARYYA:** Mr. Speaker, Sir, my Friend, Maulavi Tajuddin Ahmed, has just said that half a loaf is better than no loaf and therefore, on the whole, he welcomes this Bill. If I have been able to follow the introductory speech of our Deputy Minister, Mr. Das, he also made almost the same plea. He tried to show that the State Government, and for the matter of that this House did their best to pass a legislation for giving some benefit to the tenants in urban areas. But there are provisions in the Constitution of India which guarantee some fundamental rights to the landlords, and as the Bill which was passed in this House in 1950 proved to be repugnant to those provisions of the Constitution, namely, Article 19 (1) (f) that Bill was not assented to by the President and a new Bill has to be brought.

Now, we find that though Article 19(1) (f) of the Constitution guarantees some fundamental rights to all citizens including the landlords, there are certain provisions in that Article itself which enjoin reasonable restrictions to the enjoyment of those fundamental rights. We find that clause (5) of Article 19 authorises the State to impose reasonable restrictions on the exercise of the right of property on two occasions namely, (1) in the interest of general public and (2) for the protection of the interest of any Scheduled Tribe.

It is the duty of the State Government to impress the Government of India, I mean the President, that this sort of legislation is in the interest of the general public of this State. If it can be shown and proved that this particular piece of legislation is necessary for the interest of the overwhelming majority of the people, then even though it might bring certain restrictions on the enjoyment of property by certain sections of the people and if those restrictions be reasonable, in that case this Bill will not be repugnant to Article 19 of the Constitution. Now, if we look to the history and career of this Bill we see that our Government was in a state of confusion. They could not make up their mind as to whether and how far they should proceed. At first when a Bill was brought and passed, it was sought to be made applicable only to one district, *viz.*, Cachar and in that district also the town of Karimganj was already covered by a similar legislation, I mean the Sylhet Non-Agricultural Urban Areas Tenancy Act, 1947. Thus, the original Bill was meant only for the town of Silchar. Sir, there are so many towns in this State and yet this Bill was sought to be made applicable only to one town! That showed to the Government of India that the matter was not very urgent, the demand was not very widespread. If it could have been shown that the Bill would have to be applicable throughout the whole State of Assam then it would have been treated otherwise.

Then we find that in course of discussion in the Select Committee the scope of the present Bill has been to some extent widened, some more towns are proposed to be brought under the purview of the Bill, but it has not been made applicable to all urban areas of the State. This shows that the Select Committee also was not prepared to go the whole way, they also went in a halting manner. If they think that the Bill is not of a general nature then the Government of India has every reason to think that the matter is not in the interest of general public and therefore what suggestion has been given by the Attorney General should be understood in the context of the Bill that was put before the President for approval. If all facts and circumstances of this affair would have been placed before the Government of India, if the urgency of the problem for all parts of the State would have been impressed upon the Government of India, if the agitation and necessity of all the urban areas would have been placed, then I think the opinion of the Attorney General would have been different. If the opinion of the Attorney General is not what we wished it to be, then it is not his fault. It is our fault, because we could not plead our case. We see, Sir, that on different occasions we have to take deputations to the Government of India and we have to personally impress certain things on them. Recently our Chief Minister went to New Delhi to place certain matters because he felt, and I think quite rightly, that instead of sending written notes it was necessary to argue the case to impress upon the Government of India. Now, Sir, if the Government felt that this matter was equally urgent and equally necessary then the Government instead of sending mere notes would have sent a delegation, or perhaps the Chief Minister himself would have gone and impressed upon the Government of India and the Attorney General about the necessity and the urgency of this legislation in the interest of the general public. Now, our case has gone by default. Simply by sending the Bill for approval our Government thought that they had done their duty.

**Mr. SPEAKER :** Can the Chief Minister impress more than the Bill itself ?

**Shri GAURISANKAR BHATTACHARYYA :** The Chief Minister could have impressed that this measure was not meant for Silchar alone, that this problem is a State-wide problem, that Silchar was being taken up simply as a first instance and that we were going to extend the operation of the Bill to the whole State. As I said in the beginning, Sir, it was an original mistake not to bring the entire State within the scope of the Bill. This ought to have been made applicable throughout the State as the problem is not confined to Silchar alone, not even to a few towns like Gauhati, etc., which the Select Committee thought. This problem is present in every urban

area of the State. This problem has become all the more acute due to the influx of refugees. Taking advantage of the land hunger of the people, unscrupulous landlords have brought undue restrictions and hardships on the general public. They are realising more rent, *salami* and things of that kind. So, my point is that this Government failed to impress, upon the Government of India the urgency and general character of this Bill and that is why we find this question of Article 19(1)(f) came in to stand on our way.

Now, Sir, the extent of the right of enjoyment of property is limited by circumstances. It is not a static thing, it moves with the movement of social morality and social outlook towards the private ownership and enjoyment of property. We find that at the time of the Magna Charta the possession of free-hold was thought to be an inviolable right: "No freeman shall be dispossessed or divested of a free-hold". Later, there came a qualifying clause "but by the law of the land". Then, Sir, in the United States of America, where private property is most respected and stubbornly held, in the 14th amendment to the Constitution we find that this absolute enjoyment of property, which was at one time juxtaposed with liberty, has been modified to a certain extent in the interest of the general public. Then, Sir, in the U. S. S. R., the position is quite different. Under Article 4, of the Constitution of the U. S. S. R., we find that all means of production have been socialised and capitalism liquidated; while in Article 9 we find that alongside the socialist system of economy, which is the predominant form of economy in the U. S. S. R., the small private economy of individual peasant and craftsman, who do not exploit the labour of others, remains. Now, Sir, so far as the Constitution of India is concerned, an effort has been made to emulate the American viewpoint while taking something of the Soviet view point. That is, though the right of private ownership has been given, some social considerations have also been taken into account. It is recognised in our Constitution that in the interest of the general public reasonable restrictions on the right of enjoyment of property can be imposed. We find that under clause (5) of Article 19 such reasonable restrictions in the interest of general public may be put. This is why I submit, Sir, that our Government have failed to argue our case. If we could advocate our case well then the opinion of the Attorney General might have been different. After all, the lawyers take their instructions from the clients and it was our duty to give proper instructions to the Attorney-General.

Now, coming to the body of the Bill, itself we find that although the recommendations of the Select Committee are unanimous, those were made within a certain limited scope. The Select

Committee took it for granted that the opinion of the Attorney-General was final ; they took it not only in substance but also literally and therefore they confined their recommendations within the four walls of the opinion of the Attorney General. Now, Sir, the Attorney General has given certain suggestions, which go to show that even he has felt that certain rights should be given to the tenant, for example, the tenant should be protected from the undue enhancement of rent, he should not be prevented from the enjoyment of his lease-hold, and so on. The Attorney General simply gave his opinion from a general point of view. So, the Select Committee was wrong in taking his opinion literally.....

**Mr. SPEAKER:** Your idea is that if the Chief Minister had represented the case personally, the opinion of the Attorney General would have changed ?

**Shri GAURI SANKAR BHATTACHARYYA:** Not necessarily the Chief Minister, the Supply Minister as well could have gone! (laughter).

**Mr. SPEAKER:** That does not matter. Do you think that legal opinion changes in this manner?

**Shri GAURI SANKAR BHATTACHARYYA:** Not simply by going and waiting, but by impressing upon the Government of India the great public urgency and necessity of the measure and by apprising them of the state of affairs prevailing in Assam.

**Shri BISHNURAM MEDHI (Chief Minister):** On a point of information, Sir. Can the interpretation of laws and the Constitution change according to a particular necessity ?

**Mr. SPEAKER:** That is what I have been saying.

**Shri GAURI SANKAR BHATTACHARYYA:** For the benefit of the Chief Minister I will refer clause (5) of Article 19 of the Constitution of India, which authorises the State to impose reasonable restrictions on the exercise of the rights of property in the interest of the general public. So, if it be.....

(A voice :—But the land-lord shall have to be paid compensation.)  
No, if it be in the interest of the general public and if it can be impressed that it is in the interest of the general public then no compensation.....

**Shri BISHNURAM MEDHI (Chief Minister):** That is a different question.

**Shri GAURISANKAR BHATTACHARYYA:** No, Sir, here the question of compensation will not come in. Our Chief Minister who is a renowned lawyer understands that the question of compensation will come only under Article 39 where the question of divesting a man of his property is involved. Here there is no question of divesting a man of his property but the question of a reasonable restriction. So if the landlord is divested of his property then

only article 39 will be applicable. So far as article 19 is concerned, it is not depriving a landlord of the property, but there is only a little reasonable restriction in the enjoyment of his right. So, I think the question of compensation in this case does not come in. But I know, it has become a mania with some people to bring in the question of compensation whenever something of a general nature is discussed.

Now, we found both in the Bill introduced by the Government and also in the recommendation of the Select Committee that the Sylhet Non-Agricultural Urban Areas Tenancy Act, 1947, which is being applied in Karimganj, is sought to be repealed. Now, so far as my information goes, that particular Act gives some more relief to the tenant and it enjoins some more reasonable restrictions on the landlord and that Act has been held valid by the enabline Act after the Constitution came into being. If it is a fact that the Sylhet Non-Agricultural Tenancy Act gives some more reasonable relief to the tenant, and if that relief is being enjoyed by the tenants of Karimganj, I do not see any reason why they should be deprived of those reliefs. So that Act ought not to be repealed. Even if we cannot go just now to the level of the Karimganj tenants, or if we be a degree behind them, let us not grudge the tenants of Karimganj for enjoying one degree more than other parts of Assam. So, I think that repealing of the Sylhet Non-Agricultural Urban Areas Tenancy Act, 1947 is unnecessary. Here I would like to suggest that instead of a few selected towns even now the House can make this Act applicable to all the urban areas in this State.

Then again we found that both in the Bill and in the recommendations of the Select Committee 12 years have been made a period for conferring some rights on the tenants. Now, I do not think there will be any harm if this period of 12 years is brought down to 5 years. Because we should remember one thing. This pressure on the urban areas, this influx of population in the urban areas took place mostly after the partition of the country due to the influx of refugees in and since 1947. And if this limitation period be brought down from 12 years to 5 years then only those people who need relief most will be benefited. I therefore suggest that the mover of the Bill and the Government Party will see that this period is brought down to 5 years.

Then we also found that so far as the raising of rent is concerned, it has been suggested that not more than 3 annas in a rupee should be allowed to be extracted by the landlord and that within a period of 6 years there should be no further enhancement. This is good so far as it goes, but I think there should be another proviso that in no case the rent realised and realisable by the landlord should be more than double of what the landlord pays to the Government



because even at the rate of 3 annas in a rupee for 6 years if this rate is allowed to continue without any limit, then it can go on to three times or four times or five times or any number of times higher than the revenue which is to be paid by the landlord to the Government. So, such a provision should come in that in no case the rent payable by the tenant should exceed twice the land revenue which would be paid to Government by the landlord.

Then another thing. There are certain illegal realisations by the landlord. For example, "*salami*" or premium. It might be said that *salami* might be necessary, but that should be reasonable and there should be a limit beyond which the landlord cannot extract. The landlord having seen that there will be certain restriction of the rent, might realise or might demand exorbitant *salami* and that is exactly what is being done. We found for example, in Calcutta when the rent Control Act was vigorously executed that for one room or for one flat as much as 10 thousand rupees of *salami* was demanded.

**Mr. SPEAKER:** Have you got any such example in Assam?

**Shri GAURISANKAR BHATTACHARYYA:** I have only brought in this parallel of Calcutta. In Assam it may not be 10 thousand. But I know of one instance in Panbazar, Gauhati where one Friend of mine hired a shop room and he had to pay *salami* of one thousand rupees. Another such instance occurred in Fancy Bazar at Gauhati where there are small shop-rooms in a Gulley, there is a certain landlord who at the time of giving land to the tenants charges from 5 hundred to 15 hundred rupees as *salami*. Then there are other instances, viz., in Uzan Bazar near the "পূজা মণ্ডপ" there is a landlord who has got extensive lands in Gauhati. When people get land from him, he realises from 5 hundred to 15 hundred rupees per katha of land as *salami*. So, Sir, in the matter of realising *salami* there should be a limit and that amount of *salami* should not be more than the rent paid within one year. But we have no such provision in this Bill to restrict *salami*. It might be suggested that these things relate to different sections of the Bill and you might still bring some amendments to these things and we might consider. But instead of giving such amendments I would request the hon. Deputy Minister for whom I have great respect, to consider this suggestion of mine because we know what will be the fate of amendments that come from our side. So instead of bringing in a formal amendment and placing my Friend, the Deputy Minister, in a compromising position, I suggest that he might take this humble suggestion ..... (A voice—what compromising position?.....) I mean that my Friend might see justice in my suggestion and might be agreeable to accept it, but when this suggestion comes from us in the Opposition in spite of his seeing justice in it

he may not be allowed to accept the amendment just because it comes from us. This is the compromising position, Sir.

**Shri RAMNATH DAS (Minister)**: Does my Friend mean to say that he will not move any amendments? (*laughter*)

**Shri GAURISANKAR BHATTACHARYYA**: No, no. If my humble suggestion is accepted by the hon. Members on the other side I shall be too glad to support them and not to press for any amendment whatsoever.

In other Bills we have seen that we bring very reasonable amendments, but they are thrown out. This time I have made a very humble suggestion before the Government or before the Deputy Minister who is the mover of this Bill to please see if he finds reasonableness in the suggestion that there should be some limit to the realisation of *salami* or rent and that this Bill should be made extensive throughout the whole State. It is our duty to see that the tenants are protected. Of course thereby we do not mean that the landowners are to be completely deprived of their rights. If we see that some reasonable relief is to be given to the tenants then we should bring some amendments to the Bill. I think, Sir, when the matter will come up for discussion clause by clause all these things will come out. In this respect the Chief Whip of the Congress Party can bring some amendments from the Government side for acceptance in the House. We have seen that amendments brought by the Congress Chief Whip in this House are accepted by the Government. The same procedure can now be followed in this respect. My suggestion is very reasonable and constructive. I hope the Hon'ble Minister and the Deputy Minister will not mind the criticism I have made for their half-heartedness, indecision and confusion, at the beginning, because without those things the fate of this Bill would not have been what it is now. But whatever might have been done in the past, if they are really sincere in their love for the tenants and if they really want to give some relief to the tenants who are hardpressed, they should even now look to the realities and the realities are that this Bill should be further improved in the light of the suggestions we have made.

