

187

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

THE ASSEMBLY met in the Assembly Chamber, Shillong, at 11 a.m. on  
Monday, the 18th November, 1940.

*Present*

The Hon'ble Mr. Basanta Kumar Das, Speaker, in the Chair, the ten  
Hon'ble Ministers and 92 members.

---

**QUESTIONS AND ANSWERS**

**STARRED QUESTIONS**

(to which oral answers were given)

**Grant of aid to newly started Bengali Schools in Assam Valley**

**Mr. BAIDYANATH MOOKERJEE** asked :

\*92. Will Government be pleased to state—

(a) Whether it is a fact that no aid is given to schools newly started wherein the medium of instruction is Bengali in the Assam Valley ?

(b) Whether it is a fact that schools in the Assam Valley wherein the medium of instruction is Bengali and is in enjoyment of grants, are threatened with loss or reduction of aid in case the medium of instruction is not changed into Assamese ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI** replied :

92.(a) & (b)—It is difficult to answer the questions unless it is specified to what grade of schools they pertain and whether Government aid or Local Board's aid is referred to. If the hon. member will elucidate his questions Government will endeavour to answer them.

**Mr. BAIDYANATH MOOKERJEE** : Is there any school where grant has not been given because the medium of instruction is Bengali ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI** : To what school does the hon. member refer—Primary or Government aided or Local Board aided or any other class of school ?

**Mr. BAIDYANATH MOOKERJEE** : Any and every kind of school ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI** : I am not aware of any such school, nor is there any such hard-and-fast rule. As a matter of fact even in the Nowgong Bengali School which was newly started and where the medium of instruction is Bengali we propose to give a grant. The Tezpur, Gauhati and Dibrugarh Schools also where the medium of instruction is Bengali are receiving grants.

### A and B Class prisoners

Mr. ARUN KUMAR CHANDA asked :

\*93. Will Government be pleased to state the names of prisoners placed in the A and B Classes during the last twelve months with the description of sentence each is serving out ?

\*94. Will Government be pleased to state how many of the prisoners serving out their sentences in jails at the end of the last financial year were Caste Hindus, Scheduled Castes, Tribals and Muslims ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI replied :

93.—No prisoners have been placed in the "A" Division during the last 12 months. A list of prisoners placed in the "B" Division with the description of their sentences, so far as known, has been placed on the table.

*List referred to in reply to starred question No.93 asked by Mr. Arun Kumar Chanda*

Name of prisoners	Description of sentences
1. Rabindra Nath Dam Roy	Rigorous imprisonment for one year under sections 323 and 324, Indian Penal Code, the sentence was reduced to 6 months on appeal.
2. Sukumar Sanyal ...	Convicted under section 408, Indian Penal Code on 30th October 1939.
3. Gopesh Ch. Kar ...	Rigorous imprisonment for one year and to pay a fine of Rs. 250 in default to rigorous imprisonment for three months under section 380/109, Indian Penal Code.
4. Rabindra Nath Roy ...	Rigorous imprisonment for three years under section 304, Indian Penal Code (by the application of the 2nd exception to section 300).
5. Golam Zilani Choudhury ...	Rigorous imprisonment for five years under section 326/114, Indian Penal Code.
6. Trailakya Nath Datta ...	Rigorous imprisonment for four years under section 467, Indian Penal Code. The sentence was reduced to two years on appeal.
7. Subal Chandra Das ...	Rigorous imprisonment for six months under section 147, Indian Penal Code.
8. Anandi Ram Kakoti ...	Rigorous imprisonment for four months and to pay a fine of Rs. 400 in default to rigorous imprisonment for two months under section 409, Indian Penal Code.

Name of prisoners	Description of sentences
9. Benoy Bhusan Chakravarty ...	Fine of rupees one hundred in default to rigorous imprisonment for 3 months under section 147/342, Indian Penal Code. He did not pay the fine.
10. Bhupati Chakravarty ...	Fine of Rs. 20 in default to simple imprisonment for a week under section 32 of Act V of 1861.
11. Kali Prasanna Das ...	Ditto ditto.
12. Nalini Kumar Gupta ...	
13. Md. Mohibur Rob Choudhury.	
14. Abala Kanta Gupta ...	
15. Bires Chandra Misra ...	
16. Kali Prasanna Das ...	
17. Syamadhan Sen Gupta ...	
18. Mohbubor Rob ...	
19. Keshob Chandra Das ...	
20. Anil Ranjan Som ...	
21. Bhupati Chakravarty ...	
22. Jyotirmoy Nandi ...	
23. Bepin Ch. Bhattacharyya ...	Rigorous imprisonment for one year under section 409, Indian Penal Code.
24. Jogen Kalita ...	Rigorous imprisonment for 5 years under section 304 I, Indian Penal Code.
25. Bires Ch. Misra ...	Fine of Rs. 20 in default to simple imprisonment for a week under section 32 of Act V of 1861.
26. Satyabrata Dutta ...	
27. Gopal Chandra Bhattacharjee ...	Rigorous imprisonment for one year under section 420/75, Indian Penal Code, and to execute a bond under section 565, Criminal Procedure Code, for one year.
28. Kuddus Khan ...	Transportation for life under section 302/120 B, Indian Penal Code.
29. Barindra Kumar Datta ...	Fine of Rs. 20 each in default to simple imprisonment for a week under section 32 of Act V of 1861.
30. Ranadhir Sen <i>alias</i> Benode Bandhu Sen.	
31. Nalini Kumar Gupta ...	
32. Abala Kanta Gupta ...	Ordered to execute a bond for Rs. 500 with one surety to be of good behaviour for one year in default simple imprisonment for the same period under section 108, Criminal Procedure Code.

Name of prisoners	Description of sentences
33. Manbir Thapa ...	Transportation for life under section 302, Indian Penal Code.
34. Kali Prasanna Das <i>alias</i> Hiralal.	Rigorous imprisonment for one year under rule 38(1)(a) read with 38(5) and rule 34(b)(c) of the Defence of India Act.
35. Biresch Chandra Misra ...	} Simple imprisonment for one year under rule 38(1)(a) read with 38(5) and rule 34(b)(c) of the Defence of India Act.
36. Abala Kanta Gupta ...	
37. Jajneswar Das ...	Rigorous imprisonment for two years under the Defence of India Act.
38. Chitta Ranjan Das ...	Rigorous imprisonment for one year under rule 38(5) of the rules under the Defence of India Act.

**Mr. ARUN KUMAR CHANDA:** The question refers to class but the reply mentions the division. Are not these two different things ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI:** I have taken the question to mean division and have given a reply accordingly ?

**The Hon'ble the SPEAKER:** There is a distinction now between division and class. Old offenders are put in class B and new offenders in class A.

**Mr. ARUN KUMAR CHANDA:** The Hon'ble Minister has got my intention right, Sir.

**The Hon'ble the SPEAKER:** When I admitted the question, I thought that he wanted the status.

**Mr. ARUN KUMAR CHANDA:** Why have Nos. 28 and 33 been given class B because I see that the sentence was one for transportation for life in both cases ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI:** As far as No. 28 is concerned the hon. member will be interested to learn that he has since been acquitted on appeal by the High Court. I may also inform the hon. members that the placing in such a division does not depend on the nature of offence but on the status of the prisoner outside the jail. That is the criterion.

**Mr. ARUN KUMAR CHANDA:** Is that principle observed in every case ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI:** This principle has been followed in every case brought to my notice.

**Mr. ARUN KUMAR CHANDA:** Are prisoners in B division allowed to smoke at their own expense ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI:** No, they are not allowed to smoke.

**Mr. ARUN KUMAR CHANDA :** If Government have regard for the status of the prisoners, why such a valuable privilege as smoking, as many of them enjoy, is cut out ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI :** Our idea is that if prisoners can be cured of their habit of smoking during the time they are in jail so far so good.

(A voice :—This is not opium.)

**Mr. ARUN KUMAR CHANDA :** Is there any special class for political offenders ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI :** No, not at present.

**Mr. ARUN KUMAR CHANDA :** Are they also placed in different divisions with reference to their status in society ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI :** Yes, Sir.

**Babu KARUNA SINDHU ROY :** Will the Hon'ble Minister please state what newspapers are supplied to them ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI :** Newspapers are supplied. I cannot give a list without notice of the question.

**The Hon'ble the SPEAKER :** The question does not arise.

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI** replied :

94.—Particulars of convicts are not recorded according to the classification as indicated in the question and it is not therefore possible to give this information without a very elaborate enquiry.

#### *Re use of a Radio in the Members' Hostels*

**Maulavi MUHAMMAD AMJAD ALI** asked :

\*95. Will Government be pleased to lay on the table the copies of correspondence that passed between Mr. Mon Mohan Chaudhuri, M.L.C., and the Secretary, Assam Legislative Council with regard to the use of a Radio in the Members' Hostels ?

\*96. Will Government be pleased to state whether it was a Battery Set Radio and could not be played by A.C./D.C. current ?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN** replied :

95.—Copies of the letter No.1187-1203-L.C., dated the 30th May 1940 with enclosure from the Secretary to the Legislative Council, Assam, to all Members of the Assam Legislative Council including Mr. Mon Mohan Chaudhuri, M.L.C. (except the Hon'ble the President, Deputy President, Messrs. P. Munday, H. Emblen and S. C. Bhattacharya) and the demi-official letter No. 1926-L.C., dated the 31st August 1940, from the Secretary to the Legislative Council to Mr. Mon Mohan Chaudhuri are laid on the table. No official reply to the demi-official letter referred to above was received by the Secretary to the Legislative Council, Assam, from Mr. Chaudhuri.

*Copies of correspondence referred to in reply to starred question  
No. 95 asked by Maulavi Muhammad Amjad Ali*

GOVERNMENT OF ASSAM

---

OFFICE OF THE SECRETARY TO THE LEGISLATIVE  
COUNCIL, ASSAM

No.1187-1203-L.C./20/39.

From

H. C. STORK, Esq., I.C.S.,  
Secretary, Legislative Council, Assam,

To

All members of the Assam Legislative Council (excluding the Hon'ble  
President, Deputy President, Messrs. S. C. Bhattacharya,  
P. Munday and H. Emblen).

*Dated Shillong, the 30th May 1940*

**SUBJECT :—Use of radio sets and other electrical appliances in  
the Members' Hostels, Shillong.**

Sir,

I have the honour to send herewith a copy of the letter No.6862-6956-L.A., dated the 27th May 1940, from the Secretary, Assam Legislative Assembly, to my address on the subject specified above for your information and guidance.

Your obedient servant,

H. C. STORK,  
*Secretary, Legislative Council, Assam.*

## GOVERNMENT OF ASSAM

LEGISLATIVE ASSEMBLY DEPARTMENT, ASSEMBLY BRANCH

No.6862-6956-L.A.

From

A. K. BARUA, Esq., B.A.,  
Secretary, Legislative Assembly, Assam.

To

All Members of the Assam Legislative Assembly (except the Hon'ble Ministers, the Hon'ble Speaker and Members who are residents of Shillong).

*Dated Shillong, the 27th May 1940*

**SUBJECT:—Use of radio sets and other electrical appliances in the Members' Hostels, Shillong.**

Sir,

I have the honour to address you on the subject specified above and to state that some hon. members of the Legislature occupying the Members' Hostels occasionally install radio sets in the Hostels from light connection or from extra plug point provided in a room. The hostel buildings are not fitted with separate meters for recording private consumption of current resulting from the use of electrical appliances other than lights and there is no provision in the Hostel Rules for the use of such appliances by members, on or without payment.

2. Until and unless the building is fitted with separate meters for the purpose and necessary provision made in the Hostel Rules for use of electrical appliances other than lights already fitted, the question of using such appliances, even on payment by the users themselves, will not arise.

I have therefore to request that you will be so good as to see that no electrical appliances, *e.g.*, electric heaters, kettle, stove, radio sets, etc., other than lights already fitted are used in future in the Members' Hostels.

Your obedient servant,

A. K. BARUA,  
Secretary, Legislative Assembly, Assam.



OFFICE OF THE SECRETARY TO THE LEGISLATIVE  
COUNCIL, ASSAM

---

D.O. No.1926-L.C.

*Shillong, the 31st August 1940*

Dear Mr. Chaudhuri,

May I draw your attention to the letter No.6862-6956-L.A. of May 27th, 1940, from the Secretary, Assam Legislative Assembly, of which a copy was sent to you on May 30th, and in which you were requested not to use electrical appliances such as radio sets in the Members' Hostels.

It is I am afraid impracticable to charge you for the current consumed by a radio set, as you were good enough to suggest on a previous occasion, as there is no separate meter connection for such. I hope, therefore you will be so good as to discontinue using a radio set in the Hostel in conformity with the request of the Secretary, Assam Legislative Assembly.

Yours sincerely,

H. C. STORK.

Mr. Mon Mohan Chaudhuri, M.L.C.,  
P. O. Sukhair, Sylhet.

\*96.—On one occasion Mr. Chaudhuri installed a small Radio Mains set in Room No. 1 in the old Inglesby Bungalow. On another occasion the Radio set which he used was reported by him informally in the Assam Legislative Council Office to be a Battery Set Radio.

**Maulavi MUHAMMAD AMJAD ALI:** With regard to starred questions Nos. 95 and 96, may I know the whole correspondence that passed between Mr. Mon Mohan Chaudhuri and the Secretary to the Legislative Council? I want to see especially the letter from Mr. Mon Mohan Chaudhuri. It was a letter in which he explicitly stated that the radio set which he used was one which could not be played by the use of A. C., D. C. current.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** All the correspondence that passed has been placed on the table.

**The Hon'ble the SPEAKER:** As I understand the questions, it appears to me that the questions relate to the Assembly Department. The hon. member knows that I issued a circular to all hon. members that any information which is required to be known by an hon. member regarding the Assembly Department should be sought from the Secretary of the Department by correspondence. Under these two questions there was also a question to the effect that Government should place on the table the letter that passed between the Assembly Secretary and the Council Secretary. I allowed that portion of the question and asked the office to inform the hon. member that whatever information, he was anxious to get, might be obtained by a reference to the Assembly Secretary. I think the hon. member got that letter.

What I wish to emphasise in this connection is this, that the Assembly Department is really a Department of the members themselves, and if there is any complaint against this Department, such complaint should be sent to the Secretary so that it may be disposed of between the members and the Department without the necessity of seeking for such information on the floor of this House. I think the hon. members would appreciate that as a matter of courtesy to the Assembly Department they should ask for information regarding the Assembly Department in the manner indicated in the circular I have referred to.

Now with regard to this question, I may tell the hon. member, although he has not sought the information from the Secretary, that the hon. Babu Mon Mohan Chaudhuri wrote to the Secretary that he was using a radio set, that he asked the Secretary to assess the consumption of electricity for the set and he was informed that that was not permissible under the rules, because there was no separate meter for the purpose of ascertaining what quantity of electricity is consumed by the particular member. Then on the second occasion, from the answer it appears that the Secretary of the Legislative Council was informally informed that on that occasion he was using a Battery set. With regard to that the Assembly Secretary did not get any information from the Council Secretary.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** It was a battery set.

**The Hon'ble the SPEAKER:** From the answer it would appear that the hon. member informed the office informally—no letter was sent and therefore there was no reference made to the Assembly Secretary. This is the whole position.

I have seen elsewhere that the conduct of the Secretary has been described publicly as whimsical. I would ask the hon. member to consider what protection and remedy he could give to the Secretary for such criticisms. Would the hon. member inform me how the Secretary should be protected for the criticism of his conduct as whimsical when he was only doing his duty under the rules prescribed in regard to Member's Hostel ?

**Maulavi MUHAMMAD AMJAD ALI :** I may say at once that I have got great respect for him. We have got good regards for his doings especially because he caters to our needs. I do not know to which quarter the Hon'ble Speaker refers as regards the remark 'whimsical'.

**The Hon'ble the SPEAKER :** I think it was a remark from the press.

**Maulavi MUHAMMAD AMJAD ALI :** If it is a remark that was made outside this House, over which we have no control and also that the outsiders cannot of their own accord come here to discuss that question, I think it need not be brought in. But as regards the point I referred to I have got the answer and I am satisfied.

**The Hon'ble the SPEAKER :** I thank the hon. member for what he has said. But could I know how the hon. member got all this information in putting these questions ?

**Maulavi MUHAMMAD AMJAD ALI :** The member in question, Babu Mon Mohan Chaudhuri is a friend of mine. I was here when he installed his radio set as I had come in connection with some professional engagements. Then I came to know of it from the hon. member himself. I saw the entire correspondence with him, and so I thought it proper that instead of getting the information in any other fashion, I should get the same by putting a question on the floor of this House. I thought also by doing so the public criticism that has taken place would also cease.

**The Hon'ble the SPEAKER :** There was no criticism against the hon. Mr. Chaudhuri, if the hon. member would see the correspondence that passed between Mr. Chaudhuri and the Council Secretary. It was up to the hon. member to ask the Secretary and ascertain and verify the facts. That was the point which I wanted to emphasise. When the Secretary of the Legislative Assembly Department was involved, I say it would have been very proper and desirable that the hon. member should have asked him what really the facts were.

**Maulavi MUHAMMAD AMJAD ALI :** I quite see that, Sir. But in the present case I wanted to publicly vindicate our Secretary in this matter.

**The Hon'ble the SPEAKER :** I again offer my thanks to the hon. member.

**Maulavi MUHAMMAD AMJAD ALI :** I may state here that it was not with the idea of fault finding, but for eliciting this information in a more dignified way.

**The Hon'ble the SPEAKER :** I am much obliged to the hon. member when he says that his idea was to vindicate the Secretary.

Order, order. Now we go to unstarred questions.

## UNSTARRED QUESTIONS

(to which answers were laid on the table)

(Further Supplementary questions on unstarred question No. 108†)

**Srijut KAMESWAR DAS:** Is there any proposal of the Government to drop certain schemes adopted by the Assembly?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY:** Yes, Sir, there is such a proposal.

**Srijut KAMESWAR DAS:** Has the proposal been approved by the Government of India?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY:** Sir, the position is this. Our Communications Board has been recommending schemes which are ratified by this House and we pass them on to the Government of India. The schemes that have been recommended by the Communications Board and approved by this House will take about 25 years to complete. In August last we had a letter from the Government of India to the effect that we should confine our schemes to the amount available up to 1944-45. So we refrained from sending more schemes. That is the position, Sir.

**Srijut KAMESWAR DAS:** May I know whether the proposal has been forwarded to the Government of India?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY:** Government of India made certain suggestion to which we made certain replies.

**Srijut KAMESWAR DAS:** My question was whether the Government of Assam forwarded a proposal to the Government of India to drop certain schemes?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY:** The Government of India in their letter made certain suggestions in regard to dropping of some schemes and we made certain replies and the matter is under correspondence.

**Srijut KAMESWAR DAS:** Some schemes were sanctioned by the Assembly and I want to know whether any proposal to drop some of these schemes were forwarded to the Government of India?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY:** These schemes have already been sent to the Government of India and they are also aware of the views of the Assembly about those proposals.

*Schemes of communication works proposed to be adopted and their cost.*

*Srijut KAMESWAR DAS* asked :

†108. (a) Is it a fact that some of the schemes of communication works as finally adopted and included in the first priority list by the Assembly and sanctioned by the Government of India are going to be dropped?

