



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

The Assembly met in the Assembly Chamber, Shillong, at 2 P.M., on Friday, the 5th December, 1941.

PRESENT

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

QUESTIONS AND ANSWERS

STARRED QUESTIONS

(to which oral answers were given)

Assent to the Assam Money Lenders (Amendment) Bill, 1937

Maulavi ABDUL AZIZ asked :

*36. Will Government be pleased to state—

- (a) When the Assam Money Lenders (Amendment) Bill, 1937, was sent to the Viceroy and whether His Excellency's decision about the question of assent or otherwise of the Bill has been received ?
- (b) Whether the present Cabinet voted for the said Bill ?
- (c) If so, what steps the present Cabinet have taken for having His Excellency's assent to the Bill ?
- (d) Whether they are aware that there was a country wide demand for passing the Bill and now there has been a sense of disappointment for not having the Bill passed as an Act as yet ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

36. (a)—The Bill has not been sent to His Excellency the Governor-General.

(b)—The Bill was a private one and the Cabinet voted for and also criticized certain provisions of the Bill according to merit.

(c)—His Excellency the Governor is considering whether he can give his assent to the Bill.

(d)—Government has received many representations both for and against the passing of the Bill.

Maulavi ABDUL AZIZ: With regard to 36(a), I want to know whether the Hon'ble Premier did make any statement during the last June Session of the Assembly to the effect that this Bill was submitted to His Excellency the Viceroy by His Excellency the Governor of Assam.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Sir, His Excellency the Governor of Assam has consulted His Excellency the Viceroy, but the Cabinet has no hand in the matter.

Maulavi ABDUL AZIZ: Am I to understand, Sir, that this Bill has not at all been submitted to His Excellency the Viceroy?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I cannot say beyond what I have already stated. I cannot say what was going on between His Excellency the Governor of Assam and His Excellency the Viceroy.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY: May I know, Sir, what steps Government have taken to obtain assent of His Excellency the Governor of Assam to this Bill?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: His Excellency informed me that he could not give his assent unless certain provisions were modified and to this extent he was prepared to send a recommendation to this House, as required under the rule. I advised His Excellency that as it was a private Bill, the author of the Bill might be informed. In case he accepts these, there will not be any difficulty. But I understand Maulavi Abdul Aziz has refused to agree to the amendments of His Excellency the Governor of Assam.

Srijut DEBESWAR SARMAH: On a point of information, Sir. What will be the constitutional position in this matter now?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: The constitutional position is this that His Excellency the Governor is going to send a message to the House, and according to our rules, the message containing the amendments shall have to be placed before the House by the Hon'ble Speaker and then the House will decide.

Maulavi ABDUR RAHMAN: Is it a fact that for the early enactment of this Bill proper demonstration has been shown by every section of the members of this House?

The Hon'ble the SPEAKER: All this is known to this House, but the matter now rests with His Excellency the Governor.

Maulavi ABDUR RAHMAN: May I know whether the present Ministry took any action in pacifying the wishes of the members of this House by way of obtaining assent of His Excellency?

The Hon'ble the SPEAKER: The Bill has been sent to His Excellency the Governor for his assent and His Excellency consulted the Cabinet and there the matter ends.

Maulavi ABDUL AZIZ: May I know the date of submitting this Bill to His Excellency?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: This was usually sent by the Legislative Department to His Excellency and it was done as soon as the Bill was passed by both the Houses.

Maulavi ABDUL AZIZ: May I know with whom the Bill is now lying, whether with His Excellency the Governor of Assam or with His Excellency the Viceroy?

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

The Hon'ble the SPEAKER: I may bring to the notice of the hon. members that the hon. sponsor of the Bill did not disclose the fact that reference was made to him in regard to certain provisions which, His Excellency wanted, should be revised. That ought to have been said by the hon. mover.

Juroram Girls' High English School

Srijut GHANASHYAM DAS asked :

*37. (a) Is it a fact that Mr. Sarat Chandra Goswami, the then Inspector of Schools of the Assam Valley Circle made a remark against the present Municipal Board of Barpeta in his letter No 21178, dated the 23rd August 1941 to the Commissioner of Divisions in connection with the withholding of Municipal grant-in-aid to the Juroram Girls' High English School and that the Chairman of the Barpeta Municipal Board had made a representation to the Minister in-charge of Local Self-Government against that remark ?

(b) If so, what is the result of that representation ?

(c) Will Government be pleased to lay on the table a copy of the above letters ?

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI replied :

37. (a)—The Inspector of Schools, in his report referred to in the question, objected to the present Board's withholding a grant from the school concerned, which had been given by the previous Board, and criticised the present Board's action. The Chairman objected to the criticism in a letter.

(b)—The whole matter, including the Board's action in withholding the grant, is under the consideration of Government.

(c) —No.

Srijut GHANASHYAM DAS : Was not that letter against the prestige of the Board ?

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI : It may be so, but the whole matter is still under the consideration of Government.

Srijut GHANASHYAM DAS : When Government will decide that ?

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI : As soon as facts are available to Government, they will decide.

Srijut GHANASHYAM DAS : Will it be after the Budget Session or before ?

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI : I cannot say definitely whether all the facts will be available before the Session.

Mr. G. A. Small, the Director of Public Instruction, Assam

Srijut SONARAM DATTA asked :

*38. (a) Are Government aware that a letter reported to have been written by Mr. G. A. Small, the then Director of Public Instruction, Assam, on the eve of his going on leave preparatory to retirement, was published in a Calcutta Daily in August last ?

(b) If so, will Government be pleased to state whether they actually received such a communication from Mr. Small ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI replied :

38.(a)—Yes.

(b)—Yes.

Babu RABINDRA NATH ADITYA: Does the Hon'ble Minister think it necessary to vindicate his position with regard to the allegations made in that letter ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: I do not think so, Sir.

Babu RABINDRA NATH ADITYA: Does not the Hon'ble Minister think that his position has been compromised by these allegations ?

The Hon'ble the SPEAKER: This is a matter of opinion.

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Everybody knows Mr. Small and everybody by now is convinced of the propriety of my orders.

Maulavi ABDUR RAHMAN: Have Government considered the propriety of Mr. Small's putting the matter in a letter ?

The Hon'ble the SPEAKER: That has been dealt with already.

Magh-Bihu and Gopastomi holidays

Srijut BELIRAM DAS asked :

*39. (a) Are Government aware that *Magh-Bihu* is observed as a National Assamese festival ?

(b) Are Government aware that only one day's holiday for *Magh-Bihu* is quite insufficient and that people remaining off from their homes cannot enjoy this festival ?

(c) If so, do Government propose to grant at least three days' holiday for *Magh-Bihu* ?

*40. (a) Are Government aware that *Gopastomi* day is observed by the Hindus specially at Gauhati and Dibrugarh every year ?

(b) If so, do Government propose to grant holiday on *Gopastomi* day specially for Gauhati and Dibrugarh ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

39.(a)—Yes.

(b)—Government have not received any complaint on this.

(c)—Does not arise.

Srijut RAJENDRA NATH BARUA: Is not a complaint from an hon. member of this House sufficient indication that there is a genuine grievance ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Questions are meant to elicit information and not to bring forward complaints.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

40.(a)—Government have no special information on this subject.

(b)—No.

Allotment of a seat in the Assam Legislative Assembly for the Manipuri Community

Mr. ARUN KUMAR CHANDA asked :

*41. (a) Are Government aware that the Manipuris are agitating for a seat to be allotted to their community in the Assam Legislative Assembly ?

(b) If so, do Government propose to move the connected authorities for satisfying the demand of the Manipuri people ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

41. (a)—Government are unaware of such an agitation.

(b)—Does not arise.

Mr. ARUN KUMAR CHANDA : Why did not Government treat the Manipuris on the same basis in the last Census as the Ahom community ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : That is entirely a new question, but I may say that I did not get any representation whatsoever from the Manipuris to have them separately tabulated.

Amount realised under the Assam Agricultural Income-tax Act

Maulavi ABDUL BARI CHAUDHURY asked :

*42. Will the Hon'ble Minister-in-charge of the Finance Department be pleased to state what amounts have been realised under the Assam Agricultural Income-Tax Act for the years 1939-40, 1940-41 and 1941-42 up to date on tea and other agricultural produces of the province ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

42.—The following amounts were realised upto September 1941 for the years noted below :—

					Rs.
1939-40	...	...	...	...	14,30,467
1940-41	...	...	...	...	28,58,980
1941-42	...	...	...	...	9,751

Refund applications for these years have yet to be decided.

Rule regarding retirement of Government Officers from service

Maulavi ABDUL BARI CHAUDHURY asked :

*43. Will the Hon'ble Minister-in-charge of the Finance Department be pleased to state whether Government have taken any decision in modification of the rule of retirement of Government Officers from service in view of the recommendations of the Retrenchment Committee ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

43.—The recommendation of the Retrenchment Committee has been accepted by Government with the modification that instead of "28" it should be "30" years in respect of new entrants entering service on or from 29th April 1941. For others and specially for old entrants, the question is still under the consideration of Government.

Air Raid Precaution Expenditure

Maulavi ABDUL BARI CHAUDHURY asked :

*44. Will the Hon'ble Minister-in-charge of the Finance Department be pleased to state—

- (a) The head or heads under which the Air Raid Precaution expenditure incurred by the Government is debitable ?
- (b) How much expenditure has been incurred up to date in Assam under such head or heads ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

44. (a)—To the head "57.—Miscellaneous". The expenditure incurred upto June, 1941 will be borne by the Central Government unless specified otherwise, but all expenditure after 30th June will be pooled, and the Central Government will only bear a proportionate share.

(b)—Rupees 55,929-4-0 upto October 1941, of which this Government's share will be about Rs. 25,000.

Electric installation in the Bungalow of the Deputy Commissioner, Cachar

Mr. ARUN KUMAR CHANDA asked :

*45. Will Government be pleased to state—

- (a) The amount spent by Government for wiring for electric connection in the Bungalow of the Deputy Commissioner, Cachar ?
- (b) Whether there is any annual allotment for keeping the wiring etc., in the said Bungalow in good repair ?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURY replied :

45. (a)—Rupees 2,266.

