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

The Assembly met in the Assembly Chamber, Shillong, at 10 A. M., on Tuesday, the 8th September, 1953.

Present

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

QUESTIONS AND ANSWERS

STARRED QUESTIONS

(To which oral answers were given)

Union Excise Duties allotted to Assam

Maulavi MUHAMMAD UMARUDDIN asked :

*17. (a) Will Government be pleased to state what amount of excise duties on each of the articles as mentioned in section 2 of the Union Duties of Excise (Distribution) Act, 1953 has been allotted to Assam for each of the years 1952-53 and 1953-54 ?

(b) If the answer to (a) above is in the affirmative, will Government be pleased to state whether such revenue was included and accounted for in the Budgets for the years 1952-53 and 1953-54 ?

(c) If not, will Government be pleased to state the reasons for such non-inclusion ?

(d) Will Government be pleased to indicate the particular items and the heads of revenue in each of the Budgets for the years 1952-53 and 1953-54, under which allocations on account of excise duties have been accounted for ?

Shri MOTIRAM BORA (Minister) replied :

17. (a)—Forty per cent. of the net proceeds of the Union Excise Duty on Matches, Vegetable products and Tobacco (including cigars and cigarettes) are distributed to the States. Assam's share of the divisible pool is 2.61 per cent. Accordingly, Assam got Rs.45,84,000 in 1952-53 and expects to get Rs.46,01,000 in the current year. Figures of Excise duty on the 3 items separately are not supplied by India.

(b)—Yes.

(c)—Does not arise.

(d)—These receipts are exhibited under the head "1.—Customs" in the Budget of 1953-54 and the Revised Budget for 1952-53. They could not be shown in the original Budget for 1952-53 because the award of the Finance Commission was published

several months after the Budget was passed. As actual figures for 1952-53 were not available when the Revised Budget for 1952-53 was framed the figure shown therein is Rs.45,83,000 thus leading to a short estimate of Rs.1,000.

UNSTARRED QUESTIONS

(To which answers were laid on the table)

Amount spent on gratuitous relief to the flood-affected people

Shri BIMALA KANTA BORA asked :

29. Will Government be pleased to state—

- What amount was spent by Government in giving gratuitous relief to the flood-affected people of the State in the year 1952-53 (district by district) ?
- What amount was given as seed loan during the same period ?
- Whether any seed was given by Government at concessional rate ?
- If so, what was the loss sustained by Government as result of the concession so given ?
- What was the amount of agricultural loans granted by Government to the flood-affected areas during the same period ?
- What other relief measures, if any, besides gratuitous relief, seed loans and agricultural loans were taken by Government to mitigate the sufferings of the flood-affected people of the State during the same period and the amount so spent in that behalf ?

Shri MOTIRAM BORA (Minister) replied :

29. (a)—The amount spent by Government in giving gratuitous relief to the flood-affected people during the year 1952-53 is given below district by district :—

				Gra. Relief. Rs.
1. Lakhimpur	...	...	...	1,72,925
2. Sibsagar	...	...	...	15,527
3. Nowgong	...	...	...	49,120
4. Darrang	...	...	...	6,100
5. Kamrup ...	...	...	...	57,450
6. Goalpara	...	...	...	22,000
7. Cachar ...	...	...	...	54,800
Total ...				3,77,922

(b)—A sum of Rs.7,47,465 was granted as agricultural loan in the different districts as shown below. This amount includes seed loan, cattle loan, etc. No separate figure for each kind of loan can be given :—

				Rs.
1. Lakhimpur	...	...	...	1,45,000
2. Sibsagar	...	...	...	1,04,565
3. Nowgong	...	...	...	78,800
4. Darrang	...	...	...	80,500
5. Kamrup	...	...	...	1,68,600
6. Goalpara	...	...	...	30,000
7. Cachar ...	...	...	...	1,40,000
Total ...				<u>7,47,465</u>

(c)—Yes, the local officers were instructed to issue seed at concessional rate.

(d)—The loss sustained by Government cannot be ascertained at the moment without a reference to the various district officers.

(e)—This has already been stated in (b) above.

(f)—In certain parts of the State test relief work was started as a measure of relief costing Rs. 70,900, besides a large amount spent by Public Works Department on such test relief works.

Large quantities of medicine and powder milk were distributed free of cost.

Moreover, rice were issued in the affected areas at subsidised price and the difference of cost price and issue price was met by Government.

Remission of land revenue has already been granted in some affected areas and some proposals are under consideration.

***Shri BIMALA KANTA BORA:** Does Government follow any principle in granting agricultural loan in different districts of the State?

***Shri MOTIRAM BORA (Minister):** The main principle is the principle of need.

***Shri BIMALA KANTA BORA:** What is the amount of revenue remitted in the district of Nowgong for the year 1952-53?

***Shri MOTIRAM BORA (Minister):** So far as Nowgong district is concerned, the matter is under the consideration of the Government and the figure is being scrutinised by the Revenue Department. The Deputy Commissioner stated that the amount exceeding 2 lakhs may be remitted for land revenue. This has not been finalised.

***RAJA AJIT NARAYAN DEB of Sidli:** How much of the loans is realised by the Government ?

***Shri MOTIRAM BORA (Minister):** I have already given the information. We have an arrear of 24 lakhs under Agricultural Loan in the State.

Hailakandi-Lala Bazar-Manipur Road

Shri GAURISANKAR ROY asked :

30. (a) Are Government aware that the condition of Hailakandi-Lala bazar-Manipur Road is very bad for traffic ?

(b) Do Government propose to improve this only main road which has got heavy traffic ?

(c) Is it a fact that the money allotted for this road falls short of thorough repairs ?

(d) Do Government propose to take up the work of black-topping of this road considering its importance ?

Shri SIDDHINATH SARMA (Minister) replied :

30. (a)—Government have no such information, a report is, however, being obtained from Executive Engineer. The road is metalled for part of the length and gravelled for the rest and owing to flood and heavy rains, portions might have become rough and muddy.

(b)—No. Government however intend to maintain this as a metalled and gravelled road.

(c)—Government have no such information. Funds as required are placed at the disposal of the Executive Engineer concerned for repairs and maintenance.

(d)—Government have no such proposal at the moment. This will however be placed before the next meeting of the Assam Road Communication Board for their consideration

Roads selected by Government to be taken up by Public Works Department in the Cachar District

Shri GAURISANKAR ROY asked :

31. Will Government be pleased to state—

(a) The names of the roads selected by Government to be taken up by the Public Works Department from this year in the district of Cachar and the amount allotted for the purpose separately ?

- (b) Whether Karicherra-Gharmoora Road in Hailakandi Subdivision has been selected by the Roads Communication Board and the Government for being taken up by Public Works Department and if so, when it is going to be taken up?

Shri SIDDHINATH SARMA (Minister) replied :

31. (a)—Government have at present decided to take up only the roads included in the 5-Year Plan (other than those already taken up). The following are the roads falling in the district of Cachar :—

Name of Road	The amount allocated (not allotted) Rs.
1. Improving Tilain-Rajnagar-Katigora Road ...	2,50,000
2. Improving Silchar-Kumbhirgram Road ...	4,95,000
3. Improving Silchar-Sonabari-Bhagabazar Road —	
(a) Silchar-Kabuganj Section Rs. 70,000 }	2,50,000
(b) Kabuganj-Bhagabazar Section. Rs. 1,80,000 }	
4. Construction of bridge over Barak ...	20,00,000
5. Improving Sonairkona-Goglacherra-Lala Road ...	50,000
6. Improving Sreekona-Mohanpur Road ...	3,00,000
7. Improving Bhanga-Marjatkandi-Adirkona Road ...	2,66,000
8. Improving a road from Saraspur to Sanbil ...	2,00,000
Total	38,11,000

Note.—Detailed estimates are under preparation and one or two projects may have to be curtailed or omitted in case the cost of construction of Barak Bridge exceeds Rs.20,00,000.

(b)—There has been no sitting of the Assam Road Communication Board since its last sitting in June 1952, which did not recommend this road. This will be put up before the next meeting of Assam Road Communication Board for consideration.

M. MOINUL HAQUE CHOUDHURY: What improvement is contemplated to Silchar-Sonabari Ghat-Kabuganj Road?

Shri HARESWAR DAS (Deputy Minister): That is a matter of details, and that has not yet been estimated.

Shri BISHNURAM MEDHI (Chief Minister): The anxiety of the Government is to make it an all-weather road throughout the year. During the winter season, some of the portions are not motorable due to insufficiency of earth, etc. We are anxious to make it an all-weather road so that communication to Aijal will become easier.

M. MOINUL HAQUE CHOUDHURY: Is Government aware of the demand for making it a black-topped one? And is Government contemplating to take up that black-topping work?

Shri BISHNURAM MEDHI (Chief Minister): That will depend on the availability of sufficient money.

M. MOINUL HAQUE CHOUDHURY: Is Government aware that the sum now allotted is too small an amount for any sort of real improvement?

Shri BISHNURAM MEDHI (Chief Minister): We expect to make an improvement of the road at any rate after spending the amount.

Shri RAM PRASAD CHAUBEY: Is it a fact that the road from Pailapur to Razabazar in Cachar district was taken up by the Public Works Department and was earmarked?

Mr. SPEAKER আপনার প্রশ্ন, ৩১ নং (a) প্রশ্নের উত্তরের অন্তর্গত ১ নং বৈকট নম্বর রাস্তার ভিতরে পরেনা এবং এটা নতুন প্রশ্ন হয়ে দাড়াচ্ছে।

M. MOINUL HAQUE CHOUDHURY: Whether the Goalpara Road has been in the list which is to be taken up?

Shri HARESWAR DAS (Deputy Minister): The road which does not find its place here is not to be taken up.

Shri RANENDRA MOHON DAS: In changing these projects, will the Road Communication Board be consulted?

†Shri HARESWAR DAS (Deputy Minister): It may be consulted, but if there is a delay in calling a meeting of the Communication Board, there is no question of consultation.

M. MOINUL HAQUE CHOUDHURY: If the matter for changing any project of a district is referred to the Road Communication Board, will the Members of Legislative Assembly of other subdivisions be also consulted, inasmuch as all subdivisions are not represented in the Board?

†Shri HARESWAR DAS (Deputy Minister): No.

†Speech not corrected.

Opening of Dhaleswari River Bund

Shri GAURISANKAR ROY asked :

32. (a) Is it a fact that the proposal of opening the Bund of Dhaleswari River in Hailakandi Subdivision has been dropped ?
 (b) If so, what are the reasons therefor ?
 (c) Is there any other proposal in the matter ?
 (d) If so, what are the proposals ?

Shri SIDDHINATH SARMA (Minister) replied :

32. (a)—Yes.

(b)—The proposal of the scheme was to relieve the Katakhal basin from Katakhal flood. It was originally thought that this could be achieved by diverting part of the Katakhal flood water through the Dhaleswari. On detailed examination after proper survey, it was seen that this might cause flooding in the Dhaleswari basin further down stream without solving the problem of Katakhal flood. Hence the old proposal has been dropped for a better one.

(c)—Yes.

(d)—The present proposals are broadly as follows :—

Firstly, the hills streams falling into the Katakhal which are backed up during the Katakhal flood are proposed to be provided with controlled outfall so that they can drain into the Katakhal, but will not allow Katakhal flood water to back flow into them.

Secondly, the spill channels from the Katakhal which do not function as drainage channels will be closed.

Thirdly, drainage on both sides of the Katakhal will be improved so that any flood spill may be quickly drained away.

Fourthly, low stretches in the Katakhal banks may also be provided with marginal embankments if found necessary and funds permit.

Exclusion of Rabhas, Kacharis, Mans, etc., to contest Assembly Election from Garo Hills

Shri HAKIM CHANDRA RABHA asked :

33. (a) Is it a fact that the Tribal communities like Rabhas, Kacharis, Mans etc., inhabiting the district of Garo Hills are not entitled to contest in the election for the Assam Legislative Assembly ?

(b) If so, why ?

(c) Do Government propose to move the Central Government for the amendment of necessary laws or rules in respect to this matter ?

Shri BISHNURAM MEDHI (Chief Minister) replied:

33. (a)—Yes, for the seats reserved for the Scheduled Tribes of the Autonomous District of Garo Hills. But they can stand for election to any of the other seats not so reserved for the Autonomous Districts and also to the seats reserved for the plains Tribals, provided they belong to the Tribal communities specified under item 3 of Part I of the Schedule to the Constitution (Schedule Tribes) Order, 1950 and are otherwise qualified.

(b)—This is in accordance with the provisions of Article 332 of the Constitution and Section 5 (b) of the Representation of the People Act, 1951.

(c)—No.

Shri HAKIM CHANDRA RABHA: What is the total population of the Rabhas, Kacharis and Mans inhabiting the Garo Hills?

Shri BISHNURAM MEDHI (Chief Minister): That is a new question. I want notice for collecting the information.

Shri JOGA KANTA BARUA: What other advantages do these people get when they have no right of seeking election to the Assembly?

Shri BISHNURAM MEDHI (Chief Minister): I do not understand what other advantages the hon. Member means?

Mr. SPEAKER: What are those advantages?

Shri JOGA KANTA BARUA: For example, service, contracts, etc.

Shri BISHNURAM MEDHI (Chief Minister): Reservation in service, etc., is made on the basis of the total population of the Scheduled Tribes in the plains area as well as on the basis of total population of Scheduled Tribes of the Autonomous districts.

Shri JOGA KANTA BARUA: May I ask whether these people are regarded as tribals or not?

Shri BISHNURAM MEDHI (Chief Minister): For the purpose of election a list has been notified under order of the President. Separate Lists of Scheduled Tribes of the Autonomous Districts as well as for plains districts were notified under an order of the President.

Shri HAKIM CHANDRA RABHA: If these Rabhas, Kacharis and Mans living in the Garo Hills are not entitled to contest the Assembly election, will they go unrepresented?

Shri BISHNURAM MEDHI (Chief Minister): Unless the list is amended, and their names included, nothing can be done.

Shri DHARANIDHAR BASUMATARI: May I know whether these communities—Kacharis, Rabhas, Mans, etc., living in the Garo Hills are taken into consideration in the matter of appointments and other things along with the plains tribal people in the Districts ?

Shri BISHNURAM MEDHI (Chief Minister): The total population of the province is taken class-wise and taken into consideration in the matter of reservation of percentage in services.

Shri HAKIM CHANDRA RABHA: What is the total rough population of these Kacharis, Rabhas and Mans ?

Shri BISHNURAM MEDHI (Chief Minister): I do not know.

Shri HAKIM CHANDRA RABHA: May I know whether the population does justify a seat for them ?

Shri BISHNURAM MEDHI (Chief Minister): As far as I know, these people are scattered, and according to delimitation of the Constituency there are not sufficient number of such people.

Shri HAKIM CHANDRA RABHA: Are they able to seek election from any plains areas ?

Shri BISHNURAM MEDHI (Chief Minister): They can stand for election for any reserved seats for tribals in the plains areas as well as for other general seats in the entire State.

Shri MAL CHANDRA PEGU: May I know whether the Garos living in the plains areas are regarded as plains tribal people ?

Shri BISHNURAM MEDHI (Chief Minister): I can inform the hon. Members of the House that for the purpose of election they are not treated as persons eligible to contest any reserved seat for the plains tribal areas.

Shri HAKIM CHANDRA RABHA: Is it a fact that tribes of autonomous districts are entitled to contest seats in other plains district ?