(b) If so, what are these schemes and what is the total estimated cost of all the schemes of the first priority list and what is the cost of the schemes now being dropped?

*The Hon'ble Maulavi ABDUL MATIN CHAUDHURY* replied :

108. (a) & (b)—The question is under correspondence with the Government of India and their decision has not yet been received.

**Srijut KAMESWAR DAS :** May I take it that after formal sanction by the Assembly, these schemes were forwarded to the Government of India ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY :** With the sanction of the Assembly these schemes were forwarded to the Government of India. In reply to the letter from the Government of India, that we cannot go beyond 1944-45, we curtailed our programme.

**Srijut KAMESWAR DAS :** May we know whether these proposals were recommended to be dropped and then forwarded to the Government of India on the recommendation of the Communications Board ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY :** We forwarded to the Government of India all the recommendations of the Communications Board for 1937 and 1938, relating to petrol tax projects.

### **Assistant Headmaster's post of Sibsagar Government High School**

**Srijut JADAV PRASAD CHALIHA** asked :

109. Is it a fact that the post of the Assistant Headmaster of the Sibsagar Government High School remained vacant for six months early this year while the permanent incumbent was on leave ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI** replied :

109.—Yes. But an acting arrangement was made in Class III of the Assam School Service against the vacancy of Assistant Headmaster in Class II of the Assam School Service.

### **Amount spent on Drainage and Embankment**

**Maulana ABDUL HAMID KHAN** asked :

110. Will Government be pleased to state the total amount spent by them on Drainage and Embankment during the whole year, showing separately the amount spent by them in each district in (i) Assam Valley and (ii) Surma Valley ?

111. Are Government aware that their attention has repeatedly been drawn to the pressing necessity of a Bund from Fakirganj to Lakhipur and some drains in Kalibill, Chatlabill and Sonabill ?

112. If the answer to question No. 111 above, is in the affirmative will Government be pleased to state whether the Hon'ble Minister in charge or any of his officers has ever visited those areas and made the necessary preliminary survey works there ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** replied :

110 — It is not quite clear what the hon. member means. The amount spent for the Surma and Assam Valleys are Rs.5,093 and Rs.34,931 respectively.

**Srijut BEPIN CHANDRA MEDHI:** Will Government be pleased to state the amount spent on Drainage and Embankment schemes during the year in the Darrang and Kamrup districts? I want the information separately.

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY:** Sir, we have not got the figures available district by district but we have got the figures, division by division. If the hon. member wants that I can give him the figure.

**Srijut BEPIN CHANDRA MEDHI:** May I know in which parts of these two districts, the amount has been spent?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY:** Sir, this amount relates to the sum spent during the last year. Government have certain bunds in their books for maintenance and they spent money on the maintenance of these bunds.

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** replied:

111.— A resolution passed at a Conference of ryots at Ghagmaw on 3rd May 1939 drawing attention of the Government for raising a bund between Lakhipur and Fakirganj was received by the Government, but no representation is traceable about drains in Kalibill, Chatlabill and Sonabill.

**Srijut GAURI KANTA TALUKDAR:** Did Government receive a representation from the Dharampur Nambarbhag Raiyat Conference to the effect that a bund was absolutely necessary to be raised over the Pagladia river at Gobadal to divert its course and that a drain over Jari jan (channel) was required to be cut for reclaiming large tract of land and for protecting villages from flood?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY:** Does that question arise, Sir?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** This question is entirely for a different area.

**The Hon'ble the SPEAKER:** No, this question does not arise.

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** replied:

112.— As the Drainage and Embankment Division has been started only recently it has not been possible for the Executive Engineer in charge to visit all the localities.

### Breaches on the Fakirganj-Mankachar

**Maulana ABDUL HAMID KHAN** asked:

113. Will Government be pleased to state the number of breaches in the Road between Fakirganj to Mankachar?

114. Are Government aware that owing to these breaches, people are subject to great hardship?

115. Do Government propose to take necessary repairing works in those breaches as early as possible?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** replied:

113.—Twenty-two, exclusive of the 12th to 15th and 28th miles where the whole road has been washed away.

114.—Government have no information. When communications are broken some hardship is inevitable.

115.—Since no provision for traffic of any description is made on this road for the period 1st May to 15th December, and since during the remaining cold weather months, 16th December to 30th April, subways are kept open Government do not, in consequence, intend to repair them in the rainy season.

**Maulavi JAHANUDDIN AHMED**: May I know from the Hon'ble Minister whether he has got information that it becomes very difficult to pass over this road, during the rainy season?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY**: Sir, it is only kept in good order in winter season. It is not possible to keep it in order during the rainy season.

**Maulavi JAHANUDDIN AHMED**: May I know whether Government can supply boats for these breaches?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY**: I am not in a position to say whether the use of boats is feasible.

**Maulavi JAHANUDDIN AHMED**: Will Government be pleased to provide boats for these breaches during the rainy season?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY**: Sir, it is not possible to do so. It is only kept in good order during the winter season.

**Maulavi JAHANUDDIN AHMED**: Is it not a Public Works Department Road?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY**: All the Public Works Department Roads are not all weather roads.

### Constitution of Provincial Transport Authority

**Babu RABINDRA NATH ADITYA** asked:

116. (a) Is it a fact that the Hon'ble Premier is the Chairman of the Provincial Transport Authority, constituted under the Motor Vehicles Act?

(b) If so, what are the considerations on which other members have been nominated?

117. Is it a fact that the appeal against the decision of the Provincial Transport Authority will have to be heard by the Ministry?

118. Are Government aware that even in Bengal, no Minister has been included in the Transport Authority constituted under the Motor Vehicles Act?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA** replied:

116. (a)—The Chairman is the Hon'ble Minister in charge of the Home Department, that is at present the Premier.

(b)—The other members have been selected in accordance with the provisions of the Act to secure that the departments chiefly concerned

with the operation of the Motor Vehicles Act, and the commercial and other users of motor vehicles in the major divisions of the province are adequately represented by experienced persons.

**Babu DAKSHINARANJAN GUPTA CHAUDHURI:** In what capacity the Hon'ble Premier is the Chairman of the Provincial Transport Authority ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Sir, it was published in the notification that the Minister-in-charge of the Home Department is the Chairman.

**Babu DAKSHINARANJAN GUPTA CHAUDHURI:** I want to know whether he is there as an official or a non-official as required by section 44 of the Motor Vehicles Act ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** That is a question of legal opinion Sir.

**Babu DAKSHINARANJAN GUPTA CHAUDHURI:** May we know what is his opinion ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I am not supposed to give legal opinion on this matter.

**Mr. BAIDYANATH MOOKERJEE:** What is the personal opinion of the Hon'ble Premier ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** That is not a relevant question in this House, Sir.

**Mr. ARUN KUMAR CHANDA:** In what capacity does he enjoy that seat—whether as an official or non-official member ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I am not in a position to add anything to what I said.

**Babu DAKSHINARANJAN GUPTA CHAUDHURI:** Sir, he is a Member and Chairman of the Committee and so we want to know whether he is there as an official or as a non-official member.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Sir, the question was fully discussed in the adjournment motion and I have nothing more to add.

**Maulavi ABDUR RAHMAN:** May I know whether all the non-official members are retired Government Officers ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** No, Sir.

**Maulavi ABDUR RAHMAN:** Sir, is it not a fact that Rai Bahadur D. Sarma and Khan Bahadur Tazumul Ali Chaudhury are the members in that Committee ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** They are two members only who are retired Government Officers and not "all the members".

**Maulavi ABDUR RAHMAN:** Are all the members non-official members ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** No, Sir.

**Maulavi ABDUR RAHMAN:** May I know the names of the other nominated members ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I cannot say that now.

**Mr. FAKHRUDDIN ALI AHMED:** May I know who is the official member of the Committee ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** There are a number of official members in the Committee. If my hon. friend wants that I can tell him afterwards.



**Mr. FAKHRUDDIN ALI AHMED :** Will he please tell us one name, Sir ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** I will give him two names, Sir, one is the Inspector-General of Police and the other is the Chief Engineer. As regards the non-official members our hon. friend Rev. Gatphoh, an hon. member of this House, is a member of that Committee.

**Babu DAKSHINARANJAN GUPTA CHAUDHURI :** May we know the full list of the names of the non official members ?

**The Hon'ble the SPEAKER :** I think, the information is available from the official publication.

**Mr. ARUN KUMAR CHANDA :** May I ask whether there is a single motor vehicle in Rev. Gatphoh's constituency ?

**The Hon'ble the SPEAKER :** What is the object of asking that question ?

**Mr. ARUN KUMAR CHANDA :** We want to know whether he has got any concern with any motor vehicle.

**The Hon'ble the SPEAKER :** The whole object of asking the question is to get information and not to criticise the action of Government for being either proper or improper.

**Mr. ARUN KUMAR CHANDA :** That is my object, Sir.

**Babu DAKSHINARANJAN GUPTA CHAUDHURY :** May we know whether the Committee ascertained whether all the non-official members are the users of motor vehicles or not ?

**The Hon'ble the SPEAKER :** What is the object of this question ?

**Babu DAKSHINARANJAN GUPTA CHAUDHURI :** I ask this question just to elucidate information. Here the reply is given that the commercial interests and other users of motor vehicles are represented in the Committee.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** So far as I can say all the non-official members excluding probably Rev. Gatphoh are the owners of motor vehicles.

**Maulavi ABDUR RAHMAN :** Is it a fact that Khan Bahadur Tazumul Ali has only been nominated from the district of Sylhet as a non-official member ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** Yes, Sir.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA** replied :

117.—Such appeals would be heard by a Board of three Ministers constituted with the approval of the Governor.

**Babu DAKSHINARANJAN GUPTA CHAUDHURI :** May I know the names of the Ministers constituting this Appellate Board ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :** The names of the members of the Board are not yet decided.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA** replied :

118.—Yes, but the Secretary to Government in the Department of Communications and Works is the Chairman in Bengal.

**Externment of Babu Kiriti Bhusan Chowdhury from the Khasi and Jaintia Hills**

**Babu RABINDRA NATH ADITYA** asked :

119. Will Government be pleased to state—

- (a) If Babu Kiriti Bhusan Chowdhury has been externed from the Khasi and Jaintia Hills and has been interned in his home residence within the jurisdiction of the Biswanath police station, district Sylhet ?
- (b) Whether he made any representation for granting him an allowance ?
- (c) If so, will Government be pleased to state whether Government have granted him any allowance ?
- (d) Whether he complained of heart trouble requiring medical aid ?
- (e) Whether Government considered the difficulties of medical aid in a village where he has been interned ?
- (f) Whether Government propose to give him an allowance and permission for residence at a place where medical facilities are available ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA** replied :

119. (a)—Yes, within the police station jurisdiction.

(b)—Yes.

(c)—No. He should be able to support himself in his own home.

**Babu HARENDRA NARAYAN CHAUDHURI**: May I know the source of information of the Government that he should be able to support himself in his own home ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA**: He has been asked to remain in his own home in his native village. He has got employed brothers who can support him.

**Mr. ARUN KUMAR CHANDA**: Should not Government provide livelihood to these young men when their movements had been restrained by Government ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA**: That is a matter of policy, which the Government do not want to discuss in reply to a question.

**Babu HARENDRA NARAYAN CHAUDHURI**: A few days ago you ruled, Sir, that no statement made by the Government should be challenged. But if we the members know full well that those statements are incorrect what is our remedy, Sir ?

**The Hon'ble the SPEAKER**: I refer the hon. member to rule 40, *i.e.*, discussion after 4.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA**: If my hon. friend has any specific knowledge of this gentleman and if he gives me the details, I will consider the matter.

**Babu HARENDRA NARAYAN CHAUDHURI**: I know his financial condition personally, his earnings are not sufficient.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA**: I shall be very glad to get the details from the hon. member.

**Mr. ARUN KUMAR CHANDA:** May I also remind the Hon'ble Premier the case of Susil Bhadra ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** This is a new question. I have not got Susil Bhadra's papers with me.

**Mr. ARUN KUMAR CHANDA:** The name seems very familiar to the Hon'ble Premier and I suppose he will be able to give us the details about this case.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I remember the name but I do not know the details.

**Babu KARUNA SINDHU ROY:** May we know what are the offences committed by Babu Kirti Bhusan Chowdhury at Shillong ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I am not prepared to disclose that here.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA** replied :

119. (d)—No such complaint has been made to Government.  
(e) & (f)—Do not arise.

### Damages to crops by the Moroikhal

**Babu RABINDRA NATH ADITYA** asked :

120.(a) Are Government aware that the Moroikhal in the Ichhamat Pargana (Karimganj Subdivision) is responsible for the inundation of a vast tract of land and consequent damages to crop ?

(b) Do Government propose to enquire into the matter and take necessary steps to prevent damage to the paddy crop ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** replied :

120.(a)—Government have at present no information.

(b)—Government propose to investigate the possibility of draining the Balai Haor and it is anticipated that if this could be affected the regimen of the Moroikhal would be considerably improved.

### Result of survey made for re-construction of the North Lakhimpur-Kamalabari Road

**Srijut SARVESWAR BARUA** asked :

121. Will the Hon'ble Minister in-charge of the Public Works Department be pleased to state—

(a) The result of the survey made regarding the re-construction of the North Lakhimpur-Kamalabari Road ?

(b) Whether Government propose to take up the working of this road during this cold weather ?

(c) Whether, in view of the abandonment of the Dikrong Bridge scheme, Government propose to put up a proposal to provide bridges on the breaches and on the Khaboli, the Kharjan and the Tuni, so as to make this route an all-weather route ?

122.(a) Do Government propose to extend the North Trunk Road, with necessary improvements up to Dibrugarh, from the point of military defence of the country ?

(b) If so, what action, if any, they have taken to press the Central Government, either through the Communications Board or otherwise, to take it up as an urgent scheme ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** replied :

121. (a)—Detailed estimate is under preparation.

(b)—No.

**Srijut SARVESWAR BARUA** : When do Government propose to take up the work ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** : We shall be able to come to a decision after the estimates are prepared.

**Srijut SARVESWAR BARUA** : Do Government at all contemplate to take up the work ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** : That will depend on the detailed estimate.

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** replied :

121. (c)—There is no such proposal at present.

122. (a)—No such proposal is before the Government now.

(b)—Does not arise.

**Srijut SARVESWAR BARUA** : Is it not a fact that during the last Budget session Government gave an assurance that the road will be taken up ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** : This is why we are preparing the detailed estimate.

**Srijut SARVESWAR BARUA** : Have not Government made up their mind till now ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** : Unless we know the amount how can we make up our mind ?

**Srijut SARVESWAR BARUA** : What is the result of the estimate that they are now making ? Have they no approximate idea of the amount that will be required ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** : It is in pursuance of the assurance that we gave, that we are now undertaking the preparation of these detailed estimates.

#### High Way Act cases instituted in the province in 1938-39, 1939-40 and between 1st July and 30th October 1940

**Srijut SARVESWAR BARUA** asked :

123. Will Government be pleased to state—

(a) The number of High Way Act cases instituted in the province in 1938-39 and 1939-40 and between 1st July and 30th October 1940 ?

(b) The number of such cases in the North Lakhimpur subdivision during the same periods ?

(c) Whether there has been any increase in the number in the North Lakhimpur subdivision during the period between 1st July and 30th October 1940 ?

(d) If so, what is the cause of this increase ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** replied :

123. (a), (b), (c) & (d)—Government regret that the time at their disposal was insufficient to obtain the required information.

**Srijut SARVESWAR BARUA**: Will the Hon'ble Minister get the information and furnish it to me when available ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY**: Yes, Sir, I shall try to do that.

### Creation of Irrigation Department

**Srijut GAURI KANTA TALUKDAR** asked :

124. Will Government be pleased to state—

(a) Whether the proposed Irrigation Department has been opened ?

(b) If so, has it begun to function ?

(c) If not, why not ?

125. Are Government aware that several schemes of irrigation are lying under suspension, awaiting the creation of the proposed Irrigation Department ?

126. Do Government propose to start it and direct it to undertake its functions at once ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** replied :

124. (a)—Yes.

(b)—Yes.

(c)—Does not arise.

125.—Over 100 schemes have been referred to Executive Engineer of the new Embankment and Drainage Division.

**Maulavi ABDUR RAHMAN**: The answer is that over 100 schemes have been referred to Executive Engineer of the new Embankment and Drainage Division. May I enquire for which districts these 100 schemes are meant ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY**: All the districts of the province.

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** replied :

126.—Refer to reply to 124(a).

### Scales of pay of Sheristadars and Head Clerks in Deputy Commissioners' offices

**Srijut MAHADEV SARMA** asked :

127. Is it a fact that the pay of a clerk recruited prior to 1931, when promoted to the post of a Revenue Sheristadar of a district office, or of a Head Clerk of the same, is higher than that of those recruited after 1931 ?

128. Will Government be pleased to state the total number of posts of Head Clerks and Revenue Sheristadars and other clerks in the Deputy Commissioners' offices in the province? (To be stated separately district by district.)

129. Is it a fact that the All-Assam Ministerial Officers' Association had represented, that promotion to the posts of Revenue Sheristadar or Head Clerk should be made from the Deputy Commissioners' offices only and protested to the appointment of clerks from the Commissioner's office or from outside?

130.(a) Is it a fact that the vacancies of the post of the Revenue Sheristadar of Darrang, on the transfer of Srijut Devendra Nath Barua to Nowgong in 1938, and of Srijut Ghameswar Deka to Kamrup in 1940, were not advertised to allow a chance to the clerks of the Deputy Commissioners' establishments to apply and that clerks from the Commissioner's office were thrust into the said posts on both the occasions?

(b) If so, for what reasons?

131. Is it a fact that the Commissioner does not maintain any list of clerks of the district offices according to seniority and efficiency for selection of candidates for the posts of Revenue Sheristadars and Head Clerks when necessary?

132. Is it a fact that the aggrieved clerks of Tezpur and the General Secretary of the All-Assam Ministerial Officers' Association represented duly their grievances regarding the temporary filling up of the Revenue Sheristadarship of Darrang only lately by a clerk from the Commissioner's office?

133. Are Government aware that in spite of the Government Notification No.4992-A.P. of the 18th August, 1931, grouping the clerks of individual offices to effect economy by allowing new scales of pay to persons appointed after 1931 from other groups, Srijut Ghameswar Deka was given the old scale of pay, by the Commissioner though appointed Revenue Sheristadar of Darrang in 1938?

134. Do Government propose to give an assurance that the existing and future vacancies of the posts of the Revenue Sheristadar and Head Clerk in Darrang and also in other districts will be filled up by promotion from their own group only as contemplated in the said notification?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA**  
replied:

127.—Yes.

128.—A statement is placed on the Library table.

129.—Yes.

130.(a)&(b)—The appointment of Sheristadars and Head Clerks in Deputy Commissioners' offices rests with Commissioner. The transfers were made in the interest of public service by Commissioner under rule 271 of the Assam Executive Manual. Recruitment from the district offices to the Commissioner's office and *vice versa* is a practice of long standing.

131.—No.

132.—Yes. Government have received representation from General Secretary, All-Assam Ministerial Officers' Association and the District Ministerial Officers' Association.

