

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

THE ASSEMBLY met in the Assembly Chamber, Shillong, at 11 A.M., on Saturday the 20th November, 1943.

PRESENT

The Hon'ble Mr. Basanta Kumar Das, Speaker in the Chair, the ten Hon'ble Ministers and forty-two Members.

QUESTIONS AND ANSWERS

STARRED QUESTIONS

(to which oral answers were given)

Post-War Reconstruction Committee

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY asked :

- *20.(a) Will Government be pleased to state whether they propose to constitute any "Post-War Reconstruction Committee" as done in Bengal ?
(b) If so, when ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

20.(a) & (b)—Government have held a departmental conference and are considering their further action.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY: Have they already set up any Committee ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Up till now only the Departmental Heads sat together under my Presidentship to discuss what policy should be adopted and what plans should be framed in various departments to meet post-war situation. When all these are received, there will be a formal conference to which some Members of the Legislature will be invited.

UNSTARRED QUESTIONS

(To which answers were laid on the table)

Contract works under the Forest Department in Garo Hills

Maulana ABDUL HAMID KHAN asked :

38. (a) Will Government be pleased to state the total number of people who were given contracts under the Forest Department in Garo Hills District during the last one year in connection with war work ?

(b) Is it a fact that there has been delay in taking measurements and of making payments to the contractors ?

(c) Do Government propose to take early steps to pay the contractors as soon as the work is finished ?

The Hon'ble Maulavi MUNAWWAR ALI replied :

38. (a)—19 Contractors.

(b)—There was no delay.

(c)—In view of reply to (b) the question does not arise.

Fenchuganj Engineering Workers' Union

Babu KARUNA SINDHU ROY asked :

39. Will Government be pleased to state—

(a) Whether the Organisers of Fenchuganj Engineering Workers' Union applied to Government for registration of their Union three months ago ?

(b) If so, whether the Union has been registered ?

(c) If not, why not ?

(d) Whether Government are aware that one Mr. Kenedy, the Manager of the I. G. N. and R. S. N. Co. Engineering Workshop of Fenchuganj has been adopting co-ercive measures to break up the aforesaid Union

(e) Whether one Nazibali, a worker of the said Engineering Workers Union has been assaulted in August last by the aforesaid Manager or his Agent, for his sticking to the Union ?

(f) Whether one Nur Ali has been dismissed for giving evidence to the Police for aforesaid assault ?

40. Do Government propose to make proper enquiry about the aforesaid allegations against the authorities of the I. G. N. and R. S. N. Co. Engineering Workshop, Fenchuganj ?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY replied :

39. (a)—Yes.

(b)—The Fenchuganj Engineering Workers' Union was registered and a certificate of registration issued on the 16th October, 1943.

(c)—Does not arise.

(d), (e) & (f)—Government have no information.

40.—Does not arise.

Babu KARUNA SINDHU ROY : With regard to 39(e), will Government please enquire about the assault case ?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY : If the hon. Member takes the full responsibility for the facts of the case, we shall certainly call for a report.

Adjournment Motion *re* the alleged police atrocities in Sunamganj

The Hon'ble the SPEAKER : I have received notice of two Adjournment Motions ; the first is from Babu Karuna Sindhu Roy.

Babu KARUNA SINDHU ROY : Mr. Speaker, Sir, I beg leave of the House to move that the House do now adjourn to discuss a definite matter of urgent public importance and of recent occurrence, namely, failure on the part of Government to take drastic steps against the highhanded atrocities of the Police staff of Jamalganj Police Station in the Sunamganj Subdivision, committed in the Muslim village of Rangia on the 19th October 1943.

Sir, on the morning of Tuesday, the 19th October 1943, the Officer-in-charge of Jamalganj Police Station and his staff and his friend Jubedali Talukdar of Lakhmipur with his men ransacked the whole Muslim village of Rangia, plundering every paddy *gola*, rice *matkas* and pitchers, looting fowls, ducks, daos, carpentry tools, spades, goats and many other household goods including religious goods. The cruel atrocities were carried to extreme barbarism which includes even assaults and rough handling of women. News about this heinous deed reached me on the noon next day. I was contemplating to go to the place of occurrence next morning, but on the same night Rangia people came to me at 1 A. M., and roused me from sleep and narrated their sad plight. I decided to go next day to the place of occurrence. I went there and walked from one end of the village to the other and was horrified to see the scenes of destruction there. I then took statements, some of which I shall read out to the House.

The Hon'ble the SPEAKER : It is not necessary to read those statements now. The hon. Member may give the substance of those statements.

Babu KARUNA SINDHU ROY: I then wired and wrote letters to the Hon'ble Premier, the Inspector-General of Police, the Superintendent of Police, the Subdivisional Officer, Sunamganj, Maulavi Md. Maqbul Hussain Chaudhury and Maulavi Abdul Bari Chaudhury. Maulavi Abdul Bari Chaudhury replied that he would go to the place of occurrence on Thursday, the 28th October; he added that if Maulavi Md. Maqbul Hussain Chaudhury reached Sunamganj from Shillong by that time he would also take him. Both of them went there and they also walked from one end of the village to the other, and they remarked that it appeared that the administration had ceased to exist in that area at that time. The Magistrate was also there, and seven cases were instituted. Two cases are *sub judice*, but I am placing all other cases; there are 35 families and atrocities were committed on 30 houses.

The Hon'ble the SPEAKER: Did the hon. Member say that two cases were *sub judice*?

Babu KARUNA SINDHU ROY: Yes, Sir, but there are 35 cases. Atrocities were committed on 30 houses.

The Hon'ble the SPEAKER: Who started those cases?

Babu KARUNA SINDHU ROY: Two men from Rangia belonging to two families against whom atrocities were committed. I am placing all other cases.

The Hon'ble the SPEAKER: What is the substance of the complaints that were lodged before the Magistrate?

Babu KARUNA SINDHU ROY: The complaint is that the Sub-Inspector and his friend Jubedali Talukdar with his men went to their houses on the morning of Tuesday, the 19th October and arrested.....

The Hon'ble the SPEAKER: Did they complain about the oppression committed on them only or on the whole village?

Babu KARUNA SINDHU ROY: I am placing the other cases before the hon. Members of this House. If I read one or two statements from the other cases, the position would be clear to the hon. Members.

The Hon'ble the SPEAKER: I think this will do. I would like to hear the Hon'ble Premier whether he has any objection to the Motion.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Mr. Speaker, Sir, my difficulty is that the whole matter is *sub judice* now. I am sorry to hear of the alleged highhandedness of certain police officers, but the Police say that they are the aggrieved persons. There was an armed dacoity case under Jamalganj Police Station, and during the course of enquiry the police party went to this village Rangia. There the police party was assaulted by the village people during the course of the enquiry. On that the Police filed an *ejahar*, and a case was instituted, and there were seven counter-cases filed by the villagers themselves. This occurrence of the police party being assaulted took place on the 16th October. They immediately filed case No.157/43. Subsequently some seven complaint cases were brought before the Magistrate by the villagers. The Subdivisional Officer dismissed two of these and summoned the Daroga in one. An Extra Assistant Commissioner also issued summons in one case and dismissed 4 complaints. The complaints alleged that the police during the investigation looted belongings of the complainants and assaulted one of them in company with other persons, prominent among whom is one Jubed Talukdar. The allegation is that the Daroga is a friend of Jubed with whom complainants have disputes over leases and rent. The Extra Assistant Commissioner held a judicial enquiry and the Additional Superintendent of Police is now investigating the police case. I think, Sir, it is obviously an improper matter for an adjournment Motion when all those cases are under investigation by a responsible police officer, namely, the Additional Superintendent of Police and also by a Magistrate. I can give this assurance to my hon. Friend that whatever may be the outcome of the judicial enquiry I will take steps to have a departmental enquiry. I received a telegram on the 23rd October from the Mover and I immediately took action. This is the report that I got.

Babu KARUNA SINDHU ROY: I also wrote a letter to the Hon'ble Premier confirming the telegram.

The Hon'ble the SPEAKER: The whole matter is *sub judice*.

Maulavi ABDUL BARI CHAUDHURY: May I be allowed to say a few words on the subject, Sir ?

The Hon'ble the SPEAKER: Yes.

Maulavi ABDUL BARI CHAUDHURY: Only two instances have come before the Court. The Hon'ble the Premier has combined the two incidents into one. It is not so. Some three days earlier the Sub-Inspector of Police had been to the spot in connection with a dacoity case. There was a small incident at that time. Our information is that there was a conflict between the officer and some villagers. In course of that conflict an Assistant Sub-Inspector received some injuries.

The Hon'ble the SPEAKER: The same day ?

