

Proceedings of the Second Session of the First Legislative Assembly, assembled under the provisions of the Government of India Act, 1935.

The Assembly met at the Assembly Chamber at 2 p.m. on Friday, the 20th August, 1937.

THE HON'BLE THE SPEAKER: I wish to draw the attention of hon. members to one very important point which was raised yesterday by the Hon'ble Finance Minister. I want that point to be discussed in this House to-day. Now if the discussion be taken up after the question time, then I am afraid, the time allotted for the budget discussion will be encroached upon. If the House agrees then the questions may be suspended and discussion taken up now, so that there may be full discussion on the point of order that has been raised.

SRIJUT GOPI NATH BARDOLOI: Sir, I on behalf on my party say that I have no objection.

RAI BAHADUR PROMODE CHANDRA DATTA: I have also got no objection.

THE HON'BLE THE SPEAKER: Questions stand suspended for this hour.

SRIJUT GOPI NATH BARDOLOI: Sir, I beg to say something.

THE HON'BLE THE SPEAKER: I shall first ask the Hon'ble Minister whether he has got anything more to say.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: Sir, I have got nothing more to say till I hear the hon. members. After hearing them I shall supplement what I have said.

MR. FAKHRUDDIN ALI AHMED: On a point of information, Sir. May we know, if on the advice of the Auditor General he is asking the House to come to a decision in the matter?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: No, Sir.

DISCUSSION OF THE POINT OF ORDER RAISED BY THE CHIEF MINISTER REGARDING THE VALIDITY OF CERTAIN CUT MOTIONS

SRIJUT GOPI NATH BARDOLOI: Sir, it is really very painful to express our entire dissatisfaction at the manner in which the Hon'ble Finance Minister has attempted, I say, to bamboozle the whole House in respect of the cut motion. In the first place, he misstated facts. He said that about 150 people would be affected by the cut. But in reply to a question put by my hon. friend Babu Harendra Narayan Chaudhuri, he had to admit that his previous statement was not true.

Sir, in connection with the legal contention raised by the Hon'ble Finance Minister my respectful submission is this that not only is there absolutely no substance in it but the implications contained therein are positively mischievous. I suppose, Sir, his main contention is that while we could give a cut motion for the entire refusal or reduction of the whole grant, we are not entitled to give a cut motion on any specific item contained in the demand, and even if we did so, it would affect the entire

demand and not the detail when the cut is carried. I think he quoted section 67A(6) of the Government of India Act to prove what the procedure in the Central Legislative Assembly was. Section 72D regulates the procedure in the provincial Assembly, and he was quoting it just for the purpose of showing that it is different from the procedure laid down in section 79(2) of the present Act. I suppose, he has also referred to the procedure in the House of Commons and the Central Assembly in support of his contention. He has also referred to the advice of the Auditor-General.

Sir, before referring to the chapter and verse of the sections quoted by him I want to tell him that he wants to bluff the house by the references he has made regarding the procedure of the House of Commons and of the Legislative Assembly. I suppose, he thought Sir, that the House is not at all conversant with the procedure that is obtaining in the House of Commons or in the Legislative Assembly. The only difference between the procedure that obtains here and in the House of Commons is that they have a Committee of the whole House known as the Committee of supply; but it is a Committee of the whole House and is as much effective as this House is sitting for discussing the budget. Some rules have been laid down regarding the procedure obtaining in this Committee of the House of Commons. I have not got the recent edition of May's Parliamentary Practice and Procedure. I have the twelfth edition and from it we find that a rule was adopted by the House in 1858 and there has been no change since then. This rule is in reference to a reduction of the total grant. I have also now before me the Manual of Procedure of the House of Commons. I refer to page 213 of the Manual which enumerates the rule: "That when a motion is made in a Committee of supply to omit or reduce any item of a vote, a question is proposed from the chair for omitting or reducing that item accordingly and members must speak to that question only, until it has been disposed of." There are other rules also. Thus "when several motions are offered they must be taken in the order in which the items to which they relate appear in the printed estimates." Sir, the point is, I suppose, definitely clear in as far as the procedure that obtains in the House of Commons is concerned. They proceed with items of grant and may also proceed with the whole grant afterwards.

Then, Sir, as regards the procedure that obtains in the Central Legislative Assembly, I think, if a reference is made, it will also be perfectly clear that there also discussions are allowed on items. Of course the whole grant is also put for discussion. There are three respectable members of the Central Assembly, including the Chair in this House. I think they will fully bear me out in what I have stated.

Then, Sir, regarding the opinion of the Auditor-General, of course the Hon'ble Finance Minister may accept him as his authority and he may echo his voice, but if we know anything about the function of the Auditor-General, his function is to see that the accounts are regularly kept, appropriation and reappropriation are properly done, and expenditure is incurred under appropriate sanctions. The House cannot, therefore, accept the hearsay opinion. We do not know the actual opinion—it is not before this House, it is merely a report by the Hon'ble Finance Minister. The House cannot accept the hearsay opinion.

It is also clear that the procedure adopted hitherto in this Assembly (Council formerly) is as I have given just now. I will show also, by a comparison of section 72 D(2) of the last Act with section 79(2) of the present Act that there has been no departure from the procedure, that was laid down previously. It may be an economy of language, it may be

leaving just a little room for interpretation, but these sections fundamentally remain the same. Now, Sir, I refer to section 79(2), and also to Rule 91(2) of the Assembly Rules. Section 79(2) reads thus:—

“so much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants, to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to a demand subject to a reduction of the amount specified therein.”

Then, Sir, Rule 91(2), I suppose, is taken from the wordings of the main section, and reads thus:—

“motions may be moved at this stage to refuse or reduce the total amount of any demand for grant.”

Now, Sir, here two words are added, namely “total amount”. I do not find these words actually in the section I have just now referred to, but at any rate what I desire to point out, Sir, is that the rules cannot go beyond the scope of the main section. All that the section and the rule say, is that we may assent to a demand subject to a reduction. The contention of the Hon'ble Finance Minister is that it should apply only to the whole demand of the grant. In other words, the full implication of that contention will be that it must be a sort of percentage cut or it must be a sort of lump reduction, but where is the authority for this contention? On the other hand commonsense would say that when the actual motion of reduction is to come it must come on some specific subject. What can be the meaning of this Section if the reduction is not to come under specific head, on some specific subject.

There can be no sense in any “reduction” of the whole demand unless it is in relation to some item of the grant. We are not fools, nor are we mad men that we shall be tabling a cut motion without reference to any specific subject. If a cut motion is to come it must come under some specific head in relation to which we may have actual grievance.

Now, Sir, I submit that this fact has been made clear by section 79(2), and I particularly refer to this portion “shall have power to assent, or to refuse to assent, to any demand or to assent to a demand subject to a reduction of the amount specified therein”. Now, what is “the amount of the grant”? My point is that “the amount of the grant” is made up of or is constituted of, all the items of the grant, and, therefore, according to the interpretation of this section itself I shall be justified in putting a cut motion on any of these items. A demand specifies the amount of all the items which constitute the demand. I can surely refuse any of these items. That will mean a reduction of the whole amount by that amount and, therefore, it is perfectly in order. Now the word “specified” is very well understood by every body. The word “specified” means only in reference to items, in reference to details, and, therefore, my submission is this that even under the provisions of section 79(2) I am entitled to give a cut motion either for the refusal, because that is a reduction of the whole amount, I mean the entire refusal of some particular item or I can give a total cut. What I want further to show is that there has not been much difference between the implications of section 79(2) and section 72D(2).

The Hon'ble the Finance Minister was very anxious to say the other day that if the intention of the Legislature was to give us the same power as it was proposed to be given under section 72D(2), then that would have been made clear in the new section. But I desire to point out that, in effect, there has not been much change between the implications of section 72D(2) and section 79(2).

Now, Sir, the relevant portion of section 72D(2) is this:—

“The Council may assent, or refuse its assent, to a demand, or may reduce the amount therein referred to, either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed”.

Now, Sir, regarding my contention as to the specification of grants, I think the latter portion makes that position very clear, *viz.*, “reduction of any of the items of expenditure of which the grant is composed”. I respectfully submit that this portion practically covers that portion “reduction of the amount specified thereunder”, this point was made more clear there in the old section.

Then, the procedure further detailed in section 72D(2) is this:—
“or may reduce the whole grant”—“or by the omission or reduction of any of the items of expenditure of which the grant is composed”. No difference is evidently intended between these two sections in particular reference to the whole grant. I do not see why in respect of items also the same interpretation is not possible in the new section. In the expression “to refuse to assent to any demand, or to assent to a demand subject to a reduction of the amount specified therein” no question of “whole” grant comes in. The word “whole” is very significant and the fact that it has been omitted before the word “amount” quoted above, shows that the interpretation put upon by us is the only logical interpretation that can be put on section 79(2).

Therefore, Sir, the only difference that is there is that there has been more economy in the language in the present section 79(2) leaving us room to proceed against the whole grant, or the disallowance of the whole grant or against any item, as we may think best. I therefore respectfully submit that there has not been much change in the implications in regard to section 72D(2) of the old Act and section 79(2) of the present Act. Sir, the forms of cut motions have been printed, several cut motions have been passed in the meantime, and I don't know how the Finance Minister was sleeping over this all this time. If there was really any substance in his argument I think he would have come up at the right time and should have pressed his point before the House at the proper time. I find he is now in a tight corner; he cannot protect his servants, and therefore he is coming before the House now to raise an objection. Therefore my contention remains proved that we may vote for the demands for grants not only as a whole but also in detail by detail, and if we refuse a particular item in the grant we shall be perfectly in order in doing so.

Then, Sir, I want to submit the same thing from a broad constitutional standpoint. What is the meaning of a demand for grant? The meaning of a demand is Sir, that a particular expenditure is necessary for a particular matter. The King in the British House of Parliament and the Ministers in the name of the King, and here also the Ministers on the recommendation of the Governor, ask for money for some particular purpose. The Ministers cannot make a demand without any reason or irresponsibly; he must give reasons for which he requires the money, he must say, it is for this particular reason that I want this money, and if the elected representatives of the people have any grievance for that particular grant it is up to them to refuse it or to reduce it, as they think fit. This is a valid right which has been given to us by the present Constitution, and if we have secured any right under the constitution it is this right of the electorates to grant or refuse these grants. (*hear! hear!*)

Now, Sir, let us take the other side of the picture. What would be the significance of the interpretation of the Hon'ble Minister in this matter. If the effect of a cut motion is merely to deduct the amount of the cut from the total grant, the Government will be free to reappropriate from the savings from other grants. I have not contemplated the contingency in which the vote of the whole House can be ignored, and I am not prepared at this stage to do so ; but if the cut motion is to be given effect to by merely deducting the amount from the total grant and reappropriating from other grants then the cut becomes meaningless. Reappropriation means cuts from other heads which will be arbitrary, as they have already been passed by the House item by item. And if the cut on an item is restored it will be still more arbitrary as the House has already voted against it. If you will refer to the Joint Parliamentary Committee's Report you will see Sir, that this is exactly the power which was proposed to be taken away from the Government, from the Governor, and even from Parliament, and transfer it to the electorate and that power has now been transferred to the electorates by the Act. Now, to accept the interpretation given by the Hon'ble Chief Minister will be going beyond the object of the Act. Is he in the leastwise fit to lead this House ?