With these words, Sir, I finish my observations at these stage of the Bill.

**Shri BIMALA KANTA BORA**: Mr. Speaker, Sir, I am really astounded to hear the arguments of my friend Mr. Bhattacharyya in one respect. I do not at this stage propose to say anything on the merit of the amendments or clauses of the Bill. But I want to give a reply to the speech he

made in regard to the manner in which the Government moved in the Bill. His own idea is that the Government of Assam has committed a great blunder by not going to Delhi to meet the Attorney General to impress on the necessity of this Bill. It is really a very astounding argument. There is the Indian Constitution where the powers of the State Legislatures and Indian Parliament are defined. Our actions and activities with regard to Bills and Acts are governed by the Constitution. We cannot go a step further than what is given to us by the law. The Constitution says that the State Legislature, if they like, put any reasonable restrictions in a Bill. The law is there. Suppose we go on a deputation to the Attorney General, he may say "Look here, our powers are defined. If you want to put any reasonable restrictions by making provision in a Bill you can do so and for that there is no necessity for my advice." My Friend thinks that a deputation to Delhi has some value in getting assent to a Bill. There is a fundamental difference between these two views. There may be demand from some quarters to go on a deputation to Delhi on such a matter, but I say that it will be something like an insult to the intelligence of this House if we do so. I think Government is quite justified in not taking the course suggested. If such a course was possible, I would certainly have suggested to the Government and lead a deputation. But such a course is not necessary for the Government of Assam in this case. Therefore, I say that his speech is quite irrelevant so far as this point is concerned.

He has said that this legislation is confined to one particular area only and not applicable to the whole of the State. My Friend knows that there is Goalpara Tenancy Act which governs the relation between the landlord and the tenant in Goalpara. But how this Act can apply to other places like Sibsagar or Lakhimpur where there is no such system of tenancy. Similarly such an Act which is applicable to Silchar or Karimganj is not generally applicable to the towns of Nowgong or Dibrugarh. The tenancy system in Silchar is quite different from that of other places in our side. When there is a demand from the public of Cachar that such a law is necessary for the benefit of the people in Silchar, Government has undertaken to bring this legislation. But if such a legislation is made applicable to all the districts of Assam, at once it may have different effects. So, the argument of my Friend in this respect has no force. Even if the law was made applicable to all the areas in the State the question will still arise whether the restriction put on the landlords' rights is reasonable or not. This will be a question which will depend on the interpretation of law, and in such a

case no amount of advice of the Government of India will help us if we go to seek for it. Therefore, Sir, I submit that there is no justifiable cause to criticise the Government on this score.

As regards the question of *Salami* referred to by my Friend, I want to say a few words. My Friend spoke something about Panbazar and Fancybazar of Gauhati where the landlords demand Rs.500 to Rs.1,500 as *Salami*. Of course I have no personal knowledge about that. But I consider it to be a story only which is not substantiated by any documentary evidence or which is not known to the Government. Any number of stories like these can be told here without documentary evidence. What my Friend has said lacks evidence and so cannot be accepted by the House. There may be a few such cases of *Salami* for personal benefits, but there is no regular system of *Salami* in any of the towns of Assam, excepting in the other Valley. This question of *Salami* has been rightly excluded from the purview of this Bill. This is a thing which is practically alien to the people of this Valley and it does not exist anywhere except in the imagination of my Friend, Mr. Bhattacharyya.

With these few words I support the Bill.

**M. MOINUL HAQUE CHOUDHURY:** Mr. Speaker, Sir, unfortunately I am one of those lawyers who hold the view that the opinion of the Attorney General is not correct. But the position being what it is under the Indian Constitution about the relationship between State Government and the Central Government and the various other limbs of the Government we have got to submit to it. As such, I am very much surprised to hear the argument that a deputation would have been able to change the opinion of the Attorney General. My Friend Mr. Bhattacharyya is a lawyer and he must know, as much as I do, that legal opinion cannot be changed on public agitation or deputation. Because opinion about law and its interpretation are static under certain circumstances and under a set of circumstances, and therefore a legal opinion is not likely to undergo any change even if pleaded by a deputation however competent may be the personnels composing the same. Therefore, Sir, an argument like this does not hold any water. I therefore humbly say that the Bill has got to be welcomed under the context and circumstances under which it had been presented and in his speech the Honourable Mover of the Bill has explained the same. Otherwise, if you think that a certain provision of the Constitution does not come up to the mark then public opinion has got to be created first demanding amendment of the Constitution so as to have more scope for legislation in such matters in a way we desire.

Then Sir, I am unable to support Mr. Bora in respect of what he says about 'Salami'. He says that he will not believe about exaction by way of *Salami* unless some documentary evidence is produced. But I want to tell him that when a thief enters the house of a certain person, he will not leave any documentary evidence to prove that he had committed the theft.

**Shri BIMALA KANTA BORA:** I was speaking about Gauhati only.

**M. MOINUL HAQUE CHOUDHURY:** I am speaking of all districts. I may inform him that these things are going on everywhere. In Silchar, for a plot of land measuring 24 ft. × 24 ft. a man has got to pay from Rs.500 to Rs.1,000 as *Salami*. It is therefore urgently necessary to do something if possible by incorporating a provision in this Bill to check and eradicate this practice.

Now Sir, as I am of the opinion that the views of the Attorney General is not correct, therefore I cannot support the idea or extending this Bill to Karimganj Subdivision at present. Presumably if the opinion of the Advocate General is followed in respect of the law now in existence in Karimganj then there is chance of the same being declared as *ultra vires*. Therefore, in advance to meet that exigency, we should extend this Bill to Karimganj. But Sir, until and unless the provisions incorporated in the Sylhet Tenancy Act are declared *ultra vires* or void by the High Court or the Supreme Court of India, I do not think, we should extend this Bill to Karimganj subdivision particularly when it restricts the rights of the tenants much more than the existing Tenancy Act prevailing in Karimganj.

Coming to another point, *i. e.*, about rent, as far as I know, the opinion of the Advocate General is that legislation can be made against arbitrary ejection and enhancement of rent. In this respect I do not agree with the suggestion of Mr. Bhattacharyya. Because even to day the tenants have been saddled with heavy rent. Sometimes they are paying 20 to 50 times more than that of the land revenue payable to Government.

**Shri GAURISANKAR BHATTACHARYYA:** On a point of personal explanation, Sir, I said in regard to what the landlord pays to the Government not with regard to what the tenants pay to the Government.

**M. MOINUL HAQUE CHOUDHURY:** Then, Sir, I misunderstood my Friend. My contention is that even to-day, say for 10 Kathas of land for which a landlord pays Rs.10 only, as land revenue, he is realising not less than Rs.200 as rent, *i. e.*, 20 times the land revenue he is paying to Government from tenant. Therefore, I think, as we have incorporated some provisions in our Non-urban Areas Tenancy Act to the effect that rent to be realised

by the landlord should not be more than 3 times the Government revenue—it was 5 times in Cachar before the Amending Bill which was passed in the last session and it is 3 times after that—a similar provision should also be incorporated in this Bill. I suggest that a landlord must not be allowed, notwithstanding any contract to the contrary to realise rent more than 3 times the land revenue or twice the ground rent payable by him, as the case may be.

With these suggestions Sir, I support the Bill. Because, after all, in spite of all these obstacles and difficulties created elsewhere over which this Government has no control, our Government has been able to bring it before the House. It is no use denying the fact that because of the sympathy and *bonafides* of the Government this Bill has come before the House once again and I thank the Government for this.

**Shri GHANAKANTA GOGOI:** Mr. Speaker Sir, I rise to make a few observations on this Bill. As a result of huge influx of people into all the towns of Assam I find the population of Dibrugarh has increased about two times during the course of the last five years, and so also the population of Sibsagar and other places have increased as a result of the Partition and migration of people from towns into urban areas. Sir, I welcome this Bill, and I suggest that the Bill should be made applicable to the whole State of Assam.

Sir, the people of Dibrugarh, Jorhat and some other places of the State are experiencing the same difficulties as the people of Cachar. So instead of leaving the power to the Government to extend the operation of this Bill from time to time, it should be made applicable throughout the whole State of Assam, and so this Bill should be amended accordingly. This is the reason why I want this amendment, Sir.

**Shri HARESWAR DAS (Deputy Minister):** Sir, my Friend Shri Bhattacharyya stated certain facts which are not correct, and in discussing the fundamental rights he has committed a fundamental mistake (*laughter*) He has cited Article 39. Article 39 is not at all relevant. Article 39 deals with Directive Principles. It cannot control Article 19.

**Shri GAURISANKAR BHATTACHARYYA:** That is exactly what I pointed out. My statement has been misunderstood. I said that Article 39 does not govern Article 19.

**Shri HARESWAR DAS (Deputy Minister):** Thanks. As regards Article 19—my Friend based his argument on the fact that as the Bill is made applicable to Cachar only, so the Attorney General did not apply clause (5), because it was not meant for general public. Possibly I am correct this time? (*laughter*) This is not so, Sir. The Attorney General accepted our position that it will benefit the general public. He did not base his argument on the

ground that as it benefited a single district or only two or three districts, so, it would not benefit the general public. He accepted that the Bill would benefit the general public; but what he discussed about the question of putting reasonable restrictions. Article 1(1) (f) lays down that every citizen has the right to hold and dispose of his property. So he has got a right to hold his property. On that right clause (5) says a reasonable restriction can be put for the good of general public. Restriction and right are not identical terms. You cannot take away the right on the plea of putting restrictions. My Friend's suggestions regarding changes will mean taking away the right itself. He should read the 1950 Bill passed by this House. In that Bill *Salami* and the like were abolished. But that Bill was turned down by the Government of India on the opinion of the Attorney General. Government are not in favour of curtailing the rights of the tenants. Government wanted to confer some rights on the tenants, and the original idea was to confer full occupancy right on them. That Bill was passed by this House, but it was turned down. So the argument now offered by my Friend for improvement of the Bill may disprove it. It is unsafe to incorporate the amendments suggested by my Friend as these may convert the Bill into the 1950 Bill which was turned down; you are to be careful while putting restrictions and see that they do not cut the right itself. When it cuts the right itself the question of putting a reasonable restriction under clause (5) does not arise at all. Clause (5) confers on the citizen the right to "hold" his property. A right to hold means the right to enjoy it in any manner the owner likes. This is the interpretation given by the Supreme Court and the Attorney General based his argument on that. I fail to understand how the Chief Minister or the Supply Minister can improve the position (*laughter*). In 1952 another Bill was drafted and sent to the Government of India for previous approval. It was not passed by this House. Transferability was deleted in that Bill but still it was turned down by the Government of India, on the ground that, that Bill also was repugnant to the provisions of the Constitution. In this way the 1952 Bill was also turned down. So our scope has become very limited. But there is no way out. The Constitution is there. The interpretation of the law is there. In drafting a Bill we go by the opinion of the Attorney General and the decision of the Courts. Some of my hon. Friends here may not agree with the Attorney General. But we are to follow the opinion of the Attorney General, and the interpretation given by Court. That is the legal aspect, so far as the Bill is concerned, Sir. Here as regards the suggestion about not enforcing it in Karimganj, we have almost decided to bring in an amendment by which we shall leave Karimganj alone.

If somebody challenges and asks why it was made applicable to one district, then I shall have to narrate the history. In Karimganj the Sylhet Tenancy Act was in force, so the tenants there got certain rights, but the other subdivisions in the same district objected to it because one subdivision alone was enjoying rights, which the other two subdivisions were deprived of. At that time there was no agitation from other parts of Assam. It was Silchar subdivision mainly who raised objections and sent two to three telegrams to Government daily from different associations. So, we drafted a Bill applicable to the District of Cachar just on the line of the Sylhet Tenancy Act. That Bill was not sent to the Government of India as my Friend said but it was introduced in this House and sent for eliciting public opinion. When public opinion was received it was found that there was demand for such a Bill from different parts of the State, except Sibsagar who felt no need for such a Bill. Dhubri and Tezpur were most insistent for a similar Bill. From Gauhati there was no agitation except that the Bar Association held a meeting and sent their opinion. There was difference of opinion in the Bar Association itself and they forwarded their opinion to us stating that the majority was in favour that a similar Bill should be passed applicable to whole of Assam. We drafted a new Bill applicable to the district of Cachar in the first instance and applicable to other districts if and when there was demand for it. My Friend objected that the original Bill, was made applicable to one town only *i.e.*, Silchar town. It is not correct when there is provision to extend its operation to the whole of Assam wherever there is demand. When Government receives such demand it may by notification extend the area of its operation. There is no harm in it.

As regards other suggestions of my Friend, he is at liberty to come with amendments if he so likes, but, I hope, before doing so he will read the 1950 and 1952 Bills and the opinion of the Attorney General, so that this Bill is not converted to 1950 Bill. After the two Bills were turned down we received representations from Cachar district pointing out that if Government do not bring in a legislation of this nature then the tenants will be put to enormous difficulties as landlords were putting pressure on them for higher rent and eviction. Therefore, this Bill was drafted. Considering all this, my Friend may come forward with such amendments, so that this Bill do not meet the same fate as the 1950 and 1952 Bills.

### **The Assam Embankment and Drainage Bill, 1953**

**Shri HARESWAR GOSWAMI:** Mr. Speaker, Sir, at the outset, I congratulate the Select Committee for having carefully gone into this Bill and suggesting the necessary amendments.



