



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 at the Assembly Chamber, Shillong, at 11 A.M. on Tuesday, the 19th November, 1940.

Present

The Hon'ble Mr. Basanta Kumar Das, Speaker, in the Chair, the ten Hon'ble Ministers and 83 members.

QUESTIONS AND ANSWERS

STARRED QUESTIONS

(to which oral answers were given)

Appointments made without consulting Public Service Commission

Mr. BAIDYANATH MOOKERJEE asked :

*97. Will Government be pleased to state—

- (a) If any appointments have been made by this Government since their assumption of office under any special provision of the Government of India Act without consulting the Public Service Commission ?
- (b) If so, under which provision or provisions ?
- (c) What are those appointments and what are the names of persons appointed ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

97.(a) & (b)—The provisions of the Act in regard to the consultation of the Commission on appointments are in Section 266 (3) (a) and (b), which apply subject to regulations made by the Governor in his discretion. Government are unaware of any special provisions of the Act for making appointments without such consultation except to those services or posts which the Governor in his discretion orders to be made without such consultation.

(c)—Appointments to Class III of the School Service and to the subordinate ranks in the Police Service are made without consulting the Public Service Commission. Two posts of Assistant Publicity Officers were filled up without reference to the Public Service Commission, on approval of His Excellency the Governor.

They are (1) Srijut Ganga Ram Chaudhuri, B. L.

(2) Babu Sukumar Chandra Dutta, M. A.

Number of girls at the Gauhati and the Sylhet Women's Colleges

Mr. BAIDYANATH MOOKERJEE asked :

*98. Will Government be pleased to state the number of girls receiving instruction at the Gauhati Women's College and the Sylhet Women's College respectively ?

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

98.—Sixteen and forty-six respectively.

Sanskrit College Hostel at Sylhet

Mr. BAIDYANATH MOOKERJEE asked :

*99. Will Government be pleased to state—

(a) What are the present arrangements for the supply of pure drinking water to the Sanskrit College Hostel at Sylhet ?

(b) Whether Government is aware of the inadequate water-supply at the Government Sanskrit College Hostel ?

(c) If so, what steps are contemplated to improve the water-supply in that compound ?

*100.(a) Are Government aware of the insanitary nature of the Pandits' quarters in the Sanskrit College compound at Sylhet ?

(b) Are Government aware that the accommodation in these quarters is insufficient ?

(c) If so, will Government be pleased to state if there is any scheme for the improvement of the same ?

† Reply was given by the Hon'ble Prime Minister on behalf of the Hon'ble Srijut Rohini Kumar Chaudhuri who was not present in the House at that time.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

99.(a)—At present the Sanskrit College Hostel at Sylhet gets its supply of pure drinking water from the municipal pipe connection.

(b)—Yes.

(c)—A proposal for sinking of a tube well for the adequate supply of water to the Hostel attached to the Sanskrit College, Sylhet, is under consideration.

100.(a)—No.

(b)—No.

(c)—Does not arise.

Sanskrit College and Hostel at Sylhet

Mr. BAIDYANATH MOOKERJEE asked :

*101.(a) Is it a fact that there is no arrangement for the lighting of the compound of the Sanskrit College and Hostel ?

(b) If so, do Government propose to take early steps to remove this inconvenience ?

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

101.(a)—Yes.

(b)—The Executive Engineer has been asked to prepare plans and estimates.

Appointments in the Education Department by Valley basis

Babu SHIBENDRA CHANDRA BISWAS asked :

*102. Will Government be pleased to state—

(a) What is meant by the term "Valley basis" used in connection with promotions made recently in Classes I and II of the Education Department ?

(b) Whether it is identical with Linguistic basis ?

*103. Will Government be pleased to state the reasons underlying the promotions recently made in Class II of the Assam School Service by transferring Bengali-speaking officers from the Assam Valley to the Surma Valley vacancies ?

† Reply was given by the Hon'ble Prime Minister on behalf of the Hon'ble Srijut Rohini Kumar Chaudhuri who was not present in the House at that time.

*104.(a) Have Government followed any principle of discrimination between Assamese and Bengali-speaking officers of the Education Department ?

(b) If so, do Government propose to abandon that principle ?

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

102.(a)—The divisional basis is meant by the term referred to in the question.

(b)—Yes, to a very large extent, in view of the vernacular becoming the medium of instruction.

103.—The desire of Government to improve educational facilities by way of imparting of education through the mother tongue of the majority of the school-going pupils in the Assam Valley.

Maulavi Dewan MUHAMMAD AHBAB CHAUDHURY : Is it a fact that there is not a single Muhammedan teacher in Class II of the Assam School Service ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : I have no information.

Maulavi Dewan MUHAMMAD AHBAB CHAUDHURY : Will the Hon'ble Minister take it from me that there is not a single Muslim teacher in that class ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Very well, Sir, I accept that statement of my hon. friend.

Maulavi Dewan MUHAMMAD AHBAB CHAUDHURY : Will Government consider the question of appointing a Muslim teacher in that class when a vacancy occurs ?

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

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

104.(a)—There has been no question of discrimination between Assamese and Bengali-speaking officers. The interests of the students have precedence over those of officers.

(b)—Does not arise.

UNSTARRED QUESTIONS

(to which answers were laid on the table)

(Further Supplementary questions on unstarred question No.159.**)

† Reply was given by the Hon'ble Prime Minister on behalf of the Hon'ble Srijut Rohini Kumar Chaudhuri who was not present in the House at that time.

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.

Maulavi Dewan MUHAMMAD AHBAB CHAUDHURY: Are Government aware that an influential section of the Muslim community are against deprovincialisation of Government High Schools ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: As I said yesterday, the question has not yet been examined. The opinion which has been just expressed will be taken into consideration. I will try my best to examine the question before the next session of the Assembly.

Srijut GAURI KANTA TALUKDAR: May I know from the Hon'ble Minister when the proposed examination is likely to be taken up ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: I have already answered the question.

Srijut GAURI KANTA TALUKDAR: Who will be entrusted to examine this question ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Government will consult Educational officers.

Srijut GAURI KANTA TALUKDAR: Has anybody been entrusted with the work of examination ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: No, Sir.

Srijut GAURI KANTA TALUKDAR: How then are Government examining the question ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Government will consult educational officers and if it is considered necessary it will also consult educationists of the Province.

Srijut GAURI KANTA TALUKDAR: Has not this question of deprovincialisation been raised since 1937 ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: This question was brought to the notice of Government in 1937.

Srijut GAURI KANTA TALUKDAR: May I know why Government did not take the matter into consideration so long ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: There are various aspects of the question. This question is not considered to be urgent in view of the fact that we have one school in each subdivision. Such schools which are maintained by Government should be a model of other high schools. As a matter of fact there is yet a subdivision where we have not got a Government school.

Srijut GAURI KANTA TALUKDAR: The question is not whether there are schools or not. This matter has been raised by several members of the House. Why has no action been taken so long ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Since we took office this question has not been raised in this House—I mean since I took up the education portfolio.

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI replied :

160.—Government is quite alive to the desirability of improving the pay and prospects of the teachers and have from time to time increased grants-in-aid which enables schools to increase the salaries of teachers when necessary and will follow this method of making such increased grants, funds permitting.

Changes in the system of Chaukidari administration of the Goalpara, Sylhet and Cachar Districts

Babu KARUNA SINDHU ROY asked :

161. Will Government be pleased to state if any scheme has been formulated for making changes in the present system of Chaukidari administration of the Goalpara, Sylhet and Cachar districts, as stated in reply to my unstarted question No. 62, asked in the August-September Session of the Assembly, 1937 ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

161.—Not yet. Government are however still studying the question, and hope soon to formulate conclusions as to the possibility of effecting improvements without large expenditure.

Mechpara Ward's Estate

Kumar AJIT NARAYAN DEV asked :

162. Will Government be pleased to state—

- (a) Under what section of the Court of Wards Act, did Government take up the management of the Mechpara Estate ?
- (b) Whether the proprietors of the said Estate were declared insane, minors, or disqualified by any Court of Law ?
- (c) If it is a fact that the Government took up the management of the Estate only for joint management, and that the Court of Wards is the common Manager ?
- (d) If so, will Government be pleased to state the reason why the proprietors are not consulted by the Manager or the Court of Wards' authorities in the affairs of the management of the Estate ?

163. (a) Is it a fact that the Officers of the Mechpara Court of Wards are provided with family quarters ?

(b) If so, will Government be pleased to state whether any deduction is made from the pay of the officers who are supplied with quarters, as house rent ?

(c) If not, why not ?

164. (a) Is it a fact that the Katchary and the Bazar at Zamadar Hat belonging to the Mechpara Estate are going to be transferred to some other place ?

- (b) If so, will Government be pleased to state—
- (i) The probable cost of such transfer ?
 - (ii) The name of the place selected for the new site ?
 - (iii) If the new site has been recommended by the Deputy Commissioner or by the proprietors ?
 - (iv) If the convenience of the tenants was consulted in selecting the new site as a more suitable one than any other site suggested by any one concerned ?
 - (v) Whether any other site has been selected by the proprietors or anyone concerned ?
 - (vi) If so, what will be the cost of removal to the place suggested by the proprietors ?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN
replied :

162. (a)—Section 35 of the Bengal Court of Wards' Act, IX (B.C.) of 1879, under the direction of the District Judge under section 95 of the Bengal Tenancy Act, 1885 (VIII of 1885).

(b)—No.

(c)—No.

(d)—Does not arise.

163. (a), (b) & (c)—Enquiry will be made.

164. (a)—Yes.

(b) (i)—The information is not available as the estimate has not yet been framed.

(ii)—Berkakali.

(iii), (iv) & (v)—The Court of Wards after considering all aspects of the case decided to shift to Berkakali as the best place in the interest of all concerned.

(vi)—The information is not available as the estimate has not yet been framed.

Lands belonging to the Baneswar and the Pingoleswar Temples

Srijut SIDDHI NATH SARMA asked :

165. Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

- (a) Whether it is a fact that the sale of temple lands belonging to the Baneswar Temple and the Pingoleswar Temple in the subdivision of Gauhati, has been stayed on the representation of Srijut Shib Ram Dutta of Baihata, submitted on the 16th September 1940, on behalf of the Hindu public of the locality ?

(b) If so, what steps, do Government propose to take in this matter ?

166. Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if it is a fact that the Deputy Commissioner is not entitled to sell temple lands in Revenue-sales under section 70 of the Land and Revenue Regulation ?

167. Will the Hon'ble Minister in charge of the Revenue Department be pleased to state the total amount of arrears of land revenue of the temple lands in the district of Kamrup from 1339 B.S. up-to-date, temple by temple and year by year ?

168. (a) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state whether Government have given effect to the Resolution passed in the Assam Legislative Council in 1938, moved by Mr. Satyendra Mohan Lahiri, M.L.C., recommending the mutation of names of trustees of endowed properties (*Dharmottar* and *Pirpal* lands) ?

(b) If not, why not ?

169. If the reply to question No. 168(a) above is in the affirmative, will Government be pleased to state whether the Temple Officer recently appointed by Government would take action in this matter ?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN replied :

165. (a)—Yes.

(b)—The matter is still under consideration.

166.—No. As a matter of public policy, however, Government abstain from selling the estates belonging to a Temple or Satra for the realisation of revenue.

167.—The information is not available. The Pingoleswar Doloi, however, has been in arrears for the last eight years and the amount outstanding against him is now Rs. 4,815 against an annual demand of Rs. 662.

Srijut SIDDHI NATH SARMA : Will the Hon'ble Revenue Minister be pleased to state the reasons why the information sought for is not available ? Is it impossible to obtain the information ?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN : At the short time at our disposal it had not been possible to collect the information.

Srijut SIDDHI NATH SARMA : Will the Hon'ble Minister obtain and supply this information ?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN : Yes, if the hon. member so desires.

Srijut SIDDHI NATH SARMA : Yes, I desire.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN replied :

168. (a), (b) & 169.—Government have sanctioned preparation of record-of-rights in respect of all temple lands in the district of Kamrup. The Special Officer entrusted with the work will collect all materials necessary to enable Government to sponsor some legislation to safeguard the interest of both the temples and Government revenue.

Second Assistant Publicity Officer

Srijut SARVESWAR BARUA asked :

170.(a) Is it a fact that the post of a Second Assistant Publicity Officer has been created by the Government ?

1940] RE: DISPOSAL OF SYLHET TENANCY (AMENDMENT) 1545
BILL, 1939

(b) If so, at what pay and what is the scale of pay fixed for the post ?

171. Will Government be pleased to state—

(a) Why no provision for it has been made in the budget ?

(b) Whether Babu Sukumar Chandra Datta, son of Babu N. K. Datta, representative of the *Statesman*, has been appointed to the post ?

(c) If so, what are his qualifications for the post ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

170.(a)—Yes.

(b)—At Rs.75 for the present, fixed pay.

171.(a)—The necessity was not foreseen at the time of framing the budget but in actual working it was found that an important part of the duties of the Publicity Office would be the supply of publicity material to both Assamese and Bengali periodicals, and in order that the staff might not be needlessly increased by the addition of translators it was found convenient that one Assistant should be competent in Assamese and another in Bengali.

(b)—Yes.

(c)—He is an M. A. and has had journalistic experience.

Re Disposal of the Sylhet Tenancy (Amendment) Bill, 1939, within the current session and complaint for non-receipt of answers to certain questions.

Maulavi ABDUR RAHMAN: Mr. Speaker, Sir, before we enter into to-day's business, may I again remind the Chair about the Sylhet Tenancy Bill ? The other day I brought the matter to the notice of the Chair and you were pleased to say that you would try your best to finish that Bill during the course of this session. But from the procedure adopted during the last two days with regard to the Goalpara Tenancy (Amendment) Bill, we apprehend that the Sylhet Tenancy (Amendment) Bill would not be passed during this Session. If the Goalpara Tenancy (Amendment) Bill is passed and the Sylhet Tenancy (Amendment) Bill remains pending, there will be great agitation among the peasants in the Sylhet district and our position will be very bad. May I suggest that you will be pleased to make a special arrangement for the disposal of this Bill, either by holding the sitting to-morrow or by sitting late hours during the next few days ?

The Hon'ble the SPEAKER: The hon. member perhaps realises that I am as anxious as he is to have that Bill passed. But I don't know whether it would be possible during the remaining days of the Session to dispose of that Bill. As to whether the Assembly should sit to-morrow, it depends upon the House to decide. Under the Rules Wednesday has been fixed a holiday. I think this point cropped up once before and the House was unwilling to sit on a holiday. I don't know whether the House would revise that opinion now and agree to sit on a day which has been fixed by the Rules as a holiday. As for sitting late hours on other days, I have no objection if the House chooses to do so, and the House will have to decide the question whether by sitting late hours on the remaining days of the Session and also dispensing with the holiday to-morrow it would be possible to finish the Sylhet Tenancy (Amendment) Bill. I leave everything to the House. It may decide in any way it likes. I am only to carry out its wishes.

Srijut GAURI KANTA TALUKDAR : On a point of information, Sir. I submitted a large number of questions, both starred and unstarred, but excepting one minor question I have not got replies to my questions. I enquired at the Assembly Office and they told me that replies had not been sent by the Government.

The Hon'ble the SPEAKER : It depends upon Government as to which question they should answer. Of course I may ask them to expedite replies to the pending questions.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Mr. Speaker, Sir, we are trying our best to do that. I do not know about the questions referred to by my hon. friend, whether they relate to Home Department, or Finance Department, or Education Department or any other Department. So far as I am concerned no questions are pending. I am submitting replies as often as I am getting questions.

Srijut GAURI KANTA TALUKDAR : My questions related to several Departments.

Supplementary demands for grants

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs.1,00,000 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head "63.—Extraordinary charges."

The Hon'ble the SPEAKER : In order to enable me to put all outstanding questions, at the close of the hour, to vote, I think all the demands should be moved by the Hon'ble Ministers and the debate may proceed, because a particular demand is likely to take up the whole time. If that is done, all the questions will be before the House and I may put them at the close of the hour. So, I would ask all the Hon'ble Ministers to move the motions standing in their names.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Very well, Sir. On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that a sum of Rs.3,350 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head "4.—Taxes on Income other than Corporation Tax."

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN : On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs.10,785 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head "7.—Land Revenue."

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI : On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs.66,457 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head "37.—Education."