133.—Government allowed Srijut Ghameswar Deka the old scale of pay of the Sheristadar, as he was a clerk before 1931 in the office of the Deputy Commissioner, Goalpara, before he was recruited to the Commissioner's office.

134.—Government do not propose to depart from the existing practice and procedure.

**Srijut MAHADEV SARMA:** Are we to understand that Government have either cancelled or withdrawn the Notification they issued on the 18th August 1931, to which I have referred in my question No. 133?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** No, Sir, we have not withdrawn that Notification.

**Srijut MAHADEV SARMA:** Will Government then admit that the existing procedure is quite contrary to the spirit of that Government Notification?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I do not agree with that.

**Srijut MAHADEV SARMA:** May I know whether the officers have been appointed from the Commissioner's office rather than promoted from their own group?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Not in all cases, Sir.

**Srijut MAHADEV SARMA:** May I know the reason why that exception has been made in this case?

**The Hon'ble Maulavi Saiyid Sir MUHAMMED SAADULLA:** I refrain from discussing the individual merit of an officer on the floor of this House.

#### Area in square miles—total road mileage gravelled and Kutcha in the North Bank of Assam Valley

**Srijut SARVESWAR BARUA** asked:

135. Will Government be pleased to state—

- (a) The area in square miles, the total road mileage, the lengths of Kutcha and metalled or gravelled roads respectively, and the percentage of metalled or gravelled roads to the total road mileage in the North Bank of the Assam Valley?
- (b) The length of railway lines in the North and South Banks of the Assam Valley respectively?

136. Are Government aware that the eastern part of the North Bank (*i.e.*, east of Tezpur) is not served by any railway and very scantily served by steamer and is also poor in road development, in comparison with the rest of the Valley?

137. Has the attention of Government been drawn to the fact that from the nature of communication in that part of the Valley, its problem of road development is more pressing than the other parts served by rail and steamer?

138. Is it a fact that there is not a single member in the present Communications Board to represent the interests of this part of the Valley?

139. Is it a fact that, in the last meeting of the Communications Board, the Dikrong Bridge scheme was turned down for want of support from the non-official members?

140. Are Government aware that the said bridge, with the necessary diversion of the North Trunk Road, is urgently needed for providing North Lakhimpur with a road suitable for heavy goods traffic as well as for a reliable all-weather passenger traffic ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** replied :

135.(a)—Area in square miles—about 10,000.

Metalled road mileage	...	...	41	} 394
Gravelled „ „	...	...	353	
Kutchra „ „	...	...	1,203	
Total	...	...	1,597	

Percentage of metalled and gravelled portion to total :

394 to 1,597 ... .. 24.7 per cent.

The above figures apply to the non-excluded areas and do not include mileage of village path.

(b)—North Bank ... .. 279 miles.  
South Bank ... .. 675 „

**Srijut SARVESWAR BARUA** : May we have the respective figures for the South Bank ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** : South Bank—area in square miles—13,425 approximately, metalled road mileage—232, gravelled—703, kutchra—1,465—total 2,004.

**Srijut SARVESWAR BARUA** : And percentage ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** : Percentage 39.

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** replied :

136.—Communications in North Lakhimpur are not so good as in the rest of the province.

137.—Representations to this effect have been received.

138.—Members of Communications Board are not elected to represent specified areas.

**Khan Bahadur Maulavi KERAMAT ALI** : May I know who is responsible for this state of things ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** : I think the hon. members of this House themselves constituted the Committee.

**Maulavi ABDUR RAHMAN** : Is it a proper answer to question 138 ? The question was to elicit the information whether any single member was elected from that part of the province and the answer ought to have been either yes or no.

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** : The reply is that the hon. members of this House elected the members of this Committee and if they did not elect any member from the North Bank that is not my fault.

**The Hon'ble the SPEAKER** : The Hon'ble Minister's point is that this Committee was elected by this House and the House did not follow the principle of giving representation to the areas in the Committee.



**The Hon'ble Maulavi ABDUL MATIN CHAUDHURY** replied :

139.—The hon. member is referred to paragraph 5 at page 11 of the proceedings of the Sixth Meeting of the Assam Communications Board, a copy of which has been placed on the Library table.

140.—Yes.

**Number of persons killed by tigers during 1939 and 1940 in the Garo Hills District**

**Mr. BENJAMIN CH. MOMIN** asked :

141. Will Government be pleased to state—

- (a) How many men were killed by tigers during the years 1939 and 1940 in the Garo Hills district ?
- (b) What method Government have adopted to kill the man-eaters and how many tigers have since been killed by that method ?
- (c) Whether the method adopted, has been successful in killing the tigers ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA** replied :

141. (a)—Twenty-three persons were reported as so killed in 1939. The number for 1940 cannot yet be known, but will probably be about the same.

(b)—Rewards are given for killing tiger, and when a man-eater is reported, the Deputy Commissioner sends out Shikaris or Assam Rifles. It is impossible to say for certain whether a tiger killed was a man-eater or not, but 3 tigers were reported killed in 1939, and rewards were given for one man-eater in 1939 and one, so far, in 1940.

(c)—By no means always successful. A man-eater is extremely difficult to kill, as he constantly travels and usually develops great cunning.

**Mr. BENJAMIN CH. MOMIN** : May I know how many times the Deputy Commissioner sent out the Assam Rifles or Shikaris ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA** : The number of times, Shikaris have been sent out, has not been mentioned by the Deputy Commissioner.

**Mr. JOBANG D. MARAK** : Is it not a fact that the award of giving rewards for killing tigers in the Garo Hills district is not being continued ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA** : The Deputy Commissioner reports that the rewards are still continuing.

**Remission of Agricultural loans and issue of fresh loans to the Raiyots of the Mechpara Wards Estate**

**Maulana ABDUL HAMID KHAN** asked :

142. Will Government be pleased to state—

- (a) Whether they are aware that the condition of the Raiyots in the Mechpara Wards Estate are very miserable owing to the fall in the price of jute, and for the failure of crops for want of rains in proper time ?
- (b) Whether they propose to consider the desirability of granting remission of Agricultural loan and issuing fresh loans to the Raiyots of this Wards Estate?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN** replied :

142. (a)—Yes, to some extent.

(b)—The condition of tenants is not so miserable as to require fresh agricultural loans.

### **Representation regarding assessment of Agricultural Income-tax on joint family**

**Babu RABINDRA NATH ADITYA** asked :

143. Will Government be pleased to state—

(a) Whether Government received any representation regarding assessment of Agricultural Income-tax on joint family, consisting of brothers and mother who also inherits a share on the death of her husband along with the sons according to Hindu Women Property Act, 1937 ?

(b) Whether it is a fact that the benefit of Section 11 of the Agricultural Income-tax Act is not given to such a family on account of the presence of the mother ?

(c) Whether Government propose to give such a joint family, the relief provided by Section 11 of the Agricultural Income-tax Act ?

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA** replied :

143. (a)—Yes.

(b)—Yes. Clauses (1) and (2) of Section 3 of the Hindu Women's Rights to Property Act, 1937, undoubtedly give a Hindu widow certain rights in the property left by her husband as well as in the property of the Hindu undivided family of which the deceased husband was a member. Clause (3) of that Section gives her also the right to claim partition just as a male owner, but restricts her interest to the limited kind known as a Hindu woman's estate. Clause (4) further restricts her inheritance rights to estates other than those that devolve upon a single heir or are governed by the Indian Succession Act, 1925. There is nothing in the Hindu Women's Rights to Property Act, 1937 to suggest that the widow also becomes a full-fledged member of the Hindu undivided or joint family. It has, therefore, been decided after taking legal opinion that unless and until the property is partitioned between the widow and the sons, their joint status is that of an association of individuals. In any case, they do not constitute a Hindu undivided or joint family of the kinds specified in the proviso to Section 11 of the Assam Agricultural Income-tax Act, and as such the privileged rates of tax prescribed by that proviso are not applicable to them.

(c)—No.

Central Government make no distinction whatsoever between an individual, a Hindu undivided family, a firm, and an association of individuals in the matter of rates of tax. The concessional rate which Hindu undivided families previously enjoyed in respect of super-tax only, has also been withdrawn since 1st April 1939. While the Central Government and the Central Legislature are now convinced that no invidious distinction

should be made in the rates of tax applicable to individuals, Hindu undivided families, firms and associations of individuals, this Government does not feel justified to extend the privileges of Section 11 of the Assam Agricultural Income-tax Act, which is modelled on the Bihar Agriculture Income-tax Act.

### Opening of lands in the Hakaluki and Langai Reserves for settlement

**Babu RABINDRA NATH ADITYA** asked :

144. Will Government be pleased to state—
- If any orders have been issued for opening any lands in the Hakaluki and Langai Reserves for settlement ?
  - If so, what is the area in each of these places thrown open for settlement ?
  - Whether Government have enunciated any principle and procedure for granting settlement in these places ?
  - Whether Government propose to form subdivisional committees with representatives of the public as members, to ensure an equitable distribution, on the accepted principle ?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN** replied :

144. (a) & (b)—Yes, for a portion only of the lands in Hakaluki, the area of which has not been finally reported. The rest of that area is awaiting survey and the question of the Langai Reserve is still under consideration.

(c)—Instructions have been issued that land is only to be settled with landless people and full enquiries are to be made in each case.

(d)—No: settlement is vested in the Deputy Commissioner who has, however, been asked to consult the local Members of Legislative Assembly if possible.

**Maulavi MABARAK ALI**: Will Government be pleased to state how long it will take for the proposal to materialise regarding the Langai Reserve ?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN**: The proposed survey will take place in 1941-42. So approximately it will take two years.

### Proposal for bringing rent liabilities of Court of Wards' tenants under the Debt Conciliation Boards

**Babu RABINDRA NATH ADITYA** asked :

145. (a) Are Government aware that the rent liabilities due by the tenants of Zemindaries under the Court of Wards are not admitted for settlement by Debt Conciliation Boards on the ground that they are recoverable as arrears of land revenue ?

(b) If so, are Government aware that the tenants of such Zemindaries are placed at a greater disadvantage than the tenants of other landlords ?

146. Is it a fact that the summary process of realisation of rents by Courts of Wards is an additional facility enjoyed by Court of Wards ?

147. Are Government aware that the paying capacity of the Court of Wards' tenants, is not higher than that of the tenants of other landlords?

148. Do Government propose to consider the desirability of taking immediate steps for bringing the rent liabilities of Court of Wards' tenants within the jurisdiction of the Debt Conciliation Boards?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN** replied :

145 & 148.—The matter has only recently been brought to the notice of Government and is under consideration.

146.—Yes.

147.—Yes.

### Embankment and Drainage projects

**Srijut LAKSHESVAR BOROOAH** asked :

149. Will Government be pleased to state—

- (a) Whether Government propose to undertake Embankment and Drainage projects out of its own initiative, in near future?
- (b) If so, will Government be pleased to state whether the needs for such projects in each district have been ascertained?
- (c) If the reply to question No.149(b) above is in the affirmative, will Government be pleased to state, district by district, the project or projects that are contemplated to be taken up?
- (d) If the reply to question No.149(b) above is in the negative, do Government propose to ascertain such needs from each district of Assam?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI** replied :

149. (a)—In some cases, on the initiative of the Government.

(b)—In 1938, hon. members of the Assembly were circularised to ascertain needs for such projects in their Constituencies and a large number of replies were received.

(c)—Investigations are proceeding on the following projects a list of which is given below—

### SCHEMES SELECTED FOR SURVEYS DURING 1940-41 IN THE SURMA VALLEY

---

Name of Scheme

---

Sylhet District

*Sylhet Sadar*

1. Drainage of Merua Haor near Tajpur, Sylhet district.
2. Construction of a Bund across Wahid Khal and re-excavation of the Itakhola river.
3. Construction of a Bund across the Bairagi Khal near Companyganj, in the Dastidar Wards Estate.

## Name of Scheme

*Sylhet Sadar—concl'd.*

4. Nurpur Flood Irrigation canal, near Bhadeswar.
5. Chandrapur Flood Irrigation canal, for Tilpara area.

*Karimganj Subdivision*

6. Mathiura Flood Irrigation canal.
7. Drainage of Balai Haor.

*Sunamganj Subdivision*

8. Sluice gates across Krishna Khal for Boro cultivation in Halir Haor.
9. Sluice gates across Kalkalia khal for Boro cultivation in Kaliagata Haor.

## SILCHAR DISTRICT

*Hailakandi Subdivision*

10. Construction of a Bund across the Dara Khal and re-excavation of Pola, near Hailakandi.
11. Construction of a Bund across the Jamarmia Khal near Lalabazar.

*Silchar Subdivision*

12. Removing the rocky barrier in the Ghogra river channel for the better drainage of Chatla Bil.

*Goalpara District*

13. Kokrajhar Balagaon Irrigation scheme in Bijni Raj Wards Estate.
14. Constructing a weir across the Kujia near Sidli.

*Kamrup District*

15. Drainage and Reclamation of the lowlying area west of Amani and Tapa Chamta in Tihu Circle, District Kamrup.
16. Remodelling the drain near Nadala in Tihu Circle.
17. Bunds across the Phulugurijan near Nalbari.
18. Bunds across the Sakajalajan in the Batahgilla mauza.
19. Remodelling the Rani-goodam Bund.
20. Remodelling the Kalnemi Channel near Azra.
21. Dam across the Kalbhog near Palasbhari.
22. Improvement of the Course of the Khulsi River near Chhaiyagaon.

*Sibsagar District*

23. Draining of the Bhogdai river near Jorhat.
24. Reconstructing the Brahmaputra Bund near Dessangmukh.
25. Drainage of Thora Bil near Golaghat,  
(d)—Does not arise.

**Srijut LAKSHESVAR BOROOAH:** Will the Hon'ble Minister for Public Works Department be pleased to state whether the representatives of the people of Dibrugarh Subdivision in the provincial legislature have been, for the last 20 years, pressing the necessity for repairing the bund lying to the north of the Dehing river ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** I do not dispute the necessity of repairing the bund near the Dehing river. I must however explain, as hon. members are aware, that this Division was only started just after the Budget session, and there was very little time for the Executive Engineer, Drainage and Embankment Division, to take up all of them. He has been touring all over the province and 18 or 20 schemes are under consideration. I do not say that the Dehing river will be ignored, but it will take some time.

**Srijut GAURI KANTA TALUKDAR:** Do we understand, Sir, that the list is not exhaustive ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** There are over 100 schemes already before the Executive Engineer. He has started investigations and I am quite satisfied that he is doing his best. I think he will be able to take up more schemes later on.

**Srijut GAURI KANTA TALUKDAR:** I also submitted a proposal for diverting a channel of the Pagladia river lying to the west of upper Barbhog mauza which diversion in my view would help in reclaiming a vast area of land now under water in the Upper Barbhog and Hajo mauzas ; but I find that it has not found place in the list. May I know why, Sir ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** The schemes in the list are those that we can investigate now. If the Executive Engineer, Drainage and Embankment Division, gets time, staff and money he will take up more schemes.

**Maulavi MUHAMMAD AMJAD ALI:** Sir, the Hon'ble Minister while speaking is facing that side.

**The Hon'ble the SPEAKER:** It is for the convenience of members that the Hon'ble Minister turns his face towards the gentleman who puts the question. But the language he used he was certainly addressing through the chair.

**Srijut MAHADEV SARMA:** May I know from the Hon'ble Minister whether all the estimates of the Executive Engineers who had been consulted have been before the Executive Engineer, Drainage and Embankment Division ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** As I said in reply to (b), in 1938, hon. members of the Assembly were circularised to ascertain needs for such projects in their constituencies and a large number of replies were received. These are receiving consideration.

**Srijut MAHADEV SARMA:** May I know if Kharai Bund in the Tezpur subdivision has been included in the project that is under consideration at present ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** No, because time at the disposal of the Executive Engineer, Drainage and Embankment Division has been very short. He started work after the last Budget session and you cannot expect all the schemes to be taken up during the course of such a short time.

**Srijut MAHADEV SARMA:** May I expect that this scheme will be taken into consideration along with other projects ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** This will receive consideration in due time.

**Maulavi ABDUR RAHMAN:** May I know if any project has been taken up in the Habiganj subdivision ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** I have said many times that owing to shortness of time it has not been possible for the Executive Engineer to tour throughout the province.

**Maulavi ABDUR RAHMAN:** May I know if any schemes are sent up, will they receive consideration ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** Yes, Sir.

**Srijut DEBESWAR SARMAH:** May I know if any steps have been taken in respect of item No. 23 in the list ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** I shall require notice of that question.

**Srijut SARVESWAR BARUA:** May I know whether the schemes which have been recommended by Subdivisional Officers and District Officers are with the Executive Engineer, Drainage and Embankment Division ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** Only those schemes which are being investigated are in this list. The time at the disposal of the Executive Engineer, Drainage and Embankment Division was very short. He started work from April last. He is touring the whole of the province and investigation of the projects is not a very easy task. All the journeys cannot be made on a motor car. He has to go 15 or 20 miles into the interior, sometimes on foot, sometimes by boat, sometimes on elephant.

**Srijut DEBESWAR SARMAH:** What is the basis of this long reply from the Hon'ble Minister. Is it not a fact that the Executive Engineer took a rushing tour in a motor car through the Trunk Road and it was difficult to get him after arranging meetings with him ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** I do not think that is the position, Sir.

**Srijut DEBESWAR SARMAH:** What is the basis for thinking so, please ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** Because I have worked with him in several places and I have seen how earnestly and diligently he works.

**Srijut DEBESWAR SARMAH:** Did the Hon'ble Minister accompany him everywhere ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** I had seen a sample of his work.

**Srijut RAJENDRA NATH BARUA:** With regard to item 25, may I know who recommended the drainage of Thora Bil near Golaghat ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** That was recommended by one of the hon. members of this House.

**Babu DAKSHINA RANJAN GUPTA CHAUDHURI:** May we know who directed the Engineer for the Drainage Department to visit only those places which are specified in the answer given by the Hon'ble Minister ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** Sometimes, Sir, under my direction, sometimes on his own initiative and sometimes in accordance with the directions given by the Chief Engineer.

**Babu DAKSHINA RANJAN GUPTA CHAUDHURI:** May we know the basis of the directions given to the Engineer for the Drainage Department ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** According to the relative importance of the schemes.

**Babu DAKSHINA RANJAN GUPTA CHAUDHURI:** Who decides the relative importance ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** As I said, few people would expect the Drainage and Embankment Engineer to take up all the schemes simultaneously. He must start somewhere.

**Srijut LAKHESVAR BOROOAH:** But many schemes have been taken up from the Sylhet district and not a single one from the Lakhipur district ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** Sylhet district is more vitally affected in this matter than any other district.

**Srijut KAMESWAR DAS:** Why has no scheme been taken up from the Barpeta subdivision ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** It has not been possible for the Engineer to go to the Barpeta subdivision.

**Srijut KAMESWAR DAS:** But he went to Gauhati.

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** Gauhati is nearer.

**Srijut KAMESWAR DAS:** Was not a proposal received for the drainage of the Chawlkhowa river, between the Chawlkhowa bridge and a point about three miles down the river ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** May be, Sir.

**Khan Bahadur Maulavi KERAMAT ALI:** May we know whether the schemes would be taken up according to urgency ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** According to urgency and importance.