Shri BISHNURAM MEDHI (Chief Minister): They are entitled to contest for the general seats and not for reserved seats.

Shri MAL CHANDRA PEGU: If the Garo people living in the plains are regarded as plains tribal people, why are they debarred from standing in the election in the Plains Tribal seat ?

Shri BISHNURAM MEDHI (Chief Minister): The matter is quite clear from what is laid down in the Constitution. I think, it is the President who makes a list of persons according

to the regions, and in the plains tribal list they are not included. If my Friend goes through the list he will find the different communities included for various areas. The Constitution (Scheduled Tribes) Order, 1950 reads thus:—

“In exercise of the powers conferred by clause (1) of Article 342 of the Constitution of India, the President, after consultation with the Governors and Rajpramukhs of the States concerned, is pleased to make the following order, namely:—

1. This order may be called the Constitution (Scheduled Tribes) Order, 1950.

2. The tribes or tribal communities, or parts of, or groups within, tribes or tribal communities, specified in Parts I to XIV, of the Schedule to this Order, shall in relation to the States to which those Parts respectively relate, be deemed to be Scheduled Tribes so far as regards members thereof resident in the localities specified in relation to them respectively in those Parts of that Schedule.

3. Any reference in the Schedule to this order to a district or other territorial division of a State shall be construed as existing on the 26th January, 1950.”

THE SCHEDULE

Part I—Assam

1. In the Autonomous Districts:—

- | | |
|--------------------------|-----------------------------|
| 1. Dimasa (Kachari) ... | 6. Lakher ... |
| 2. Garo ... | 7. Any Lushai (Mizo) tribes |
| 3. Hajong ... | 8. Mikir ... |
| 4. Khasi and Jaintia ... | 9. Any Naga tribes |
| 5. Any Kuki tribes ... | 10. Synteng ... |

2. In the Tribal Areas other than the Autonomous Districts:—

- | | |
|----------------|--------------------|
| 1. Abor ... | 7. Mishmi ... |
| 2. Aka ... | 8. Any Naga tribes |
| 3. Apatani ... | 9. Singpho ... |
| 4. Dofla ... | 10. Momba ... |
| 5. Galong ... | 11. Sherdukpen ... |
| 6. Khamti ... | ... |

3. In the State of Assam excluding the Tribal Areas:—

- | | | | | |
|---------------------|-----|-----------|-----|-----|
| 1. Boro-Borokachori | ... | 5. Lalung | ... | ... |
| 2. Deori | ... | 6. Mech | ... | ... |
| 3. Hajai | ... | 7. Miri | ... | ... |
| 4. Kachari | ... | 8. Rabha | ... | ... |

These are the classifications according to the Schedule. I may inform the hon. Members here that there is provision for going into this matter. We have to suggest if any modifications in the list of the Scheduled Castes and Scheduled Tribes are necessary in order to make it exhaustive and make it up-to-date. We shall have to consider the conditions of these two categories, but our main concern is to prepare a list of backward classes other than the Scheduled Castes and Scheduled Tribes and take steps in the matter in the line as laid down in the Constitution. A questionnaire has also been issued and after going into this matter the Backward Classes Commission will make their recommendation and the President will consider the recommendation.

Shri DHARANIDHAR BASUMATARI: May I know whether we shall be able to exclude any community which may be considered as an advanced community among the backwards?

Shri BISHNURAM MEDHI (Chief Minister): It is for these tribes themselves to determine that matter. If they come to certain agreement that some advanced community among them should be excluded, they are at liberty to do so. Government, as a matter of fact, does not like to interfere in a matter which should be determined by the tribes themselves.

Mr. SPEAKER: Is it the desire of Mr. Basumatari that Kacharis should be excluded?

Shri DHARANIDHAR BASUMATARI: No, Sir.

Pecuniary Jurisdiction of Munsif

Shri RANENDRA MOHAN DAS asked :

34. Do Government propose to raise the pecuniary jurisdiction of Munsif from Rs.2,000 to Rs.5,000 for the interest of the public ?

Shri RUPNATH BRAHMA (Minister) : replied :

34.—No. Under the existing provision of law, viz., section 19 (2) of the Bengal, Agra and Assam Civil Courts Act, 1887, there is no scope for enhancing the pecuniary jurisdiction of a Munsif beyond Rs. 2,000.

Shri RANENDRA MOHAN DAS : In view of the fact that there had been a remarkable depreciation of money value, will Government amend the provision of the Act and raise the pecuniary jurisdiction of the Munsif ?

Shri RUPNATH BRAHMA (Minister) : The provision of law is quite clear on this point. The necessity is not so pressing in Assam for doing that. Of course without amending the Act nothing can be done.

Shri RANENDRA MOHAN DAS : Are Government aware that due to this fact the people have to run to District Courts very often ?

Shri RUPNATH BRAHMA (Minister) : That may be a fact. But we have placed Subordinate Judges in the District headquarters towns at Dhubri, Gauhati, Silchar, Dibrugarh, Jorhat, and Nowgong, and these Subordinate Judges can take cognizance and try these suits upto the value of Rs. 5,000.

Darrang Community Project

Shri DANDIRAM DUTTA asked :

35. Will Government be pleased to state the amount spent in the Darrang Community Project so far in different items of works ?

Shri BAIDYANATH MOOKERJEE (Minister) replied :

35.—The total amount spent upto the end of July, 1953 under different items in Darrang Community Project is appended below :—

	Rs.
(1) Project Headquarters	75,085
(2) Agriculture and Animal Husbandry extension.	15,803
(3) Health and Rural Sanitation	17,747
(4) Education	2,780
(5) Social Education	4,462
(6) Communications	20,451
(7) Rural Arts, Crafts and Industries ...	1,712
Total ...	1,38,040

(Rupees one lakh, thirty-eight thousand and forty only.)

Shri DANDIRAM DUTTA : Where is the Headquarters of the Darrang Community Project ?

Shri BAIDYANATH MOOKERJEE (Minister) : It is in Mangaldoi.

Shri RANENDRA MOHAN DAS : The provision for Project Headquarters is Rs.75,085—does it mean the establishment charges ? If so, more than 60 per cent. of the money has been swallowed by the Headquarters' staff. How much money was spent upto July, 1953 ?

Shri BAIDYANATH MOOKERJEE (Minister) : Whatever money we have spent has been shown. The pertinent question might be that how much was the budgeted amount and how much has been spent, but instead of that he is putting how much is being swallowed under this and that. That stage is over. We are not discussing Budget estimates.

Shri DHARANIDHAR BASUMATARI : How this amount was spent ?

Shri BAIDYANATH MOOKERJEE (Minister): These were spent in constructing bridges, culverts, etc.

Shri DANDIRAM DUTTA: দৰং Project executive অফিচৰ হেড অফিচ কত, চৰকাৰে জনাবনে ?

Shri BAIDYANATH MOOKERJEE (Minister): হেড অফিচ মঙ্গলদৈত।

Shri DANDIRAM DUTTA: Project Executive অফিচৰ হেড অফিচ Project Area ৰ ভিতৰত নে Project Area ৰ বাহিৰত ?

Shri BAIDYANATH MOOKERJEE (Minister): সেইটো তেখেত ভুলকৈ জনা আছে। তেখেত নিজেই সেই ঠাইৰ পৰা আহিছে।

Shri DANDIRAM DUTTA: মই জানিব পাবো, কিন্তু আন বিলাকেও জানিব লাগে।

Shri BAIDYANATH MOOKERJEE (Minister): আন মানুহেও জানে আৰু মই ও জনো।

Re: Mangaldai Court Building

Shri DANDIRAM DUTTA asked:

36. (a) Are Government aware that the Mangaldai Court Building is the most congested ?

(b) If so, do Government propose to extend the said building or erect a new one for the comfort of the Officers as well as the general public ?

Shri MOTIRAM BORA (Minister) replied:

36. (a)—Government are aware that there is some congestion in the Mangaldai Court Building like other District and Subdivisional Court buildings in the State.

(b)—Due to Financial stringency and other difficulties construction and extension of Court Buildings all over the State cannot be taken up at a time. Therefore a 5-Year Scheme has been worked out for construction and extension of Court Buildings all over the State in order of priority. With a view to relieve congestion in the Court Building at Mangaldai a separate Election Office Building is proposed to be constructed there in the near future and it is expected, when this materialises congestion will be relieved considerably.

Shri DANDIRAM DUTTA: মাননীয় মন্ত্রী মহোদয়ে জনাবনে যে মঙ্গলদেব নদকান্দি এই কামটোত প্রথম priority পাবনে নাপায় ?

Shri MOTIRAM BORA (Minister): এই টো P. W. D. য়ে তে ঠিক কবিব। মোব পক্ষে এইটো কোৱা টান হয়, তথাপি মই ইয়াকে কব পাৰো যে first priority নহলেও last priority নহয়। (হাঁহি)।

Enlisting Garos living in Plains districts of Assam in the list of Scheduled Tribes.

Shri AARAN SANGMA asked :

37. Will Government be pleased to state—

(a) Why the Garos living in districts other than the district of Garo Hills are not enlisted in the list of Scheduled Tribes ?

(b) Do Government propose to make necessary arrangements to enlist the Garos living in the plains districts in Assam in the list of Scheduled Tribes ?

Shri BISHNURAM MEDHI (Chief Minister) replied :

37. (a)—Because the Schedule Tribes have been specified region-wise in Assam.

(b)—The question of revision of the President's specification of Scheduled Tribes order is one of the matters on which the recommendations of the Backward Classes Commission have been invited. The Backward Classes Commission has included questions bearing on this subject in the Questionnaire issued by it. Government are now collecting the necessary materials for replying to the questions, and the matter is, therefore, under their consideration.

Shri AARAN SANGMA: The Garos living in the plains portion of the Garo Hills district are not in the scheduled list of Scheduled Tribes. If at present Garos living in plains portion are not in the list of Scheduled Tribes, from which source of allotment they are receiving money from Government for their improvement and development? If so, that is, if the Garos living in the plains

Districts are receiving allotment of money for their improvement and development as other Backward Communities of the State, are they receiving the maximum benefit ?

Shri BISHNURAM MEDHI (Chief Minister): In matters of educational facility these people are treated as backward along with other backward classes. Although the list of backward classes has not been finalised till the report of the Backward Classes Commission is received, provision has been made towards the backward areas and backward classes in order to include these tribes, affording them educational facilities and awarding scholarships and free studentships. As regards political aspects the tribes included in the hills but residing in plains can contest all general constituency.

C. I. Sheets

Sriman PRAFULLA GOSWAMI asked:

38. (a) Is it a fact that C. I. Sheets have not arrived or procured at Gauhati, since December 1952 ?
- (b) Why C. I. Sheets are not procured for such a long period ?
- (c) What is the fixed quota of C. I. Sheets for Assam in each month ?
- (d) Who is responsible for non-arrival of C. I. Sheets ?
- (e) What steps have been taken to procure sufficient C. I. Sheets for Assam ?
- (f) Who are the present procuring or lifting Agents of C. I. Sheets in Assam and particularly of Gauhati ?
- (g) When were they appointed ?
- (h) Whether they have been able to procure C. I. Sheets for Assam ?
- (i) If not, why not ?
- (j) When the next consignment of C. I. Sheets are expected to arrive at Gauhati ?

Shri BAIDYANATH MOOKERJEE (Minister) replied :

38. (a), (b), (d) & (e)—The hon. Member is referred to the replies given to Unstarred Question No.1(a) and (b) put by Shri Radha Charan Choudhury during the current Session.

(c)—There is no fixed monthly quota. Quantity of C. I. Sheets allotted to Assam quarterly varies from 1000 tons to 1400 tons.

(f)—(1) Messrs Vishnu Agencies, Limited, Calcutta.

(2) Messrs Assam Trading Co-operative Limited, Gauhati.

Latter will lift C. I. Sheets for Gauhati.

(g)—In May, 1953.

(h)—Yes. Some quantities are already on the move.

(i)—Does not arise.

(j)—No definite date can be given ; Gauhati will, however, soon be getting.

Shri GAURISANKAR ROY : Is there any agent for lifting C. I. Sheets for Cachar ?

Shri BAIDYANATH MOOKERJEE (Minister) : If I remember aright it is Messrs Vishnu Agencies Limited.

Shri GAURISANKAR ROY : What is the approximate quota of C. I. Sheets that is allotted for the district of Cachar ?

Shri BAIDYANATH MOOKERJEE (Minister) : It all depends on the quarterly quota allotted to the State Government by the Central Government and that quota varies from 1,000 to 1,400 tons quarterly and whatever is received is distributed among the different districts according to population. This relates to Basic quota only.

Shri HARESWAR GOSWAMI : Have the Assam Trading Company lifted any quota since they were appointed by the Government ?

Shri BAIDYANATH MOOKERJEE (Minister): No definite information can be given at the moment, Sir.

Shri HARESWAR GOSWAMI: Since they were appointed in May, 1953, have they lifted any quota for Gauhati ?

Shri BAIDYANATH MOOKERJEE (Minister): Nothing has reached as yet.

Shri HARESWAR GOSWAMI: Are we to understand that no quota has reached Gauhati up till now ?

Shri BAIDYANATH MOOKERJEE (Minister): No quota has as yet arrived, but something will arrive soon. The latest telegram received by the Department on 30th August last from the Tatas in reply to the Department's telegram is that consignment for this particular handling agent was being booked. We have no further information.

Shri HARESWAR GOSWAMI: May I know, Sir, why Calcutta agents were given preference to Assamese farms ?

Shri BAIDYANATH MOOKERJEE (Minister): May I know from the hon. Member, who are the Assamese Companies who applied ?

Shri HARESWAR GOSWAMI: I know that some Assamese companies applied.

Shri BAIDYANATH MOOKERJEE (Minister): Although this Question does not arise in connection with this Unstarred Question, but I can inform the hon. Member, Sir, that tenders were called for and 3 parties applied ; two of them have been appointed, another party consisting of certain merchants formed a Company and applied, that Company could not be appointed because some of the partners could not play their part well in the past and Government was put into difficulties. So that party was not appointed.

Shri GAURI SANKAR ROY: What is the principle adopted for the distribution of C. I. sheets in the districts of Assam ?

Shri BAIDYANATH MOOKERJEE (Minister): I have already stated that.

Maulavi Md. UMARUDDIN: What is the standing of Messrs Vishnu and Company, Calcutta, how long they have been in existence and what is their financial position ?

Shri BAIDYANATH MOOKERJEE (Minister): We made necessary enquiries and when we found that they were financially sound and of good standing they were given the agency. They are standing for several years.

Maulavi Md. UMARUDDIN: May I know, for how many years?

Shri BAIDYANATH MOOKERJEE (Minister): I am not going to answer that absurd question, Sir. How does this arise?

Maulavi Md. UMARUDDIN: It is an insult to the House. The Minister must have enquired into duration while examining the standing of the firm.

Mr. SPEAKER: For how many years these companies are in existence, the Minister cannot say without notice.

Last B. Ag. Examination of the Assam Agricultural College

Shri RADHA CHARAN CHOUDHURY asked :

39. Will Government be pleased to state how many candidates appeared in the last B. Ag. Examination from the Assam Agricultural College at Jorhat and how many of them passed the said examination?

Shri MAHENDRA MOHAN CHAUDHURY (Minister) replied :

39.—Sixteen candidates appeared in the last B. Sc. (Agri.) Examination from the Assam Agricultural College, Jorhat and four passed and four have got chance for compartmental examination also.