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY : On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs.2,200 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head "38.—Medical."

The Hon'ble Maulavi MUNAWWAR ALI: On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs. 4,260, be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head "40.—Agriculture."

The Hon'ble Miss MAVIS DUNN: On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that a sum of Rs. 31,383, be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941; for the administration of the head "43.—Industries."

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: On the recommendation of His Excellency the Governor of Assam, I beg, Sir, to move that an additional sum of Rs. 7,000 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head "50.—Civil Works (excluding Tools and Plant and Establishment)".

The Hon'ble the SPEAKER: I shall now place the motion moved in connection with demand No. 8, *i.e.*, 63.—Extraordinary charges. The motion moved:

"That an additional sum of Rs. 1,00,000 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head 63.—Extraordinary charges."

There are six cut motions standing in the names of six hon. members. They are all motions for refusal of the whole Grant. They may move either all these six motions or they may speak on the whole grant. This will come to the same thing.

Babu KAMINI KUMAR SEN: Sir, I rise on a point of order with regard to demand No. 8. My contention is, firstly, that this is a grant which is not authorised and not even contemplated by the provisions of section 150 of the Government of India Act. Secondly, that this grant cannot come in the way of a supplementary demand under section 81. Thirdly, that the grant is defective in form too.

With regard to my first contention, Sir, I would refer to the statement that has been made by the Hon'ble Premier a few days ago in this connection as well as the explanatory note that has been attached to this particular demand. The Hon'ble Premier has told us in his statement that this grant would give no material help to the British Government in view of the fact that they have to spend more than 9 crores of rupees a day for prosecuting the war; this will be a very insignificant amount in consideration of their daily expenditure, but it is only with the purpose of showing the moral support of the Government of Assam that this grant has been made. He has also told us that the money has been transmitted to the British Exchequer in the month of July. Now, Sir, I contend that these are no grounds under which a grant can legally be made under section 150. I shall first read section 150(1) to explain my contention. It runs thus:—

"No burden shall be imposed on the revenues of the Federation or the Provinces except for the purposes of India or some part of India."

Now, Sir, I would draw your attention to the words 'for the purposes of India or some part of India'. It seems clear to me from the wordings of this section, Sir, that a grant, if it is to be legal under section 150(1) must

be such as will confer some material benefit or do some direct good to India or some part of India. But a grant made without hope of any tangible benefit for India but merely as a token of moral support cannot certainly be contemplated by this section.

Sir, this was absolutely a voluntary gift without any condition whatsoever. So from a gift like this which is meant only for the purpose of showing moral support, no material benefit can be derived to India or any part of India neither any was also expected. Therefore I submit, Sir, that the grant cannot be made under the section, I have already referred to. Now in this connection I may also draw the attention of the House that other provinces in India have not made any such grant—not even the Government of India. Even the provinces, where the administration is being carried on by the Governors themselves have not made such a grant. If it was legal, Sir, certainly, I cannot imagine that other provinces, not even the Government of India, who are no less enthusiastic to help in the prosecution of war would not think of making such a contribution. Moreover, Sir, the moral support might have been shown even by making a grant of lesser amount than one lac of rupees. But, Sir, other provinces who are financially much better off have not done it and I think, Sir, it is due to the fact that they could not see the legality of making a grant like this.

Now, Sir, the Hon'ble Premier has further said that unless British Government wins the war, it will mean disaster for the whole of India. But mere victory by the British Government cannot automatically result in any tangible benefit to India and the grant also was not made with any such condition. Moreover, Sir, because that particular amount has been granted by the Assam Government. I am sure, Assam will not get more benefit than other provinces in India. If out of their gratitude the British Government confers Dominion Status on India after the war, can we take it that Assam will get a better or higher status than other provinces because they have made a grant? So, Sir, Assam gets nothing tangible for this grant and as such by no stretch of imagination it can be said that it has been for any part of India even.

Now, Sir, if the Hon'ble Premier or his Cabinet has made the grant for the defence of India, it might have been contended with some reason that this grant has been made for the purpose of India. But they have made the grant unconditionally and sent the money to the British Exchequer to be spent for general war purposes. Then again the question arises whether the grant even for the defence of India is legal under this section. Supposing for argument's sake, I take it that the grant was made for defence of India, I still doubt the legality of that even. I think, Sir, the words "for the purposes of India" refers to expenditure incurred by the Federation and the words 'some part of India' to the provinces. My contention, Sir, is that the province is not entitled to make any grant which is for the purposes of India. A province has to incur an expenditure which will be beneficial only for that province itself. We are told, Sir, that the provinces have been made autonomous by the Government of India Act. If this is so, Sir, it can never be expected that one province will have to spend for the benefit of other provinces. I do not think that it was ever contemplated that Assam will incur expenditure for the benefit of Bengal or Bengal will make a grant for the benefit of Bihar or Assam will take up the responsibility of spending its revenues for the whole of India. The Government of India is there to look to that. So I maintain, Sir, that by the words 'the purposes of India' it means that grants that will be made by the Federation will have to be for the benefit of India and 'part of India' is meant for the grant that will be made by provinces. My contention therefore is that this grant which is an unconditional gift is not

for the purposes of India or part of India and even if this grant is made for the defence of the whole of India and Assam gets no special benefit for it, it cannot make any such grant. Now, Sir, that this contention of mine is correct will also be clear if I refer to some of the sections of the Government of India Act, 1919.

I refer Sir, to sections 20 and 22 of the old Act. The section 150 of the present Act reproduces the provisions of section 20 of the Government of India Act of 1919 under which the revenues of India were to be applied for the purposes of India alone. In particular, provision was made by section 22 which runs as follows :—

“22.(1) Except for preventing or repelling actual invasion of His Majesty’s Indian possessions, or under other sudden and urgent necessity, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defraying the expenses of any military operations carried on beyond the external frontiers of those possessions by His Majesty’s forces charged upon those revenues”.

“(2) Where any naval forces and vessels raised and provided by the Governor General in Council are in accordance with the provisions of this Act placed at the disposal of the Admiralty, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defraying the expenses of any such vessel or forces if and so long as they are not employed on Indian national defence”.

So it is clear from these sections of the old Act that unless there is actual invasion of India no revenues of the provinces or of the Central Government could have been spent for the purpose of any military operations outside the external frontier of India.

Now, of course, it might be contended that these provisions of the old Act are not reproduced here, but I maintain, Sir, that they flow from the implication of the provision of section 150. On the other hand, I think, and the reputed author of this annotated edition of the Government of India Act agrees with me, that parliamentary sanction by way of resolution would not be sufficient to legalise the utilisation of the revenues of India for other than the purposes of India, though under the old Act that could be done. So, Sir, my contention, as I have already stated, is that this section never contemplated such a grant. It is an absolutely voluntary grant made without any hope of any tangible return and such a grant is not legal under section 150(1), and as I have already said it cannot even be legalized by a resolution of both Houses of Parliament. Besides that, the transmission of the money to the British Exchequer for general war purpose also shows that it is not for the purposes of India. Now if this interpretation of mine is correct, no question of a grant or a supplementary grant arises at all. But if for argument’s sake I take it, that the grant is contemplated by section 150(1) of the Government of India Act, I submit, Sir, that it cannot come in the way of a supplementary grant. Section 81 of the Government of India Act runs thus : “If in respect of any financial year further expenditure from the revenues of the Province becomes necessary over and above the expenditure theretofore authorised for that year, the Governor shall cause to be laid before the Chamber or Chambers a supplementary statement showing the estimated amount of that expenditure, and the provisions of the preceding sections shall have effect in relation to that statement and that expenditure as they shall have effect in relation to the annual financial statement and the expenditure mentioned therein”. Now, I would first draw your attention to the word “necessary”. Now, what is the meaning of the word “necessary”? I have looked into the Webster’s Dictionary to find the meaning of the word

“necessary”. I find there, Sir, “necessary” means indispensable, essential, something which one cannot do without. Now, Sir, can this grant be said to be indispensable, essential, or something which this Government cannot do without? It was a voluntary and unconditional gift. So the grant cannot by any stretch of imagination be said to be indispensable essential or one which one cannot do without—it cannot be said to be an expenditure which the Government of Assam could not have avoided. If other provinces have not made such grants, I think, the Government of Assam could have avoided making such a grant. If other provinces by not making such a grant to the war fund are not treated as disloyal or as friends of the Nazis, I do not see why the Government of Assam can claim that they have any special responsibility in the prosecution of the war and to them it is necessary. I think, the very fact that other provinces have not done so, shows that it was not necessary for them. If it was necessary for the Government of Assam, certainly it would have as well have been necessary for the other provinces and also for the Government of India; but as they have not made such a grant it shows that it cannot be treated as an expenditure which can be taken to be “necessary” only for the Government of Assam.

Then I come to the words “becomes necessary”, but before I come to that I would explain what is a supplementary demand. I think, I would do it better if I refer to a few quotations from reputed constitutional authors which you, Sir, were also pleased to quote in one of your earlier rulings with regard to a supplementary demand. In Campion’s “Introduction to the procedure in the House of Commons” supplementary estimates have been described as estimates supplementary to the main estimates and what is meant by this is explained by Redlich in his book “Procedure of the House of Commons” at page 131, Volume III, where a supplementary grant has been described as a supplementary grant that is required when an estimate already granted for some service or for some special purpose is found to be inadequate or where a sum has been granted and it is found to be too small for the object in view or account where some unforeseen call for expenditure arises during the course of the session. The last contingency most commonly caused by military expedition, naval mobilization and like events; in short, by the demands of the foreign policy. In May’s Parliamentary Practice at page 500 the whole thing has been very succinctly put as follows:—“A supplementary estimate may be presented either for a further grant to a service already sanctioned by Parliament, in addition to the sum already demanded for the current financial year, or for a grant caused by a fresh occasion for expenditure that has arisen since the presentation of the sessional estimates, such as expenditure newly imposed upon the executive government by statute, or to meet the cost created by an unexpected emergency such as an immediate addition to an existing service, or the purchase of land or of a work of art.” So it will be clear from all these that a supplementary grant is a grant or an expenditure which is more or less obligatory and which could not have been avoided by the Government. Otherwise it is essential that the whole supply should be put before the Assembly for a vote *en masse*. In this connection, I would also refer you to a reputed authority,—Col. Durell, who in his book on Parliamentary Grants, Chapter I, page 49 says:—“It is a sound principle that one and only one estimate of national expenditure should be laid before Parliament during each session, for to render Parliamentary control effectual it is necessary that the House of Commons should have the money transactions of the year presented to it in one mass and in one account.

Supplementary estimates are always looked upon with particular jealousy by popular Legislatures because they tend to diminish the control of the Legislature". Reference may be made to the speech of Sir Austin Chamberlain in the House of Commons in 1921 where he described, " 'supplementary estimates' as a weak joint in the armour of any Government."

It will be found, Sir, from all that I have quoted that supplementary estimates should be avoided as far as possible. All expenditure should be normally placed before the Assembly in one mass. It is only in cases where Government is obliged to incur some expenditure which they could not avoid they should come with a supplementary demand. But here Sir, I have already shown that the grant is not at all necessary. It is neither obligatory. Even supposing that showing of moral support was considered necessary, I say that it has not become necessary after the last budget. The war was going on in the month of March, and if the Government of Assam was so eager to show their moral support, they might have come with a demand at the time of their annual budget. But they have not done so. The Hon'ble Premier has said that this grant of rupees one lakh will do no material help in the prosecution of war. If it is only for a moral support, it might have been shown in the month of March when the annual budget was presented. So I say, Sir, it has not been necessary after the last budget sufficiently clear that this grant has not become necessary after the last Budget Session and therefore the provisions of section 81 have not been complied with.

Then, Sir, even on grounds of propriety, this grant cannot be supported. With regard to propriety I do not like to make much comment, because my friends will take that up. But I will only content myself by saying that when it is a voluntary gift, it ought not to have been made in anticipation of the vote of the Assembly, especially when the purpose was only to show moral support. The Hon'ble Premier might have taken the House into his confidence during the last Budget Session, or he might have waited till this session if he was so sure of its legality. But he has made the grant and sent the money to England without consulting the Assembly. So even with regard to propriety, I say, it cannot be justified.

Then I come to the last point, and that is with regard to the form. It seems, Sir, that the extraordinary grant has been put in an extraordinary form and under an extraordinary head. I would refer the Hon'ble Premier to the detailed estimate of the budget that was presented in the last session. There is a head of account "63—Extraordinary charges". Under that, Sir, I find no sub-head as 'Charges in England'. And I have yet to know what is the minor head. I think that the Hon'ble Premier would kindly enlighten us as to the minor head under which this grant is sought to be placed. He has only told us that the sub-head under the supplementary grant would be accounted for by the Finance Department as 'Charges in England'. But it seems to me that it is a mistake, as 'Charges in England' is a minor head and not a sub-head. If it is a sub-head, I should like to know whether the permission of the Auditor General has been taken, because under the rules no sub-head can be added under this minor head without the permission of the Auditor General. So, I submit, Sir, that this is a grant which is extraordinary as a grant, extraordinary as charges and extraordinary in form, and in making this grant the Hon'ble Premier and his Cabinet have ignored the provisions of the Government of India Act, have ignored the principles of making a supplementary demand and last but not

the least have ignored this Hon'ble House (*hear, hear*). I, therefore, maintain Sir, that this grant is also illegal and *ultra vires* and cannot be discussed on the floor of the House to-day.

Srijut GOPINATH BARDOLAI: Mr. Speaker, Sir, I proposed to speak, and I will speak if the subject comes at all over the main motion. But since at present a point of order has been raised I propose to support my hon. friend Mr. Kamini Kumar Sen.

On this point, Sir, I feel it is just necessary for us to know the structure of the Government of India Act, the powers which that Act gives to the Provincial Governments and their relation to the British Government at home. We should remember, Sir, that we do not function here as an individual or even as a collection of individuals, we cannot, even if we wish, make any kind of grant as we like ; but are bound in doing so by the Government of India Act and the procedure prescribed thereunder. The first point is that the Provincial Governments have not been given any right whatsoever under the Government of India Act to make any grant whatsoever in aid of war, or for the matter of that of defence. The Concurrent and Provincial Legislative Lists only show how far the legislative powers of the Provincial Assembly can go. It will be found that in those Lists there is absolutely no reference whatsoever about the powers of the Assembly in this respect. I accept that the hon. members have read the Provincial List and the Concurrent List and then I will go to sub-section (2) of section 150 in order to show that this power of making a grant or a legislation in this respect has not been given to the Provincial Assembly. It might be argued that that disability has been removed by sub-section (2) of section 150, where it is said—"Subject as aforesaid, the Federation or a Province may make grants for any purpose, notwithstanding that the purpose is not one with respect to which the Federal or the Provincial Legislature, as the case may be, may make laws". But it must be seen, Sir, that, although the Ministry, or for the matter of that the Provincial Government, may make grants, they must make them according to section 150. This is clear from the words "subject as aforesaid." And what is this section ? The peculiarity of the wording of the section has to be noted. It is a proposition which is laid down in a negative form in order to show its mandatory character. It does not say that such and such burden can be placed. From the wording of this section it is considered imperative that no burden shall be imposed on the revenues of the Federation or the Province except for the purposes of India or some part of India. The section being so clear, the present point at issue is whether the burden can be imposed on the province. It will be wrong to lay the burden on the Assam Provincial Government if it is not for the purpose of this province. This provision, as I said, is mandatory and we cannot get over it. Is this sum of one lakh of rupees is for the purpose of this province, and whether it is a burden which has been imposed on the people for their good ; in other words, the question that should be determined by the House is whether the defence of Britain can also be called the defence of Assam ? Before I go into the details I want to show that this burden cannot have been imposed on the revenues of the province of Assam. The defence of Britain is very different from the defence of Assam, or even of India and to say that the defence of Britain is the same as the defence of Assam, I submit, is to carry matter too far and is an impossible and untenable position under any circumstances. What is the meaning of defence of Britain, Sir ? What is the detailed and actual meaning of the defence of Britain apart from the defence of India and the defence of Assam ? The defence of Britain, as I understand it, means her defence by army, naval and aerial units and by all other equipments that are necessary for defence. Similarly, defence

of Assam would also mean her defence by similar means. Under no circumstances can the meaning of the words in the first part of section 150 be extended to include expenditure incurred for the defence of Britain to be an expenditure incurred for the defence of Assam. Therefore, Sir, however sentimental we may be and whatever some amongst us may feel, it can have no bearing to actualities with the expenditure incurred.