Maulavi ABDUL BARI CHAUDHURY: No, Sir. After some three or four days of this incident the police party sought permission of the Subdivisional Officer for armed force and on that particular day some Gurkha police were deputed. With the help of those police, the Sub-Inspector and some constables had been to the village and there was looting, assault and all sorts of high-handedness as alleged by the hon. Mover.

Regarding the matter whether this is *sub judice* or not, I submit, Sir, there were innumerable instances of hardship and from investigation we found that 35 houses were in distress. Most of the people were assaulted and their houses were looted. Two instances only came before the court.

The Hon'ble the SPEAKER: Why did not the other people go to court ?

Maulavi ABDUL BARI CHAUDHURY: They are too poor. The Hon'ble Prime Minister has already given an undertaking that he will look into the matter, but I must say that the matter is not *sub judice*.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Actually 7 complaint cases were filed and the Magistrate summoned two and dismissed the others. In one case the police officer has been summoned.

Maulavi ABDUL BARI CHAUDHURY: Only 7 out of 35 but there were other instances of assault. What about them ?

The Hon'ble the SPEAKER: Even then, the complaints have been dismissed and the complainants have a right to file revision petitions to the Sessions Judge. In that view the whole matter is *sub judice*. The time for filing revision petitions is not yet over. Unless the whole thing is finally disposed of, I am constrained to think that the matter is *sub judice*.

Babu KARUNA SINDHU ROY: There are other cases too. I received a telegram from my father.....

The Hon'ble the SPEAKER: Any subsequent occurrence ? That does not arise at all.

Babu KARUNA SINDHU ROY: The Sub-Inspector is hurling insinuations against me and Maulavi Abdul Bari because we went there to enquire into those cases.

The Hon'ble the SPEAKER: The Hon'ble Prime Minister has given assurance.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I will make a departmental enquiry about the allegations, whatever may be the result of the judicial enquiry.

The Hon'ble the SPEAKER: Then I take it that the hon. Mover does not press his Motion. I need not, therefore, decide whether the matter is or is not in order.

Adjournment Motion re wrongful realisation of Hat tolls in the Garo Hills

Mr. JOBANG D. MARAK: Mr. Speaker, Sir. I beg leave of the House to move that this Assembly do now adjourn its business to discuss a definite matter of urgent public importance and of recent occurrence, *viz.*, the realisation of Hat tolls from the public by Hat lessees in the various Hats in the Garo Hills wrongfully and in contravention of the list of Hat tolls which is framed by the Tura Fund Committee and District Fund Committee, Garo Hills.

Sir, these are *Hat* tolls and these lists are framed by the Tura Fund Committee for the use of lessees in various *Hats*. The lessees agree and accept terms contained in these lists. Sir, I find that in contravention of item 26 of the list, *Hat* tolls are being realised by the lessees from many people wrongfully and against the rate fixed in the list. Now, item 26 of this list says that loads of paddy, rice, mustard, teel, etc. carried on back and on head are not liable to pay any toll.

The Hon'ble the SPEAKER: The hon. Member is to show how the matter is urgent and is of recent occurrence.

Mr. JOBANG D. MARAK: This matter is urgent because tolls are being realised even now from people who are attending various *Hats*. This special concession was granted by the Committee and the Deputy Commissioner previously for the cultivators to bring their foodgrains to the Bazar.

The Hon'ble the SPEAKER: When did such realisations commence?

Mr. JOBANG D. MARAK: This wrongful realisation was first detected by me on the 25th of September, 1943. On that date I sent a report to the Deputy Commissioner with the request to take action against the accused persons. But the Deputy Commissioner referred this report to the Police Officer and afterwards without consulting me allowed this wrongful realisation of the *Hat* tolls. After that I was laid up with illness for two to three weeks and so I did not know what happened in the meantime. When I was better, I went to Bazar and came to know again that this wrongful realisation of the *Hat* tolls was not stopped. Then again I submitted another report to the Deputy Commissioner. In my report No. 57-G., dated 25th September 1943, I stated as follows:—

“I beg to state that the Committee concerned frame *Hat* Toll List and *Hat* Lessees are bound to abide by this list, otherwise there is no useful purpose in framing this list.

The Tura *Hat* Lessees have been unmindful and violating the list of *Hat* tolls framed by the Committee and they are still realising tolls for loads of rice, etc., carried on back. This is strictly and clearly disallowed in the *Hat* tolls list.

They have been realising tolls in this way wrongfully, for the last 6/7 months and this they have been doing not at the Tura *Hat* alone but at other *Hats* also of which they are lessees. Thus they must have collected a huge sum of money wrongfully from the poor Garo cultivators who sell rice, etc., in these *Hats*.

Submitted for favour of needful action against the miscreants.”

The Hon'ble the SPEAKER: I think, this will do. The Hon'ble Premier or the Hon'ble Minister-in-charge may reply.

Mr. JOBANG D. MARAK: No Sir, I may explain to the Hon'ble Premier so that he may be able to reply more clearly. On receipt of the second report, the Deputy Commissioner passed an order disallowing this wrongful realisation till the matter was cleared at a meeting of the Tura Fund Committee and the District Fund Committee. This meeting was held during the middle of the year but after the meeting, the Deputy Commissioner again allowed this wrongful realisation of the *Hat* tolls not only in Tura *Hat* but throughout the whole district.

The Hon'ble the SPEAKER: Very well this will do. Let us hear the Hon'ble Minister-in-charge.

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY: Mr. Speaker, Sir, I am afraid, this Motion is not in order because I think that it is not of a very recent occurrence and not very urgent. We have heard from the hon. Mover that he has been agitating there since 25th of September, 1943.

Mr. JOBANG D. MARAK: It is of recent occurrence because this wrongful realisation is going on even now. So, Sir, it is surely and most definitely a matter of recent occurrence.

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY: He has made it quite clear that he took up the matter with the Deputy Commissioner. Now his idea is to bring this matter up to Government. I don't think, it is a definite subject matter for an Adjournment Motion. It is entirely a local matter and uptill now Government have no information. We also heard from the hon. Member that certain

people were being unduly taxed and that the lessees could not realise any tax from them under the rules framed by the Tura Fund and the District Fund Committee. However, I can assure the hon. Member that I will certainly inquire into the matter and see whether any injustice is being done. I hope, Sir, on this assurance the hon. Member will see his way not to press the Motion.

Mr. JOBANG D. MARAK: Mr. Speaker, Sir, I am not at all satisfied with the assurance given by the Hon'ble Minister.

The Hon'ble the SPEAKER: After all the Hon'ble Minister has given an assurance.

Mr. JOBANG D. MARAK: There is nothing, Sir (*laughter*). I want immediate action.

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY: Very well, I shall immediately call for a report.

Mr. JOBANG D. MARAK: Sir, realisation is still going on and the people are being harassed unnecessarily. You know, Sir, that people are faced with a crisis due to food situation and on the top of this wrongful realisation of toll is going on.

The Hon'ble the SPEAKER: The hon. Member should say whether he is ready to act on the assurance given by the Hon'ble Minister.

Mr. JOBANG D. MARAK: Mr. Speaker, Sir, I want that this wrongful realisation should be stopped at once. There is a Committee which framed all the Rules and at least till the end of the current year, this realisation must be stopped. At the end of this year the Committee will be able to frame Rules again for the coming year and if they think it necessary they may change the rules then. If the Hon'ble Minister agrees to stop this immediately, then I will not press this Motion. (*Laughter*.)

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY: I have already replied, Sir, that I will inquire into the matter.

Mr. JOBANG D. MARAK: Inquiry is not necessary at all. (*Laughter*). My hon. Friend, Mr. Benjamin Ch. Momin says that realisation is still going on and the people are being harassed unnecessarily. I want that the Deputy Commissioner should be asked by wire to stop the realisation of such tolls.

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY: Sir, materials are necessary to take any action. Before that how can Government take action on this?

Mr. JOBANG D. MARAK: No, Sir, I don't want anything. What I want is that the realisation should be stopped at once.

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY: I shall see to that, Sir.

Mr. JOBANG D. MARAK: I want to know definitely whether this realisation will be stopped. (*Laughter*.)

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY: I can send a wire to the Deputy Commissioner asking him if there is any illegal realisation it should be stopped.

The Hon'ble the SPEAKER: I think, this will do.

Mr. JOBANG D. MARAK: The Deputy Commissioner may not consider it illegal. I want that this realisation should be stopped at once.

The Hon'ble the SPEAKER: I think, it will be better for the hon. Member to act on the assurance given by the Hon'ble Minister.

Mr. JOBANG D. MARAK: Items 26 and 53 are not at all contradictory and there is no ambiguity at all. I want that the realisation should be stopped at once.

The Hon'ble the SPEAKER: Does the hon. Member then want to press his Motion?

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY: Sir, I shall have a discussion with the hon. Member, gather more facts and take necessary action.