Shri RADHA CHARAN CHOUDHURY: What are the causes of such unsatisfactory result?

Shri MAHENDRA MOHAN CHAUDHURY (Minister): This has become the usual feature with all University examinations.

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

Mr. SPEAKER: Now we may take up consideration of the Assam Non-Agricultural Urban Areas Tenancy Bill, 1953.

Shri BIMALA KANTA BORA: Mr. Speaker, Sir, I beg to move that in item (b) of sub-clause (2) of clause 1, after the word "Cachar" in the second line, the words "excluding the Karimganj subdivision" shall be added.

Mr. SPEAKER: The Motion moved is that in item (b) of sub-clause (2) of clause 1, after the word "Cachar" in the second line, the words "excluding the Karimganj subdivision" shall be added.

Shri HARESWAR DAS (Deputy Minister): I accept it, Sir.

Mr. SPEAKER: The question is that in item (b) of sub-clause (2) of clause 1, after the word "Cachar" in the second line, the words "excluding the Karimganj subdivision" shall be added.

(The Motion was adopted.)

Shri GAURISANKAR BHATTACHARYYA: Mr. Speaker, Sir, I beg to move that for sub-clause (2) (b) of clause 1, the following shall be substituted:—

"It extends to all the Urban Areas of the State of Assam except the Karimganj subdivision".

Here, Sir, in this Bill as it has been sent by the Select Committee, only 5 towns have been practically included for immediate effect, namely, Silchar, Hailakandi, Gauhati, Tezpur and Dhubri. Now, the purpose of moving my amendment is that not only these few towns but all the Urban Areas of the State should be brought under the operation of the proposed Bill and therefore, I have moved my amendment.

Mr. SPEAKER: The Motion moved is that for sub-clause (2)(b) of clause 1, the following shall be substituted:—
"It extends to all the Urban Areas of the State of Assam except the Karimganj subdivision".

Shri HARESWAR DAS (Deputy Minister) : Sir, I am sorry, I cannot accept it because this original Bill of 1950 was sent for elucidating public opinion and from the opinions received by us it was found that some districts did not want such a Bill, so this power has been reserved to the Government that if there be public demand from any area it will be extended to such an area. By accepting this amendment no useful purpose will be served.

Mr. SPEAKER : Will Mr. Bhattacharyya withdraw his Motion ?

Shri GAURISANKAR BHATTACHARYYA : Yes, Sir, I beg leave of the House to withdraw my Motion.

Mr. SPEAKER : Has the hon. Member leave of the House to withdraw his Motion ?

(The Motion was, by leave of the House, withdrawn).

Mr. SPEAKER : The question is that clause 1 as amended do form part of the Bill.

(The question was adopted).

Mr. SPEAKER : The question is that clauses 2-3 do form part of the Bill.

(The question was adopted).

Shri GAURISANKAR BHATTACHARYYA : Mr. Speaker, Sir, I beg to move that in clause 4, for the words "twelve years" occurring in the second line as well as in the first line of Explanation (1), the words "five years" shall be substituted.

The purpose of this amendment Sir, is to give immediate relief to those tenants who have been most hard-pressed owing to influx of population in the urban areas particularly in those towns where this Bill is sought to be affected. Therefore if this period of 12 years is allowed to remain there, very few will really get the benefit of this Bill, but if the period is fixed at 5 years, then a larger number of people will get the benefit. Therefore, I beg to move this amendment which will give benefit to a larger number of people and I hope the House will accept it.

Mr. SPEAKER : The motion moved is that in clause 4, for the words "twelve years" occurring in the second line as well as in the first line of Explanation (1) the words "five years" shall be substituted.

Shri HARESWAR DAS (Deputy Minister) : Mr. Speaker, Sir, I am sorry I cannot accept this amendment. Generally some rights are conferred on tenants or persons in occupation for 12 years. In almost all tenancy legislation this period of 12 years is taken as a fair limit. A person who has occupied for 12 years a plot of land is taken almost as a permanent occupier and some right is conferred on him. If "five years" is taken as the period, this benefit will be conferred even on temporary occupants, which is not contemplated by this Bill. A person who comes and lives here for 2 or 3 or even 5 years and then goes away no right is contemplated to be conferred on him. It will benefit a larger number of people no doubt, but we want to confer this right only on persons who are occupants of a permanent nature. So I request my Friend to consider this aspect of the matter that rights cannot be conferred merely on temporary occupants. I therefore request him to allow this clause to remain as it is and to withdraw his amendment.

Shri GAURISANKAR BHATTACHARYYA : May I know one point, Sir ? Whether it will be illegal if the period is made 5 years ?

Shri HARESWAR DAS (Deputy Minister) : There is no question of legality or illegality, but as I have said, it has become almost a convention to accept 12 years as the period which is considered as fair in almost all tenancy legislations. A strong case must be made out if we are to deviate from that long established practice.

Shri GAURISANKAR BHATTACHARYYA : May I have another information, Sir ? Whether it is a fact that most of the leases granted are not for 12 years but for shorter terms like 5 years or so ?

Shri HARESWAR DAS (Deputy Minister) : At present the Transfer of Property Act applies to towns which is subject to customs, local usages and contract. A contract may be made for 50 years or 5 years. The leases are governed by the terms of the contract.

Shri GAURISANKAR BHATTACHARYYA : What is the reality ?

Shri HARESWAR DAS (Deputy Minister) : In a majority of cases there is no contract.

Shri GAURISANKAR BHATTACHARYYA : In cases where there are contracts ?

Shri HARESWAR DAS (Deputy Minister) : Where there is a contract, the contract is binding on the parties.

Mr. SPEAKER : Mr. Bhattacharyya, do you want it to be put to the House ?

Shri GAURISANKAR BHATTACHARYYA : Yes, Sir.

Mr. SPEAKER : The question is that in clause 4, for the words "twelve years" occurring in the second line as well as in the first line of Explanation (1) the words "five years" shall be substituted.

(The Motion was lost.)

Mr. SPEAKER : The question is that clauses 4-5, do form part of the Bill.

(The question was adopted.)

M. MOINUL HAQUE CHOUDHURY : I am not moving my amendment in clause 6, Sir.

Shri GAURISANKAR BHATTACHARYYA : Mr. Speaker, Sir, I beg to move that after the existing proviso to clause 6, the following shall be added : —

"Provided further that the rent to be paid by the tenant to his landlord for land used for residential purpose shall not exceed twice the land revenue due by the landlord to the Government for that particular land".

Sir, I want to bring this amendment only to cover that land which is used for residential purposes and not land for commercial and such other purposes. Sir, residence is one of the most primary necessities in the same way as food and clothing are necessities of life. These three are recognised as primary necessities. So nobody should be allowed to extort money from the people by taking advantage of their needs and particularly when the landlord gives out land on lease he should be satisfied with making 100 per cent. profit. If he gets twice the amount of land revenue that he pays to the Government it will be quite fair and equitable. Therefore, there should be a limit that the landlord will not be allowed to take from the tenants more than double of what he pays to Government as land revenue for those lands which the tenants use for residential purposes. I hope that the House will accept my amendment.

Mr. SPEAKER : The motion moved is that after the existing proviso to clause 6, the following shall be added :

“Provided further that the rent to be paid by the tenant to his landlord for land used for residential purpose shall not exceed twice the land revenue due by the landlord to the Government for that particular land.”

Shri HARESWAR DAS (Deputy Minister) : Mr. Speaker Sir, I cannot accept this amendment. Sir, this will rather affect the people adversely. It is a very inequitable provision. My Friend wants to have the maximum rent only at twice the land revenue. His amendment does not take into consideration the improvement made by the settlement holder on the land. I refer my Friend to Gauhati where he resides—if say, for half a bigha of land in the town of Gauhati the settlement holder has to spend about 5 thousand rupees for improving it—If for that land he pays land revenue at Rs.6 double of that is 12 rupees, does my Friend want to give only Rs.12 as rent to the settlement holder for that land in which he has spent 5 thousand rupees?

Shri GAURISANKAR BHATTACHARYYA : Land for residential purposes, I do not mean land for hire.

Shri HARESWAR DAS (Deputy Minister) : When you get periodic pattas you can let out the land. So this amendment has not taken consideration of that factor, *i. e.*, the improvement made by the settlement holder. As I have already cited an example of Gauhati, when the settlement holder pays revenue of Rs.6 a year but he has spent 4 to 5 thousand rupees to make the land fit for residential purposes, what amount of rent you want to give him? 12 rupees? So, Sir, I say this is a very inequitable amendment, it does not consider that aspect of the question.

So I request my Friend not to press his amendment but to withdraw it.

Mr. SPEAKER : Mr. Bhattacharyya, will you withdraw it?

Shri GAURISANKAR BHATTACHARYYA : No, Sir, I press it.

Mr. SPEAKER : The question is that after the existing proviso to clause 6, the following shall be added:—

“Provided further that the rent to be paid by the tenant to his landlord for land used for residential purpose shall not exceed twice the land revenue due by the landlord to the Government for that particular land”.

(The Motion was lost.)

Mr. SPEAKER : The question is that clause 6 does form part of the Bill.

(The question was adopted.)

Mr. SPEAKER: The question is that clauses 7-10 do form part of the Bill.

(The question was adopted.)

Mr. SPEAKER: Mr. Bhattacharyya.

Shri GAURISANKAR BHATTACHARYYA: Mr. Speaker, Sir, I beg to move that the following new clause shall be inserted as clause 11 after clause 10 and the subsequent clauses be renumbered accordingly :—

“11—Illegal Realisation.—(1) Realisation of any ‘salami’ from the tenant at the time of initiating a lease shall not exceed an amount equivalent to one year’s rent for the land ;

(2) Any realisation of fresh ‘salami’ at the time of renewal of the lease shall be illegal”.

Now, Sir, at the consideration stage some discussion was made on this point of Salami. Some of the hon. Members in this House said that this thing was not in existence in the State. From our own personal and direct experience we know that this system is prevailing in most of the urban areas of the State. It may be said by some people with some justification that some amount of Salami may be demanded by the landlords at the time of giving the lease. Sir, by taking advantage of land hunger of the people, these landlords should not be allowed to demand and extort any amount of Salami they like. Sir, I think there should be a limitation to this and the realisation of the Salami should not exceed one year’s rent for that land. Secondly, Sir, as I have said a few minutes ago, leases in the urban areas generally are granted for a very short period, ranging from 2 to 12 years. There are very few leases which extend beyond 12 years. Now, Sir, at the time of renewal of the leases the landlords accordingly demand Salami. Sir, if the period of the leases be very short, then every time the leases are renewed the Salami is taken in addition to the usual high rates of rent. The tenants have to pay heavy amount to the landlords and it is prevalent in those towns and urban areas where the population is thick and where the population is fast increasing. Therefore, Sir, this new clause is very necessary wherever there is realisation of Salami from the tenants, and also it will be a bar from taking salami at the time of renewal of the leases.

With these few words, Sir, I commend this Amendment of mine to the acceptance of the House.

Mr. SPEAKER: The Motion moved is that the following new clause shall be inserted as clause 11 after clause 10 and the subsequent clauses be re-numbered accordingly:—

“11. Illegal Realisation.—(1) Realisation of any ‘salami’ from the tenant at the time of initiating a lease shall not exceed an amount equivalent to one year’s rent for the land ;

(2) Any realisation of fresh ‘salami’ at the time of renewal of the lease shall be illegal”.

Shri BAIDYANATH MOOKERJEE (Minister): Mr. Speaker, Sir, I rise to support this Motion. Sir, to my mind this is really equitable, and it will give relief to the people who are involved in this matter. The first point of Mr. Bhattacharyya is that realisation of any Salami from the tenant at the time of initiating a lease shall not exceed the amount equivalent to one year’s rent for the land—though there is some danger yet I think ultimately it will produce the desired effect. The danger which I apprehend is this, that the landlords may extort a higher rent—at the very beginning when the settlement is given and the tenant will pay at a higher rate for all the time to come. But still all the landlords are not so hungry, as to take recourse to this type of cheating. Sir, there are landlords who are generous. I think in the present day their (generous) number is much more than the blood thirsty landlords. So, this will give benefit to the tenants generally and hence I support this amendment. With regard to the other clause also, Sir, there is no question why Salami should be charged at the time of renewing the leases. With regard to the other point regarding the period for occupancy right raised by my Friend, Mr. Bhattacharyya, in the previous amendment that the period should be fixed at five years, and not at twelve years that will also be met to a greater extent if this amendment is accepted. The realisation of Salami at short intervals at the time of renewal will be stopped. Whether the lease will be for three or five years, the question of Salami will not be there, and the question of enhancement of rent or otherwise has also been provided for in a different clause as to what should be the limit and how rent can be increased. Sir, I hope my hon. Colleague, Shri Das, will accept this reasonable amendment and remove the imaginary and unfounded apprehension that whatever comes from the Opposition are opposed as a rule by the Treasury Benches. Sir, whenever an equitable and reasonable amendment emanates from the Opposition, Government is always eager to accept the same. I hope, Sir, this amendment will be accepted. If my Friends in the Opposition benches still have got any

such doubt in their minds that also will be removed, and I hope they will give constructive suggestion in future without any complex.

Mr. SPEAKER: Do you accept the Amendment, Mr. Das?

Shri HARESWAR DAS (Deputy Minister): Yes, Sir, but before doing that I want to speak a few words. For once, at least, I find my Friend reasonable, and so I gladly accept this Amendment. If he in future tries to confine himself to this degree of reasonableness, then he will find that we are very open. We always come with a open mind and if we find him reasonable, we will have no objection to accept his suggestion.

Mr. SPEAKER: Do you agree to accept the marginal note to Clause 11, *i.e.* "Illegal Realisation?"

Shri HARESWAR DAS (Deputy Minister): Yes, Sir.

Mr. SPEAKER: The question is that the following new clause shall be inserted as clause 11 after clause 10 and the subsequent clauses be re-numbered accordingly—

"11. Illegal Realisation.—(1) Realisation of any 'salami' from the tenant at the time of initiating a lease shall not exceed an amount equivalent to one year's rent for the land;

(2) Any realisation of fresh 'salami' at the the time of renewal of the lease shall be illegal."

(The Motion was adopted.)

The question is that clauses 11, 12 and 13 do form part of the Bill.

(The question was adopted.)

Shri GAURISANKAR BHATTACHARYYA: Mr. Speaker, Sir, I beg to move that in clause 14, for the word "excluding" in the second line the word "including" shall be substituted.

I hope, Sir, this time also my amendment will be considered reasonably. I think, Sir, that the Hon. Deputy Minister did not really intend that this word should be here but it has come to this place out of mistake. From a consideration of the clause it will appear that the intention of the Members of Select Committee

was to help the tenants. In view of this, I think it is very well known to the members of the Select Committee as well as to the honourable Members of this House that there are many execution proceedings pending in courts, and if these are to be excluded from keeping pending then the special operation of the Bill will be defeated. Therefore, Sir, when it will be brought into effect these proceedings should also be included. Therefore, instead of the word 'excluding' the word 'including' be there.

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

Mr. SPEAKER: The Motion moved is that in clause 14, for the word "excluding" in the second line the word "including" shall be substituted.