Then the second point that naturally arises is this: whether even constructively the defence of India or for the matter of that the defence of Assam is so linked that if Britain is no longer there, as an independent nation, India also is no longer there and therefore expenditure for one place is expenditure for another. I submit, Sir, that at most it may be a matter of opinion with some, that it is. But we cannot take away a lac of rupees from the hungry revenue payers, on that opinion alone. But as a fact we can never hold that the defence of India is the same as the defence of Britain. Under the Government of India Act, India is an independent unit of administration. With the fall of Britain, India is an independent hands of the enemy. What has been the position for example in case of France? The French had to admit defeat but the colonies under them are functioning as independent units. Similarly, the Dutch colonies are also functioning as independent units. I beg to submit that we shall still continue to function as an independent unit even if Britain gets defeated in the war and ceases to function as an administrative unit. Therefore, Sir, this payment to British exchequer cannot under any circumstances be construed as becoming a real and necessary expenditure on this province. Therefore, I submit that this grant is such that it cannot come before this Assembly and this Assembly have absolutely no power to vote on this demand. Even if, it were asked to vote, the vote would mean nothing more than the expression of private opinion. It will be simply illegal and unconstitutional if we vote on this measure and decide the matter by votes. With these few words, I support the point of order moved by my hon. friend Babu Kamini Kumar Sen.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:
Mr. Speaker, Sir, my hon. friend Mr. Kamini Kumar Sen has raised three interesting points. The first point of order is his contention that this grant is unauthorised and is not covered by section 150 of the Government of India Act, 1935. The second point is that even if this grant is held to be authorised or within the competence of the Provincial Government, the supplementary demand is untenable, for according to him, the supplementary demand is not necessary as an addition to the demands that were voted on the main budget. And the third point that he has raised is that this supplementary demand is not in proper form. I would take these three different points in the order in which it has been raised before the House. Sir, much that I would have said has already been said by my hon. friend the Leader of the Opposition. He started by saying that we will have to consider the power granted to the Provincial Legislature by reference to the Provincial List. When a definite provision in an Act giving or withholding some power is not repeated in a subsequent amendment of that Act, the construction is that the Legislature has got the power to go beyond the previous Act. He read to the House and went to forestall my arguments by reading sub-section (2) of section 150. Therefore my work has been done by my friend the Leader of the Opposition. Section 150 of the Government of India Act says that no burden shall be imposed on the revenues of the Federation or the Provinces except for the purposes of India or some other part of India. Subject as aforesaid, the Federation or a Province may make grant for any purpose notwithstanding that the

purpose is not one with respect to which this Federal or the Provincial Legislature, as the case may be, may make laws.

The Hon'ble the SPEAKER: What is the meaning of expression "subject as aforesaid" ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I will come to that. Sir, I hope you will allow me to place my case in the way as you have allowed my hon. friends in the opposite.

The learned raiser of this point has placed before the House the earlier Act of 1919 and had read to the House section 22 thereof. It is a well-known principle of law that if in the existing constitution a certain provision restricting a power is there and that in a later modification of that law that restriction is removed, then it will be held that the subsequent constitution gives that power by implication. Now section 22 which he has placed before the House and which I am constrained to place again runs to this effect: "Except for preventing or repelling actual invasion of His Majesty's Indian possessions, or under other sudden and urgent necessity, the revenues of India shall not, without the consent of both the Houses of Parliament, be applicable to defraying the expenses of any military operations carried on beyond the external frontiers of those possessions by His Majesty's forces charged upon those revenues". He has also read the annotation of Mr. Rajagopala Aiyangar in his Book the Government of India Act, where he says "The aforesaid provisions are not reproduced in this Act ...". I lay stress on this portion of the annotation. There was this bar in the earlier Constitution Act of 1919, but that specific provision has been removed under the new Act. Of course, my hon. friend has quoted from the opinion of the annotator who says: "It would further seem from this Act that Parliamentary sanction by way of resolution would not be sufficient".

Babu KAMINI KUMAR SEN: Can the Hon'ble Premier show anything from the discussion of Parliament or from the Joint Parliamentary Report that the old provisions have been left out only for the purpose of removing all these restrictions ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: My hon. friend knows full well that in a court of law he could not go into the discussions leading to the particular section of the Act. Here also I am going by the Act itself, and not by what was stated in the discussion. Sir, my hon. friend wanted you to deduce that such a contribution was *ultra vires* from the fact that other Provincial Governments or for the matter of that, the Central Government have not made any such contribution. He makes a pertinent query that had it been legal they would have also followed the example of Assam. From this he wanted this House to understand that other Provincial Governments have not done this because they found it illegal. Sir, this argument of my hon. friend is tainted with the fallacy which the students of logic know as the fallacy of the undistributed middle. Sir, we made this grant in July last, *i.e.*, at a time when the British Isles were in sore need for aid, material as well as moral. As I mentioned the other day, at the time when the collapse of France and evacuation from Dunkirk took place, the British Government was faced with the dire prospect of an attack from the German hordes. Sir, we made this grant at that time to the British Exchequer. Those hon. members who read newspapers might have seen the press note that appeared in the columns of some newspapers, containing the reply that the Assam Government received from the Secretary of State on this gift. Had this been illegal and beyond the powers of the Assam Government, would they have given us thanks and ... (*loud Opposition laughter.*)

They would have said "we thank you for this gift, but we are not in a position to take it. So we refuse it". We, Sir, at the time when we were making this grant, informed the Government of India. They also found no flaw in our making this gift and they also did not advise.....

Srijut BISHNURAM MEDHI: Will the opinion of the Government of India be placed before this House?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: If my hon. friend does not accept my statement, there is no need to place Government of India's letter. But I, as the Leader of the House, say that the Government of India not only did not say that it was beyond our jurisdiction on the other hand they wanted that the amount should be placed in their hands and not to the British Government.

Sir, from these two circumstances which I have placed before this House, it is apparent that the higher authorities—I refer to the British Government as well as the Central Government—did not think that this grant was beyond the competence of the local Legislature or the Provincial Government. We had consulted our legal expert—the Legal Remembrancer. He has also found no legal difficulty in supporting this measure of the Government. From all these, it will be clearly apparent that there was no difficulty from the constitutional point of view in making this grant.

Sir, you raised by interruption a very interesting point as to the meaning of the words "subject as aforesaid" at the beginning of sub-section (2) of section 150. Now the words "subject as aforesaid" have got reference to sub-section (1) of section 150 and there I read, Sir, that the words "for the purposes of India" are relevant to the point at issue. My hon. friends had tried to argue in a circle. First they say that the defence of England is no concern of this distant province of Assam. Even if it be held that the defence of Britain was the concern of the defence of India, Assam is only a unit in the Federation of India and has she not got any right whatever to make any contribution towards this?

Mr GOPINATH BARDOLOI: May I correct the Hon'ble Premier, Sir? What I said was that the defence of Assam might be considered as defence of India. The defence of Assam was not the defence of Great Britain.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I am glad to hear what the hon. member says. He says that the defence of Assam is the defence of India. I will go one step further and say that the defence of Britain is the defence of India.

Sir, there is no denying the fact that unlike other Dominions forming the British Commonwealth, India has no navy or air force with which to fight the wonderfully mechanised army of the Germans—an army which is well equipped with the most modern murderous weapons of air and the sea. The other Dominions—Canada, South Africa and Australia have got the navy of their own—they have got an air force of their own but we not having Dominion Status—our people not being able to bear the burden to the extent imposed by full armament—have been spared so long by the British Government of having a big navy and air force. We are entirely dependant on British Army for the defence of India. In view of these circumstances, this Ministry is of opinion that the defence of India is intimately connected with the defence of Britain, and as I read in section 150 sub-section (1) "for the purposes of India" I would say, "for the purposes of the defence of India," and as the defence of India is intimately connected with the defence of Britain,

this extraordinary grant which the Ministers have made is covered by sub-section (2) of section 150 of the Constitution Act. I was admiring the legal ingenuity of my friend Mr. Sen ; but I could not admire one special aspect in his argument. He said, what benefit will Assam get out of this voluntary contribution ? (Mr. Fakhruddin Ali Ahmed :—Some titles) May I reply to this interjection, Sir ?

The Hon'ble the SPEAKER : Interjections are the sauce of the debate.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : But the trend of discussion is hampered.

My hon. friend said, "will Assam, by this contribution, get some benefit, or will she get better status in the future Constitution Act". I cannot admire their mentality and this outlook. But this side of the House differs fundamentally with the other side in this. They are out to make a bargain when Britain is involved in a life and death struggle. But this side of the House has not been endowed with such mentality. We do not like to take advantage from a stricken nation.

Srijut DEBESWAR SARMAH : You are after your own interest.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Sir, from all these circumstances, which I have just now placed before the House, we on this side of the House are of opinion that this grant which the Provincial Government made, is within the competence of the Provincial Government.

The next point that was raised by my friend is based on a reading of section 81 of the Government of India Act, 1935,—the provision which refers to supplementary demand. I will have to repeat or re-read the section to develop my argument and to meet the argument that was raised on the wording of this section. It runs as follows :—

"If in respect of any financial year further expenditure from the revenues of the Province becomes necessary over and above the expenditure theretofore authorised for that year, the Governor shall cause to be laid before the Chamber or Chambers a supplementary statement showing the estimated amount of that expenditure, and the provisions of the preceding sections shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement and the expenditure mentioned therein."

My learned friend lays stress on the phrase 'becomes necessary.' He had taken the trouble of going through the voluminous Webster Dictionary. He has the dictionary meaning of the word 'necessary.' But I am not convinced by his argument. 'Necessary' means indispensable, essential, cannot do without and so forth. He argues, Sir, that this contribution was not necessary and hence a supplementary demand could not be laid before the House. Sir, a friend of mine in another sphere of Legislature had once said, "if human memory is short, official memory is shorter still". My hon. friend, only a year back came before the House, if not that particular Hon'ble Minister of the then Congress Coalition Government, but the Hon'ble the Finance Minister, came before the House with a supplementary demand for a contribution to the Congress National Planning Committee. May I know from my hon. friend opposite who has raised this point to-day, if it was an obligatory charge upon the revenues of the province, or whether that particular item floated from the charges that were contained in the four corners of the main budgetary estimate ? If that was legal, I say with emphasis that the action of this Ministry was also legal.

My hon. friend said that war was on at the time the Budget was framed, and if necessary for a gesture or moral support, a small sum could have been placed in the budgetary provisions. You, Sir, reminded the House on the day we were discussing the report of the Public Accounts Committee that last year was abnormal in this sense that till the 17th November my hon. friends of the Congress Coalition Government functioned, and it was in their time the Budget was practically finished. My Cabinet was not completed till the first week of December. Everyone knows, by 15th December the Budget becomes ready and it is sent for print. In the first week of January, the Budget is considered by the Ministry as a whole, and we had no time whatever to consider whether any such provision should be made. Even if we thought about this at the time, the Ministry did not think that any help was needed by the British Government then. It was only with the collapse of France, when British was faced with the direct apprehension, that this Government thought of making this gesture to them. My learned friends have expatiated much on the phrase which I used on the day I placed this demand before the House. I said that the contribution from Assam was insignificant in comparison to the daily expenditure from the British Exchequer. Although it may be quite a big sum for Assam, it was a very small amount compared to the war efforts of the British nation and in this respect our contribution can be taken as a "moral support." Since then my hon. friends have read in the papers that with voluntary contributions, Assam has been able to present four fighter planes to the British Air Forces and with this amount of a lakh of rupees, two fighters could be bought and used by the British Government for the defence of their country and incidentally for the defence of India and so of Assam.

Sir, my learned friend has also complained about the propriety of making this grant without taking the House into consultation. Had there been a session at the time, I would have surely placed this demand before the House and then sent the money. But there was no session at the time, neither was there any immediate prospect of any session. That is the reason why I took this step, in order to render help at the time when it was most needed and I thought that the House would support me in this matter without any dissentient voice.

Lastly, Sir, my hon. friend has questioned the form in which the demand has been placed before the House. He says that it is placed under head "Extraordinary charges" and is in the sub-head "Charges in England". He states that no such head existed in the main Budget. We could not start a sub-head "Charges in England" under this head without the permission of the Auditor General. Sir, I am sure that here too my hon. friend is not quite correct. At the time when the money was sent, the Comptroller was consulted and he raised no difficulty from the audit side to the money being sent and the demand placed before the House is in the form which is usual under such circumstances.

Sir, I have met all the points that have been urged in support of this point of order and I need not take the time of the House any further on this technical question. Both my hon. friends Mr. Sen as well as the learned Leader of the Opposition have characterised this effort of the Ministry as either sentimental or without justification. To them I will put one little question. What was the first thing we did when we entered this House? The first thing we did was to take oath of allegiance to His Majesty the King Emperor, before we took our seats as members. I say, Sir, having taken that oath it is the bounden duty of every hon. member of this House to see that His Majesty is kept in power to rule justly over Assam and his Kingdom (*hear, hear*).

Mr. FAKHRUDDIN ALI AHMED: Mr. Speaker, Sir, we have to-day learnt a lesson in Logic from the Hon'ble Premier in the course of his effort to meet the point of order raised by my hon. friend, Mr. Kamini Kumar Sen. He has tried to justify the action of his Government and give a legal sanction to it by saying that, although such specific sanction may not be apparent from the provisions in the Government of India Act, he has, after all got the thanks from the British Government for this donation of a lakh of rupees, and that he had also received a letter of approval from the Government of India for his such benevolent and good action. Sir, we do not know if the British Government were cognisant and had time to go into the question, of considering whether a Provincial Government had power to make such a contribution. We also do not know whether at the time of receiving this donation, the British Government were aware of the fact that this contribution to their War Fund had been made by the Assam Government without consulting the wishes of this House and the province. The whole process of thanking ceremony might have been due to misapprehension on the part of the Governments of India and Britain. We saw the Government communiqué, issued regarding this donation, conveying the impression that this gift to the British War Fund was made with the consent and approval of the people of this province. Sir, I challenge the veracity of such a statement from however high authority it may come.

Then, Sir, we also do not know what correspondence took place between the Government of India and the Government of Assam with regard to this grant. Is the Hon'ble Premier prepared to place before the House the correspondence that took place regarding this matter between him and the Government of India? Did he first seek the opinion and advice of the Government of India as to whether it would be proper and legal for a Provincial Government to make such a gift out of the Provincial revenues? Unless and until all these facts are made known to us, we remain absolutely in the dark regarding the circumstance and basis of approval from the Government of India. It is not proper for the Hon'ble Premier merely to say that his action has been supported by the Government of India and therefore to take it for granted that the gift is legal and made within the provisions of the Government of India Act.

Then, Sir, my hon. friend the Premier has adduced another nice argument in drawing attention to section 22 of the Act of 1919. He particularly drew attention to the annotations of the author. Sir, the other day I heard my Hon'ble friend the Premier, as well as my friends of the European Group saying that it has been the intention and purpose of the British Government to help this country and other semi civilized countries to the path of political evolution. If such are the intentions of British Government as were professed by the Premier himself, how can he interpret now and make us believe that, by not incorporating section 22 of old Government of India Act in the provisions of the present Government of India Act, the Government of England and the British Parliament wanted to take us backward instead of forward? Sir, under the old Government of India Act, the power to sanction and legalise an expenditure incurred or found necessary for the defence of India was conceded to the British Parliament, but under the present Act, by omitting the provisions of section 22 under the old Act, no such power in matters of expenditures for defence purposes has been reserved or given to the British Parliament. That will be the logical sequence of the contention that India is being helped on the path of political evolution by the British Government. Hence the interpretation put by the Hon'ble Premier in this regard is not at all tenable.