This Bill, Sir, is a very important Bill because our State is a State of rivers and streams. Our State is also an Agricultural State. Unless, we can control the rivers and streams and unless we can harness them for the betterment of our agriculturists, we have a bleak future. This Bill, though a belated one, seeks to bring some amount of planning in this very important field.

Sir, there is not much to be said against the Bill and, I hope, shall not be misunderstood as a critic of this Bill. But even then I find myself in difficulty to accept certain things in the Bill which the Minister concerned may say, may come in the form of amendments. Yet in this consideration stage of this Bill if these points are considered and if possible they are incorporated in the Bill, then the Bill may come out of this House as an unanimous piece of legislation.

Sir, what about this fee of Rs.50 stated in page 10 of the Bill. In clause 5, it is stated:—

“(i) (a) If any person or body of persons desires that a bridge, culvert, syphon sluice or any other device be made in any public embankment for the purpose of drainage or irrigation ;

or

(b) if within any local area to which section 16(1) has been applied, any person or body of persons desires that any new embankment or drain be constructed or that any existing embankment or drain be altered or removed ;

Such person or body of persons shall make an application in writing to the Deputy Commissioner of the District in which such embankment or drain is situated or proposed.

(ii) At the time of making such application an applicant unless he is applying on behalf of a body of persons or the general public, shall deposit the sum of Rs. 50 towards the expenses of survey, etc., necessary to investigate the soundness of the proposal.....”

Here, Sir, it is an improvement in the sense that it is restricted only to private applicants, but here also, I consider, this fee is rather too high. There are poor persons who really want to take advantage of this drainage or embankment or culverts but they will not be able to take advantages if they do not pay the necessary fees. But it may not be possible on their part to pay such fees. In our country, equality cannot be applicable to all because of difficulties and high fees and for such other things poor people cannot derive the same benefit as others. Although, it may be a fit case where a survey should be done and they should contribute their share in the shape of fees towards the amount of cost that may not happen and therefore, I would request the Minister concerned to see whether

this can be totally removed or can be lowered to a figure which is within the means of a poor man.

Then, Sir, about the procedure of enquiry, we find in clause 6 "When an application has been made to the Deputy Commissioner under section 5, he shall forward the application to the Embankment Officer and if the Embankment Officer after necessary enquiry considers the petition as *bona fide* and the proposals put forward therein as sound, beneficial and feasible from technical point of view he shall forward the proposals to the State Government with his recommendations sending a copy to the Deputy Commissioner for information". Sir, we have suffered enough of red-tapism. If a file comes to a particular department it does not see its way out and unfortunately this is the condition even to-day. Here, Sir, it is purely a technical matter and I do not know why the Deputy Commissioner has been brought into the picture. If an application is to be made, let it be made straight to the Embankment Officer. Why should it lie on the table of the Deputy Commissioner for a certain number of days? Then it will be sent to Government and Government will send it back to the Embankment Officer. I think it is a very round about procedure. When the matter really concerns the Embankment Officer it should be sent direct to him. He will seek the help of the Deputy Commissioner if land is to be acquired or requisitioned.

Then, Sir, in clause 10, we find "Whenever any:—(a) obstruction is removed or embankment or drainage removed, constructed or altered under section 4(i)(a) and (b); or (b) embankment or drainage work carried out under section 9; or

(c) emergent work undertaken under section 16(v) and in direct consequence thereof there has occurred stoppage of diminution of supply of water in any existing drain or accumulation of diminution of water in any place, resulting in deterioration in the productivity of any land or any other loss or damage arising from any of the causes referred to in clauses (a), (b) and (c), which is capable of being estimated; or

(d) right of fishery, right of drainage, right of use of water or other right of property, other than those as mentioned above, has been injuriously affected; any person feeling aggrieved by any of the causes referred to in clauses (a), (b), (c) and (d) may claim compensation before the Deputy Commissioner within two years from the date of physical completion of the work as notified by the State Government....."

Sir, here we find the Select Committee and the Government very liberal. The period of limitation has been fixed as two years. But I think, Sir, this period is rather long because very often it may not be due to any inherent defect that a particular man or a group of

persons will be aggrieved by any embankment or drainage. It may be due to other causes also. If the period is kept at two years, it may be difficult to fix the compensation correctly. I would, therefore, suggest that the period should be reduced to one year. That will also help the Government in many cases.

Then, Sir, I come to levy of rate, cess and premium. Clause 11 states "For all works carried out under section 9 the State Government may, unless they decide otherwise in specific cases, levy on settled land an annual water rate or betterment cess and on unsettled Government waste land improved by the works a premium payable on settlement of such land and an annual water rate or betterment cess so as to realise the initial cost of the Scheme in full or in part and that of its maintenance in the manner as Government may prescribe. The total annual water rate, betterment cess or premium to be levied under a scheme shall be fixed as nearly as possible so as not to exceed the following limits :

(i) Six per cent. per annum on the first cost of the said works adding thereto the estimated yearly cost of maintenance and supervision of the same". Sir, here although 6 per cent. does not apparently seem to be very high, but the number of persons benefited should be taken into calculation. If the number of persons benefited is few then the incidence of this 6 per cent. levy falls more than when the persons involved are many. Care should, therefore, be taken to see that this does not fall very heavily on the people.

**Shri BISHNURAM MEDHI (Chief Minister)** : Six per cent. is the maximum limit.

**Shri HARESWAR GOSWAMI** : But from our experience we know, Sir, that the maximum rate becomes the minimum.

**Mr. SPEAKER** : What is your formula ?

**Shri HARESWAR GOSWAMI** : I say in determining the amount, both these factors, *viz.*, 6 per cent. and the number of people benefited should be taken into consideration.

**Shri BISHNURAM MEDHI (Chief Minister)** : Sub-clause (ii) clearly stated "Such rate may be varied from time to time within such maximum by the State Government", according to the exigencies of circumstances.

**Shri HARESWAR GOSWAMI** : I know that, Sir. But our experience is that it is often difficult to come upto the State Government. The right of fixing the rate has been given to the Deputy Commissioner because we find later that the whole table is to be decided by the Deputy Commissioner.

**Shri BISHNURAM MEDHI (Chief Minister)** : The rate and other things will be fixed by the Government.

**Shri HARESWAR GOSWAMI:** Yes, approval, of the Government may be taken, but generally we find in practice the Deputy Commissioner does these things. However, this point should be considered also. It need not be in the Bill itself, but at the time of application of the Bill care should be taken that this amount does not fall heavily on the people.

Then, Sir, I come to the most objectionable clause of the Bill. Clause 12 states "It shall be lawful for the State Government to levy a similar Water Rate or Betterment Cess on land improved by Embankment and Drainage Schemes executed by the Government before the commencement of this Act and take action under section 13 for such lands as if this Act has been in force from before." It means that the whole thing has been given retrospective effect. I can appreciate the difficulty of the Government and I can also appreciate their desire to get more money to carry out these works. But at the same time, there is the point of equity also. If for the projects already completed, the beneficiaries are suddenly told today "Look here, we spent thousands of rupees for schemes whose benefit you have been enjoying. Now pay us back our cost," this would be very unjust, unreasonable and inequitable. I would, therefore, request that this clause should be so amended as to give effect to future projects only. So far as past projects are concerned the beneficiaries should be allowed to enjoy their fruits as a wind-fall.

Then, Sir, although the Deputy Commissioner has been brought in here, I think in many cases it is not necessary to bring in the Deputy Commissioner. As I said earlier about making applications to the Deputy Commissioner would not be necessary.

Then again I find that the Public Health Department is brought in also—I refer to clause 18 (ii) "Before any capital work is undertaken the Public Health Department shall be consulted" Sir, this is not necessary because there is no Public Health Department now. There will be the Health Services and there is no Public Health Department separately. So this clause should be redrafted. With these observations, I would request the Minister concerned to see whether these objections are valid and whether they carry any weight. If he considers that these things are really necessary then I would request him to bring these things in the form of amendments and we will give our support as we want to have this Bill passed as a unanimous piece of legislation. Sir, as I said, this Bill is very important one. We have already pointed out these irrigation, embankment and drainage systems might change the face of our State. Under the circumstances it is necessary that these difficulties should also be removed so that the people may appreciate the Bill and they may wholeheartedly co-operate with the Government for making this measure a success and change the face of Assam radically.

With these words Sir, I would request the Hon'ble Minister concerned to consider these points.

**Shri SIDDHINATH SARMA (Minister):** Mr Speaker, Sir my Friend, the Leader of the Opposition refers to certain recommendation of clauses of the Assam Embankment and Drainage Bill made by the Select Committee and suggested certain modifications thereof. In clause 5 sub-clause (ii) he suggested that the fee of Rs.50 was too high and that ordinarily it should not be charged because for a poor man it would be very difficult to pay such a high amount. But if my Friend reads carefully the clauses he will find that no charge is leviable if a petition comes from the general public or from a body of persons. The clause says—"At the time of making such application an applicant unless he is applying on behalf of a body of persons or the general public shall deposit the sum of Rs 50 towards the expenses of survey, etc., necessary to investigate the soundness of the proposal. Provided that if during the enquiry it appears that that the proposal is likely to benefit an individual only....." Ordinarily the work for irrigation or embankment is taken up and will be taken up for the benefit of the general public or for body of persons. My Friend suggested that the poor man should not be taxed. But a poor man will not possess such a big area of land as to have embankment or irrigation channel to benefit him. He must be a Zamindar or a big land holder or a person having a big area. So he is not likely be a poor man in such a case. If Government has to take up schemes in an area to benefit a private individual he must have sufficient land in his possession and should pay for improvement of it.

**Mr. SPEAKER:** You mean to assess only the richer classes.

**Shri SIDDHINATH SARMA (Minister):** Yes, Sir, all are exempted except the rich. In order to stop frivolous applications from any and everybody this provision is incorporated. Government and the Department will have to deal with genuine applications. Enquiry and report by officer will be less costly and easier. It is only to avoid such frivolous petitions that this provision is made. So my Friend will now see that there is no necessity for any amendment of this provision.

As regards clause 6, he suggested that petition should be made direct to the Embankment Officer. In this connection I refer my Friend to the provision that "the State Government may, in certain cases, receive such application direct from the public and forward such application to the Embankment Officer calling for report on the feasibility, soundness or otherwise of the proposal from technical point of view subject to his being satisfied after enquiry that the application is *bona fide* and the proposal embodied therein is likely to be beneficial". Here is a provision that the public or a

body of persons may submit application direct to the Government also instead of to the Deputy Commissioner and in such cases the applications will have to be forwarded to the Embankment Officer for enquiry and report. The idea for submitting applications to the Deputy Commissioner is because the Deputy Commissioner is the right officer who knows all about the area for which application for embankment or irrigation channel is made and whether it is really suitable for such measures. Deputy Commissioner of a district is expected to know and is generally aware of such a problem within his jurisdiction and his preliminary observation will be of great help to the Embankment and Drainage Department. It is said here that—“When an application has been made to the Deputy Commissioner under section 5, he shall forward the application to the Embankment Officer and if the Embankment Officer after necessary enquiry considers the petition as *bona fide* and the proposals put forward therein as sound, beneficial and feasible from technical point of view he shall forward the proposals to the State Government with his recommendations sending a copy to the Deputy Commissioner for information”. So, Sir, there are two alternative provisions whereby a body of persons may submit applications to the Deputy Commissioner or to the Government direct. So no amendment of this clause is necessary.

As regards the period for payment of compensation to a person and persons due to resultant effect of an embankment and irrigation channel constructed by the Embankment and Drainage Department, should be a year or two, the original provision provided for a year.

The original provision runs as follows:—“No such claim shall be entertained after the expiry of one year from the completion of the work unless the Deputy Commissioner is satisfied that the claimant had sufficient cause for not making the claim within such period.” In this case my Friend says that it will be too late. This was discussed at great length in the Select Committee and it was pointed out by my Friend Shri Umaruddin Saheb, that the effects of the drainage may not be palpably visible even after a year and two and so damage to some land or property may appear after a year or two or affects of such an embankment or irrigation channel on some neighbouring land and property may not be known within a year, and as such he may not get any compensation. At the suggestion of the Select Committee the period of one has been changed to two years. I have no objection if the period is changed to one year, instead of two, if the House accepts such an amendment.

**Mr. SPEAKER:** If Mr. Bhattacharyya brings in such an amendment will it be accepted?

**Shri SIDDHINATH SARMA (Minister):** Certainly it will be accepted, if the House accepts it. In the original Bill it was one year.

Then my Friend referred to water rate or betterment cess proposed to be levied was high. This levy is required to meet the initial cost of the scheme and its maintenance. The total annual water rate or betterment cess or premium to be levied under a scheme shall be fixed as nearly as possible so as not to exceed the limit of six per cent. per annum on the first cost of the said work adding thereto the estimated early cost of maintenance and supervision of the same and may be varied also from time to time within such maximum limit. If the maximum rate is fixed it will take at least 17 years to realise the whole cost. The period can be extended to 20 years or more if necessary under sub-clause (ii) of clause 11 which says "such rate may be varied from time to time within such maximum by the State Government." In case of any hardship in any locality where Scheme is taken up and cess is levied such rate may be varied afterwards according to the extent of hardship and its nature. Any way the persons benefited from the-area will have to pay the cost. The quicker the payment the better for them as well as for the Country as a whole.

In case of hardship the period for payment of the cost may be extended keeping the limit of rate low.

My hon. Friend, the Leader of the Opposition suggested deletion of the clause 12 though no one raised any objection to this Clause in the Select Committee.

The Clause 12 is as follows:—"It shall be lawful for the State Government to levy a similar Water Rate or Betterment Cess on land improved by Embankment and Drainage Schemes executed by the Government before the commencement of this Act and take action under section 13 for such lands as if this Act has been in force from before."

In my speech, when this Bill was introduced in the last Budget Session of the Assembly, I brought to the notice of this Hon'ble House that the schemes would be financed from a loan granted by the Government of India under the Development Schemes or the Grow-More-Food Schemes. For execution of the schemes, a loan of one crore is taken from Government of India and will have to repay the same with interest within certain time.