**Khan Bahadur Maulavi KERAMAT ALI:** May I bring to the notice of the Minister-in-charge that the draining of the Bhogdai river has been pending for over 20 years ? Will Government take up this scheme as soon as possible ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** Sir, there will be hon. members from other constituencies also who will similarly urge the importance of the schemes they have submitted.

**Maulavi MUHAMMAD AMJAD ALI:** May I ask whether the question of urgency is only a matter of opinion ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** Yes, it is.

**Maulavi MUHAMMAD AMJAD ALI:** Then whose opinion would prevail ? Whether of the Minister concerned or the member in whose constituency it belongs ?

**The Hon'ble Maulavi ABDUL MATIN CHAUDHURI:** The final decision should be left with Government.

**Maulavi ABDUR RAHMAN:** The matter which could be postponed for 20 years does not seem to be at all urgent. (*laughter*).

### Royalty on coal

**Srijut LAKHESVAR BOROOAH** asked :

150. Is it a fact that the royalty on coal is levied on the basis of pit-mouth value of coal ?

151. Will Government be pleased to state what is the estimated pit-mouth value for Assam coal fixed in the Report of the Geological Survey of India for the last 3 years ?



152. Will Government be pleased to state whether the royalty on the coal extracted by the Assam Railways and Trading Company, Limited, is levied on the pit-mouth value estimated in the Report of the Geological Survey of India ?

153. Will Government be pleased to state on what basis, the royalty on coal is realised from the Assam Railways and Trading Company, Limited ?

154. Is it a fact that the pit-mouth value now fixed by the Government, in assessing royalty is much below the standard fixed by the Geological Survey of India ?

155. Will Government be pleased to state when the lease granted to the Assam Railways and Trading Company, Limited, for extracting coal will expire ?

156. With reference to Government reply to unstarred questions Nos 135 and 136 regarding royalty on petroleum and natural Gas given at the March-April 1939 Session of the Assembly, will the Hon'ble Minister for Revenue be pleased to state—

(a) If he is in a position to reply now ?

(b) If not, does he propose to state after investigation ?

157. With reference to Government reply to unstarred question No.138 of the said Session, will the Hon'ble Minister for Revenue be pleased to state—

(a) If any enquiry has since been made ?

(b) If not, does the Hon'ble Minister propose to enquire and state ?

158. With reference to Government reply to unstarred question No. 140 of the said Session, will the Hon'ble Minister for Revenue be pleased to state whether the recommendation of the Land Revenue Committee, 1938, will be given effect to ?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN** replied :

150.—No.

**Srijut LAKSHESVAR BOROOAH:** Will the Hon'ble Revenue Minister please state on what basis the royalty is levied ?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** That is given in answer to question 153, viz., at a flat rate.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN** replied :

151.—Government have not got the information.

**Mr. FAKHRUDDIN ALI AHMED:** May I know whether the Government have not received the Report of the Geological Survey of India ?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** We have got the Report up to 1933, but the Report for the last three years is not available here.

**Mr. FAKHRUDDIN ALI AHMED:** Is it available in the Government of India ?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** It may be available there.

**Mr. FAKHRUDDIN ALI AHMED:** Did the Hon'ble Minister take any steps to call for that Report from the Government of India after these questions were received?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** No, Sir.

**Mr. FAKHRUDDIN ALI AHMED:** Does the Hon'ble Minister now propose to call for the Report, go through it, and then reply to these questions later on?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** If it be the desire of the House that will be done.

**Mr. FAKHRUDDIN ALI AHMED:** Yes, Sir, that is the desire of this side of the House.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN** replied :

152.—No.

153.—An endeavour was made in 1931 to get exact figures for calculating the pits-mouth value of coal, but this proved so difficult that Government adopted a flat rate. The present rate in force is  $4\frac{1}{2}$  annas a ton for five years from 1936.

**Srijut LAKSHESVAR BOROOAH:** Will the Hon'ble Revenue Minister be pleased to make an attempt now to fix the royalty with the aid of the data supplied by the Report of the Geological Survey of India?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** The difficulty is that it is not known on what basis that data has been arrived at. In fact there was correspondence between the Government and the Geological Survey of India. In their letter they said "the market value of coal produced in Assam is not quoted in any local mining journal or market report, and it is, therefore, difficult to suggest any source from which a reliable information can be obtained."

**Srijut LAKSHESVAR BOROOAH:** Will the Hon'ble Minister take it from me that the Report of the Geological Survey of India specifically states the pit-mouth value for Assam coal?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** But that figure is more or less theoretical.

**Mr. FAKHRUDDIN ALI AHMED:** Is there any mining journal in Assam?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** No, Sir.

**Mr. FAKHRUDDIN ALI AHMED:** Then how does the Hon'ble Minister propose to obtain the required information when it is not available from such a journal?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** The only alternative suggested by the Geological Survey of India is that books of accounts maintained by the lessees be inspected from time to time and the selling values entered therein verified from the principal selling agencies and consumers by local enquiry by experts. It has not been convenient any where in India, neither in the Central Provinces nor in Burma, to carry out that inspection by experts.

**Mr. FAKHRUDDIN ALI AHMED:** How can the Hon'ble Minister say that these suggestions were made in the Report when he has not seen the Report at all?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:**  
We have got the Reports up to 1933.

**Mr. FAKHRUDDIN ALI AHMED:** We are concerned with the Reports for the last three years. How can the Hon'ble Minister make such a statement without seeing those Reports at all?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:**  
From the correspondence I am in a position to say that it will not be possible to fix the pits-mouth value without any inspection by the experts.

**Mr. FAKHRUDDIN ALI AHMED:** Is it not very unfair and prejudicial to the interest of the province that the Hon'ble Minister should come to these conclusions without reading the facts given in the Report?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:**  
That is a question of opinion.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN**  
replied:

154.—Does not arise.

**Srijut LAKSHESVAR BOROOAH:** Will the Hon'ble Minister be pleased to obtain the up-to-date Report of the Geological Survey of India?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:**  
That will be done.

**Mr. FAKHRUDDIN ALI AHMED:** Will the Hon'ble Minister be pleased to send for the Report for the period concerned and, after going through it will he be prepared to revise the rates, as suggested in the Report?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** The matter will be considered.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN**  
replied:

155.—The Assam Railways and Trading Company have three coal leases running at present, expiring respectively in 1947, 1952 and 1961.

156.—The question was examined, but the option for the alternative rate was found to lie with the lessee in the main leases and could not be enforced. In one more recent lease, however, Government exercised their option and now levy royalty at the higher rate. Attempts were also made to fix the well-head value of oil by independent means, but they had to be abandoned, as even the Government of Burma had not devised any means to test the figures reported by the various Oil Companies.

157. (a)—No.

(b)—Government have no reason to disbelieve the statement of the Oil Company that the gas was only utilised in the necessary processes for the extraction of fresh oil from the oilfields, on which no royalty is leviable.

158.—Government made exhaustive enquiries with the result mentioned in the reply to question 156 above. No further increase of royalty is possible as long as the present leases continue.

**Deprovincialisation of Government High Schools**

**Srijut KAMESWAR DAS** asked :

159. (a) Do Government propose to deprovincialise the Government High English Schools ?

(b) If so, when ?

160. Will Government be pleased to state whether they propose, in the meantime, to improve the condition of the teachers of the Aided High English Schools by giving them increased grant ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI** replied :

159. (a) & (b)—Government propose to examine the question of deprovincialising Government High English Schools. It is impossible to say at present what their decision will be or to say when action if any thereon is likely to be taken.

**Srijut KAMESWAR DAS**: When do the Government propose to examine this question ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI**: As soon as possible.

**Srijut KAMESWAR DAS**: Will it be before the next Budget Session ?

**The Hon'ble Srijut ROHINI KUMAR CHAUDHURI**: Government will try to do so before the next Budget Session.

**The Hon'ble the SPEAKER**: Order, order. The time is up. Further supplementaries on these questions will be taken up to-morrow.

**The Temporary Postponement of Execution of Decrees Bill, 1938**

**The Hon'ble the SPEAKER**: The Hon'ble Khan Sahib Maulavi Mudabbir Hussain Chaudhuri.

**The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI**: Mr. Speaker, Sir, I beg to move that the amendments to Temporary Postponement of Execution of Decrees Bill, 1938, made by the Assam Legislative Council be taken into consideration.

In this connection, Sir, I think I should make the position of Government clear. In the Upper House when the amendments were under discussion we, with a view to have an early passage of the Bill through that House, opposed the amendments that were tabled as we were of opinion then that we should try to see that the Bill were passed as early as possible. But, now, Sir, on second consideration when the amendments were really carried in the Upper House, we are of opinion that these amendments are more or less improvements on the Bill which was passed in this House. So, Sir, I need not now place before the House any details of our views with regards to the amendments that have been made in the Upper House but we do think that these amendments are improvements and are of enabling character. So, I think the House will consider these amendments when you will place them before the House for their consideration.

**Maulavi MABARAK ALI**: On a point of order, Sir. The Bill was introduced on the 5th September, 1938. It is more than two years

passed. The Bill was introduced considering the then circumstances of the province, but as more than two years have passed, until and unless some new circumstances have been shown by the Hon'ble Minister justifying the consideration of the Bill, the present Bill, I think, is out of order.

**The Hon'ble the SPEAKER:** I cannot quite follow the hon. member.

**Maulavi MABARAK ALI:** It was introduced with the intention of giving relief only for two years and it was introduced on the 5th September 1938 and since that date it is more than two years and I think there is no necessity of this Bill at present and until and unless something new circumstances have been shown by the Government regarding the urgency or importance of the Bill, I think, the Bill is out of order.

**The Hon'ble the SPEAKER:** Will the Hon'ble the Minister please explain?

**The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI:** Sir, my first point with regard to it is whether his objections are really in order or not. Now the motion before the House, Sir, is that the amendments made by the other Chamber be taken into consideration and the House is to consider the amendments that have been made by the Upper House to this Bill and if the motion for consideration is carried then only the hon. member will get a chance to say if he is of opinion that by the lapse of time the necessity for having this Bill passed into an enactment has gone. He will then be in a position to move an amendment to the Bill if he thinks that the delay in the passage of the Bill has made it necessary to move an amendment to that effect.

**The Hon'ble the SPEAKER:** Does the old position which necessitated this Bill continue?

**The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI:** Yes, Sir, in our opinion the old conditions still exist because almost all the hon. members know how chronic is the indebtedness of our agriculturists in the province. It is not only chronic during the life time of the agriculturists, but it is rather congenital which they leave behind them as a legacy from sire to son and if I am permitted to use the language of Muhammadan law from son to son's son how low soever. So, Sir, I think the position of our agriculturists, in no way by the lapse of these years, has improved in order to necessitate that such an emergent Bill should not be passed and disallowed by the House. In this view, I think, there still exists the necessity for having a measure like this passed.

**Mr. BAIDYANATH MOOKERJEE:** In this connection I should like to mention something, Sir. The point of order was raised that it shall remain in force for a period of two years but there is a proviso, Sir:

"Provided that the Provincial Government may, from time to time, by notification in the official Gazette, extend the operation of the Act for such further period or periods, not exceeding a total of one year as it may deem fit."

So, Sir, there is a provision in the Bill itself that if the Government finds it necessary, the time may be extended. So when the Bill was first placed before the House the Hon'ble Minister who piloted this Bill was not blind to this fact. Also there is a clear provision that in case of necessity or urgency this may be extended.

**The Hon'ble the SPEAKER:** Then the hon. member is speaking against the point of order?

**Mr. BAIDYANATH MOOKERJEE:** Yes, Sir.

**The Hon'ble the SPEAKER:** From the preamble it appears that the intention was to give relief to the debtors pending an improvement of the economic condition of the agriculturists and certain other classes of persons, and in clause 1 it was provided that the Bill was to come into force after it had been passed by the Legislature and that it would remain in force for two years, and then it was provided that if the Government thought it necessary that the provision of the Bill be extended for one year more they might do so. The period of two years was intended to be from the date of the passing of the Bill, but the Bill has not yet come into force and the Hon'ble Minister says that the condition visualised in the Bill is still prevailing and so the amendments made by the Upper House should be taken into consideration.

The motion moved is that the amendments to the Temporary Postponement of Execution of Decrees Bill made by the Assam Legislative Council be taken into consideration.

**Srijut RAJENDRA NATH BARUA:** Mr. Speaker, Sir, we have gone through this Bill which is meant to give relief to the debtors, and the amendments which have been made to it by the Upper House are more or less technical and elucidative. We on this side of the House consider that the amendments are harmless and will do good to the debtors and agriculturists in question. So, Sir, we consider that these amendments should be adopted.

**Mr. A. WHITTAKER:** Mr. Speaker, Sir, on behalf of my group I should like to support the motion of the Hon'ble Minister. Even if the amendments do not do good to the full extent, I believe that half a loaf is better than no bread. I should very much like to draw the attention of the Assembly to the admission that at least in one case the Upper House has done something to improve a Bill. We have heard the Upper House reviled so often that I think it necessary to acknowledge publicly one instance where the Upper House has done some good. (*Laughter.*)

**The Hon'ble the SPEAKER:** Then I put the question.

The question is: "That the amendments made by the Assam Legislative Council to the Temporary Postponement of Execution of Decrees Bill, 1938 be taken into consideration."

The motion was adopted.

**The Hon'ble the SPEAKER:** The consideration of the amendments will come up before the House on the 22nd. Any further amendments to the amendments will have to be sent in to the Assembly office by 3 p. m. on the 19th.

### **The Goalpara Tenancy (Amendment) Bill, 1939.**

**The Hon'ble the SPEAKER:** Now we come to the Goalpara Tenancy (Amendment) Bill. We are to deal with amendment No.39 standing in the name of the Hon'ble Revenue Minister.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Mr. Speaker, Sir, I beg to move: "That in clause 10, in sub-section (2) of the proposed section 26A, for the figure '3' the figure '20' shall be substituted".

I think this amendment is perfectly in order, although on the last occasion it was said that section 20 shall be substituted by section 24.

Now the word "purchaser" is proposed to be substituted by clause 3. The word "purchaser" is referred to in sub-section (4) of the proposed section 26A sought to be inserted by clause 3. So that will be section 20 of that Act.

**The Hon'ble the SPEAKER:** There was a mistake in the number of the clause. So the Hon'ble Minister wants that the figure "3" should be substituted by the figure "20".

**Mr. FAKHRUDDIN ALI AHMED:** Sir, I have not been able to follow the Hon'ble Minister.

**The Hon'ble the SPEAKER:** His point is this that the clause 3 is going to substitute a new section 20 for the old section 20 in the Act, and we find that in the new section that is going to be substituted in the old Act there is the word "purchaser", but when drafting the Bill instead of putting the figure 20 they put the number of the clause as 3.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** That mistake, Sir, was committed in the original drafting of the Bill.

I want to make a statement, Sir. As I said the other day, the question of the scope of amendments with regard to this Bill was considered before the Select Committees sat. Our Legal Remembrancer was consulted as to what amendments could be made by the Select Committee, and it was decided that the Select Committee could make only those amendments which would not go beyond the scope of the Bill itself, and as it appears from the preamble of the Bill itself, the previous sanction of the Governor was obtained to the introduction of this Bill. Now, after the amendments were made by the Select Committee there was no necessity of taking any further sanction from the Governor because the Select Committee had not made any amendment which went beyond the scope of the Bill and in that view of the matter sanction was not required, and I beg to submit that this is a matter which should be taken up by you. Under Governor's Rule 8 (1) if notice is given of a motion to introduce a Bill or to move an amendment which in the opinion of the Speaker cannot be introduced or moved save with previous sanction, the Speaker shall, as soon as may be after the receipt of the notice, refer the Bill or the amendment to the Governor and the notice shall not be placed before the.....

**The Hon'ble the SPEAKER:** Does it apply to Government Bills also?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Yes, Sir.

**The Hon'ble the SPEAKER:** I do not think so. This rule does not apply in the case of Government Bills. The Government Bills do not undergo any process of admission by the Speaker.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** If that be your ruling I have nothing to say, but I thought that as nothing is said about Government Bills this rule applies to all the Bills and all the amendments.

**The Hon'ble the SPEAKER:** Government publish their Bills in the Gazette. So this does not apply in the case of Government Bills.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** If that be your ruling, Sir, then I have nothing to say. But I thought there is nothing special about Government Bills. This rule applies to all Bills and amendments.

**The Hon'ble the SPEAKER:** The rule speaks of introduction.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** It speaks of introduction or moving. You have already held that that stage to move the amendments made by the Select Committee has not come yet. To be on the safe side, however, Sir, I have obtained the previous sanction of His Excellency the Governor.

**The Hon'ble the SPEAKER:** The other day, when I was giving my ruling on the point that was raised, I said that I would consider the question whether the previous sanction of His Excellency would be necessary when the Select Committee on a Bill proceeds to make amendments increasing the extent of expropriation made in the original Bill. My point was that subsection (3) of section 299 speaks of introduction of a Bill in the Legislature

and moving of amendments in the Chamber. In that view I was in doubt as to whether any previous sanction would be necessary for amendments that have been added by the Select Committee to the Bill already introduced on the strength of a previous sanction.

Since then I consulted some precedents and I have come across one precedent, namely, a ruling given by the President of the Central Assembly in an analogous case of a Bill requiring previous recommendation. In regard to that Bill the Select Committee introduced some amendments which required previous recommendation of His Excellency the Governor General. The President ruled that, when the Select Committee proceeds to make such amendments, the Select Committee should have asked for previous recommendation. That was the ruling he gave. Then he said that, when the matter would come up before the Assembly, if really there was any portion in the Select Committee's report which requires previous recommendation and if there is no such recommendation, then he would expunge those portions of the report of the Select Committee. Now, that was at a stage when the motion was made that the Bill, as reported by the Select Committee, be taken into consideration. It is not clear whether he decided that the motion for taking the Bill into consideration would not be permitted in the absence of previous recommendation.

Now, as I pointed out the other day, that stage in regard to this Bill has passed and the House has accepted the motion that the Bill as reported by the Select Committee be taken into consideration. My attention was not drawn to this defect when that motion was made. If my attention had been drawn to this defect when that motion was made, I would have considered whether the House should not have been allowed to proceed with that motion then. Now the position is a bit peculiar. The Select Committee made some amendments which really went beyond the scope of the clauses to which they are amendments, because in the original Bill they contemplated some reductions in landlords' rights but when the Select Committee made those amendments they really did away with those rights. They really added amendments for extinguishment of some rights while in the original Bill there was the question of a reduction of those rights. But all the same the House has accepted the principle of the Bill as reported by the Select Committee, although the Select Committee went beyond the scope of some of the clauses. The House has accepted the Bill prepared by the Select Committee by introducing certain amendments. But here the amendments are to be now again put before the House to form part of the Bill. And when the Bill will be made perfect by adding these amendments and by putting the motions that such and such clauses stand part of the Bill, we shall have another Bill and that Bill will have to be finally passed by making a motion that the Bill be passed.