Then, Sir, the Hon'ble Premier has tried to argue that after all, within the provisions of sub-section (2) of section 150, provinces are empowered to authorise this expenditure ; but, Sir, the power of the Federal or Provincial Legislature to incur an expenditure on matters for which it has no power to legislate, has been circumscribed by sub-section (1) of section 150 of the Government of India Act, in which it has been mandatory that no burden shall be imposed on the revenues of the Federation or of the Provinces except for the purposes of India or some part of India. Sir, we have not been able to follow in what way the Hon'ble Premier can say that this expenditure has been incurred for the purposes of India. He has only said that, because defence of Great Britain is the defence of India, this expenditure can and should be taken as one incurred for the purposes of India. But, Sir, we are not concerned here with the questions of personal opinions. We are concerned here with what is laid down in sub-section (1) of section 150 of the Government of India Act. If the intention of the British Parliament had been to permit the Federation and Provinces to spend money out of their revenues for the purposes of Britain or the British Empire, it could have easily substituted the words "British Empire" for the word "India". Surely, Sir, India cannot mean and include Great Britain and has been specifically defined in the Act. As the expenditure on account of this gift has not been incurred for the purposes of India or any part of India, it cannot be said to have been incurred under the sanction provided in section 150 of the Government of India Act.

Then, Sir, the Hon'ble Prime Minister has drawn attention to the fact that if our Ministry could come forward with a supplementary demand for a gift of one thousand rupees to the Indian National Planning Committee sanctioned without taking permission of this House he was also justified to place this gift under supplementary demand for the sanction of the House. In this connection I should like to say that Assam had become a member of the Indian National Planning Committee along with many other provinces of India. The House also knows that Assam had become a member with its approval and when the Budget for that year was placed. The contribution to the Planning Committee was demanded and made by us when the House was not in session ; and so we were perfectly justified in coming forward with the supplementary demand. By having accepted the membership of that Committee we had also accepted the responsibility of discharging our obligation to it and of paying our share of expenditure necessary for the functioning of the Committee. Sir, I submit that our supplementary demand was in accordance with the provisions of section 81 of the Government of India Act, and moreover it was for an expenditure incurred for the purpose of the province and with the implicit consent of the House which was consulted before the Ministry accepted the membership of the Indian National Planning Committee.

With these few words, Sir, I submit that no arguments have been advanced by my hon. friend the Premier, to show that the point of order raised by my hon. friend Mr. Sen, is unjustified and untenable.

Mr. A. WHITTAKER : Mr. Speaker, Sir, with all these legal luminaries raising points of order in the Assembly it is a very terrifying task for a mere layman to intervene. But I would like to suggest that the hon. the *ex-Finance* Minister's reference to letters from the Government of India and also from the Secretary of State is irrelevant to the main points dealt with by the Premier in his reply. The Hon'ble Premier gave valid reasons and quoted the section 150, sub-sections (1) and (2). The key words are 'except for the purposes of India'. I for one find the justification given by the Hon'ble Prime Minister sufficient, for sub-section (1) gives a large latitude.....

The Hon'ble the SPEAKER: What is the meaning of the word 'India' ?

Mr. A. WHITTAKER: The word 'India' in the phrase 'for the purposes of India'—I interpret that, Sir, as meaning for the defence of India and I agree with the interpretation given by the Hon'ble Premier that the defence of Britain and other parts of the Commonwealth cannot be separated from the defence of India. For that reason, I think, the present war is for the purpose of India.

Mr. Fakhruddin Ali Ahmed has referred to the grant of one thousand rupees to the National Planning Committee. That National Planning Committee according to the speech made in this House was to formulate plans for industries in India which would improve the standard of life. My contention is, Sir, that the present war is not to improve the standard of life but it is to defend the existing standard of life and to defend the right to live. I see no distinction, Sir, between the donation to the National Planning Committee which was a Committee, if I remember aright, run by a single political party.....

Mr. FAKHRUDDIN ALI AHMED: Even Punjab was a member of that Committee.

Mr. A. WHITTAKER: May be, but the Committee owed its origin to the All-India National Congress. With these words, Sir, I support the arguments put forward by the Hon'ble Prime Minister.

Babu KAMINI KUMAR SEN: Sir, I do not think that the Hon'ble Prime Minister has been able to meet the points that I raised. He has rather appealed to sentiment and other circumstances which are not quite relevant to the point of order.

With regard to the National Planning Committee he has drawn false analogy and my hon. friend the *ex-Finance* Minister has already shown that this analogy does not apply.

Then with regard to the oath of allegiance he has said that the first thing we do is to take this oath of allegiance and therefore we must go to defend Britain. May I ask the Hon'ble Premier as to whether other provinces have done this? If other provinces have not done it can they be called disloyal? Can they be called friends of Nazis?

The Hon'ble the SPEAKER: But the Hon'ble the Premier has replied to that.

Babu KAMINI KUMAR SEN: Yes, Sir, that is why I say that he has merely appealed to sentiment.....

The Hon'ble the SPEAKER: Other provinces may have come forward now.

Babu KAMINI KUMAR SEN: What I say is this that, if he was so enthusiastic to give moral support, and so sure of his legal position, he ought to have taken the House into his confidence. He has already transmitted the money and he has now come with a *fait accompli*. Moreover taking oath of allegiance does not mean that we should do something which is not even sanctioned by the Act, of which this Assembly is a creation. I think, Sir, I have nothing more to add.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Just one word in reply Sir. My hon. friend has said that because other provinces have not done anything, therefore, we must conclude that the gift is illegal. We know why those provinces where the constitution has been suspended, do not want to take the lead in this matter. Beyond that there are three other provinces except Assam at the present moment working the constitution. I need not say, Sir, the war efforts of the province of the Punjab where the Prime Minister the other day said that they

consider that they were the sword arm of India. Of course they have not given money in the way we have done, but their contribution for the successful prosecution of the war is beyond measure in money. There is Bengal, Sir, but I need not say anything about their condition, but we can read the signs of the times. From what appears in the press reports, we find that that Province is just now placed in such a tight corner that they are thinking of placing a sales tax on their Statute Book.

As regards the point that has been raised by my hon. friend the *ex-Finance* Minister I need not say anything, for in my opinion, he has not contributed any new points to the debate.

Mr. C. GOLDSMITH: Mr. Speaker, Sir, I want to say a few words on this motion. The hon. member has said that the Hon'ble the Premier should not have made this grant and then come up to the Assembly for their sanction and that the granting of the money was illegal. But he is entirely wrong in this criticism. A contribution when Britain was not in danger, was according to him wrong. But when France capitulated it was thought here in India and all over the world that Britain would also go down, but it was Providence that saved Britain. It was at that time that the contribution was made, and the demand has now been placed before the House. So the criticism of the mover is illogical.

The Hon'ble the SPEAKER: In connection with this point of order, some points have arisen in my mind, and I should like that these points should be made clear. I would like the Hon'ble Premier to say if this Province can raise a loan on the security of its revenues for the purpose of paying a contribution to the British Exchequer for the war under section 163 of the Government of India Act?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Sir, section 163 (1) is a relevant authority on the subject. It is said there: "Subject to the provisions of this section, the executive authority of a Province extends to borrowing upon the security of the revenues of the Province within such limits, if any, as may from time to time be fixed by the Act of the Provincial Legislature and to the giving of guarantees within such limits, if any, as may be so fixed". The borrowing will be for the purposes of the Province and the sum borrowed will be repaid out of the revenues. I submit that the purpose for which money is borrowed has no relevance to the power of borrowing.

The Hon'ble the SPEAKER: But it is laying a burden upon the Province.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Yes, Sir, and the borrowing will be on the security of the revenues of the Province.

The Hon'ble the SPEAKER: Then the loan that is raised becomes a part of the Provincial revenues. Can the Government make any contribution from that money to the War Fund?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I see no objection. As soon as money, whether it is one's own capital or has been borrowed, becomes available for the Province, they can spend for any purpose allowed under this Act.

The Hon'ble the SPEAKER: Can you make any contribution to the War Fund of Greece?

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

The Hon'ble the SPEAKER: Why not? Greece is getting help from Britain in her fight and is therefore an ally of Britain in this war.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Greece has no direct connection with India.

The Hon'ble the SPEAKER: But Britain is helping Greece.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Britain is helping Greece in order to fight a common foe and we are dependant on Britain for our defence and not on Greece.

The Hon'ble the SPEAKER: After listening to the debate that has taken place on this point of order raised, it appears to me that this motion has given rise to a very grave constitutional issue, the decision of which depends upon the interpretation of section 150 of the Government of India Act. The House is now called upon to decide whether the expenditure is necessary in terms of section 81 of the Government of India Act. After consideration of the case that has been placed before the House by the Hon'ble the Finance Minister, I find that the Government has taken a certain view of the war that is being fought by Britain. They have also taken a certain view of the effects of this war on world peace and also about the benefits that may ultimately accrue to India in case Britain wins the war. They have also made a reference to the Dominions and Crown Colonies and have said that those countries have placed all their resources at the disposal of Britain for carrying on this war. By asking this House to grant this amount they are practically asking the House to emulate those countries and to accept the principle of making contributions to Britain for carrying on the war that she is fighting, agreeing to their views placed before the House as making out a "purpose of India and a purpose of this province," within the meaning of section 150 of the Government of India Act. From the head of expenditure that has been newly added to the budget for the first time now, it appears that this head is going to be made a permanent head. It is described as "Head 63—Extraordinary charges—B—Charges in England." There is no knowing how long this war will continue, and when this head is being made permanent in the budget what Government may do in future is a matter for consideration. It cannot be said that they will not come forward again with a similar demand in the next budget. If the House stands committed to the principle of helping Britain in her fight in the present war by contributing to the War Fund from the revenues of the Province, it cannot be said that Government would not come forward again for another grant in the next budget. There will be no difficulty for the Government to have similar grants sanctioned from time to time by this Province if that principle is accepted by the House to-day. Here the view of the Hon'ble Premier that even loans can be raised on the security of the revenues of the Province and can be devoted to the purpose, should be considered. So it seems to me that, if this House agrees to grant this amount, it may tend to have far-reaching consequences in future. It is, therefore, that I am saying that this demand has raised a great constitutional issue, the decision of which depends on the interpretation of section 150 of the Government of India Act.

Now, in going to decide this point of order, I shall have to see whether the expenditure is *prima facie* necessary on the ground stated by Government in the supplementary statement and in the speech of the Hon'ble Premier. But that is not the only question I am to consider in connection with this motion, because the House has asked from me an interpretation of section 150 of the Government of India Act. These are considerations which lead me to think that I have got a very great responsible duty to perform in connection with this motion. The question that is troubling me is how I am to direct this House. The decision really involves, as

I have already shown, an interpretation of section 150. Should I as Speaker interpret section 150 of the Government of India Act and ask the House to accept that interpretation, or should I ask the House to decide by their vote that such and such is the interpretation of that section? These are considerations that have arisen in my mind. As to what should be the interpretation of this section, the debate that has taken place gives me no light whatsoever in favour of the view placed on behalf of Government. The Hon'ble Premier has said that the Government of India has raised no objection and so also the Secretary of State. From that I cannot infer that they have considered the legal aspect of the question before accepting the contribution. The Hon'ble the Premier has also said that only the Legal Remembrancer of the Province has been consulted and that his opinion is in favour of the interpretation that has been put by the Hon'ble Premier. It is also not known to the House what points were considered by the Legal Remembrancer. The Advocate General of the province, who, it appears, has not been consulted, is not here to advise this House as to the interpretation that should be put on section 150. So I find that there is an initial difficulty for this House to come to a decision as to whether this expenditure is necessary or not. I am not unmindful of the fact that the expenditure has already been incurred. But that should not weigh with me in deciding this point of order in favour of Government.

It appears, from what the Hon'ble Premier said, that the Government considered whether it would be legal for them to make this contribution. So, before this House could have been asked to vote this amount, there ought to have been such a legal opinion which would have been binding on this House. Of no such opinion anything has been said. Interpretation of section 150 of the Government of India Act is a purely legal question. The question is whether the House is bound to accept the legal opinion that may be given from the Chair by interpreting section 150 of the Government of India Act. Therefore I wish to tell the House and the Hon'ble Premier to consider whether it would not be better for Government to withdraw this demand and come forward with the same in the next Budget Session when all the aspects would have been considered and examined by Government before this House would be asked to vote in favour of this grant of Rs.1,00,000. I should remind the House that I have pointed out, on other occasions in connection with rulings that I gave in regard to such supplementary demands which were necessary for any kind of new service, that the Government would do well to bring forward first a resolution to have the matter discussed. The advantage of such a resolution is this, that in connection with the discussion that takes place on that resolution, if there is any legal points involved, the House discusses all such legal points, and if the resolution be carried, then the Government gets time to consider all the legal aspects that have been raised and then get proper legal advice before deciding whether the resolution should be given effect to or not. Unfortunately there has been no such procedure adopted in this case. So the whole question as to whether the grant has been legal or not is now to be decided while considering the question whether the amount should be voted or not on other considerations.

I would like to stop here and adjourn the House up to 2 P.M. and then continue.

Adjournment

The Assembly then adjourned for lunch till 2 P.M.

After lunch

The Hon'ble the SPEAKER : May I know from the Hon'ble Finance Minister as to what has been decided by Government about the demand? Are they going to withdraw it?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Mr. Speaker, Sir, we are rather finding ourselves in a difficulty. You were pleased to say that we should take "legal opinion binding on the House" and then we should come again. I cannot conceive of any legal opinion which can be binding on the House. The final authority on a constitutional question like this will be the Federal Court and nobody else. Then, Sir, I find that under the Adaptation Orders, it is the Auditor-General who has to scrutinize whether this money conforms to authority.

The Hon'ble the SPEAKER : After the money is spent?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Yes, after it is spent. It shall be the duty of the Auditor-General to audit all the expenditure from the revenues of the Federation and of the Province and to ascertain whether the money shown and disbursed were legally available and applicable to the services and whether the expenditure conforms to the authority. That means that the legality of the expenditure has also got to be seen by the audit authorities. We have already consulted the Comptroller and he sees no objection to this contribution. The Auditor-General has also raised no objection since the sum has been placed with the High Commissioner with the knowledge of the Finance Department of the Central Government.

The Hon'ble the SPEAKER : Very well, I am taking that the Hon'ble Finance Minister is not going to withdraw this demand according to my suggestion.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : We could withdraw it for the time being if we could see that we could get any further legal opinion which should be binding on the House.

The Hon'ble the SPEAKER : No, I have not exactly said that Government should bring an opinion binding on the House. I have not yet exactly said that...

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Those were the exact words which I noted.

The Hon'ble the SPEAKER : I said that I am feeling some difficulty as to whether I should allow the House to decide this point by voting, when there is no legal opinion available that will be binding on the House. Whether I should give direction or an opinion binding on the House, will appear in what I am now going to say.

Srijut GOPINATH BARDOLOI : Mr. Speaker, Sir, may I point out one thing? The privilege of admitting or refusing any motion or deciding a point of law before the House is the privilege of the Chair. That is the constitutional procedure followed not only in all Assemblies but even in ordinary meetings. It has been clear that this grant is not an accidental charge. You have been pleased, Sir, to point out that this charge might occur at any time during the continuance of the war. Now my respectful submission is that this being a matter of very important constitutional issue, it is advisable that the House should receive some direction on the point of law involved. My submission is this that the Hon'ble Chair being the only authority to guide us, we should be guided by the ruling of the Chair in this matter. The House, I submit, is not competent to give an opinion on a point of law. We are not supposed to know the full consequences of a particular section of law and it may not be possible for us to know the

technicalities which may be involved in such a matter. Precaution is always good. As expert legal opinion has not been obtained, my respectful submission to you is that the House should be guided by the ruling of the Chair and that the House should not be allowed to decide it.

The Hon'ble the SPEAKER: May I ask one question? When the Auditor-General passes a question saying that certain expenditure is legal, is it final and does it preclude anybody to question the legality of that?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: It does not prevent anybody from going up to the Federal Court.

The Hon'ble the SPEAKER: I was saying that the main question as to whether the grant will be legal or not has to be considered along with the question whether the money should be voted or not. All the same, the House has to know what really are the full implications of section 150 of the Government of India Act. I was telling the House that I was really feeling difficulty as to what direction I should give to the House—whether I should interpret section 150 and give my opinion to the House to guide it or the House should decide by its vote, as to what the legal interpretation of any section of the Government of India Act is. In connection with Bills, points of orders are often times raised as to the competence of this Legislature to legislate on any particular matter. In that connection the Chair interprets relevant sections of the Government of India Act and guides the House; but this is a matter which is not really analogous to that. Section 150 of the Government of India Act relates to financial matters of the Province and is not related to any rules of procedure to be followed in the House. In some quarters it has been doubted whether the Speaker should arrogate to himself the duty of interpreting sections of the Government of India Act even in matters of legislation and ask the House to guide itself according to the opinion that he may express. There is also some doubt as to the procedure that is followed in some Parliaments that when the Chair cannot decide a legal question he is to leave it to the House to decide.