RAI BAHADUR PROMODE CHANDRA DATTA : Sir, the point of order raised by the Leader of the House is so extraordinary and so far-reaching in its consequence that I think it is up to everyone of us to try to throw what light he can on this.

I shall in the first place point out to the House what the point of order actually is. I refer to rule 90(2) of the Assam Legislative Assembly Rules. There it is stated "each demand shall contain, first, a statement of the total grant proposed, and then a statement of the detailed estimates under each grant, divided into items." Now, Sir, let us look at the budget itself (page 59). There the hon. members will find demand for grants required for purposes of General Administration amounts to Rs.13,61,200; then hon. members will find the heads A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R (which is the item about which we are struggling), S, T, U, V, W, X. These are the heads under which this grant has been divided, and that has been done according to the Rules just quoted. Now, it has been contended that we can propose a cut involving a percentage of the total grant, *i.e.*, we can reduce this grant by 5 per cent. or 10 per cent. or we can cut a lump sum out of it, which will affect the grant as a whole but we cannot cut any particular item such as A, B, C, or any other. The Hon'ble Leader of the House therefore contends that this House had no right to cut the amount provided under head R as it has done. That is the point of order raised by him and he goes so far as to say that this is *ultra vires* of this House. I would invite the Hon'ble Leader of the House to read with me Section 72D(2) and Section 79(2). Section 72D(2) says :

"The estimated annual expenditure and revenue of the province shall be laid in the form of a statement before the Council in each year, and the proposals of the local Government for the appropriation of provincial revenues and other moneys in any year shall be submitted to the vote of the Council in the form of demands for grants."

Then, Sir, comes the portion we are concerned with.

"The Council may assent, or refuse its assent, to a demand, or may reduce the amount therein referred to either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed".

Therefore, this gives the Council the right to reduce the amount referred to therein. If the section stopped short then we could cut the amount in any way we liked.

Then it is pointed out that this can be done by two ways *i.e.*, either by a reduction of the whole grant, which means by a reduction which will affect the grant as a whole or by a reduction of individual items. Then it points out not by way of extending the right given by the words "reduce the amount referred to in it" but by way of explanation in illustration.

Now, Sir, what does section 79(2) say? It says—

"So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly and the Legislative Assembly shall have power to assent, or to refuse to assent to any demand or to assent to a demand subject to a reduction of the amount specified therein."

THE HON'BLE REV. J. J. M. NICHOLS-ROY : "Specified therein", in the demand?

RAI BAHADUR PROMODE CHANDRA DATTA : Yes, in the demand. What does the power given by this section to reduce the demand involve? How to reduce the demand? I say that no way has been expressly pointed but is left open to the members. This omission does not mean that the power given by the Act of 1919 has been taken away. We may make a cut which will affect the grant as a whole or which will merely affect a particular item. That that is so will appear clear from a comparison of the phraseology of the two sections. Section 72D speaks of the reduction of the whole grant; that is the expression on which my hon. friend lays the greatest stress. The word whole is very significant. Here in section 79(2) the expression is the reduction of the amount therein specified, not of the whole amount. If it had said the reduction of the whole amount the contention of the Hon'ble Leader of the House would have been perhaps correct.

THE HON'BLE THE SPEAKER : Is not the refusal of the whole grant the refusal of all the items?

RAI BAHADUR PROMODE CHANDRA DATTA : Certainly, Sir. The contention of my learned friend is that a reduction of the whole amount means a reduction which will affect the grant as a whole.

THE HON'BLE THE SPEAKER : What I mean to say is that if by refusing the whole grant you are refusing all the items, can you not refuse one of the items composing the grant?

RAI BAHADUR PROMODE CHANDRA DATTA : That is another way of looking at the matter undoubtedly. Then, Sir, the Hon'ble Finance Minister refers to the procedure in the Central Assembly and says that the procedure laid down for that Assembly is the procedure laid down in section 67A(6). Refer please to page 53 of the old Council Manual—

"The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in any demand by a reduction of the whole grant".

The contention of my Hon'ble friend is that the reduction spoken of there means a reduction which will affect the grant as a whole. But the word whole is not before the word "amount" in section 79(2). Therefore, it is clear that section 79(2) does not necessarily refer to a cut which will affect the grant as a whole.

Now, Sir, coming back to section 72D the words "may reduce the amount therein referred to" which occur there correspond with the words "amount specified therein" in section 79(2) of the present Act. This amount can be reduced, but in what way? That has been left open, I mean, has not been expressly stated. I say, therefore, that the contention of the other side is not right.

Then he referred to the practice prevailing in the Central Assembly. I am advised, Sir, that if anybody told him that in the Legislative Assembly individual items were not allowed to be touched, he has not been correctly informed. You, Sir, were in the Assembly and you with your experience can tell the House what the position there is. I was a Member of the Council of State but these grants did not come before us.

THE HON'BLE THE SPEAKER: He referred to the present section.

RAI BAHADUR PROMODE CHANDRA DATTA: Incidentally he referred to this fact of the practice in the Central Assembly. And he also relied on the language of section 67A. It is very clear.....

THE HON'BLE REV. J. J. M. NICHOLS-ROY: Rule 91(2)?

RAI BAHADUR PROMODE CHANDRA DATTA: That cannot go against the Act itself. If any rule contravenes the spirit and the provisions of the Act then the rule is entirely *ultra vires*. So that there has been no difference made as to our right to cut out individual items by the language which has been used in section 79(2).

MAULAVI ABDUL MATIN CHAUDHURY: If I understood the Hon'ble the Chief Minister correctly I think his point is this. He suggests that we can reduce the total demand and we can also refuse it, but we cannot refuse an individual items of expenditure. And in support of that he made reference to the procedure in the House of Commons. Our Parliamentary procedure is generally based upon the procedure of the House of Commons and so I tried to find out what was the procedure there with regard to this matter. And I shall read out to you, Sir, a very short account of the procedure in the House of Commons, from Redlich's "The procedure in the House of Commons", Volume III, page 140. There he describes the procedure with regard to the discussion on estimates. This is what Redlich says:

"The form of the motion made by the Government is stereotyped: it states precisely the total amount demanded and the particular service for which it is destined."

The wording of the motion you will find is exactly the same as ours.

"That a sum not exceeding.....be granted to His Majesty to defray the charges which will come in the course of payment....."

Then it says:

"Amendments to such a motion may propose to reduce the total amount of the estimate or to reduce or omit some particular item"

Then Sir it goes on to mention about the procedure how the motion for refusal is moved. If it is proposed to reduce or refuse any particular item, the following rules shall apply.

"When a motion is made to omit or reduce any item of a vote"

It will be noted that here mention is made not of whole "vote" but any "item", "a question shall be proposed from the Chair for omitting or reducing such item accordingly; and members shall speak to such question only, until it has been disposed of".

This makes it absolutely clear what the position in the House of Commons is. There they have got the right to refuse any particular item of expenditure. Our procedure being based on that of the House of Commons, that "Mother of Parliaments", we ought to follow their procedure in this

particular case also. As regards our own rules reference has been made to Rule 91(2) of the Assam Legislative Assembly Rules. Here the rule says—“A motion may be moved at this stage to refuse or reduce the total amount of any grant”. It is not denied that we have got the right to refuse the total amount of a demand. The only objection is this, that we cannot refuse any particular item. That seems to me, Sir, a very illogical position. As you pointed out, Sir, just now, if we have got the right to refuse the whole, certainly we have got the right, as a necessary corollary, to refuse a part of it. Take the case, Sir, of the educational demand. The Chief Minister will of course admit, and he himself has said, that we have the right to refuse the whole votable demand. Now suppose, Sir, Government introduce a provision in the education budget to create a post of Assistant Director of Public Instruction, which in the opinion of this House is entirely unnecessary or redundant. Then, if the House has got the right to refuse the entire demand, surely they have a right to refuse this particular item which they consider unnecessary or redundant. If the House is denied this right it will be stultifying itself and Provincial Autonomy will be reduced to farce and mockery. Our right to control expenditure is fettered only in regard to charged expenditure. In all other matters I think the authority of the House is supreme with regard to controlling expenditure even to the minutest detail. So, Sir, I think it is your duty, as the custodian of the rights and privileges of the House, to uphold and maintain this fundamental principle. In giving a ruling, Sir, I would appeal to you to assert this undoubted right of this House. Even if there is doubt in this matter, although I do not think there is any room for doubt, we are here to create new traditions, new conventions and new precedents, and I think, Sir, your ruling may be given in the way of expanding the rights and privileges of this House.

RAI BAHADUR PROMODE CHANDRA DATTA: May I know from the hon. member what is the practice in the Indian Legislative Assembly?

MAULAVI ABDUL MATIN CHAUDHURY: The rule in the Indian Legislative Assembly is quite different from the rule in this Assembly. According to our rule—“A motion at this stage may be moved to reduce or refuse the whole demand.” Procedure in the Legislative Assembly differs from this.

THE HON'BLE THE SPEAKER: But the item can be reduced.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: Sir, my hon. friend Mr. Bardoloi, the Leader of the Opposition, must have been a good student of alliteration, for he started his argument by using a number of alliterative words in keeping with his own surname. “Bamboozle”, “bluff” and such other words, he used also I think, Sir, as “bad taste”, I will not use similar epithets though I may be called to a point of order.

Coming to the subject under discussion I should say that I could not follow the hon. member's argument. I take my stand, Sir, on the wording of the Act of 1935 and I shall confine myself to the legal aspect of the question as I placed it before the House yesterday. My position, Sir, is this that section 79(2) of the Act of 1935 is very much akin, to section 67A(6) of the old Act, and notwithstanding a slight change in wording means the same thing. The section of the old Act says:—“The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in the demand by a reduction of the whole grant”. The present section, Sir, is—“The Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to a demand subject to a reduction of the amount specified therein.” My hon. friend the

Leader of the Opposition, will note the last three words "amount specified therein". He thinks that the right of moving a reduction extends to each individual item. Sir, my reading of the section is otherwise, and, to my mind, it appears that these three words have reference only to the words "therein referred to" found in the old section which runs—"The Council may assent or refuse its assent to a demand or reduce the amount therein referred to." Therefore the addition of these two words "specified therein" at the end of the present section makes no difference whatever to the contention which I have advanced before the House. Sir, if it is conceded or held or found that the old Central Assembly procedure under section 67A(6) is the same as our present procedure, then my submission is that my contention is perfectly correct.