Shri HARESWAR DAS (Deputy Minister): Sir, I am unable to accept this Amendment. Again my Friend has relapsed to his former position. The Select Committee discussed all the pros and cons of this matter and they decided to keep the word "excluding", because it is the general principle of law to prevent multiplicity of suits. A decree is the finality of a suit. If that finality is not kept all the suits will be re-opened. So the Select Committee deliberately put the word "excluding". A decree is not barred before 12 years if it is executed every 3 years. So this amendment will mean that this Act will have retrospective effect for 12 years, and cases which reached a final stage 12 years back will again be re-opened. In order to prevent this, this word "excluding" has been put there. In view of my explanation I hope my Friend will withdraw his amendment.

Shri GAURISANKAR BHATTACHARYYA: Sir, I am sorry that I am not satisfied with the explanation given by the Deputy Minister. It appears that he has misunderstood me a little. As a lawyer he knows that there can be re-opening of cases in spite of the word "excluding" being there. He also knows that by insertion of the word "including" in place of the word "excluding" only those cases which are pending are sought to be given relief. So the question of re-opening of cases of as late as 12 years will not actually arise. Therefore, Sir, I cannot find my way to convince myself by the arguments given by the Deputy Minister. I therefore cannot withdraw my amendment.

Shri HARESWAR DAS (Deputy Minister): I have been misunderstood, Sir. If a decree is not executed within 12 years it cannot be executed but if it is executed every 3 years, it is kept alive for 12 years. So it will have retrospective effect. A decree which has not been barred may be executed any moment and the moment it is put into execution it becomes pending, execution proceedings and the law will at once apply and re-open the decree.

Maulavi NAMWAR ALI BARBHUIYA: Sir, to my mind the word "excluding" is a printing mistake. I was a member of the Select Committee. The word 'including' was suggested and was also accepted by the House. The reason of such a suggestion was that only in cases of pending execution proceedings the provision will apply, and as far as I can remember, Hon'ble Minister-in-charge of the Bill was also informed about this. I do not know how the word "excluding" crept into later on.

Mr. SPEAKER: Did you send a dissentient note?

Maulavi NAMWAR ALI BARBHUIYA: At the time of signing the Bill I did not go through the Bill but was under the impression that the original suggestion so far as the word "including" is concerned was there.

Mr. SPEAKER: What have you got to say about this, Mr. Das?

Shri HARESWAR DAS (Deputy Minister): What I can say is only that he was present in the Select Committee Meeting and he signed the report as approved by the Select Committee, and there was no dissentient note.

It is not a mistake in the original Bill. He was present there and signed it.

Mr. SPEAKER: If you feel interested in the matter Mr. Barbhuiya, it would have been proper for you to sign and send a note of dissent but to say something now which is very different in the House of Legislature is not encouraging. Your signing the Bill without proper appreciation of the implication of your signature is very un-understandable.

The question is that in clause 14, for the word "excluding" in the second line the word "including" shall be substituted.

(The Opposition claimed division.)

Shri ANANDA CHANDRA BEZBARUA: Mr. Speaker, Sir, will the names of the neutral Members be also recorded?

Mr. SPEAKER: No.

The Assembly divided.

AYES—14

1. Shri Ghana Kanta Gogoi
2. Shri Hareswar Goswami
3. Shri Gaurisankar Bhattacharyya
4. Shri Ranendra Mohan Das

AYES—concl'd.

5. Raja Ajit Narayan Deb, of Sidli
6. Shri Dandiram Dutta
7. Muhammad Umaruddin
8. Mr. A. S. Khongphai
9. Maulavi Mehrab Ali Laskar
10. Shri Tamizuddin Prodhani
11. Md. Sahadatai Mondal
12. Maulavi Tajuddin Ahmed
13. Shri Radha Charan Chaudhury
14. Shri Sarju Prasad Singh

NOES—60

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|---------------------------------------|-----------------------------------|
| 1. Shri Bishnu Ram Medhi | 30. Shri Naranarayan Goswami. |
| 2. Shri Motiram Bora | 31. Shri Baikuntha Nath Das |
| 3. Rev. J. J. M. Nichols-Roy. | 32. Shri Prabhat Chandra Goswami. |
| 4. Shri Rupnath Brahma | 33. Shri Dharanidhar Basu-matari. |
| 5. Shri Mahendra Mohan Choudhury. | 34. Shri Mahendra Nath Deka, |
| 6. Shri Baidyanath Mookerjee. | 35. Shri Purandar Sarma. |
| 7. Pu Ch. Saprawnga | 36. Shri Sasadhar Ghose. |
| 8. Shri Ramesh Chandra Das Choudhury. | 37. Shri Davidson Bhabora. |
| 9. Maulana Abdul Jalil | 38. Shri Mohi Kanta Das. |
| 10. Shri Ram Prosad Chubey | 39. Shri Biswadev Sarma. |
| 11. Shri Raghunandan Dhubi | 40. Shri Gahan Chandra Goswami. |
| 12. Shri Raichand Nath. | 41. Maulavi Nurul Islam. |
| 13. Maulavi Moinul Haque Choudhury. | 42. Shri Baliram Das. |
| 14. Shri Hem Chandra Chakravarty. | 43. Shri Mahendra Hazarika. |
| 15. Shri Gauri Sankar Roy | 44. Shri Bimala Kanta Bora. |
| 16. Shri Kistobin Rymbai | 45. Mrs. Usha Barthakur. |
| 17. Mr. Joybhadra Hagjer | 46. Shri Lila Kanta Bora. |
| 18. Shri Nihang Rongpher | 47. Mohammed Idris. |
| 19. Shri Khorsing Terang | 48. Shri Rajendranath Barua. |
| 20. Mr. Harison Momin | 49. Shri Chanoo Kheria. |
| 21. Mr. Emerson Momin | 50. Shri Harinarayan Barua. |
| 22. Mr. Emonsing Sangma | 51. Shri Girindranath Gogoi. |
| | 52. Shri Ananda Chandra Bezbarua. |

NOES—*concl'd.*

23. Mr. Aaran Sangma.
24. Maulavi Kobad Hussain Ahmed.
25. Shri Santosh K u m a r Barua.
26. Shri Jatindra Narayan Das
27. Swami Krishna n a n d a Brahmachari.
28. Shri Hareswar Das.
29. Shri Mahadeb Das.

53. Shri Purnananda Chetia
54. Shri Sarveswar Barua.
55. Shri Hem Chandra Hazarika.
56. Maulavi Faiznur Ali.
57. Shri Ramesh Chandra Barooah.
58. Shri Indreswar Khaund.
59. Shri Manik Chandra Das.
60. Shri Dalbir Singh Lohar.

(The Motion was lost.)

Mr. SPEAKER : The question is that clause 14 do form part of the Bill.

(The question was adopted).

Mr. SPEAKER : The question is that clauses 15, 16 and 17 do form part of the Bill.

(The question was adopted).

Mr. SPEAKER : Clause 18—Shri Bimala Kanta Bora to move

Shri BIMALA KANTA BORA : I beg to move Sir, that in clause 18, the words and figures "The Sylhet Non-Agricultural Urban Areas Tenancy Act, 1947, (Assam Act X of 1947) so far as it is applicable to Karimganj subdivision as well as" occurring in the first, second and third lines shall be deleted.

Sir, this is a consequential amendment in view of amendment No. I being already adopted by the House.

Shri HARESWAR DAS (Deputy Minister) : I accept this.

Mr. SPEAKER : The question is that in clause 18, the words and figures "The Sylhet Non-Agricultural Urban Areas Tenancy Act, 1947, (Assam Act X of 1947) so far as it is applicable to Karimganj sub-division as well as" occurring in the first, second and third lines shall be deleted.

(The motion was adopted.)

The question is that clause 18, as amended, do form part of the Bill.

(The question was adopted.)

Mr. SPEAKER : The question is that the long title and the Preamble do form part of the Bill.
(The question was adopted).

Shri HARESWAR DAS (Deputy Minister) : Mr. Speaker, Sir, I beg to move that the Assam Non-Agricultural Urban Areas Tenancy Bill, 1953, as amended, be passed.

Mr. SPEAKER : The Motion moved is that the Assam Non-Agricultural Urban Areas Tenancy Bill, 1953, as amended, be passed.

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

The Assam Embankment and Drainage Bill, 1953

Mr. SPEAKER : Now, the next item is the consideration of the Assam Embankment and Drainage Bill, 1953.

Shri HARESWAR GOSWAMI : Mr. Speaker, Sir, I beg to move that in clause 5, for the words "Deputy Commissioner" occurring in the second line of the last paragraph of sub-clause (i), the words "Embankment Officer" shall be substituted.

Shri HARESWAR DAS (Deputy Minister) : On a point of order Sir, I want to put an objection to show that this amendment is out of order. Mr. Goswami wants to delete the words "Deputy Commissioner" in clause 5 of the Bill but does not amend that very words in clause 6(i). The paragraph in clause 5 runs "Such person or body of persons shall make an application in writing to the Deputy Commissioner of the District in which such Embankment or drain is situated or proposed". By this amendment of clause 5, the words "Deputy Commissioner" goes but the words in clause 6(i), "When an application has been made to the Deputy Commissioner under section 5" remain, so it becomes incongruous. There ought to have been an amendment in clause 6(i) also.

Mr. SPEAKER : If this amendment is accepted that can be consequentially amended.

Shri HARESWAR DAS (Deputy Minister) : It is not consequential. It is inconsistent. There are also other defects.

Shri HARESWAR GOSWAMI : Sir, I should speak before the Deputy Minister replies.

Shri HARESWAR DAS (Deputy Minister) : As, Sir, you ruled that preliminary objection can be taken up, so I have made this point of order at the preliminary stage.

The words "Deputy Commissioner" will again appear in clauses 13 and 16 which are also look incongruous.

Shri HARESWAR GOSWAMI : Sir, in clause 5 (i) this "Deputy Commissioner" is related only to clause 6 (i). If my

amendment is accepted by this House in that case, "Deputy Commissioner" in clause 6 (i) will have to be corrected consequentially. Here, it is regarding submission of applications only. I want that instead of the Deputy Commissioner the Embankment Officer will receive the applications direct. There is no difficulty in that.

Sir, in the consideration stage of this Bill, I referred to this matter and the Public Works Department Minister advanced an argument in favour of retaining the words "Deputy Commissioner", but I did not feel convinced and hence this amendment. The objective of this Bill is to expedite the execution of the schemes of embankment and drainage for the betterment of agriculture in our State. If this is the objective, the Deputy Commissioner here becomes redundant. The applications can be made directly to the Embankment Officer because in clause 6 (i) it has been stated that the Deputy Commissioner will forward the application to the Embankment Officer. If the Deputy Commissioner is simply to forward then why should the applications be not submitted directly to the Embankment Officer and why the Deputy Commissioner should be made a post office? We have also our experience that when an application or a letter gets into certain department it does not see its way out. It takes long time in moving in the offices. So, if we really mean to speed up these things than things which are redundant should not be here and if we make the application direct to the Embankment Officer it will expedite matters.

(Shri Gaurisankar Bhattacharyya: on a point of order, Sir, the Minister in-charge is absent).

Sir, it is stated in clause 5, "If any person or body of persons desires that a bridge, culvert, syphon, sluice or any other device in any public embankment for the purpose of drainage or irrigation; such persons or body of persons shall make an application in writing to the Deputy Commissioner of the District in which such embankment or drain is situated or proposed.

Here, the first object is if really a bridge, culvert, syphon, etc., is required then first of all the technical advice will be necessary and afterward if this work is proposed to be undertaken then the question of record of rights, etc., will come in. This technical advice belongs to the domain of the Embankment Officer and so the proper course is to approach him at the earliest and if he considers that such work is necessary then only it should go to the Deputy Commissioner.

Then, Sir, in clause 6 (ii) we find: "The State Government may, in certain cases, receive such application direct from the public and forward such application to the Embankment Officer calling for report on the feasibility, soundness, or otherwise of the

proposal from technical point of view....." Here, also we find the State Government without commenting anything will forward the application to the Embankment Officer. By this, the Embankment Officer is given the final decision, then why not allow the Embankment Officer to receive the application direct? That will fulfil the purpose of this Act. So I consider, "Deputy Commissioner" should not be brought in here. He may be necessary in other cases, but here it is not necessary. The application will thus go immediately to the Embankment Officer and if it is required in due course it will go to the Deputy Commissioner or any other Department.

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

Mr. SPEAKER: Motion moved is that in clause 5, for the words "Deputy Commissioner" occurring in the second line of the last paragraph of sub-clause (i), the words "Embankment Officer" shall be substituted.

Shri HARESWAR DAS (Deputy Minister): I am sorry I cannot accept this amendment Sir. I do not see what good will come out if the words "Deputy Commissioner" are deleted. This has been put down here because a Deputy Commissioner as head of the district is accessible to everybody. Everybody can go to him at any time. The words Deputy Commissioner figure everywhere. My Friend has not touched the other question, that is, about clause 5(ii) when a person making application has to deposit some amount with the Deputy Commissioner.....

Shri HARESWAR GOSWAMI: That concerns money.

Shri HARESWAR DAS (Deputy Minister): But land is also money. Out of land money will come. Even clause 5(i) also concerns money. So when this is a question of money it is all the more appropriate that a Deputy Commissioner as head of the district should be there. I do not see what good will come out by deleting the Deputy Commissioner from here.

Shri HARESWAR GOSWAMI: It will remove delay.

Shri HARESWAR DAS (Deputy Minister): It will not remove delay. Rather it will be on the contrary because an Embankment Officer is a touring officer and he may not be available at all times, but the Deputy Commissioner or his office will be always available to the people. So Sir, it is only for the benefit of the people that the Deputy Commissioner has been put down here.

The Deputy Commissioner, as I have said, figures everywhere even where there is no Embankment Officer, the Deputy Commissioner will be there. So I do not see any necessity for this amendment. I therefore request my Friend to withdraw it.

Mr. SPEAKER : Do you want to withdraw it Mr. Goswami ?

Shri HARESWAR GOSWAMI : No Sir, I do not want to withdraw my amendment.

Mr. SPEAKER : The question is that in clause 5, for the words "Deputy Commissioner" occurring in the second line of the last paragraph of sub-clause (i), the words "Embankment Officer" shall be substituted.

The Motion was lost.

Raja AJIT NARAYAN DEB of Sidli.—Mr. Speaker, Sir, I beg to move that in sub-clause (ii) of clause 5, for the words and figures "Rs.50" occurring in the third and seventh lines, the word and figures "Rs.10" shall be substituted.

Sir, I place this amendment before the House purely on humanitarian point of view. Rs.50 which is proposed by Government as fee for application is too high. Sir, the rich people who want drainage for their land, can do it themselves and they would not approach the Government for helping them with a canal. It is the poor people who require help and for the poor people to pay Rs.50 as fee for a canal specially before they know whether or not they will get real help from that canal, is most certainly too much. I think on this consideration Government will readily accept my amendment and take Rs.10 as a token fee. Moreover Rs.50 will not actually cover the expenses for survey and investigation which may be required. So I say that Rs.10 may be taken as a token only so that there may not be unnecessary applications from all and everybody.

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

Mr. SPEAKER : The motion moved is that in sub-clause (ii) of clause 5, for the word and figures "Rs.50" occurring in the third and seventh lines, the word and figures "Rs.10" shall be substituted.