I have tried to look up precedents so far as India is concerned, and I have not as yet come across any precedent which tells me that when the Chair feels doubt on any purely legal question he should leave it to the House. These are practical difficulties that are confronting me in regard to the question whether I should arrogate to myself the duty of interpreting a section of the Government of India Act when it relates to financial matters. Is it a part of the duty of the Speaker to dictate to the House and thus to Government that a particular expenditure incurred or to be incurred by Government is legal or otherwise, by interpreting relevant sections of the Government of India Act? Therefore, I was asking Government to withdraw this demand and come forward with this demand before the end of the financial year so that these matters may be examined by me fully in order to get light as to what my duty should be in case Government cannot produce any legal opinion which should be binding on the House. The Hon'ble Finance Minister was pointing out to me the Government of India (Audit and Accounts) Order 1936, to the effect that the Auditor-General is the legal authority on any expenditure. He has also told me that even if the Auditor-General considers that an expenditure has been legal that is not final upon anybody. I think that does not stand in the way of Government even now to obtain proper legal opinion which would be binding on this House. It seems to me that the matter involved is such that the Government ought not to have satisfied themselves by taking only the opinion of the Auditor-General. The Auditor-General's opinion comes in after the expenditure is incurred and that whether the expenditure has been incurred on the strength of the vote of the Legislature. That is the only legality that he is to see according to the expression 'whether legally available' i

section 13 of the Order in Council referred to by the Hon'ble Premier. But before the expenditure was incurred the proper legal opinion on such a great constitutional issue should have been obtained and that opinion is not certainly the opinion of the Auditor-General. This being a very vital matter so far as the revenues of this Province are concerned, it is my opinion that the Government should have followed the procedure that has been laid down in section 213 (1) of the Government of India Act, which provides that on any "question of law that has arisen, or is likely to arise which is of such a nature and of such public importance that it is expedient to obtain the opinion of Federal Court upon it," that matter may be referred to the Federal Court of course through His Excellency the Governor-General. It goes without saying that this matter was a matter of such a nature and was of such public importance that instead of consulting the Auditor-General the Federal Court ought to have been referred to.

Now the constitution given by the Government of India Act is a written and a rigid constitution and for the interpretation of that constitution the establishment of a Federal Court was thought absolutely necessary. So there was no difficulty in the way of Government to ask His Excellency the Governor-General to obtain the opinion of the Federal Court if really the Government felt that it was an imperative duty of them to contribute to the War Fund. To ask Government to withdraw this demand and come forward again in the next session is certainly not to put any obstacle in the way of the Government or on the verdict of the House, but in order to make it possible that the Chair should decide its course as to what direction should be given to the House as regards the interpretation of section 150 of the Government of India Act, if it be at all necessary for the Chair to do so. If the Government in the meantime come with any legal opinion binding on the House, then the question of the Chair interpreting section 150 of the Government of India Act will not arise. If such opinion is not obtained, then I shall have to consider whether I should direct the House that such an expenditure is warranted by the provision of section 150 or it is not, or whether I should direct the House that they should decide the question by their vote. If the Government thinks that it is not advisable for them to obtain any legal opinion which may be binding on this House, then I shall have to conduct myself in the way I have indicated.

Now if I decide here and now that the expenditure has no justification in terms of section 150 of the Government of India Act and that the House is not to decide the question by their vote, Government will have no other alternative than to produce such legal opinion as would be binding on the House. But the difficulty in my way to interpret section 150 has arisen from various considerations. I have looked into the relevant provisions that were originally made in the White Paper. I find that clause 150 of the White Paper provided like this; "Provision will be made securing that Federal and Provincial revenues shall be applied for the purposes of the Government of India alone." The expression 'purposes of the Government of India alone' gives a clear indication that the purpose should be one related to the affairs of administration of India. Then, while providing for giving the provinces a right to borrow money, clause 149 provides that the Governor of Province "will have power to borrow for any provincial purpose on the security of provincial revenues within such limit as may from time to time be fixed by provincial law, but the consent of the Federal Government will be required and so on." Now, when the Act was being enacted, the provisions with regard to these particular questions were made in a bit different phraseology and the order of putting these provisions in the Act was changed

Section 150 was first placed and then the provisions in respect of borrowing powers of a Province and Federation were placed next in section 163 and so we get section 150 providing how expenditure would be defrayable out of the revenues of India and to the effect that no burden shall be imposed on the revenues of the Federation or the Province except for the purposes of India or some part of India and then section 163. So I asked the Hon'ble Finance Minister to say whether the borrowing on the security of the revenues of the Province should not be such as may not impose a burden on the revenues of the Province which may not be for the purpose of India. Now, I have looked up also the Parliamentary Debates and the reasons which led Parliament to omit the expression "Government of India alone" go to show that it was with a view to remove ambiguity which was there in the expression "Government of India alone", that the expression "of India or some part of India" was substituted.

Now, Lord E. Percy who moved the amendment said that the words "Government of India" might be regarded as confined to subjects within the Federated scheme, because if we look to the definition of India as given in the Government of India Act, India has been defined there in section 311 as including the Federal States also. So what I find is that the language in the White Paper was changed in order to remove the ambiguity that was there and which might bear the meaning that an expenditure could be incurred only for purposes connected with the affairs of the Federation and not for any purpose of any State. As to what should be the meaning of 'purposes of India or some part of it' there was also some discussion in the Parliamentary Debates. So the whole point in connection with the interpretation of section 150 will be to ascertain what the intention was when the White Paper was drafted and whether that intention has been kept in tact in the phraseology used in section 150 of the Act and its proviso.

These are the considerations, therefore, which must be looked to in order to decide as to what interpretation should be given to section 150 of the Government of India Act. To gather the intention of Parliament is very difficult for me just now. Therefore, if I am to give a direction to the House, then I must get time to decide this point and these are also considerations which the House will have to give due weight to if it is called upon to give its interpretation on section 150. It is not a very easy matter and I do not know whether the Auditor-General who has given his opinion did also consider this. I do not find anything from the speech of the Hon'ble Finance Minister with regard to what considerations weighed either with the Legal Remembrancer or with the Auditor-General. So from what I have said it would appear to the House that this supplementary demand involves a very big question" and my opinion is that the decision of the House on such a big question should not have been sought by means of a supplementary demand in the way in which it has been brought before the House. The House must get time to consider these points before the hon. members come to a decision as to whether they should sanction this amount.

Now as to the course which I should follow, having regard to the fact that Government are not willing to withdraw this demand, I would like to guide myself by the ruling which the Hon. President of the then Legislative Council of this Province gave on a motion in regard to a supplementary demand on the 16th September, 1933. That was a supplementary demand brought forward before the House to make the post of Livestock and Dairy Expert permanent on a new scale of pay. The President said that that was a very big question, *i.e.*, a big principle underlying the grant and then he said that he could not allow the House to discuss that motion. If that was really a big question, the present question is a very very big one

and the course that he followed in connection with that demand was that he did not even allow the Hon'ble Finance Member then to move the motion. The President at the very outset gave the following ruling "The House will not take up Supplementary Demand No. 5". He said, "this is a very big question, which the House should have a full opportunity of discussing and deciding upon and which should not be put to the House by a supplementary demand of such a nature. I would accordingly, like to advise the Government to bring this question before the House in March next when it can be fully discussed, as the Government can retain the post till then under the existing budget provisions". So there is no difficulty in this case also. Government can come forward again with this demand during March Session before the close of the financial year. Therefore, following that ruling, I feel that I shall be shirking a duty if I allow the House to discuss this motion now and give its verdict. The debate that has taken place on the point of order is not at all sufficient for the guidance of the House. There should be a full-dress debate on all the various aspects that I have pointed out. In this view, I hold that the motion is not in order (*Loud applause from the Opposition*).

Now we shall take up Supplementary Demand No. 3. Motion moved is that an additional sum of Rs.66,457 be granted to the Minister-in-charge to defray certain charges which will come in course of payment during the year ending the 31st March 1941, for the administration of the head "37.—Education".

There is a cut motion standing in the name of Srijut Lakshesvar Barooah. **Srijut LAKSHESVAR BAROOAH:** Mr. Speaker, Sir, I beg to move that the provision of Rs. 62,532 under Supplementary Demand No.3, Major head—37.—Education, Sub-head—(iii)—General Charges, Detailed head—T.—Miscellaneous—Other Miscellaneous Charges at page 4 of the list of Supplementary Demands for Grants for 1940-41, be reduced by Rs.101, *i.e.*, the amount of the whole Supplementary Demand of Rs.66,457 do stand reduced by Rs.101.

Sir, the object of the motion is to censure Government for not providing adequate grants and thereby hampering the progress of Mass Literacy Campaign. Sir, with the object of removing illiteracy from the province the then Congress-Coalition Ministry launched a mass literacy campaign and drew up an elaborate scheme for the purpose. They also provided sufficient money to carry out that scheme. The hon. members know that soon after the then Ministry resigned in November 1939, the reigns of administration passed into the hands of the present Ministry. The Congress-Coalition Ministry issued directions well ahead of the time to the Department to make preparations for the purpose. In pursuance of that direction, Subdivisional Committees were formed to ensure better working of the scheme in the rural areas. According to that scheme the Education Department went ahead with the programme up to December 1939. But I understand the present Ministry did not issue any definite instructions to the Department as to whether they were going to continue that programme, or whether the required money would be provided in the Budget. So, the Department had to stop the campaign. I can say this so far as my district is concerned. The Deputy Inspector of Schools drew up a long programme to tour in the villages in company with the members of the Committee formed for establishment of Local Committees in village centres. The Deputy Inspector of Schools approached the Deputy Commissioner and the Chairman of the Local Board. The Deputy Commissioner said that as he had not got any definite instructions from the Ministry he could not allow the district

education staff to continue the programme. Therefore owing to the indecision of the present Ministry and owing to the non-provision of sufficient amount, the work was stopped in last December. This is true so far as my district is concerned.

The hon. members are probably aware that a chorus of indignation rose against the action of the present Government in press. In spite of this, the Government, I think in January or February, decided to provide a paltry sum of Rs.12,000 only for the purpose and this was considered as an eye-wash by the public. Sir, owing to the meagre amount provided, the huge programme of the Congress Coalition Ministry could not be carried out, and the campaign came to a stand still in December 1939. The statement continues up till now. Therefore, I submit, Sir, that Government deserve censure for their indecision, for their lack of imagination to provide sufficient money for carrying out the programme initiated by the Congress-Coalition Government. With these few words, Sir, I commend my motion for acceptance of the House.

The Hon'ble the SPEAKER : Cut motion moved :

That the provision of Rs. 62,532 under Supplementary Demand No. 3, Major head—37.—Education, Sub-head—(iii)—General Charges, Detailed head—T.—Miscellaneous—Other Miscellaneous Charges, at page 4 of the list of Supplementary Demands for Grants for 1940-41, be reduced by Rs. 101, *i.e.*, the amount of the whole Supplementary Demand of Rs.66,457 do stand reduced by Rs. 101.

I find that all other motions practically want to discuss the same thing. Motions Nos.2* and 3† want to criticise the policy of Government. This motion is also included in the question of policy. Motion No.4‡ is practically the same as the one moved.

*2. Srijut SONARAM DUTT to move :—

That the total provision of Rs. 66,457 under Supplementary Demand No. 3, Major head—37.—Education, at page 3 of the list of Supplementary Demands for Grants for 1940-41 be reduced by Rs. 100, *i.e.*, the amount of the whole Supplementary Demand of Rs.66,457 do stand reduced by Rs. 100.

(To criticise the policy of Government in conducting the Mass Literacy Campaign.)

†3. Babu DAKSHINA RANJAN GUPTA CHAUDHURI to move :—

That the total provision of Rs. 66,457 under Supplementary Demand No.3, Major head—37.—Education, at page 3 of the list of Supplementary Demands for Grants for 1940-41, be reduced by Rs. 100, *i.e.*, the amount of the whole Supplementary Demand of Rs. 66,457 do stand reduced by Rs. 100.

(To criticise Government's policy and method of Mass Literacy Campaign.)

‡4. Srijut DEBESWAR SARMAH to move :—

That the total provision of Rs. 66,457 under Supplementary Demand No. 3, Major head—37.—Education, at page 3 of the list of Supplementary Demands for Grants for 1940-41, be reduced by Re. 1, *i.e.*, the amount of the whole Supplementary Demand of Rs. 66,457 do stand reduced by Re. 1.

(To criticise Government for inadequacy of provision for Mass Literacy Campaign.)

Srijut SONARAM DUTT: Mr. Speaker, Sir, I beg to associate myself with the views that have been expressed by my hon. friend Srijut Lakshesvar Borooah, in censuring Government for not providing adequate money for the conduct of the Mass Literacy Campaign. I would also like to say a few words in criticism of the policy pursued by Government in conducting this campaign. I think no one will contradict me if I say that for all practical purposes the mass literacy campaign is dead now. We have almost forgotten that this Government celebrated a Mass Literacy Day a month and a half ago. The other day, I was amused to read a Government communique which says that the campaign has created a countrywide enthusiasm in the province. Far from creating any enthusiasm, it only shows how ignorant the Government are about public opinion even in these days of popular Government. I really doubt the sincerity of the present Ministry with regard to the Mass Literacy Campaign. As is well-known to everybody, removal of mass illiteracy, like prohibition, is an item of the Congress Programme and in pursuance thereof, the Congress Coalition Government had prepared a well thought-out scheme and made adequate provision for its execution. That scheme was timed for inauguration in January, 1940. But then the war came and the Congress resigned office and the present Ministry was brought into existence in November, 1939. The nation building scheme of their predecessors were like red rags to the present Government, at least at the beginning. It is not given to all to recognise the good works of others. But even the present Ministry felt the weight of public feeling in the matter and at long last we were told that the Mass Literacy Campaign was to be inaugurated in October 1940. We on this side of the House had greeted the announcement with joy. We had offered to co-operate and contribute our mite to the success of the campaign. When, however, the outline of the Government scheme was published and the composition of the Central and Subdivisional Committees was revealed, we not only felt but were convinced that Government were not approaching the problem in the right spirit in which the Congress Coalition Ministry had conceived their Mass Literacy Scheme. The committees were so loaded with the official element as hardly to leave any room for voluntary effort. The public were to have no say and no hand in conducting the campaign. In these circumstances, Sir, the Congress had no alternative but to dissociate from the Government Committees. It must never be imagined that Congressmen took up that attitude out of a sense of false pride or because it was the scheme of a non-Congress Ministry. The Congressman is ever ready to pull his full weight in any venture that promises to do real good to the masses, whoever may undertake it. He yields to none in his anxiety for the removal of illiteracy. But when you go to make a mere show of your solicitude for the masses, the Congressman will not only not associate with you, but will try to expose you.

As I have already said, Government's approach to the problem of mass illiteracy is wrong. To liquidate illiteracy, Government must enlist the fullest measure of support from the public instead of leaving it to the officials. Decades of officialdom and all its concomitant evils have alienated the masses so that the average official is a suspect among the masses. The mass literacy campaign or for that matter any mass movement must be broadbased on the sympathies and hearty co-operation of the public.

Coming to the actual working of the scheme, we saw it inaugurated on the 1st October. Meetings were held here and there ; there were pro-

cessions, music, etc. That was the end of the campaign. It has fallen flat on the masses. Go where you like, you no longer see any trace of the campaign barring one or two sun-burnt posters here and there. At a Mass Literacy Meeting, I remember the President remarking: "We are all doctors assembled here but not a single patient". That is symptomatic of the entire campaign. The doctors rushed about from town to town in fleets of cars while the real patient, the ignorant and illiterate villager was rotting in his village. Sir, I repeat that the Government is not sincere in conducting this campaign, and so we have kept ourselves aloof from this movement. It is not because we do not want that the Mass Literacy Campaign should be conducted but because we see that if we go on in this way, no real good will accrue. We still say that if Government gives us any indication of their sincerity of purpose, we on this side of the House are prepared to give all our co-operation and help in making it a success.