RAI BAHADUR PROMODE CHANDRA DATTA: That is what we do not admit.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: I think, Sir, the hon. members should speak out and say, instead of making running commentaries, sitting while I am speaking. That simply disturbs the trend of my thought.

Sir, in order to show to the House what is the procedure in the Central Assembly, I have got one volume of debates of the Central Assembly at random. There I find that the procedure, which I hoped to hear from my hon. friend, Maulavi Abdul Matin Chaudhury but which he did not give us in detail, is the same as I am advocating now. Sir, I am reading from Volumes 2 and 3 of the Legislative Assembly Debates for the year 1935. I am just pointing out what is the nature of the cut motions that are tabled in that House according to section 67A. There, Sir, I find—in page 1910—the Finance Member moved his motion that a sum not exceeding Rs.6,00,000 be granted to the Governor-General in Council to defray the charges which will come in the course of payment during the year ending on the 31st March 1936 in respect of the Home Department. After the President put the motion, Mr. Aney moved his motion saying—"Sir I rise to move the motion that stands in my name, namely, that the demand under the head 'Home Department' be reduced by Rs.100." This is not the only instance, Sir. At page 2032 of the same Volume I find that Mr. Joshi moved a cut motion in the same way—that the demand under head Indian Posts and Telegraphs be reduced by Rs.100. A similar motion I find at page 2057 with the same wordings that the demand under head Indian Posts and Telegraphs be reduced by Rs.100.

THE HON'BLE THE SPEAKER: That will not take us very far. Has the Hon'ble Finance Minister anything to explain as to what is meant by the words "specified therein"?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: My contention is that the procedure of the old section 67A ought to be followed here.

THE HON'BLE THE SPEAKER: Some 2000 motions are tabled in the Assembly and out of that only 50 or 60 are taken up.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: Again at page 2065 I find that the Deputy President, Mr. Akhil Chandra Dutta, moved a similar motion. So, Sir, there can be absolutely no doubt as to what is the procedure in the Central Assembly. My hon. friends have quoted from May's Parliamentary Procedure. We know that the question of Parliament is quite different. They may frame their own rules of procedure because there is no codified constitution in England. But here we are bound by the letters of our code.

Now the entire thing depends upon the present section and its earlier counter-part. I am constrained to find that an eminent lawyer of the capacity and calibre of the late Judicial Member, Rai Bahadur Promode Chandra Datta, who was sometime a Government Pleader—arguing that if there is a power given under the previous Act and if that power is not specifically mentioned in the subsequent Act, that the matter has been left open. But I would appeal to.....

RAI BAHADUR PROMODE CHANDRA DATTA: I did not say that. What I said is that the question has been left open because in section 67A we find "subject to the reduction of the *whole* amount" whereas the word "whole" is not in the present section 79(2).

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: Sir, I would appeal to the hon. leader of the opposition, for I know he is a master on the subject of Constitutional History.....

SRIJUT GOPINATH BARDOLOI: I am not. (*Loud Laughter.*)

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: Why? He is an M. A. in History. I do not think that the construction which is sought to be placed on the said section by my hon. friend Rai Bahadur Promode Chandra Datta is correct. He says that there was a power given in the Act of 1919, but now he admits that the present section does not provide that power. According to the Interpretation of Statutes (I am sorry I have not got the book with me), I can say that where a specific power, given to the Legislature by any law, is not specifically given on any subsequent amendment of that Statute, then it must be construed to mean that the power has been withdrawn. Sir, my hon. friend the Rai Bahadur is considering that the word "whole" has not been mentioned in section 79(2). If his contention is correct, then I would say that the word "amount" in the last line of that sub-section would have been in plural and not in singular, and the legislators would have worded that sub-section like this: ".....the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to a demand subject to a reduction of the *amounts* specified therein." If therefore any cut motions on individual item of expenditure was in the purview of the legislators they would have said 'subject to a reduction of the amounts'. But now as it stands the word 'amount' refers to the whole demand and nothing else.

THE HON'BLE THE SPEAKER: Will the Hon'ble Finance Minister explain one thing to me? The Hon'ble Minister will find in the White Paper that there was a proposal to give to the Assembly the right to omit an item. How that proposal was rejected and how the present procedure came to be adopted should be shown?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: I had noticed that in the White Paper; it is unfortunate that I could not get the Hansard volumes of discussion in Parliament of that clause.

THE HON'BLE THE SPEAKER: Can it be not said then that they accepted that proposal in the White Paper? Can the Hon'ble Minister enlighten me how that proposal was not adopted?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: Unfortunately I could not get the volume of Hansard to find out why that particular clause was omitted. The very fact that in the White Paper that particular clause appeared, but at the time of converting the Bill into an Act that clause has been omitted, clearly shows that the legislators did not want to grant this power to our legislators.

THE HON'BLE THE SPEAKER: Perhaps they wanted to make economy in language.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : But we have not seen that economy in section 72D of 1919 Act, which laid down the procedure for the Local Provincial Councils ; the section was very much elaborate. The legislators had certainly some intention in putting the two sections 67(A) and 72D in two different wordings. Now, I submit that the present section 79(2) follows very nearly the wordings of the old section 67A. Therefore the procedure that is followed in the Central Assembly should be the procedure in this House.

THE HON'BLE THE SPEAKER : If a new service is provided under a grant, cannot the House reject that new service ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : My submission is that the House can reject any amount in the total demand ; they cannot reduce any particular item individually.

THE HON'BLE THE SPEAKER : The Act says that the Governor can provide a sum for a matter within his special responsibilities to be submitted to the vote of the House. Can they not reject that ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : The House has got that power, but the rejection must be of the whole grant.

THE HON'BLE THE SPEAKER : But the section says that the House can assent to the demand subject to a reduction specified in the grant. But what is specification of an amount ? Is not the sum allotted to an item also specification of an amount ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : No, Sir, not the item.

The proviso to that section is clear, Sir. It says :

Provided that, if the Assembly have refused to assent to any demand for a grant or have assented to such a demand subject to a reduction of the amount specified therein, the Governor may, if in his opinion the refusal or reduction would affect the due discharge of any of his special responsibilities, include in the schedule such additional amount, if any, not exceeding the amount of the rejected demand or the reduction, as the case may be, as appears to him necessary in order to enable him to discharge that responsibility. It does not say restoration of any particular item.

SRIJUT GOPINATH BARDOLOI : What is the real meaning of "demand" ? Is it not composed of all the items of the demand. If the whole demand is rejected then all the items must go ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : If the whole demand is rejected, the particular item is not allowed.

THE HON'BLE THE SPEAKER : Order, order. I want to know if there is going to be any further discussion on this. Will the Hon'ble the Finance Minister enlighten me on this with reference to the suggestion that the Advocate General should come and address the House on the point raised ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : We have referred the matter to the Advocate General by a letter posted to-day. I doubt if he will be able to come on Monday. But we expect his reply by Monday.

THE HON'BLE THE SPEAKER : I can postpone my ruling till Monday. Beyond that we cannot wait.

RAI BAHADUR PROMODE CHANDRA DATTA : Are you going to postpone your ruling till Monday, Sir ? I think we may in the meantime go on with these cut motions.

THE HON'BLE THE SPEAKER : Yes, my ruling will be postponed till Monday next. In the meantime we may proceed with the other cut motions.

SRIJUT GAURI KANTA TALUKDAR : Sir, on a point of information. We want to know from the Hon'ble the Chief Minister whether cut motions which could not be considered for want of time will be taken into consideration by Government and whether the points raised therein will be taken note of.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : The points raised therein will of course be taken note of, but they cannot have the same validity as those that are discussed and voted upon by the House.

DEMANDS FOR GRANTS

GRANT NO. 1

7.—LAND REVENUE

[Continuation of the debate on the cut motion of Maulavi Ashrafuddin Md. Chaudhury for criticising the management of Sayida (Majumdari) Court of Wards' Estate in Sylhet.]

MAULAVI ASHRAFUDDIN MD. CHAUDHURY : Further I have got to place before the House that there were no doubt wards who have some debts. The number of debtors are very few, but others are suffering. Only half a dozen of the family are debtors, but four dozen of people are suffering. Under rule 154 of the Court of Wards Manual, as the income of the estate is below Rs. 50,000—the accounts are audited by a Sub-Deputy Collector, especially by a junior Sub-Deputy Collector, whereas the manager is a Senior Sub-Deputy Collector. The Manager is a tenant himself, his father-in-law is a tenant. So he has got conflicting interests. He has got double capacity. He is himself a tenant and at the same time he is entrusted to look to the interests of the landlords. Whether on principle it is permissible it is for you to judge. In the Karimganj subdivision 70 of 80 *hals* have been taken in *khas* possession and are being settled at a nominal rent without due publicity.

I shall now read a letter written by Maulavi Mubarak Bukht Majumdar and this will show how the family is being treated by the Deputy Commissioner. The letter runs as follows:—

"To the Deputy Commissioner, Sylhet.

Dear Sir, I beg respectfully to bring to your notice that besides the outstanding decretal amounts Sayida Majumdari Wards Estate owe me *ijara* rents for full 7 months at the rate of Rs. 30 per month. As you are aware our Bakri-Id ceremony comes off on Monday next and I have to incur large expenditure on that day for religious and other purposes, unless I get these amounts at once our religious performances will be impossible. I therefore request that you may be pleased to consider this matter and direct the manager to pay me my dues at once.

The Deputy Commissioner replied as follows:—

I gather from a letter of the Manager's that your family are now desirous of resuming charge of the Estate and do not want to have it administered any longer by the Court of Wards. In these circumstances I cannot accede to your request".

Now I shall read the substance of another letter dated 19th March 1937.

The wards and the superior landlords being desperate went to Mr. Patton, the Deputy Commissioner of Sylhet, for an interview, but to their irony of fate he refused and informed them by a letter they could take back the estate if they desired.

People who are affected went to lay their grievances before the Collector, but he would not allow them an interview. Even the Governors in the past did not hesitate to see the members of this family at their places.

In the society they held such position. But now they are not given an interview even by a Collector.

MAULAVI ABDUS SALAM: May I know, Sir, how the accounts of the Estate are audited?

MAULAVI ASHRAFUDDIN MD. CHAUDHURY: I have already said, Sir, that a retired Sub-Deputy Collector is the Manager of the Estate and that a junior Sub-Deputy Collector is asked under rule 152 to look into the matter.