(b)—Yes.

Mr. ARUN KUMAR CHANDA: Is it a fact, Sir, that the Deputy Commissioner, Cachar, does not use electricity in his bungalow ?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURY: I have no information, Sir.

Mr. ARUN KUMAR CHANDA: If the Deputy Commissioner does not use electricity, why should Government have gone to all that expense to provide for electricity in that bungalow ?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURY: As I said, I have no information, this question does not arise.

Mr. ARUN KUMAR CHANDA: Will Government please enquire, because it raises a very big question ? If officers do not use electricity we may save a great deal of expenditure, Sir.

The Hon'ble Maulavi ABDUL MATIN CHAUDHURY: Is it expected that the same officer will continue for all the time?

Mr. ARUN KUMAR CHANDA: But why should not other officers imitate the excellent example set by the Deputy Commissioner of Cachar?

The Hon'ble the SPEAKER: What example?

Mr. ARUN KUMAR CHANDA: Shunning the use of electricity in Government Bungalow.

UNSTARRED QUESTIONS

(to which answers were laid on the table)

Trenching ground and Markets in Nowgong Municipality

Maulavi MUHAMMAD AMIRUDDIN asked :

111. Will Government be pleased to state—

- (a) Whether the trenching ground in the Nowgong town will be soon shifted from where it is at present and located somewhere else beyond the Municipal area?
- (b) If so, when?
- (c) Whether Government received any representation official or non-official as to this in the past?
- (d) If so, what action has so far been taken in the matter?
- (e) Whether there exists two Aided High Schools, one Technical School, the Marar Park, the Electricity Supply Office and the Nowgong Railway Station with many other houses near about the trenching ground in Nowgong town?
- (f) If so, do Government propose to enquire through medical experts how far it can injure the health of the people attached to those institutions and houses and direct the immediate removal of the trenching ground to some other site?

112. (a) Is it a fact that the Barabazar and the Haiborgoan *hat* are the only two municipal markets within the Nowgong Municipality?

(b) Is it a fact that the sites of both these *hats* are lower than the ordinary level of their surrounding lands?

(c) Is it a fact that during the rains the *hat*-coming towns-men as well as the shopkeepers are subjected to great difficulties in consequence of the mud accumulating in the heart of the said *hats*?

(d) If so, do Government propose to remove those difficulties at an early date?

(e) Do Government propose to provide any municipal shed or shop house in the Haiborgoan *hat* as in the case of Barabazar?

(f) Will Government be pleased to state whether any money is spent for the improvement of those two municipal *hats* in proportion to the income available therefrom?

(g) If so, will Government be pleased to lay on the table an account showing the respective income and expenditure of both these *hats* year by year for the last five years ending in April last?

The Hon'ble Khan Sahib Maulavi MUDABBIR HUSSAIN CHAUDHURI replied :

111. (a)—No. The matter is reported to be under the consideration of the Nowgong Municipal Board, but Government have no assurance that action will be taken soon.

(b)—Does not arise.

(c)—No representation appears to have been received, but the matter was mentioned in inspection notes of Public Health Officers.

(d)—No action appears to have been taken by the Municipal Board.

(e)—Yes.

(f)—No enquiry is necessary, since it is agreed that the site of the trenching ground should be changed and the Public Health Officers have advised against the present site. Government do not propose to direct the immediate removal of the trenching ground, since this matter rests with the Board.

112. (a)—Yes.

(b)—That *hatkhola* of the Haib rgaon bazar is reported to be lower than the road level.

(c)—It is reported that this is not so, but that inconvenience may be experienced at the extremities of the bazars.

(d) & (e)—No. These are matters for the Municipal Board.

(f)—The Board reports that since they had to repay a loan taken for making market sheds, expenditure on the bazars has not been proportionate to income from the bazars, but that the loan has now been repaid.

(g)—A statement is given below—

Bazar	Year	Income	Expenditure					
			Cost of repair			Repayment of loan		
		Rs.	Rs.	a.	p.	Rs.	a.	p.
Sadar Bazar	1936-37	5,322	274	6	0	3,477	10	0
	1937-38	5,653	328	6	0	3,477	10	0
	1938-39	5,584	103	2	0	3,477	10	0
	1939-40	5,594	121	15	0	3,477	10	0
	1940-41	5,963	425	11	0	2,767	5	9
Total	..	28,116	1,253	8	0	16,677	13	9
Haiborgaon Bazar	1936-37	1,230	116	12	0	....	
	1937-38	1,500	178	2	0	....	
	1938-39	1,570	144	9	0	....	
	1939-40	1,950	223	4	0	....	
	1940-41	2,139	135	2	0	....	
Total	..	8,389	797	13	0	....	
Grand Total	..	36,505	2,051	5	0	16,677	13	9

Settlement of Kheremia Mauza

Mr. NABA KUMAR DUTTA asked :

113. Will Government be pleased to state why the Kheremia Mauza of the Dibrugarh subdivision has been readvertised after it was once settled by the Deputy Commissioner of the Lakhimpur district with one Srijut Nila Dhar Barua ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

113.—The appointment of Srijut Niladhar Barua was not approved by Government as it was made in contravention of established rules regulating the appointment of mauzadars.

Mr. NABA KUMAR DUTTA: May I know, Sir, what rules are referred to by the Hon'ble Premier by saying 'established rules regulating the appointment of mauzadars' ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: The rules are the Executive Rules which will be found in the Assam Land and Revenue Regulation.

Mr. NABA KUMAR DUTTA: May I know, Sir, whether there was any appeal from any quarters against the appointment of Srijut Niladhar Barua ?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: There were two appeals against the appointment of Srijut Niladhar Barua and in disposing of those appeals it was decided that Niladhar Barua was not appointed under the Executive instructions embodied in the Assam Land and Revenue Regulation.

Mr. NABA KUMAR DUTTA: Is it a fact that Government sent orders to the Deputy Commissioner, Dibrugarh, to appoint one man from the tribal community ?

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

Transfer of Veterinary Assistant Surgeon, Polashbari

Srijut GAURI KANTA TALUKDAR asked :

114. Has the attention of Government been drawn to the dispute between the Gauhati Local Board and the Director of Veterinary Department regarding the transfer of the Veterinary Assistant Surgeon, Polashbari, in Kamrup district ?

115. Will Government be pleased to state—

- (a) Whether they have received a representation, dated the 4th July 1941, from the Chairman, Gauhati Local Board, referring the said dispute for decision by the Government ?
- (b) Whether Government have arrived at any decision in the matter ?
- (c) If so, what is the decision ?

- (d) Whether Government is aware that the Gauhati Local Board has taken exception to the action of the Director of Veterinary Department in transferring the said Veterinary Assistant Surgeon against the unanimous decision of the Board ?
- (e) Whether Government is aware that the said Local Board has ceased to take responsibility for the management of the said Polashbari Veterinary Hospital and the works done by the Veterinary Assistant Surgeon of the said Hospital ?
- (f) If the answers to questions Nos.115(d) and 115(e) are in the affirmative, do Government propose to solve the difficulty ?

116. Will Government be pleased to state how the transfer of Veterinary Assistant Surgeons serving under Local Boards should be regulated under such circumstances ?

The Hon'ble Maulavi MUNAWWAR ALI replied :

114.—Yes.

115. (a)—Yes.

(b)—Yes.

(c) & (f)—The Government considered that the Director of Veterinary Department was in order in transferring the Veterinary Assistant Surgeon in the public interest. The Government hope that the Board, after they have been apprised of the correct interpretation of the existing rules, would now accept the arrangement made by the Director of Veterinary Department in public interest.

(d)—Yes.

(e)—Yes.

Srijut GAURI KANTA TALUKDAR : Is it a fact that the Director, Civil Veterinary Department, consulted the Local Government under rule 8 of the Civil Veterinary Department Rules ?

The Hon'ble Maulavi MUNAWWAR ALI : Yes, Sir.

Srijut GAURI KANTA TALUKDAR : Does not the rule say that when consultation is made, the wishes of the Board should prevail ?

The Hon'ble Maulavi MUNAWWAR ALI : No, Sir, that does not imply.

Srijut GAURI KANTA TALUKDAR : Is it not a fact, that rule 9 only gives power to the Director to exercise his discretion as he likes ?

The Hon'ble Maulavi MUNAWWAR ALI : Both rules 8 and 9, Sir.

Srijut GAURI KANTA TALUKDAR : Was this matter of dispute between the Local Board, Gauhati, and the Director of the Civil Veterinary Department referred to the Local Government under rule 181 ?

The Hon'ble Maulavi MUNAWWAR ALI : No, Sir.

Srijut GAURI KANTA TALUKDAR: Does not rule 181 provide...

The Hon'ble the SPEAKER: I am afraid the hon. member is asking for the interpretation of the rules.

Srijut GAURI KANTA TALUKDAR: What I am asking here, Sir, is that when the Local Board objected that the transfer should not be made in the public interest, the Director of Civil Veterinary Department after holding a consultation with the Board decided arbitrarily and made the transfer.

The Hon'ble the SPEAKER: Yes, I know, but the proper questions are not being put.

Srijut GAURI KANTA TALUKDAR: I ask whether this rule 181 was applied in the matter of this transfer? Rule 181 says 'in case of disagreement between the Director, Civil Veterinary Department and a Local Board on any point involving important question of principle, the matter should be laid before the Local Government by the Director, Civil Veterinary Department or by the Local Board, through the Commissioner, and the decision of the Government shall be final'.

The Hon'ble the SPEAKER: One simple question would have been quite sufficient. Why does not the hon. member ask—why were not the views of the Local Board accepted?

Srijut GAURIKANTA TALUKDAR: May I know, Sir, why the views of the Gauhati Local Board were not accepted?

The Hon'ble Maulavi MUNAWWAR ALI: Rule 181 does not apply in this case because it is not a matter of principle.