Some of the schemes were started last year or before and they are in progress now. So, the loan taken from Government of India for financing out schemes will have to be repaid to the Government of India.

**Shri HARESWAR GOSWAMI:** On a point of information, Sir, whether any schemes were undertaken during the period of 1947 to 1951 the cost of which should be charged?

**Shri BISHNURAM MEDHI (Chief Minister):** Yes, there are some of them.

**Shri SIDDHINATH SARMA (Minister):** Specially those schemes which are financed from loan will have to be levied.

**Mr. SPEAKER:** Then you can assess even the Dehing bund, as the wording stands, *i.e.*, before the commencement of this Act.

**Shri BISHNURAM MEDHI (Chief Minister):** If it is not undertaken from the loan no cess may be levied.

**Shri HARESWAR GOSWAMI:** If the people are charged for the schemes undertaken or completed, after some years back, I think it will be a wrong decision.

**Shri BISHNURAM MEDHI (Chief Minister):** It was not on that basis there is going to be any cess. In view of the damage to the crops by floods there was shortage of food crops in the State and for that we have already started schemes involving expenditure of about Rs.50 lakhs for growing more food for benefiting the people. The provision in this Bill is made to cover such works already undertaken.

**RAJA AJIT NARAYAN DEB OF SIDLI:** If this Bill is thrown out how the loan will be repaid?

**Shri BISHNURAM MEDHI (Chief Minister):** That is for the House to decide.

**Mr. SPEAKER:** If this Bill is thrown out another Bill will have to be brought in.

**Shri SIDDHINATH SARMA (Minister):** The loan schemes specially will have to be charged in the shape of cess.

**Shri BISHNURAM MEDHI (Chief Minister):** In other States also in such cases charges are made. For instance, for the construction of sluice gates, bunds, etc., the people always agree to pay welfare cess such beneficial work benefiting their land.

**Shri SIDDHINATH SARMA (Minister):** I have received applications from certain localities stating that they are prepared to pay cess if schemes of this nature are taken up in their localities. People are agreeable to pay if benefited.

In clause 18 (ii) change of the words "Public Health Department" are suggested in view of the amalgamation of Medical and Public Health Department. I have not been able to follow what change my hon. Friend wants.

**Shri HARESWAR GOSWAMI:** Just the change of the words.

**Shri SIDDHINATH SARMA (Minister):** There is a Public Health Department even now. But only at the top it is amalgamated.

**Shri RUPNATH BRAHMA (Minister):** As a first step we have decided to combine the two departments under one head.

**Shri SIDDHINATH SARMA (Minister):** In due course it can be amended if necessary but at present it is not necessary.



I think I have replied to the points raised by the Leader of the Opposition. I now commend my Motion for the acceptance of the House.

**Mr. SPEAKER :** The Motion moved is that the Assam Embankment and Drainage Bill, 1953, as reported by the Select Committee, be taken into consideration.

The Motion was adopted.

### The Assam State Acquisition of Zamindaris (Amendment) Bill, 1953

**Maulavi Md. UMARUDDIN :** Mr. Speaker, Sir, as Mr. Das the Mover of the Bill, observed yesterday that these amendments had become necessary with a view to bring certain important provisions of the principal Act in conformity with the findings of the Supreme Court bearing on certain aspects thereof. Sir, the judgment of the Supreme Court which has been available to me only this morning is a very very voluminous document. It is very difficult to read it in a few hours. It will require a few days to read it carefully and also to examine the provisions of the Bill in the light of the observations in the judgment. My Friend, the Mover, has said that this judgment was published in various Law Journals. Though it may be considered to be my duty to read them, but as you will appreciate my profession is not that of a lawyer.

**Mr. SPEAKER :** You were in the Judiciary.

**Maulavi Md. UMARUDDIN :** But I am not a practising lawyer like my Friend. Probably he is still maintaining his old habit of keeping in touch with Law Reports and as a Deputy Minister of the State also all such documents are likely to come to his notice. These judgments were published sometime before. It is in the fitness of things that the Government are bringing in necessary amendments in the light of the observations of the Supreme Court. But, Sir, on my part I did not foresee or any one could possibly foresee that the Government would bring in certain amendments in the light of those observations so that one might read the judgments as published in law journals and give his opinion when such a Bill would be placed before the House. Therefore, Sir, it has not been possible for me to examine very carefully the observations of the Supreme Court. Whatever that may be, it is however, a fact that our Bill is a carbon copy of the Bihar Bill. So, Sir, for the present I shall rest content simply by pointing out certain ambiguities and defects in the Amending Bill and will request Government to clarify certain doubts that have crept into my mind. I shall carefully peruse the judgment of the Supreme Court, and in due course, if need be, come forward with amendments. As a matter of

fact, I am at one with the Mover in regard to the implementation and enforcement of abolition of Zamindaris within the shortest possible period and I can assure him that he will have our whole-hearted support and co-operation in bringing this Bill into force. Now, Sir, I want, first of all, to deal with certain minor points. The word 'rent' has been defined as "whatever is lawfully payable in money or kind by a tenant on account of the use and occupation of the land held by him". Now, as far as I know there are certain tenures or holdings in the district of Goalpara which are known as 'service tenures'. Some Zamindars use to give away land to some of their tenants in return for a certain amount of service rendered. When these lands are resumed it will be necessary to levy rent in terms of money in lieu of service. Otherwise it will be difficult to assess the compensation payable to Zamindars equitably. I do not know whether my Friend, Mr. Das, has made any provision in the Bill for levying such rent. Then again, what the status of such land will be on the vesting of the Estate in Government. It is not clear whether it will be treated as land rented out or as 'Khas land' or 'private land' of the Zamindars.

Now, Sir, I have good reasons to congratulate Mr. Das for incorporating a welcome provision which has been introduced in Clause 3 of the Bill by amending Section 4 in the shape of Sub-Clause (6). In the principal Act the corresponding provision was that after the vesting takes place under section 3, the incidents of the holdings held by raiyats will be governed by the provisions of the Assam Land and Revenue Regulation, 1886. We have always been against the application of the provisions of the Assam Land and Revenue Regulation. There may be love for this anti-diluvian and bureaucratic piece of law in other parts of Assam—but we in Goalpara are quite happy with the Goalpara Tenancy Act so far as the rights of tenants as a whole are concerned. As a matter of fact, we have been agitating that these rights should not be extinguished. When we have been now trying land reforms and giving better rights to our tenants, Mr. Das has done well by removing this objectionable provision and replacing it in Sub-clause (6) by which the raiyats or tenants will be governed by the appropriate provisions of the Goalpara Tenancy Act during the interim period.

Now, Sir, in the proviso to Sub-clause (4) of Clause (4) of the Bill it says that the 'homestead of the proprietor' .....

### Adjournment

The Assembly was then adjourned for lunch till 1-30 P. M.

After lunch

**Maulavi Md. UMARUDDIN:** Mr. Speaker, Sir, I was dealing with clause 4 of the Amendment Bill which is connected with section 6 of the principal Act. Here Sir, certain inconsistency has come to my notice which exists in the proviso to sub-clause (4) of clause 4 of the Bill. Here it is stated.

“Provided that until further legislation is made in this behalf by the State Legislature except for the homestead of the proprietor used as his own residence and not exceeding 50 bighas in area, the proprietor or the tenure-holder shall be liable to pay such rent, not exceeding the prevailing rate of rent for similar lands in the neighbourhood, as may be fixed.”

In the first instance in the second line of the proviso there is the word ‘proprietor’ only, but in the next line come the words ‘the proprietor or the tenure-holder’. I think, this is an omission. Both the words should have been there in the second line as we find in the next line. Therefore I think that there has been an omission of the word ‘tenure-holder’ in the second line.

Under clause 6 of the Amendment Bill which amends section 8 of the principal Act, the previous provisions have been completely altered and the management of the estates is sought to be carried out according to rules as may be made by the State Government in this behalf. I think, this being a very important matter, indication of the procedure or the principles according to which the estates will be managed during the interim period should have been envisaged. Now when the rules will be made, I hope, they will be made comprehensive and free from ambiguity so that no difficulty may arise during the interim period.

Then I come to clause 7 which is connected with section 9 of the principal Act. This is a very important provision, it relates to the preparation of record of rights. Many hon. Members of this House will be surprised to know that in the district of Goalpara, particularly in the permanently settled areas, we have had no cadastral survey at all, unlike other parts of Assam where there are Chitha, Jamabandi and maps, we have nothing of the kind in Goalpara. Here you will find only the names of the persons holding land and a short description of the boundaries say on the north there is so and so and on the south there is so and so and so on and so forth.

**Mr. SPEAKER :** No maps ?

**Maulavi Md. UMARUDDIN :** No, Sir, there is nothing but the names of the persons as I have stated. This is what exists in the largest parts of the district which come under the permanently settled areas.

**Mr. SPEAKER :** Is it quite correct that maps are not available ?

**Maulavi Md. UMARUDDIN :** Not the cadastral maps except the names of tenants and boundaries of the land.

In mutation cases the names of the persons are entered in the register and there is no map. We cannot spot out a single plot of land by looking at any of the available records. This is the position there. It is the most crude system that exists in that district, but thank God that we have not so many litigations in our district as in other parts of the State. Now this is the greatest headache of the Government. I do not know whether the Government realise the enormity of the task that exists there in connection with the preparation of the record of rights. It will cost a huge sum of money and take a number of years not less than ten years in my opinion.

**Mr. SPEAKER :** Was there no settlement survey ?

**Maulavi Md. UMARUDDIN :** No, Sir, only in one place and that is in Mechpara Estate. So the State Government should take steps for re-settlement of the whole area in the district. In Bengal resettlement was completed long ago and they have now no difficulty in revising the record of rights, but here we have no such records. The operation for the preparation of record of rights in the district of Goalpara will involve two places. Firstly, the existing conditions should be recorded in accordance with the provisions of presumably the Goalpara Tenancy Act and then revision of settlement and assessment of rent according to a policy which the Government may eventually adopt in this behalf. This will no doubt take a long time. I would like to bring to the notice of the Government that this process will be very long and expensive. It is not an easy matter to prepare the record of rights, it is not so simple as stated in clause 7 of the Bill. Clause 7 simply states: "The State Government may, for carrying out the purposes of this Act, make an order directing—

- (a) that a record-of-rights be prepared in respect of any area, or
- (b) that the record-of-rights already prepared and finally published under the Goalpara Tenancy Act, 1929 (Assam Act I of 1929), the Sylhet Tenancy Act, 1936 (Assam Act XI 1936) or any other enactment in respect of any area, be revised, by a Revenue Officer in accordance with such rules as may be made in this behalf by the State Government."

As a matter of fact no record has practically been prepared except in respect of the small area mentioned before by me in the Mechpara Estate. Nowhere there is any mention as to the provisions of the procedure of settlement and how this is going to be carried out, etc. I presume the appropriate provisions of the Goalpara Tenancy Act will be applied. That is my presumption. Now in this context one other question arises. That is the cost of settlement. Sir, under the provision of Section 117 of the Goalpara Tenancy Act, there is a provision for the apportionment of the cost of survey and settlement between the landlords, tenants and any other person in occupation of the land. Now under provision of Clause 7, the preparation of records of rights, etc., will be given effect to after the vesting of the estates in the Government, when the proprietors or Zamindars will be out of the picture. I do not know how Government proposes to realise the cost of settlement, etc., which will be an enormous amount. Of course some provision has been made in the Budget for appointment of staff for carrying out certain preliminary steps with regard to the preparation of record of rights. Will this huge amount which will devolve on the Government be met from the State resources? Or are the tenants alone going to bear this cost? These facts must be made known to the people. Now, Sir, as the incidence of this expenditure will be very heavy, unless it is spread over a large number of years and unless a substantial part of it is borne by the Government it will be very hard for the tenants alone to bear the burden of the entire cost. Now, Sir, I come to the question of compensation. I have found certain changes have been made in the various criteria that were laid down for assessing the gross income and net income. Various items were there in the Act. Now, Sir, I would particularly draw the attention of the House to Sub-clause (ii) of Section 11 of the principal Act. With regard to the calculation of gross income, from forests a period of 15 years was provided. Now it is being reduced to 5 years. I do not know on what basis this period of 5 years has been arrived at. Whether it has been based on the findings of the Supreme Court, or it has been adopted by the Government itself after considering the various factors, we should like to be enlightened. Now, Sir, since the Government made its intention to abolish Zamindari known long ago, there has been tremendous and indiscriminate destruction of forests in all the Zamindari areas. As a matter of fact during the last two years practically all the forests in the Zamindari areas have been cleared. This has perhaps gone unnoticed by Government. In Uttar Pradesh some years back the Government there made a law to regulate the administration and exploitation of private forests in the Zamindari area so that the Zamindars cannot cut down trees

according to their own wish. Some guiding principles were framed and given effect to protect these forests from indiscriminate destruction.

**Mr. SPEAKER:** What is the total area under forests in Goalpara ?

**Maulavi MUHAMMAD UMARUDDIN:** About 900 sq. miles under the Government and about 1200 sq. miles under the Zamindari areas. About  $\frac{1}{3}$ rd of Mechpara estate, about  $\frac{1}{4}$ th of Bijni estate and  $\frac{3}{4}$ th of the Parbat Jowar estate are under forests. Anyway, a considerable area falls under forests in the Zamindari areas in Goalpara. The result has been that Sir, both mature and immature trees have been indiscriminately felled and grievous loss has been caused to forest resources of the State. So it will cost Government a lot of money to protect these forests and ensure their proper growth and development. As a matter of fact for a long time to come the maintenance and development of the Zamindari forests will be a definite liability on Government. I am sorry to say that this has happened due to indifference and connivance on the part of the Government. Sir, I cannot also understand the spirit of Sub-clause (iii) of Section 11 of the principal Act. Relating to income on fisheries, hat, bazars, etc.—all these have been now assessed on the basis of the revenue during the previous year. We do not know whether it has been arrived at on the basis of the findings of the Supreme Court or on Government's own initiative. Now there are many fisheries which have already been settled with some persons for more than one year. Now if the Government issues any notice under Section 3 of the Principal Act, they will find that there are many fisheries which have been settled more than 3 years by the Zamindars. I do not know whether these settlements could be nullified and regularised by Government. Sir, this aspect of the position must be borne in mind.