Now I shall call out the clauses and the amendments that have been tabled to those clauses will have to be moved in the House. But there are some clauses with respect to which there are no amendments. Then when I shall call out the clause, any member may oppose it. So in that view I find that it will be moving an amendment and therefore the previous sanction of His Excellency would cure that defect. So I am glad that the Hon'ble Minister has got the previous sanction. Therefore there will be no difficulty in accepting the motion that a particular clause of the Bill do stand part of the Bill.

Before I put this motion made by the Hon'ble Minister, I shall now call out the clauses.



The question is that clause 3 stands part of the Bill.

The question was adopted.

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

The question was adopted.

The question is that clause 5 stands part of the Bill.

The question was adopted.

The question is that clause 6 stands part of the Bill.

The question was adopted.

The question is that clause 7 stands part of the Bill.

The question was adopted.

The question is that clause 8 stands part of the Bill.

**Mr. BAIDYANATH MOOKERJEE:** I have got an amendment, Sir, to this clause, *viz.*, No. 34.\*

**The Hon'ble the SPEAKER:** The other day I was given to understand that all these amendments would fall through, except amendment No. 39† to clause 10. That was the understanding.

**Mr. BAIDYANATH MOOKERJEE:** Not, with regard to clause 8, Sir.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** It was not moved at all.

**The Hon'ble the SPEAKER:** It was not moved on the understanding that all the clauses would fall through. But the amendment to clause 4 was negatived. Will the hon. member please explain his amendment to clause 8?

**Mr. BAIDYANATH MOOKERJEE:** Mr. Speaker, Sir, I shall show that the existing clause should be deleted.

**The Hon'ble the SPEAKER:** All right, the hon. member may go on.

**Mr. BAIDYANATH MOOKERJEE:** Mr. Speaker, Sir, I beg to move: "That clause 8 shall be deleted".

Sir, I want the deletion of this clause because I think the present section 25 of the Goalpara Tenancy Act serves the object of this clause much better. Section 25 (1) stands as follows:—

"An occupancy tenant shall not be entitled to enter into any form of usufructuary mortgage in respect of his holding or a portion or share thereof, except a complete usufructuary mortgage which may be for any period which does not and cannot, in any possible event, by any agreement express or implied, exceed nine years."

Now, Sir, we find in the present clause 8 in the proposed section 25 (2), that "Notwithstanding anything contained in this Act or in any other law or any contract, every usufructuary mortgage subsisting on the second day of March, 1939 which was so entered into before the commencement of the Goalpara Tenancy Act, 1929, shall be deemed to have taken effect as a complete usufructuary mortgage for the period mentioned in the instrument or for twelve years, whichever is less."

Sir, it is an irony of fate that I have to point out this on behalf of the tenants. In place of nine years, this clause is going to extend the

\* 34. That clause 8 shall be deleted.

† 39. The Hon'ble Khan Bahadur Maulavi Sayidur Rahman to move:—  
That in clause 10, in sub-section (2) of the proposed section 26A for the figure "3" the figure "20" shall be substituted.

period up to 12 years in some cases. Sir, as I have read out section 25 of the Act and clause 8 of the Bill, I hope the hon. members will be convinced about the force of my argument. It appears, Sir, that clause 8 shall be completely separate from the Bengal Tenancy Amendment Act of 1938 and in doing so it seems that the provision of the present section 25 was lost sight of. The result has been that several anomalies and incongruities have crept in. I would ask the Hon'ble Revenue Minister to withdraw this clause and have this thoroughly examined by the experts of the Legislative Department. There is a glaring instance that under the provision of the existing Act, the usufructuary mortgage, in no circumstances, shall be effective beyond nine years, but this clause in certain circumstances will make it effective for 12 years. It is clear from the fact that in Goalpara the usufructuary mortgage is for only nine years and in Bengal for twelve years. Sir, though it was copied from the Bengal Act, it seems that there is a fundamental difference. Sir, it is no good to have an amendment for the same amendment only unless it be an improvement upon the existing law. I hope the hon. members will agree to the deletion of this clause. Sir, if this clause is retained in the Act, it will remain only to give benefit to the money-lenders. So, I hope, all the hon. members will agree with me and the clause will be deleted.

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

"That clause 8 shall be deleted."

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:**

Mr. Speaker, Sir, I am sorry that I cannot accept this amendment. We cannot agree to the deletion of the proposed section 25 because it relates to the occupancy tenants who have entered into usufructuary mortgage and thereby pays all the rent after the lapse of the period which in the opinion of the Legislature is adequate to compensate the money-lender. Sir, this proposed section has been introduced on the lines of the Bengal Tenancy Act of 1938.

**Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, the amendment moved by my hon. friend Mr. Mookerjee is not so innocent and harmless as has been shown by him. According to the existing Act it is only provided what kind of usufructuary mortgage an occupancy tenant may execute, but, under the clause 8, by providing further that consideration (with all interest thereon) for a complete usufructuary mortgage shall extinguish on the expiry of the period and the mortgager shall become entitled to possession of the mortgaged property, it is sought to give a substantial relief to an occupancy tenant; and if you, Sir, may be pleased to go through the provision of clause 8 and compare it with the existing section 25 you will find that that relief sought to be given to an occupancy tenant will disappear if clause 8 is deleted. As regards the objection taken by my hon. friend Mr. Mookerjee that under the law we are not allowed to shorten the period of usufructuary mortgage from twelve years to nine years, I can only say that he is entitled to have his own opinion regarding this matter, but when this Bill was drafted I had the benefit of advice of our legal expert who was of opinion that there was no legal bar in the way of increasing the period from nine years to twelve years.

Then, Sir, Mr. Mookerjee has stated that it was an irony of fate that he was now being compelled to speak on behalf of the tenants. We on this side of the House have no doubt about his sincerity even though he may have appeared to represent the Zemindars' interests. We look forward to him to speak on behalf of the tenants as much as on behalf of the interest which he represents in this House. Sir, no one here can say to-day that Mr. Mookerjee has not given consideration to the needs and interests of the

tenants and that his selfish interests have even stood in the way of doing justice to them. The clause was incorporated by me in the Bill after the matter was fully discussed and I think no objections have so far been taken to it by the representatives of the tenants. If these representatives feel that the tenants do not stand to suffer by increasing the period from nine years to twelve years, I think, hon. Mr. Mookerjee should not press for the acceptance of his amendment. I, therefore, Sir, oppose this amendment.

**The Hon'ble the SPEAKER:** The question is: "that clause 8 shall be deleted".

The motion was negatived.

Now the question is that clause 8 stands part of the Bill.

The question was adopted.

The question is that clause 9 stands part of the Bill.

The question was adopted.

**The Hon'ble the SPEAKER:** Then comes amendment No. 39 in clause 10. It has already been moved and I shall now put the question. The amendment moved was "that in clause 10, in sub-section (2) of the proposed section 26A, for the figure '3' the figure '20' shall be substituted." I think the point is clear.

**Mr. FAKHRUDDIN ALI AHMED:** Yes, Sir, in the proposed Bill it appears relevant, but as the amendment is drafted, it appears to refer to the existing section of the Act.

**The Hon'ble the SPEAKER:** The question is "that in clause 10, in sub-section (2) of the proposed section 26A, for the figure '3' the figure '20' shall be substituted.

The motion was adopted.

**The Hon'ble the SPEAKER:** The question is that clause 10, as amended, stands part of the Bill.

The question was adopted.

**Mr. BAIDYANATH MOOKERJEE:** Mr. Speaker, Sir, I beg to move: "That clause 11 shall be deleted."

Sir, so far as I could gather this clause was included in this Bill on the erroneous impression that case laws on the corresponding section *viz.*, section 38 of the Bengal Tenancy Act, have enlarged the scope of that section and the present clause attempts to give effect to those decisions. No doubt there are number of cases in which it was held that abatement of rent can be claimed in a suit for rent and a separate suit is not necessary. But all those cases are without a single exception, cases in which the holding was wholly or partly lost by diluvion. If we read section 33 of the Goalpara Tenancy Act and the corresponding section 38 of the Bengal Tenancy Act we find that cases of diminution of area were excepted from the purview of those sections. So those case laws did not in reality enlarge the scope of those sections.

Sir, the amendment of section 33 of the Act proposed by this clause, will in effect unnecessarily delay the disposal of rent suits. It will be a handy weapon in the hands of unscrupulous tenants specially in riverain area. The grounds mentioned in section 33 entail elaborate inquiry and if they are allowed to be taken as a defence in a rent suit, the landlord is not likely to get a decree within two years of the institution of the suit, and by the time he executes the decree he may find that the tenant has left and the holding was washed away. The decree will remain unsatisfied.

Sir, this proposed amendment is wholly against the fundamental principle underlying the Goalpara Tenancy Act. The Act in its Chapter XI provided measures for the speedy disposal of rent suits as well as execution proceedings. Sir, we find that in rent suits the Act provided that written statements cannot be filed without the permission of the Court, and the Court has to record reasons where the permission to file written statement was given. From this we find that the Goalpara Tenancy Act discourages filing of written statement in a rent suit, but this proposed amendment will encourage it. Sir, we shall consider another very significant fact. All case laws are based on section 38 of the Bengal Tenancy Act. Since 1937 there have been several amendments of that Act, but in Bengal they have not as yet found it necessary to amend section 38. I may also mention that neither in the Bengal Tenancy Act, nor in the Behar Tenancy Act nor in the Orissa Tenancy Act there is any provision similar to the amendment proposed by this clause. Even section 86 of the Sylhet Tenancy Act is much restricted in scope.

Sir, the Goalpara Tenancy Act was modelled on the Bengal Tenancy Act and some of the amendments proposed in this Bill are in a line with the amendments passed in Bengal. I think we should follow Bengal so far as regards Tenancy legislation is concerned. I would appeal to the Hon'ble Revenue Minister to withdraw this clause and wait and see whether Bengal amends the corresponding section of their Act.

Considering all the aspect of the case, I hope, Sir, the House will agree to the deletion of this Clause.

**The Hon'ble the SPEAKER:** Amendment moved: "That clause 11 shall be deleted."

**Srijut JOGENDRA CHANDRA NATH:** Mr. Speaker, Sir, I rise to oppose this amendment. This provision is meant to make it easy and probable for a poor tenant to obtain reduction of rent only in cases which are distinctly mentioned in clauses (i) and (ii) of sub-section (1) of Section 33.

It is a known fact that a poor raiyat cannot institute a suit against the Zemindar for reduction of rent of his holding. So an opportunity has been offered to him by this clause by providing him easy facilities to claim reduction of rent in a defence in a suit for arrears of rent. If the right to claim reduction of rent is conceded on the above grounds it is fair that this easy means of getting relief should be provided for.

**Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I oppose this amendment moved by my hon. friend Mr. Mookerjee not on grounds which have been stated by my hon. friend Mr. Nath, but on still stronger grounds.

Sir, under the existing law, a tenant is prevented from claiming the reduction of rent in a rent suit and he is required to bring a fresh suit for such reduction. Clause 11 of the amending Bill gives the tenants the right to claim reduction of rent in their written statement when contesting the rent suit filed by the landlord. The relief, which this provision will give to the tenant, goes far beyond than what has been stated and imagined by my hon. friend Mr. Nath. We know, Sir, that it is difficult for poor tenants to institute fresh suits for the purpose of claiming the reduction of rent and if, for this reason, a relief and facility is sought to be given to the tenants by amending the Act, I think, that should not be grudged by my hon. friend Mr. Mookerjee. The Court will be there to judge whether the plea raised by the tenant is vexatious or for the purpose of causing delay and as such it cannot amount to any great hardship to the Zemindars. It is

only fair that when a suit is brought against a tenant, he should be given the liberty and right to claim not only the reduction of rent, if it is for just reasons, but also such other questions, which may be necessary for the dispensation of justice by Court.

Sir, another point which has been raised by my hon. friend Mr. Mookerjee is that, because such a provision has not found place in the Bengal Tenancy Amendment Act, it should also be left out in this province. Sir, we have our own views over the matter. As far as I am concerned, I feel that we should draw inspiration from other provinces in matters which may add to our progress and be beneficial to us but not in matters which are retrograde and harmful. Moreover, there is no reason why we should not give lead in matters about which we are convinced that they will add to the peace and prosperity of the province. In view of these circumstances, I oppose the amendment and I hope my hon. friend Mr. Mookerjee will not press it.

**Maulavi JAHANUDDIN AHMED:** Mr Speaker, Sir, I would like to say a few words in opposing the amendment of Mr. Mookerjee. Sir, this is the most vital thing in our Goalpara Tenancy Act. Every day the tenants are experiencing the difficulties in contesting their suits in civil courts under this section. There are some cases in which the tenants took the plea in the law court for reduction of rent in rent suits instituted by the Zemindars and that the suits were decreed against the tenants' plea of excessive rate of rents. The reason for the institution of suit was that the tenant did not pay the enhanced rate of rent and the Zemindar filed the suit and got the decree against the tenant's plea. Then there was an appeal to the Hon'ble High Court. The decision of the High Court was that in this Goalpara Tenancy Act the right of the tenants to sue the Zemindar for enhanced rent was recognised. But there was no right given to the tenants by this Act that they can come in defence for reduction of rent in the rent suit brought by the Zemindar. So long the tenants did not object to the enhancement of the rent that was made by the Zemindar. That being the case, now they are barred to take the plea of undue enhancement of rent and the plea cannot be held up now after long a period of 3 or 4 years. As has been said, the tenants cannot bring suit against the Zemindars for reduction of rent and it is not possible for them.

Under these circumstances, I oppose the amendment moved by Mr. Mookerjee

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Sir, I regret that Government cannot accept this amendment. The right to claim reduction of rent by the tenant has already been given in the Sylhet Tenancy Act under section 86(1). In view of the inferior financial status of the tenants, this facility for claiming relief is essentially necessary.

**The Hon'ble the SPEAKER:** The question is: "That clause 11 shall be deleted."

A summary division was taken inside the Chamber by asking the members to rise in their places with the following result:—

Ayes—1

Noes—81

The motion was negatived.

**The Hon'ble the SPEAKER:** The question is that clause 11 stands part of the Bill.

The question was adopted.

**The Hon'ble the SPEAKER:** Does hon. Mr. Mookerjee want to move his amendment in respect to clause 12?

**Mr. BAIDYANATH MOOKERJEE:** Yes, Sir. But there is an identical amendment in the name of my hon. friend Srijut Jogendra Narayan Mandal.

( After some pause )

**The Hon'ble the SPEAKER:** He does not like to move it.

**Mr. BAIDYANATH MOOKERJEE:** Mr. Speaker, Sir, I beg to move : " That clause 12 shall be deleted."

Sir, clause 12 wants to fix the maximum limit of the initial rent of an under-raiyat. It is proposed to fix the maximum limit at twice the rent payable by the raiyat landlord. But this is extremely unjustifiable and iniquitous. A raiyat may hold his land at a nominal rent, much below the average rate of rent for similar lands in the locality, in consideration of some meritorious service rendered by him or his ancestor to his superior landlord or on some other consideration. And if we say that he cannot realise from his under-tenant rent at more than 100 per cent. of the rent payable by him, we will deprive him of the benefit conferred on him by his landlord.

How absurd the proposal is, hon. members will realise from one single concrete case—if the raiyat holds his land rent-free what rent will he realise from his under-tenant? Will the hon. members pass this clause and thereby say that in such cases the raiyat will be bound to allow his under-raiyat to enjoy the land free of rent?

If it is intended to protect the under-raiyats from payment of excessive rent, the reasonable and only feasible way is to give them the right to claim reduction of rent on proper grounds and in appropriate cases. But instead of doing that, we want to proceed in a novel way. I hope the hon. members will not lend their support to this clause, but will accept my amendment.

**The Hon'ble the SPEAKER:** Amendment moved : "That clause 12 shall be deleted."

#### Adjournment

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

#### After lunch

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Mr. Speaker, Sir, I am sorry I cannot accept this amendment. The insertion made by this clause was intended to afford some relief to the under-raiyat by putting a maximum limit to the rate of his rent. If it is accepted that it is desirable to limit the under-raiyat's rent then we must oppose this amendment.

**Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, in moving this amendment my hon. friend, Mr. Mookerjee, has raised a question, that in case a tenant for his services to the Zaminder enjoys a land free of any cash rent, how can the rent of the under-raiyats in such cases be fixed? Sir, I do not know if there would be many such cases within the district of Goalpara. If such cases do exist those must be very rare cases, and the law does not provide for abnormal circumstances. Even if such a case exists, I think, the cash rent can easily be commuted by taking into consideration the rates of rent paid for similar kind of land in that particular area. I think in this way the difficulty envisaged by Mr. Mookerjee can easily be overcome. What has been sought to be provided in the Bill is a protection to the under-raiyat. I do not see any reason why Mr. Mookerjee should have come forward with this amendment, because if it concerns anybody it concerns the Jotedar and not the Zemindar on whose behalf Mr. Mookerjee is moving his amendments.

**Mr. BAIDYANATH MOOKERJEE**: I am moving these amendments on behalf of all.

**Mr. FAKHRUDDIN ALI AHMED**: Sir, this matter was thoroughly discussed at the conference of the representatives of Jotedars, Zemindars and tenants. Though there were differences of opinion at the beginning, ultimately, as far as I remember, the Zemindars did not press their opposition with regard to this matter. It was then decided that the proportion should be fixed as has been provided in this clause. In view of these reasons I oppose the amendment moved by my hon. friend, Mr. Mookerjee.

**The Hon'ble the SPEAKER**: The question is: "That clause 12 shall be deleted."

The motion was negatived.

**The Hon'ble the SPEAKER**: The question is that clause 12 stands part of the Bill.

The question was adopted.

**Mr. BAIDYANATH MOOKERJEE**: Sir, I beg to move that in clause 13, the following proviso shall be added to the proposed section 41A, namely:—

"Provided that the interest of an under-raiyat in any land in which he has acquired a right of occupancy under this section shall not be deemed to be a protected interest under clause (d) of sub-section (1) of section 151."

Sir, the Select Committee deleted this proviso to the proposed new section 41A, but at the same time wanted to see that the right of occupancy given to under-raiyats is a limited right of occupancy. The reason for this, as appears in the Report of the Select Committee, is that the right of occupancy of an under-raiyat will be substantially different from that of occupancy jotedar or occupancy raiyat. I am not a lawyer and not expert in legal quibbles. But if we refer to new section 42A proposed in clause 15 we find that with regard to rights in trees and the use of, succession to, and eviction from their lands, the under-raiyats have rights similar to those of occupancy raiyats. With regard to enhancement of rent the same provision of law will apply in their case. The House is certainly entitled to know either from the Hon'ble Revenue Minister or from any of the lawyer members of the Select Committee how the occupancy right of an under-raiyat is substantially different from the occupancy right of a jotedar or a raiyat.

Sir, this proviso says that the occupancy right of the under-raiyat will not be a protected interest, and that was one of the substantial differences between these two classes of raiyats. If the hon. members of the Select Committee cannot satisfy the House as to where the substantial difference between these two classes of occupancy right lies I submit the House may reasonably accept my amendment and restore the proviso.

Then, Sir, there is another factor to be borne in mind. In the Bengal Tenancy Act, in the Bihar Tenancy Act and in the Orissa Tenancy Act under-raiyats were given limited right of occupancy and this right was not made a protected interest. In our own province if we refer to Chapter VI of the Sylhet Tenancy Act and also to the Sylhet Tenancy (Amendment) Bill introduced by the last Congress-Coalition Ministry we find that in the Sylhet Act under-raiyats were given right of occupancy. But they had no right to trees. They could be evicted with a six months' notice.