With these words, Sir, I support the motion moved by my friend Srijut Lakshesvar Borooah.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA :

Mr. Speaker, Sir, as my hon. colleague the Education Minister is suffering from sore throat and is feeling feverish it has fallen to my lot to reply to this cut motion that has been moved by my friend Srijut Lakshesvar Borooah and supported by our new recruit Srijut Sonaram Dutt. I am sorry, I do not find the latter in his seat now because I will have to refer to some of the points raised by him. (*A voice*—he is there.)

Sir, the two hon. speakers who have given their opinion of our Mass Literacy scheme by way of cut motion have taken two different standpoints. The veteran has taken the line of least resistance, *viz.*, that the provision is inadequate whereas our new friend in his enthusiasm has criticised the very root, *viz.*, the policy which has been adopted by the present Ministry. I will have to take the question of policy first.

It is perfectly true that the Congress Coalition Ministry inaugurated their scheme and it began functioning in various districts of the province. When we assumed office in November last, we allowed this scheme to function and it is not correct to say that this Government has stood in the way of continuing that scheme. It was only in September last that I heard from the Deputy Commissioner of Goalpara personally that the previous scheme which depended on voluntary service had died a natural death as usual and nobody was to blame for it. I may inform the House that the main feature of that scheme was that voluntary workers would betake themselves to the country and undertake the teaching of the illiterate, and after that some time some inspecting officer of the Education Department would go and test whether the illiterate had been converted into literate.

Srijut GOPINATH BARDOLOI : On a point of information, Sir. As I was the originator of the scheme I desire to point out that nowhere was it laid down that the entire work of teaching should be done by volunteers. The scheme of employing teachers was as much a part of our scheme as it is of the present Government. Under our scheme, it has been said that three literate certificates entitled a man to get a rupee, whereas the present Government standard is five men coming to a certain school teacher would get one rupee.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I am obliged to my hon. friend. As he was the originator of that scheme, he must speak with authority. The system which was inaugurated by my hon. friend was to the effect that people, whether they were officials or non-officials, would convert illiterates into literates and would receive a remuneration of four annas per pupil.....

Srijut GOPINATH BARDOLOI: Five annas and three pies.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Very well, I will take his figure, but so far as I remember from the file it was four annas per pupil after a test has been held and the pupils have passed. That system was worked for some time, but from our experience we find that it had died a natural death. The remuneration offered was thought to be incommensurate with the labours at least from voluntary workers. I do not know how many students were expected to be taught by one teacher. According to our Education Department standards of primary schools it is laid down a quantum of 30 students per teacher. To make an illiterate learn the three R's it will be admitted that at least three months will be required. Taking for granted that every one of the pupils sent up to the test passes, then the remuneration per month per student comes up to less than seven pice. So there was not very much enthusiasm on the part, either of our primary school teachers or any voluntary workers on this unremunerative scale, to undertake the task and as I said, I heard it for the first-time from the Deputy Commissioner of Goalpara that they continued the scheme till about June 1940, but after that they could not find any more workers. Therefore this Government while continuing the scheme of our predecessors looked into the matter and drew up their own scheme. In this scheme our primary object is to bring into the field of activity the services of our experienced teachers of our primary schools. We have in the province about 8,000 primary schools with more than 10,000 teachers. If half of this number accepts the terms that we have offered in our scheme, then there is every prospect of success of our venture. The terms are that workers, who undertake the task, will get a maximum of Rs.5 if they can hold classes of 25, and with a minimum of 10 students, Rs.2 income per month. We thought that we would harness for the successful working of the scheme, a set of trained teachers and we would at the same time be paying these people an extra remuneration which has been recommended very many times by this House and also they being men of the locality, they will have greater influence to induce the illiterates to come and be taught. It is on account of this that our scheme, the mainstay of the scheme, was the utilization of the said primary school teachers for this work. But nowhere have we said in our scheme that voluntary workers individuals or associations would be barred. On the other hand, in our scheme, there is the system of aiding other existing voluntary organizations who have been holding night classes for teaching the adult people. We propose to come to their aid with grants-in-aid so that at least the contingencies that are necessary, will be available to them. I have explained, Sir, very succinctly the difference between the scheme of our predecessors and ours. I have personally visited three districts in September last in connection with the inauguration of our scheme, and, I, for myself, found the greatest enthusiasm for our scheme, but I would respectfully submit, Sir, that whether it is our scheme or our friend's scheme, our aim is to see that the light, however small, of education comes to every hearth and home in the province. (*Hear ! hear !*)

I am glad to note that my hon. friend Mr. Sonaram Dutt is willing to extend his hand of co-operation, not only of himself, but of his party, if we take them into confidence. I take this opportunity of publicly thanking the

Leader of the Opposition as well as Mr. Kuladhar Chaliha and Mr. Brajendra Narayan Chaudhury, M.L.As. (Central), the three staunch Congressmen, who have agreed to serve on our Central Committee. That is the spirit, Sir, which ought to guide both sides of the House. We are all aiming at one common goal, namely, the removal of illiteracy and here we are prepared to benefit from the hand of co-operation and by a sincere appreciation of our attempts, although according to some of the opposition, the method of approach may be different. We welcome criticism so that we may improve our scheme by their experience. I give the credit where it is due, Sir. Although there was the inception of a scheme in our Cabinet of 1937, we could not bring it into operation and it was your Government, Sir,—I am referring to my hon. friend, the Leader of the Opposition—that made a start. Therefore, Sir, I do not think that the present Government deserves censure for the policy they have adopted. Our scheme is not sacrosanct; our friends in the light of their experience can give us any healthy and constructive suggestions and we are perfectly prepared to accept them and incorporate them in our scheme.

I will now refer to the speech of my hon. friend Mr. Lakshesvar Borooah. From the note of the purpose of his cut motion, I find, Sir, that he complains of the 'inadequate grants and thereby hampering the progress of Mass Literacy Campaign.' Sir, as we had not our scheme ready at the time for the budget of the year, we had only a small sum of Rs.12,000 for this purpose. But now, when we have completed our scheme, we are prepared to spend as much money as is necessary for the purpose. At the present moment my hon. friends will find that we have placed before the House a scheme for a sum of Rs.74,532, of which the big items are, item No.7 salaries of teachers Rs.36,000—centre contingencies, Rs.14,000. Then we have got printing of post literacy readers—Rs.7,150. This clearly shows, Sir, that we want to give our whole-hearted support and all our sincere devotion for the propagation of education amongst our people. My hon. friend, the new-comer, need not doubt our sincerity in this respect. If the sum for which we are seeking the vote of the House proves inadequate, we will come up again for further supply. I can assure my hon. friend Mr. Lakshesvar Brooah and others that whatever money is needed in connection with mass literacy campaign we will come up for the vote of the House.

The Hon'ble the SPEAKER: Does the hon. member press his motion?

Srijut LAKSHESVAR BOROOAH: Sir, in view of the assurance given by the Government, I beg leave of the House to withdraw my motion.

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

The Hon'ble the SPEAKER: The question is: "That an additional sum of Rs. 66,457 be granted to the Minister-in-charge to defray certain charges which will come in course of payment during the year ending the 31st March 1941, for the administration of the head 37.—Education".

The motion was adopted.

The Hon'ble the SPEAKER: I shall now take up demand No. 1, i.e., "4.—Taxes on income other than Corporation Tax"

The motion moved is that a sum of Rs. 3,350 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending on the 31st March 1941, for the administration of the head "4.—Taxes on Income other than Corporation Tax".

There is one motion in the name of Mr. Sonaram Dutt,

Srijut SONARAM DUTT: Sir, I do not propose to move my motion*

The Hon'ble the SPEAKER: The question is that a sum of Rs. 3,350 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending on the 31st March 1941, for the administration of the head "4.—Taxes on Income other than Corporation Tax".

The motion was adopted.

The Hon'ble the SPEAKER: In motion No 2, the motion moved is that an additional sum of Rs. 10,785 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head "7.—Land Revenue".

There are three motions under this demand.

Srijut GAURI KANTA TALUKDAR: Sir, it has been decided that we shall not move any of these motions. As regards my motion,† I have already brought the matter to the notice of the Government in the course of my speech on the Assam Temporarily Settled Districts Tenancy (Amendment) Bill.

The Hon'ble the SPEAKER: The question is that an additional sum of Rs. 10,785 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head "7.—Land Revenue".

The motion was adopted.

The Hon'ble the SPEAKER: As regards Supplementary Demand No. 4, the motion moved is that an additional sum of Rs. 2,200 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head "38.—Medical".

There are three cut motions. The first one is from Mr. Mookerjee. Does the hon. member want to move?

Mr. BAIDYANATH MOOKERJEE: Yes, Sir.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Does this cut motion arise, Sir? The demand is a specific demand for a particular purpose, but the question raised by the hon. member is quite a different matter.

*That the total provision of Rs. 3,350 under Supplementary Demand No. 1, Major head—4.—Taxes on Income other than Corporation Tax, at page 1 of the list of Supplementary Demands for grants for 1940-41 be reduced by Rs. 100 *i.e.*, the amount of the whole Supplementary Demand of Rs. 3,350 do stand reduced by Rs. 100.

(To criticise Government's policy with regard to the creation of a separate establishment for the purpose of collecting the tax on Agricultural Income.)

†That the total provision of Rs. 10,785 under Supplementary Demand No. 2, Major head—7.—Land Revenues at page 3 of the list of Supplementary Demands for grants for 1940-41, be reduced by Rs. 100, *i.e.* the amount of the whole Supplementary Demand of Rs. 10,785 do stand reduced by Rs. 100.

(To urge upon Government the desirability of not levying charges on the land-holders and tenants particularly those falling under the category of Public Religious Endowments for the purpose of preparing Records-of-right.)

The Hon'ble the SPEAKER: Has the hon. member got to say any thing? It seems that the motion* is not in order. This demand relates to provision for grants for leprosy works and contingencies for dispensaries, but the hon. member's motion wants to introduce a question regarding the Medical School. I do not think this is in order.

Mr. BAIDYANATH MOOKERJEE: Sir, my contention is that when the demand is under the head "Medical" I am quite competent to raise points regarding any item which comes under the head.

The Hon'ble the SPEAKER: We are not discussing the Budget. I am afraid the motion cannot be discussed.

Srijut SONARAM DUTT: I beg, Sir.....

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: The same objection also applies with regard to this motion also.

The Hon'ble the SPEAKER: Yes, this is also a different matter. It does not pertain to the subject matter which this demand relates to.

The Hon'ble the SPEAKER: The third motion stands in the name of Srijut Lakshesvar Borooah. It is in order, I think.

Srijut LAKSHESVAR BOROAH: Yes, Sir, this is in order because it relates to the expenditure in Dibrugarh.

The Hon'ble the SPEAKER: Yes, the hon. member may go on.

Srijut LAKSHESVAR BOROAH: Mr. Speaker, Sir, I beg to move "that the total provision of Rs. 2,200 under Supplementary Demand No. 4—Major head—38.—Medical at page 5 of the list of Supplementary Demands for grants for 1940-41 be reduced by Rs. 100, *i.e.*, the amount of the whole Supplementary Demand of Rs. 2,200 do stand reduced by Rs. 100".

The object of my motion is to urge on the Government to improve hostel buildings and remove other inconveniences felt by the boarders of the Berry-White Medical School, Dibrugarh.

Hon. members are perhaps aware that Berry-White Medical School is the only institution in which medical education is imparted to the students of the whole province of Assam and a large majority of the students reading in the school are accommodated in the hostels. Sir, the sanitary precaution that is taken at-present is far from satisfactory. There is no arrangement for draining out the flood and rain water deposits inside the compound. The compound is thus water-logged here and there affording breeding grounds of mosquitoes and I am told that affliction from Malaria among the boarders is a common malady. Existing bathing arrangement for the boarders are far from satisfactory. Sir, the bathing arrangement that was made in the hostels for the students about 30 years ago is still continu-

*1. Mr. BAIDYANATH MOOKERJEE to move :—
That the total provision of Rs. 2,200 under Supplementary Demand No. 4, Major head—38.—Medical at page 5 of the list of Supplementary Demands for grant for 1940-41 be reduced by Rs. 101, *i.e.*, the amount of the whole Supplementary Demand of Rs. 2,200 do stand reduced by Rs. 101.

(To criticise Government for not taking any step for opening a Medical School or College at Sylhet.)

†2. Srijut SONARAM DUTT to move :—
That the total provision of Rs. 2,200 under Supplementary Demand No. 4, Major head—38.—Medical at page 5 of the list of Supplementary Demands for grants for 1940-41 be reduced by Rs. 100, *i.e.*, the amount for the whole Supplementary Demand of Rs. 2,200 do stand reduced by Rs. 100.

(To urge the necessity of providing adequate facilities for the treatment of Kala-azar in the Sibsagar subdivision.)

ing and no attempt has been made to improve the bathing arrangement for the increased population in hostels. Sir, the cook-shed for the students are located in a most unhealthy surroundings. It is a happy time of the day that ladies have taken to medical education. Lady students suffer great inconvenience for want of suitable hostels. I understand, the previous Government sanctioned some amount for building a hostel for the lady students, but I am told that the scheme has been dropped by the present Government. The inconveniences that are felt by the lady students are really very great. They have now got to reside in the houses of their friends and relatives ; generally they have got to walk a long way to school. Sir, there are now a larger number of lady students reading in that school and in fitness of things a lady Assistant Surgeon should be appointed in the school. Owing to the provision of maternity wards donated by a few benevolent Marwari friends there are a large number of maternity cases and in order to attend those cases the services of a graduate lady Doctor are certainly necessary. I understand my hon. friend, the Medical Minister, visited the place last winter and saw all these inconveniences personally and heard all their demands, and I understand he promised to the students and teachers to remove all these wants and difficulties. I am sorry to say, Sir, that although he promised, it remained in promises and no action has since been taken. Therefore I urge upon Government to remove all these inconveniences at their earliest opportunity. With these few words I commend my motion to the acceptance of the House.

The Hon'ble the SPEAKER : Cut motion moved :

“ That the total provision of Rs.2,200 under Supplementary Demand No.4, Major head—38. Medical, at page 5 of the list of Supplementary Demands for Grants for 1940-41, be reduced by Rs.100, *i.e.*, the amount of the whole Supplementary Demand of Rs.2,200 do stand reduced by Rs.100.”

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY : Mr. Speaker, Sir, I must thank the hon. member for his bringing before the House some demands of the Medical School at Dibrugarh. There is no doubt, Sir, that this is the only Medical Institution in our province and it is desirable that we should do all that are possible to keep it in good order. Sir, the hon. member has spoken about the bad drainage system. I visited the school during the last cold weather and I was given to understand by the teachers and students that the whole area is so low-lying that in the rainy season it goes under water. So, Sir, I should like to say that no improvement of the drainage can remove the difficulty that they are experiencing during the rainy season. If some earth work is to be done, I think, the buildings will have to be lifted and that will be an improbable proposition and will cost a very big amount of money.

Then, Sir, as regards the bathing arrangement, I must say that the statement that has been made by the hon. member before the House is quite correct. I have already taken necessary action in this matter and it will be an information to the hon. member if I say that we have already provided funds to remove this difficulty. The hon. member will be glad to know that a tube well is going to be set up there with electric pump and we are also providing bathing platform. So, I think, Sir, that this will remove the difficulties.

As regards the other complaints, I should say that there is a scheme before the Government which is still under consideration and that will depend on the availability of the fund.

Another point that has been raised by my hon. friend is regarding hostel accommodation for the lady students.

But, Sir, to do that, I think, it would require a very big amount of money. When in this war time the prices of building materials have gone very high, it will not be prudent on the part of the Government to spend such a big amount. Under the present arrangement the girls are accommodated in a house hired by the authorities. But this was considered to be not sufficient and steps have been taken to hire another house adjacent to the present house and, I think, by this time that arrangement has been completed. I can therefore say that Government have got all the desire and intention to remove all these difficulties that have been mentioned by the hon. mover of the cut motion and that we are doing all in our power to remove those difficulties. So, Government does not deserve any censure and in view of this, I hope, the hon. member will withdraw his motion.