MAULAVI ABDUS SALAM: Is there any bar that the Manager cannot hold any land of the estate?

MAULAVI ASHRAFUDDIN MD. CHAUDHURY: Yes, Sir, the Manager cannot hold any land because he is interested in the reduction of the rate of rent.

THE HON'BLE THE SPEAKER: The motion moved is, that the provision of Rs. 5,239 under Grant No. 1, major head 7—Land Revenue, minor head—Charges of Administration, sub-head—B. Tahsil and other establishments, detailed head—3—Management of Private Estates under Act X of 1892 (total) at page 30 of the Budget be reduced by Rs. 2.

THE HON'BLE THE SPEAKER: Is any other hon. member going to support it?

MAULAVI MUHAMMAD MAQBUL HUSSAIN CHAUDHURY: Sir, I rise to support the motion. As a journalist, I am personally acquainted with the grievances of the members of the family. I shall be very brief and cite only some instances. The Manager does not pay allowances to the wards regularly. Some of the wards get their allowances in time, while others do not get. Superior landlords cannot realise their dues without the help of the court. A female ward was precariously ill and the Manager was asked to make arrangement for her treatment, but it is regrettable to say that the Manager did not pay any heed to her prayer and the result, it is painful to say, Sir, was that she died afterwards almost without proper treatment. As far as I know, the authority did not care to take any information of her children after her death. The Manager informed a ward, who happens to be in the Government service, that, as he is getting salary from Government to maintain his family; he is not entitled to get his dues. I do not know whether there is any other such instances that a ward was deprived of his own dues because of the fact that he is serving under Government. An hon. member of this House approached the Deputy Commissioner of Sylhet, Mr. A. G. Patton, with a view to represent the grievances of the members of the family. The Deputy Commissioner instead of giving him patient hearing rather showed him the way to go out. This sort of treatment, Sir, the members of a historic family are receiving from the authority who have taken over the charge of managing the Estate. Sir, misappropriation of money often takes place and the Naibs and Tahsildars are often dismissed. Sir, many facts were brought to the notice of the authority but it is most regrettable that the authority did not take care to inquire into the grievances. The way in which this estate is being managed by the present Manager is nothing but unsatisfactory. The treatment of the authority shows that they are not only heartless but cruel. We wish a change in the present method of management. With these few words, I support the motion.

KHAN SAHIB MAULAVI MUDDABIR HUSSAIN CHAUDHURI: Sir, I have got a similar motion. At least mine may be called a genus of which this is a species. So may I be allowed to speak on this motion?

THE HON'BLE THE SPEAKER: Yes, the hon. member may speak as he has got an identical motion.

KHAN SAHIB MAULAVI MUDABBIR HUSSAIN CHAUDHURI: Sir, this motion is brought to criticise the management of the Estates under Court of Wards. To me, it seems, that the whole system is defective.

Managers, Naibs and Gumasthas are appointed on a temporary basis. They know that their services are required only for a couple of years and so they enter the service with the intention of securing highest benefit for themselves, and what do we find as a result? The fisheries in the estates are very often sold at a very nominal price securing a big 'salami' or a premium to the Manager or Naib or Gustama as the case may be.

Then I come to another point regarding the *khas* land of the estates. The *khas* lands which have accrued to the estates owing to ejection or other processes are not settled with the raiyats unless and until a premium or a profit has been paid to the Manager or to other servants. It may be argued that there are Deputy Commissioners and the Subdivisional Officers who occasionally inspect the offices of the Court of Wards and that there is no possibility of embezzlements or irregularities of this kind. Sir, I can say that in most cases these inspections are carried in a very perfunctory way. Neither the Deputy Commissioner nor the Subdivisional Officer is responsible to any other higher authority for this mismanagement of the estates. They are not liable or subjected to any explanation to any authority; so they do it as a piece of miscellaneous business.

Sir, there is another defect in the system which is known as favouritism. If any ward incurs the displeasure of the Manager for any reason, then his allowances are stopped until he is reduced to extreme poverty and forced to go out as a beggar from door to door. So this is the position of the Court of wards. The reports that have been submitted before the House by my hon. friend Maulavi Ashrafuddin Md. Chaudhury are horrible—even if half of it be true. So in this view of the circumstances, I think, that our Hon'ble Revenue Minister will be pleased to see that the present Manager of the Majumdari estate be removed at an early date. With these few words, Sir, I resume my seat.

THE HON'BLE THE SPEAKER: The Hon'ble Revenue Minister may please speak.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Sir,.....

KHAN BAHADUR MAULAVI MAHMUD ALI: On a point of information, Sir. May I know from the Hon'ble Revenue Minister whether he has any information about the grievances which have been narrated?

THE HON'BLE THE SPEAKER: I have asked the Hon'ble Revenue Minister to speak and he will say that.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Sir, I repudiate the suggestion which has been made by my hon. friend Khan Sahab Maulavi Mudabbir Hussain Chaudhury that there is a gross mismanagement of the estates under Court of Wards throughout the province. Sir I hope my hon. friend from Goalpara will bear me out when I say that this charge is quite unfounded so far as the estates of Goalpara are concerned, and I have also good reason to say that this charge is not true so far as the district of Sylhet is also concerned. If it was not so, then I would not have, within so short a time of my office as a Revenue Minister, received so many requests for taking over estates to the Court of Wards.

Sir, the hon. members who complained most will do well to remember that Government does not accept the responsibility of these estates for any gain, which they expect. They generally do so because the Zemindars declare themselves disqualified for managing the property, and in order to protect those ancient families from ruin Government takes up the management of those estates. It should also be remembered that any proprietor, who is aggrieved by the Government-management of his estate, can at any time withdraw the estate from the Court of Wards.

So far as the management of this particular estate is concerned, I can say only this much in favour of the management that out of a total debt of over a lakh of rupees the present Manager has been, within the short time,

able to clear off debts of all the small creditors. But Government has received reports to the effect that the financial notions of this particular Manager are rather vague. I can assure the hon. member from Karimganj that Government has not received any complaints similar to what have been made on the floor of this House since yesterday, and all that I can undertake is that Government will make a further enquiry into these complaints, and if they find that the management cannot be satisfactory under the present Manager, Government will not hesitate to substitute another more competent Manager in his place. After all the interest of the estate is the main concern of the Government, and they are out to see that it is managed by the most competent man.

MAULAVI ASHRAFUDDIN MD. CHAUDHURY: On the assurance given by the Hon'ble Judicial Minister I beg leave to withdraw my motion. [The motion was, with the leave of the House, withdrawn.]

BABU RABINDRA NATH ADITYA: Sir, I beg to move that the provision of Rs.6,428 under Grant No. 1, Major head—7.—Land Revenue, Minor head—B.—Tahsil and other Establishments, Sub-head—1.—Tahsil Establishment, Detailed head—1.—Pay of Establishment—Tahsildars, at page 30 of the Budget, be reduced by Rupee 1.

Sir, we the members of the Congress Party are generally accused of indulging in destructive criticisms, but we can assure the members of the Treasury Bench that we are not lacking in constructive ideas. I think, Sir, in moving this motion I should have the fullest support of the Treasury Bench because it is a proposal of Government, and it would have been quite in the fitness of things if such a motion would have come from the Treasury Bench. But unfortunately on many occasions we have found they would not give us a lead, they would wait for the lead from the Opposition. That is how our administration is carried on.

In financial matters, in reply to budget discussions, we have heard from the Treasury Bench a plea of limitation—limitation of funds, limitation of time, and so on. For us, the private citizens, the law of limitation is very hard; it is perhaps 3 years, 6 years, or at best 12 years, but for Government the bar of limitation extends up to 60 years. So if the Government go on in their usual way I do not know when the limitation will find its limit.

Sir, in moving the first part of my motion, *viz.*, to raise a discussion on the method of checking the quantity of mineral oil raised by the Assam Oil Company, I should say it is far from my intention to doubt the honesty of the Company concerned in supplying the figure of the quantity of oil raised, but what I should inculcate upon Government is that Government must proceed in a business-like manner and must not remain satisfied with the figure supplied by the Corporation, who pay royalty. Our Government is deprived from the excise duty, which has gone to the India Government, but Assam Government is entitled to the royalty, and if proper checking method is followed, I think Government will act in a business-like manner and get the proper share of their royalty.

I should also like to ask the Government to consider the possibility of increasing royalty upon such oil.

MAULAVI JAHANUDDIN AHMED: On a point of information, Sir. I would like to know whether royalty is realised on the total amount of oil or on the area?

MR. W. FLEMING: May I reply, Sir. It is on oil.

BABU RABINDRA NATH ADITYA: Now, Sir, I would also ask the Government to see if it is possible to increase the royalty. We understand the Company is in a prosperous position, and it pays handsome

dividend year after year. We also understand that the price of Kerosene has gone up higher. Under the circumstances we do not see why Government should not get a proportionately higher amount of royalty, in view of the fact that mines are already paying more to the Company concerned. Government may argue in defence that perhaps the Company is working under a lease, and that they cannot change the contract. But so far as I understand the contract is coming to an end after 5 years or so. Whatever that may be, my suggestion is that royalty is not a matter of contract, it is a matter of Statute. Royalty is to be fixed by the Legislature, and if Government think that the Company is in a position to pay the higher amount of royalty, Government should come up with a Bill to enhance the royalty for the oil raised. In this way Government can augment their financial resources, which may be spent for nation-building purposes.

With these words I beg to move the motion, in order to draw the attention of the Government to this factor of increasing their resources.

The Hon'ble Speaker then put the motion.

Mr. W. FLEMING: Sir, I may be permitted to say something in the discussion of this motion. First of all I thank the hon. mover for his assurance that he has no doubt about the honesty of the Company concerned. With his proposal to insist on a check I have of course no quarrel whatever. Then regarding dividend—since he has mentioned it—I may point out that the Assam Oil Company operated without paying any dividend whatsoever on its ordinary shares from 1920 till 1935. I need make no comment on these figures.

Then the hon. member wanted to take credit for his side of the House for the production of a constructive idea. I thank him for that because it will be my privilege, if you will hear me, to show you that the Company in question has not been without constructive ideas for the benefit of the province. First of all let me say that there is an idea rather prevalent that the development of mineral resources in general, and perhaps because it is very near our door, of oil resources in particular, is easy. Well, Sir, such development looks easy; but it is a pertinent fact that up till 1931 this Company has spent upwards of 40 lacs of rupees in prospecting, and by prospecting I do not mean getting oil, I mean looking for it. The Company has been spending money on geological, geophysical and electrical investigation as well as in sinking prospecting wells, which quite often unfortunately only prove that there is no oil in paying quantity. In the Lower Valley the Company that operates there has spent far more than that and has so far got no oil that has paid for itself. So far as we ourselves are concerned money for prospecting is still being spent, and I may mention that the need for prospecting is not merely a need of the Company, it is a need of the province, if the province is going to be sure that such mineral resources as it has, are discovered and exploited in its interest.