Mr. JOBANG D. MARAK: I have already approached the Hon'ble Minister but he did not care to study the case at all which compelled me to move this Motion, Sir.

The Hon'ble the SPEAKER: But he has now given the assurance.

Mr. JOBANG D. MARAK: These assurances are meaningless, Sir. What I want is that this should immediately be stopped.

The Hon'ble the SPEAKER: Very well, then I decide that the Motion is not in order. Having heard the hon. Mover and the Hon'ble Minister I hold that it relates purely to an administrative matter and does not show anything from which I can hold that the matter is urgent and of recent occurrence.

Statement by the Hon'ble Speaker regarding the case of absence from all Assembly meetings for over 60 days of Maulavi Md. Ali Haidar Khan

The Hon'ble the SPEAKER: Under Rule 95(4) of the Assam Legislative Assembly Rules and Regulation 2(a) of Appendix E to the said Rules, it is imperative on the Chair to bring cases of absence of Members, without permission of the Assembly, for a period of sixty consecutive days or more computed in the manner provided in sub-section (4) of section 68 of the Government of India Act, 1935, to the notice of the Assembly. I am therefore placing before the House the fact that the hon. Maulavi Md. Ali Haidar Khan, Member, representing the South Syhet (East) Muhammadan Constituency of the Assam Legislative Assembly, remained absent without permission from all meetings of the Assembly for a period of more than sixty consecutive days computed in the manner provided in sub-section (4) of section 68 of the Government of India Act, 1935. The hon. Member after attending the sitting of the Assembly held on the 15th March, 1941 remained absent from all its subsequent sittings held from time to time within the period from the 17th March, 1941 till the 25th March, 1943. After a total period of absence for 65 days computed in the manner aforesaid, the hon. Member attended the sittings of the Assembly on the 26th and 27th March, 1943, during its last Budget Session.

I must, however, draw the attention of the House to the fact that of these 65 days for which the hon. Member remained absent, there were 20 non-working days, on which the Assembly had no sittings, consisting of recess days fixed by Assembly rule 3(1), Sundays and other customary holidays. But these non-working days or any days out of these days could not be excluded from computation having regard to the restriction imposed by the proviso to sub-section (4) of section 68 of the Government of India Act for the reason that neither the whole period of these 20 days nor any group of more than four days within these 20 days was consecutive days. In view of this fact it will be for the hon. Members to consider whether this case of absence for over 60 days without permission should be dealt with by the House in a manner detrimental to the seat of the hon. Member concerned.

Now having brought this case of absence from all meetings of the Assembly for over 60 days, without permission, to the notice of the House, I fix, in further compliance of rule 95(4) of the Assam Legislative Assembly Rules, Tuesday, the 30th November 1943 as the date for consideration of the case by the Assembly in case a Motion is tabled by any Member for declaring the seat vacant, under Regulation 2(a) of Appendix E to the Assembly Rules. The Motion, if any, will be taken up after disposal of Government business on that day. In the event of any such Motion being tabled by any hon. Member, I would desire that the hon. Maulavi Md. Ali Haidar Khan should remain present on the day on which the Motion is discussed.

A complete statement of the dates on which the Member was absent can be obtained from the Assembly office, if required by a Member under Regulation 2(b) of Appendix E to the Legislative Assembly Rules.

Mr. BAIDYANATH MOOKERJEE: Mr. Speaker, Sir, in this connection may I enquire from the Hon'ble Premier whether something could not be done for those hon. Members who are in jails now or even outside jail but are under some restrictions and consequently cannot attend the session, so that they may attend the session and may not be required to face such a ludicrous situation.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I am not in a position to answer that question, Sir. I will have to take legal opinion before I decide on the matter.

Maulavi MABARAK ALI: Sir, it appears that Maulavi Ali Haidar Khan was absent for over 60 days and after that he was allowed to attend the sessions of this Assembly.

The Hon'ble the SPEAKER: The hon. Member should remember that unless and until the seat is declared vacant the Member has a right to attend.

Maulavi MABARAK ALI: Sir, does it not operate as an estoppel and waiver on the part of this Hon House?

The Hon'ble the SPEAKER: If the House were informed of the absence and if the House allowed him to attend; but the House did not know of the absence over 60 days as under the rules the House is to take cognisance of it when the Chair brings it to the notice of the House. Whether a question of that nature arises will be discussed in connection with the Motion for which I have fixed a date.

Maulavi MABARAK ALI: If the Chair does not bring it to the notice of the House, Sir, what will happen then?

The Hon'ble the SPEAKER: There is no time limit for the Chair to bring it to the notice of the Assembly. However, it is unnecessary to discuss it now because, the date and time has been fixed for its discussion.

The Assam Fisheries Bill, 1943

Maulavi ABDUR RAHMAN: Mr. Speaker, Sir, I beg to move that the Assam Fisheries Bill, 1943 be referred to a Select Committee consisting of the following Members:—

1. The Hon'ble Minister-in-charge,
2. Srijut Rohini Kumar Chaudhuri,
3. Mr. Jobang D. Marak,
4. Maulavi Muhammad Maqbul Hussain Chaudhury,
5. Raja Ajit Narayan Deb of Sidli,
6. Maulavi Abdul Aziz,
7. Maulavi Abdul Bari Chaudhury, and
8. The Mover.

(Three Members to form a quorum and the Committee to submit its report by the 15th of February 1944.)

Sir, during the last Budget Session—in March last—the Bill was introduced and the Hon. House was pleased to decide for the circulation of the Bill for eliciting public opinion. Since then the opinions have been received. It is needless to say that the vast majority of the opinions received are in favour of some such legislation. For the satisfaction of the hon. Members I may quote a few observations made by some of the respectable bodies. Babu Jatindranath Chatterjee, Fishery Lessee, Brahma Mandir Road, Nowgong, Assam, says:

“With reference to your Memo. No.1388-92R., of 22nd April, 1943, regarding my opinion on the proposed Assam Fisheries Bill, 1943, I have the honour to submit that it is a fact that there has been a growing deterioration of fishes of this district in absence of some effective legislation on the subject. There are no private fisheries in this district and the preservation of the Government fisheries which are the only sources of fish supply is essentially necessary. The Bill is therefore quite an useful one and will remove a long felt want if passed into law.”

I am also quoting the opinion expressed by Khan Sahib Maulavi Muhammad Rofique, Chairman, Nowgong Local Board—

“With reference to your Memo. No.1388-92-R. of 22nd April 1943 on the above subject I have the honour to say that time has come for taking suitable measures to develop the fishery industry and therefore the power proposed in the Bill to be given to Government is desirable.”

I am quoting another opinion sent by Mr. K. R. Barman, Government pleader, Gauhati,—

“Improvement of fishing industry in this Province is a pressing necessity. A good number of fisheries is being silted up and big fishes are growing rare. So a Fishery Department armed with an Act for healthy development of industry is welcome.”

Another opinion was received from the Deputy Commissioner, Lakhimpur which is as follows:—

“I would like that big fisheries should be given periods of rest as in the case of elephant mahals.

As regards the Assam Fisheries Bill, 1943, in my opinion section 4 (3) (b) will not be feasible in the Assam Valley, as the process of catching fish by selection is unknown to the fishermen here. The Bill, as a whole, has my support.”

Then again, another opinion, I will read, from the Secretary, Bar Association, Goalpara—

“Generally speaking the Bar Association has approved of the provision as they are evidently meant for the preservation of fishes. But the Bill must safeguard the practice, if not the right, of the common people of gathering fish for home consumption.....”

With certain observations this Association has also approved the Bill.

Then again another opinion, I will read from the Sub-Deputy Collector, Gossaigaon:

“I beg to state that the improvement of the fishing industry is necessary and desirable but it cannot be improved simply by issuing a licence to prohibit killing any fish of any prescribed species or of any prescribed size or weight.”

Here he has wanted that it should be more comprehensive and more power should be given to the Government.

Let me read out another opinion expressed by Mr. Sarma, Manager, Bijni Raj Wards' Estate:—

“Private fisheries are rapidly deteriorating due to indiscriminate fishing, use of improper appliances, over—fishing and lastly to a general desire of the masses to take possession of fisheries for their private needs by disregarding the authority of the landlords.....”

He has here supported the Bill saying that the Legislation which seeks to do it ought to be enough comprehensive to achieve the end.

He has also suggested provisions for:—

(a) Reservation of private waters against fishing for any period deemed to be necessary for improvement of the fishery.

(b) Declaration of closed seasons with due regard to good species and their period for spawning and brooding.

(c) Restriction of appliances and prevention of catching of immature fish.