These are glaring facts, which the House know. I do not wish to make any comments on them as no comments are strong enough for the purpose, I hope my amendment will be accepted.

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

"That in clause 13, the following proviso shall be added to the proposed section 41A, namely :—

'Provided that the interest of an under-raiyat in any land in which he has acquired a right of occupancy under this section shall not be deemed to be a protected interest under clause (d) of sub-section (1) of section 151' "

**Maulavi JAHANUDDIN AHMED:** Mr. Speaker, Sir, I rise to oppose the amendment moved by my hon. friend Mr. Mookerjee. Sir, by this section we like to give the under-raiyat the benefit of the occupancy right, which is a protected interest under clause (d) of sub-section (1) of section 151. What we have given to the under-raiyat by this section is proposed to be taken away by this proviso. Then what is the necessity of giving any occupancy right to the under-raiyats ?

It is simply useless if we accept the amendment to give the under-raiyats the right of occupancy. So, with these few words, Sir, I oppose this amendment.

**Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, there is a certain misunderstanding with regard to this clause and I think that it has escaped the notice of my hon. friend Mr. Baidyanath Mookerjee, who has moved this amendment. I should like to draw his attention and the attention of the House to clauses 13 and 15. They will see there that the right of occupancy has been defined and the word 'limited' has been added by the Select Committee. As the right of under-tenants has been described as a limited right, the Committee was of opinion that the proviso to clause 13, which is now sought to be restored by Mr. Mookerjee's amendment, was unnecessary and therefore it has been omitted.

Sir, as my hon. friend has not come forward with any amendments regarding the main clauses 13 and 15, that is to say, regarding the right of occupancy as defined by the Select Committee, I think there is little justification that this amendment should have been moved. With these words, Sir, I oppose the amendment.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Sir, as it has been fully explained by Mr. Fakhruddin Ali Ahmed, I only oppose this amendment.

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

"That in clause 13, the following proviso shall be added to the proposed section 41A, namely :—

'Provided that the interest of an under-raiyat in any land in which he has acquired a right of occupancy under this section shall not be deemed to be a protected interest under clause (d) of sub-section (1) of section 151' "

The motion was negatived.

The question is that clause 13 stands part of the Bill.

The question was adopted.

The question is that clause 14 stands part of the Bill.

The question was adopted.

The question is that clause 15 stands part of the Bill.

The question was adopted.

The question is that clause 16 stands part of the Bill.

The question was adopted.

**Mr. BAIDYANATH MOOKERJEE:** Mr. Speaker Sir, I beg to move :

"That clause 17 shall be deleted".

Sir, the object of my amendment is to retain the provision of payment of rent in four instalments. This has been the custom from time immemorial. The Bengal Tenancy Act, the Bihar Tenancy Act, the Orissa



Tenancy Act—all tenancy laws—provide payment of rent in four equal instalments. The tenants also find it easier to pay rent in four instalments than in one. It is not in the interest of tenants that instalments for the payment of rent should be reduced. Besides, this will seriously upset the system of zemindary collection.

It is proposed to fix two instalments in place of four—one at the end of *Kartik* and the other at the end of *Chaitra*. We all know that jute, one of the principal agricultural crops of the district, is harvested and sold in *Ashar*, i.e., July and onwards. If the landlord cannot demand rent from their tenants then but have to wait till *Kartik*, i.e., November, the tenants will spend by that time the money they get from jute. Besides how will the Zeminders pay the Government demand of revenue and local rate in September, if they cannot demand and collect rent from their tenants before November?

I would ask the hon. members to consider all these facts and accept my amendment and thereby restore the provisions of payment of rent in four equal instalments.

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

“That clause 17 shall be deleted”.

**Maulavi GHYASUDDIN AHMED :** Sir, I rise to oppose this amendment moved by my hon. friend Mr. Mookerjee. After a long discussion in the Select Committee we came to the decision that instead of 4 *kists* there should be 2 *kists*. We know, Sir, there are two kinds of crops one is money crop such as jute, mustard seeds, pulse, etc., and the other is food crop such as paddy. Jute is ready for market in *Aswin*, *Kartik* and mustard pulse, etc., are ready for market in *Chaitra*. Considering all these aspects we came to the decision that instead of 4 *kists* there should be 2 *kists*. It is only in the matter of interest that 4 *kists* were provided in the original Bill. Therefore when we considered this matter we took into account the time of money crops so that the tenants would be in a position to pay rent easily when their commodities are sold in market. With these few words, Sir, I oppose the amendment.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN :** Sir, Government do not feel inclined to change the provision that has been arrived at the Select Committee after considering the whole matter. So I oppose the amendment.

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

“That clause 17 shall be deleted.”

A division being claimed, a summary division was taken inside the Chamber by asking the member to rise in their places with the following result :—

Ayes—1

Noes—77

The motion was negatived.

**The Hon'ble the SPEAKER :** The question is that clause 17 stands part of the Bill.

The question was adopted.

**Mr. BAIDYANATH MOOKERJEE :** Mr. Speaker, Sir, I beg to move.

“That in clause 18, in the proposed section 46(3) for the words ‘at an option’ the words ‘at the option’ shall be substituted”.

I think this is an obvious mistake, and I hope there will be no opposition to accept my amendment.

**Mr. FAKHRUDDIN ALI AHMED :** Sir, this is a verbal amendment, and we support the amendment moved by Mr. Mookerjee.

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

"That in clause 18, in the proposed section 46(3) for the words 'at an option' the words 'at the option' shall be substituted".

The motion was adopted.

The question now is that clause 18, as amended stands part of the Bill.

The question was adopted.

**Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I beg to move :

"That for clause 19 the following shall be substituted, namely :—

19. In section 56 of the said Act for the words 'twelve and half' the words 'six and a quarter' shall be substituted, and the words 'of that quarter' shall be deleted."

Sir, the purpose of this amendment is to restore the provision of the amending Bill as it was introduced into this House and sent to the Select Committee. I should like to draw the attention of the hon. members to section 56 of the Act where it is laid down that an arrear of rent shall bear simple interest at the rate of  $12\frac{1}{2}$  per cent. per annum from the expiration of that part of the agricultural year in which that instalment falls due to the date of payment. Hon. members will therefore realise, under clause 19, what substantial relief has been provided to the tenants in this matter. First of all I omitted the word "quarter" thereby curtailing the right of the landlord to calculate the interest at the end of the quarter year, as provided under section 56 of the Act. Then, Sir, hon. members will realise that I reduced the rate of interest from  $12\frac{1}{2}$  per cent. to  $6\frac{1}{4}$  per cent., and in that matter alone, reduced the burden of interest by fifty per cent. I hope my hon. friend Maulana Abdul Hamid Khan will have no objection to support me in this matter because if I have reduced this interest by fifty per cent. I was actuated by the same principle which was adopted by us in the matter of the reduction of land revenue in temporarily settled areas. Hon. members may also be pleased to realise that if this amendment is accepted it will not mean any hardship to the tenants because if they pay regularly their rents to the landlords, they will not be called upon to pay any interest to the Zemindars. There is no reason, whatsoever, that the landlord should not be given the right to charge interest from such recalcitrant tenants who would not pay the rent to him annually. Moreover, the rate, which was thought to be excessive, has been considerably reduced that is by nearly fifty per cent., and the interest, in future, will be calculated not on quarterly basis but at the end of the agricultural year. The concession and relief provided in the clause is in my opinion very substantial, and, I think, in fairness to the landlord, we should accept this amendment and not reduce the rent to three and one-eighth per cent. as has been suggested by the Select Committee.

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

"That for clause 19, the following shall be substituted, namely :—

19. In section 56 of the said Act for the words 'twelve and half' the words 'six and a quarter' shall be substituted and the words 'of that quarter' shall be deleted"

I think the amendment† tabled by Mr. Mookerjee should also be moved now. I shall put the amendment of Mr. Mookerjee first, and if that be lost, put the amendment of Mr. Fakhruddin Ali Ahmed.

†47. Mr. Baidyanath Mookerjee to move :—

That for clause 19 the following shall be substituted, namely :—

"19. In section 56 of the said Act for the words 'twelve and half' the words 'three and one-eighth' shall be substituted".

**Mr. BAIDYANATH MOOKERJEE :** Sir, I do not wish to move my amendment when I find that there is some improvement in some other amendment.

**Maulana ABDUL HAMID KHAN :** Mr. Speaker, Sir, সূদ সম্বন্ধে গোয়ালপাড়া জেলার পুজাদের সহিত বেঙ্গল, উড়িষ্যা বা বিহারের পুজাদের তুলনা হইতে পারে না। কারণ আবহমান কাল হইতে গোয়ালপাড়া জেলার জমিদারেরা পুজাদের নিকট লইতে সূদ আদায় করেন নাই। একথার সত্যতা সম্বন্ধে জমিদার-পুতিনিধি আমার বন্ধু মিষ্টার সন্তোষ কুমার বড়ুয়া, যিনি এখানে উপস্থিত আছেন, তিনিও স্বীকার করিবেন যে এই প্রথা আবহমান কাল হইতে চলিয়া আসিতেছে। এই বিলে যে ৩৬০ আনা সূদ ধার্য করা হইয়াছে তাহাই পুজাদের কাছে নুতন করিয়া বোঝা চাপাইয়া দেওয়া হইতেছে ; সুতরাং এখানে ৬০ আনার কথা উঠিতেই পারে না। সেখানে জমিদারেরা জানেন যে জমির খাজনার পরিমাণ অত্যধিক বেশী—বিষা পুতি কোন কোন জমির খাজনা ১১১০, ২১, ৩ টাকা পর্যন্ত বর্তমান আছে। এমতাবস্থায় তাহাদের কাছ হইতে সূদ আদায় করা মোটেই সম্ভব নহে এবং সেজন্যই আবহমান কাল হইতে জমিদারেরা সূদ আদায় করেন নাই। সুতরাং এই ৩৬০ আনা সূদই ন্যায় সম্ভব। সেজন্য আমি এই amendment oppose করি।

**Maulavi MUHAMMAD AMJAD ALI :** I oppose this amendment, Sir. Out of the two amendments which are all for reduction of the rate of interest, this amendment goes to the extent of 50 per cent reduction. But the condition of the tenants of Goalpara is different from that of the tenants of the other districts. There were successive famines during the last ten years, there were earth-quakes, and due to the failure of crops on account of droughts also the condition of the tenantry at Goalpara has become considerably worse. So the question of giving them relief in the shape of low rate of interest was considered by the hon'ble mover himself. But he ought to know, being a neighbour of the Goalpara district, that the condition of the tenantry there is much worse than that in the *Khas Mahals* of Kamrup.

Reference has also been made to the fact that it is the custom in Goalpara for the majority of the landlords not to realise interest, but we want also that the law should not be like that. In case certain landlords find it to their advantage that they charge interest, we do not like to keep it in law also that the rate should be excessive on the tenants. Objection has also been raised that in case the landlords themselves have to borrow money for paying their revenue to Government they have got to borrow from the open market. One very pertinent fact about the Goalpara Zamindars, Sir, is, if I am quoting correctly, that 49 lakhs of rupees are annually realised by them by assessment from the tenants, whereas in their turn they pay only about Rs.11,000. That is an amount which is ridiculously small for them to pay. So the point that the landlords themselves might be in difficulty in paying their part of the revenue falls to the ground.

Then again, Sir, Government has advanced agricultural loans at Goalpara, and on these loans the interest that is taken in view of the grinding poverty of Goalpara tenants is one rupee nine annas per cent. per annum. That fact will amply illustrate that the condition of the tenants would not warrant payment of a bigger sum than rupees three annas two which is justifiable. I oppose this amendment.

**Mr. A. WHITTAKER :** Mr. Speaker, Sir, I am very surprised to see this amendment in the Select Committee so soon after the Government of Assam have gone into the open money market to borrow at the rate of Rs.3½ per cent. Having borrowed at this rate, it is surely unreasonable that the landlord should only be entitled to Rs.3¼ per cent. It is the first time that I have heard that land is such a gilt-edged investment as to be entitled to a smaller rate of interest than Government has to pay on its gilt-edged securities. If it is a fact that there is no practice of taking interest in large tracts in Goalpara, I do not think that there will be any harm done in accepting Mr. Fakhruddin Ali Ahmed's amendment. The rate of 6¼ per cent. proposed in the amendment is the same as in the three neighbouring provinces, and I do not think sufficient reasons have been shown to depart from it. With these words, Sir, I support the amendment.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN :** Sir, the position of Government on this amendment is rather delicate. On the one hand we find that this rate of interest, viz., at 6¼ per cent. obtainable in Bengal and Bihar under the recent Tenancy (Amendment) Acts. On the other hand we find that, after a good deal of deliberation the Select Committee have fixed it at Rs.3-2. So the Government in this matter would like to be guided by the verdict of the House.

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

“That for clause 19, the following shall be substituted, namely—

19. In Section 56 of the Act for the words ‘twelve and half’ the words ‘six and a quarter’ shall be substituted and the words ‘of that quarter’ shall be deleted”.

The Assembly divided

Ayes 51.

- |                                          |                                        |
|------------------------------------------|----------------------------------------|
| 1. Kumar Ajit Narayan Dev.               | 20. Babu Lalit Mohon Kar.              |
| 2. Babu Akshay Kumar Das.                | 21. Srijut Mahadev Sarmah.             |
| 3. Mr. Arun Kumar Chanda.                | 22. Srijut Mahi Chandra Bora.          |
| 4. Mr. Baidyanath Mookerjee.             | 23. Mr. Naba Kumar Dutta.              |
| 5. Babu Bipin Behari Das.                | 24. Babu Nirendra Nath Dev.            |
| 6. Srijut Bishnu Ram Medhi.              | 25. Srijut Omeo Kumar Das.             |
| 7. Babu Dakshina Ranjan Gupta Chaudhuri. | 26. Srijut Paramananda Das.            |
| 8. Srijut Debeswar Sarmah.               | 27. Srijut Purandar Sarma.             |
| 9. Srijut Ghanashyam Das.                | 28. Srijut Purna Chandra Sarma.        |
| 10. Srijut Gauri Kanta Talukdar.         | 29. Srijut Rajani Kanta Barooah.       |
| 11. Srijut Gopinath Bardoloi.            | 30. Srijut Rajendra Nath Barua.        |
| 12. Srijut Haladhar Bhuyan.              | 31. Srijut Ram Nath Das.               |
| 13. Babu Harendra Narayan Chaudhuri.     | 32. Srijut Sankar Chandra Barua.       |
| 14. Srijut Jadav Prasad Chaliha.         | 33. Srijut Santosh Kumar Barua.        |
| 15. Srijut Jogendra Chandra Nath.        | 34. Srijut Sarveswar Barua.            |
| 16. Srijut Kameswar Das.                 | 35. Babu Shibendra Chandra Biswas.     |
| 17. Babu Kamini Kumar Sen.               | 36. Srijut Siddhi Nath Sarma.          |
| 18. Srijut Krishna Nath Sarmah.          | 37. Srijut Sonaram Dutta.              |
| 19. Srijut Laksheswar Barooah.           | 38. Maulavi Dewan Ali Raja.            |
|                                          | 39. Maulavi Ashrafuddin Md. Chaudhury. |

Ayes.—51—*conld.*

- |                                      |                            |
|--------------------------------------|----------------------------|
| 40. Mr. Fakhruddin Ali Ahmed.        | 45. Mr. W. R. Fa'll.       |
| 41. Khan Bahadur Maulavi Mahmud Ali. | 46. Mr. E. B. Sim.         |
| 42. Mr. A. F. Bendall.               | 47. Mr. P. Trinkle.        |
| 43. Mr. F. W. Blennerhassett.        | 48. Mr. C. W. Morley.      |
| 44. Mr. N. Dawson.                   | 49. Mr. R. A. Palmer.      |
|                                      | 50. Mr. A. Whittaker.      |
|                                      | 51. Babu Sanat Kumar Ahir. |

Noes—31

- |                                             |                                               |
|---------------------------------------------|-----------------------------------------------|
| 1. The Hon'ble Srijut Rupnath Brahma.       | 16. Maulvi Muhammad Maqbul Hussain Chaudhury. |
| 2. Srijut Jogendra Narayan Mandal.          | 17. Maulavi Matior Rahman Mia.                |
| 3. Babu Kalachand Roy.                      | 18. Maulavi Mabarak Ali.                      |
| 4. Maulavi Abdul Aziz.                      | 19. Khan Bahadur Maulavi Mufizur Rahman.      |
| 5. Maulavi Abdul Bari Chaudury.             | 20. Maulavi Namwar Ali Barbhuiya.             |
| 6. Maulana Abdul Hamid Khan.                | 21. Maulavi Naziruddin Ahmed.                 |
| 7. Maulavi Abdur Rahman,                    | 22. Maulavi Sheikh Osman Ali Sadagar.         |
| 8. Maulavi Md. Abdus Salam.                 | 23. Mr. Benjamin Ch. Momin.                   |
| 9. Maulavi Dewan Muhammad Ahabab Chaudhury. | 24. Srijut Bhairab Chandra Das.               |
| 10. Maulavi Muhammad Amir uddin.            | 25. Srijut Bideshi Pan Tanti.                 |
| 11. Maulavi Muhammad Amjad Ali.             | 26. Srijut Binode Kumar J. Sarwan.            |
| 12. Maulavi Badaruddin Ahmed.               | 27. Srijut Dhirsingh Deuri.                   |
| 13. Maulavi Ghyasuddin Ahmed.               | 28. Rev. L. Gatphoh.                          |
| 14. Maulavi Jahanuddin Ahmed.               | 29. Mr. C. Goldsmith.                         |
| 15. Khan Bahadur Maulavi Keramat Ali.       | 30. Mr. Jobang D. Marak.                      |
|                                             | 31. Srijut Khorsing Terang.                   |

The motion was adopted

**The Hon'ble the SPEAKER:** The question is that clause 19 as amended stands part of the Bill.

The question was adopted.

**Mr. BAIDYANATH MOOKERJEE:** Mr. Speaker, Sir, I beg to move: "That clause 20 shall be deleted".

Sir, the object of my amendment is to retain section 57 of the Goalpara Tenancy Act. Section 57 of the Act gives discretion to the Civil Court to award damage in a rent suit, if the defendant is in the opinion of the Court a habitual defaulter. Nobody, I think, can be bold enough to say that there are no habitual defaulters and he will be bolder still, if he would say that there should not provide for any penalty in such cases. Sir, if we read the wording of the section we shall find that it can never operate as a hardship on the tenant. It is left entirely to the discretion of the Court to find on hearing both parties and on considering the facts of each case whether a particular defendant is a habitual defaulter or not. If the Court finds that a particular defendant is a habitual defaulter, then the Court will consider whether it should award any damage against him, if so, how much. It is also left to the discretion of the Court not to award any damage at all. I fail to understand how this section can operate as a hardship on a tenant.

If we delete this section it will encourage non-payment of rent. I think this can never be the intention of the hon. members.