Shri HARESWAR DAS (Deputy Minister) : Sir, I do not see any necessity for this amendment. The Mover seems to have lost sight of the fact that when an application is made by a body of persons or from the general public, no deposit is necessary, but only when an individual makes an application that he has to make this deposit. Now my Friend wants to put down this

amount to Rs.10. Well, Rs.10 means wages of 5 labourers for one day. Even this amount of Rs.50 is not sufficient. It is there only to show the bonafide of the application just like the deposit amount of Rs.250 in Assembly elections. It is something like that. The actual expenditure will be much more than Rs.50. So, Sir, this amendment is not necessary. I request my Friend to withdraw it because practically it has no bearing at all.

Mr. SPEAKER: Do you want to withdraw it?

Raja AJIT NARAYAN DEB of Sidli: No Sir, I do not want to withdraw.

Mr. SPEAKER: The question is that in sub-clause (ii) of clause 5, for the word and figures "Rs.50" occurring in the third and the seventh lines, the word and figures "Rs.10" shall be substituted.

The Motion was lost.

Mr. SPEAKER: The question is that clauses 1 to 5 do form part of the Bill.

(The question was adopted.)

Raja AJIT NARAYAN DEB of Sidli: Mr. Speaker, Sir I beg to move that in sub-clause (iii) (a) of clause 10, the words, "or soil" shall be deleted.

I find it necessary from my personal experience that this word "soil" should be deleted. This clause says "No claim for compensation shall be entertained after the expiry of two years from the date of the completion as notified unless the Deputy Commissioner is satisfied that the claimant had sufficient cause for not making the claim within such period:

Provided that no compensation shall be awarded for any damage caused by:—

(a) deterioration of climate or soil".

Sir, I have seen in some embankments and in some irrigation canals the soil deteriorated. In Kokrajhar area about 3 years ago an embankment was constructed and compensation was paid for the actual land which was required for digging the canal; but the land on the either side which became barren for want of water as a result of the irrigation project, the people were not given any compensation. As a result of that the people of those areas had to go away and to leave the land for ever. So I think some compensation should be paid to those people who have to leave their land.

It is also provided that no compensation shall be paid for deterioration of climate because it is very difficult to determine

whether the climate is deteriorating or not. But as regards soil, I think some provision should be made to pay compensation.

Adjournment

The Assembly was then adjourned for lunch till 1-30 p. m.

(After lunch) •

Raja AJIT NARAYAN DEB of Sidli: Sir, I was speaking about payment of compensation for deterioration of the soil. Compensation is being paid for the land which is required to be taken over by Government for Embankment and Drainage works, and no compensation will be paid for the soil which will deteriorate, and which will be adjoining to the land taken over by the Government. Sir, I say that there is no justification in not paying compensation for the deterioration of soil for people of the locality. Even in our constitution there is a provision for payment of compensation for anything which is taken away by Government for certain purposes. Sir, I do not know why Government should not provide any compensation for the deterioration of the soil which will be quite useless.

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

Mr. SPEAKER: The Motion moved is that in sub-clause (iii)(a) of clause 10, the words "or soil" shall be deleted.

Shri HARESWAR DAS (Deputy Minister): Mr. Speaker, Sir, deterioration of soil may be affected by other reasons also and for that reason compensation cannot be made. The Select Committee also considered all these points, and they decided to retain it. So I request my Friend to withdraw his amendment.

Mr. SPEAKER: Will the hon. Member withdraw his amendment?

Raja AJIT NARAYAN DEB of Sidli: Yes, Sir.

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

Mr. SPEAKER: The question is that Clauses 6 to 10 do form part of the Bill.

(The question was adopted).

Raja AJIT NARAYAN DEB of Sidli: I am not moving my amendment No.4, Sir.

Shri HARESWAR GOSWAMI: Mr. Speaker, Sir, I beg to move that in clause 12, for the words "before the commencement of this Act" occurring in the fourth line the words "since 1947, 15th August" shall be substituted.

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

Sir, my amendment says that for the words "before the commencement of this Act" the words "since 1947, 15th August" will be substituted, and the clause shall then read as follows:—

"It shall be lawful for the State Government to levy a similar Water Rate or Betterment Cess on land improved by Government since 1947, 15th August".

Sir, my purpose in moving this amendment is to put a limit to the retrospective effect of this Bill. If the Bill is passed it will give retrospective effect and there will be no limit to such effect.

Sir, some lands might have been improved 20 years back and might be the people are actually deriving some benefit, if there is no limit fixed, then Government will be entitled to levy a Water Rate or Betterment Cess on those lands. Sir, I consider this very unreasonable because at the time of doing those works the people had not had any idea about Water Rate or Betterment Cess, the people simply applied and Government did it. Then Sir, if this Act is to remain, then this Government will be entitled to levy a Water Rate or Betterment Cess on the lands improved 20 years back or even more. Sir, as a matter of fact, it is against the principle of natural justice, for the fact that these people did not have any notice about this, and that also involves some financial obligation.....

Mr. SPEAKER: Have we not got these schemes before ?

Shri HARESWAR GOSWAMI: There are some particular schemes we know in certain areas in Upper Assam, and if to-day those portions of lands are fixed for this improvement, then it will be unreasonable and inequitable. Therefore, Sir, I want to put the words—1947, 15th August. If we give retrospective effect to the Act, 15th August has a particular meaning to the Indian people; because it is also the end of an era and the beginning of a new one, it will have some meaning to the people. So Sir, even if this retrospective effect is necessary, we can go to that extent. Otherwise if we leave the clause like this, it will be imparting and unbridled right to the Government, and Government may at any time levy a water rate or a betterment cess on land thus improved by such projects.

On the other hand, it may be said from the treasury benches that this Government is not so unreasonable to levy such cess in any manner they like. I agree that this Government is not so unreasonable, but I do not know, Sir, how long this Government will remain in office. It may be quite possible that they may be succeeded by another Government. Then where is the safeguard? We cannot give so much liberty, so much right to the Government to tax the people. If they would not have meant any burden on the people, then I could have understood the position, but it will be a burden on the people, and it is inequitable. So I would request the Government to give up the retrospective clause. If they think it necessary let it be given retrospective effect from a subsequent time, let me limit the time for that "since 1947, 15th August". By doing that Government will not lose anything. On the other hand there will be something definite about it.

With these words I commend my amendment for the acceptance of the House.

Mr. SPEAKER : Motion moved is that in clause 12, for the words "before the commencement of this Act" occurring in the fourth line the words "since 1947, 15th August" shall be substituted.

Maulavi Md. UMARUDDIN : Mr. Speaker, Sir, I would like to speak a few words on this amendment. This Bill will replace the old Act of 1941. It has been explained in the Statement of Objects and Reasons that some such provision may be necessary in connection with the implementation of the 5-Year Plan when certain projects may have to be executed on loans from the Government of India, and unless we have a provision to levy cess on lands to be benefited by such projects, it will not be possible to lawfully levy such tax. That is the idea. But, Sir, with regard to this there was a clear provision in the old Act also, i.e., to impose tax in respect of lands improved by means of embankment, drainage and irrigation, etc. Mr. Goswami's object in moving this amendment is to put a time-limit for the retrospective effect which may be given to this Bill. In course of a discussion the other day I remember to have heard the Chief Minister saying that this provision is necessary to cover some projects which have been undertaken in the 5-Year Plan beginning from the year 1951-52. Now this Act is going to be passed in 1953. So certain schemes have already been taken up in pursuance of the 5-Year Plan on loan basis from the year 1951-52. This was given out in course of a discussion on the revetment at Dibrugarh town and some other things.

So far as the old projects are concerned which were started long ago and many of which have been already completed, I do not think this measure can rightly be applied to them. If any

benefit at all has been obtained by some people from these projects Government cannot or should not bring those projects under the operation of this Bill because it was not held out at that time to those people that those benefited by these projects will have to pay cess or water rate as the case may be. In fact it is not reasonable and equitable to extend this provision to those projects. This provision should be extended only to those projects which have been undertaken in pursuance of the 5-Year Plan from the year 1951-52.

Shri HARESWAR DAS (Deputy Minister): Was not Umaruddin Sahib a member of the Select Committee who signed the report?

Maulavi Md. UMARUDDIN: Yes, I am only explaining the position. Let the Deputy Minister hear me. My point is this. Since.....

Shri DHARANIDHAR BASUMATARI: On a point of information, Sir, he was a member of this Committee and agreed to these points. He did not raise this point in the Select Committee.

Shri MOTIRAM BORA (Minister): It creates a bad precedent.

Maulavi Md. UMARUDDIN: My point is this that the Government can make its position clear where by announcement of its policy that this Bill will not be extended to projects executed before 1951-52, and remove the misapprehension.

Shri BAIDYANATH MOOKERJEE (Minister): Most probably this point did not strike him then.

Maulavi Md. UMARUDDIN: This apprehension as it stands can be made clear by a statement of the Government policy.

Mr. SPEAKER: Yes I understand that. It is like this: "If a member of a Select Committee brings amendment to a Bill when it is taken up clause by clause, it is no reflection on the Committee. Members who are opposed to the very principle of a Bill should not go into the Select Committee."

He now wants clarification as to the scope of the Bill, as Mr. Goswami apprehends it that retrospective effect may be given even to the bunds that were made by the Ahom Kings (laughter). So the hon. Member wants a clarification on this point.

Shri HARESWAR DAS (Deputy Minister): Mr. Speaker, Sir, I am afraid I am unable to accept this amendment. As a matter of fact I could not follow my Friend Mr. Goswami, the mover of this amendment as to what he actually wants to do. He spoke about not giving retrospective effect, but he has fixed a date just to coincide with the date of transference of power. With regard to the drainage schemes this date has got no significance.

The matter stands like this: there was an Act passed in 1941. Under that Act certain schemes, may be 7 or 8, were undertaken in the State. All of them are not in the Upper Assam. As a matter of fact there is one scheme taken up at Nalbari. Now that Act will be repealed by this Act. In that old Act as my Friend Umaruddin Sahib has agreed there are provisions for realisation of cess and water rate. As that Act will be replaced by this Act some similar provisions are necessary to be incorporated here for realisation of cess, etc. It does not go back to the Ahom Rajas' time. It goes back only up to 1941 or the date when the old Act came into force. My Friend, the mover of the amendment, is also going back upto 1947. I would simply ask him to go a little further if necessary, just to cover these schemes which might have been started earlier. So 1947, 15th August has no significance in this matter. The significance is when a particular scheme was started, my Friend is willing to go upto 15th August, 1947, I only request him to go a little further and just stop where a scheme was actually started.

(The Amendment was, by leave of the House, withdrawn.)

Mr. SPEAKER: The question is that clauses 12-22 do form part of the Bill.

(The question was adopted.)

The question is that the long title and the preamble do form part of the Bill.

(The question was adopted.)

Shri HARESWAR DAS (Deputy Minister): I beg to move that the Assam Embankment and Drainage Bill, 1953 be passed.

Mr. SPEAKER: The Motion moved is that the Assam Embankment and Drainage Bill, 1953 be passed.

(After a pause)

The question is that the Assam Embankment and Drainage Bill, 1953 be passed.

(The Motion was adopted.)

Amendment to Assembly Rules

Shri BAIDYANATH MOOKERJEE (Minister): Mr. Speaker, Sir, before you take up the next item according to the agenda I would like to make a submission. A little while ago I received a notice to the effect that the Committee set up by the House to consider the Draft Amendment to the Assembly Rules will tomorrow at 2-30 p.m. So, Sir, if you agree and the House has no objection then Sir, item No. 12 may kindly be taken up now and the rest of the items may come up as fixed in the Agenda.

Mr. SPEAKER : If the House has no objection, then I can take it up.

Maulavi MUHAMMAD UMARUDDIN : Sir, We want time to go through the amendment*. Yesterday the Speaker already give his Ruling that.....

Shri BAIDYANATH MOOKERJEE (Minister) : Sir, I want to make the position a little more clear. It is just in the line of the ruling which was quoted yesterday from the West Bengal Assembly Rules. A point of order was raised also on this point and the ruling from the Chair was that no discussion of the Public Accounts Committee or the Auditor General's Report could take place until the Report has been presented to the Assembly by the Committee. Sir, it was on this line that this matter was discussed and the honourable Members will get an opportunity to discuss it again on the floor of this House after the Committee appointed by this House place their report before the House, and the same Committee is now going to sit tomorrow. So, my idea is that as the Committee already constituted require some time, it may be given the time in order to enable it to place their report before the House so that it may be included in the rules. This will not only minimise the number of correction slips, but will also save time.

Maulavi MUHAMMAD UMARUDDIN : Sir, under rule 129 at page 32 of the Assam Legislative Assembly Rules it states, "Unless the Speaker otherwise directs, not less than ten days' notice of a motion for leave to amend the rules shall be given and the notice shall be accompanied by a draft of the proposed amendments." Now, Sir, I submit that there is no hurry to introduce the new rule. Unless the Speaker otherwise directs 10 days clear notice is to be given so that the rule may be amended very carefully. But my Friend now wants that it should be moved to-day. Will that be regular, Sir?

***Shri BAIDYANATH MOOKERJEE :** to move:
"I beg leave to move that after rule 128 of the Assam Legislative Assembly Rules, the following new rule be added as rule 128 A :—

Prohibition of discussion :—128 A No discussion of the accounts of the State and the reports of the Comptroller and Auditor-General thereon shall take place in the Assembly until the report of the Committee on Public Accounts on such accounts and reports has been presented to the Assembly under rule 127(9)".

(If leave is granted, the next Motion to be moved.)

"That the draft amendment be referred to the same Committee already formed in accordance with Assembly Rule 131 for consideration of draft rule 128A relating to the procedure for moving Motion to omit or reduce grant".

Another point for consideration is, Sir, whether we can refer this particular amendment to the same Select Committee. After all, it is expected that under the existing procedure that the Audit Reports, etc., should be discussed after the Public Accounts Committee has submitted their report. This is the ruling already given by you. So I say, Sir, there is no hurry.

Shri BAIDYANATH MOOKERJEE (Minister): Sir, anyway, my Friend has supported that this is an accepted fact, but there is no hurry to carry it through. So my point was also that as this is an accepted thing let it be incorporated in the rules. This is based on the ruling of the Chair as already mentioned. Then where is the objection to accept my suggestion. If, however, my Friend wants to stand on formalities, then in that case of course, it depends on your discretion. In that case the sense of the House may be taken. The Committee is going to sit tomorrow and in case the House agree to my suggestion, it will not take much time to take a decision and that decision of the Committee can be considered by the House without unnecessary delay.

Shri HARESWAR GOSWAMI: Sir, yesterday when you gave your ruling that sufficient notice should be given before an amendment to a rule is moved, we bowed down to your ruling. Now, Sir, I do not know what is the hurry about the amendment. So far as this amendment is concerned, it is a very important amendment and requires careful study and scrutiny. The other amendment was a very simple amendment. Therefore the Select Committee that was constituted was of a different nature. Today for this amendment we may require that the members of the Select Committee should also be different. If we have to send this amendment to the same Select Committee then we have our objections.

So, Sir, if we have to send this thing to the same Select Committee, we have our objections also. Secondly, about this Rules we have not only these 2 amendments but there might be others also. We are not afraid of the amendments because we are accustomed to it. As it is an important rule, I request the Minister in-charge to defer the consideration of this to a later date so that we can in the meantime study the whole thing and see how it is done in other States. Then we can come to the House for referring it to the Select Committee. With these words, I request that the discussion and consideration of the motion be postponed.