Comparative rates of royalty are a matter of some interest. It is a fact that in India the wells are of smallish calibre; they are deep, and they are therefore expensive as compared with those of Iran, Iraq, Bahrein and other countries where oil is found. They are smaller here and yet the royalty rates there are smaller than in India.

The hon. mover is looking for an increase in royalty, but let me mention the very large increase that has already been achieved. From 1899 till 1903 the royalty revenue got from these Assam fields by the Government of Assam was never in excess of Rs.10,000 per annum. From 1903 to 1923 it was never over half a lac. From 1929 to 1933 it was over 4 lacs per annum, and for the past year it was somewhere between 5½ and 6 lacs.

I might mention some other payments made by the Company in its operations, in some of which the Province has a direct interest as the money goes direct into its coffers, and some in which the money does not go into its coffers, but which many hon. members think *should* go into its coffers. I might mention land rent amounting to about a quarter lac. I might mention the lacs of rupees that the Company pays as income-tax on profits, and what is paid on employees' income, all of which goes to the Government of India. (It is true that most of the hon. members think that the Province has a perfectly legitimate right to it, and this contention I would myself support.) Then, there is such an item as import duty, and there is the much-debated item, the excise duty amounting to 160 lacs. The Niemeyer Report gives some promise that the Province will receive a share of the Income-tax after 5 years. I would like to make two points, and the first is that a Company operating in this fashion has to pay and pay and pay whether the Provincial revenues get the benefit of it or not; the second is that since there is a promise that Income-tax may be transferred to the Province after 5 years it follows that the principle of the right of the province to it has been admitted, and so, Sir, some representation might be made that the province need not wait for 5 years before getting the benefit of these lakh of rupees.

There are some other sides of the Company's activities which I would like to mention. There is the question of employment of the indigenous people of this Valley. There are some 650 of these people employed in Digboi on skilled and semi-skilled work—the pay ranges from Rs.30 to Rs.170. (There might be many more but the inhabitants of this Valley generally prefer to work, apart from agriculture, on work in which there is an interest and which is not merely labour.) In addition to these are over a dozen in covenanted posts and engineering pupil appointments which either now have emoluments better than those I have just mentioned or have much better prospects. I might also say that these are all provided with free houses.

Then, there is a matter I might refer to without any unction. That is the thousands of rupees that have been given promptly and willingly for earthquake relief outside the province and for flood relief inside the Province. Sir, we make no capital out of it, but I mention it because it illustrates a side of things which I think hon. members would like to know about in this connection.

I do not want to detail the cost of things like schools for children of employees and night schools for employees. I shall also just mention the provision of a Maternity Hospital, and a Lady Doctor and District Health Visitor, primarily to take care of the women folk of the poorer labourers who because of a lack of knowledge of hygiene find their lives constantly, or at any rate all too frequently, a matter of life and death. I might mention also the fact that we have for years taken special trouble by taking apprentices from the Jorhat Technical School, and that I myself have been to that school to see whether there is any means by which we can help further. I may also be permitted to mention that I have just received permission from my Directors to grant two engineering scholarships for training at Sibpur or similar college to enable at least some of the educated youths of the province to fit themselves for practical employment either inside it or outside. Sir, this House has recently appointed a Committee in connection with industrial development. I hope the Committee's labours will be fruitful, but I wish to point out that by way of constructive contributions to the advantage of the province we had not waited for any Committee.

I would close with saying this. When the hon. members of the House are considering the value of the development of such a concern to the province they should not merely think of it—I do not blame them for it—in terms of royalty paid. They should consider the value of a liberally-minded policy and they should consider whether any action taken at any time is likely to cripple that policy, because it is a liberal policy and it is in the real interest of the province.

MR. FAKHRUDDIN ALI AHMED : On a point of information, Sir, may I know from the hon. member who has just sat down if any of the covenanted posts at Digboi are held both by Indians and Assamese ?

MR. W. FLEMING : Yes, Sir.

MAULAVI MUHAMMAD AMJAD ALI : The hon. member also spoke about paying income-tax. May I know where and what amount is collected ?

MR. W. FLEMING : The income-tax is collected in Dibrugarh, and, as I said, it is paid to the Centre. I do not think there is any particular reason why I should give the figures.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : Sir, like my predecessor who has just now spoken, I think the hon. mover of this cut motion has moved it for bringing to the point attention of the House the small royalty that we received on the oil from the Assam Oil Company at Digboi. Sir, no Ministry is perfect and I do not claim that we are perfect in every way and therefore we welcome any suggestion from any one. But I am prepared to join issue with the hon. member when he said that all constructive ideas that this Ministry has got is taken from his group.

Sir, I think the point that was discussed has not been well understood by the House. I make the assumption for my hon. friend Mr. Fleming pointed out what benefits the province is deriving directly or indirectly from this concern, and that it is not a good policy to kill the goose that lays the golden eggs by trying to get more out of it.

I do not think that the point raised by the hon. mover refers to any further payment. His idea is, if I read his note aright, just to raise a discussion on the method of checking the quantity of mineral oil raised by the Assam Oil Company at Digboi. Sir, the provincial share of royalty is limited to 5 per cent. on the well-head value, subject to a minimum of eight annas for 40 gallons. This rate is incorporated in the lease that is operative at the present moment. Therefore, it is beyond practical politics to increase the percentage. The only other point that I need mention to the House is that there is a direction, Direction No. 22, at page 34 and 35 of the Mineral Concession Manual, about checking this account by the Deputy Commissioner of the district ; the rule also directs that copies of all the certificates of audit by Chartered Accountants should be submitted through the Deputy Commissioner. Two points arise out of this instruction. I do not believe that any of the Deputy Commissioners have got the expert knowledge to check the quantity that is raised at the well-head. Therefore, if we want to increase our revenue by disbelieving the figures that the company keep and which are audited by recognised Chartered Accountant, we will have to have a specialist and that will cost us a good deal of money. I think the hon. mover started by saying that the figures kept by the company are quite correct ; if he makes that assumption, then there is an end of the motion. Even then, Sir, the Deputy Commissioner in his tour often goes and looks into the registers in the office of the company.

BABU RABINDRA NATH ADITYA : In view of the facts stated by the Hon'ble the Chief Minister, I do not like to press my motion. My point was that Government should proceed in a business like way and that they should have some regular control and check over the system. As for raising the royalty I think Government may consider that point and if they are in a position under the law to consider it. My intention in moving this motion was to draw the attention of the House to this question.

With these words, I beg leave to withdraw the motion.

The motion was with the leave of the House withdrawn.

MR. ARUN KUMAR CHANDA : I beg to move—

That the provision of Rs.8,043 under Grant No. I, Major head—7. Land Revenue—B.—Tahsil and other establishments, sub-head—4. Government *Khas* establishment, Detailed head—1: Pay of establishment, at page 30 of the budget, be reduced by Re.1.

I have tabled this motion to raise a discussion regarding oppression by lease holders of fisheries in Cachar to local people catching fish for private consumption owing to faulty terms of lease.

Sir, I would like to draw the attention of the House to the form of lease which is now in use. This form, Sir, contains a catalogue which sets forth the names of all the traps which are used, or which can be used, by people who catch fish and sell them for a living. But in the case of persons who catch fish for private consumption, it will be noticed that only three traps are specifically mentioned in the lease and then such vague expressions as *এবং অধিক মৎস্য ধরান্ন যন্ত্র* are introduced.

It is this vagueness of expression which is exploited by certain lease-holders to impose their own terms upon the poor people who catch fish to eat them. I desire to draw the attention of the House to this part of that lease.

Then again, Sir, the permission of the Deputy Commissioner has to be obtained. It is often a very difficult and expensive proposition for poor villagers, and I know of instances where even legal aid had to be obtained to secure the necessary permission. I also desire to draw the attention of hon. members to the fact that, when a chit is granted to a person by the Deputy Commissioner, this chit cannot be utilized by any one else in his family except the person in whose name the chit is issued. So in case of illness or absence from home of the chit holder, his family has to do without fish.

There are some other difficulties also under which the poor people have to labour. But I do not like to dwell upon these things here at this stage. My only point in bringing up this matter is, that at present the people are as it is hard hit, because a principal item of their daily fare has been taxed and it is for Government to see that no loopholes are left open for oppression upon them by other agencies. For these reasons, Sir, I commend the motion to the acceptance of the House.

THE HON'BLE THE SPEAKER : The motion moved is that the provision of Rs.8,043 under Grant No. 1, Major head—7. Land Revenue, B.—Tahsil and other Establishments, sub-head—4 Government *Khas* Establishment, Detailed head—1. Pay of Establishment, at page 30 of the Budget, be reduced by Re.1.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : Sir, may I know from the hon. member which clause of the lease should be changed?

MR. ARUN KUMAR CHANDA : Only three names are given of the traps at which fish are caught. That is utilized by the lease-holders to impose their own terms on the poor people.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Sir, we have no information whatsoever of the oppression of which complaint has been made by the hon. member now. As a matter of fact we have received no petition from any villager up to date making any such complaint. But I dare say some lease-holders take advantage of the position of the ignorant people of the villages and may sometime depart from the strict conditions of the lease. The hon. member, if he personally happens to know of such instances, will do a great service to Government by taking the trouble of bringing them to the notice of the Government as soon as possible. I can assure him that due action will be taken.

Now, Sir, under the terms of the lease the villagers can fish under certain conditions, and if any lessee abuses the rights conferred by the lease, then the Deputy Commissioner has full authority to take him to task or to have his lease cancelled. All I can say is, if any specific instance is brought to the notice of the Deputy Commissioner, he will certainly grant relief, and if redress is not obtained at his hands, Government will certainly take steps to have the grievance removed.

MAULAVI MUNAWWARALI: May I know, Sir, if the Hon'ble Minister is prepared to issue instructions accordingly to the Deputy Commissioner to grant redress, because they do not know whether Government is prepared to grant redress?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: I presume, Sir, that the Deputy Commissioner knows what his duties are, and if he fails in his duties, Government is there to take the proper steps.

MR. ARUN KUMAR CHANDA: Sir, I am very sorry to note that the Hon'ble Minister in charge is not aware of the sufferings of the poor people of my district in respect of this matter. There have been a series of cases in my district in this connexion and I myself led a deputation to the Deputy Commissioner some time ago and placed these facts before him. Still these troubles are persisting. But in view of the fact that the Hon'ble Minister has assured us that the matter will be looked into, that abuses by lease-holders will be penalised and that, in case of indifference on the part of the Deputy Commissioner, Government themselves will take necessary steps to redress grievances. I beg leave of the House to withdraw my motion.