Sir, section 57 was last amended in 1936 by Act XIII of 1936, at the instance of a representative from Dhubri subdivision. It was then considered not proper and justifiable to delete the section altogether. What happened during these two and a half years to justify the total deletion of this section? I may also state for the information of the hon. members that in Bengal, Bihar and Orissa, the provinces which have similar tenancy laws, the provision for awarding damages was not totally abolished. Why then should we do it? We have not had any complaint that the Court has exercised the discretion improperly. Why then should we deprive the Court of its power? Sir, here the question is not to curtail some rights or privileges of the landlord, or to confer some benefit on the tenants in general but the question is whether we should trust our Judiciary with the powers conferred on them by this section. I hope the hon. members will not without any reasonable cause castigate the Judiciary of the province, but accept my amendment.

**The Hon'ble the SPEAKER:** Amendment moved: "That clause 20 shall be deleted".

**Sriju JOGENDRA CHANDRA NATH:** Mr. Speaker, Sir, I oppose this amendment. Section 57 of the Goalpara Tenancy Act has been really operating very harshly on the poor tenants. So it was decided in the conference held at Dhubri to repeal the section. I request the hon. member Mr. Mookerjee to withdraw his amendment.

**Mr. BAIDYANATH MOOKERJEE:** To assist the defaulters?

**Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, the argument advanced by my hon. friend Mr. Mookerjee in support of this amendment is that the power of awarding damages under section 57 of the Act is actually exercised by the Court and that we should not deprive the Court from exercising that power should it think that there is justification for doing so. That it is so no one can deny; but, at the same time, I should like the hon. members to remind that this Bill has been introduced for the definite purpose of giving substantial relief to the tenants. We have, in providing that the landlord may claim interest in a rent suit, recognised the right of the land to compensation in cases where the rent is not paid regularly by tenants; but if we agree to the amendment of Mr. Mookerjee it will have the effect of giving the option to the Court whether it should award damages or the interest for arrears of rent. As we do not want to severely penalise the tenants for failure of paying rent regularly and we have for this purpose fixed the rate of interest at  $6\frac{1}{4}$  per cent. it will defeat the purpose of my previous amendment if this clause, deleting section 57 of the Act, is not incorporated because under section 57 the Court can award damages to an extent of 25 per cent. The hon. member should not grudge the relief provided to the tenant. In view of these reasons, I oppose the amendment.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Circumstances have changed since 1936. It has been found that in a large number of cases although adequate relief was granted, the tenants could not pay the rent and the landlords claimed heavy damages. For this reason Government have decided to abolish this provision from the Act.

**The Hon'ble the SPEAKER:** The question is: "That clause 20 shall be deleted".

The motion was negatived.

**The Hon'ble the SPEAKER:** The question is that clause 20 stands part of the Bill.

The question was accepted.

**Mr. BAIDYANATH MOOKERJEE:** I do not like to move my amendment \*with regard to clause 20A.

**Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I beg to move: "That for clause 20A the following clause shall be substituted, namely:—

'20A. After clause (a) of section 58 of the said Act, the following proviso shall be added, namely:—

Provided that the land held in *bonafide* but found on measurement to be in excess of the holding shall form part of the same holding; and the tenant thereof shall be liable to pay rent for such excess at the rate of rent of the original holding'."

This amendment is very simple as it seeks to improve the language of the amendment incorporated in this Bill at the suggestion of the Select Committee. The purpose for which this amendment was suggested by the members of the Select Committee was that the tenant should be given the right to include in his holding that excess of the holding which he holds *bonafide* at the same rate of rent at which he holds the original holding. This purpose of the amendment suggested by the Select Committee is fully borne out by my amendment. I think, hon. members should therefore have no objection to this amendment.

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

"That for clause 20-A the following clause shall be substituted, namely:—

'20-A. After clause (a) of section 58 of the said Act, the following proviso shall be added, namely:—

Provided that the land held in *bona fide* but found on measurement to be in excess of the holding shall form part of the same holding; and the tenant thereof shall be liable to pay rent for such excess at the rate of rent of the original holding'."

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Sir, personally I thought that the wording of the provision of the original Bill was better than this. But as the hon. member is going to amend his own drafting, I have no objection.

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

"That for clause 20-A the following clause shall be substituted, namely:—

'20-A. After clause (a) of section 58 of the said Act, the following proviso shall be added, namely:—

Provided that the land held in *bona fide* but found on measurement to be in excess of the holding shall form part of the same holding; and the tenant thereof shall be liable to pay rent for such excess at the rate of rent of the original holding."

The motion was adopted.

**The Hon'ble the SPEAKER:** The question is that clause 20-A, as amended, stands part of the Bill.

The question was adopted.

**Mr. BAIDYANATH MOOKERJEE:** I beg to move: "That for clause 21, the following be substituted, namely:—

21.—In sub-section (1) of section 59 of the said Act for the words 'five times' the words 'three times' and for the words 'ten times' the words 'six times' shall be substituted."

\* Mr. Baidyanath Mookerjee to move:—  
That clause 20A shall be deleted.

Sir, this clause is with reference to section 59 of the Goalpara Tenancy Act which deals with unauthorised occupation of land. Sir, section 59 was incorporated in the Goalpara Tenancy Act after full consideration of the local conditions by a Committee representative of all interests in land. I cannot but help quoting what they said in their Report and also in notes on clauses.

“With regard to the unauthorised occupation of land, it has been urged on behalf of some of the tenants that tenants and other persons should be allowed to appropriate at will to their own use *Khas* lands belonging to the landlord without the landlord’s consent subject only to the subsequent assessment of rent. A claim of this nature is, however, so diametrically opposed to the general principles of law, that the Committee felt that it could not be conceded. The provisions adopted go as far as the Committee considered it practicable to go, without overriding such general principles.”

In the notes on clauses we find: “When a person, be he a tenant or not, has deliberately and without the landlord’s consent taken possession of unoccupied and clearly identifiable land, we consider that the landlord should not be deprived of the right of realising from him the same premium which he can lawfully realise from a tenant who takes settlement of new land in the ordinary way.” As to the amount of *Salami* thus realised, we find Mr. Lainé speaking on the floor of the old Council to the following effect.

“During my visit to the Goalpara district a year ago, I ascertained that many Joteders were regularly realising from new tenants *Salami* at the rate of ten, twenty and even forty times the annual rent. In providing therefore that in the two classes of cases, the landlord shall be entitled to a premium of ten and five per cent. respectively, we are not introducing a new principle, but seeking to stabilise at a reasonable figure a fee which has already been customary in many parts of the district.”

Now, section 59 lays down that the maximum amount of premium that the Court can grant is five times the annual rent in another class of cases. The landlords of Goalpara in consideration of the present economic condition of the country are agreeable to some reduction of the rate. My amendment wants to fix the rate at three times in place of five times the annual rent in one class of cases and six times in place of ten times in another class of cases, *i.e.*, 40 per cent. less in each case.

Section 59 only fixes the maximum premium that the Court can grant. The Court in its discretion and on the merits of each case may not grant the maximum premium. I fail to see how this section can operate as a hardship on the tenants. It can never be the intention of the hon. members to encourage unauthorised occupation of land. If we fix the maximum rate at a very low pitch or nominal amount, it will encourage squatting and unauthorised occupation of land. As the whole thing is left to the discretion of the Court, there can be no justifiable reason to fix the maximum rate at so low a figure as proposed by this clause. The amendment proposed by me reduces the rate to a considerable extent and at the same time retains its penal character. I hope hon. members will accept my amendment.

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

“That for clause 21, the following be substituted, namely:—

21. In sub-section (1) of section 59 of the said Act, for the words ‘five times’ the words ‘three times’ and for the words ‘ten times’ the words ‘six times’ shall be substituted.”



**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Sir, we cannot accept this amendment. The rates of premium suggested are much higher than those realised in actual practice by many of these estates in recent years. The rates suggested in the amending Bill are not based on those sanctioned by Government in regard to estates under the Court of Wards. In these circumstances we must oppose this amendment.

**Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker Sir, the amendment of Mr. Mookerjee refers to two classes of excess lands, one where excess is contiguous to the holding of a tenant and the other where the excess is due to land elsewhere in the possession of a person without the consent of the landlord. It was decided at the conference that if the excess was found to be contiguous to a holding and *bona fide*, as hon. members may remember has been provided by one of my amendments moved previously by me and accepted by the House, that excess should form part of the same holding and the tenant should pay excess rent at the rates of his original holding. The amendment of Mr. Mookerjee referring to this kind of excess need not deserve any consideration as the hon. members including Mr. Mookerjee have accepted my previous amendment. But as regards the other kind of excess I agree with Mr. Mookerjee that unauthorised squatting is bad and should be discouraged. For this reason I have provided in the amending Bill that for such unauthorised excess the landlord should be entitled to charge the premium amounting to three times the annual rent. The penalty has been reduced but it should serve the purpose for which it has been provided. For these reasons, I oppose the amendment of Mr. Mookerjee.

**The Hon'ble the SPEAKER:** I put the amendment.

The question is: "That for clause 21 the following be substituted, namely:—

21. In sub-section (1) of section 59 of the said Act for the words 'five times' the words 'three times' and for the words 'ten times' the words 'six times' shall be substituted.

The motion was negatived.

**The Hon'ble the SPEAKER:** The question now is that clause 21 stands part of the Bill.

The question was adopted.

**Mr. BAIDYANATH MOOKERJEE:** Mr. Speaker Sir, I beg to move: "That clause 22 shall be deleted."

Sir, clause 22 wants to delete clause (d) of section 69. Section 69 deals with the grounds on which a non-occupancy tenant can be ejected and clause (d) of that section says that a non-occupancy tenant can be ejected on six months' notice, if there be no written lease. Now the present Bill says that a non-occupancy tenant cannot be ejected on six months' notice. I do not know why the landlord should be deprived of this right. Has there been any instance where the landlord has abused this right? If the tenant holds his land under a written lease he can be ejected on the termination of the period of the lease, but he cannot be ejected if there is no written lease. If henceforth the landlords insist on a written lease in every case the tenants will have to find money for the stamp and the cost of registration. Will that mean relief to the tenants or burden on them? This Bill professes to give relief to the tenants and not to heap burdens on them. I hope the hon. members will accept my amendment in the true interests of the tenants themselves.

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

"That clause 22 shall be deleted."

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Sir, I oppose this amendment. At the conference of the landlords and tenants the matter was discussed and no objection was raised to the deletion of clause (d) of section 69.

**Mr. BAIDYANATH MOOKERJEE:** Question.

**Mr. FAKHRUDDIN ALI AHMED:** But that is a fact.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** There is no ground now to go against that decision. So I oppose this amendment.

**The Hon'ble the SPEAKER:** The question is: "That clause 22 shall be deleted."

The motion was negatived.

The question is that clause 22 stands part of the Bill.

The question was adopted.

The question is that clause 23 stands part of the Bill.

The question was adopted.

The question is that clause 24 stands part of the Bill.

The question was adopted.

The question is that clause 24-A stands part of the Bill.

The question was adopted.

**Mr. BAIDYANATH MOOKERJEE:** Mr. Speaker, Sir, I beg to move: "That clause 25 shall be deleted."

Clause 25 of the original Bill gave the under-*raiyat* the right to surrender his holding. But the Select Committee went a step further and wanted to give both the *raiyat* and the under-*raiyat* the right to surrender a part of their holding. I do not know whether the Hon'ble Revenue Minister had this clause examined by experts in the Legislative Department. Before giving my reasons in support of the amendment I propose to read out to the hon. members the section as it will stand if the amendment proposed by the Select Committee is carried.

"A *raiyat* or under-*raiyat* not bound by lease or other agreement for fixed period may, at the end of any agricultural year, surrender his holding, but he shall not be entitled to surrender a portion or share only of his holding:

Provided that he shall be entitled to surrender the portion if any of his holding which has materially deteriorated after the commencement of the tenancy due to deposit of sand or any other cause beyond his control".

Perhaps the hon. members of the Select Committee who advocated the change did not realise that the section will have such a beautiful wording—or shall I say grotesque wording? Sir, there is absolutely no justification to give a *raiyat* or an under-*raiyat* the right to surrender a part of his holding. He has the right under section 33 of the Act to claim reduction of rent on this ground, and there is no need to provide this additional relief. If hon. members read sub-section (4) of section 81 they will find that such additional relief as is possible under these circumstances is provided by sub-section (4) of section 81, which reads like this: "...nothing in this section shall affect any arrangement by which the tenant and landlord may agree to the surrender of the whole or any portion of the holding".

Sir, when the case is already provided for in the Act itself in the only way in which it is possible to do, I hope the hon. members will refuse to be a party to such a grotesquely worded clause, as proposed by the Select Committee, by accepting my amendment.

**The Hon'ble the SPEAKER:** Amendment moved: "That clause 25 shall be deleted."

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Sir, as the right to surrender a portion of holding is limited to material deterioration after the commencement of the tenancy and due to causes beyond the control of the tenants, I think there is not much risk of the abuses of that right. In that view of the matter I oppose this amendment.

**Mr. FAKHRUDDIN ALI AHMED:** Sir, I could not actually follow my hon. friend Mr. Mookerjee when he was pointing out the inconsistency of the provision made under clause 25 of the Bill with that of section 81 of the Act. As you will see, Sir, under section 81, a tenant has no right to surrender a portion of his holding unless he surrenders the whole of the holding. But the proviso sought to be inserted under clause 25 of the Bill, that is to say, in cases, where a tenant can satisfy that a portion of his holding has become deteriorated for reasons beyond his control, he should be entitled to surrender that portion of the holding which has so become deteriorated. I therefore see no reason, whatsoever, for saying that this provision is inconsistent with section 81 of the Act.

**Mr. BAIDYANATH MOOKERJEE:** Have you read sub-section (4) ?

**Mr. FAKHRUDDIN ALI AHMED:** Yes, sub-section (4) provides for the surrender of such holding or portion of the holding with regard to which the agreement has been made between the landlord and the tenant. But a tenant may not in all cases enter into such agreements and may not foresee circumstances under which his holding may deteriorate after six months or a year due to some storm and some other natural calamity, e.g., depositing of sand, etc. It seems most unfair that a tenant should not be allowed to surrender such portion of the land which he does not require and which is of no use to him either for agricultural or any other purpose. In view of this I oppose the amendment.

**The Hon'ble the SPEAKER:** The question is: "That clause 25 shall be deleted."

The motion was negatived.

The question is that clause 25 stands part of the Bill.

The question was adopted.

**Mr. BAIDYANATH MOOKERJEE:** Sir, I beg to move: "That clause 26 shall be deleted."

I want deletion of clause 26 because I think it will not solve the difficulty, nay it will be quite unworkable in certain circumstances.

I shall read clause 26 and the hon. members will be better able to understand my points.

"Provided further that if an under-*raiyat* has a right of occupancy in the holding or a portion thereof the landlord shall, before entering on the holding under this section, offer the whole holding to the under-*raiyat* at the rent paid by the *raiyat* and on condition of the under-*raiyat* paying off all arrears due from the *raiyat*. If the under-*raiyat* refuses or neglects within a reasonable time to accept the offer, the landlord may enter on the holding and let it to another tenant or cultivate it himself."

This clause lays down that if a *raiyat* abandons his holding and if there be under-*raiyat* having right of occupancy therein, settlement of the entire holding should be made with him, failing this the landlord will take the land in his *khas* possession. Now what will happen in these cases ?

If there be more than one under-*raiyat* having right of occupancy, to whom will the settlement be offered ? If it be to one of them—how

that man is to be selected? Is it by spin of a coin or by any other ways of lottery? Or will the settlement be offered to all of them? How can the entire holding be offered to different persons at the same time?

Then in the clause there are such words as "within a reasonable time". What is a reasonable time? Who will interpret what it is?

Then again what is the precise meaning of the words "the landlord may enter on the holding and let it to another tenant or cultivate it himself". Does this mean that if the under-*raiyat* with right of occupancy refuses or fails to accept settlement offered, he will have no right to be on the land and will be ejected?

Sir, all these and similar other circumstances have been left unprovided for in this clause. Sir, clarity is the object of legislation, but this clause is not only incomplete but is beautifully vague and indefinite.

Then, Sir, I do not understand for whose benefit this clause is sought to be inserted. We have already given the under-*raiyat*—

- (i) the right of occupancy,
- (ii) protection from ejection,
- (iii) protection from unreasonable enhancement of rent, and
- (iv) right to trees.

This clause does not confer on them any additional right but it will help to create confusion and may in some cases be a burden or a source of oppression to them.

I therefore ask the hon. members to accept my amendment.

**The Hon'ble the SPEAKER:** Amendment moved: "That clause 26 shall be deleted."

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Sir, I oppose this amendment. This additional proviso which has been provided in the Bill is consequential. It is only when the under-*raiyat* has been given a limited right of occupancy that it is fair that he should be given a preferential right in regard to settlement of a superior holding. In this view of the matter, Sir, I oppose this amendment.

**Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, in moving this amendment Mr. Mookerjee has expressed the difficulty of offering the holding in case there are more than one under-*raiyat*. As will be seen from clause 26 of the Bill, it seeks to provide that in case of an abandonment of a holding, a landlord before entering that holding should offer it to one of the under-*raiyats*. Sir, it is but proper that undesirable persons should not, as far as possible, be allowed to come on that part of the holding which is occupied by the old under-*raiyats*. The contention of Mr. Mookerjee that it would be difficult for the Zeminders to decide as to which of the under-*raiyats* should be given preference in the matter of offering holding before occupying it for himself or before giving it to an outsider should not stand in the way of giving effect to the provision under this clause. On the other hand, Sir, I think he should have welcomed the provision as it leaves the option of discretion to the Zeminders in the matter of selecting such other under-*raiyats* as are liked by them. The holding may be offered to No. 1, and if No. 1 refuses to No. 2 and if No. 2 also refuses to No. 3 and so on. When all the existing under-*raiyats* are exhausted, the Zeminder then will be entitled to occupy that holding for himself or to give it to outsiders. Clause 26 only seeks to extend the right of pre-emption to the under-*raiyats* who may not like to have undesirable outsiders adjacent to their own holding. Sir, as a Muhammadan also, I cannot but oppose this amendment of my hon. friend because, apart from other reasons, it cuts at the root of the right of pre-emption. In view of these reasons, Sir, I think, that this amendment of Mr. Mookerjee is not justified and I oppose it.

**The Hon'ble the SPEAKER:** The question is: "That clause 26 shall be deleted."

The motion was negatived.

The question is that clause 26 stands part of the Bill.

The question was adopted.

**Mr. BAIDYANATH MOOKERJEE:** Mr. Speaker, Sir, I beg to move: "That clause 27 be deleted."

I want that the proposed section 83 should not be enacted because it will not work well in practice. This proposed section says that if the holding of a tenant is washed away, his right in that holding will subsist during diluvion and for three years after reappearance without payment of rent during these years and he shall claim immediate possession thereof within two years of reappearance.

But if a squatter takes possession of a reformed land before the person whose land has reformed, how will the tenant get possession of his land? Will not there be breach of the peace and ultimately the tenant will be driven to both criminal and civil cases. Henceforth squatting will be very much encouraged as the bogey of a premium of 10 times the annul rent has been taken away by reducing the premium.

It may be said that there is a similar provision in the Bengal Tenancy Amendment Act, 1938. But we should not forget that in Bengal, all the districts have been cadastrally surveyed and record-of-rights has been prepared. But that is not the case here.