Maulavi MUHAMMAD UMARUDDIN: Mr. Mookerjee has said that we have accepted the principle and ruling. But our acceptance of the ruling does not mean acceptance of the principle of the amendments. When any amendment is moved, we have to consider that amendment and see what its real merit is. This

requires a proper and detailed study. There is no hurry about it because we shall have to get references from different States and after due consideration we may adopt the amendment. It will be wrong to refer this amendment to the same Select Committee just for the purpose of suiting the convenience of my Friend, the Mover.

Mr. SPEAKER: In view of the views expressed and in view of my ruling, the consideration of the amendment is postponed for the next Session as I think this will give a chance to the House and the Members of the Opposition to study it. I, therefore, request the Minister to withdraw it for the present.

Shri BAIDYANATH MOOKERJEE (Minister): Sir, I withdraw.

The Assam Sales of Motor Spirit and Lubricants Taxation (Amendment) Bill, 1953

Maulavi MUHAMMAD UMARUDDIN: Mr. Speaker, Sir, I beg to move that the third proviso to item (h) of clause 2 of the Assam Sales of Motor Spirit and Lubricants Taxation (Amendment) Bill, 1953, be deleted.

Sir, this is the particular proviso which I want to get deleted. It runs as follows, "provided further that any shortage in excess of one per centum of the quantities of motor spirit or lubricant received into stock by a dealer for retail sale, shall, unless the contrary is proved, be deemed to be a sale for purposes of this act." Now Sir, in the old act, "The Assam Sales of Motor Spirit and Lubricants Taxation" there are no such provisions. There, the word "retail sale" has been defined and in that definition there was no such provision as exemption on the ground of shortage. Now by this amendment, the definition of the word "sale" as occur in the Assam Sales Tax Act, is sought to be introduced here. What is the fundamental meaning of the word "sale"? The definition is as follow:—"Sale" with all its grammatical variations and cognate expressions means any transfer of property in goods by any person for cash or deferred payment or other valuable consideration;

"Provided that, notwithstanding anything to the contrary in the general law relating to the sale of goods, with effect from 26th January 1950, the sale of motor spirit or lubricant or both outside the State of Assam shall be deemed to have been taken place in the State of Assam, if such motor spirit or lubricant or both have, as a direct result of such sale, been actually delivered in the State of Assam for the purpose of consumption therein."

Now Sir, the fundamental meaning of the word "Sale" means transfer of goods either for cash or deferred payment. In other words unless there is an actual sale, the question of sale-tax does not come in. Sale-tax is a tax on turn-over and is therefore on actual sale. That is, a seller or dealer must get money either in cash or in credit for the goods actually sold out. That is to say, it must pass from his possession to the possession of another person. But if there is any shortage due to any other reason, I think, Sir, for that no sale-tax can be charged. That is rather against the fundamental principle of the Sale-tax is based on the transfer of the article to other persons. But if there is any shortage while it remains in the custody of the dealer, I do not think it will be fair to bring such shortage within the purview of the Sale-tax. It may be argued that control of sale of motor-spirit is really a difficult matter and therefore Government propose to fix the maximum shrinkage at 1 per cent. Shortage may be due to leakage in transit or due to other causes. Now Sir, if we accept this provision and if the dealer cannot account for the shortage in stock, it will be open to the Government to presume sale. Therefore, in that way it is also very dangerous. For instance, methylated spirit is a volatile article and it may be evaporated while in stock and we have no provision for accounting for the loss in storage of such article. Of course sales may be checked up by an officer who has the right to assess the taxes by referring to cash memos and registers etc. But if for any reason, a dealer loses say 25 gallons of petrol both in transit and storage he will have to pay sales-tax on those 25 gallons what he has not actually sold. Will Government be rightly entitled to charge sales-tax which may not be actually for sale of petrol when sales-tax must be on actual sale and not on the loss due to evaporation and number of other causes. It is therefore clear that this particular provision is not in accordance with the fundamental principles of sales-tax. On this basis, Sir, I move this amendment and I hope it will be considered by the Finance Minister and accepted.

Mr. SPEAKER: Amendment moved: "that the third proviso to item (h) of clause 2 shall be deleted."

Shri MOTIRAM BORA (Minister): I am sorry I cannot see my way to accept this amendment moved by my hon. Friend, Mr. Umaruddin. If this amendment is accepted, what would amount, it will not be in the interest of the public at large. It will be in the interest of some particular dealers however who are dealing in a particular commodity. I do not know why my Friend, Mr. Umaruddin was solicitous about those people. It is quite sure that my friend is advocating the cause of well-to-do dealers who make very good income out of sale of this commodity.

Maulavi MUHAMMAD UMARUDDIN: Should not this be the right spirit of legislation. I am advocating a certain principle only and not holding brief for a certain class of people.

Shri MOTIRAM BORA (Minister): But my friend is very solicitous about the interest of well-to-do dealers. Sir, about this matter of what percentage of this commodity should be allowed as shrinkage, the decision has been taken in this matter by Government by making an enquiry. An enquiry was made in 1940 as to what percentage should be allowed by shrinkage and after making due enquiry and getting all necessary information from the Burma Oil Company and other concerns, it was fixed by Government that one percentage as shrinkage is quite enough and this was done in the year 1940. Since then it was continued for some years. Now, since that about 12 years this is going on and we have not had any objections from any quarter and no objections whatsoever from any quarter or from those dealers whose cause is ably advocated by my friend, Mr. Umaruddin. This practice has been continuing for 12 years and when this House decided after enquiry from the Borma Oil Company and from other concerns, I do not think that we should accept the amendment and if it is again accepted Sir, it will open an opportunity for unscrupulous dealers to come forward to Government with a plea that they are making a substantial loss of this commodity and claiming that they have lost 4, 5 and 6 per cent. on account of evaporation and this will lead to other acts of corruption and therefore from that point of view also it is not desirable. I therefore hope my friend will kindly withdraw his amendment.

Maulavi MUHAMMED UMARUDDIN: I am not arguing for petrol dealers. I do not claim to be a patron of the poor and down trodden as the Minister does. It is a question of principle.

Shri MOTIRAM BORA (Minister): If you do withdraw no explanation is needed.

Maulavi MUHAMMAD UMARUDDIN: If this is not accepted it will, I hope, Sir, be against principle.

Mr. SPEAKER: The question is: "That the third proviso to item (h) of clause 2 shall be deleted".

(The amendment was negatived.)
Mr. SPEAKER: The Question is: "That Clauses 2 to 8 do form part of the Bill".

(This was adopted.)

Mr. SPEAKER: The question is that the preamble and the long title do form part of the Bill.

(This was adopted.)

Shri MOTIRAM BORA (Minister): Sir, I beg to move that the Assam Sales of Motor Spirit and Lubricants Taxation (Amendment) Bill, 1953, be passed.

Mr. SPEAKER: Motion moved: "That the Assam Sales of Motor Spirit and Lubricants Taxation (Amendment) Bill, 1953 be passed."

(After a pause)

(The Motion was put and adopted.)

The Assam Requisition and Control of Vehicles (Amendment) Bill, 1953

Shri, PU Ch. SAPRAWNGA (Parliamentary Secretary): Mr. Speaker, Sir, on behalf of the Minister, in-charge of Transport, I beg to move that the Assam Requisition and Control of Vehicles (Amendment) Bill, 1953, be passed. There is no amendment.

Mr. SPEAKER: Motion moved: "That the Assam Requisition and Control of Vehicles (Amendment) Bill, 1953, be passed".

(After a pause).

(The Motion was put and adopted.)

The Assam Liquor Prohibition (Amendment) Bill, 1953

Rev. J. J. M. NICHOLS-ROY (Minister): Mr. Speaker, Sir, as there is no Amendment I beg to move, Sir, that the Assam Liquor prohibition (Amendment) Bill, 1953 be passed.

Mr. SPEAKER: Motion moved is that the Assam Liquor prohibition (Amendment) Bill, 1953 be passed.

(After a pause)

(The motion was put and adopted.)

The Assam Local Authorities Compensatory Grants (charged) Bill, 1953

Maulavi Md. UMARUDDIN: Mr. Speaker, Sir, I beg to move that the proviso to item (VIII) of Clause (2) of the Assam Local Authorities Compensatory Grants (Charged) Bill, 1953, be

deleted. Sir, the proposed provision is as follows: "It shall have to come into force from the 1st April, 1950". Now, Sir, we are going to pass this Bill to-day with retrospective effect from the 1st April, 1950. You know, Sir, that there was formerly an Act called the Assam Local Authorities Compensatory Grants (charged) Act, 1940 *i.e.*, Act II of 1940.

Sir, in this Act certain specified local authorities as mentioned in column 1 of the Schedule of the Act and certain sources of revenues as described in Column 2 were classified as charged expenditure on the State. Therefore, under that Act any other local bodies other than those mentioned in the Act might have come into existence in the meantime and they might have some sources of revenue which might have gone directly to the Government coffer. Now, Sir, it may be presumed that since 1940 till 1950 some local bodies must have come into existence, but since Government does not want to extend the Bill beyond 1st April, 1950, I presume no local authorities came into existence during the period from 1940 to 1950. But it is open to presumption that some local bodies have come into existence within the period from 1950 till to-day. When there are certain local bodies duly constituted they are entitled to realise certain revenues, but certain categories of revenues as specified in column 2 are realised by Government direct and in lieu thereof certain compensatory grants are made as charged expenditure. These items of revenues should be transferred to these bodies. Under Article 202 of the Constitution no expenditure other than those specified as charged expenditure therein can be incurred except by Legislation. Sir, therefore, Government want to have the necessary authority to incur such expenditure. Article 202 (f) of the Constitution provides as follows: "Any other expenditure declared by this Constitution, or by the Legislature of the State by law, to be so charged". So, Sir, these receipts from those local bodies which might have come into existence between the year 1950 and now should not have come direct to the State coffer. I do not understand why during the period from 1950 till now Government has not taken the necessary steps to treat these receipts as charged expenditure. During the period of three or four years it is not known precisely whether any local bodies have come into existence and any receipts on their accounts have come to Government coffer but as no legislation has been passed before in this matter we do not know how they have been treated. It is not known why the Government want to pass this Bill with retrospective effect.

Shri MOTIRAM BORA (Minister) : Retrospective effect to this effect is sought to be given to regularise certain payment made to Local Boards.

Maulavi MUHAMMAD UMARUDDIN: That is illegal.

Shri MOTIRAM BORA (Minister): Since 1940, certain items of revenue which belong to the local bodies came into the coffers of the Government, and after passing of Government of India Act, 1935 Government decided to compensate the local bodies by making payment in full to the local bodies and they were treated as charged. In 1940 an Act was passed by the Legislature which is called Assam Compensatory Grants (charged) Bill. Under the provision of this Act these were being given back to the different local bodies in full. Government have not kept even a pie. From those items whatever is collected by Government is being returned under the provision of this Act. Audit has taken objection to this fact and we wanted the matter to be referred to India. Government of India upheld the objection of the Audit Department that under the provisions of that Act compensatory grants cannot be returned back. After the new Constitution have come into force this Legislature has made a law of its own and under the provision of that law the money cannot be refunded. Government of India, therefore, advised us to go to the Legislature and request for having a law passed and in the meantime the compensatory grants were paid to different Local Boards, which action was held as irregular.

Mr. DEPUTY SPEAKER: Motion moved:

"That the proviso to item (VIII) of clause 2 be deleted".

Maulavi MUHAMMAD UMARUDDIN: Illegal.

Shri MOTIRAM BORA (Minister): Not illegal but irregular. The law is there and under the provision of the law we made the payments to the Local Board. This Legislature is competent to make an enactment and under such an enactment only grants may be made, otherwise, the payments made from 1950 upto date became irregular.

Maulavi MUHAMMAD UMARUDDIN: It is illegal and unconstitutional.

Shri MOTIRAM BORA (Minister): The law is there and our people held that it is quite all right if we make payments under the provision of the Act, but when the Government of India under the advice of their highest legal experts advised us that we should have a different piece of legislation, we have to come with this.

Mr. DEPUTY SPEAKER: Just to remove the irregularity?

Shri MOTIRAM BORA (Minister): Yes, Sir, just to regularise.

In view of this, I hope, my Friend will see his way to withdraw the Motion.

Maulavi MUHAMMAD UMARUDDIN: It is constitutionally irregular, but when the hon. Minister admits that this was irregular and payments were already made, in view of that, I beg leave of the House to withdraw my Motion.

(The Motion was, by leave of the House, withdrawn)

Mr. DEPUTY SPEAKER: The question is that clause 2 forms part of the Bill.

(The question was adopted).

The question is that clauses 2 to 5 form part of the Bill.

(The question was adopted).

The question is that the Schedule forms part of the Bill.

(The question was adopted).

The question is that the title and preamble of the Bill, do stand part of the Bill.

(The question was adopted.)

Shri MOTIRAM BORA (Minister): I beg to move, Sir, that the Assam Local Authorities Compensatory Grants (Charged) Bill, 1953, be passed.

Mr. DEPUTY SPEAKER: Motion moved is that the Assam Local Authorities Compensatory Grants (Charged) Bill, 1953, be passed.

Maulavi MUHAMMAD UMARUDDIN: Mr. Deputy Speaker, Sir, here I want to get something cleared from the Minister. The old Act II of 1940 is no longer in force. I want to know how this Act has been referred to in the body of this Bill. If there was any validity in the old Act then that validity stands repealed, and in that case it cannot be mentioned here in clause 4 which should have been made comprehensive by incorporating the corresponding provisions of the old Act. If I understand aright the Act II of 1940 is invalid and is no longer applicable. If this is the case, how can it be referred to in the body of the Bill itself? In the schedule it has been described that such and such Local Boards will be paid compensatory grants. This Act is an invalid piece of legislation. If that is the case the entire provisions included in column 2 of the old Act have to be incorporated in this Bill, otherwise this proposed piece of law will be incomplete and vitiated.

Shri MOTIRAM BORA (Minister): That is the opinion which is not tenable. The Government of India has declared that we should come to the Legislature to make these things as charged in the manner we have done.

Maulavi MUHAMMAD UMARUDDIN: I think, Sir, the Minister could not follow me. The old Act gives a schedule naming the Local Bodies and certain classes of receipts to be treated as charged expenditure; they will be certain categories of revenue, which will be collected by the Government direct for these Local Bodies. Now, what the Government wants by this Bill? They want the expenditure already made to be regularised. If we treat this old Act as invalid as I have been made to understand then a reference to that invalid Act cannot be made in this Bill.

Shri MOTIRAM BORA (Minister): Sir, there is a good deal of difference between an Act repealed and an Act lapsed. Our Act has lapsed. When the Act was not repealed and it was lapsed due to some reason, it is quite competent to make some reference.

Maulavi MUHAMMAD UMARUDDIN: Is it invalid or lapsed?

Shri MOTIRAM BORA (Minister): It is lapsed.

Maulavi MUHAMMAD UMARUDDIN: I have doubts about it.

Mr. DEPUTY SPEAKER: The question is that the Assam Local Authorities Compensatory Grants (Charged) Bill, 1953, be passed.

(The Motion was adopted).

The Shillong (Rifle Range and Umlong) Cantonments Assimilation of State Laws Bill, 1953

Shri MOHI KANTA DAS (Parliamentary Secretary):

Sir, as there is no amendment, I beg to move that the Shillong (Rifle Range and Umlong) Cantonments Assimilation of State Laws Bill, 1953, be passed.

In my introductory speech, I explained the position very clearly and I have nothing to add. I hope, the House will accept this Bill.