The Hon'ble the SPEAKER: What I understand from the hon. member is that the Local Board held one view and the Director another view and action was taken according to the view of the Director, Civil Veterinary Department. The question is—why the views of the Local Board were not taken?

The Hon'ble Maulavi MUNAWWAR ALI: Government did not take any action in the matter. They allowed the decision of the Director, Civil Veterinary Department, to stand because rules 8 and 9 simply wanted that the views of the Local Board will be taken into consideration by the Director, and he had taken them into consideration. Government consider that no question of principle is involved here in this case.

Srijut SIDDHINATH SARMA: Will the Hon'ble Minister-in-charge of the Civil Veterinary Department be pleased to state whether he had been advised by the Hon'ble the Education Minister to arrive at a decision in this matter?

The Hon'ble Maulavi MUNAWWAR ALI: No, Sir. I did not seek for any advice whatsoever in this matter, nor did I need any.

Srijut SIDDHINATH SARMA: But, Sir, there might have been some consultation as he is interested in this matter.

The Hon'ble Maulavi MUNAWWAR ALI: Nothing of the kind, Sir.

Srijut GAURI KANTA TALUKDAR: My question was that the dispute between the Local Board and the Director, Civil Veterinary Department, was a matter of principle.

The Hon'ble the SPEAKER: That may be the view of the hon. member, but the view of the Government is different.

The Hon'ble Maulavi MUNAWWAR ALI: My hon. friend has made the fundamental mistake in this that he took it for granted that it was a dispute on principle whereas it was only a small difference in detail.

The Hon'ble Maulavi MUNAWWAR ALI replied :

116.—Under rule 8 of the Civil Veterinary Department Rules.

Government Aided Gordon High English School, Nalbari

Srijut GAURI KANTA TALUKDAR asked :

117. Will Government be pleased to state—

(a) Whether they have received a copy of a Resolution adopted by the Managing Committee of the Government Aided Gordon High English School, Nalbari, in the Kamrup district, in their meeting held on the 17th June 1941, requesting Government to give some relief to the teachers of the school by increasing the existing maintenance grant ?

(b) Do Government propose to increase the said grant as suggested in the resolution ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI replied :

117. (a)—Yes.

(b)—The matter is under the consideration of Government.

Qualifications of Professors, Lecturers and Assistant Lecturers appointed by Government in 1941

Srijut PURNA CHANDRA SARMA asked :

118. Will Government be pleased to state the names and qualifications of Professors, Lecturers and Assistant Lecturers appointed by the Government temporarily without consulting the Public Service Commission during the year ending 30th November 1941 ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI replied :

118.—

	Names	Qualifications
Professors ...	Nil.	Nil.
Lecturers ...	(1) Srijut Jajneswar Sarma	M. A., 2nd Class with teaching experience.
	(2) ,, Phanidhar Datta	Ditto.
	(3) Maulavi Sahabuddin	B. A. (Hons.), M. A. (Dacca), Islamic Studies with teaching experience.
	(4) ,, Nurul Islam	M. A., 1st Class with teaching experience.
Assistant Lecturers.	(1) Babu Jatindra Chandra Bhat-tacharjee.	M. A., 1st Class with teaching experience.
	(2) Maulavi Misbahul Bar Chaudhury.	M. A., 2nd Class with teaching experience.

Names	Qualifications
(3) Babu Arun Kumar Sinha ...	M. Sc., 1st Class with teaching experience (1st Class 2nd in Theoretical and 1st Class 1st in Practical).
(4) „ Gopal Chandra Mitra	M. Sc., 2nd Class.
(5) „ Atul Chandra Chatterjee.	Ditto.
(6) „ Sanatan Mukherjee ...	M. Sc., 2nd Class with teaching experience.
(7) Srijut Jajneswar Sarma ...	M. A., 2nd Class with teaching experience.
(8) „ Bipin Chandra Borgohain.	Ditto.
(9) „ Phanidhar Dutta ...	Ditto.
(10) „ Bansi Ram Das ...	M. Sc., 2nd Class in Physics and B. T.
(11) Maulavi Abdul Latif ...	M. A., 1st Class with teaching experience.
(12) Srijut Trailokya Nath Goswami.	M. A., 2nd Class, B. L.
(13) Babu Brojendra K. Acharjya.	M. A., 1st Class 1st in Sanskrit, Gold Medalist, Kaivyatirtha, Class I. M. A. in Indian Vernacular (Bengali), Class II, with teaching experience.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY: May I know what class was obtained by Maulavi Shahabuddin ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: He got second class.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY: I do not find this in the reply given. Then is it a printing mistake here or is it deliberate ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: That is not a deliberate omission.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY: Is not the Hon'ble Minister definite about it ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Yes, I am definite.

Maulavi DEWAN MUHAMMAD AHBAB CHAUDHURI: May we know, Sir, whether more qualified candidates were available ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Evidently not, Sir. Wherever suitable Muslim candidates were available preference was given to them.

Babu RABINDRA NATH ADITYA: What are the reasons for not consulting the Public Service Commission, Sir ?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: In fact they were all afterwards consulted. Appointments had to be made temporarily because the college lectures suffered. As a matter of fact, I can explain, Sir, that most of these appointments were made permanent only

after subsequently consulting the Public Service Commission. The appointments of No. (3) Maulavi Shahabuddin, No. (8) Bipin Chandra Borgohain, No. (12) Srijut Trailokya Nath Goswami and No. (13) Babu Brojendra Kanta Acharjya, were temporary and except in their cases all the rest had the approval of the Commission.

Babu RABINDRA NATH ADITYA: Does not the Hon'ble Minister think that these candidates who are appointed on temporary basis will be gaining an advantageous position over other candidates in regard to experience?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: According to my information, Sir, the Public Service Commission do not give any special consideration for a candidate's experience acquired during his temporary service under Regulation 33.

Babu RABINDRA NATH ADITYA: So many appointments, I find, have been made without consulting the Commission. Is it because the Heads of the Institutions do not come up beforehand with their proposals?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: In urgent cases appointments could be made under Regulation 33 without consulting the Commission.

Babu RABINDRA NATH ADITYA: My question is, how does it happen that so many appointments have been made without consulting the Commission? Is it due to the fact that Heads of Departments do not send their requisition timely or before the opening of the college?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Government consulted the Commission. Delays occur for various reasons. The terms of advertisement have to be settled upon, or there may have been differences of opinion with the views of the Public Service Commission as regards qualifications in which case the matter will have to be referred to His Excellency for orders or the Public Service Commission could not give their recommendations within time.

Maulavi ABDUR RAHMAN: May we know Sir, whether it was incumbent to make these appointments in a hurry?

The Hon'ble the SPEAKER: Yes, the answer was already given.

Maulavi ABDUR RAHMAN: What is the answer, Sir?

The Hon'ble the SPEAKER: Did not the hon. member hear when it was given?

Maulavi ABDUR RAHMAN: I have heard it, but it was not clear to me.

The Hon'ble the SPEAKER: However, the Hon'ble Minister may make it clearer.

Maulavi ABDUR RAHMAN: I want to know if Government got any recommendation from the Departmental authority in advance?

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

Babu RABINDRA NATH ADITYA: Which of these appointments have been made on account of delay made by the Public Service Commission?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: I said that sometimes on account of delay in the Commission sending in their recommendations, sometimes on account of a post suddenly falling vacant and for various other reasons it becomes necessary, that is what I meant.

Babu RABINDRA NATH ADITYA: Do Government think that this system should be discouraged?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Government always discourage this system.

Mr. NABA KUMAR DUTTA: For what period did these candidates continue in their service like that, was it six months or three months?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: As I said, Sir, excepting in the case of the four candidates I mentioned, all the others were appointed on a permanent basis after consultation with the Public Service Commission. As regards those four, they are temporary and their cases cannot be extended ordinarily beyond three months, unless for some reason or other the Public Service Commission fails to send in their recommendations.

Maulavi ABDUR RAHMAN: With regard to the candidates Srijut Jagneswar Sarma and Phanidhar Datta, who are both described as "M.A., 2nd class, with teaching experience", may I know whether they originally belonged to class III of the School Service as High School Teachers?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: They were Professors of the Jorhat College and I think have put in several years of service there.

Maulavi ABDUR RAHMAN: Some of those who have been appointed as Lecturers, were they originally in Class III of the Assam Education Service as Assistant Lecturers?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Maulavi Sahabuddin, the Lecturer was in the School Service.

Babu BEPIN BEHARI DAS: Will Government please state why although Babu Brojendra K. Acharya had so high qualifications, was not appointed?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Because the Public Service Commission did not recommend him.

Srijut PURNA CHANDRA SARMA: Has nobody been appointed in these places?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: They are now continuing in their posts working as Lecturers and Assistant Lecturers.

Srijut PURNA CHANDRA SARMA: Has it not been stated that these four people have not been selected by the Public Service Commission?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: We have not yet received any recommendation with regard to the post of Lecturer in Islamic Studies. So Maulavi Sahabuddin is continuing in his temporary appointment. Srijut Borgohain has served for about three months before he was appointed in the Assam Civil Service. Srijut Trailokya Nath Goswami has served for two months and the post is already advertised and we are awaiting the report of the Public Service Commission. Babu Brojendra K. Acharya was not recommended and so he went back to the School Service.

Babu RABINDRA NATH ADITYA: Is there not a rule that 20 per cent. appointments should be made on merit?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: After this rule has been brought into force we are following it.

Babu RABINDRA NATH ADITYA: Has any appointment been made on merit?

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: All these appointments have gone to deserving persons.

Destruction of crops in the Illakas in the Jaintia Hills

Rev. L. GATPHOH asked :

119. Will Government be pleased to state—

- (a) The Illakas in the Jaintia Hills in which there have been destruction of crops this year by (i) pest, (ii) hailstorms and (iii) wild elephants?

(b) Whether Government propose to give any relief to the people suffering in this subdivision for the loss of their crops ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

119. (a) (i)—Damage to the paddy crop by insects was fairly widespread in Sutnga and Rymbai daloiships. Nongkhlich, Narpuh, Amwi, Shangpung and Raliang were also affected to some extent and a few villages in Bhoi.