I find another inconsistency in the amendment introduced to Section 12 of the principal Act, under clause 10 of the amending Bill, that is sub-clause (2) which reads as follows:—“(2) In the case of a proprietor of a temporarily-settled estate getting malikana, the malikana received by such proprietor in respect of the previous agricultural year shall be deemed to be the net income of such proprietor.”

Sir, there cannot be a proprietor of a temporarily settled estate as a proprietor has been defined in the main Act as follows:—“proprietor” means a person holding in trust or owning for his own benefit any permanently-settled estate or any Lakhiraj estate or any ‘acknowledged estate’, or a part of any such estate and includes the heirs and successors-in-interest of a proprietor, and where a proprietor

is a minor or of unsound mind or an idiot, his guardian, committee or other legal curator". Therefore, the word 'proprietor' is used only in reference to permanently-settled estate, Lakhiraj estate or any 'acknowledged estate'. In this sub-clause, it seems, it has not been properly worded because there cannot be a proprietor of a temporary-settled estate. I think, Mr. Das, will examine this carefully and see if there is any mistake in it. As a matter of fact Malikana arises in the case of an 'acknowledged estate'—as far as I know.

Now, another mistake which has come to my notice is in this amendment to section 31 of the principal Act. If by the amendment sub-clause (i) is taken away, in sub-clause (ii) the words 'any such rules' will be meaningless without any context. This apparent inconsistency needs an explanation. It may be a technical mistake as it has been already stated that this was done in haste but if the Bill would have been referred to a Select Committee it could have given more thought and proper attention to it so as to see whether the Bill has been enacted in the proper manner but that has not been done. I think, Sir, this Bill requires further scrutiny as there may be technical or other mistakes. Sir, my Friend, Mr. Das, who is very careful in the matter of legislation, will give further consideration to this and enlighten us on the various points of inconsistency or ambiguity which I have raised.

Again, I would request him that this piece of law, which is an important measure, affecting a large number of people, should be applied and administered properly and judiciously.

**Shri RANENDRA MOHAN DAS:** Mr. Speaker, Sir, I would like to speak a few words regarding the Bill which is presented before us. Outwardly it sounds very well that the Assam Government is going to acquire all the Zamindaris, but one who knows Assam very intimately will find that there are very small Zamindaris only in Karimganj Subdivision and in Goalpara District. Among these Zamindaris some big estates are already in the management of the Government through Court of Wards; so by abolition of Zamindaris less than 1/20th of the whole areas of Assam will be benefitted.

In the fitness of things, Sir, I would have been more glad if simultaneously with this Bill a new Bill would have been brought by the Government for the redistribution of Pattas, which would have covered the rest of the Province.

Secondly, Sir, the Government should not be guided by the spirit of complacency because they are going to do a big thing. Of course, we know that we shall see some photos of some of our Ministers in the Assam Tribune with statements and speeches from Ministers that Zamindaris are going to be abolished in Assam.

But, may I ask, what is the percentage of people who will be benefitted by this piece of legislation ?

Thirdly, by abolition of Zamindary, we must see whether the Government or the tenants are going to be benefitted. From the Act and from the amending Bill which is presented in the House, it will be found, I shall prove one after another, that instead of benefiting the tenant the Government will be more benefitted by this Bill.

(Voice—It is tenants' Government).

Any way, we should not move in a vicious circle:—We must not confuse between পাত্ৰাধাৰ তৈল, তৈলাধাৰ পাত্ৰ।

Nowhere in this amending Act it has been stated what should be the rent Government should derive from its tenants. As a matter of fact, we know that Zamindar pays say, Rs.10,000 to Government as “সদৰ খাজানা” and, on the other hand, they will realise say Rs.15,000 or 20,000 from the tenants. Now, it must be stated clearly in the main Act or in the amending Act, whether the Government is going to realise that Rs.10,000 which a Zamindary pays to Government as “Government Revenue”, or Rs.15,000 or Rs.20,000 which a Zamindar realises from his tenants. If the Government takes the amount realised by the Zamindars then there will be no benefit to the tenants.

According to my opinion, Sir, the revenue which a Zamindar generally pays to the Government should only be realised from the tenants, but instead of that we find that in page 2 in the proviso to proposed Section 4(b) sought to be inserted by clause 3 in the amending Bill:—“Provided further that any such person who was holding any land rent free or at a specially low rent, shall be bound to pay such rent, not exceeding the prevailing rate of rent for similar land in the neighbourhood, as may be fixed.”

Now, from this section, it is found that even under the Zamindars some tenants were enjoying some land free or at a very low rate of rent.

Now, the first thing which Government proposes after abolition of Zamindary is that, the rent should be uniform. This means that those poor people will be compelled to pay rent equivalent to their neighbours. Thus the first step which Government is going to take will hit these poor people. The relief which the present Zamindars have been giving them will be taken away by our benevolent Government which professes to be a Government of the people, by the people and for the people. (A Voice:—Do you want this system to continue?). No, what I want is that certain improvements should be made. This measure, instead of improving the lot of the poor peasants will make their position worse.



Sir, I have not heard what the Minister said when introducing this Bill. I shall deal with one or two points more. At page 6 clause 12 refers to the case of individuals taking up large scale cultivation by mechanical appliances. Sir, in some form or other our Congress Government are trying to retain the capitalist form of economy even while presenting this Bill for abolition of Zamindaries. Now a moneyed person can purchase a tractor and retain his Zamindary. It will not be possible for a tenant to purchase a tractor and retain more than 200 bighas of land. But a Zamindar may purchase a tractor and retain his Zamindary. This is a loophole for the Congress Zamindars in the Bill.

Then, Sir, clause 12 states "Provided that the State Government shall be entitled to pay compensation in one instalment or in 10 equal annual instalments." This is a very dangerous provision. Zamindars like my friend sitting over there can get his compensation in a single instalment. That means, rich people having a hold on Government will get compensation in a single instalment in a single year. But the poor tenants will have to knock from door to door to get their compensation in ten long years. Let me explain what will be the result. The uprooted Zamindars must be rehabilitated with the compensation they will get from the Government...

**Mr. SPEAKER :** You mean refugee Zamindars ! (laughter)

**Shri RANENDRA MOHAN DAS :** I shall show their case with a parallel drawn from the present condition of the refugees. Supposing a person's compensation amounts to Rs.5,000. If he gets this sum in a single instalment he can rehabilitate himself. But if he gets it in 10 years with an annual instalment of Rs.500 he will simply eat up the amount and ultimately be a burden on the State in the shape of an unemployed person. As I told you, Sir, I am illustrating this by drawing a parallel with what is happening to the refugees. We know that the refugees who have been given loans on instalment basis have spent it in their day to day expenditure with the result that they have not been rehabilitated. I would therefore request the Minister to consider this point and see that the compensation which is to be paid should be paid at a time.

**Mr. SPEAKER :** You want social justice !

**Shri RANENDRA MOHAN DAS :** Yes, Sir. I do not like to take more time of the House. With these few words, I would request the Minister to see whether the suggestions I have made are acceptable to him.

**Shri GAURISANKAR BHATTACHARYYA :** Mr. Speaker Sir, I thought I would not speak on this subject, but having heard my Friend, Shri Ranendra Mohan Das, I feel that I should make a few observations. I found that Mr. Das was giving a compliment to the Government which perhaps the Government did not want

The compliment was that Government was going to abolish the Zamindaris. So far as this Bill is concerned, it is not a Bill for abolition of Zamindaris, either in name or in content. It is a Bill only for acquisition of Zamindaris by the Government. So, the system of Zamindaris will remain, only the Government will be the Zamindar in place of Raja of Sidli, Raja of Bijni and so on. The exploitation of the peasants by the Zamindari system will remain. Now, let us see whether the peasants will get any benefit by this Bill, whatever may be its nomenclature. We should see whether the people in general, *viz.*, the raiyats, will benefit by this Amendment Bill. It has been said in the Statement of Objects and Reasons that certain provisions of the Bihar Land Reform Act, which was as a matter of fact the guiding line of this Bill, and also our previous Act have been declared *ultra vires* of the Constitution. We also know that certain provisions of the Zamindari Abolition Act of Uttar Pradesh have also been declared *ultra vires* and some cases pertaining to the same subject are pending before the Supreme Court where our Government is also a party. Now, the main thing about this question of abolition of Zamindaris has been the failure of the Government to take any bold step. The demand of the people has been the abolition of Zamindaris without payment of compensation, that land should go to the tillers. So long as our present Constitution stands as it is, there cannot be abolition of Zamindari system without payment of compensation. If that is the position, there are two courses open to us. Either we educate the entire country in a manner so as to make them change this Constitution or...

**Mr. SPEAKER:** Expropriate the property !

**Shri GAURISANKAR BHATTACHARYYA:** You are quite right, Sir. Either we educate the people to such an extent that they can expropriate the exploiters or within the four walls of the Constitution itself we bring in certain palliative, certain reformatory measures whereby there must be some restraint on this exploitation. Now, if this proposed Amending Bill would have brought restraint on the exploitation, on the system of exploiting the peasantry then we would have welcomed it wholeheartedly. But we find that the provisions either of the original Act or of this proposed amending Bill do not go far enough to bring real restraint on the exploiting Zamindari system or giving relief to the peasants. Therefore there should be no hurry in the matter of pushing through such legislation. Either we change the whole system or at least we wait till the Supreme Court gives its ruling which will be the guiding line for us. When cases are pending before the Supreme Court there should not be such hurry in bringing in such a Bill. Now, we find that some provisions of this amending Bill are very reactionary

For example we find in section 3 of the amending Bill which seeks to amend section 4 of the original Act, "Provided further that any person who was holding any land rent free or at a specially low rent shall be bound to pay such rent, not exceeding the prevailing rate of rent for similar land in the neighbourhood, as may be fixed". Now, those people who are enjoying some land rent free or at specially low rent must be doing so for certain reasons. Those reasons may not be quite cogent to us according to our present standard of understanding of social justice, but then at the time of giving those facilities to those people there were some considerations. Now if those people are deprived of their existing facilities which is proposed through this Bill, why can this parallel be not drawn to the big Zamindars like the Rajas who also were given their facilities for certain considerations by the British Government when they came to dominate over the country? If we can expropriate these small fries why should not the bigger ones also be touched?

Now, the point is if for certain considerations some poor people were given some rent-free land or land at a specially low rate of rent they should not be touched, they should not be expropriated, if we have no power to touch the big Zamindars and such people.

Then again, we find in the explanation of clause 4 "Land held for cultivation of tea shall continue to be held under the State under the same terms and conditions as existed before the date of vesting, subject to the provisions of sub-section (6) of Section 4 of this Act". Now, in the matter of tea estates also there have been provided these concessions. So, for all big, rich and powerful people there are concessions, but no concession for the poor. Of course we find that some salutary measures are suggested under clause 7 of the amending Bill. But I think, Sir, these measures can be brought within the scope of the Goalpara Tenancy Act. For these salutary, helpful and healthy measures which are proposed under clause 7, the whole amending Bill or the original Act is not necessary.

Again, another point which I do not want to dilate much because my Friend, Mr. Ranendra Mohan Das, has said about it is that here two provisos have been made under clause 12. One is that, in the name of Co-operative Societies more than 150 bighas of land can be held. We however know from our experience in most of the land Co-operative Societies who are the real partners and who are the owners. They are some big bosses, some powerful people who in name and *benami* make such land co-operatives and enjoy them. And by another proviso also those who bring tractors and other mechanical appliances for cultivation can hold more than 150 bighas of land so long as they cultivate the land. Accordingly these people can hold land more than 150 bighas. This is also possible only in the case of the rich families, but not in the case of

poor families. A cursory view of the different provisions of this amending Bill will thus show that, if at all, it only wants to create a social base of the rich in the country-side, for the Congress and the Congress rulers ; that is the *summum bonum* of the objects and reasons of this Bill, whatever may be written here in the Statement of Objects and Reasons. Sir, for the British Government the social base was the Zamindars, for our Congress Raj, the social base must be some rich peasant in the country-side ... .. (A voice—You mean Kulaks ? ...) Yes, create a class of Kulaks in the country-side ! That is a simple statement of the reasons for this Bill though garbed and garbled in beautifully vague language. It is not at all a progressive piece of legislation. My Zamindar friends should not be afraid that this Government is going to take very revolutionary measures for abolishing Zamindari. That is not going to be done by this Government. It is only going to take away some Zamindari and create some petty Zamindars in the name of Co-operative Societies. That is the whole crux of the proposed amending Bill. And, therefore, I think in all fairness to the peasants this amending Bill should be dropped, and not only this Bill, but the original Act also, the so called Assam State Acquisition of Zamindaris Act should be dropped. If we cannot bring real land reforms to the State, if we cannot really give land to the landless tillers of the soil without compensation, then we should not at least bluff the people by bringing such dubious pieces of legislation in the name of and reform.

With these words Sir, I oppose the proposed amending Bill.

**Shri HARESWAR GOSWAMI:** Mr. Speaker Sir, it is really very unfortunate for the country that in this year of 1953 we have still to argue whether Zamindari should be abolished or not. We are for abolition of Zamindari and not only that, even the Five-Year Plan says that all intermediaries between the State and the cultivator should be liquidated. It has taken us from 1931 to 1953, these 22 years to argue and discuss this matter.