Mr. DEPUTY SPEAKER: Motion moved is that the Shillong (Rifle Range and Umlong) Cantonments Assimilation of State Laws Bill, 1953, be passed.

(After a pause)

The question is that the Shillong (Rifle Range and Umlong) Cantonments Assimilation of State Laws Bill, 1953, be passed.
(The Motion was adopted).

The Assam Local Rates (Amendment) Bill, 1953

Shri MOTIRAM BORA (Minister): The Deputy Minister will move this Bill, Sir.

Shri HARESWAR DAS (Deputy Minister): Sir, I beg to move that the Assam Local Rates (Amendment) Bill, 1953, be passed. There is no amendment.

Mr. DEPUTY SPEAKER: The motion moved is that the Assam Local Rates (Amendment) Bill, 1953, be passed.

(After a pause).

The question is that the Assam Local Rates (Amendment) Bill, 1953, be passed.

(The Motion was adopted)

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

Mr. DEPUTY SPEAKER: Item No.10—the Assam State Acquisition of Zamindaris (Amendment) Bill, 1953. There are some amendments.

Raja AJIT NARAYAN DEB of Sidli: Mr. Deputy Speaker, Sir, I beg to move that for sub-clause (2) of clause 1, the following shall be substituted :—

“(2) It shall extend to the whole of Assam”.

Sir, the amending Bill says, it shall have like extent as the principal Act. My amendment seeks to make it to extend to the whole of Assam. Sir, this piece of legislation, as well as the principal Act, is very elusive. Of course it brings to the makers of this law great reputation and cheap popularity with least effect on the people. It is a mere eyewash to hoodwink the people outside that they are giving real benefit to the people of Assam. Sir, the other day the Deputy Minister when moving for consideration of this Bill admitted and very clearly too that this will affect only two-third of the district of Goalpara and one-third of the district of Cachar. Sir, it is true that Assam is following in the footsteps of other States in this direction and other States have been trying and have passed such Acts more or less. But their idea in passing this Act for abolition of Zamindary was to eliminate the middlemen. But here our Government is sticking to the strict sense of the term to help one class of tenants, that is those who are in the permanently settled area in the districts of Goalpara and Cachar. Sir, when the question of land reforms comes probably the Congress Leaders did not mean that only one class of middlemen should be abolished leaving the other class as they are. Probably when the Congress manifesto which mentions about giving land to the landless, was drafted it meant to abolish all intermediaries and allot the extra land to landless people. The authors of that manifesto never thought that just by an eyewash they would cheat the people outside and do something in a hurry to show that they are doing something for the people but at the same time keeping things

as they were. It is not unknown to this House, Sir, that there are many kinds of middlemen in the Province of Assam who, if I may be allowed to say so, are more Zamindars than Zamindars themselves. There are strict laws to guide the relationship between the Zamindars and tenants in the districts of Goalpara and Cachar but the Temporarily Settled Districts Act which is prevalent in other districts and defines the relationship between the tillers of the soil and the landlords. It gives more right to the landlords. By this Amendment, Sir, I want to remove the parochial nature of the Bill so that it may be universal and has effect in the whole of the State. Of course, if this amendment is accepted, there may be some consequential changes in the principal Act which Government may bring in in other session of the House. But if the Ministers are afraid that this will affect their own little Zamindaris, I can tell them that there are safeguards in the principal Act which relates to giving notice to notify such owners of land. They can safely keep their Zamindaris in which they are interested by not issuing the notification. In other States, Sir, like Bihar, Uttar Pradesh, Madras and other places the Act always extends to the whole of the State because the Governments there really meant to do something towards land reformation. But here though we can be at par with other States only in that we also are for abolition of Zamindaris, we in fact care very little for actual abolition in the whole State. Half abolition is worse than no abolition at all, because the middleman remains and he goes on exploiting the masses.

Sir, I would like to refer the House to the previous history of this principal Act. I was in the Drafting Committee so I knew how the Bill was drafted. When the question was raised whether it should extend to the whole of Assam.....

Mr. DEPUTY SPEAKER: I think we are concerned only with the question of acquisition of Zamindaris and you should confine yourself only to that.

Raja AJIT NARAYAN DEB of Sidli: No, Sir, as soon as I said that the Act should extend to the whole of Assam, I think I have the right to speak on this point.

Mr. DEPUTY SPEAKER: I do not think you need travel the whole length to explain it.

Raja AJIT NARAYAN DEB of Sidli: But, Sir, I think I have the right to explain as soon as I said that the Bill be extended to the whole of the State.

Mr. DEPUTY SPEAKER: But there are no Zamindaris in the whole of Assam. These are only in some parts of the State.

Raja AJIT NARAYAN DEB of Sidli: There are Zamindaris though they may not be called Zamindaris. However, Sir, as soon as I move my Amendment that this Act be extended to the whole of

Assam I am entitled to speak on it unless of course you rule my motion out of order. Probably when this Bill will be passed and Government will take action on it in the name of land reforms the poor people, the actual tillers of the soil, the major portion of Assam will still be groaning under exploitation. Sir, outsiders do not know much of Assam. In other States there are Zamindars, but here we have a special class of people, middle class people who are called Zamindars and they are concentrated in certain places only. What we really want is to bring reformation to our lands extending to the whole of Assam : but here we call this Bill—The Assam State Acquisition of Zamindaris (Amendment) Bill, 1953, at the same time we really mean to give effect to the two districts only, we might as well call this Bill something like the Goalpara Tenancy Act, and the Cachar Urban Areas Tenancy Act. That would have been proper. So by this Bill, Sir, the real intention of the Government is to get cheap popularity (*Voice.....*It has no relevancy).

I am speaking about the history of this Bill how it came. It has therefore, some relation, because this thing was discussed whether it should really be extended to the whole of Assam or Goalpara and Cachar only. The objection was only that if we take the whole of Assam, it will be difficult because there are different kinds of middle-class men who are called Zamindars, such as Lakhiraj estates and others. Lakhiraj estates have plenty of tenants. Sir, I want to know whether Government has got any intention to remove these middle class men, who are not strictly called Zamindars, but are middlemen all the same.

Mr. DEPUTY SPEAKER : Middle class men from where ? We cannot extend the scope of the Bill. I think it is out of order. The Bill concerns only to certain areas and not the whole of the State.

Raja AJIT NARAYAN DEB of Sidli : These middlemen are from the whole of Assam. Then, Sir, I have got other submissions also to make. If this Bill really applies to the Zamindary area what about the acknowledged estates ? Why are they brought under the scope of the Bill ?

Shri HARESWAR DAS (Deputy Minister) : Mr. Speaker, Sir, this amendment is out of order. My Friend is labouring a misconception about the scope of the Principal Act and the Amendment Bill. He has tried to amend the amending Bill. Sir, if this amendment is accepted the result will be that the amending Bill will apply throughout the whole of the State, but not the Principal Act. The

Principal Act will apply to certain areas but the amending Bill will apply throughout the whole of the State.....

Raja AJIT NARAYAN DEB of Sidli: Sir, in this Amendment Bill, sub-clause (2) of Clause 1—says—“It shall have like extent as the Principal Act”. So Sir, we have got the right to amend it.....

Shri HARESWAR DAS (Deputy Minister): Sir, that is the mistake committed by my Friend. The Principal Act may be amended but in that case it should be stated so. Sir, sub-clause (2) of clause 1 of the Amending Bill says—“It shall have like extent as the Principal Act”, and sub-section (2) of Section 1 of the Principal Act says—“It extends to (a) the permanently-settled areas of the districts of Goalpara and Garo Hills and.....” Sir, here in sub-clause (2) of clause 1 of the Amending Bill—It means the Amending Bill, but not the Principal Act. It shall have like extent as the Principal Act which is already existed as an Act, and now when this Amending Bill is passed into an Act, it will merge into the Principal Act. So, Sir, if this Bill is now extended, it will create anomaly. As the relevant section of the Principal Act has not been amended the Principal Act will have one extent and the Amending Act another extent, therefore, Sir, I say that this amendment is out of order.

Mr. DEPUTY SPEAKER: I think the amendment is out of order, I cannot allow it.

Shri HARESWAR GOSWAMI: Mr. Deputy Speaker, Sir, I beg to move that in the second proviso under item (d) of clause 3, between the words “neighbourhood” and “as may be fixed” the words “at the time of first occupation by such person” shall be inserted.

Sir, in clause 3 of the Bill, Amendment of Section 4 says—“... In section 4 of the principal Act.

(a) In sub-section (1) after the words “collection of rent” occurring in the eleventh line the words “of such estate or tenure” and after the words “cease and” occurring in the fourteenth line the words “such estate or tenure including such rights” shall be inserted respectively ;

(b) clauses (a) and (b) of sub-section (3) shall be deleted,

(c) clause (c) shall be renumbered as sub-section (3) and the words “in like manner” occurring in the third line thereof shall be deleted, and

(d) the following new sub-section shall be inserted as sub-section (6) namely:

(6) Until further legislation by the State Legislature in this behalf, every raiyat or non-agricultural tenant holding land in any estate or tenure, which has vested in the State, shall hold the same directly

under the State on the same terms and conditions as immediately before the date of vesting and all rents, cesses, royalties and other dues accruing in respect of lands comprised in such estate or tenure after the date of vesting shall be payable to the State Government and all such dues shall be recoverable as arrears of land revenue :

Provided that the State Government shall be entitled to apply the Assam Land and Revenue Regulation 1886 (Regulation I of 1886) in any area if the tenants residing in it apply in writing to exchange their rights under the Goalpara Tenancy Act, 1929 (Assam Act I of 1929), or the Sylhet Tenancy Act, 1936 (Assam Act XI of 1936) for corresponding rights under the Assam Land and Revenue Regulation, 1886 :

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

Here Sir, my amendment wants to insert the words after the words “neighbourhood” and “at the time of first occupation by such person”.

Sir, the purpose of my amendment is to allow the raiyat to enjoy the right he was enjoying before the abolition of Zamindari. Sir, the other day at the consideration stage of this Bill, I said that in the Zamindari areas there are some service-tenures who used to enjoy the lands for the service rendered to the Zamindars and they were not required to pay the rent in cash, because of service rendered or because during the Pujas for giving something to the gods and goddesses. Sir, I don't want this type of service to continue. But I want to put a limit to the rent to be realised from them. In case of the other lands they will be enjoying land directly under the State and they will not be charged any rent that they have been paying. This amendment, if accepted, will provide against enhancement of rent in case of service tenure. Now in the case of other settlers the prevailing rent in the neighbourhood has perhaps changed. The Zamindars have increased it also. I have no objection in asking them to pay the rent they have been paying but what I want is that that in the case of service-tenures the rent must be limited to the amount that they would have paid at the time when they first occupied it which can be ascertained from the rent then paid in respect of the land in the neighbourhood. In the other cases the rent that is being paid will have to be paid to the States, but in the case of service tenure converted into regular and ordinary tenure

the rent will be restricted to the amount that would have been paid by the person as if he was enjoying a regular tenure on the date of its original initials. Now if to-day we have to convert this into cash we shall not get the prevailing rate that was in existence at that time. Sir, in my opinion to do otherwise would be doing injustice to them. So, Sir, my motion only wants to give relief to these people so that they may not feel that because of the abolition of Zamindary they have been forced to pay rent which the previous occupiers of land did not pay. So, Sir, if it is incorporated in the second proviso under item (d) of clause 3 between the words "neighbourhood" and "as may be fixed" the words "at the time of first occupation by such person" then it would only too quite equitable.

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

Mr. DEPUTY SPEAKER : The Motion moved is that in the second proviso under item (d) of clause 3, between the words "neighbourhood" and "as may be fixed" the words "at the time of first occupation by such person" shall be inserted.

Maulavi MUHAMMAD UMARUDDIN : Mr. Speaker, Sir, normally on the vesting of an estate of a proprietor in the State Government the raiyats who used to hold land under the proprietor would be raiyats under the Government, and the Government will be entitled to realise the same rent as the tenants used to pay to the proprietor. That is the normal position. But Government here possibly have in their mind that there might be a class of people who may be enjoying land either free of rent or at a specially low rent. Sir, I personally know that some of the Zamindars used to give land to their priests and others at a specially low rent or free of rent so that these people may pursue a particular profession or a particular branch of learning. Then again there may be some other people who perform some other duties to the proprietor. These people used to enjoy land at a specially low rent. This is also known to Mr. Das. Take for instance, if a Brahmin priest was given one hundred bighas of land in consideration of performing some religious functions for the proprietor and unless he got, the land at a specially low rent how he could have sufficient income from the land? Then in that case, it will be difficult for the Brahmin to maintain himself if the rent is enhanced recently. I do not say that it will be absolutely unfair but what I mean to say is that it will be difficult under the new set up of things for such persons to adjust themselves. That is why I say, Sir, that there must be a principle, a fixed time to which we must go back for fixation of rent. If we

go to that time, he will still be a little more benefited, still he will have to pay a little lower rate of rent and in the meantime he will adjust himself to the new situation.

I think if such people are to be benefited in this matter and spared hardship it will be better if rent is fixed with reference to the rate in force in respect of the neighbouring land at the time of the original settlement. With these words, I support the amendment moved by my Friend, Shri Goswami.

Shri HARESWAR DAS (Deputy Minister): Mr. Speaker, Sir, as a matter of fact, I do not know why the amendment has been tabled. In my opinion, it does not make any meaning at all. The proviso runs: "Provided further that any such person who was holding any land rent free or at a specially low rent, shall be bound to pay such rent, not exceeding the prevailing rate of rent for similar land in the neighbourhood", then the amendment seeks to insert "at the time of first occupation by such person" and then comes "as may be fixed". It makes the English bad. Now, I have somehow guessed what is in the mind of the hon. Leader of the Opposition. He has in mind the temporary-settled areas and the service tenure prevalent there. If he knew the position of persons who occupy land in lieu of service in permanently-settled areas he would not have delivered that speech. The service tenant under the Goalpara Tenancy Act is not a tenant at all. My Friend said that because he renders service and therefore the land-owner takes a small amount of rent from him. If that rent is increased, it will adversely affect him. That is not the case. That is so in temporarily-settled areas, say in temple lands. But under the Goalpara Tenancy Act, these persons who occupy the land in lieu of the services are not recognised as tenants and even if it is for a period of hundred years, they have acquire no right or title over the land. So the question that they are holding the land at a low rate does not arise. They pay no rent at all. But it depends upon the desire of the landlord. Take for example the case of the Raja of Bijni. There are people there who are rendering service to the Raja and are occupying land free of rent. The moment they cease to render service, the Raja can drive them away. I am citing this instance in order to clear the misconception of my Friends. And there is no such service tenure where the tenants pay rent in addition to the service they render.

Shri HARESWAR GOSWAMI: Legally, they may not have right over the land, but that practically they enjoy the land for years together.

Maulavi MUHAMMAD UMARUDDIN: The provision does not say anything about the tenants but says for any person holding such land rent-free. So it may also include the service-tenure.

Shri HARESWAR DAS (Deputy Minister): Possibly, I am not required to give any reply. Shri Goswami said they are in occupation, so some provision should be made. Very good. Some provision should be made for them. But our proviso does not apply to them, as they have no right at all. Our proviso applies where any person holds any land rent-free or payment at a very low rate. But where he holds land merely on rendering service and can be driven out the moment he stops that service, he has no right over the land and our proviso may or may not be applied in his case.

Our aim in putting in this proviso is that since the talk of abolition of Zamindaris was in the air, since 1946, some of the proprietors and tenure-holders knew that their days were numbered.