I may tell the House that the Director of Industries has suggested that the Government is quite competent to frame rules under section 6 of the Indian Fisheries Act and by framing those rules the remedy sought for in this Bill would be fulfilled. But here I may tell, Sir, although there have been some provision in section 6 of the Indian Fisheries Act, Government have uptill now taken no action to make further improvement on the fishing industries of the Province. It is an admitted fact that fishing industries of the Province has gone much lower, and as this is a very staple food for the people of the Province it ought to have been taken notice of by Government long before. For some years past, there was a regular agitation over the decaying condition of the fish industries of the Province. At the beginning of the new Constitution of the Government, there was some demonstration by the hon. Members on the floor of this House pointing out to Government the decrease of the fish industries and as a result of that, Government was pleased to appoint a technical officer with the required qualification for the improvement of fish. But only one man has been appointed for the whole Province. Any way it is a beginning only. Unless this officer is given some power it is useless to spend any money for the purpose. I do hope that this particular officer will be given some weapon to prove his existence. Probably, some hon. Members are aware that there is no restriction over fishing in water during the closed season. If some legislation is not enacted to discourage this practice the fish industry will be worse still. To give effect to this, more officers should be appointed for this Province. And after appointing, if those officers are not armed with some power by legislation, I do not know how there can be any success. In order to make this Bill a fully comprehensive one—there might be some defects—

my idea is that the Bill be sent to a select committee so that this committee would do its best to bring in some modifications to obviate any defects. With these words, Sir, I move my Motion for referring the Bill to a Select Committee.

The Hon'ble the SPEAKER: The Motion moved:

"That the Assam Fisheries Bill, 1943, be referred to a Select Committee consisting of the following hon. Members:—

1. Srijut Rohini Kumar Chaudhuri,
2. Maulavi Muhammad Maqbul Hussain Chaudhury,
3. Maulavi Abdul Bari Chaudhury,
4. Raja Ajit Narayan Deb of Sidli,
5. Mr. Jobang D. Marak,
6. Maulavi Abdul Aziz,
7. The Hon'ble Minister-in-charge, and
8. The Mover. (*i.e.* Maulavi Abdur Rahman.)"

(Three Members are to form a quorum and the report to be submitted by the 15th of February, 1944.)

Mr. F. W. BLENNERHASSETT:— Mr. Speaker, Sir, it cannot possibly be denied that the underlying motive of this Bill is definitely to improve the fishing resources and potential wealth of this Province and from that point of view I have very great pleasure in offering my congratulations to the hon. Mover of the Bill for his excellent motive. At the same time, Sir, I fear, I must oppose his present Motion. In the speech we have just listened to, the Mover of the Bill reinforces the arguments I was about to advance in support of that opinion given by the Director of Industries of Assam, in that we find that there is no provision in the proposed Bill to implement the powers of the Provincial Government in any way. We find the Provincial Government fully protected in the Act quoted, that is, the Indian Fisheries Act of 1897, section 6: We feel, Sir, that there is no room for this proposal. We feel that the Government have in fact ample powers if they care to exercise them. The hon. Mover of this Bill has admitted that the Government in fact have these powers for he has criticised Government for not taking advantage of them. We, therefore, find, Sir, that his arguments go to show that Government's supervision of the fisheries of this Province is lacking. If the Government will take advantage of the powers which they have already got, a more useful purpose will be served than that. Yet one more Bill should be sent for the consideration of a Select Committee, to the Public expenditure, and the time of this House, both of which will be wasted by introducing legislation which in fact already exists.

The Hon'ble the SPEAKER: Has the Hon'ble Minister got to say anything?

The Hon'ble Maulavi MUNAWWAR ALI: Mr. Speaker, Sir, I feel bound to congratulate the hon. Mover for his noble attempt. I find that the hon. Mover himself is at one with the Government in their anxiety to get hold of all possible means not only to protect and preserve but to improve the fisheries and fishes in Assam. As our hon. Friend, Mr. Blennerhassett, who has preceded me has pointed out, which also has been admitted by the hon. Mover himself, that Government have powers specially in the All-India Act to adopt measures of the kind he has set forth in this Bill. Further, Sir, I am grateful to the hon. Mover that he has, by his Bill, drawn pointed attention of the Government that such measures should be immediately adopted and I may tell the hon. Mover and the rest of the Hon'ble House that Government have not been sitting idle over the question. They undertook framing of Rules under section 6 of the Indian Fisheries Act and they have the Rules now complete. For the information of the Hon'ble House I will give an analysis of the Government Rules and the provisions set forth in hon. Mover's Bill and the hon. Members would, I think, be satisfied that the Rules framed by Government are quite complete and sufficient to serve the purpose. It will serve the purpose in another way, in this, that the Rules according to law, are to be published for criticism and the hon. Member and those of his views will have ample opportunity to add to or subtract from, or amplify any of those Rules. It will serve one more most useful purpose, Sir, in that, it will minimise the time. It will be more expeditious and won't

cost any money from the Government coffers and also would be less troublesome to some of the hon. Members who are proposed to sit on the Select Committee.

Rightly, Sir, the hon. Member's intention has got a majority support from this Province. Ten have opposed and thirty have supported.

I will further amplify. From the Statement of Objects and Reasons it will appear that the object of the Bill is to give Provincial Government powers to make Rules to improve fisheries in all possible ways. Section 6 of the Indian Fisheries Act, 1897 gives powers to Provincial Governments to frame such Rules. So it is not necessary for any legislation for this purpose. This Government have already drafted Rules under that section in consultation with local officers and they will be published for criticism very shortly. Every one will have option to suggest additions and alterations as I have already indicated.

As just now promised, I will give you, Sir, an analysis of the provisions of the Bill and a comparison of these with those of the Government draft Rules. I will take up clause by clause.

Clauses 2 and 3 of the Bill give definitions of some terms. It has not been thought necessary to give definitions of any term in our Rules as they have been amply defined in the All-India Act of which I have already made mention.

Clause 4 (1)—Section 6 (1) of the Indian Fisheries Act gives Provincial Government powers to frame Rules and they have done so. So this is redundant.

Sub-clause (2) of the same clause—Section 6 (2) of the Indian Fisheries Act gives powers to Provincial Governments and they will take action where necessary. So this also is redundant.

Sub-clause (3) (a) of the same clause—Our draft rule provides this.

Sub-clause (3) (b) of the same clause—By the word "killing" probably the hon. Mover means "seizing." We have not made any rule as we thought that such wholesale prohibition would be of no practical utility. The hon. Mover's Bill provides wholesale prohibition of certain fishes and it will bring in practical difficulties. It will be almost impossible of being enforced.

Sub-clause (3) (c) (i) and (ii) of the same clause—Penalty has been provided in our rule 5 and this will, perhaps, suffice.

Clause 5—No rule has been framed on this point. This is in regard to prohibition of selling or bartering of any fish. It will be difficult to find out as to what fish has been caught in contravention of the provisions of the Act and rules. Therefore, on account of the impossibility of its enforcement this has not been provided in our Rules.

Clause 6—Provision for punishment for breaking the Rules—We have made provisions for this in our draft Rules. Penalty provided in our rules exceeds Rs.200 as against Rs.100 provided in the hon. Member's Bill.

Clauses 7, 8 and 10—Trial of offences—We have not framed any rule because these will be covered by the main Act itself. These proposed provisions may further lead to abuses unless officers of long standing only are given the powers.

Clause 9—This is only a saving clause.

From what I have just now stated, Sir, I think it will appear that I have given a very full analysis of the Rules that Government have framed and the provisions of the Bill under consideration. It must have appeared to the hon. Members that most of the provisions proposed in the Bill have been made in our draft Rules. I again reiterate that if the Mover himself or any other Member or any member of the public considers that any further modifications are necessary; he can suggest additions or alterations or any modifications to the draft Rules when they will be very shortly published for criticism, and I could assure you, Sir, that any criticism that may be offered will be duly considered. So, as the Government as well as the hon. Mover, and I am sure all hon. Members of the House, are anxious that the intention the hon. Mover has in mind should be given effect to as quickly as possible, I think it will be only advisable that the Government publish Rules to be finally passed rather than take up a legislation which is bound to cause delay.

Maulavi ABDUR RAHMAN: May I ask the Hon'ble Minister when can we expect the Government Rules to come before this House?

The Hon'ble Maulavi MUNAWWAR ALI: I will take steps to publish them in course of 7 or 10 days. They are already ready; they have not been published in view of this proposed Bill.

Maulavi ABDUR RAHMAN: I also want to be sure whether the Rules that have been framed by the Government are in keeping with the provisions of this Bill.

The Hon'ble Maulavi MUNAWWAR ALI: Yes, most of them are identical.

Mr. BAIDYANATH MOOKERJEE: Sir, one thing has not been clear to me. The Hon'ble Minister says that the Rules have already been framed but they have not been published as yet. May I know, why?