The motion was with the leave of the house withdrawn.

STATEMENT MADE BY THE HON'BLE SPEAKER REGARDING THE AMOUNT TO BE PUT IN TABLING CUT MOTIONS FOR DISCUSSING THE POLICY OF GOVERNMENT

THE HON'BLE THE SPEAKER: The next cut motion * stands in the name of Mr. Fakhruddin Ali Ahmed. With regard to this motion I wish to point out one thing. His motion is for the refusal of the provision of Rs. 13,748 and the object of the motion has been stated to be to criticise the colonising policy of the Government. What the hon. member wants is to discuss a question of policy. In connection with this I want to point out one important fact to the Hon'ble House. From the cut motions before the

*That the provision of Rs. 13,748, under Grant No. 1, Major head 7.—Land Revenue Minor head—charges of Administration, Sub-head—C.—Management of Government Estates, Detailed, head—(b)—Colonisation Schemes—1.—Pay of officers—Colonisation officers at page 31 of the Budget, be refused.

(To criticise the colonising policy of Government).

House it would appear that the intention of the hon. movers who have tabled them is to secure the vote of the House for the purpose of recording a disapproval of the policy of the Government with regard to various matters coming within the departments to which the estimates relate and to which the cut motions have been tabled. Hon. members will notice that to fulfil the said object some cut motions have been valued at figures which are very substantial, as in the case of the next motion to be moved. I therefore want to draw the attention of the House to the well-known parliamentary practice of valuing such cut motions at a figure which should be only symbolic and not a figure which, in the event of the particular motion so valued being carried, will amount to a reduction of the total grant by a very substantial amount. I quite realise that the rule that, when several cut motions are tabled to the same item of expenditure, priority is to be given to the motion proposing the greatest reduction and then that proposing the next greatest and so on, is going to give rise to the growth of a practice of valuing cut motions at as high a figure as possible, although the intention of the members who want to table their cut motions is to discuss questions of policy. The growth of such a procedure I should say, besides being against the established parliamentary practice, is likely to create embarrassing situations. I therefore take this opportunity to give expression to my view in the matter and to request the hon. members to help the growth of a convention which will establish a point of procedure of a very important character, that is of valuing cut motions at a sum which should not be more than Rs. 100. So having regard to what I have said, I would ask the hon. Mr. Fakhruddin Ali Ahmed as to how he wants to discuss a question of policy by moving a cut motion for the total refusal of the provision for an item amounting to Rs. 13,748.

MR. FAKHRUDDIN ALI AHMED: I have purposely tabled this motion with a view to criticise the action of the Colonisation officers whose action may be based on the policy of the Government.

THE HON'BLE THE SPEAKER: The motion is not in order. When the intention is to discuss the policy it should have been tabled in the manner I have indicated.

MR. FAKHRUDDIN ALI AHMED: I bow to your order.

THE HON'BLE THE SPEAKER: The question is that the sum not exceeding Rs. 15,92,697 be granted to defray the charges which will come in the course of payment during the year ending on the 31st March 1938, for the administration of the head "7.—Land Revenue".

The motion was carried.

GRANT No. 10.

27.—ADMINISTRATION OF JUSTICE

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: On the recommendation of His Excellency the Governor of Assam I beg, Sir, to move that a sum not exceeding Rs. 6,92,300 be granted to defray the charges which will come in the course of payment during the year ending on the 31st March 1938, for the administration of the head "27.—Administration of Justice".

THE HON'BLE THE SPEAKER: There is a motion which stands in the name of Srijut Kameswar Das. It also suffers from the defect which I have pointed out. It is a motion by which the hon. member wants to reduce the provision of Rs. 14,000 by Rs. 4,000 although he wants to raise a discussion regarding refusal of the new expenditure for pleaders. The hon. member will have to modify the motion.

SRIJUT KAMESWAR DAS: My intention is that the whole of the provision made for the increment of fees should be refused. We get at page 80 of the Memorandum that Rs.4,000 will be necessary to meet the extra expenditure in raising the daily fees of the associate pleaders in the current year. By this motion I want that this amount of Rs.4,000 be refused *in toto*.

THE HON'BLE THE SPEAKER: Then it will be a reduction of the whole grant practically, *i. e.*, refusal of the sum of Rs.4,000 which is going to be granted to the associate pleaders. Of course the reduction can be moved, because it does not come to the refusal of the original item. Pending the decision on the point raised by the Hon'ble Finance Minister, I shall allow the motion. But if the ruling be otherwise the motion if carried will not be effective.

SRIJUT KAMESWAR DAS: I beg, Sir, to move that the provision of Rs.14,000 under Grant No. 10, Major head—27.—Administration of Justice, Minor head—Law Officers, Sub-head—C.—Mofussil Establishment, Detailed head—3.—Contingencies (total) at page 77 of the Budget be reduced by Rs.4,000.

Myself being a pleader, it is unfortunate that I should have got to oppose a grant which is meant for the benefit of a class of people who belong to the same profession as I do. But the step proposed to be taken by Government seems so unfair and unjust that I shall be failing in my duty if I do not oppose this proposed increment so long at least as the present financial stringency continues. It is admitted that we are in the midst of a financial stringency. Many a time on the floor of this House, in the present session as well as before, we have heard that the Provincial Government is in want of money. Whenever we look to the Government for financial help for the nation building departments the reply comes that there is no money. Money is not available for the uplift and growth of the rural villages, the Harijans, the tribal and the depressed classes, for expansion of primary education, for expansion of rural road communication, for medical help and so on and so forth. It is strange therefore that at this juncture of time the Government should come forward with a proposal to increase the professional fees of a class of people who may be said to be better off compared with the condition of the village people. The reasons given for this increment is that the rate of daily fees of the associate pleaders were reduced for Rs.20 to Rs.10 in 1931 and that the lawyers concerned have submitted several representations for the restoration of the old rate in view of the fact that the cuts in the salaries of the Government officers have been restored. This provision seems to have been made to meet the representations of these associate pleaders.

Now, Sir, should there be any comparison between the associate pleaders and the Government servants? Are they really Government servants? Shall we also be asked in future to make provision for their pension and provident fund and such other privileges as the Government servants enjoy? I want to point out that the average fee rates of pleaders in non-Government briefs do not exceed the rate of the daily fees that the associate pleaders are now getting. There may be individual cases where the fees in non-Government briefs are a little bit higher, but it should be no reason why we should raise the daily fee rate from Rs.10 to Rs. 16. Considering the volume of work also that the associate pleaders do or are asked to do, no increment seems to be warranted from a consideration of the capacity or the special merits and comparing the fees of their brother pleaders in private cases no enhancement in the rate appears justifiable. It is for

these reasons and specially for the reason that the financial condition of the province still remains unsatisfactory, I think it will be awkward for this august House to sanction an increment at a time when money is not available for the nation building departments (*Hear hear*). I therefore suggest that the House would accept my motion for reduction of the grant.

THE HON'BLE THE SPEAKER: The motion moved is:

That the provision of Rs.14,000 under Grant No. 10, Major head—27—Administration of Justice, Minor Head—Law Officers, Sub-head—C.—Maffussil Establishment, Detailed Head—3.—Contingencies (total) at page 77 of the Budget be reduced by Rs.4,000.

MAULAVI ASHRAF UDDIN MUHAMMAD CHAUDHURY: Sir, while I rise to oppose this motion, at the very outset I must say that I am not in any way interested with it as it may be thought by some members. I was once an associate pleader, but at that time we use to get Rs.20 per diem. Those who have experience of sessions trial—I would appeal to them—to consider the huge amount of work they are to do. He is to work from 10a.m. to 5p.m. He cannot look to other normal business. As regards murder and dacoity and other intricate cases he must get instructions from stray clients, he is to make out his case from the diaries of police officers some of whom are not skilful in investigation. The day's work is very heavy whereas the fees given are very small. In mafussil courts they are not to work so hard; they can attend to 4/5 cases daily. My friend says that Rs.10 is quite sufficient. I should say that this is quite insufficient. I have personal experience of this. I only resigned in last March (*A voice you will be again there*). No.

In consideration of these facts, I should request my friends in this House to be charitable to these pleaders. Please consider their drudgery and please do not be "penny wise and pound foolish". In one serious case, a lot of money is spent and it will be a bad economy to risk good result by denying proper fees for the public prosecutor.

MAULAVI MUNAWWAR ALI: Sir, in order to avoid a misunderstanding I thought it fit to make a statement. Hon. members should not be misled by the opposition that one member of my party has been pleased to give to this motion. We have decided on economic grounds to oppose the increase of fees, that is to support this reduction, and members of my block will vote for this motion with the exception of my hon. friend who has opposed it.

KHAN SAHIB MAULAVI SAYIDUR RAHMAN: I am surprised that this motion has come from an hon. member who has already put in more than 10 years of practice in the bar. Generally associate pleaders are selected from members who have put in sufficient practice. I am surprised to hear from him that the daily fees of Rs.10 are quite sufficient for a pleader of some years standing. I myself had experience of acting as associate pleader for some time and from my experience I can say this much that the work and drudgery that the associate pleader has to do is too much and the remuneration too small for the purpose. I had experience of acting under an expeditious judge like Mr. Chunder who used to dispose of 2 to 3 Sessions cases in a single day and we had to go through the voluminous brief of 2 or 3 cases in hot haste and used to get only Rs.10 for the whole trouble. Similarly when the Government pleader is away an associate pleader has to do a number of appeals—it may be 5 or 6—during the day, he has not only to be present from 11 to 5 but he has also to go through the briefs

of those appeals. So if you want that an associate pleader should discharge his duties efficiently you must pay him handsomely. I would point out that pleaders who are appointed by the Judge to defend pauper accused get a daily fee of Rs.16 whereas their friends who have the misfortune of prosecuting the case as an associate pleader get only Rs.10. In order to remove the disparity and in order to raise the ludicrous amount that he is getting now, I think this amount of Rs.4,000 is necessary. In this view of the matter I hope this motion will not be supported by anybody.

SRIJUT DEBESWAR SARMAH: I rise, Sir, to support the motion and I wonder whether the Government will oppose such a harmless motion. This is a motion which seeks not to give any money to those who can look after themselves—I mean lawyers, but to save the money and to give it to some schools or some beneficial institutions of depressed classes which cannot run properly for want of money. So, Sir, I confidently hope that Government as well as the members of this House will support it. I also hope, Sir, that my hon. friend Khan Sahib Maulavi Sayidur Rahman will also agree with me that he has passed his time to be an Associate Pleader. Such chances should be left to the Juniors. (*Hear, hear*). The Associate Pleaders may be taken from the juniors.