(ii)—There was partial destruction of the orange crop and in some cases *pan* in Nongtalang, Satpator and Darrang due to unseasonable hail. Slight damage to paddy was also caused by hail in Mynso.

(iii)—Some villages in Bhoi, Nartiang, Sutnga and Narpuh were visited by elephants but damage to crops from this cause was not greater than usual.

(b)—Proposals for gratuitous relief in deserving cases and for total or partial remission of land revenue and house-tax in others, submitted by the local officers after thorough enquiry, are under consideration by Government.

Leases granted to the Assam Oil Company

Srijut LAKSHESVAR BOROOAH asked :

120. Will Government be pleased to state—

- (a) The year of commencement and expiry of different leases granted to the Assam Oil Company ?
- (b) The rate of royalty on Petroleum now levied by Assam Government under each lease ?
- (c) Whether the said Company have been paying the minimum rate of royalty on Petroleum since the very commencement of their business in this province ?
- (d) If so, whether Government propose to consider the desirability of enhancing the rate in recommending renewal of old leases and granting of new leases (if any) in future ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

120. (a)—The leases granted to the Assam Oil Company are as follows :—

(1)—The two main Digboi leases were originally granted for 25 years from the 1st January 1892 and were renewed for 25 years from the 1st January 1917. They expire at the end of the current year.

(2)—The Makum Oil Concessions lease was granted for 25 years from the 15th October 1926 to the 14th October 1951.

(3)—The Hansapung Mining lease was granted for 25 years from the 1st January 1917 to the 31st December 1941.

(4)—The Kharjan Mining lease was granted for 30 years from the 1st August 1938 to 31st July 1968.

(b)—On the first two leases mentioned above, the royalty is levied at the rate prescribed by the Government of India at the time of issue, namely 5 per cent. *ad valorem* of the well-head value. The lease gave an

option, to the lessee to pay either at this rate or the rate of -/8/-per 40 gallons, and as the 5 per cent. rate is lower, the Company have naturally availed themselves of that option.

No oil is obtained from the Makum Oil Concessions lease and so no royalty is paid.

Royalty in the case of the Hansapung lease was at first paid at the 5 per cent. rate but the lease, being slightly later in date than the Digboi leases, gave the option of charging the alternative of -/8/-per 40 gallons to the lessor and for the last two years Government have exercised their option and royalty is now realised at -/8/-per 40 gallons.

At the time of issue of the Kharjan lease the royalty clause had been again altered. It prescribes that royalty should be paid at 5 per cent. of the well-head value or -/8/- per 40 gallons whichever is greater. Royalty is at present being levied at the rate of -/8/-per 40 gallons.

(c) & (d)—The Company have been paying royalty at the rates specified in their leases which were those prescribed by the Government of India. Since 1937 the power to fix the royalty has passed to the hands of the Provincial Government, and in the case of the leases which fall due for renewal at the end of this year, the question of enhancing the royalty or changing the rate is still under the consideration of the Government.

Srijut LAKSHESVAR BOROOAH: It appears that my question under (c), has not been properly answered. The answers for (c) and (d) are rather involved. My question is "Whether the said company have been paying the minimum rate of royalty on Petroleum since the very commencement of their business in this province"? The answer Sir, as I expected, ought to be a monosyllabic 'yes' or 'no'.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I think, Sir, I have already stated in reply to (b). My hon. friend would find in the last sentence "the lease gave an option to the lessee to pay either at this rate or the rate of annas 8 per 40 gallons, and as the 5 per cent. rate is lower, the company have naturally availed themselves of that option." So that question has already been answered.

Srijut LAKSHESVAR BOROOAH: Is it not a fact that the company have been paying the minimum rate since the commencement of their business?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: As I have already given the details, my hon. friend can find that they have been paying at the lower rate.

Srijut LAKSHESVAR BOROOAH: The lowest rate prescribed?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Yes, there are only two rates.

Srijut DEBESWAR SARMAH: It has been made quite clear that the company have since the beginning been paying the lowest rate. They have been all along paying the barest minimum rate beyond which the Assam Government could not lower it any further under the Manual.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: There was no occasion for this eloquence on the part of my hon. friend. As I have already said, at the time of issue of the lease, two alternatives were given and whichever was in favour of the company, the company have been paying at that rate.

Srijut LAKSHESVAR BOROOAH: Will the Hon'ble Premier take it from me that it has been clearly stated in the Mineral Concession Manual that annas 8 per 40 gallons of petroleum is the minimum rate of royalty?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I have nothing to take from the hon. member because I know that Government of the time gave this option either to pay at the rate of 5 per cent. or at the rate of 8 annas per 40 gallons, and whichever was favourable to the company, the company have been paying that.

Srijut LAKSHESVAR BOROOAH: Will the Hon'ble Premier see that the option does not lie with the company when the lease is renewed next by the Provincial Government?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: We are considering the matter.

Srijut DEVESWAR SARMAH: What is the proposal that you are considering?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Whether we should give the option to the lessee or not.

Srijut DEVESWAR SARMAH: Will Government give an opportunity to this House to discuss this matter?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I am afraid, not. It may be that we will have to decide the matter before the end of the current year as I have shown that some contracts will expire by the end of December 1941. We will have to come to a decision before that and there is no chance of the Assembly sitting at that time. Therefore I am afraid no opportunity can be given to this House of discussing this matter.

Srijut DEBESWAR SARMAH: I am submitting to the Chair that to-day is the 5th December and before the close of the year the whole transaction will have to be completed. I understand from the Hon'ble Premier that Government will begin with a clean slate because they have not yet come to any decision at what rate they will charge the company. During the course of the next week can we not get an idea of the rate they are going to charge?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: We are men of flesh and blood and not automatons. The whole day we are engaged here and in the spare time we have to prepare reply to questions and resolutions. I have absolutely no time to go into this complicated matter now. Both myself and my Hon'ble Colleague, the Revenue Minister discussed this matter and we had also a discussion with the General Manager while we were at Digboi last. Therefore the matter has been taken up.

Srijut DEBESWAR SARMAH: So I am quite in sympathy with the Hon'ble Premier. Considering other limitations of flesh and blood we are trying to make ourselves useful to the Hon'ble Premier in the decision of this matter.

Mr. ARUN KUMAR CHANDA: May I suggest that before the lease is finally granted, a temporary lease may be granted and the wishes of the House obtained before the final settlement is made.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: The suggestion will be considered. *U*

Tezpur-Balipara Railway

Srijut OMEO KUMAR DAS asked:

121. Will Government be pleased to state—

- (a) What action has been taken on the report made by the Chief Inspector of Railways in October 1940, regarding the Tezpur-Balipara Railway?

- (b) When the contract entered into by Government with the Tezpur-Balipara Railway will expire ?
- (c) Whether Government has come to any decision regarding extension of the lease for a further period to the Tezpur-Balipara Railway Company ?
- (d) Whether Government has enquired into the inconvenience of the passengers caused by the want of sanitation and lighting arrangements in the carriages of the said Railway ?
- (e) Whether Government is aware of the danger to the passengers for permitting the Railway authorities to run open carriages ?
- (f) When the evening down train reaches Tezpur station in the months of November, December and January ?
- (g) What headlights are used on the engines of the said Railway when the trains run at night ?
- (h) Whether that light is sufficient for running a train ?
- (i) Whether Government think it dangerous for permitting the Tezpur-Balipara Railway authorities to run trains at night with insufficient headlights ?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI
replied :

121.(a)—The Senior Inspector proposed to recommend the closing down of the Railway, but it has since been agreed to keep the Railway open complying with essential minimum requirements.

(b) & (c)—This is a matter for the Railway Board and the Government of Assam has no say in it.

(d) & (e)—Government have received no complaints.

(f)—According to the Eastern Bengal Railway Time-table 17.54 on Saturdays and Sundays and 17.35 on other days.

(g)—Government has no information.

(h)—Government has no information.

(i)—The matter has not previously been brought to the notice of Government. In any case Government have no control over the Railway.

Srijut OMEO KUMAR DAS: In answer to question 121(a), it is stated "the Senior Inspector proposed to recommend the closing down of the Railway, but it has since been agreed to keep the Railway open complying with essential minimum requirements". Will Government please state what was the ground on which the recommendation was made ?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: I have already said on a previous occasion that this is a confidential document and I am not prepared to disclose it.

Srijut OMEO KUMAR DAS: Was it not for the defects in the line that the Senior Inspector recommended the closing down of the Railway ?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: I say this being a confidential document, I cannot disclose it.

Srijut OMEO KUMAR DAS: Do Government mean to say that they have no control over this Railway ?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: It is under the Railway Board. The Central Government has control over it, not the Assam Government.

Babu RABINDRA NATH ADITYA: Why is it a confidential document ?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: The correspondence passing between different departments of the Government which

refers to matters which are not to be put before the House, I describe a confidential.

Babu RABINDRA NATH ADITYA: Will it jeopardise the Government position if the document is divulged?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: We are not free to place any document before the House that we receive from the Government of India.

Babu RABINDRA NATH ADITYA: What is the reason?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: That is the convention.

Srijut OMEO KUMAR DAS: Has not the Government of Assam any relation with the Central Government and will not the Assam Government direct the Central Government in regard to the control of this Railway?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: Sir, the Railways, as is well-known, are under the Central Government. We have no control over the Tezpur-Balipara Railway. So instead of referring the matter to this Government, the hon. member should refer it to the Advisory Board through the representative of this House who belongs to the hon. member's party.

Srijut GAURI KANTA TALUKDAR: Is it not the duty of this Government to bring the matter to the notice of the Central Government when it is pointed to this Government that the conditions of certain railways are dangerous to the lives of passengers?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: It has not been brought to their notice because we have no information whether it is dangerous or not.

Srijut SARVESWAR BARUA: Will Government enquire?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: We have no objection, Sir.