The Hon'ble Maulavi MUNAWWAR ALI: Because we must have due deference to the wishes of the House which they were going to express we could not anticipate it. If the House chose to proceed with the Bill, we could not prevent it. In view of that the Rules have not been published.

Mr. BAIDYANATH MOOKERJEE: Had the Rules been published by this time in that case we would have been in a better position to judge them.

The Hon'ble Maulavi MUNAWWAR ALI: Also it is not very long ago that the Rules were finally complete and we did not like to bring them into conflict with the wishes of the Legislature which were very shortly to be expressed and which we would be bound to carry out.

The Hon'ble the SPEAKER: Now the hon. Member will please decide what he proposes to do. Does he like to press his Motion?

Maulavi ABDUR RAHMAN: It seems that Government have already taken the matter in hand. It is a very funny thing that Government were in possession of this weapon since the passing of the Indian Fisheries Act but since then no action has been taken. Now the Hon'ble Minister says that he will publish the Rules within 7 or 10 days. In that case I need not hurry with the matter and I would like to withdraw my Bill with the hope that I may not have to re-introduce the Bill in the next March session.

The Hon'ble the SPEAKER: Has the hon. Member got leave of the House to withdraw his Motion? (Voices: Yes).

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

The Assam Money-Lenders' (Second) (Amendment) Bill, 1943

Maulavi ABDUR RAHMAN: Mr. Speaker, Sir, I beg leave of the House to introduce the Assam Money-Lenders (Second) (Amendment) Bill, 1943.

The Hon'ble the SPEAKER: The question is:

"That leave be granted to Maulavi Abdur Rahman to introduce the Assam Money-Lenders' (Second) (Amendment) Bill, 1943."

I hope there is no objection.

The Motion was put and adopted.

(Then the Secretary read out the Title of the Bill.)

The Hon'ble Maulavi MUNAWWAR ALI: In this connection, Sir, may I draw your attention to two other Bills which are more or less identical?

The Hon'ble the SPEAKER: Yes; this Bill is now taken up and the Members tabling the two other Bills will be able to take part in this debate.

Maulavi ABDUR RAHMAN: Mr. Speaker, Sir, I beg to move that the Assam Money-Lenders' (Second) (Amendment) Bill, 1943 be taken into consideration.

Sir, in the Statement of Objects and Reasons, the intention of the Bill has been clearly stated. It is well-known to the hon. Members of this House that the Assam Money-Lenders' (Amendment) Bill which has been put as an Act was introduced as early as in 1937 and after the introduction of that Bill the Money-Lenders were in a hurry and they tried to secure as much decrees as possible against the debtors. The intention of the then Bill—I mean the one which has now been passed into an

Act,—was to give relief to the poor debtors of the country. Sir, we are very often met with criticisms from the money-lending class that the present Legislature is out to destroy one class of people—that is the money-lending class. The criticism which they advance is not quite correct.

It was found out from the Report that a vast percentage of the people of the Province were indebted and the debts were much beyond the capacity of their repayment. In view of this fact, some legislation was enacted so as to give relief to the poor cultivators who were burdened with debts. But the Bill which had recently been passed into Act could not have this desired effect because of its long pendency before both the Houses of the Legislature. So, I have sought to give the desired relief by my present Bill. Clause 2 says “In sub-section (2) of Section 9 of the Assam Money-Lenders' Act, 1934 [as amended by the Assam Money-Lenders' (Amendment) Act, 1943] hereinafter referred to as the principal Act,—

(1) After the words ‘usufructuary mortgage’ the words ‘of any form or description’ shall be added and for the word ‘executed’ wherever it occurs, the word ‘made’ shall be substituted”. Sir, my intention in adding the words “of any form or description” is that it has been experienced during the few days since the passing of the last Act that the trying Courts do not admit of any mortgages which were executed as of custom; they give consideration only to those mortgages which were registered. We have received complaints from practising lawyers that munsifs are averse to take into consideration those mortgages which were not duly registered. But, it is a fact that according to the custom prevalent in the country only through simple bonds, or even without bonds, innumerable debtors mortgage their land and if the munsifs owing to some defect in the law do not give any benefit to the poor debtors then the object of the Act, which has recently been passed, will be frustrated. So, I have suggested the words “of any form or description” after the word “mortgage”. The substitution of the word “made” for the word “executed” is a technical change.

Then, Sir, I have proposed a new clause to the effect “when a usufructuary mortgage of any form or description stands discharged under any of the foregoing provisions, the mortgagor shall be entitled to be put in possession, if necessary, on an application to the Civil Court competent to entertain a suit for redemption of the mortgage”. According to the Act recently passed, the poor debtors are to go to the Civil Court and institute a suit, and in doing so they have to pay for court fees etc., which means additional hardship to them. I have therefore tried to modify this provision by proposing this clause.

Then, Sir, I have also sought to add another new clause to the effect “the foregoing provisions contained in this section and in section 8 of the principal Act, [as amended by the Assam Money-Lenders' (Amendment) Act, 1943] shall apply to any decree passed before the Assam Money-Lenders' (Amendment) Act, 1943 came into force, and such a decree shall not be executable until the amount payable thereunder be reduced in accordance with the said provisions.” The intention of introducing this clause has been explained at the outset. Since the introduction of the Money-Lenders' (Amendment) Bill in 1937, which has recently been passed into Act, the money-lenders have obtained decree without sitting idle, and this has nullified the provisions of the Amendment Act.

With all these objects in view I have brought forward this Bill, and I hope the House will accept my Motion for taking the Bill into consideration.

The Hon'ble the SPEAKER: Motion moved:

“That the Assam Money-Lenders' (Second) (Amendment) Bill, 1943, be taken into consideration.”

Maulavi ABDUL BARI CHAUDHURY: Mr. Speaker, Sir, there is a similar Bill in my name, and so I want to speak a few words in support of this Bill.

Sir, the original amendments that were passed this year were introduced as far back as 1937, and only after a long and chequered career could it become law. During this period of six years the money-lenders had not remained idle, and in many cases they had been able to convert their dues in to decrees—thus the very intention for which the Amending Bill was brought forward had been frustrated. This Bill was drafted mainly with that aim in view. The present Bill also seeks to remove some more minor defects regarding mortgages in our country. As the custom prevails there are many transactions which are verbal; there are no documents executed or registered. By sub-clause (1) of clause 2 of the proposed Bill these verbal transactions are also sought to be brought within the purview of the Act.

Then, again, Sir, in the original amendments there were no provisions as to how the mortgage should be put in possession even after the expiry of 12 years. Item (iii) as inserted by clause 2(2) makes those provisions. These amendments are very simple and essential for the successful working of the Amendment Act which we have recently passed. I hope the Hon'ble Minister-in-charge will accept all these amendments.

Babu KARUNA SINDHU ROY: I have also submitted an almost similar Bill. There is difference of opinion amongst lawyers and judges as to whether the new Act touches any decrees. The Sylhet District Bar is sharply divided in opinion as to whether it touches decrees and whether no new legislation is necessary. A group of lawyers held that the new Act requires to be amended to give adequate relief to the judgment debtors. During the last few years money-lenders have turned many loans into decretal amounts. One Court at Sylhet held that the new Act does not touch decrees and another Court held quite the opposite view. To remove ambiguity and doubt a new legislation is necessary and I therefore support the Motion of my hon. Friend.

The Hon'ble Maulavi MUNAWWAR ALI: Mr. Speaker, Sir, I find myself in the midst of a predicament as regards this Motion. In the first place, this Bill, if passed into law, will reopen a number of questions bristling with enormous difficulties—the decrees that had been passed till the date of the present Act coming into effect, that is to say, till the 25th of June, 1943. You are, Sir, as everyone in Assam, aware of the vicissitudes through which the present Act had to go through in becoming a law. The Bill was started as long ago as 1937 and it became law on the 25th June, 1943. It is not possible to imagine from the provisions of this Bill whether the intention of the hon. Mover is to reopen those decrees that have been passed between 1937 and 25th June, 1943. From the provisions of the main Bill nothing follows to that effect; so it is to be taken that all decrees irrespective of time passed prior to the 25th of June, 1943, are to be reopened. That brings in the question of retrospection which is rather foreign in law. The question of retrospective effect being given agitated the minds of both the Chambers of Legislature in this Province and all sections of the community outside the Legislature, and it was a stumbling block on the way of the previous Bill. If we drag on the same question of retrospection we will be faced with similar difficulties—with what fate we do not know. Meanwhile, Sir, most decrees must have been executed and those that remain outstanding will come within the purview in spite of the amendments made into law. I wish that retrospection could be overcome and this proposed Bill the goodness of the creditors that they did not hurry through execution or some such causes, be made to suffer. This also is a point which presents another great difficulty in the way of the Government to accept the Bill.