We expected that in 1951 when this Bill was first passed, the abolition of Zamindari would be an accomplished fact and new avenues and scopes would be opened up for real land reforms. Unfortunately our party in power could not foresee the legal difficulties that lay in the whole thing. We, therefore, from the beginning were educating the people on this line. As a matter of fact we were voicing the feelings of the people that Zamindari should be abolished in India under the present circumstances only without compensation. But that was not listened to. The Constituent Assembly did not like to embarrass the State Governments of our country and as a result we find that even after a year the Constitution, the secret document

of our country, had to be amended, and even after that the trouble is not over. There is scope for legal arguments for legal quibblings unfortunately even today. The court, being the protectorate of our society,—is also interested in preserving the *status quo*. Thus social justice is being sacrificed at the altar of legal arguments. Sir, we find that more or less a similar Act was enacted in Bihar and that was declared to be unconstitutional by the Patna High Court. The matter was taken to the Supreme Court and in the Supreme Court judgment was not also unanimous. We find that the main Act has been declared to be valid by them subject to the alteration of certain Sections. This Bill today seeks to remedy those difficulties, for in the Statement of Objects and Reasons it is written "Since the passing of the Assam State Acquisition of Zamindaris Act, 1951, the Supreme Court declared certain provisions of the Bihar Land Reforms Act, 1950, as void. The Assam Act also contains similar provisions which therefore have to be amended." In our main Act Section 4, sub-section (3) (a) and (b) runs as: "(a) All arrears of rents, royalties, cesses, fees and other dues together with interest if any which were payable to the proprietor or tenure-holder in respect of such estate or tenure and the recovery of which was not barred by limitation shall cease to be payable to such proprietor or tenure-holder and shall be recoverable by the State in the manner prescribed.

(b) If such arrears are payable by any tenure-holder whose tenure has vested in the Government, these shall, without prejudice to any other mode of recovery, be recoverable, if the Deputy Commissioner so orders, by deduction from the compensation money payable under this Act."

The whole decision actually relates to these two sub-clauses. The decision of the Supreme Court does not affect compensation as it was in 1951 and also regarding compensation, after the passing of the Amendment to the Constitution, there is no difficulty. Yet we find that even today we are not free from the grips of the Zamindars. I do not say that Zamindars today mean only the Zamindars of Goalpara or Cachar Districts. In other areas also there are such Zamindars. In this Bill also, even after this amending Bill, there has been some discrepancy, there is differential treatment meted out to different classes of people. We find that in the case of the Zamindar he is allowed to retain 400 bighas of land and a tenure-holder 150 bighas of land whereas an under-rayat is allowed to keep not more than 100 bighas of land. There is this discrepancy. The Planning Commission has a desire that there should be a ceiling of land-holding. As far as this Bill is concerned we find that it will create a

precedent and it will be difficult for us to have a ceiling in the matter of land-holding. Leaving aside the third category, there are at present two categories—one category is allowed to have 400 bighas of land as the maximum and the other 150 bighas. We are told that in the case of a Zamindar he is allowed to have 400 bighas of land if he adopts the co-operative method or mechanised cultivation and on the same basis 150 bighas of land is given to the tenure-holder. Thus we find that there is no attempt to put a ceiling and there is no attempt to bring about actual social justice to the people. We therefore hold the view that by merely abolishing Zamindari we cannot improve the lot of the people and thus we cannot set a good example to be followed by other States. Here we find that a new attempt has been made to create new classes of people again. In the Act an attempt has been made to undo the justice done by the previous Act, namely, in page 6 of the Bill, Clause 12 runs as: "Insertion of new sections 22A and 22B.—After section 22 of the principal Act the following new section shall be inserted as sections 22A and 22B, namely....." There was no question of compensation in the case of under-rayat in the main Act. It is provided in the Act that in the case of under-rayat for the land that will be taken from him, *i.e.*, more than 150 bighas, compensation will be given under a different system. But in the case of other people the compensation system has been laid down in the main body of the Act and here the compensation will be according to the Land Acquisition Act, 1884. Here is again that difference. Then again we find, as Mr. Bhattacharyya has pointed out, in clause 3 at page 2 of the Bill a proviso which runs as: "Provided further that any such person who was holding any land rent free or at a specially low rent, shall be bound to pay such rent, not exceeding the prevailing rate of rent for similar land in the neighbourhood, as may be fixed." We know that there are certain people who hold land called service tenure-land. In the Zamindari areas people are very often given some land in lieu of their services and offerings to Gods and Goddesses and for that are allowed to keep that land. It was another type of exploitation that was carried on by the Zamindars. Now if they have been enjoying certain rights, such rights would be taken away by this Bill.

Sir, then in page 3 in the amending Section 6(4) it has been stated—

"Provided that until further legislation is made in this behalf by the State Legislature except for the homestead of the proprietor used as his own residence and not exceeding 50 bighas in area the

proprietor or the tenure-holder shall be liable to pay such rent, exceeding the prevailing rate of rent for similar lands in neighbourhood, as may be fixed."

So, Sir, as far as the land-lord is concerned it is all right. Although they will be enjoying rights under the Zaminders, there is no certainty whether their occupancy right will be allowed to be continued. So, Sir, these defects are there. Although this appears to be quite wholesome piece of legislation, yet really speaking just has not been done to the tenants. And secondly, Sir, this abolition of Zamindaris and at the same time creation of land-lords with 150 to 400 bighas of land will again create new problems and make it difficult to have a uniform ceiling in maximum holding in the whole State. Now, Sir, I want to draw your attention to a different thing. When such a big piece of legislation is sought to be introduced in the House, we should be supplied with the main Act along with the Amending Bill as without this it is extremely difficult to fix the amendments to the main Act.

**Mr. SPEAKER:** We have some Acts in the library. You can utilise them. In future I shall see that sufficient number are there.

**Shri HARESWAR GOSWAMI:** But unless the main Act is supplied along with the amending Bill it is very difficult to go through the amendments. How the amendments come in and where they fit in are things that require very careful scrutiny and thorough study. I request the Hon'ble Minister to take these things into consideration, and as a matter of fact any other thing that may be necessary to avoid the hand of the Supreme Court. It is also necessary to bring up a comprehensive piece of legislation through which the tenants will be really benefitted. Sir, there is another defect, *i. e.*, State management of Zamindaris, and it is being challenged in the High Court. However, the Assam High Court gave its decision in our favour, but it is still being agitated before the Supreme Court. The Supreme Court may declare it unconstitutional, and in that case this Act will have to be again amended and things will have to be altered again.

**Shri HARESWAR DAS (Deputy Minister):** Mr. Speaker, Sir, at the outset I thank my Friend, Md. Umaruddin Saheb, for offering his co-operation in the matter of implementation of this Bill. As regards the other three speakers I fail to understand what their actual stand is in regard to this Bill. As far as I can understand each of them has got a different approach. That is rather natural. When Lord Shri Krishna was born how people accepted him? Nanda and Josoda looked upon him as a beloved son, Akrur and other devotees looked upon him as the God supreme, Sridam, Sudam and others looked upon him as their playmate. But how Kansa looked upon him

He considered him to be his mortal enemy. Here my Friend Shri Ranendra Mohan Das looks upon the Bill as his enemy. He complains that the compensation in the Bill is illusory, the Zaminders will not get the compensation and so the Bill is bad. Shri Bhattacharyya complains that the Bill is defective, because there is the provision for compensation. Why the Zaminders should get compensation? It is encouraging capitalism.

**Shri RANENDRA MOHAN DAS:** On a point of explanation, Sir, what I said was that big Zaminders will get, but the small Zaminders will not get.

**Shri HARESWAR DAS (Deputy Minister):** As regard Mr. Goswami, I could not follow him. He was an arch enemy of the Zamindari system and so long we heard him to say that the Zamindaris should be abolished at once. But to-day he argues that the Bill should be postponed for mature consideration. That shows that he has not followed the history of this Bill. He and Umaruddin Saheb have described this Bill as an imitation of the Bihar Land Reforms Act. Well, our Bill was passed by this House in 1949 and the Bihar Land Reforms Act was passed in 1950. We are the elder brother. You will judge who imitated whom. Bihar had a Zamindari Abolition Act, which was challenged in the Patna High Court. During the pendency of the suit they brought in a fresh Act and in that Act they corrected the defects of the former Act.

**Shri RANENDRA MOHAN DAS:** And you copied it.

**Shri HARESWAR DAS (Deputy Minister):** You are wrong. Our Bill was passed one year before this. You can say so because you have not read the Acts of other States. Orissa amended their Act five times and the last amended Act was challenged in Court, and it was held valid by the High Court. These Acts were first drafted under the Government of India Act, 1935. When the Fundamental Rights came into force with the enforcement of the Constitution, the legal interpretations given by different Courts at different times had to be considered. So each State has got to bring its Act in line with the judicial interpretations. There are some provisions common to all the Acts of the different States. This shows mutual consultation and not that one imitated another. It is true as Shri Goswami said that the Judges of the Supreme Court were not unanimous in their opinion with regard to the Bihar Act. The Chief Justice differed from the four other Judges. The judgment of the majority declared two sections void. Uttar Pradesh also had similar provisions, which were declared void. That Act was held valid in the first instance by the Allahabad High Court.

Now I shall proceed with the objections raised seriatim. A number of objections have been raised by my Friend Umaruddin



Saheb. The first point that he has raised is in regard to service tenure. According to the Goalpara Tenancy Act service tenure does not confer any right on the tenant. So the reservation of their right does not arise. A tenant means a person who holds land under another person and from whom rent is realised but for a special contract to the contrary but it does not include a person who holds land on condition of rendering service. Service tenure-holder is not a tenant, and having no right over the land, he cannot ask for security.

**Maulavi Md. UMARUDDIN:** What will be the fate of the land on resumption by the Government?

**Shri HARESWAR DAS (Deputy Minister):** I am going to answer this question seriatim and my Friend will get this answer in due course.

Proviso to clause 3 states, "Provided further that any such person who was holding any land rent free or at a specially low rate shall be bound to pay such rent, not exceeding the prevailing rate of rent for similar land in the neighbourhood, as may be fixed."

Two or three Members raised objection on this point, one was perhaps Mr. Bhattacharyya. If a man holds any land at a low rent, has got some special rights, then he will be entitled to compensation, when his land is taken away. When talk of Zamindari abolition was in the air, we had got reports that some intermediaries and proprietors were settling land with friends and relatives at a very low rate of rent. They were thus settling 300-400 bighas of land at a rent of one anna or so per bigha. That is, before the estate is taken away they are making provisions for their family. Unless this clause is here we cannot cure this. The purpose of this Act cannot be allowed to be defeated that way. But if any man has got some kind of special right over any land that has got to be acquired under the ordinary law. As my Friend, Mr. Goswami, was pointing out that all ryots must be brought to the same level, this proviso aims at bringing all ryots to the same level. We do not see why some people should enjoy some land at a very low rent. We want to bring all to the same level. This abolition of Zamindari in Assam has created some confusion in the minds of my Friends. This Act applies only to two-third of Goalpara district. The whole district of Goalpara covers about 25 lakh acres of land and the Zamindari land covers only 15 lakh acres. Then there are about one lakh eighty two thousand acres in Karimganj under this system. This is the area where this Bill applies. The rest of the State is outside the purview of this Bill. If we fix 400 bighas for the proprietor, what injustice is there? As I said, this Act does not apply to the whole State, it applies only to Goalpara and one Sub-division of Cachar. This 400 bighas refer to private land of a proprietor. This is a technical form and any land cannot be treated

as private land. Sir, in Goalpara there are practically 6 proprietors and as my Friend, Mr. Umaruddin, knows out of them only two or three proprietors have got private land. Where lies the injustice if a proprietor of Goalpara is allowed to keep 400 bighas, when in the rest of Assam a man can hold 1,000 bighas or more? It is the duty of Government to rehabilitate the proprietors. That is the reason why this provision has been made.

Then my Friend, Umaruddin Sahib, raised a point about management during the *interim* period and the preparation of record-of-rights. He is somewhat incorrect. Possibly he has not got the information about the preparation of record-of-rights under the Goalpara Tenancy Act. Actually it has been ordered and they are now doing it. The Traverse Party has already began their work and traverse is preliminary to preparation of maps.

**Shri NILMANI PHOOKAN :** এইখন কবি থাকোতে গছ-গছনি কাটি শেষেই কবিব ।

**Shri HARESWAR DAS (Deputy Minister) :** Mr. Umaruddin is perfectly right to say that there are no cadastral maps except in some areas. The Traverse Party is there and we will specially train a number of Mandals. They will be deputed in time. This work is being done under the Goalpara Tenancy Act and not under this Act.

Sir, about the apportionment of the cost, this is not relevant here. That is a separate matter. If in the meantime the Zamindaries are abolished, the Government will have to bear a portion and the tenants will also have to bear some portion.

As regard the assessment of forest income, my Friend has asked why a period of five years has been provided. Sir, it has been found from experience that the income from the forests is most erratic. If this year is one lakh next year it may be 50,000 and the next year it may go up to one and half lakh. So, just to take a stable point, an average of 5 years have been taken. In Bihar 25 years has been provided. We find this is equitable. Now my Friend, Umaruddin Sahib, has spoken about the devastation of the forests. My Friend admits that the forests are being devastated and that is why I expect that he will support this Bill so that the sooner the Government takes up these Zamindaris the better for the preservation of the forests. He also said that the forest produces are being pilfered.

**Maulavi Md. UMARUDDIN :** They themselves are pilfering  
(laughter).

**Shri HARESWAR DAS (Deputy Minister):** To prevent that, we wanted to enforce our Management of Estates Act and to take over possession of forests. But this was challenged in the High Court and the case is still pending in the Supreme Court. My Friend says that after the decision of the Supreme Court, another amendment may be necessary. It is not so. The principle of the Management of Estates Act and the principle of the Zamindari Acquisition Act are quite different. Under the Courts of Wards Act, the estate of a disqualified proprietor can be taken possession of by the Government. Under the Management of Estates Act even estates of disqualified proprietors can be taken up. That is the only difference between the Management of Estates Act and the Courts of Wards Act. In both cases the estates remain the property of the proprietor. Government simply manage and pay all the dues to the proprietor. If the Management of Estates Act is declared *ultra vires* that will not touch our present Act.