Srijut OMEO KUMAR DAS: Are not Government receiving complaints of passengers regarding the want of sanitation and light in the carriages and are they trying to remove the inconvenience?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: As I said, the proper forum is the Advisory Board.

Srijut OMEO KUMAR DAS: Will the Hon'ble Minister bring it to the notice of the Advisory Board?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: Srijut Mahadev Sarma who belongs to the hon. member's party is a member of the Advisory Board and the hon. member may refer this matter to him.

Srijut OMEO KUMAR DAS: Has this Government got no responsibility in the matter? Why are they so indifferent?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: We are not indifferent.

Srijut OMEO KUMAR DAS: Then why do the Government not undertake to remove the grievances?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: Because the Advisory Board is the appropriate machinery for this.

Srijut OMEO KUMAR DAS: If the machinery does not work, will not Government undertake to remove the grievances themselves?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: It is the function of the Central Government.

Mr. BAIDYANATH MOOKERJEE: It is simply an advisory body. They can only recommend. Does the Hon'ble Minister mean to say that all the recommendations of the Advisory Board are accepted?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: As I said so many times, this Government has no control; the matter is under the control of the Central Government.

Mr. BAIDYANATH MOOKERJEE: Then why is the Hon'ble Minister putting all the responsibility on the shoulder of the members of the Advisory Board when he does not know that?

Srijut OMEO KUMAR DAS: He is only shirking his responsibility.

The Hon'ble the SPEAKER: The point of view of the Hon'ble Minister is that, the hon. member should tell the Government first that the matter was placed before the Advisory Board and that they have failed to do anything towards removing the grievances now complained of. But is the hon. member in a position to say that the Advisory Board took up the matter and that they have failed?

Mr. BAIDYANATH MOOKERJEE: Is that the position, Sir? I want to know from the Hon'ble Minister.

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: I have said them, Sir, that it is the function of the Advisory Board to consider these matters about the convenience of the travelling public and there is a member representing that Board from the hon. member's party who can present this thing there and moreover this is a department over which the Provincial Government has no control.

The Hon'ble the SPEAKER: I think I also gave a ruling on a previous occasion about a matter of this kind which came up to be discussed on the floor of the House and which related to local grievances in the matter of railway administration. I remember to have said then that the Advisory Board was the proper authority to be approached first through the representative of this House on that Board and that if the Advisory Board failed, then the hon. members have a right of interpellation in the House.

Mr. BAIDYANATH MOOKERJEE: But the pity is, Sir, that the meetings are not always called in time. I am a member of the Assam-Bengal Railway Advisory Board, but we have not received any notice for a meeting.....

The Hon'ble the SPEAKER: That may be a grievance and that may be brought to the notice of the authorities concerned.

Mr. BAIDYANATH MOOKERJEE: Sir, when I questioned regarding the consideration of this report and the recommendations made by the Chief Inspector of the Railways, the reply was that it was under consideration. What was the consideration given, Sir?

The Hon'ble Maulavi ABDUL MATIN CHAUDHURI: Due consideration was given to the report and therefore it was since agreed that the recommendations should be acted upon.

Adjournment motion for evicting Miri people from Gorumara in Dibrugarh subdivision.

The Hon'ble the SPEAKER: Order, order. I have got a notice of an adjournment motion* from Mr. Karka Dalay Miri. As I read the motion, I do not think that he being still a member of the Government Party could bring this forward against the Government. However that may be, this motion will stand over for to-morrow.

*Srijut KARKA DALAY MIRI to move:—
 "This Assembly do now adjourn to discuss a definite matter of urgent public importance of recent occurrence, to wit the alarming situation that has arisen out of Government action to drive out the Miri people from Gorumara in Sissi Mouza, Dibrugarh subdivision, and cancelling pattas of Miris and Deuris occupied land in Bahgara and Dhunaguri sheets in Bihpuria Mouza, North Lakhimpur."

Re release Political Prisoners in Assam

Mr. ARUN KUMAR CHANDA : May I have your permission, Sir, to pursue a few questions which were put to the Hon'ble Leader of the House by my Leader about the release of the political prisoners and particularly the members of the Assembly who are in jail. I am sure the House will appreciate our anxiety in the matter, Sir, as we are so much agitated over it. May I request the Hon'ble Premier to make a statement on this subject, Sir ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Mr. Speaker, Sir, I am in some difficulty. We have not received any official intimation from the Government of India. I have no knowledge of it beyond the United Press report which I saw.

Mr. ARUN KUMAR CHANDA : It is unfortunate, Sir ; but what the press report says is that discretion has been left to the Local Government in the matter of releasing our Satyagrahi prisoners.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Sir, as soon as I see the official order, I will formulate my decision and I hope this will satisfy my hon. friend.

Mr. ARUN KUMAR CHANDA : Sir, the United Provinces Government have already released their political prisoners and in the circumstances would it be going out of the way if the Hon'ble the Leader of the House made a reference to the Government of India in the matter ? The Government of India might have forgotten Assam as usual (*Laughter*).

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Sir, they have not forgotten Assam and we have not received any telegraphic communication.

Mr. ARUN KUMAR CHANDA : But will it be going out of the way Sir, to move in the matter on your own initiative ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Will it not be better, Sir, to wait upto to-morrow and see if anything comes by to-morrow's mail ?

Srijut PURNA CHANDRA SARMA : Can they not be released, Sir, without waiting for the order ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : I cannot do that without seeing the order, Sir.

Mr. ARUN KUMAR CHANDA : Was not this Government consulted by the Central Government before they arrived at this decision, Sir ?

The Hon'ble the SPEAKER : Does it arise from the question the hon. member first asked ?

Mr. ARUN KUMAR CHANDA : May I hope, Sir, even at the risk of swelling the Opposition, the Hon'ble the Leader of the House will take the promptest steps towards the release of the M. L.A. prisoners ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : No, Sir, I am not afraid of that.

Arrangement of business of the day

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Mr. Speaker, Sir, it has been brought to my notice by the Secretary, Legislative Assembly that unless we take item No.4, *i.e.*, the Assam Court of Wards (Amendment) Bill, 1941 before we take up any other item, it will not be possible to finish this non-contentious Bill. Therefore, Sir, item No.4 may be taken up and discussion on item No. 2 might come after that because items Nos.2 and 3, *i.e.*, the Assam Agricultural Income-Tax (Amendment) Bill, 1941, and the Assam Debt Conciliation (Amendment) Bill, 1941, are only for reference to a Select Committee whereas item No.4 is that the Bill be taken into consideration and that the Bill be passed.

The Hon'ble the SPEAKER: Yes, I see the point. With a view to expedite business it is better to take up item No.4. I presume that it will be a non-contentious Bill and it will be indeed convenient if this Bill be taken up and the motion for taking that Bill into consideration is passed to-day so that the hon. members may have time to put in amendments, if any. I therefore see no objection to taking up item No.4 before we begin the debate which is going on on the Assam Agricultural Income-tax (Amendment) Bill. So I will call upon the Hon'ble Srijut Rohini Kumar Chaudhuri to make the necessary motions.

The Assam Court of Wards (Amendment) Bill, 1941

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Mr. Speaker Sir, I beg to introduce the Assam Court of Wards (Amendment) Bill, 1941.

(The Bill was introduced)

The Hon'ble Srijut ROHINI KUMAR CHAUDHURI: Sir, I beg to move that the Assam Court of Wards (Amendment) Bill, 1941 be taken into consideration.

Sir, the reason for introduction of the Bill has been clearly stated in the Statement of Objects and Reasons at the foot of the Bill. The hon. members of the House will remember that this House has passed the Assam Court of Wards (Amendment) Act, 1937 and incorporated therein section 10c in order to give protection to properties of certain indebted estates the charge of which was assumed by the Court of Wards. Now section 10C(1) runs as follows:—

“Where any property is in charge of the Court of Wards no Civil Court shall execute any decree or order against the person or property of the Ward within four years from the date of the commencement of the Assam Court of Wards (Amendment) Act, 1937, or from the date of the assumption of charge of the property by the Court of Wards, whichever is later, and for seven years thereafter if the interest due under such decree or order be paid in full every year during the said seven years.”

Now, Sir, recent decisions of the High Court have laid down that the expression ‘Civil Court’ used in this section does not include the High Court. On account of that decision many estates which are in need of protection will be deprived of that protection unless we insert in an amended Act the definition of ‘Civil Court’. So here in this Bill we have so defined the expression ‘Civil Court’ as to include the High Court also. Definition runs as follows:—

“Civil Court includes the High Court in Calcutta in the exercise of its ordinary and extraordinary civil jurisdiction or its civil appellate or revisional jurisdiction”. That is the one important change of the old Act which was very much needed. With these words, Sir, I commend my motion for the acceptance of the House.

The Hon'ble the SPEAKER: Motion moved:

“That the Assam Court of Wards (Amendment) Bill, 1941, be taken into consideration.”

(After a pause)

The question is:

“That the Assam Court of Wards (Amendment) Bill, 1941, be taken into consideration.”

The question was adopted.

The Hon'ble the SPEAKER: The last date for receiving amendments to this Bill is the 6th December, before 3 p.m.

The Assam Agricultural Income-tax (Amendment) Bill, 1941

The Hon'ble the SPEAKER: The House will now proceed with the debate on the Assam Agricultural Income-tax (Amendment) Bill, 1941.

Mr. A. WHITTAKER: Mr. Speaker, Sir, yesterday the Hon'ble Prime Minister, as the Member of Government, gave his views as to how from the administrative side and also from the Government side this Bill was regarded. As a layman and also as a representative of the tea industry, I should like to put the views of this industry as briefly and as simply as possible.