MAULAVI ASHRAF MUHAMMAD CHAUDHURI: On a point of information, Sir. Is it not a fact that the Associate Pleaders remain entirely in charge of sessions cases?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Sir, I have very little to add to what my hon. friend Khan Sahib Maulavi Sayidur Rahman has just said.

SRIJUT DEBESWAR SARMAH: You oppose the motion?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Sir, I am surprised to see that this small amount of Rs.4,000 has been grudged by different members on different grounds. I only wish to state before the House the reasons why we consider that the fees of the Associate Pleaders should be raised. First of all, Sir, the Associate Pleaders have to conduct the Session cases when Government Pleader or Public Prosecutor is otherwise engaged and they have got to do precisely the same work which Government Pleader or the Public Prosecutor does. Daily fees of the Government Pleader or the Public Prosecutor are not less than Rs.20 and it is ridiculous that the Associate Pleaders doing the same work should get only a sum of Rs. 10 daily. I do not for a moment countenance the argument that the posts of Associate Pleaders should only be given to Junior Pleaders because, Sir, when they have to conduct important session cases their responsibility is no less than that of the Government Pleaders. Government is to see that justice is done and that the case they prosecute is fairly put before the court and so they ought to get the services of fairly senior lawyers who can conduct the cases properly.

SRIJUT DEBESWAR SARMAH: For this they cannot get Rs.16.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Sir, I am prepared to accept the argument of my hon. friend so far as the services of a junior is required by the Government Pleader but when the Associate Pleader is to take the entire charge of the case, it is ridiculous, as I have stated before, to expect to get a good lawyer—I mean a lawyer of good standing—to do the same work on a sum of Rs.10. (*A voice—A good lawyer will not be available even on Rs 16*).

KHAN SAHIB MAULAVI MUDABBIR HUSSAIN CHAUDHURI: Sir, the Associate Lawyers do not do their work because they get less remuneration.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : Then, again, Sir, when one Session Judge sits either in Gauhati or at Sylhet, then it becomes necessary to engage a pleader of standing to appear on behalf of Government in criminal appeals and in matters of appeal cases can we expect that a good lawyer would appear for a sum of Rs.10 only. Some-time more than three or four criminal appeals are heard in course of a day. Actual hearing may not take long time but the preparation of three or four appeals in a day requires a large amount of labour. In view of these facts, I think, it will be unfair for this House to refuse to pay Rs 16 to the Associate Pleaders.

Then, Sir, so far as the conduct of prosecution in Subdivisional headquarters is concerned, there also the cases have to be committed to Sessions and during that time we require the assistance of an able lawyer to put the cases properly before the Court so that either he may withdraw the case or he may have the case committed to the Sessions Court. Thus a great responsibility rests on the shoulder of the lawyer who appears on behalf of the Crown. Due to the failure to get the services of a good lawyer many cases fail. On account of a good preparation of cases many accused persons are prosecuted for nothing. There should be able lawyer to appear on behalf of the Crown who can at once say that it is for this reason that this case should go up to Sessions or that it should be withdrawn. So, Sir, we require able and responsible lawyer who can make out initial stage not only but also whether it is worth while to carry on a particular prosecution. He will have, on the one hand, to see that no accused, no offender, is kept free and on the other hand he will also have to see that no innocent person should be unnecessarily harassed by criminal prosecution. Therefore, Sir, we require a lawyer of good standing. I would again ask the House to consider the case of these pleaders whose services are no less valuable as those of the Government Pleaders and Public Prosecutors.

THE HON'BLE THE SPEAKER : The question is that the provision of Rs 14,000 under grant No.10, major head—27.—Administration of Justice, minor head—Law officers, sub-head—C—Mofussil establishment, detailed head—3.—Contingencies (total) at page 77 of the budget be reduced by Rs.4,000.

The motion was carried

BABU KAMINI KUMAR SEN : Sir, I beg to move that the provision of Rs.1,09,505 under grant No.10, major head—27.—Administration of Justice, minor head—Civil and Sessions Courts, sub-head—E.—District and Sessions Judges, detailed head—1.—Pay of officers (total), at page 78 of the budget be reduced by Rs.100.

Sir, my object in bringing forward this cut motion is to criticise the indifference of Government and its officers to stop corruption in the civil courts.

Sir, these are old grievances and perhaps known to all ; so I do not like to take much of the valuable time of the House to dilate over the matter very much. It is, I think, Sir, an open secret that bribery and corruption exist in the civil courts, and in a rather widespread form. I think the hon. members of this House, many of whom are themselves lawyers and many of whom have transactions in civil courts, are quite cognizant of the existence of this evil. I think, also, Sir, the Hon'ble Judicial Minister who was himself only very recently a practising lawyer knows the existence of this evil (*hear, hear.*) It is also not unknown to the hon. members of this House that this evil has become so widespread and in some cases has taken such dangerous form that this extra legal or illegal charges sometimes exceed

the legal cost of a case. So Sir, unless systematic and earnest efforts to put a stop to the evil are made, litigation will be a luxury only for the selected few. So long, Sir, only half-hearted efforts have been made but practically with no effect. I would like the Hon'ble Judicial Minister who is himself a lawyer to take a systematic step in checking this evil and I also hope that the present Government will take up the matter in right earnest to root out the evil once for all. With these few words I beg to commend my motion to the acceptance of the house.

THE HON'BLE THE SPEAKER: The motion moved is that the provision of Rs.1,09,505 under grant No.10, major head—27.—Administration of Justice, minor head—Civil and Sessions courts, sub-head—E.—District and Sessions Judges, detailed head.—1—pay of officers (total), at page 78 of the budget be reduced by Rs.100.

SRIJUT DEBESWAR SARMAH: Sir there is a cut motion in my name ; it is No. 12. If I am permitted, I would move this along with the one that is before the House, and I would only add a few words.

THE HON'BLE THE SPEAKER: When the discussion is on the same question, I think the hon. member can move his motion.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: That motion * is No. 12, Sir, about Judicial Officers. He has particularly mentioned "Judicial Officers". This motion deals with corruption in the Civil Courts.

SRIJUT DEBESWAR SARMAH: Sir, excluding the European members of this House I think I may safely presume that the other members cannot be unaware of a system or a condition of things that is going about in our Law Courts.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Civil Courts?

SRIJUT DEBESWAR SARMAH: Civil Courts, Criminal Courts, Revenue Courts Process serving departments, are all on same boat, it is a great distressing thing, Sir. Most of us, who sit here, may not possibly be subjected to that inconvenience. Possibly when we require a thing to be done, we can get it done easily. When you want a paper to be taken out from a certain office of the Court, and when you go into that Court room, possibly you are offered a chair there and the person concerned give you the paper and oblige you. But the position is quite different with the ordinary average person who has to pay extra tips in every stage. Very few, excepting those well connected with the Law Courts, know what hardship is suffered by those who go to take persons on bail from the Court lock-up. I am not here inclined to give particular instances. Firstly because I do not want to accuse anybody and I have no axe to grind against anybody ; secondly because corruption is so rampant that it is difficult to pick and choose. Sir, I am not exaggerating a word when I say that Justice is more often to be purchased now. Formerly, when I started practice some years back, at any rate it was not so open, it was not so daring. But now in Courts we find there is hardly any delicacy in the matter of asking for or taking bribes. My motion relates to Judicial Officers, and I concentrate upon the higher cadre of the officers, because had these people been strict and less susceptible to the malpractices, lower officers in the Court possibly would have been a little more careful. We know of instances, members of the public know of instances, Marwaris' khatas will possibly bear instances of Munsiffs and Magistrates taking money to decide a case in one way or the other. The

* That the total provision of Rs.6,92,300 under Grant No.10, major head 27.—Administration of Justice, at page 75 of the Budget, be reduced by Rs.500. (To raise a discussion regarding bribery and corruptions prevailing in the Department of Administration of Justice, particularly amongst Judicial officers.)

Judgment is delayed and in the meanwhile transactions take place in one shape or another. So, Sir, the Ministry will do a great service to the Government,—because no Government would like that its officers should be corrupt and that its prestige should be lowered by the bad behaviour of these officers—as well as to the people if they will take some sort of steps to put a stop to it, some sort of enquiry in which non-official members may also be included—of course if the Ministry cares to take any into confidence. At any rate, we desire that the corruption should be put a stop to as soon as possible, and with a drastic hand.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Sir, the Government is in full sympathy with the object with which the hon. member has put this motion before the House. But, Sir, it will not be enough merely to state that there is a good deal of corruption in all Courts, it will not be enough merely to say that this corruption must be checked. Some means ought to be devised, some helpful suggestions ought to have been thrown out by the hon. members of this House as to how this can be done.

SRIJUT DEBESWAR SARMAH: On a point of personal explanation, Sir. I have suggested some sort of enquiry, if the Government pleases. If the Cabinet declares bankruptcy we can come forward with suggestions.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: The word "bankruptcy" is a very favourite word with the hon. member who has just now spoken. Well, Sir, I can assure him I will not use the word ; let it be his monopoly.

Now, Sir, I say this although we, the members of the Government Bench, claim some sense, still we believe that the hon. members of this House can give helpful suggestions. I know the members of certain group think that helpful suggestions, constructive suggestions, cannot be obtained from any quarters but their own. But Government does not believe that ; Government has the humility to believe that helpful and constructive suggestions may come forward from any hon. member of this House. This Government welcomes any suggestion that may be given from any quarter of this House and gives it all due consideration.

Sir, as I have said, the Government is willing to do all that lies in its power to check corruption in Courts. I can point out that so far as the Civil Courts in the district of Sylhet are concerned, the Ministerial officers as well as Judicial Officers are subordinate to the High Court, and High Court issues circulars from time to time to check corruption as far as possible and the instructions which are given by the High Court are carried out by the Judicial officers. Now, Sir, I think it will be agreed that a good deal of corruption in the Courts would be checked if three classes of people are earnestly try for it and if they co-operate in the attempts made in this direction. These are, firstly, the lawyers, secondly, the lawyers' clerks, and thirdly, the persons whom you may either call touts or men from villages, who come in the town in company of litigants as their guide and friend. It is mainly the two latter classes of people, who directly or indirectly help in perpetuation of corruption in all Courts

SRIJUT DEBESWAR SARMAH: The Hon'ble Minister is a past-master in that art.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: It is no business of any gentleman of the House to take notice of silly remarks in which that particular hon. member indulges from time to time. Apart from all those observations, I might say that recently in 1933 when it came to the notice of the High Court that typists' and the copyists' income has considerably decreased on account of the fact that the copies are

taken out surreptitiously from the Court Office, they held special enquiries, and it was found that a number of copies were taken out, through the help of Peskars, by the clerks, sometimes recognised and sometimes unrecognised, of the pleaders. If, Sir, the lawyers insist that they would not utilise any copy of proceedings which are obtained in this manner, then, I suppose, that source of corruption will at once be closed. I would appeal to my lawyer friends here that after they have said so much on the floor of this House about corruption that they would take it in their mind that they will never utilise any copy of any deposition or judgment which is obtained in this manner. Sir, I have seen, I have noticed that after issue of this circular whenever any Court wanted to know from any lawyer how a particular copy was obtained, the lawyer would say "I do not know how it was obtained. I got it from my client".