Now, again, in the Statement of Objects and Reasons, the hon. Mover boldly states that it should be remembered that the provisions of the present Act do not go even half way of Bengal, which has gone far ahead of this Province in the matter of money lending legislation. I had expected, Sir, after reading this portion of the statement that the hon. Mover would show, and I think that he took upon himself the onus to show, how he thought that Bengal had gone far ahead of this Province in the matter of money-lending legislation. He has not touched this point, nay, not even a fringe of it. I hope it should be possible, if he chooses to give a reply, for him to indicate how

that is so. There is another point, Sir, which has been stressed by the hon. Mover and his supporter, our hon. Friend Maulavi Abdul Bari Chaudhuri, and that perhaps deserves consideration and for that point merely perhaps in order to make his Bill acceptable to this House, only to remedy that difficulty, one single separate Bill might have been framed. This is a question as to how to induct into the possession of the debtor after a usufructuary mortgage has in the eye of law been vacated. As things stand now, he has to come to the forum of a Civil Court, that is to say, he has to institute a suit for that purpose. What my hon. Friend the Mover wants is that it should be possible for the debtor to get into possession by a mere application. It is more speedy and less costly. I would have lent my whole hearted support to a provision like that if the Bill embodied only that portion of it and not the rest of it.

Now, my hon. Friend, Babu Karuna Sindhu Roy's main intention seems to be, as he stated on the floor of the House just now, to obviate the difficulty or rather uncertainty as regards the decrees passed before the present Act became law, whether the present Act brings in its purview the decrees that had been passed before. He has quoted two legal judgments. I think, he refers to the recent judgment that two Subordinate Judges of Sylhet have passed. These are two contrary judgments—the judgment that holds the field is the latter one. The latter one holds that it does and the previous one has been superseded by the latter one. So the verdict of the court is that.....

Babu KARUNA SINDHU ROY: This is not verdict of the Court but this is the opinion on the Bill.

The Hon'ble Maulavi MUNAWWAR ALI: The verdict of the Court is that it touches the decrees as a whole. Now this holds the field and that ought to satisfy the hon. Members.

Maulavi ABDUL BARI CHAUDHURI: Verdict of whom, Sir?

The Hon'ble Maulavi MUNAWWAR ALI: The Subordinate Judge of Sylhet has passed the decrees the other day in connection with the case of Syed Mustafa Ali and somebody else.

Now if the judgment of the Court is set aside at all by the High Court, then and then alone the hon. Member will have a cause to move a Bill of this nature. Now I will also point out certain defects in the Bill which remain quite unintelligible to me. It is certainly very difficult to appreciate the reason for wanting to substitute "made" for "executed" in section 9(2) of the Act by clause 2(1) of the Bill, and the notice giver does not apparently want this to be done in section 9(3) or (4). This is anomalous. He wants in one place but does not want in other places. Nor is it easy to understand why he wants to add "of any form or description" after "usufructuary mortgage" in section 9(2) by clause 2(1) of the Bill. Certain mortgages have been held by the Courts to be a combination of usufructuary and simple mortgage, and it is possible that the hon. Mover's Motion suggests mortgages which are called in the "Indian Transfer of Property Act" anomalous mortgages. I think, Sir, I have made amply clear the reasons for which it is not possible to support the hon. Member's Bill as it stands.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURI: Mr. Speaker, Sir, I beg to move an amendment that the Bill be circulated for eliciting public opinion by the 15th of February, 1944.

The Hon'ble the SPEAKER: Do you move an amendment?

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURI: Yes, Sir.

The Hon'ble Maulavi MUNAWWAR ALI: I suggest that the date should be 28th February, 1944.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURI: Sir, the Hon'ble Minister suggests that the date should be 28th of February. I have got no objection to that date.

The Hon'ble the SPEAKER: Amendment moved:

"That the Assam Money Lenders' (Second) (Amendment) Bill, 1943, be circulated for eliciting public opinion by the 28th February, 1944." Does the Hon'ble Minister agree to that?

The Hon'ble Maulavi MUNAWWAR ALI: I should have no objection to that, Sir.

Maulavi ABDUR RAHMAN: I also agree to that, Sir.

The Hon'ble the SPEAKER: Then the hon. Mover accepts the amendment.

Maulavi ABDUR RAHMAN: Yes Sir, I accept it.

The Hon'ble the SPEAKER: The question is:

"That the Assam Money Lenders' (Second) (Amendment) Bill, 1943, be circulated for eliciting public opinion by the 28th February, 1944".

The question was adopted.

The Sylhet Tenancy (Amendment) Bill, 1943

Babu KARUNA SINDHU ROY: Mr. Speaker, Sir, I beg leave to introduce the Sylhet Tenancy (Amendment) Bill, 1943.

The Hon'ble the SPEAKER: The question is:

"That leave be granted to Babu Karuna Sindhu Roy to introduce the Sylhet Tenancy (Amendment) Bill, 1943."

The question was adopted.

(The Secretary then read out the Title of the Bill.)

Babu KARUNA SINDHU ROY: I beg, Sir, to move that the Sylhet Tenancy (Amendment) Bill, 1943, be taken into consideration. Mr. Speaker, Sir, Section 176(A) is a coercive measure which is a hardship to cultivator tenants. When the country is passing through economic crisis they should not be victimised by compulsory realisation of rents. There exists already certificate procedure which is sufficient weapon for the court of wards estates for the realisation of the rents. Government is making huge propaganda for the increase of agricultural productions but the tenant cultivators who are the real tillers of the soil cannot work if they are handicapped for want of funds. If they are continually harassed, they cannot purchase plough cattle and other implements of agriculture. So I appeal to this House to support my Bill.

In the Bill, I want section 176A to be deleted. It says: "If at any time the Provincial Government are satisfied that in any local area or in respect of any class of cases circumstances exist which render it impracticable for a landlord to realise his rent, the Provincial Government may by notification direct that all rents in such local area or class of cases shall, after the publication of the notification, be realised by the application of the prescribed procedure." Sir, when the country is passing through economic crisis, it is very hard for the cultivators to pay their rents. In fact it is impracticable for them to pay their rents. So I want to delete this section. With this, I commend my Motion to the acceptance of the House.

The Hon'ble the SPEAKER: Motion moved:

"That the Sylhet Tenancy (Amendment) Bill, 1943 be taken into consideration."

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Mr. Speaker, Sir, I am afraid, I shall have to oppose this Motion. The Sylhet Tenancy (Amendment) Bill was passed only very recently and it had come into force from the 1st of July last. If the Members of the House know the history of this particular provision, I am sure, they will not feel inclined to delete this provision from the Amended Act. This provision was originally in the Bill that was drafted by the Congress Coalition Ministry. This Bill, the House knows, was considered by a Select Committee and in the Select Committee the hon. Mover of this Bill was also a Member. After a good deal of deliberation in the Select Committee by a majority it was decided that this clause should be deleted. If I may read from the Report of the Select Committee the majority of the Committee were against the provision of this clause mainly on the ground that they could not trust the Government with the power of making rules which will be fair and equitable. But many of the hon. Members will remember that there were notes of dissent appended to this Select Committee's Report. The then Hon'ble Revenue Minister was one who dissented from this decision of the Select Committee. He said "I do not also agree to the deletion of clause 29 whereunder power was sought to be taken to enable Government to assist any landlord or landlords who may be

victims of an unfair or unreasonable combination". Babu Dakshinaranjan Gupta Chaudhury who was a Member of the Select Committee said that Clause 29 should be deleted and substituted by the following:

"In case where the rent remains in arrears for three consecutive years, the landlord, on application to the Deputy Commissioner shall be allowed to have his one year's rent realised by certificate procedure as a demand under the Public Demands Recovery Act by giving one month's notice to the defaulting tenants."

Then Babu Bipin Behari Das said "I agree with Babu Dakshinaranjan Gupta Chaudhuri with regard to the above note of dissent in full."

Then Mr. Baidyanath Mookerjee who was also a Member of the Select Committee wrote:—

".....But, before I conclude this note of dissent, I feel it would not be out of place to point out here that the Bill had two main objects as shown clearly in the Statement of Objects and Reasons. But by deletion of clause 29, one of the said objects has been demolished and the Bill as it has come out of the Select Committee, robbed of one of its main features, has become completely one-sided and defeats one of the main purposes with which this piece of legislation was originally undertaken."

Now after this, Sir, when the Bill was considered by this House, Maulavi Fakhruddin Ali Ahmed tabled an amendment that this clause 29 should be restored. He made a definite Motion which was debated upon in this House and the House dividing on this Motion, 49 voted for his Motion and 11 against the Motion and so the Motion was carried.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY: On which side Babu Kuruna Sindhu Roy voted, Sir?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Well, I do not find his name. He probably remained neutral. But the whole Congress Bench voted for the Motion. Now in that connection Maulavi Fakhruddin Ali Ahmed made a remark which I might repeat again before this House. He said:

"When all the privileges of the Zemindars have been curtailed, it is but proper that facilities should be given to them in circumstances where the Government are satisfied that in an area tension between the landlords and tenants demanding their interference exist to help the landlords to realise rents from their refractory tenants; and it is for this purpose that this provision is made".