This Bill is a very comprehensive measure. Comparing it with the original Act, I think, this Bill is more difficult than the parent Act. It follows fairly closely a similar Bill introduced in the Bengal Assembly, and, these Bills if passed will give Eastern India in 1942 one common form of taxation. I should like to explain the policy which this Group proposes to adopt in considering this Bill. Our main plank is that the provincial scheme of taxation should as far as possible follow that already in existence since 1922 in the Central scheme of taxation, and for this there are two substantial reasons. Income-tax, whether that is levied on agricultural or on non-agricultural income, is really one tax. Under the present Government of India Act, industrial income falls in the field of Central taxation whereas agricultural income falls in the field of provincial taxation. But in reality, Sir, these are both one and the same tax. It is a matter of convenience in the distribution of revenues that there is this division between the province and the Centre, but in effect the principles governing both fields of taxation are the same.

Our second reason, and it is an important reason, for asking that the similarity between the Central and provincial taxation should be maintained, is the very fortunate fact that the Central taxation takes 40 per cent. of the gross income from the tea industry leaving 60 per cent. to be assessed by the province. All of us who pay income-tax know how very relentlessly and efficiently the Central Taxation Administration collect their tax. In course of years, they have acquired a technique which extracts the uttermost pie of tax. Our contention is, therefore, that if 40 per cent. of the income from the tea industry is assessed by this extremely relentless and rigorous administration, it follows that the remaining 60 per cent. must have been equally accurately assessed. Therefore the saving in trouble and expense by having the Central staff in effect the agents of the provincial Government, is enormous. It makes agricultural income-tax in this province without question the cheapest form of taxation to collect and equally, Sir, does it save every assessee from harassment. In 1940-41, as one can learn from the statement laid on the table on the first day of the Assembly, the province of Assam collected 47½ lakhs of agricultural income-tax at the cost of Rs.30,000; in other words, Sir, the province collected this tax at the cost of 0.6 per cent. I think, Sir, that proves my point. So long as we can make use of the Central system and the Central agency, this tax is going to be the cheapest form of taxation that the province is ever likely to impose. And it is for these two main reasons, Sir, that we welcome a Bill which will establish the structure of the provincial tax on the same basis as the Central tax. In these respects, this amending Bill puts right a number of difficulties which practical administrators have discovered. There are gaps in all financial Acts; it is no discredit to have this amending Bill within 2½ years of the passing of the old Act. In fact, in most countries the more complicated the system of taxation, the more regular are these amending Bills,

From the point of view of the assessee the most important provision in this Bill is that his rights as well as his liabilities are clearly defined in the body of the Bill itself. It is over two years now since the parent Act was passed and it has proved impossible to frame satisfactory rules in such important matters as refunds. These matters are now quite clearly set forth in the Bill for every assessee to see and to ponder, and for some assessees to sorrow over. But the most interesting point in this new Bill is the novel clause, clause 31, proposed section 39D. This clause marks a new departure, as far as I am aware, in the matter of taxation in that it sets a limit for refunds. If refunds in any two successive years exceed 20 per cent. of the yield of the tax, Government are empowered by notification to scale down these refunds to 20 per cent. Once you fix a limit, Sir, in such terms, more accurate budgeting by the Finance Minister at once becomes possible, and much more accurate budgeting than any that has been the feature of the last two years. Since 1939, no assessee from the tea industry has received any refund because no complete refund rules had been framed.

I venture to think that the Tea Industry can reasonably claim to have exercised considerable patience in this matter.

The speeches of members of this Group at the time of passing of the parent Act were severely criticised in this Assembly. The criticisms were perhaps misconceived, but I do not wish to argue about that point now. I do wish however to refer to the actions of the Tea Industry in proof of their good faith. In two successive years, as you will see from the budget statement, the tax assessments throughout the Tea Industry had been late. In order to assist Government, the tea concerns, many of them, have paid their tax in anticipation of the assessment, and have received the thanks of the Finance Minister for so doing. I hope, therefore, that there will be no further mis-interpretation of this Group's attitude, but if there should be such mis-interpretation, I would request that we may be judged by our actions as well as by our words.

In the absence of the amending Bill and in the absence of any workable rules, the task of the Finance Minister in framing his budget during the last two years has been a difficult one. Not only did he not know what the yield of this tax was likely to be, but he did not know what amount he might be required to provide by way of refunds. Here I give the example of 1940-41. Thanks to these advance payments, the agricultural income-tax collected amounted to Rs.47 lakhs. As hon. members will see from the financial statement presented by the Prime Minister, this unexpected yield of tax changed the deficit for 1940-41 into a large surplus. In fairness, therefore, to the Finance Minister, I think those members who based their criticisms of Government policy on the estimated deficit, should now consider whether the sharpness of their criticism was fully justified. If the Finance Minister considers that my own criticism of his budget proposals in 1940-41 relied too much on the deficit, I cheerfully withdraw that part of my criticisms.

It would appear, however, from yesterday's discussions of one particular item in this Amendment Bill, *viz.*, the Dominion income-tax relief, that there is a real misunderstanding of the position. Yesterday when I tried to explain how I believe the Dominion income-tax relief would work in this province, I think certain members of the Opposition considered me to be a conjurer. There was no trick about the cases quoted, as I took the earliest opportunity of referring those examples to the two experts who

live in Shillong, *viz.*, the Central Appellate Commissioner of Income-tax and the Government of Assam's Special Officer, both of whom confirmed—and I would ask members who seem mystified to accept this view that on the figures quoted, no cash relief fell to be given by the province of Assam. But that however is a small matter.

The Tea Industry is not asking for lakhs of rupees by way of refunds, as some members appear to suggest. It is asking simply that the Provincial scheme of agricultural income-tax shall run on parallel lines to the Central scheme of income-tax. Actually, in terms of cash, it is asking for nothing at present nor for many years to come, by way of Dominion income-tax relief. And when we talk of Dominion income-tax relief, may I ask that this subject be dealt with in its proper perspective? The Dominion income-tax relief is only one form of double taxation which this Bill deals with. In asking for all the principles of the Central income-tax to be applied to Assam, of which the United Kingdom reciprocal relief is only one, we are keeping to the logical position outlined at the beginning of my speech. The fact that this particular principle of Dominion income-tax relief costs Assam nothing is immaterial to my case. If hon. members are apprehensive that a new burden is being placed on the province of Assam, I ask them to accept my assurance that this is not so and it is not likely to be so, because of the very wide and enduring gaps between taxation in the United Kingdom and taxation in Assam and in India.

This Bill, Sir, far from throwing new burdens on Assam is actually relieving Assam of a very indefinite but expensive burden which the previous Government were prepared to shoulder.

I refer particularly, Sir, to the substitution of the "world income" test for "agricultural income" test as the basis for calculating refunds. By that single substitution, the Assam Government will save themselves a large, though I cannot say how large a sum. It will be folly to prophesy what will be the amount which will have to be refunded in a normal year. In the last budget, the Assam Government indicated that they have made a provision for 6 lakhs for refunds on the assumption that the total yield of this tax was 28 lakhs. I am not a financial expert, but such calculation as I have been able to make suggests that it is extremely doubtful whether refunds will amount to anything like the sum of 6 lakhs already provided.

To sum up, I can and do congratulate Government on bringing forward this comprehensive measure which, whilst maintaining and even increasing the yield of the agricultural income-tax, will show assesseees just where they stand. And those of us, who may have been impatient at Government's delay in bringing forward this Bill, must admit, having seen the Bill and the difficulties of drafting, that the Bill is some evidence in justifying the delay, and I may add, justifying the assesseee in some of his criticisms.

Detailed criticism is better left for the Select Committee; but I hope that in order to improve this agricultural income-tax administration, members from the Opposition will consent to serve on the Select Committee. In my view, agricultural income-tax may become one of the bulwarks of provincial finance. This tax can be collected, as I have shown, with the very minimum amount of harassment and expense and, if the admitted defects of this Bill and the parent Act can be removed by this Assembly—as I believe, they can, Sir,—I can assure the House of the continued co-operation of the Industry which pays over 90 per cent. of the total yield.

I too have certain criticisms to make on some provisions of the Bill, but none of my criticisms are designed to reduce the nett amount which will accrue to the provincial exchequer. They are designed, however, to make this Act into a model piece of legislation. If I may make use of one of Mr. Winston Churchill's phrases "if the Assembly will give us the tools, Sir, we will finish the job." (*Applause.*)

Srijut GAURI KANTA TALUKDAR: Mr. Speaker, Sir, I rise to oppose this motion. As far as I have been able to understand, the main object of this Bill is to upset the considered and deliberate opinion of this House which was arrived at while passing the Assam Agricultural Income-tax Bill in 1939, namely, regarding the question of relief to be given to the European Planting community in respect of their double taxation in their Home country as well as in this country.

Now, Sir, this question seems to be the most important factor in the present Bill and other provisions in my opinion are insignificant. The principal object of the Government for introducing this Bill seems to be to appease the European group and to keep them content, because they are the main prop of this Ministry. Sir, we have discussed this question of giving relief to the European Planting community against the grievance of double taxation at the greatest possible length on the floor of this House. And we have rightly decided that the aggrieved persons should seek relief in their Home country. Our present Hon'ble Premier and most of his colleagues opposed this decision of the Congress Ministry and supported the European group—but failed hopelessly. Now that they have come to power, they are trying to undo that decision regardless of the heavy loss of income to the public exchequer. But they have not been able to give any cogent and convincing reason for upsetting the decision of the House.

Sir, this question of giving relief against the grievances of double taxation has been discussed not only in this House, but it has also been discussed fully by the Government of the United Kingdom in consultation with the Governments of the Dominions. The Royal Commission that was instituted by the Government of the United Kingdom in 1919 discussed this question threadbare and ultimately they came to the conclusion that the relief should be sought in the Home country instead of in the place of business.

Sir, all other Dominions have refused to agree to give this relief against double taxation. But poor India! she is helpless and so her white masters have made her agree to this unjust and unconscionable demand. And provisions have been made in the Central Income-tax Act which make India to give this princely European Community the relief for which she is not liable under any code of morality.

Now, Sir, the contention of our hon. friend, Mr. Whittaker, is that our Agricultural Income-tax Act, namely, the Assam Agricultural Income tax Act, should also be brought in line with the Central Income-tax Act. May I ask my hon. friend, why the British Dominions have not thought it fit to incorporate these provisions for giving Dominion relief in their statutes?