Then the question arises whether all kinds of tenants—occupancy, non-occupancy tenants and those holding land for a limited period—should get this benefit? I raise this question for you to decide, Sir.

Then in the case of a partial diluvion, it has been provided that the rent of the reformed portion should be at the rate at which the rent of the undiluviated portion of the holding was being paid at the time. And in the case of a wholly diluviated holding the rent of the portion that will reappear will be at the rate at which rent was paid before diluvion. Why this distinction? Why the landlord should lose if there be an enhancement of rent during this interval?

It is provided that the tenant shall claim immediate possession by serving on the landlord a notice. How can the landlord give him possession if the land is already occupied by a squatter? Then you have given two years' time to the tenant to claim possession after reappearance. But in Bengal and Behar, this two years' time was not allowed and the wordings in these two Acts go to provide that the tenant or his successor in interest shall have the right to immediate possession on reappearance of such land or any portion thereof. I do not know why this departure has been made from the provisions of those two Acts and thereby many difficulties have been created. I hope, Sir, after considering all these points my amendment will be accepted.

**The Hon'ble the SPEAKER:** Amendment moved. "That clause 27 shall be deleted".

Will the hon. member move the other amendments if this amendment is lost. The other amendments are also in his name.

**Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, if this amendment is accepted the others need not be moved, but if this is rejected then of course he will have to come forward with amendments Nos. 56,\* 57† and 58.‡

**The Hon'ble the SPEAKER:** All these will come in if this amendment is lost.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Mr. Speaker, Sir, the object of this Bill will be frustrated if this clause be deleted. We want to give much-needed relief to the tenants, and it is a well known fact that the river Brahmaputra is in process of alluvion and diluvion continuously and the tenants living on the banks of it badly require this relief. So I oppose this amendment.

**Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I support the amendment moved by my hon. friend, Mr. Mookerjee, because, if this amendment is accepted, it will mean no hardship to the tenants. Under the existing section 83 of the Act, there is no bar to a tenant entering into a contract with the landlord that, should a land lost by diluvion reappear, his rights to such lands or portion thereof and his tenancy and rights therein shall not be extinguished. If therefore the tenant enters into a contract with the Zeminder he will get his land back after it reappears and will be in a position to cultivate the same. Therefore, Sir, when tenants have a necessary protective clause to safeguard their own interests and rights, I personally see no difficulty why we should not agree to such a harmless amendment moved by Mr. Mookerjee which also will not mean any hardship to the tenants.

In view of these reasons I support the amendment moved by my friend, and I hope hon. members will see their way to agree to this amendment.

**Maulana ABDUL HAMID KHAN:** Mr. Speaker, Sir, প্রজাদের দুরবস্থা সম্বন্ধে প্রত্যেকেই অবগত আছেন। কৃষক প্রজার জমি যখন নদী-সিকস্তী হয় ঐ জমির জলের উপর fishery right—মাছ ধরবার সম্পূর্ণ ক্ষমতা জমিদারের জন্মে। এমন কোন ব্যবস্থা থাকিতে পারেনা যে জমি নদী-গর্ভে বিলীন হইলে এবং জমিদারগণ হাজার হাজার টাকা fishery right এর বাবদ আদায় করিলেও পুনরায় সেই ক্ষতিগ্রস্ত প্রজাদের নিকট হইতে কোন রূপ খাজানা আদায় করিতে পারে—ইহার কোন যুক্তিসঙ্গত কারণ পাওয়া যায়না। বহুস্থানে দেখা যাইতেছে যে একজন প্রজার দশ বিঘা জমি আছে, তাহার দুই বিঘা জমি বাকী রাখিয়া ৮ বিঘাই নদী গর্ভে বিলীন হইয়া গিয়াছে। ঐ ৮ বিঘা জমির বাকী খাজানার দ্রুণ জমিদার বাকী দুই বিঘা জমি পর্যন্ত নীলাম করিয়া প্রজাকে সর্বস্বান্ত করিতেছেন। জমিদার ঐ জমিতে মাছ ধরার জন্য জলকর বাবদ বহু টাকা আদায় করিয়া থাকেন। একই জমির উপর দুই বার কি করিয়া জমিদার খাজানা আদায় করিতে পারেন তাহা আমি বুঝিতে অক্ষম। প্রজারা জলের

\* 56. Mr. Baidyanath Mookerjee to move :—

That in clause 27, in the proposed section 83(2) (a) for the word "tenant" wherever it occurs, the words, "occupancy tenant holding land otherwise than for a limited period" shall be substituted.

† 57. Mr. Baidyanath Mookerjee to move :—

That in clause 27 in the proposed section 83(2)(a), for the word "twenty" the word "ten" and for the word "three" the word "two" shall be substituted.

‡ 58. Mr. Baidyanath Mookerjee to move :—

That in clause 27, in the proviso to the proposed section 83(2) (b), for the words "in like manner on the basis of the rent existing when the entire tenancy was lost" the following words shall be substituted, namely :—

"at the rate at which similar lands are assessed to rent in the same mauza or in the neighbouring mauzas at the time of reappearance of the said land",

নীচে খাকা জমি কোন রকম আবাদ করিতে পারেনা। তাহার উপর আবার ঐ জমির খাজানা আদায় করা হইবে। মিষ্টার ফকরুদ্দিন আলী আহমদ সাহেব যে ভাবে বলিতেছেন তাহা হইতে বুঝিতে পারিতেছি যে জমি নদী গর্ভে বিলীন হইয়া গেলে এবং তাহাতে fishery right জমিদারের খাকার দরুণ বহু টাকা আদায় করিলেও প্রজার খাজানা দেওয়া কর্তব্য। আমার মতে ইহা অত্যন্ত অন্যায়। যতদিন পর্য্যন্ত ঐ জমি পুনরায় পরিস্কার না হয় ততদিন পর্য্যন্ত সম্পূর্ণরূপে খাজানা রেহাই দেওয়া গভর্ণমেন্টের কর্তব্য এবং প্রত্যেক মেম্বারের ইহা সমর্থন করা কর্তব্য।

[Here Mr. Fakhruddin Ali Ahmed asked for permission to explain his speech to Maulana Abdul Hamid Khan in Hindustani. He was given the permission, and explained his speech in Hindustani, and Maulana Abdul Hamid Khan also explained his speech to Mr. Fakhruddin Ali Ahmed in the same language.]

**The Hon'ble the SPEAKER:** In clause 27 there are other amendments, but this amendment is for the deletion of that clause, so I am not going to put this question now, because I am thinking of the procedure to follow. The question that strikes me is this that if this question is lost then practically the House holds that the clause remains, and if the clause remains whether the other amendments are in order or not and whether I should allow other members to move other amendments to the clause. So I shall now take up clause 28.

**Mr. BAIKYANATH MOOKERJEE:** Mr. Speaker, Sir, I beg to move: "That for clause 28 the following shall be substituted, namely:—

28. In sub-section (2) of section 84 of the said Act the 'comma' after the word 'sal' shall be substituted by a 'full stop' and the subsequent words 'or *sisu*' shall be deleted."

Clause 28 of the Bill wants to give the occupancy tenant full dominion over all trees including *sal* and *sisu*. I want to give tenants full dominion over all trees excepting right to sale of *sal* trees. It will in effect give them no material benefit, but will do immense harm to the proprietors and permanent tenure holders. *Sal* trees do not grow on all lands. They require a particular kind of soil for their growth and they require at least 50 to 60 years to mature. In most of the lands, except in forest area settled with tenants, *sal* trees do not grow at all. Even if they grow, how many tenants—actual tillers of the soil I mean—can keep their lands uncultivated for 50 or 60 years and allow *sal* plants to grow and mature so that their grand-children or great-grand-children may derive the benefit out of them? Sir, excepting for a very few big tenants, it will confer no benefit—and certainly not to the actual cultivators of the soil—and will mean considerable loss to the landlords. In forests in between the existing *sal* areas there are cultivable lands, and for the well-being and protection of their forests the landlords will have to exclude those areas from settlement with tenants, with considerable loss to them. So, Sir, I think after consideration of the points I have advanced, my amendment will be accepted by the House.

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

"That for clause 28 the following shall be substituted, namely:—

28. In sub-section (2) of section 84 of the said Act the 'comma' after the word 'sal' shall be substituted by a 'full stop' and the subsequent words 'or *sisu*' shall be deleted."

**\*Mr. FAKHRUDDIN ALI AHMED:** Sir, this is a very small matter and I personally see no reason why these particular members should be excluded from the rights which have been extended to the tenants. For this reason I oppose the amendment of my friend Mr. Mookerjee.

**Maulana ABDUL HAMID KHAN:** Mr. Speaker, Sir, প্রজা নিজের জমিতে নিজে গাছ রোপণ করিয়াও তাহা কর্তন করিতে পারেনা। এই বিংশ শতাব্দীর যুগে এরূপ একটা অন্যায় ব্যবস্থা যে জমিদারগণ করিতে পারেন আমার মনে হয় যে সম্বন্ধে তাহাদের এরকম প্রজাবাৎসল্য উচ্ছেদ হইবে। জমিদার প্রজার পিতৃতুল্য সর্বদাই তাহারা দাবী করিয়া থাকেন। প্রজার ন্যায়সম্বৃত দাবী এরূপ ভাবে লঙ্ঘন করার কোন যুক্তি সম্বৃত কারণ থাকিতে পারেনা। আমি আশা করি মিষ্টার মুখার্জি তাহারা নিজ কর্তব্য জ্ঞানে প্রজার প্রতি লক্ষ্য রাখিয়া তিনি নিজেই এই amendment withdraw করিবেন।

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** Sir, I oppose this amendment.

**Mr. BAIDYANATH MOOKERJEE:** As my hon. friend the Maulana has requested me to withdraw, I withdraw the amendment.

The amendment was, by leave of the House, withdrawn.

**The Hon'ble the SPEAKER:** The question is that clause 28 stands part of the Bill.

The question was adopted.

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** I beg, Sir, to move.

"That in clause 30, for the figure "X" occurring in the first line, the figure "IX" shall be substituted.

Sir, this was a mistake in the original Bill itself. It is only to rectify a verbal mistake that this amendment is moved:

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

"That in clause 30, for the figure "X" occurring in the first line, the figure "IX" shall be substituted."

(After a pause)

The motion was put and adopted.

**Mr. BAIDYANATH MOOKERJEE:** Sir, I beg to move:

"That in clause 30, in the proposed section 95A (1), for the words and figures '2nd March, 1939' the words and figures '1st April, 1937' shall be substituted."

Sir, considering the present economic condition of the country it was thought proper that certain provisions relating to enhancement of rent should remain suspended for ten years. The question is, from which date this period of ten years will begin. Clause 30 lays down that it will begin on the 2nd March 1939. The Goalpara Tenancy (Amendment) Bill, 1938, introduced by the then Hon'ble Minister, Sriyut Rohini Kumar Chaudhuri, provided that this period of ten years would begin on the 1st of July 1938. Section 75A of the Bengal Tenancy Act lays down that this period of ten years should begin on the 27th August 1937. My amendment wants that this period of ten years should commence from the 1st April 1937, the date on which the new Reforms came into being. Because ever since the new Reforms came into force, this proposal of suspending the provisions of enhancement was deemed so proper that I think it desirable that this period of ten years should begin on that date and the commencement of this period should not change with each new Bill that has hitherto been introduced or may be introduced hereafter. I hope the Hon'ble Revenue Minister will accept my amendment.

**The Hon'ble the SPEAKER:** Amendment moved: "That in clause 30, in the proposed section 95A(1), for the words and figures '2nd March 1939' the words and figures '1st April 1937' shall be substituted."

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** I am sorry, Sir, that I cannot accept this amendment. The effect of this amendment will be to reduce the period of relief given from 10 years to 8 years.



**Mr. FAKHRUDDIN ALI AHMED:** Sir, I had thought that my hon. friend Mr. Mookerjee, was against prospective effect. Would it not have the effect of giving retrospective effect, if his amendment is accepted? I do not know why he has chosen 1st of April 1937. Does he want to identify this Bill with the blessed Provincial Autonomy, and that the tenant should get relief from that particular date and not from another date? I think, Sir, the date 2nd March 1939, is a proper date, because on that date the Bill was published under rule 51 and the period of ten years, as provided under this clause, should run from that date.

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

"That in clause 30, in the proposed section 95A(1), for the words and figures '2nd March, 1939' the words and figures '1st April, 1937' shall be substituted."

The motion was negatived.

**Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I beg to move:—"That in clause 30, the proposed sub-section (4) of the proposed section 95A shall be deleted".

Sir, the purpose of this amendment is to restore clause 30 of the Bill to the shape as it was sent to the Select Committee. I should like the hon. members to read the amendment made by the Select Committee as sub-clause (4) in clause 30 of the Bill. It runs—"All enhancements of rents made by the landlords since the year 1906 till 1937 are hereby declared to be cancelled and the rates of rent brought down to the level of 1906". Sir, I do not know what attitude my Hon'ble friend the Revenue Minister would take with regard to this amendment. But when I was in charge of this Department, I tried to find out if any record of the rates of rent or of the prices for 1906 were kept, but I could not get such figure from any quarter whatsoever. If such is the difficulty, I do not know how can we agree to have a provision which will in effect be inoperative, that is to say how will it be possible to reduce the rent to the rates that were prevailing in 1906. The amendment of the Select Committee seeks to provide that rent should be fixed at the rates prevailing in 1906. Will not the Government find it difficult to determine rents under this sub-clause and will it not give an encouragement to the tenants to refuse the payments of rents to the Zemindars? Sir, it will be impossible either for the tenants or for the Government to have the figures about the rates of rent which were prevailing in 1906 and as such, I think, it was very unreasonable on the part of the Select Committee to have taken an arbitrary date. It is also very unfair to the Zemindars that such a provision should be included there. It will be of no use to the tenants because they cannot and will not get any relief under it when the figures are not available. I hope, Sir, that these few words have demonstrated the injustice done to the Zemindars and also the unreasonable attitude of those who put forward this amendment before the Select Committee. I hope the hon. members will accept the amendment which I have now moved before the House.

**The Hon'ble the SPEAKER:** Amendment moved: "That in clause 30, the proposed sub-section (4) of the proposed section 95A shall be deleted".

(After a pause)

The motion was put and adopted.

**Mr. BAIDYANATH MOOKERJEE:** Mr. Speaker, Sir, I beg to move: "That in clause 30, the proposed section 95B shall be deleted".

The proposed new section is more or less on the lines of section 112 of the Bengal Tenancy Act. It seems that this is not the proper place in which

this section is to be inserted. It has been stated in the Bill that at the end of chapter X a certain section shall have to be inserted as section 95B ; but so far as the Act itself is concerned, even chapter X begins with section 96. So this section will be out of place in the amending Act.

**Mr. FAKHRUDDIN ALI AHMED :** That has been modified by the Hon'ble Revenue Minister by changing X into IX and this should cover the objection raised by my hon. friend Mr. Mookerjee.

**Mr. BAIDYANATH MOOKERJEE :** In that case, it covers the objection.

**The Hon'ble the SPEAKER :** Then the hon. member is not going to move it.

**Mr. BAIDYANATH MOOKERJEE :** No, Sir.

**Mr. FAKHRUDDIN ALI AHMED :** Sir, under this clause I have an amendment of a very minor nature, *i.e.*, No. 64A.

**The Hon'ble the SPEAKER :** Was it subsequently sent ?

**Mr. FAKHRUDDIN ALI AHMED :** Yes, Sir. It is within three days from to-day.

**The Hon'ble the SPEAKER :** Very well, I allow it.

**Mr. FAKHRUDDIN ALI AHMED :** I beg to move: "That in sub-sections (1) and (2) of the proposed section 95B sought to be inserted by clause 30, for the word 'may' occurring in the first line the word 'shall' be substituted".

The purpose of the amendment is to make it mandatory for the Government to make an enquiry. The amendment may therefore be accepted by the House.

**The Hon'ble the SPEAKER :** Amendment moved: "That in sub-sections(1) and (2) of the proposed section 95B sought to be inserted by clause 30, for the word 'may' occurring in the first line the word 'shall' be substituted."

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN :** I have no hesitation in accepting this amendment.

The amendment was then put and adopted.

**The Hon'ble the SPEAKER :** Three amendments to clause 30 have been carried.

The question is that clause 30, as amended, stands part of the Bill.

The question was adopted.

**Mr. BAIDYANATH MOOKERJEE :** Mr. Speaker, Sir, I beg to move :

"That clause 31 shall be deleted "

This clause and also the clauses 32A and 33 unnecessarily take away the power of the Court vested in them by sections 140, 141, 142, 143 and 148 of the Goalpara Tenancy Act. Sir, it is regrettable that the hon. members of the Select Committee who amended this clause in the way they did could not trust the Judiciary of the power they so long enjoyed under law. This growing tendency of want of confidence in the Judiciary is not only deplorable but is fraught with grave consequences. Sir, the last Congress-Coalition Ministry fully realised the consequence of this amendment in the Select Committee and we find that hon. Mr. Fakhruddin Ali Ahmed, the former Revenue Minister, in his note of dissent on this clause says that the amendment made by the majority members of the Committee are calculated to harass the landlords and facilitate litigation. I hope, the present Revenue Minister and the hon. members of this House will realise the truth of the observation of the former Revenue Minister and accept the amendment of this clause. I may mention for the information of the House that provisions similar to those contained in sections 140, 141, 142, 143 and 148 of the Goalpara Tenancy Act exist in the Bengal Tenancy Act,

Sylhet Tenancy Act, Bihar and Orissa Tenancy Act and also in the Assam Temporarily-Settled District Tenancy Act. Why then shall this discrimination has been made in the case of Goalpara? Sir, I hope, the hon. members will give proper consideration to the point I have raised and will accept my amendment.

**The Hon'ble the SPEAKER:** Amendment moved: "That clause 31 shall be deleted."

The amendment No. 66\* stands in the name of Mr. Fakhruddin Ali Ahmed. Will he move it?

**Mr. FAKHRUDDIN ALI AHMED:** Yes, Sir.

**The Hon'ble the SPEAKER:** I shall allow him to move it.

(Here the clock struck 4 p.m.)

**Maulavi MUHAMMAD AMJAD ALI:** Mr. Speaker, Sir, we have got many amendments still and I think the time should be extended by another hour.

**The Hon'ble the SPEAKER:** I think, we shall be able to finish it by to-morrow.

**Mr. FAKHRUDDIN ALI AHMED:** I beg to submit that the hon. member who wants to sit for a longer period is having a complete rest, but I have been subjected to a great strain and I think I shall not be able to sit after 4 p. m. I hope, Mr. Amjad Ali will take this fact into consideration.

**The Hon'ble the SPEAKER:** The Chair also feels the pinch of it.

### Adjournment

The Assembly was then adjourned till 11 a.m. on Tuesday, the 19th November, 1940.

SHILLONG:

A. K. BARUA,

The 2nd January, 1941.

Secretary, Legislative Assembly, Assam.

\*66. Mr. Fakhruddin Ali Ahmed to move:—

That for clause 31, the following shall be substituted, namely:—

"31. In sub-section (1) of section 140 of the said Act for the words 'the amount' the words 'such amount, as the Court may fix not exceeding half the amount' shall be substituted".