Another point raised by my Friend, Mr. Umaruddin, is about the Malikana. He has said that this is a mistake and should be amended. But this is not so. I refer him to the introductory chapter of the Assam Land and Revenue Regulation, where it is stated that this is an anomaly. Ordinarily there cannot be a proprietor of a temporarily-settled estate. But in the case of Sidli and Bijni Dooars an exception has been created. With regard to the owners the very word "proprietor" has been used. There is a consequent anomaly with regard to the status of the tenants, as neither the Goalpara Tenancy Act nor the Assam Land Revenue Regulation apply there. One of the anomalies is sitting here (*laughter*).

13. Then another point raised by Mr. Umaruddin is about clause 13. Is it section 26 ?

**Maulavi Md. UMARUDDIN:** Section 31.

**Shri HARESWAR DAS (Deputy Minister):** The sub-section (2) of Section 26 is deleted here because it has been taken elsewhere. Actually the clause has not been deleted from the Act.

**Maulavi Md. UMARUDDIN:** There is no provision for making rules.

**Shri HARESWAR DAS (Deputy Minister):** As regards section 31 (i) Supreme Court declared the main provision void; rules cannot be framed on that section.

**Maulavi Md. UMARUDDIN:** Therefore, sub-clause (ii) remains.

**Shri HARESWAR DAS (Deputy Minister):** Because that item has been deleted from the main Act.

**Maulavi Md. UMARUDDIN:** Where is the context ?

**Shri HARESWAR DAS (Deputy Minister):** Sub-clause (i) reads, "The State Government may make rules for carrying out the purposes of this Act."

There are 7 or 8 items one of which is deleted.

Other items remain.

**Maulavi Md. UMARUDDIN:** Then why it is stated—"such rules" in sub-section (ii).

**Shri HARESWAR DAS (Deputy Minister):** Under section 31, (i) has not been deleted but 31(i) after (h) has been deleted and subsequent sub-clauses to be re-numbered accordingly. There are subsequent sub-clauses after (i).

These are the objections raised by my Friend, Mr. Umaruddin.

As far as the point raised by Mr. Bhattacharyya, I think, I have dealt with them.

About Co-operative Societies. Actually we want to give preference to those co-operative societies formed for cultivation of land. Throughout the whole of Assam we are giving this preference to these co-operative societies; so in the Zamindari areas too the same preference will be given to these societies.

**Shri RANENDRA MOHAN DAS:** How our co-operative societies are going on ?

**Shri HARSEWAR DAS (Deputy Minister):** That is a subject not relevant with the subject I am dealing. I refer him to the Supply Minister. (*Laughter*). (*Voice*.—Why Supply Minister and not Co-operative Societies Minister ?) About the point raised by my Friend, Mr. Goswami, about compensation to owners of land of over 150 bighas in those areas, a new Section, Section 22A has been inserted. He said that there is no provision for giving compensation for the excess area over 150 bighas. That is not correct. There is provision for compensation but it is to be given according to the Land Acquisition Act. My Friend has also said why there should exist differentiation between the compensation paid to a Zamindar and a ryot possessing land of over 150 bighas. That is due to the provisions of the Constitution.

In case of Zamindaris Act 31(A) applies and a special compensation may be provided, but that Act does not apply in the case of ryot. So when excess land of a ryot is acquired, the compensation will have to be paid according to the Land Acquisition Act. We have fixed the rate of compensation for the estates to be acquired from the Zamindars but to land owners having more than five bighas of land we will have to pay compensation at the market value according to the Land Acquisition Act.

Sir, I think, I have replied to all the points raised.

**Maulavi Md. UMARUDDIN:** What about service tenure?  
**Mr. SPEAKER:** This has already been replied.

**Shri HARESWAR DAS (Deputy Minister):** Service tenure is no tenure, so no answer is necessary (*Laughter*).

**Mr. SPEAKER:** The question is that the Assam Land Acquisition of Zamindaris (Amendment) Bill, 1953, be taken into consideration.

(The Motion was adopted.)

### The Assam Land (Requisition and Acquisition) (Amendment) Bill, 1953

**Shri HARESWAR GOSWAMI:** Sir, only point in this connection, I want to state is what is the necessity of bringing this Bill every five years, when we know that it will be necessary for some time to come. So let us make it a permanent piece of legislation.

**Shri HARESWAR DAS (Deputy Minister):** Our idea is that we are treating this as an emergency legislation. If we do not solve the land problem the necessity for this Bill will not be there. By taking the surplus lands of tea gardens and distributing them and other fallow lands amongst the landless people we are trying to solve this problem. We thought that we would be able to solve it in course of five years, but now we find that it is not possible. The Act is going to expire in November next but we shall require it about five years more. We do not like to trouble people for nothing. If we can do the job in course of the next five years we shall not renew this Act.

**Mr. SPEAKER:** The question is that the Assam Land Acquisition (Requisition and Acquisition) (Amendment) Bill, 1953, be taken into consideration.

(The Motion was adopted.)

### Amendment to Assembly Rules.

**Shri BAIDYANATH MOOKERJEE (Minister):** Mr. Speaker, Sir, I beg leave of the House to move, that after rule 123 of the Assam Legislative Assembly Rules made under clause (1) of Article 208 of the Constitution of India the following new rule be added as rule 123A :—

“123A. *Procedure for moving motion to omit or reduce grant.*—

(1) No motion for appropriation can be made except on the recommendation of the Governor communicated to the Assembly.

(2) Motions may be moved at this stage to refuse or reduce the total amount of any demand for grant or to omit or reduce the amount of any item or unit of appropriation composing the grant.

(3) If any of such motions be carried by the House the decision would be final under Article 204 of the Constitution.

(4) When tabling a motion for reduction, if it be for a reduction or omission of the amount of an item, a member shall have to state the minor head, the sub-head and the detailed head of the grant in connection with which the motion is to be moved.

(5) When several motions for substantial reduction relating to the same demand are offered, they shall be discussed in the order in which the heads to which they relate appear in the Budget. Ordinarily, the largest reduction under a Grant or an item of a Grant will be taken up first and the smallest reduction last, but this arrangement may be altered by the Speaker at his discretion to expedite the business of the House.

(6) No amendment to motions to reduce any grant shall be permissible. ” ”

Sir, these rules are necessary. Inclusion of these rules were overlooked at the time of moving amendments to the draft rules, and they were deleted without any alternative provisions being made. It is with a view to give facilities to the hon. Members, who will table cut motions, and also for the proper guidance of the House that these amendments have been tabled. If leave is granted, I shall move the other motion.

**Mr. SPEAKER:** Mr. Mookerjee, can you enlighten me under which rule, this motion is to be dealt with—Rule 129 or 130 ?

**Shri BAIDYANATH MOOKERJEE (Minister):** Both rules 129 and 130. Rule 129 deals with notice and Rule 130 with procedure which reads thus. “When the motion has been made, the Speaker shall read the draft amendments and ask whether the member has the leave of the Assembly. If objection is taken, the Speaker shall request those members who support the motion to rise in their places, and if more than 22 members rise accordingly, the Speaker shall intimate that the member has the leave of the Assembly.”

**Shri HARESWAR GOSWAMI:** Rule 129 is more relevant here.

**Maulavi Md. UMARUDDIN:** The notice is dated 26th August. It does not, therefore, fulfil the requirements of Rule 129 regarding ten days' notice.

**Mr. SPEAKER:** Of course, it is so. But if there is no objection I think this rule can be waived.

**Maulavi Md. UMARUDDIN:** But I think this is mandatory.

**Mr. SPEAKER:** No, the Speaker has got the discretion. So, if there is no objection I can act under Rule 130.

(No objection was expressed from any quarter.)

**Mr. SPEAKER:** The question is that leave be granted to move the following motion:—

“That after rule 123 of the Assam Legislative Assembly Rules made under clause (1) of Article 208 of the Constitution of India the following new rule be added as rule 123A:

123A. *Procedure for moving motion to omit or reduce grant.*—(1) No motion for appropriation can be made except on the recommendation of the Governor communicated to the Assembly.

(2) Motions may be moved at this stage to refuse or reduce the total amount of any demand for grant or to omit or reduce the amount of any item or unit of appropriation composing the grant.

(3) If any of such motions be carried by the House the decision would be final under Article 204 of the Constitution.

(4) When tabling a motion for reduction, if it be for a reduction or omission of the amount of an item, a member shall have to state the minor head, the sub-head and the detailed head of the grant in connection with which the motion is to be moved.

(5) When several motions for substantial reduction relating to the same demand are offered, they shall be discussed in the order in which the heads to which they relate appear in the Budget. Ordinarily, the largest reduction under a grant or an item of a Grant will be taken up first and the smallest reduction last, but this arrangement may be altered by the Speaker at his discretion to expedite the business of the House.

(6) No amendment to motions to reduce any grant shall be permissible.”

(The motion was adopted.)

**Shri BAIDYANATH MOOKERJEE (Minister):** Mr. Speaker, Sir, I beg to move that this Assembly do proceed to elect in accordance with rule 131 of the Assembly Rules, six members to the Select Committee for the consideration of the draft amendment.

Sir you are to announce the date and time for holding the election.

It is laid down in Rule 131 that when the member has leave of the Assembly to proceed "the draft amendments shall be referred to a Committee of which the Speaker shall be Chairman, and of which the Deputy Speaker, the member giving notice of the amendment and in case he is a private member, the Minister concerned also and a Chairman of the Assembly to be nominated by the Speaker shall be members. The remaining members who shall be six in number shall be selected by the Assembly by means of the single transferable vote in accordance with the regulation framed in this behalf by the Speaker."

**Mr. SPEAKER:** The question is that this Assembly do proceed to elect in accordance with rule 131 of the Assembly Rules, six members to the Select Committee for the consideration of the draft amendment.

(The motion was adopted.)

I hereby fix Thursday, the 3rd September 1953, as the date on which the election shall take place. It will be held inside the Chamber as soon as the business of the day is finished. The Secretary has already circulated a letter to the hon. Members asking them to inform their candidature on or before the 1st September 1953. Such information should reach the Assembly Secretariat by 3 P. M. on 1st September at the latest.

#### **Presentation of Supplementary statement of expenditure for 1953-54**

**Shri MOTIRAM BORA (Minister):** Mr. Speaker, Sir, I beg to present a Supplementary Statement of Expenditure for 1953-54.

#### **The Assam Homeopathic Medicine Bill, 1953**

**Shri RAJENDRA NATH BARUA:** Mr. Speaker, Sir, I beg leave to introduce the Assam Homeopathic Medicine Bill, 1953.

**Mr. SPEAKER:** The question is that leave be granted to introduce the Assam Homeopathic Medicine Bill, 1953.

(The motion was adopted.)



(The Secretary then read the title of the Bill.)

**Shri RAJENDRA NATH BARUA:** Mr. Speaker Sir, I beg to move that the Assam Homeopathic Medicine Bill, 1953, be circulated for the purpose of eliciting public opinion on or before 31st January, 1954.

**Mr. SPEAKER:** The Governor has given his assent in the last session. I shall read it to refresh your memory:—

“Under the provisions of clauses (1) and (3) of Article 207 of the Constitution of India, I, Jairamdas Doulatram, Governor of Assam, recommend to the Assam Legislative Assembly the introduction and consideration of the Assam Homeopathic Medicine Bill, 1953”

**Shri RUPNATH BRAHMA (Minister):** Sir, so far as the Government is concerned we do not propose to stand in the way at this stage. I have no objection to have the Bill circulated for eliciting public opinion. As it is a new Bill and seeks to recognise the Homeopathic system of medicine by setting up Boards and giving certain privileges to Homeopathic practitioners, it will be better to have the Bill circulated for public opinions.

**Mr. SPEAKER:** The Motion moved is that the Assam Homeopathic Medicine Bill, 1953, be circulated for the purpose of eliciting public opinion on or before the 31st January, 1954.

(The Motion was put as a question and adopted.)

### The Assam Money Lenders' (Amendment) Bill 1953

**Shri ANANDA CHANDRA BEZBARUA:** Mr. Speaker, Sir, I beg leave of the House to introduce the Assam Money Lenders' (Amendment) Bill, 1953.

**Mr. SPEAKER:** The Motion moved is that leave be granted to introduce the Assam Money Lenders' (Amendment) Bill, 1953.

(The Motion was put as a question and adopted.)  
(The Secretary then read the title of the Bill.)

**Shri ANANDA CHANDRA BEZBARUA:** Mr. Speaker Sir, I beg to move that the Assam Money Lenders' (Amendment) Bill, 1953 be referred to a Select Committee consisting of the following members:—

1. The Minister or Deputy Minister Revenue, Chairman.
2. The Mover (Shri Ananda Chandra Bezbarua).
3. Shri Hem Chandra Chakravarty.
4. Shri Mohi Kanta Das, Parliamentary Secretary.
5. Shri Ranendra Mohan Das.

three members present will form the quorum. The Committee will submit its report before the 31st December, 1953.

**Mr. SPEAKER:** The Motion moved is that the Assam Money Lenders' (Amendment) Bill, 1953, be referred to a Select Committee consisting of the following members:—

1. The Minister or Deputy Minister, Revenue, Chairman.
2. The Mover (Shri Ananda Ch Bezbarua).
3. Shri Hem Chandra Chakravarty.
4. Shri Mohi Kanta Das, Parliamentary Secretary.
5. Shri Ranendra Mohan Das.

Three members present will form the quorum. The Committee will submit its report before the 31st December, 1953.

(The Motion was put as a question and adopted.)

### Resolution regarding improvement of North Lakhimpur-Kamalabari road

**Shri SARVESWAR BORUWA:** Mr. Speaker, Sir, I beg to move that—

“This Assembly is of opinion that the Government of Assam do take immediate steps to improve the North Lakhimpur-Kamalabari road as to make it an all-weather motorable road.”

Sir, the importance of this road is known to every hon. Member of this House.