Maulavi MUHAMMAD AMJAD ALI: The hon. member has also alluded to the appointment of a lady teacher in the Berry-White Medical School and the Hon'ble Minister has not replied to that. Is that in view of the Hon'ble Minister ?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY: Yes, Sir, this matter is still under the consideration of the Government. Government is considering whether the appointment of a whole-time lady Assistant Surgeon is justified. Unless Government is satisfied on that point, they cannot take on them a burden of extra expenditure. I think, when the number of girl students will be a decent one, then we can think of taking a lady teacher.

Srijut LAKSHESVAR BOROOAH: Particularly because there are larger number of maternity cases.

The Hon'ble the SPEAKER: Does the hon. member press his motion ?

Srijut LAKSHESVAR BOROOAH: No, Sir.

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

The Hon'ble the SPEAKER: The question is :

“ That an additional sum of Rs.2,200 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head 38.—Medical. ”

The motion was adopted.

The Hon'ble the SPEAKER: Now we are to take up supplementary demand No. 5. The motion already moved is that an additional sum of Rs.4,260 be granted to the Minister-in-charge to defray the charges which will come in the course of payment during the year ending on the 31st March 1941, for the administration of the head “ 40.—Agriculture ”.

Babu DAKSHINARANJAN GUPTA CHAUDHURI: Sir, I beg to move that the total provision of Rs.4,260 under Supplementary Demand No.5, Major head 40.—Agriculture, at page 6 of the list of Supplementary Demands for Grants for 1940-41, be reduced by Rs.50, *i.e.*, the amount of the whole supplementary demand of Rs.4,260 do stand reduced by Rs.50.

As it is given in the explanatory note of the Hon'ble Minister, it seems that a scheme for cattle improvement was adopted as early as 1937. But so far as the general public are concerned and the common cultivators are concerned, they have got little benefit from that scheme. We find, Sir, that there are so many bulls which are being kept by the Department in different farms, but the general public have not been able to realise any benefit from these stud bulls. I may refer to another thing. The grant was

exhausted as late as September 1940, but why did not Government visualise that the amount sanctioned for the purpose would not be sufficient? My greatest grievance against the Government is for the small amount of money which is allotted by the Government for agricultural improvement and for the improvement of cattle which is one of the important factors for the well being of the cultivators of our country. Therefore, I urge upon the Government by this cut motion that they will give more grant for the improvement of cattle. Unless more money is allotted for this purpose, unless we have more funds and proper scheme which will be of some value to the people of the province, we cannot do any good to the people.

Sir, we have seen a bull in the Upper Shillong Cattle Farm which I understand was bought at Rs.1,800. It attracts many visitors and most of the Members of the Legislative Assembly also have seen it. But we see no utility of this costly bull. Unless more money is spent for the improvement of cattle, this Department will become like a show just like the show in the Upper Shillong Cattle Farm. I therefore press my motion for the consideration of the House.

The Hon'ble the SPEAKER : Cut motion moved :

“ That the total provision of Rs.4,260 under Supplementary Demand No.5, Major head—40.—Agriculture, at page 6 of the list of Supplementary Demands for Grants for 1940-41, be reduced by Rs.50, *i.e.*, the amount of the whole Supplementary Demand of Rs.4,260 do stand reduced by Rs.50.”

The Hon'ble Maulavi MUNAWWAR ALI : Mr. Speaker, Sir, I am in full sympathy with the object of the hon. mover of this motion. His primary objection obviously is not to condemn the method and policy that the Government has been following in the breeding operation. His objection is clearly to the inadequacy of the provision for the purpose, which has of course, been necessitated by the paucity of funds. Since I took over charge of the Agriculture Department, I have been devoting my whole attention to the matter (Maulavi Abdur Rahman: Best attention). My hon. friend says 'best attention', and I have by this time been able to evolve a scheme entailing larger and smaller expenditures. I hope my hon. friend will be first in the Assembly to vote with me when it may be possible for me to come forward with a demand for such grants. As to the main object of the hon. member's motion, I have very little to say as I think equally with him that our measures are not yet as sufficient as my hon. friend and myself would wish.

As regards breeding operation, as I have already indicated there is a scheme under examination which has been prepared in collaboration with experts and if it is found practicable both financially and otherwise, with a view to give effect to this, I may possibly come forward with a demand for grant in the next Budget Session and should that be so, I hope the hon. member will also induce his friends to vote with me.

As regards the utility of bulls like the one my hon. friend has referred to, kept in the Upper Shillong Farm, that question has not escaped my notice. I have still been examining the question as to whether a scheme could not be evolved of bringing together the best bulls—best country bulls and best country cows—suitable to the climate of the province, rather than import bulls from other countries. This question has also received my very serious attention and I have not yet been able to come to a final decision, but I hope before the next Budget session it will be possible for me to decide either way. I hope, Sir, what I have said satisfies my hon. friend and that in that view he would perhaps like to withdraw his motion.

Babu DAKSHINARANJAN GUPTA CHAUDHURI: From what I have heard from the Hon'ble Minister, I beg leave of the House to withdraw the motion.

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

The Hon'ble the SPEAKER: The question is:

"That an additional sum of Rs.4,260 be granted to the Minister-in-charge to defray the charges which will come in the course of payment during the year ending on the 31st March 1941 for the administration of the head '40.—Agriculture'."

The motion was adopted.

The Hon'ble the SPEAKER: The time of this item of business was till 3-30. As the time has been reached I put all the remaining motions.

The Hon'ble the SPEAKER: The question is,

"That a sum of Rs.31,383 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head '43.—Industries'."

The motion was adopted.

The Hon'ble the SPEAKER: The question is:

"That an additional sum of Rs.7,000 be granted to the Minister-in-charge to defray certain charges which will come in the course of payment during the year ending the 31st March 1941, for the administration of the head '50.—Civil Works (excluding Tools and Plant and Establishment)'"

The motion was adopted.

The Hon'ble the SPEAKER: I think this disposes of all the Demands.

The Goalpara Tenancy Bill (Amendment), 1939

The Hon'ble the SPEAKER: I think we were on clause 31 yesterday, and Mr. Mookerjee moved his amendment* and then Mr. Fakhruddin Ali Ahmed was to move his amendment.

Mr. FAKHRUDDIN ALI AHMED: I shall move the amendment standing in my name. Mr. Speaker, Sir, I beg 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."

Sir, the purpose of moving this amendment is to restore the clause 31 of the Bill to the form as it was submitted to the Select Committee. In order to understand the purpose of this clause, I should like the hon. members to refer to section 140 of the Goalpara Tenancy Act where it is laid down that when a defendant admits that he owes rent to the Zemindar, he is not entitled to raise any other plea for resisting the claim of the Zemindar unless and until he deposits the whole amount of the claim in the Court. I gave serious consideration to this and came to the conclusion that if a tenant admits that he owes rent to the landlord it is only proper that he should deposit in the Court, not the whole amount of such rent but such amount, not exceeding half the amount admitted by him to be due, as the Court may consider proper. The Select Committee consider that even if a tenant admits that he owes certain amount as rent to the Zemindar but he is resisting the claim on some other ground, he should not be called upon to deposit in the Court any amount, whatsoever, as condition to his objection

* That clause 31 shall be deleted.

being admitted for investigation. I personally feel that what I had provided in the original Bill was perfectly justified and I should therefore have the support of hon. members regarding this amendment.

The Hon'ble the SPEAKER : Amendment moved :

"That for clause 31, the following shall be substituted, nameiy—

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."

Maulavi JAHANUDDIN AHMED : I rise to oppose the motion, moved by my hon. friend Mr. Fakhruddin Ali Ahmed. Sir, it is our experience that when a tenant delays in attending Court for a few minutes the case is decreed *ex parte* and unless according to this section he pays half of the amount or as directed by the Court, he is not allowed to file his application for a review of the case.....

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN : No. This is not the clause.

Maulavi JAHANUDDIN AHMED : Then I am sorry, Sir.

This is a section where a tenant admits that the rent is not due directly to him or to a third party. So for the sake of third party, he is to deposit the amount or half the amount at least that is due to the third party and this I say is not justified according to the law of equity. So I oppose this motion.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN : Mr. Speaker, Sir, I also rise to oppose this amendment. These clauses, Sir, clauses 31, 32, 32A and 33 are of similar nature. They were thoroughly discussed in the Select Committee and it was decided that with a view to give relief to the tenants these clauses should be omitted. So, in these circumstances I do not think that I can support the amendment moved by my hon. friend Mr. Fakhruddin Ali Ahmed.

The Hon'ble the SPEAKER : There are two amendments to clause 31, *viz.*, Nos. 65 and 66. Amendment No. 65 was moved yesterday and No. 66 has been moved just now. I was telling the House yesterday that I was considering the question as to how these amendments should be put to vote. I have looked into precedents and the precedent that I have got supports me in the procedure that I have hitherto followed. I saw a contrary procedure somewhere, and so I looked into precedents. I have now found a ruling of the Hon'ble President of the Central Assembly which supports the procedure I hitherto followed in connection with other Bills, *i.e.*, I shall first put amendment No. 65 which seeks the deletion of the clause. If that amendment is negatived, I shall put the next one. But if that amendment is carried the next one will fall through.

The question is :

"That clause 31 shall be deleted."

The motion was negatived.

The question is :

"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".

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

Ayes	...	45	Noes	...	50
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The motion was negatived.

The Hon'ble the SPEAKER : The question is that clause 31 stands part of the Bill.

The question was adopted.

The Hon'ble the SPEAKER : Now, we take up clause 27 again. Amendment No. 55* was moved. Does the hon. member want to move the other amendments ?

Mr. BAIDYANATH MOOKERJEE : No, Sir, I am not going to move any other amendment. I have already moved one.

The Hon'ble the SPEAKER : That is right. I am putting the question.

The question is—

“That clause 27 shall be deleted”.

The motion was negatived.

The question is that clause 27 stands part of the Bill.

The question was adopted.

The Hon'ble the SPEAKER : We come to clause 32. Does Mr. Mookerjee want to move his amendment† ?

Mr. BAIDYA NATH MOOKERJEE : No Sir.

The Hon'ble the SPEAKER : Does Mr. Fakhruddin Ali Ahmed want to move his amendment ?

Mr. FAKHRUDDIN ALI AHMED : Sir, it seems to be unnecessary to move my amendment No. 68‡ in view of the fact that my former amendment, based on similar principle, has fallen through. My amendment to clause 32A was also a consequential amendment. So, I shall not move my amendment** with regard to clause 32A.

The Hon'ble the SPEAKER : The question is that clause 32 stands part of the Bill.

The question was adopted.

The Hon'ble the SPEAKER : Does Mr. Mookerjee want to move his amendment** with regard to clause 32A ?

Mr. BAIDYANATH MOOKERJEE : No, Sir.

The Hon'ble the SPEAKER : The question is that clause 32A stands part of the Bill.

The question was adopted.

Mr. BAIDYANATH MOOKERJEE : Sir, I don't want to move the amendment § standing in my name with regard to clause 33.

The Hon'ble the SPEAKER : Does Mr. Fakhruddin Ali Ahmed want to move his amendment ?

Mr. FAKHRUDDIN ALI AHMED : Yes, Sir.

Mr. FAKHRUDDIN ALI AHMED : Mr. Speaker Sir, I beg to move that for clause 33, the following shall be substituted, namely :—

“ 33. In clause (a) of section 148 of the said Act for the words ‘ the amount, if any, which he admits to be due from him to the

Mr. Baidyanath Mookerjee to move :—

*55. That clause 27 shall be deleted.

†67. Mr. Baidyanath Mookerjee to move :—

That clause 32 be deleted.

‡68. Mr. Fakhruddin Ali Ahmed to move :

That for clause 32, the following shall be substituted, namely :—

“32. In section 141 of the said Act for the words ‘the amount’ occurring towards the end of the section, the words ‘such amount, as the Court may order, not exceeding half the amount’ shall be substituted.”

Fakhruddin Ali Ahmed

**Mr. _____ to move :

Baidyanath Mookerjee

That clause 32A shall be deleted.

§ Mr. Baidyanath Mookerjee to move :—

That clause 33 shall be deleted.

decree-holder, or such amount as the Court may, for reasons to be recorded in writing, direct' the following words shall be substituted, namely :—

“ such amount not exceeding half the amount, if any, admitted to be due to the decree-holder, as the Court may direct.”

Sir, the purpose of this amendment is, more or less, analogous to what I stated in moving my previous amendments under clauses 31 and 32 and as substantial relief has been provided to the judgment debtor in view of the fact that the amount required to be deposited by a tenant under this amendment before his application to set aside an *ex-parte* decree is admitted, shall not be more than half of the amount admitted by him to be due to the Zeminder and the Court also has been given the power to reduce it or to require no deposit at all should it think necessary under some circumstances I feel the tenant should not grudge to pay half the amount admitted by him to be due to the landlord before being allowed to raise objection regarding *ex-parte* decree on other grounds. Formerly the position was that the whole amount admitted by the tenant was required to be deposited, but now the amount has been reduced to half and the Court has been given the power to reduce it further. I feel, Sir, the amendment is very just and proper and, therefore, I hope, it will receive the support of the hon. members of this House.

The Hon'ble the SPEAKER : Amendment moved :

“ That for clause 33, the following shall be substituted, namely :—

33. In clause (a) section 148 of the said Act for the words ‘ the amount, if any, which he admits to be due from him to the decree-holder, or such amount as the Court may, for reasons to be recorded in writing, direct’ the following words shall be substituted, namely :—

‘ such amount not exceeding half the amount, if any, admitted to be due to the decree-holder, as the Court may direct.’ ”

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN :
Sir I oppose the motion on the same grounds as I did on his previous amendment.

The question was then put and a summary division was taken inside the Chamber by asking the members to rise in their places with the following results :—

Ayes
42

Noes
50

The motion was negatived.

The Hon'ble the SPEAKER : Now amendment No. 73.*

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN :

Sir, I do not want to move it.

The Hon'ble the SPEAKER : The question is that clause 33 stands part of the Bill.

The question was adopted.

The Hon'ble the SPEAKER : There is no amendment in clause

34.

The question is that clause 34 stands part of the Bill.

The question was adopted.

The Hon'ble the SPEAKER : There is no clause 35.

*73. The Hon'ble Khan Bahadur Maulavi Sayidur Rahman to move :—

That in clause 33 for the words “the amount direct” the words “the amount,..... direct” shall be substituted.

Mr. FAKHRUDDIN ALI AHMED: There is a clause 35, Sir.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: No amendment can come, Sir, because Chapter XII is going to be repealed by clause 35A. So, Sir, this is not in order.

Mr. FAKHRUDDIN ALI AHMED: How, Sir, I do not understand.

The Hon'ble the SPEAKER: Yes the amendment is all right because the Select Committee has omitted clause 35. The entire clause 35 has been omitted and the hon. member now wants to move that the clause should be restored.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: No, Sir. There is no amendment to clause 35A and so this cannot come.

Mr. FAKHRUDDIN ALI AHMED: Sir, I think the Hon'ble Minister is not correct in stating the position. The Select Committee had omitted the clause 35, and I have given an amendment to restore that very clause which was omitted by the Select Committee. The Select Committee has added another clause 35A, to the effect that Chapter XII of the said Act shall be repealed. It means that the succeeding Chapters are to be renumbered should the amendment made by Select Committee stand. All these will show, Sir, that the objection of the Hon'ble Minister is not in order.

The Hon'ble the SPEAKER: I quite see the point. There is no amendment to clause 35A. So if Clause 35A stands then does the question of an amendment for restoring Clause 35 arise? (Several Voices:—No Sir.)

It arises in this way that clause 35A will have to be put to the vote, and at that time the hon. member may oppose it. If that is lost then I shall put the amendment standing in the name of Mr. Fakhruddin Ali Ahmed.

Mr. FAKHRUDDIN ALI AHMED: There has been a misunderstanding, Sir. clause 35A refers to quite a different matter. What I am trying to restore is entirely different to what clause 35A refers and therefore my amendment is in order.

The Hon'ble the SPEAKER: The entire Chapter XII is to be omitted by clause 35A.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: May I also explain that we are considering the Bill as it emerged out of the Select Committee and in this Bill there is no clause 35, so there can be no amendment to clause 35.

The Hon'ble the SPEAKER: But the hon. member says that clause 35 should be restored. The Select Committee omitted it but his amendment is that it should be restored. They should not have put clause 35. They should have put an independent amendment.

Mr. FAKHRUDDIN ALI AHMED: By Clause 35A Chapter XII is going to be deleted from the Act, but my amendment will come after Chapter XII whether it is retained or deleted.