Now, Sir, this provision was made to be applicable only under exceptional circumstances. Up-till-now since the enforcement of the amended Act no occasion has arisen for the enforcement of this provision. Moreover, Sir, I do not agree with the hon. Member when he says in his Statement of Objects and Reasons that the economic condition of the peasantry, who are real growers of food grains, has been becoming worse. I think, everybody knows here that the peasantry is getting a very high price for their paddy or rice. So the hon. Mover has not explained to show how he can make out that the economic condition of the peasantry has become worse now. In any case, Sir, I think, having heard the history of this clause and bearing in mind that recently we had taken away many of the rights of zemindars it is only but fair that this provision should remain in the Act and no hasty attempt should be made to take away the privilege that has been given to the zemindars, after taking away so many of their rights. In the circumstances, Sir, I hope, the House will feel inclined to reject this Motion.

Babu KARUNA SINDHU ROY: Mr. Speaker, Sir, the Hon'ble Minister in his reply said that the economic condition of the tenants has not become worse.

Mr. BAIDYANATH MOOKERJEE: Not of the tenants but of the growers.

Babu KARUNA SINDHU ROY: Tenants are cultivators. Only except in the *boro* area of the Sunamganj Subdivision, everywhere the condition of the tenants was worse. Now the *Aman* is on and if they get good *Aman* crops, their condition may be better. Now he has also said in his reply that there is no cause for deleting this clause. But, as I have already stated, it is necessary to delete his clause, or else the District authorities will be empowered to enforce this realisation from the tenants indiscriminately. I say that the condition of the tenants is

getting worse. If they can get money they can pay liberally and if they get sufficient paddy then they after selling their paddy will be able to pay their rents to the landlords. There will then remain no contention between the landlords and the tenants. And when they can pay.....

Mr. BAIDYANATH MOOKERJEE: On a point of information, Sir, will the hon. Member protect the landlords from coercive measures by Government?

Babu KARUNA SINDHU ROY: Now, Sir, I am not going to withdraw my Motion.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: I think, Sir, that the hon. Mover feels that there is no harm in having this provision retained.

The Hon'ble the SPEAKER: The question is:

"That the Sylhet Tenancy (Amendment) Bill, 1943, be taken into consideration."

The Motion was lost.

The Assam Land and Revenue (Amendment) Bill, 1943.

Srijut SURENDRA NATH BURAGOHAIN: Mr. Speaker, Sir, I beg to move for leave to introduce the Assam Land and Revenue (Amendment) Bill, 1943.

The Hon'ble the SPEAKER: The question is:

"That leave be granted by the House to introduce the Assam Land and Revenue (Amendment) Bill, 1943."

The Motion was put and adopted.

(The Secretary then read out the title of the Bill.)

Srijut SURENDRA NATH BURAGOHAIN: Sir, I beg to introduce the Bill and to move that the Bill be taken into consideration.

Sir, this is one of the simplest, and I should say, shortest of Bills. The scope of the Bill is explained in the Statement of Objects and Reasons and I need not detain the House very much on what has already been stated there. The scope of the Bill is to extend the time of making an application for the setting aside of a sale of a defaulting estate of temporarily settled districts or permanently settled districts for arrear of land revenue on usual deposit.

Apart from the merits of the amendment proposed by the Bill, Sir, which I have the privilege to sponsor in this House, I may say that there has been a persistent demand from the poorer section of the peasants for such a measure for the past whole decade. Sir, the House will remember that previous to 1933 there was no provision of this kind in the Assam Land and Revenue Regulation. In that year, the year 1933, an organisation known under the name of the Assam Raiyat Sava held its sitting for the first time in a village near Tilikiam within the Jorhat Subdivision, where a resolution, amongst others, was passed demanding that provision should be made for setting aside of a sale of an estate for arrear of land revenue by making deposit within 60 days. That conference was presided over by no less a person than the late Srijut Nabin Chandra Bardoloi. This matter was pursued into the then Assam Legislative Council, where an Act was passed, which was the Assam Act IV of 1933, by making deposit within 30 days. This new Act came into operation on the 1st August 1933. The persons concerned were, however, not satisfied with this measure of the then Legislative Council, some of the veterans of which I find in this House now, viz., the Hon'ble Prime Minister, the Hon'ble Revenue Minister and Srijut Rohini Kumar Chaudhuri. This matter was again taken up by the Assam Raiyat Sava in another conference, a Provincial conference, held at Dergaon within the Golaghat Subdivision, presided over by Dr. Hare Krishna Das. It was held in the year 1936, sometime in April. In that conference the demand was reiterated to increase the period of 30 days to 60 days and to put this provision permanently into the Statute Book.

We thus find that the present provision was incorporated by Assam Act III in 1936, as section 78A in the Assam Land and Revenue Regulation. My present

Bill simply seeks to amend the provision of section 78A of the Regulation thus inserted, and my object in doing so is to give statutory recognition of the fact that the demand still persists. There are many things for which the voice of the poor cultivators cannot reach our ears or reach the ears of those who are in the helm of affairs of the Government. But this demand is there and if you go into the villages you will hear that. Even in National War Front meetings, Sir, I have heard people to make this demand.

Adjournment

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

(After Lunch)

Srijut SURENDRA NATH BURAGOHAJN: Mr. Speaker, Sir, I had endeavoured to tell the House that there has been a persistent demand for the extension of the time to save the sale by deposit, although that demand may not be very audible now that the times are abnormal.

The next question to which I would take the House is that there has been a sharp contrast between the year 1933 and the year 1943 so far as the peasant proprietors are concerned. In that year, as the House will remember, for the first time remission of land revenue was announced in certain districts of the Assam Valley and that policy was continued until early this year when it has been abandoned. My present Bill, if accepted by the House, will to a certain extent give relief to the poorer classes who are hard-hit indeed. At a time when, as this House knows, we are granting dearness allowances, rice concessions and free rations to the Government servants and when we have even been audibly whispering about the enhanced pay for the Hon'ble Ministers, is it not desirable that the House should concede to increase the feeling of security to the poorer classes, particularly at a time when we have launched a Grow-More-Food campaign? This feeling of increased security for increasing the production is very imperative indeed. Particularly when we grant this indulgence to the poor raiyats it will neither cost anything to Government coffers nor will it touch anybody else's pocket. So I would urge the House to accept this Bill so that some relief may be given to these classes of people for whose good I have the privilege of sponsoring this Bill.

About the nature of the amendments I need not tell the House very much. This very provision which also occurs in the Civil Procedure Code is in the nature of granting an indulgence to the defaulter so that he may have some chance of retaining the property in his hand, and may get rid of a sale which is otherwise valid and complete.

About the legal aspects of this Bill I am to tell the House that when a sale is complete there are two courses open to a defaulter. Under the present law he is to save the sale by depositing within 30 days or he can file an appeal to the Commissioner against the sale if it happens to be irregular and illegal and that he can do within 60 days. And when all this period is over the time for confirmation of the sale comes which also requires 60 days. If we examine the analogous provision of the Civil Procedure Code we find that to save the sale by deposit requires 30 days, to file an application requires 30 days and to get the sale confirmed requires 30 days. For every one of these cases in the Civil Procedure Code the period fixed is 30 days. On the other hand the period in the Assam Land and Revenue Regulation in the case of confirmation is 60 days, in the case of appeal also it is 60 days but in the case of saving the sale by deposit it is only 30 days. So by adding this 30 days we shall simply save from waste the 30 days which is otherwise wasted. Thereby it will not affect any party concerned. The party that is immediately concerned is of course the Government who is to get the revenue. They will get the revenue all right although the period is extended. Another party which is concerned is the auction-purchaser. He will also get a compensation by refund of the sale money with interest thereon. So he also does not lose anything. On the other hand, without affecting the interests of the Government and of the auction-purchaser, we will give a relief to the peasant proprietor, as I have chosen to call him, by giving him one month more to find the money to

pay and to release his land from sale. With these few words, Sir, I beg to submit to the House this Assam Land and Revenue (Amendment) Bill, 1943 for consideration and acceptance.

The Hon'ble the SPEAKER: Motion moved:

"That the Assam Land and Revenue (Amendment) Bill, 1943 be taken into consideration."