MAULAVI ABDUR RAHMAN: On a point of order, Sir. Does the Hon'ble Minister mean to say that the lawyers are mainly concerned in corruptions in Court?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Decidedly not. I say that the lawyers have nothing to do with corruptions directly, but they lay themselves in the hands of their touts, and sometimes they play in the hands of their clever clients. If all the lawyers will refuse to have anything to do with a paper the origin of which they are not sure it will go a long way to stop this corruption, and the poor typists and copyists will also get their fair share of the remuneration. Secondly if we want to check this corruption we shall have to check petition writers and unrecognised clerks having access to the office. At present lawyers' clerks are allowed to have access to the office but it is alleged that they generally abuse this privilege to such an extent that it is impossible to check corruption. Sir, all that the Government can do is to ask the Deputy Commissioners to keep a strict watch over the clients and clerks, as well as pleaders' clerks or mohurrirs so that they may not abuse the privileges that they have been granted, and to ask them if any such instance of corruption comes to their knowledge, as far as the ministerial officers are concerned in the temporarily-settled districts, except Sylhet they will take action. In Sylhet the ministerial officers of the Civil Court are under High Court. But as I have said I think that the Government will have to depend on the different Bar Associations to co-operate with the District Officers in this matter so that we can put down corruption. It is no use having an official or non-official committee. We know that if the corruption is detected the superior officers will not spare the culprits. Lastly, I would say that the Government is in full sympathy with the object of the hon. mover and is prepared to take any steps which may be considered advisable, and which hon. members inside the House or outside may suggest from time to time.

SRIJUT DEVESWAR SHARMA: Is the Hon'ble Minister for Justice aware that even his Magistrates and Munsiffs are in the habit of taking bribes? He has not said anything what action he is going to take against them.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: On mere allegations of the hon. member.

SRIJUT DEVESWAR SARMAH: If he will be pleased to come to Jorhat I think I will be able to satisfy him that Magistrates and Munsiffs there take bribes

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Does he mean to say that he will show me a Munsiff or Magistrate actually taking bribes?

(No reply.)

MR. FAKHRUDDIN ALI AHMED : On a point of information. Did the Hon'ble Minister, when he was practising as a pleader, come across instances where uncertified copies were produced before him by parties ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : Yes, I did. But uncertified copies are different from copies surreptitiously obtained.

MR. FAKHRUDDIN ALI AHMED : And what did he do then ?
No answer. (Laughter.)

The motion was put and carried.

SRIJUT RAJENDRA NATH BARUA : Sir, I beg to move that the provision of Rs. 3,19,764 under grant No. 10, major Head 27—Administration of Justice, minor Head Civil and Session Courts, Sub-Head—E—District and Sessions Judges (total), at page 78 of the budget be reduced by Rs. 100.

Sir, the purpose of this cut motion is to initiate a discussion on the inadvisability of administering Justice to the people of the Barpathar and Sarupathar mauzas of Golaghat under Mikir Hills Tract Regulations. But before I lay the facts before the House I would enunciate some general principles how the partially-excluded and excluded areas are being administered. Sir, I may say that we are living in three hells or *naraks* ; one is where we are living, the second is the partially-excluded areas, and the third is the excluded areas, and the areas of Barpathar and Sarupathar in the Golaghat subdivision come under the second category *viz.*, the partially-excluded areas. Sir, the way in which these areas are being administered shows a differentiation that the British rule in India is not being administered as it ought to have been done. It is Sir, a standing blot on the British administration in India. Sir, this question of excluded and partially-excluded areas is an all-India question, and a resolution was brought sometime ago in the Indian Legislative Assembly to exclude the excluded and partially-excluded areas from the operation of the unjust regulations ; and everyone knows that this differentiation should cease and the people of these areas should be governed under the ordinary Criminal and Civil administration. I will just refer to the Gazette of 1936 in which these partially-excluded areas were declared. I would just mention that the Garo Hills, the Mikir Hills in the Nowgong and Sibsagar districts where Barpathar and Sarupathar are situated, the British portion of the Khasi and Jaintia Hills other than the Shillong Municipality, are treated as partially-excluded areas. Sir, it will be astonishing to the hon. members to hear how these people are governed. The Criminal Law is not subject to the High Court and is administered wholly by the Governor in his personal capacity. The Deputy Commissioners, the Commissioners, the Subdivisional Officers and mauzadars all come in a link and in the whole field of administration there is nothing of judiciary and the administration of law is only of an executive nature. These people of the Barpathar and Sarupathar area come under that category. They represented to His Excellency the Governor their grievances by wire dated the 19th June 1937 and also they represented these facts by letter subsequently. I think the Hon'ble Minister here is aware of the wire and the grievances of the people and I hope these areas may be brought under the ordinary Criminal and Civil law like the other areas where these privileges are enjoyed.

Sir, the same thing applies to the civil law also. There also the Commissioner and the Deputy Commissioner are in a sense final authorities ; the same link holds good in the field of civil administration. I have no time to refer to the sections but I think I have given the House the fundamental principles and I appeal to the House that these people should not be treated as depressed classes and they should be brought under the same law as is

applicable to us. These people Sir, are not people of the hill tracts. These are Assamese, Bengali, Marwari, Christian, who have their kith and kin spread over the whole of Assam. There are about 13 or 14 tea-gardens all belonging to respectable people including Europeans (*laughter*). Supposing there happens such a case, God forbid, that at any time an European killed a cooly of his garden

THE HON'BLE THE SPEAKER: The hon. member is using a word which is not right; he should say *labourer*.

SRIJUT RAJENDRA NATH BARUA: I beg your pardon, Sir. Yes, labourer. I hope the Hon'ble the Revenue Minister will try to bring these areas, *viz.*, Barpathar and Sarupathar mauzas as early as possible under the ordinary criminal and civil law. With these words I beg to commend my motion to the acceptance of the House.

MR. JOBANG D. MARAK: I support the motion. I have got in my name another motion No. 16 that was programmed for the 17th instant. But I shall speak on this occasion and I support the cut notion with a few words.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: I must have sometime for reply, Sir.

MR. JOBANG D. MARAK: This House has got so many children and all of them cry for their needs and get something. I have no chance yet to cry and so have not yet got anything.

Sir, the people of this age cannot possibly go back to the age of the ancient Romans and Greeks. A small part of the lifestory of that age was pictured in the Virgil's *Aeneid* and Xenaphone's *Anabasis*. In Garo Hills we are living at that age to-day. There is no knowing when my dearly loved wife shall be eloped away (*great laughter*) and there is no law to punish the culprit for that. There is no knowing when my pet cows that are mother to my children and my valuable properties that are my souvenirs shall be snatched away from me but there is no punishment for the offender. A Government without a good administration is just like a very rich house with an unjust and cruel father. I said in my budget speech that I do not want good roads, or schools or things of that sort at the expense of a good Government with good administration. By saying that I do not mean to say that I do not want all these good things. I would wish that I had time enough to explain this Akhim Kanga. It is not lawful for a widow to marry again without the consent of the clansman of the deceased husband. I beg to refer to page 69 of the book "The Garos" by Colonel A. Playfair who had the first hand knowledge of Garo Hills and Garo Hills affairs. He says in that page, "In 1883 fifty women of the Someswari Valley appeared in the Court at Tura and applied to be relieved from the operation of this law. Their prayer was acceded to and Akhim is no longer officially recognised". But Sir, the present district administrators are not mindful of this long standing precedent and owing to the contravention of this rule the people are very seriously suffering to-day. I wish that I have the time to give the exposition of this what I mean by this.

Sir, Garo Hills is a partially excluded area and her people are committed to the Governor's charge. So he is our protector. I particularly refer my grievances to the Hon'ble the Chief Minister. I further beg the Hon'ble Chief Minister to take note that instructions and provisions should be made so that these people who are living in the partially-excluded area may be properly protected. There are instructions to His Excellency the Governor from His Majesty the King Emperor. We must be well protected and I draw the attention of the Hon'ble Chief Minister to our needs. We

the distressed and mournful people, see the merciful and mighty Hon'ble High Court standing at the gate of Judiciary with her arms wide stretched calling us tenderly to enter into the city of Justice and equity and partake of peace and happiness which is the fruit of judicature's merciful act and the function of judiciary the Hon'ble the High Court.

With these few words I beg to support the motion.

MR. BENJAMIN CH. MOMIN: I beg to support the motion of the hon. member Srijut Rajendra Nath Barua with regard to the administration of justice in the Barpathar and Sarupathar mauzas of Golaghat. In supporting the motion I beg to inform the House that the administration of Garo Hills is still unsatisfactory as it was in the past. We have represented the matter to the past Government but we have not been favoured with a response to it. The present Government of Garo Hills instead of listening to our entreaties and prayers turns deaf ears and the result is rather retrograde, from bad to worse. If the status and condition of administration of Garo Hills is so now under the new reforms although we have taken shelter in it or inhabitants of the partially-excluded area, I wonder what would have been the condition of administration of justice in our hills if Garo Hills had remained as totally excluded area. My colleague has already spoken enough on this matter and I think I need not waste time by repeating the same. I, therefore, request the hon. members of this House to support this motion so that justice may be done every where.

With these few words, I again support the motion and resume my seat.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Can I speak, Sir?

THE HON'BLE THE SPEAKER: We have reached the time.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Only one word, Sir. We have already taken note of this matter and we shall do our best to bring the ordinary rules in force, in the partially-excluded areas. Judging from what Mr. Marak says the matter is serious, we shall expedite action.

SRIJUT RAJENDRA NATH BARUA: Can the Hon'ble Minister state a definite time within which these areas will come under the general law?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: I cannot give any definite time, Sir, because we have to move different authorities.

SRIJUT DEBESWAR SARMAH: What are the probabilities, Sir? (The motion was not put for want of time.)

THE HON'BLE THE SPEAKER: Order, order. The motion before the House is that a sum not exceeding Rs.6,88,200 be granted to defray the charges which will come in the course of payment during the year ending on the 31st March 1938, for the administration of the head "27—Administration of Justice".

The motion was carried.

The council was then adjourned till 11 a. m. on Saturday the 21st August 1937.

Shillong:
The 26th September, 1937.

A. K. BARUA,
Secretary, Legislative Assembly.