Mr. A. WHITTAKER: Does my hon. friend know that South Africa and even Australia grant Dominion Income-tax relief?

Srijut GAURI KANTA TALUKDAR: I do not know the present state of affairs in these two Dominions; but at the time when the Indian Income-tax Act was passed, the Dominions did not agree to provide for giving Dominion Income-tax relief. What I want to say is that, because

we are helpless and because India has got no capacity to assert her wishes such provisions for giving Dominion relief have been imposed upon her by the Central Income-tax Act. Should we make this coercive action of the British Government a guiding principle for this House?

Sir, even from the point of view of justice and morality, our friends of the planting community have no good claim for Dominion, rather Dependancy, relief here. If a searching enquiry be made, it will be found that the capital which they have invested in this province has already been realised. They have got back more than 150 per cent. of their capital invested and they are now practically working with the profits they have made out of their capital. Now, Sir, what amount of the profit, which these gentlemen derive here, is retained in this province? The lion's share of the profit, that is earned here, goes to the United Kingdom. They purchase almost all of their necessary things from England; they import some of their foodstuffs even from Home and very scarcely do they spend their money upon Indian goods and seldom do they invest their money here which might do some benefit to the people of this province. That being the case, Sir, how can these gentlemen rightly demand this relief here?

Then, Sir, when all the Dominions refused to give them such unreasonable concessions, the British Government had to make provisions in their Finance Act of 1930, section 27, sub-clause (4), by which the relief against double income taxation has to be obtained from the Government of the United Kingdom. When there exists such a provision, when from the point of view of justice and fairplay the United Kingdom cannot deprive this province of its due share of income-tax why our friends, if they feel aggrieved, do not seek relief in their Home country? The labourers in the tea plantations are the poorly-paid Indians and they never get a due share of the huge profits the capitalists make there. Sir, the poorly-paid Indians, who work so hard as clerks or assistants, are also denied proper share of their dues. All these facts amply justify the taxation that has been imposed by the Assam Agricultural Income-tax. And it is not just and fair to indirectly deprive the province of its due share of these profits made in their country mainly with the labour of the children of the soil.

Now, what I have been able to understand from the arguments of hon. Mr. Whittaker yesterday is that the rates of income-tax of the United Kingdom are very high and that it will be so for a pretty long time because the war is there. And since the rate of income-tax in Assam is very low, the difference will always be very considerable. That being so, we need not be afraid that in the near future we will be required to make any refund on the ground of double taxation. That consolation, Sir, cannot satisfy us.

If my hon. friend's contention be correct, there is no chance of his getting any refund or any other relief. What is then the use of this indecent haste for amending the Act and for incorporating provisions for Dominion relief and to set aside the considered decisions of this House which were arrived at only in 1939.

So, Sir, as I have already said, the main object of this Bill is to satisfy the gentlemen of the European Planting community who, unfortunately could not be satisfied during the time of the Congress-Coalition Ministry,

and they are now trying to take this undue advantage finding that their friends have now come to power. They want to take this advantage counting upon the weakness of some of the representatives of the people in this House. I earnestly believe that this move ought not to have come from the direction from which it has come. They ought to have been good enough to make some sacrifice, though in reality it is no sacrifice; they ought to have felt for the people of this country and they should not have tried to deprive the people of the soil of their dues.

Sir, as I have already said, Sir Muhammad never dreamt of taxing the Planters. He opposed the proposal as best as he could. Now that the piece of legislation has been passed by the Congress Ministry, he is trying to frustrate it by all those indirect means. Now let us see, Sir, how the little money that this Agricultural Income-tax Act earned for the province is being spent by the present Ministry. This money, derived from the rich, was meant to be spent for the benefit of the poor masses. But the way in which it is being spent is simply painful. Posts after posts are being created, offices after offices are being opened without caring to consult the members of this House and regardless of the fact that the provincial budget is running deficit year after year. It is most interesting to find the Hon'ble Premier, who is a passed master in the art of creating Government salaried posts and costly offices, pleading before this House his inability to provide a few thousand of rupees for satisfying the public demand for resorting the census figures of the population according to religion, but at the same time asking this House to agree to give refunds to a small group of Planters to the extent of many lacs of rupees. We have been told that we need not be afraid, because this Bill will not affect us even long after the close of the present war. If this Bill does not affect us, if it does not affect you, if it does not affect the European group, why not then wait for the time when the war will be ceased, when the rate of Income-tax of the United Kingdom will fall and then bring up this matter for consideration? Hon. Mr. Whittaker has said 'you need not be afraid Assam'—why then are you so anxious for these amendments? Why not wait and see the result of the war, and also see the rise or fall of the income-tax rate in the United Kingdom?

So, Sir, from whatever point of view the matter may be viewed, it is perfectly clear that the attempt is simply to do away with the little beneficial act which the Congress Coalition Party did in this House. The question need not be mooted again, because it has been discussed threadbare. From the statement of objects and reasons, nobody will be able to find out what really is the significance of this Bill (*hear, hear*). Yesterday some members were compelled to ask hon. Mr. Whittaker and the Hon'ble Premier as to the real significance of some of the most important clauses in the Bill and how the people will be affected; but from the halting arguments and explanations that were given, one's suspicion regarding the real object of this Bill is bound to be deepened.

Sir, I think, it is my duty, as a representative of the people, that I should oppose this Bill at this early stage, and instead of wasting money of the Government by sending this Bill to a Select Committee, it should be rejected at once and buried at the earliest opportunity.

Mr. BAIDYANATH MOOKERJEE: Mr. Speaker, Sir, I shall follow in the foot-steps of the Hon'ble Prime Minister and I shall begin with the objects and reasons of the Bill. Sir, it has been stated in the statement of objects and reasons that the Indian Tea Association, who had

opposed the original Bill and from whom the greater part of the tax is realised, pressed for the inclusion of these rights and liabilities in the body of the Act so as to bring it into line with the provision of the Central Income-tax Act, by which a part of the income of the tea companies is already taxed, and the Bengal Agricultural Income-tax Bill, which has been subsequently introduced in the neighbouring province. I appreciate the Hon'ble Prime Minister's anxiety to meet the demand of the Indian Tea Association in view of the fact that they are worst hit by this Act. May I take it that this will remain the principle and policy of Sir Muhammad, namely, to take into sympathetic consideration of the demands of persons affected by any legislation? In that case, Sir, I would certainly expect Sir Muhammad will take into his consideration landlords' demands in the same manner as now in relation to the passing of various tenancy legislations which are coming up before the House one after another like a well-planned *blitz* directed against the landholding classes. I think, Sir, that to be fair, the Hon'ble Premier will consult the Zemindars who are also hard hit when the legislation relating to the permanently-settled areas are brought before the House.

Sir, it has been said that to be in line with the Central Government, Income Tax Act as well as the Bengal Agricultural Income-tax Bill, Government have come before this House with this Bill. Now, Sir, nobody knows what the fate of the Bengal Bill is going to be and what shape will be finally given to the Bill by the Legislature. Without seeing how it emerges finally from the legislative anvil, it would be ridiculous to say how this Bill could be brought into line with Bengal.

Sir, Sir Muhammad is very just and fair and his countrymen know it. Still his anxiety is undiminished to show that he is very fair and just. He must, therefore, be alert that his countrymen do not evade income-tax and he has, therefore, brought up certain provisions to be incorporated in the Bill in order to prevent the wicked Hindus from evading the income-tax in cases of succession and after partition of Hindu undivided families. But the original Act had given Government power to frame rules on the strength of which such evasions could be checked and are being actually checked. Likewise, States and outsiders, by which term I mean those who live outside the province and have got their property in this province, could be easily dealt with under the rules as there is already a provision in the Act that the income realised from the lands situated in the province of Assam will be taxed. In that case it does not matter where the owner of these lands resides.

Sir, the Hon'ble Premier may think that an evil thinking person like myself, as he always thinks me to be, will impute some motive or other to him. But I do not like to do so. I shall simply place the facts before him and I am confident that I shall be able to convince him that there is no necessity for bringing this Bill before the House at present.

Now, Sir, I shall deal with the clauses. Only a few clauses of this Bill I shall touch upon.

Clause 3 of the Bill.—This point was touched by my hon. friend Mr. Whittaker. I shall deal only with that portion of the clause which was not dealt with by him. He has already said that this agricultural income-tax can be realised with the minimum cost if our work is done in collaboration with the Central Income-tax Officer. But here in the Bill we find that we

have already got an Appellate Assistant Commissioner. Before his appointment, this point was discussed on the floor of the House and it was decided by majority that we needed one such officer only and accordingly the provision was made. But in this clause I find that an Inspecting Assistant Commissioner has also been defined. So it naturally occurs to me that it may be that a new post is going to be created. Otherwise, these two officers could have been combined together and this could be defined accordingly.

Next I shall come to clause 8 proposed section 8A. Sir, it is well-known to this House that Sir Muhammad shed tears out of fear that this legislation might adversely affect the poor cultivators. But statistics have proved the fear to be false. But now the same Sir Muhammad is taking a step by which he will tie a wife and children round the neck of a man for the purpose of inflating his income so that it might become assessable. According to him then, this was an obnoxious taxation measure. But he is now trying to bring the ordinary man under the scope of this legislation. In support of my contention, I shall read out a certain portion of his speech which he delivered when he was opposing this Bill in the Joint Session. It runs thus: "Sir, I advanced some of the arguments why I opposed this Bill at the time when it was discussed in the Assembly in the last March-April session. Ever since, I have considered it further and I am strengthened in my opposition to the Bill for a variety of reasons, some of which I will lay before the House now. In my opinion, whatever may be the case of the permanently-settled areas, a tax on agricultural income is the most obnoxious form of taxation for the temporarily-settled areas. Our revenue system is based upon a very old one that was in vogue at the time of *Ayini Akbari*, i.e., the State demands a certain percentage of the produce and this demand is to be made not in kind but in cash". Then, Sir, afterwards he remarked, I would not read the whole but only the relevant portion; he said, "I would have been very glad if my learned friend"—by that he meant Mr. Lahiri of the Upper House—"had asked the Ministry to frame the Bill in such a way that not a single peasant, not a single raiyat, would be brought under the operation of this Bill". May I ask what has he done with regard to that sentiment? He apprehended that the peasants and the raiyats would be affected. Now I think he is convinced that they will not be affected. But why the inclusion of this clause? Is it to bring the ordinary raiyats under the purview of this Act or has he got some other motive? It is not clear. While introducing the present Bill, the Hon'ble Premier touched only upon two or three clauses of the present Bill, but he conveniently left out the others. However moreover he said "Therefore, I say.....that this Bill will not be to the benefit of the country at large. Apart from the fact that raiyats whose agricultural incomes do not exceed Rs. 3,000 a year all the other raiyats will be taxed. There is no gainsaying that fact, and therefore to that extent the people will be burdened with further taxation, although we had the assurance from the Ministry that there will be no increase to the burden of taxation".