The Hon'ble the SPEAKER: Where shall we get Chapter XII?

Mr. FAKHRUDDIN ALI AHMED: If my amendment is accepted it will come after Chapter XII and the succeeding Chapters, will have to be renumbered.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: If the whole Chapter is deleted by that clause then nothing can come under that Chapter.

Mr. FAKHRUDDIN ALI AHMED : The figure XII may be omitted and my amendment can be put as framing a new section or a new Chapter.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : The hon. member does not say after Chapter XII ; he says at the end of Chapter XII.

Mr. FAKHRUDDIN ALI AHMED : At the end means after. (laughter).

The Hon'ble the SPEAKER : Very well, the hon. member may move his amendment. Having regard to the fact that the hon. member explained that he meant after Chapter XII even if Chapter XII goes and his amendment may be treated as an independent section, I allow him to move it.

The hon. member should say "that after section 170 of the said Act the following should be added as a new section". No reference to Chapter XII should be made.

Mr. FAKHRUDDIN ALI AHMED : Very well, Sir. I beg to move that after clause 34 the following shall be inserted as clause 35, namely:—

"35. After section 170 of the said Act the following shall be added as a new section 170A:—

' 170A. (1) If at any time the Provincial Government are satisfied that in any local area or in respect of any class of cases, circumstances exist which render it impracticable for a landlord to realise his rent, the Provincial Government may, by notification, direct that all rents in such local area or class of cases shall, after the publication of the notification, be realised by the application of the prescribed procedure.

(2) If, in the opinion of the Provincial Government, circumstances so require, they may direct that such procedure shall be applied and rent realised in the said local area or class of cases by the prescribed authority.

(3) The Provincial Government may make rules to give effect to the provisions of this section' "

Srijut JOGENDRA NARAYAN MANDAL : On a point of order, Sir. Here in the amendment of the hon. member in the 1st paragraph, last line, it is provided that the rent will be realised by the application of the prescribed procedure, but if the Chapter XII is lost then the procedure is lost, and if the procedure is lost then the amendment cannot stand.

The Hon'ble the SPEAKER : Is there no other procedure prescribed under the Act ?

Several Voices :—No, Sir, there is nothing in the Act.

Mr. FAKHRUDDIN ALI AHMED : This amendment, Sir, seeks to restore the clause which was included in the original amending Bill and the purpose of that was that, should the certificate procedure be abolished, some other procedure should be provided under which, in cases where the tenants in any area become refractory and do not deliberately pay the rent, the landlords may be given certain protection against such tenants. As the hon. members are aware, I had provided in the amending Bill a provision under which the Government is given the power to enquire whether rents are excessive and to reduce rents in cases where they are found to be excessive. While such powers for the purpose of determining and reducing rents have been given to the Government, I think, it is but proper that the Zemindar should also be given the right to get protection and help from

the Government in cases where the tenants become refractory, or in areas where due to abnormal cases of strike or no tax campaign it becomes impossible for Zemindars to realise rents. As hon. members will see the wordings of my amendment they will find that procedure for realising rents under this provision cannot be taken resort to in normal circumstances but only in such abnormal circumstances as the one described by the Hon'ble Premier the other day referring to some tenants residing in Sunamganj subdivision of Sylhet district. Further the Government will have to satisfy themselves first whether such circumstances exist, and, if they find that the tenants have become refractory and are deliberately refusing to pay the rent, only then they will take recourse to what is sought to be provided by this amendment. They will exercise the power given under prescribed rules.

The Hon'ble the SPEAKER: What does the hon. member mean by the application of the prescribed procedure?

Mr. FAKHRUDDIN ALI AHMED: That has been mentioned in sub-clause (3) of the amendment which I have moved and which is to the effect that Government will prescribe rules to give effect to the provisions contained in my amendment. It automatically follows that the Government can exercise the power under the rules to be framed by them. If the hon. members have thought it fit to give such powers to the Government to enquire into the excessive nature of the rent and to reduce it when it is found to be excessive, it is but proper that the landlords should also be given some protection and that protection has been provided under my amendment. For this reason, I hope, my amendment will receive the support of the hon. members of this House.

The Hon'ble the SPEAKER: Amendment moved:

"That after clause 34, the following shall be inserted as clause 35, namely:—

35. After section 170 of the said Act, the following section shall be added as a new section 170A:—

'170A. (1) If at any time the Provincial Government are satisfied that in any local area or in respect of any class of cases, circumstances exist which render it impracticable for a landlord to realise his rent, the Provincial Government may, by notification, direct that all rents in such local area or class of cases shall, after the publication of the notification, be realised by the application of the prescribed procedure.

(2) If, in the opinion of the Provincial Government, circumstances so require, they may direct that such procedure shall be applied and rent realised in the said local area or class of cases by the prescribed authority.

(3) The Provincial Government may make rules to give effect to the provisions of this section".

Mr. BAIDYANATH MOOKERJEE: Sir, I have got an identical motion. I think, Sir, I should just mention one peculiar feature of the Bill which will come out if this amendment is lost. Sir, there were two main features in the Bill, as will be found in the Statement of Objects and Reasons, *viz.*, to give relief to the tenants and secondly to give some facility for speedy realisation to the landlords. These were the two main features. If hon. members will care to look into the Statement of Objects and Reasons, they will find that it has been clearly stated there that on the one side they wanted to give relief to the tenants and on the other side they wanted to give scope, in case of necessity, to the Provincial Government to come forward in proper cases to give some relief to the Zemindars. Now if this clause, as it has been deleted by the Select Committee, is also deleted, then one of the two objects would be lost,

Now, I appeal to my hon. friends present here to consider this point most seriously. What was the object of the Bill? I boldly say, if their purpose is honest, they cannot but support this amendment. I challenge them on this point. What was the object—to bluff the House or the public, or genuine desire to do good to all sections?

Now, Sir, it has been very clearly expressed by the hon. mover what the object of his amendment is and I have just drawn attention to the objects and reasons of the Bill. I hope that the hon. members will consider this point and will support the amendment moved by my hon. friend.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Mr. Speaker, Sir, I oppose this amendment, firstly because as regards the words "prescribed procedure", as you have already pointed out, the only natural interpretation to those words will be procedure that has been prescribed already. This has been added after Chapter XII and as Chapter XII has been repealed, I do not think any other interpretation can be put upon the words "prescribed procedure". To say that they refer to sub-clause (3) is to put a forced interpretation on the word 'prescribed'. Secondly this particular provision was very thoroughly discussed at the last Conference also and the majority of the members were of opinion that this provision should go. They were of the opinion that Chapter XII should be retained rather than having this provision. So for these reasons, Sir, I am opposed to this amendment.

The Hon'ble the SPEAKER: The question is:

"That after clause 34, the following shall be inserted as clause 35, namely:—

35. After section 170 of the said Act, the following shall be added as a new section 170A:—

'170A. (1) If at any time the Provincial Government are satisfied that in any local area or in respect of any class of cases, circumstances exist which render it impracticable for a landlord to realise his rent, the Provincial Government may, by notification, direct that all rents in such local area or class of cases shall, after the publication of the notification, be realised by the application of the prescribed procedure.

(2) If, in the opinion of the Provincial Government, circumstances so require, they may direct that such procedure shall be applied and rent realised in the said local area or class of cases by the prescribed authority.

(3) The Provincial Government may make rules to give effect to the provisions of this section' "

The Assembly divided.

Ayes—40

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| 1. Mr. Arun Kumar Chanda. | 9. Srijut Ghanashyam Das. |
| 2. Mr. Baidyanath Mookerjee. | 10. Srijut Gaurikanta Talukdar. |
| 3. Srijut Beliram Das. | 11. Srijut Gopinath Bardoloi. |
| 4. Srijut Bepin Chandra Medhi. | 12. Srijut Haladhar Bhuyan. |
| 5. Babu Bipin Behari Das. | 13. Babu Harendra Narayan Chaudhuri. |
| 6. Srijut Bishnu Ram Medhi. | 14. Srijut Jadav Prasad Chaliha. |
| 7. Babu Dakshina Ranjan Gupta Chaudhuri. | 15. Srijut Jogendra Chandra Nath. |
| 8. Srijut Debeswar Sarmah. | 16. Srijut Kameswar Das. |

Ayes—concl'd.

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| 17. Babu Kamini Kumar Sen. | 30. Srijut Rajani Kanta Barooah. |
| 18. Srijut Krishna Nath Sarmah. | 31. Srijut Rajendra Nath Barua. |
| 19. Srijut La shesvar Borooah. | 32. Srijut Ram Nath Das. |
| 20. Babu Lalit Mohon Kar. | 33. Srijut Sanker Chandra Barua. |
| 21. Srijut Mahadev Sarma. | 34. Srijut Santosh Kumar Barua. |
| 22. Srijut Mahi Chandra Bora. | 35. Srijut Sarveswar Barua. |
| 23. Mr. Naba Kumar Dutta. | 36. Babu Shibendra Chandra Biswas. |
| 24. Babu Nirendra Nath Dev. | 37. Srijut Siddhi Nath Sarma. |
| 25. Srijut Omeo Kumar Das. | 38. Srijut Sonaram Dutt. |
| 26. Srijut Paramananda Das. | 39. Mr. Fakhruddin Ali Ahmed. |
| 27. Srijut Purandar Sarma. | 40. Khan Bahadur Maulavi Mahmud Ali. |
| 28. Srijut Purna Chandra Sarma. | |
| 29. Babu Rabindra Nath Aditya. | |

Noes—54

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| 1. The Hon'ble Maulavi Sayid Sir Muhammad Saadulla. | 24. Khan Bahadur Dewan Eklimur Roza Chaudhury. |
| 2. The Hon'ble Srijut Rohini Kumar Chaudhuri. | 25. Maulavi Ghyasuddin Ahmed. |
| 3. The Hon'ble Maulavi Munawwar Ali. | 26. Maulavi Jahanuddin Ahmed. |
| 4. The Hon'ble Srijut Hirendra Chandra Chakravarty. | 27. Khan Bahadur Maulavi Keramat Ali. |
| 5. The Hon'ble Khan Sahib Maulavi Mudabbir Hussain Chaudhuri. | 28. Maulavi Muhammad Maqbul Hussain Chaudhury. |
| 6. The Hon'ble Dr. Mahendra Nath Saikia. | 29. Maulavi Matior Rahman Mia. |
| 7. The Hon'ble Maulavi Abdul Matin Chaudhuri. | 30. Maulavi Mabarak Ali. |
| 8. The Hon'ble Khan Bahadur Maulavi Sayidur Rahman. | 31. Khan Bahadur Maulavi Mufizur Rahman. |
| 9. The Hon'ble Miss Mavis Dunn | 32. Maulavi Namwar Ali Barbhuiya. |
| 10. The Hon'ble Srijut Rupnath Brahma. | 33. Maulavi Naziruddin Ahmed. |
| 11. Srijut Jogendra Narayan Mandal. | 34. Maulavi Sheikh Osman Ali Sadagar. |
| 12. Srijut Joges Chandra Gohain. | 35. Mr. A. F. Bendall. |
| 13. Babu Kalachand Roy. | 36. Mr. F. W. Blennerhassett. |
| 14. Maulavi Abdul Aziz. | 37. Mr. N. Dawson. |
| 15. Maulavi Abdul Bari Chaudhury. | 38. Mr. W. R. Faull. |
| 16. Maulana Abdul Hamid Khan. | 39. Mr. E. B. Sim. |
| 17. Khan Bahadur Hazi Abdul Majid Chaudhury. | 40. Mr. P. Trinkle. |
| 18. Maulavi Abdur Rahman. | 41. Mr. C. W. Morley. |
| 19. Maulavi Md. Abdus Salam. | 42. Mr. R. A. Palmer. |
| 20. Maulavi Dewan Muhammad Ahbab Chaudhury. | 43. Mr. A. Whittaker. |
| 21. Maulavi Muhammad Amiruddin. | 44. Mr. Benjamin Ch. Momin. |
| 22. Maulavi Muhammad Amjad Ali. | 45. Srijut Bhairab Chandra Das. |
| 23. Maulavi Badaruddin Ahmed. | 46. Srijut Bideshi Pan Tanti. |
| | 47. Srijut Binode Kumar J. Sarwan. |
| | 48. Srijut Dhirsingh Deuri. |
| | 49. Rev. L. Gatphoh. |
| | 50. Mr. C. Goldsmith. |
| | 51. Mr. Jobang D. Marak. |
| | 52. Srijut Karka Dalay Miri. |
| | 53. Srijut Khorsing Terang. |
| | 54. Srijut Rabi Chandra Kachari. |

The motion was negatived.

The Hon'ble the SPEAKER: The question is that clause 35A stands part of the Bill.

The question was adopted.

The Hon'ble the SPEAKER: The question is that clause 36 stands part of the Bill.

The question was adopted.

The Hon'ble the SPEAKER: The question is that clause 37 stands part of the Bill.

The question was adopted.

The Hon'ble the SPEAKER: The question is that clause 37 stands part of the Bill.

The question was adopted.

The Hon'ble the SPEAKER: The question is that clause 2 stands part of the Bill.

The question was adopted.

Mr. BAIDYANATH MOOKERJEE: I am not going to move my amendments* with regard to clause 1.

The Hon'ble the SPEAKER: The question is that clause 1 stands part of the Bill.

The question was adopted.

The Hon'ble the SPEAKER: The question is that the Title and Preamble of the Bill form part of the Bill.

The question was adopted.

The Hon'ble the SPEAKER: I think, this finishes all the clauses.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Sir, I beg to move that the Goalpara Tenancy (Amendment) Bill, 1939, as amended by the Assembly be passed.

The Hon'ble the SPEAKER: Motion moved:

"That the Goalpara Tenancy (Amendment) Bill, 1939, as amended by the Assembly be passed."

Mr. BAIDYANATH MOOKERJEE: About my point of order, Sir, that I raised the other day, you were kind enough to suggest to me that that was not the time to discuss the point.

The Hon'ble the SPEAKER: Yes, the hon. member has now got the right to discuss that.

Mr. BAIDYANATH MOOKERJEE: With regard to that I have got something to add. There was such a case on the 28th November 1939, in the Bengal Legislative Council relating to the Bengal Money-Lenders Bill and I find that there was a ruling from the Hon'ble President of the Bengal Legislative Council. I shall read out the relevant portion of that ruling if I am permitted:

*1. Mr. Baidyanath Mookerjee to move:—

That in sub-clause (1) of clause 1, the figure "1939" shall be replaced by the figure "1940".

*2. Mr. Baidyanath Mookerjee to move:—

That in sub-clause (2) of clause 1, the words "not later than the 1st October, 1939," shall be deleted.

“Now, the contents of the letter just read out by me make it clear that the previous sanction was not obtained from the Governor when the Hon’ble Nawab Bahadur moved his motion yesterday for taking the Bengal Money-lenders Bill into consideration. I think that it is unnecessary for me again to refer to the section. It is specifically stated therein that no Bill shall be moved in a Chamber of the Provincial Legislature without the previous sanction of the Governor in his discretion. Under the circumstances, the motion was certainly premature. The British Parliamentary procedure is that in case of irregularities as had happened yesterday on account of the absence of previous sanction by the Governor, the entire proceedings should be declared null and void. If any authority is needed in this connection, I would refer to May’s Book on ‘Parliamentary Practice’, page 393, where it is stated that: ‘If a Bill has been read a second time by mistake or inadvertence, the proceedings have been declared null and void, and another day has been appointed for the second reading’. He also refers to a similar matter on page 694 where it is stated that: ‘If notice be taken of any other informality such proceedings will be null and void and the stage must be repeated’. So, we shall have to follow, in the absence of any rules for the guidance of the House, the well-known Parliamentary procedure and I declare the entire proceedings of yesterday arising out of the Hon’ble Nawab Bahadur’s motion for taking the Bengal Money-lenders Bill into consideration as null and void. He will have to begin *de novo*”.

The Hon’ble the SPEAKER : Yes, I know this ruling. But when the hon. member has drawn my attention to this point I shall consider this matter next day. There are good reasons not to follow that ruling and I shall state my reasons.

ADJOURNMENT

The Assembly was then adjourned till 11 a.m. on Thursday the 21st. November, 1940.

SHILLONG :
The 8th January, 1941.

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