Shri GAURISANKAR BHATTACHARYYA : That was a wrong misapprehension.

Shri HARESWAR DAS (Deputy Minister): So the answer to Maulavi Umaruddin has been given by Shri Bhattacharyya. Shri Bhattacharyya's insinuation is that Government are making inordinate delay. There has been delay due to law courts. If the fundamental rights were not there in the Constitution, the Legislature would have been supreme as in England. Part III of the Constitution has made law courts supreme. But we have almost crossed the hurdles and I assure Mr. Gaurisankar Bhattacharyya that his desires would be fulfilled very soon only if he co-operates. Now, when the proprietors and tenure-holders apprehended that they might be driven out any moment, they settled large areas—300 to 400 bighas in the name of relatives. This proviso wants to raise their rate of rent to the prevailing rate.

Shri GAURISANKAR BHATTACHARYYA : Has any such thing happened ?

Shri HARESWAR DAS (Deputy Minister): I have got personal knowledge though I cannot disclose it. If the Government does it, raise the rate to the prevailing rate, it is perfectly valid.

Shri GAURISANKAR BHATTACHARYYA : People's Government can give everything to their sons and brothers-in-law !

Shri HARESWAR DAS (Deputy Minister): For these reasons, so that the proprietors may not frustrate the very purpose of this Act, this provision has been incorporated. We cannot allow the Act to be frustrated. We do not want to injure anybody. We want to bring all people to the same level and why should there

be some ryots enjoying special rights. What is the use of driving out proprietors and keeping the lands with somebody enjoying special rights?

Shri HARESWAR GOSWAMI : We do not see that this system should be followed. Land should be charged at the time of realisation.

Shri HARESWAR DAS (Deputy Minister) : A plot of land may have been occupied by his forefathers hundred years back. How can you now determine what was the prevailing rent in the neighbourhood at that time? Acceptance of the amendment will create complication. Except in riverine areas, where immigrants live, tenants try to put the origin of their tenancies on the permanent settlement date, 1793. Because if he can trace his tenancy from the permanent settlement his rent cannot be increased. Everybody tries to trace his tenancy that way. Acceptance of the amendment will create such a complicated situation, it will defeat the very purpose of this provision. I request my Friend to withdraw his amendment.

Shri HARESWAR GOSWAMI : I do not want to withdraw it.

Mr. DEPUTY SPEAKER : The question is that in the second proviso under item (d) of clause 3, between the words "neighbourhood" and "as may be fixed" the words "at the time of first occupation by such person" shall be inserted.

The motion was lost.

Mr. DEPUTY SPEAKER : The question is that Clauses 1, 2 and 3, do form part of the Bill.

(The question was adopted).

Shri HARESWAR GOSWAMI : Mr. Deputy Speaker, Sir, I beg to move that in Sub-clause (1) (c) of Clause 4, for the figure and word "150 bighas" the figure and word "100 bighas" shall be substituted.

Here the tenure-holders have been given the right to.....

Shri HARESWAR DAS (Deputy Minister) : The motion is out of order. Section 6 runs like this. "Notwithstanding anything contained in section 4 above, the proprietor or tenure holder shall, with effect from the date of vesting, be entitled to retain possession, subject to the provisions of sub-section (4) of this section....." Then comes clause (iii) "private land", out of which the proprietor or tenure-holder can retain 400 bighas. This is the existing provision. Clause 4(1)(b) seeks to amend this,

Thus amended clause (iii) of section 6(1) stands thus, "Private land" of a proprietor or a tenure-holder as defined in this Act, subject to a maximum of 400 bighas for a proprietor and 150 bighas for a tenure-holder. That is the main clause. According to this provision, the proprietor will be allowed to retain 400 bighas and the tenure-holder will be allowed to retain 150 bighas. That is the principal amendment. My Friend has not amended this main provision, (c) and (d) are consequential changes. My Friend, Shri Goswami, has tabled amendments in the consequential changes. As in (b) the tenure-holder is given 150 bighas, in (c) and (d) he cannot be given 100 bighas. My Friend seeks to do that. So the amendment is out of order.

Shri HARESWAR GOSWAMI: I want to amend (c). I do not know how it can be such. It appears there must be some printing mistake.

Mr. DEPUTY SPEAKER: You have moved it.

Shri GAURISANKAR BHATTACHARYA: Sir, I beg to move an amendment to the amendment. I like to give a doze of 'Makkardhaj'.

Shri HARESWAR DAS (Deputy Minister): A sanctity is attached to a discussion in this House. It was ascertained from the Mover to which sub-section he was moving his amendments. It was (c) and (d), which are clearly out of order. That some hon. Member of the House will suddenly stand up and try to move an amendment to an amendment, which is out of order will be a misuse of the rule of tabling amendment.

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

Mr. DEPUTY SPEAKER: Mr. Umaruddin.

Maulavi MUHAMMAD UMARUDDIN: I do not think that I should move the next amendment standing in my name.

Mr. DEPUTY SPEAKER: The question is that clauses 4 and 5 do form part of the Bill.

(The question is adopted).

Raja AJIT NARAYAN DEB of Sidli: I beg to move, Sir, that in the new sub-section (5) going to be substituted by item (d) of clause 6, for the words "forty-eight hours" occurring in the fourth line, the words "fifteen days" shall be substituted, and this should be like this—After serving a notice in writing on the proprietor or tenure-holder for the production of such documents, registers and papers as are in his opinion necessary for the management of

such estate or tenure, and if such notice is not complied with within fifteen days or such further time as the Deputy Commissioner may allow, it shall be lawful for the Deputy Commissioner or any officer not below the rank of a Sub-Deputy Collector authorised by him in writing in this behalf, to enter upon any land or building with such assistance as he considers necessary and seize and take possession of such document, registers and papers as are in his opinion necessary for the management of such estate or tenure.

This, Sir, is very drastic in the sense, it is too short a period. Now, I am not speaking about the well-managed Zamindaris because they are ready with papers and documents, but, I am speaking about ordinary landholders, I mean, tenure holders. Of course, it is said that the Deputy Commissioner may allow more time, but I know that all Deputy Commissioners are not alike. Some may be liberal, but all may not be so liberal, so we cannot depend upon the discretion or whims of the Deputy Commissioners. When we have made such a legislation, we should give definite directive to him that he can enter upon such land or building for taking papers after such and such time. I want to put very definite period for this. Many contingencies may arise. It must be realised that many papers which are not necessary for the management of the Zamindaris may be supposed to be necessary by the Deputy Commissioner. It may be necessary for the man who has been served with a notice to be away from the station at the time. It may also be that he has deposited the papers in a Court of law for certain suit. So, it may not be possible for him to handover the papers within 48 hours. But the Deputy Commissioner or the Sub-Deputy Collector has been given very drastic powers and within 48 hours he can enter upon the land or building and with such assistance which in the Congress Government means necessarily armed guards. It may be a case of a widow or a minor or a diseased person and it may be that the man-in-charge of the papers of such a person is ill or is away from the station. Just consider the position of the widow. Just consider the position of a minor or a person who is suffering from some disease at the moment. But the Deputy Commissioner or the Sub-Deputy Collector if empowered in this way may enter his or her house with a batch of armed constables. At least for the sake of humanity and in consideration of the cases stated above I hope, the Government will accept my amendment for 15 days time. I do not think it will matter much if the papers are delivered within 15 days. With the steamroller majority the Government can amend, if necessary, anything. They can easily have this power of 48 hours but considering all the facts, for instance, unforeseen contingencies a minor, a widow and a diseased person, I hope, my amendment will be accepted by the Government.

Mr. DEPUTY SPEAKER : The Motion moved is that in the new sub-section(5) going to be substituted by item (d) of clause 6, for the words "forty-eight hours" occurring in the fourth line, the words 'fifteen days' shall be substituted.

Shri GAURISANKAR BHATTACHARYYA : Mr. Deputy Speaker, Sir, I support the amendment moved by my Friend, Raja Ajit Narayan Deb. I hope, I shall not be misunderstood that I am holding a brief for Zamindars or for the rich. I am, perhaps, not less eager than anybody else in this House in the matter of abolition of the Zamindaris. Not only that, I am all out for abolition without compensation of all sorts of Zamindaris and yet I cannot but support this amendment of my Friend. Why? Because almost dictatorial power is sought to be given by this provision to the Deputy Commissioner. This is too big and too sweeping a power and for some people it may be very lucrative (*Laughter*) because somebody may make a business out of it.

Mr. DEPUTY SPEAKER : You are bringing insinuation on Deputy Commissioners.

Shri GAURISANKAR BHATTACHARYYA : I am not making any insinuation on the Deputy Commissioners, but I should say that all Deputy Commissioners are not alike. There may be many who are good and many who are not good.

Shri BAIDYANATH MOOKERJEE (Minister) : It applies to all sections of people.

Shri GAURISANKAR BHATTACHARYYA : It applies to all sections of people. There may be instances in which mistakes are committed by Deputy Commissioners. No doubt mistakes are committed by some of our Ministers also! In case of mistakes by Deputy Commissioners, the aggrieved person may have to appeal against such mistakes, but they have only 48 hours and within that 48 hours the thing will have to be finished. It must be considered that within that 48 hours there will not be sufficient time for the aggrieved person to appeal either to local authorities or to Government or to a Court of law. I have seen that instances are not rare especially in revenue matters and the Deputy Minister for Revenue will bear me out when the orders of Deputy Commissioners are to be revised by the Minister or pass stay orders. Now, in these

matters contingencies may arise where there may be need for an appeal against the orders of the Deputy Commissioner to the State Government but if the thing is finished within 48 hours or if the person submits an application to the Deputy Commissioner that he wants to prefer an appeal but the Deputy Commissioner might not allow him to do so and it is not possible for a tenure-holder or even a Zamindar to come to Shillong and go back within 48 hours having the stay order passed. So, I say, it is unreasonable to fix this time limit at 48 hours. If the person wants to conceal some papers he can easily do so within that 48 hours, if he wants to run away he can do so within the 48 hours, if somebody wants to conceal any document or paper it does not require 48 hours to do so, if anybody wants to manipulate things he can keep things manipulated even much earlier. So why this haste? I should say this indecent haste. It takes 3 years for the Government to come even with this type of legislation and now after this indecent delay they are bringing in this indecent haste to make some people suffer and to give some officers undue power to enable them to oppress and repress the people if they so desire. Also here a vague phrase is there—"by using such assistance, etc." What that assistance might be? We know from our experience that that assistance is of the armed force, we have seen when this type of assistance is taken by the officers, the people suffer, the people are oppressed and harassed. Sir, while I very strongly hold that Zamindaris should be abolished, that Zamindars should not be allowed to oppress the people and to exploit the people, I also hold that everybody must be given the opportunity and the privilege to appeal against alleged wrongs so that no body can say that there is a difference between man and man, that simply because one is a Zamindar and he is denied all human rights. While a Zamindar should not be allowed to oppress others, others, whether a particular officer or anybody else, should not be allowed to oppress the Zamindar.

Sir, while we talk on abolition of Zamindary, and when we say that abolition of Zamindaris should be without compensation, we do not mean to oppress the Zamindars, to make them paupers or street beggars. We shall not of course give them compensation, but we shall give them sufficient to enable them to stand on their own legs and to start a new life. Although they will not get compensation, they will get something which may not be in the nature of compensation for the loss of their Zamindaris, but something which is necessary for their rehabilitation so that they may also be rehabilitated as honest and creative citizens. As I have said, we do not want to turn our Zamindars into street beggars; but here by this Bill while

on the one hand Government want to maintain the Zamindari system, on the other hand, some particular individuals are sought to be made victims of official whims. So, Sir, I say that this time limit is very unfair and unreasonable. To make it reasonable it should be extended to 15 days and these 15 days will not make any great difference. It will not mean giving the Zamindars a new lease of life, but will be helpful to some people. By this haste it only means giving a greater amount of harassment to some people.

With these words Sir, I support the amendment moved by my Friend, Raja Ajit Narayan Deb.

Maulavi MUHAMMAD UMARUDDIN : Mr. Deputy Speaker, Sir, I want to speak only a few words to point out certain practical difficulties which will arise if the tenure holder or the proprietor has got to produce his records within 48 hours only. What these practical difficulties are can be very easily visualised from the very provision of this Act itself as laid down in the proviso to this particular clause. Now, Sir, my point is that after the records have been taken away by Government on such short notice then the poor proprietor may not be able to keep copies of those records and it will simply be impossible for him to have access to those records later on when they are in the hands of Government. But if the time limit is extended to 15 days then he will be able to keep copies of the records himself and will not have occasion to go and beg of the officer or officers concerned for supplying him with copies of his records.

Another point, Sir. Under the principal Act all arrears of revenue from land or fishery, etc., were to have devolved on Government with the vesting of the Estate in Government and some percentage of the arrears would have been available to Zamindars. But this has been ruled out by this amending Bill. In other words, the Zamindars are now responsible for collection of arrears of revenue from land, fishery or whatever it may be. To do this, the Zamindar may have to file civil suits as otherwise there is no other way out for him to make a defaulting tenant pay his arrears. Now, as soon as the Zamindar loses control over his tenant no amount of persuasion will make them pay because they will simply not pay and naturally, the proprietor and tenure-holder will have no other alternative but to go to the civil court and sue them. Another practical difficulty that may arise here is that the tenant will not pay purposefully because he knows that all Zamindaris are going to be taken away by the Government. There is this tendency generally in tenants to withhold payment while this question of acquisition of Zamindaris is there or as soon as the notification under section 3 is issued the tendency will be more strong and widespread. These, Sir, are the

practical difficulties which I want to point out to the House. They can be removed if you give sufficient time to the proprietor or tenure holder to copy his records so that he can pursue those tenants for arrears of rent or for anything else due by him and that even if his records have been taken away, he can sue them on the basis of those records which he had kept.

These are the practical difficulties specially for large estates like Bijni, Mechpara and Gauripur having 10 to 15 collecting centres or Kutcheries. Without sufficient time to copy their records it will be difficult for them in the matter of realisation of arrears of rent, specially as I have said, as soon as this Act comes into force tenants will withhold payment and create difficulties for the proprietor concerned. I know there is one Zamindar, *i. e.*, of Chapor Estate who told her tenants to pay her whatever they could because she knew that she could not be able to realise the arrear rent after the Estate has vested in Government. So, Sir, I say these practical difficulties are bound to arise unless the proprietors or tenure holders are given sufficient time to enable them to copy their records. Of course, if Government only wants the Zamindars to be in difficulty, that is a different matter. But it will in no way help the peasantry, it will only cause confusion and trouble and give rise to litigations and unnecessary resentment to all concerned. To illustrate my point: a Zamindar will have to apply to the Deputy Commissioner to supply him with copies of the records, the Deputy Commissioner will order his office, then the Deputy Commissioner's office will take time to have it copied and in this process it will go on for one or two years before the applicant gets his records. Meanwhile all his claims may become time barred.

So, Sir, all these practical difficulties will arise. I therefore hope Government will not find any difficulty to extend this time limit to 15 days which will help the Zamindar to keep copies of his records.

With these words, Sir, I support the amendment moved by my Friend, the Raja Ajit Narayan Deb.

Adjournment

The Assembly was then adjourned till 1-30 P. M. on Friday the 11th September, 1953.

SHILLONG :

The 1st May 1954.

A. G. P. (L. A.) No. 26/54-126-5.5-1954.

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

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