Then again, Sir, he said, "As Government has kept this loophole of taxing the ordinary cultivator, they will be compelled to reduce the limit of exemption to a ridiculous figure. We have had experience of that from the Central Government. They reduced the exemption to Rs.1,000 whereas for 50 years it has been Rs.2,000 for some time. In the event envisaged, our poor cultivators will be seriously handicapped and they will be burdened with further taxation. This aspect of the question shall have to be taken into consideration." May I ask him whether he himself has to be taken kindly taken into consideration this aspect of the question? Further he

said, "I wonder whether my hon. friends have considered the implications of this Bill in these lights. If they have not, it is for them to consider them in view of the facts and figures which I have given. Even now my opinion is that all our middle class peasantry will be brought under the operation of this Act as the industrious peasants who grow more than one crop from their fields cannot but derive an income of Rs. 3,000. I have known quite a big percentage of peasantry who have got 50 Bighas of land as their holding and I have also known and it is in the experience of every member here that such cultivators grow paddy, jute and also winter crops, such as mustard, linseed and some other crops. I am told that in the average, the yield per Bigha is in the neighbourhood of 7 maunds of jute. I will take 5 maunds to be the average. Then 50 Bighas will produce 250 maunds of jute, and if the average price fetched is Rs. 5 then the yield from that 250 maunds would be Rs. 1,250. Add to that the paddy cultivation. Of that my Hon'ble friend, the Finance and Revenue Minister, who himself is a big Zamindar knows better and there can be no gainsaying the fact that from that 50 Bighas of land the yield from paddy would be much more. Therefore the opposition, at least, from this group, and if my hon. friend will bring a fresh Bill exempting the ordinary cultivators entirely, I can assure him of the support from this side of the House."

Sir, here it was clearly shown why he opposed the original Bill. But what do we find now? Has he made any provision in this amending Bill whereby he can prove that he has eliminated some of these cultivators for whom he then cried hoarse? We find now that he is going to tax them by introducing a clause in the Bill instead, so as to bring those also who are not at present to pay the tax within the mischief of the Bill.

Now, Sir, I shall deal with clause 31, proposed section 39A(1)(c)—Calculation of refunds world-income basis. It runs like this:—

"Refunds admissible under clause (b) shall be calculated at the difference between the average Assam Agricultural Income-tax rate applicable to the agricultural income of the company, firm or other association of individuals, as the case may be, and the average Assam Agricultural Income-tax rate applicable to an amount equivalent to the total world income of the applicant, computed as in this section provided, in year in which he is entitled to receive his specific share of such agricultural income."

Sir, I think the very idea of bringing in the world income is very harmful. It will not only make matters complicated but it will also allow some people who are not natives of this province to get away without paying any tax, thereby making the people of this province losers. It was said by some hon. members that it would be inequitable to fix the rate of tax by taking the world income. Sir, will it be possible to check the world income of those who come into this province temporarily howsoever long but never permanently—I mean, the foreign birds of passage whose original homes are outside this province? I also think that it won't be proper to add the world income as well to this agricultural income so as to realise the income-tax at a higher rate which is really not due by the assesses.

Then as regards proposed section 39B(1)(a) and (b). Sir, it has been said both by the Hon'ble Premier and Mr. Whittaker that there is no chance of losing any money from the provincial exchequer for a long time to come and reasons have also been advanced in favour of those arguments. Now, Sir, if this Bill is a purely hypothetical one then I do not really find any justice in inserting this clause in the body of the Bill. Sir, we cannot

commit our finances to such a proposition without understanding their financial implications. If this reciprocity does not benefit us, why should we accept it? Who is offering it and who guarantees this benefit? To my mind, this is a clever trap to prepare the ground for the case of United Kingdom relief. Sir, in this connection, I think, it would be better on my part to revive a little history of this reciprocity affair in the House.

Khan Bahadur Maulavi KERAMAT ALI: That will be found in the speech of Mr. Fakhruddin Ali Ahmed when he introduced the Bill.

Mr. BAIDYANATH MOOKERJEE: Then it may be taken as read. What is the idea of the hon. member?

Khan Bahadur Maulavi KERAMAT ALI: To minimise time.

Mr. BAIDYANATH MOOKERJEE: Sir, the hon. member himself is taking up my time and he says that he wants to minimise time. On several occasions I sought for your protection, Sir from such interruptions from this hon. member.

The Hon'ble the SPEAKER: The hon. member should go on without minding the interruptions. Hon. Khan Bahadur wants that the whole extract may not be read.

Mr. BAIDYANATH MOOKERJEE: Certainly not, Sir. In the body of this Bill a reference has been made as follows:—

“in respect of the same part of his income, and that the rate at which he was entitled to, and has obtained, relief under the provisions of section 27 of the United Kingdom Finance Act, 1920”.

What is the significance of this may not be known to many hon. members. Even yesterday, Sir, I enquired of this Act from my hon. friend Mr. Whittaker, but he could not give me this.

Mr. A. WHITTAKER: On the contrary, Sir, I can give it to the hon. member. It is so complicated that it is scarcely worth his time. If he will turn to pages 289 to 291 of the Income-tax Manual, he will find this section quoted *in extenso*.

Mr. BAIDYANATH MOOKERJEE: Yes, Sir, yesterday I did not know of it. I enquired of it and did not get it. So there may be many hon. members and I think to throw proper light on this question it would be better if I read out some portions just by way of explaining the situation—

“The Indian Income-tax for the first time provided for double income-tax relief in section 49 of the Indian Income-tax Act of 1922, but where the law in force in any dominion makes no provision for the allowance of any relief in respect to United Kingdom tax further provision was incorporated in section 27 of the United Kingdom Finance Act, 1920.” The further provision is as follows:—

Proviso (b) to sub-section (4) of section 27 of the Finance Act, 1920—
“Where under the laws in force in any Dominion no provision is made for the allowance of relief from Dominion income-tax in respect of the payment of United Kingdom income-tax, then in assessing or charging income-tax in the United Kingdom in respect of income assessed or charged to income-tax in that Dominion deduction shall be allowed in estimating income for the purpose of United Kingdom income-tax of an amount equal to the difference between the amount of the Dominion income-tax

paid or payable in respect of the income and the total amount of the relief granted from the United Kingdom income-tax in respect of the Dominion income-tax for the period on the income of which the assessment or charge to United Kingdom income-tax is computed."

Now, Sir, there is already a provision from which my hon. friends who are affected as alleged may derive some comfort. Sir, the present rate in the United Kingdom is 8 annas per rupee and I think I am correct, and, here it is 10 pias per rupee. Now it was explained that when a refund up to the extent of 4 annas, i. e., 50 per cent. of 8 annas will be realised or refund will be given to our European friends here then we have got nothing to fear because even if our rate goes up to 4 annas they will get the relief direct from the United Kingdom. Now, Sir, one very pertinent question arises in my mind. Just to fall in line with the Central Income-tax and the Bill which is still on the anvil of the Bengal Legislature (i. e., the Bengal Agricultural Income-tax, Bill) if this Bill is before us, in that case shall I be wrong if I think that the Finance Act, which also is an annual Act, just to fall in line with the Central Government, will be placed in a revised form before us during the next Budget Session? Sir, it was also said by the Hon'ble Prime Minister yesterday that he got an assurance from a member of the Indian Tea Association or the representative of the Indian Tea Association to the effect that the deduction under no circumstances would be more than 20 per cent. Sir, may I enquire whether this assurance has got any value? Is Sir Muhammad or Mr. Whittaker or anybody of the Indian Tea Association a permanent fixture? When the Act is before the country it should go on according to the provision of the Act and not according to any settlement.....

Mr. A. WHITTAKER: On a point of information, Sir, might I suggest that no such assurance could have been given. What I think Mr. Mookerjee meant—and a fair way of putting it—is that the placing in subsection (2) of proposed section 39C of a limit of 20 per cent. for refunds would be whole-heartedly accepted by the Tea Industry which is quite a different thing. How can the Tea Industry attempt to give such an assurance? All I can say is that we support the Bill as it stands.

Mr. BAIDYANATH MOOKERJEE: Sir, I did hear about the word "guarantee" yesterday and I hope when Mr. Whittaker has raised this point the Hon'ble Prime Minister will make the position clear as to whether he mentioned about this guarantee or not.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Do you want me to do it now or you finish, I have made a note of it.

The Hon'ble the SPEAKER: What more time will the hon. member take?

Mr. BAIDYANATH MOOKERJEE: I have not finished even half, Sir.

The Hon'ble the SPEAKER: As the time is up, the House stands adjourned till 11 A. M. to-morrow.

Adjournment

The Assembly was then adjourned till 11 A. M. on Saturday, the 6th December, 1941.

SHILLONG:

A. K. BARUA,

The 15th January, 1942.

Secretary, Legislative Assembly, Assam.

ASSAM LEGISLATIVE ASSEMBLY
GOVERNMENT OF ASSAM

GOVERNOR OF ASSAM

His Excellency Sir ROBERT NIEL REID, K.C.S.I., K.C.I.E., I.C.S.

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