**Mr. SPEAKER:** Your time is half-an hour only.

**Shri SARVESWAR BORUWA:** I will finish before that, Sir.

**Shri MOTIRAM BORA (Minister):** Is it an important road?

**Shri SARVESWAR BORUWA:** As I said, Sir, the importance of this road is already known to all the hon. Members of the House; therefore I shall be brief.

Sir, this is one of the few roads which link the North Bank with the South Bank. Of all these roads, this is the only one which connects the North Bank of the Brahmaputra with the South Bank in Upper Assam. There are three other links which are provided with steam ferries; two in the Goalpara district, one in Kamrup and another in Central Assam which connects Darrang with Nowgong district. This is the only link which exists in Upper Assam connecting North Lakhimpur with Jorhat. The importance of this road can be judged from the fact that like those others it is provided by the Public Works Department with a team ferry to carry across passengers from the North Bank to the South Bank *i. e.*, from Kamalabari to Kokilamukh. And the importance of this road can

be judged otherwise also, Sir. It is the only outlet for North Lakhimpur with the nearest railway station at Mariani. (*A voice—it connects with Niamati*). Niamati Railway station is not used by passengers. Last but not least this is the road which provides access from North Lakhimpur to its district headquarters at Dibrugarh. Therefore nobody can gainsay the importance of this road.

This road has got a distance of 28 miles. Of these 28 miles upto the 14th mile it is already an all weather road from North Lakhimpur. And from Kamalabari on the other side up to Lohitghat on the Subansiri, that is 9 miles, is also an all weather road and now it has been provided with timber bridges. Since last year it has been improved and raised to the condition of an all weather road as far as these 9 miles are concerned. There remains only a hurdle of 4 miles between the 14th mile and the 18th mile on the Lohitghat. These 4 miles have not yet been improved by the Public Works Department. On account of this hurdle of 4 miles no one can take a motor car or any vehicle from North-Lakhimpur to Kamalabari during the rains. This road remains closed to motor traffic for six months in a year. It is a pity that only for the neglect of these 4 miles this road cannot be used for the whole year by motor vehicles.

The area through which these 4 miles pass is low lying. Similarly the area in Majuli also was low lying and it has been possible to improve the road to bring it above flood level. These 4 miles have been left out by the Government out of sheer neglect, I should say. These 4 miles of the road can be easily raised above the flood level and one timber bridge may be provided to cross one stream called Alisiga. Another one or two bridges may be necessary between Alisiga and the Subansiri. There is a temporary bridge for winter and this bridge can be converted into a timber bridge to make it an all weather bridge. In the Majuli portion of the road three bridges over the Kharjan, the Tuni and the Duria have been made last year and they are all timber bridges. The Duria bridge will be about 100 to 150 feet long. I want to impress upon the Government the imperative necessity of improving these 4 miles of the road so as to make it fit for motor traffic throughout the whole year. At present out of the 28 miles of the road 24 miles is motorable and only 4 miles remain to be improved to make the entire road motorable for the whole year. Now, for these 4 miles it is impossible for the motor traffic to pass and as such the whole road remains unutilised during rains. Therefore, Sir, I have moved this Resolution. Considering the importance of this Resolution and considering the plight of the people of North Lakhimpur in respect of communication, I hope, the House will support it and I think Government will also accept my Resolution.

With these words, Sir, I commend my Motion for the acceptance of the House.

**Mr. SPEAKER** : Resolution moved :

“This Assembly is of opinion that the Government of Assam do take immediate steps to improve the North Lakhimpur-Kamalabari road as to make it an all-weather motorable road.”

**Shri SIDDHINATH SARMA (Minister)** : Mr. Speaker, Sir, it will not be out of place to give a history of this road. The entire length of the road from North Lakhimpur to Kamalabari is 27 miles. This was an all-weather motorable road till 1938. The big flood of 1938 damaged this road and an estimate was prepared in 1945 to improve the length of the road at a cost of Rs.2, 91, 478. At that time the then Chief Engineer, Mr. Varma, and the then Under-Secretary were of opinion that it would be waste of money to improve that portion of the road which my hon. Friend, the mover of the Resolution, referred to. In spite of this expert opinion the then Finance Minister—now the Chief Minister—ordered to take up this work. It was taken up, but when the work was in progress the great earthquake of 1950 came and damaged the entire road again. Then subsequently, after 1950, an estimate was prepared for the construction of the road at a cost of Rs.3, 72,000 and then the length of the road from 1 to 14 miles from North Lakhimpur to Bordubi and from Lohit to Kamalabari from the 19th mile was improved and gravelled. Now the portions from mile 1 to mile 14 and from mile 19 to mile 27 are all-weather motorable road. The portion between mile 14 to mile 19, that is, 5 miles of road between Bordubi and Lohit, is only a fair-weather motorable road. In the last winter I paid a visit to this road with the Superintending Engineer, Eastern Circle and I asked him to submit a plan and estimate for improvement of this portion of road for examination by the Government. After examination and scrutiny if found feasible to make this portion of the road an all-weather road then the Government will consider it. Now survey, and preparation of the plan and estimates are in progress and if the expert opinion is in favour of making this road an all-weather road the Government will surely consider the matter. So, on receipt of the plan and estimates and report of this portion of the road the whole matter will be examined and considered by the Government. So I request my Friend to withdraw his Resolution at this stage.

**Mr. SPEAKER** : Will the mover of the Resolution withdraw his Motion ?

**Shri SARVESWAR BORUWA** : What is the assurance ?

**Shri SIDDHINATH SARMA (Minister)** : I have made it clear that I have inspected the road in the last winter with the Superintending Engineer and asked him to prepare a plan and estimate and report the views of the Department for scrutiny by the

Government. When the report, plan and estimate of the portion of this road, are received, the whole matter will be examined and considered by the Government. In view of what I have stated, I hope the hon. mover of the Resolution will not press his Motion.

**Shri SARVESWAR BORUWA:** In view of the steps taken by the Government that plans and estimates are being prepared, for the time being, beg leave of the House to withdraw my Resolution. (The Resolution was, by leave of the House, withdrawn.)

**Resolution regarding collection of grasses free of charge for cows and other domestic animals by the people of flood-affected areas from any forest reserve and Khash areas from the 1st June to the 30th November every year.**

**Shri RADHA CHARAN CHOUDHURY:** Mr. Speaker, Sir, I beg to move that with a view to help the people of the flood-affected areas in the State, this Assembly is of opinion that the Government of Assam do allow the people of such areas to collect grasses for their cows and other domestic animals free of charge from any forest reserve and Khash areas for the period from 1st June to 30th November every year.

Sir, it is known to all the hon. Members how the people of the flood-affected areas suffer and how helpless they become when a flood occurs. The people in flood-affected areas suffer in many ways. They suffer from want of food and cloth, they suffer from want of sheltering places, diseases, and pestilence break out. They suffer from many other things. They want grass as fodder for their domestic animals like cows and bullocks etc. It may be true that many villages have Village Grazing Reserves. But in spite of these, grasses go under water during the floods. So, Sir, these people have no other alternative but to approach the nearer forest areas for grasses.

**Mr. SPEAKER:** What is in your mind?

**Shri RADHA CHARAN CHOUDHURY:** The people of those areas.....

**Mr. SPEAKER:** What are those areas?

**Shri RADHA CHARAN CHOUDHURY:** Dakhin Saru Bongshar Mauza, Rampur Mauza, parts of Chhanygaon Patan Mauza, Pub-chamariya Mauza and there may be many villages in the State of Assam where the people suffer in many ways during the floods. When they fail during the floods to get grass for their cattle, the people have to come to the near-by forest reserves and Khash areas to collect grass for use as fodder to their domestic animals. In so doing, *i. e.* in collecting grasses from the forest areas, these flood-affected people have got to pay some royalty and sale-tax on grass.

**Mr. SPEAKER:** Can you cite any concrete case?

**Shri RADHA CHARAN CHOUDHURY:** Yes, Sir, I shall refer to some cases. There is one case of one Shri Sahadeb Kalita from whom annas 3 was realised by the Forest Officer as royalty of

grass. There is another case of Shri Samud Medhi who had to pay Rs.5 as fine, annas 8 as royalty and 6 pices as sale tax for collection of grass.

(Voice—পাঁচ টাকা জরিমানা আর দুই পয়সা Sales tax—)

**Mr. SPEAKER:** Have you got receipts?

**Shri RADHA CHARAN CHAUDHURY:** Yes, Sir.

(At this stage the Speaker orderd the receipts to be collected and after his inspection made them over to the Finance Minister for scrutiny).

**Shri GHANAKANTA GOGOI:** After all grass is forest produce, Sir.

**Shri RADHA CHARAN CHAUDHURY:** I do not blame the Forest Officer concerned, Sir, but I blame the Government policy. Government allow these grasses to be burnt by jungle fire rather than to give them for use as fodder of domestic animals. If these grasses are not allowed to be collected, they are burnt in March or April by jungle fire. Our Veterinery Department is well aware how our cattle suffer for want of food and grass. So, Sir if these grasses are allowed to be collected for domestic animals, Government will lose nothing. It will not vitally affect the State revenue. But our people will be greatly benefited and relieved of an unwanted trouble and anxiety, and hundreds and thousands of our cattle will be saved. So, Sir, I do not want to say many things more. All the Members of this House are aware how our cattle suffer in the flood-affected areas.

I therefore request the Members of the House to accept my Resolution.

**Mr. SPEAKER:** Resolution moved:

“With a view to help the people of the flood-affected areas in the State, this Assembly is of opinion that the Government of Assam do allow the people of such areas to collect grasses for their cows and other domestic animals free of charge from any forest reserve and Khash areas for the period from 1st June to 30th November every year.”

**Shri GAURISANKAR BHATTACHARYYA:** Mr. Speaker, Sir, the matter is so simple that I think that no long speech on this subject is necessary. My Friend, Shri Choudhury, wants that only in the rainy season when flood generally takes place *i. e.* from the 1st of June to 30th November, it should be allowed that grass be collected from the forest reserves for the domestic animals. It is a matter of common sense that when the entire area is inundated by floods, when there is no grass for use as fodder for the cattle, then of course it is quite in the nature of things that Government should allow the people to collect grass from the near-by forests. I did not know that there was some bar to this. At any rate if there is any bar then it should, of course, be removed. And if even after knowing that there is such need for the cattle and that there is grass nearby

and there is a technical bar to collection of grass, the Government do not accept the Resolution then I do not know whether Government can be made liable and tried under the Prevention of Cruelty to Animals Act. It will be very unkind of the Government to allow cattle to starve and die while the grass is allowed there to grow only to be burnt to ashes when the winter comes. So, Sir, this is a very simple matter and the Government should only too readily accept the suggestion put by Mr. Choudhury. Of course, in this connection Mr. Choudhury has brought in certain matters which I am astounded to hear.

I have found it very difficult to appreciate how sales tax could be levied and realised for the grass collected for cattle. I do not know under what provision of the Sales Tax Act this is being done. Although the matter is very simple, it is all the same astounding. Common sense is the most uncommon thing in the world, it is said. If this sort of realisation is going on in the name of sales tax, it is most unfortunate. It appears that after finishing the people, the axe of the sales tax has been directed against the cattle. If they are only mistakes, they should be corrected at once. There should not be any sales tax realised from such things.

With these words, Sir, I support my Friend, Mr. Choudhury.

**Shri GHANA KANTA GOGOI:** Mr. Speaker, Sir, I rise to give my conditional support to the Resolution (*laughter*). Sir, we know cattle from the neighbourhood of the reserve forests do generally stray into parts of the reserve forests and thereby do destroy valuable forest wealth. I am against letting loose cattle in the reserve forests. But people may be allowed to cut and take away the grass from the reserve forests to feed the cattle. I know in certain reserve forests in Dibrugarh wherein during the floods hundreds of buffalos and cows were allowed to stray into the reserve forests, thereby destroying considerable forest wealth. I do not find any reason why during the floods we should allow our cattle to have fodder so long there is grass in the reserve forests. The villagers may be allowed to collect the grass from the reserve forests free of any charge.

With these words, Sir, I support the Resolution of my Friend, Mr. Choudhury.

**Shri HARESWAR GOSWAMI:** Mr. Speaker, Sir, although the Resolution seems to be innocuous, the policy underlying it deserves serious consideration of this House, because it is known that during the movement for independence we used to say that in free India certain things would be free to the people and people also felt at that time that things on which Government was not spending anything, things which grow naturally, there will be no taxes or royalty on those things. I do not mean to say that there should not

be any royalties imposed by the State and that the Government should not tax the forest resources of the country, but when it comes to the lowest thing—the grass—generally necessary as cattle fodder, if we begin to tax these things, perhaps we go very far in the matter of taxation. Sir, we know also that these grasses are burnt every year during the winter or other times. They can very easily be cut and allowed to be taken for the use of cattle without causing any loss to the State. The areas mentioned in the Resolution is a very important area. In that area although the Trunk Road is there, and lot of people think that the people are prosperous, but from our experience we know most of these people living in this area are very poor. They have to suffer the ravages of floods and erosion year in and year out and they cannot keep their cattle elsewhere.

At the same time we have also followed a policy to settle land in the Village Grazing Reserves gradually for other purposes and consequently there is scarcity for fodder of the cattle. We have got our plan wherein Government has said that we should supply our people with milk and other nutritions. It is a sad thing now-a-days to see that in a village where milk used to be sold at two annas a seer, it is not even available at Re.1 per seer now, and the American tins are invading the villagers. This is really a very pitiable sight. Anyway, we are to see that there is more milk for our population, for the children and growing generation and as such it is necessary that we should give more attention to the cattle population and see that they get sufficient fodder. But unfortunately contrary to this we have just now seen new royalty is imposed on grass and sales taxes are being realised. Sir.....

**Mr. SPEAKER :** The House stands adjourned till 1-30 P.M. tomorrow.

### Adjournment

The Assembly was then adjourned till 1-30 P. M. on Friday, the 28th August, 1953.

SHILLONG,  
The 23rd January 1954.

R. N. BARUA,  
Secretary, Legislative Assembly, Assam.