The Hon'ble Maulavi MUNAWWAR ALI: Mr. Speaker, Sir, I wish I could welcome this piece of legislation proposed by the hon. Mover, who is the newest Member in our midst, in the same way in which we have welcomed his advent. The hon. Mover himself has admitted that there has been a demand, but that demand may not have been heard. If there is a demand and it is not heard, is this to be called a genuine demand? In the body politic as it is constituted to-day the slightest thing reaches the top with a lightning speed, but according to the admission of the hon. Mover himself that demand has still time to reach different quarters. I think, Sir, that makes clear the weakness of the case which our hon. Friend has so ably pleaded.

I think, it may be interesting to the hon. Members if I were to give a genesis of the provision of grace which the hon. Member wants to extend. In 1925 the then Assam Legislative Council passed a Resolution recommending that the provisions of the Assam Land and Revenue Regulation relating to the sale of permanently settled estates be so amended as to permit the interested persons depositing the arrears together with the expenses of the sale, interest, etc., within 30 days from the date of the sale, and thereby to get the sale automatically annulled. To give effect to that Resolution Government drew up a Bill basing on course of legislation in Madras and the United Provinces with certain modifications so as to extend the privilege of annulment of sale to all property sold under section 70 of the Regulation, whether permanently settled or not. The period for depositing money was fixed at 30 days according to the Council Resolution. The local officers were then consulted for their opinion on the provisions of the Bill. This, however, took Government as long as two years, and then there was a quiet over the whole question. In 1932, however, a non-official Bill was introduced embodying almost the same provisions as in the Government Bill of 1926, and the Legislative Council agreed to its circulation for eliciting public opinion. The Bill was accordingly circulated and opinions called for; then the Bill was referred to a Select Committee. After obtaining opinion from both officials and non-officials and of the Select Committee, which suggested some alterations, the Bill was passed into Assam Land and Revenue (Amendment) Act (Act IV of 1933) for three years, as an experimental measure. On the expiry of that period Government in 1935 took up the question of making the provisions permanent and accordingly they did it by the Assam Land and Revenue (Amendment) Act of 1936 (Act III of 1936), after obtaining the opinions of the local officers and the Select Committee set up for the purpose. Since then, Sir, Government have received no complaint as to the scantiness of the time of grace that that Act afforded till to-day when the hon. Member has thought it fit to broach his Motion.

The present Bill, as admitted, proposes to substitute the word "sixtieth" for the word "thirtieth" in sub-section (1) of section 78A of the principal Regulation, as inserted by the Assam Land and Revenue (Amendment) Act, 1936. And as it is an amendment to the Amendment Act of 1936, there are some legal defects inherent in the Bill. There should be a word "further" between the words "A Bill" and "to amend" in the description. For the same reason, clause 2 of the Bill should have been worded as "In sub-section (1) of section 78A of the principal Regulation, for the word 'thirtieth' the word 'sixtieth' shall be substituted" and that in the title and clause 1(1) "1943" should be "194". In view of these legal defects, I submit, Sir, that the Bill also is not in order.

In all the discussions, ranging from 1925 to 1936 both in and outside the Legislature in connection with the Amendment Acts of 1933 and 1936 there was no suggestion anywhere that the period of grace was ever criticised or that it was proposed to be extended to any longer period.

Again, Sir, the Statement of Objects and Reasons gives the main object of the Bill as being in uniformity with the next two sections, 79 and 80 of the Assam Land and Revenue Regulation and with the provisions of rules 89, 90 and 92 of Order XXI of the Civil Procedure Code read with Article 166 of the Indian Limitation Act.

I will amplify those a bit further. The privilege in section 78 A is practically a grace given to a defaulter so that he may not be deprived of his estate. The period of 30 days laid down therein is apparently based on the limitation of 30 days allowed by rules 89, 90 and 92 of the Indian Civil Procedure Code and item 166 of the First Schedule of the Indian Limitation Act. Section 79 of the Regulation deals with application for setting aside sales on the grounds of irregularity and section 80 of the same deals with time for making a sale final. The time allowed in these two sections is 60 days. Now if the period laid down in section 78 A is extended to 60 days as proposed in the Bill, the provisions of sections 79 and 80 would be redundant. On the other hand, if a defaulter fails to take advantage of the provisions of section 78 A and if there be any irregularity in the sale he may make an application within 60 days to set aside the sale under section 79. He has further remedy to seek. If he fails to get relief thereunder he may proceed under section 81 which permits him to make an application within one year of the sale becoming final, to set the sale aside on the grounds of hardship and injustice—either of these two or both. If hardship, this application will lie and succeed and if unjust that application will also lie and succeed. Failing any relief under the above provisions one more recourse is also there for him and that is under the existing law. Under the existing law he is to seek the help of the Civil Court for the annulment of a sale under section 82 read with section 154 of the Regulation and sections 79 and 80 of the Civil Procedure Code. He has got so many provisions to seek relief. Obviously, it is for these reasons, Sir, that none of the so called aggrieved persons must have thought it fit to refrain from making their demand felt.

The intention of the present Bill is said to be to bring uniformity in the period of submission of applications for the annulment of sales, or in other words, to extend the limit of 30 days laid down in section 78 A to 60 days as allowed by sections 79 and 80 of the Regulation. Sir, the remedies contemplated in these sections differ not only in kind but in species, as also in genus. Their difference is not only of character but of colour as well, so the uniformity which the hon. Member intends cannot be thought of between such heterogeneous elements. The period is to be extended for the sake of uniformity and not for actual necessity it seems. It may have an affect on the revenue sale and consequently on collections of Government revenues. The extension is likely to encourage dilatoriness in paying revenue and in redeeming the estates one sold. The hon. Member has pleaded his part. He has pleaded I should say with all the emphasis he could command, but he has not taken into account the administrative side of the question which the grounds that I have just now made reveal. It is doubtful, therefore, if the extension would give anyone very much advantage, unless it can be proved from specific instances that 30 days are too short a period, and on account of that shortness there has really been hardship, on the proprietors whose properties may have been sold in auction.

The hon. Member has also stated that the auction purchasers get a compensation but that compensation has been assessed on the period of 30 days grace that has been granted but the period has now got to be extended to 60 days. It would have been very good on the part of the hon. Member to have suggested a proportionate increase of compensation also. The auction purchaser will certainly be prejudiced because he will, if the provisions suggested by the hon. Mover were accepted, be forced to be content with that compensation which is thought fair and equitable for a period of 30 days only, *i.e.*, he will get according to that computation only half the compensation which he would be entitled to. On this side of the question as well, this Bill is one sided one and cannot be allowed to be passed.

I think, Sir, I have been able to convince the House that no necessity for extension of the period of grace has been made by the hon. Mover. Nor has it been possible for him to justify the Bill on grounds of equity or justice.

The hon. Mover has stated, Sir, that the conditions of the country is very different from that that existed when "the grace" Act was enacted in 1936. I fully endorse those of his views. He pleads for the small peasant proprietors. But certainly, I cannot support him when he says that small peasant proprietors are worse off to-day. No, I should tell the House that the fact is that they are ten times better to-day than they were in 1936.

I think, Sir, for what I have brought to the notice of the House, the hon. Member's proposal has no legs to stand upon and I have already told you, Sir, that I give great credit to the hon. Mover who has just been in our midst and that it has been possible for him to come with a proposal for legislation. This shows what a keen interest he takes in the affairs of the arena he has just entered.

I hope, Sir, the hon. Mover will feel convinced that there is neither necessity, nor justification for a Bill of the nature he has mooted.

Srijut SURENDRA NATH BURAGOHAİN: Mr. Speaker, Sir, I am indeed very much obliged to the Hon'ble Revenue Minister for the personal compliments he has paid to me. These are perhaps compliments which I do not deserve.

Before I would like to make up my mind as to the course to be taken with regard to the fate of this Bill, I would try to meet some of the objections that have been brought forward by the Hon'ble the Revenue Minister. I find that he has tried to show to the House that the proprietor has got some special relief to look to within the provisions of the Regulation and in going to mention these provisions, he has stated that he has got a right of appeal of the Commissioner and also he has got another right of appeal to the Government, which is now being heard by the Revenue Tribunal.

Srijut ROHINI KUMAR CHAUDHURI: The Commissioner does not hear any revenue appeal now.

Srijut SURENDRA NATH BURAGOHAİN: I stand corrected, Sir. Now all the appeals are heard by the Revenue Tribunal and not by the Commissioner.

He has also shown that he has got the right to contest the whole matter in the Civil Court. But there has been a fundamental mistake in the contentions that he has made. Sir, the object of my Bill is to give relief to the proprietor of land where there is no relief available. When a sale is valid he cannot usefully agitate the matter in the Appellate Court or, for the matter of that, in the Civil Court. The Bill, therefore, seeks to give relief in such cases where there is no relief and when the sale is otherwise valid and complete. So, Sir, the existence of the other provisions to which recourse can be had by the proprietor is beside the point.

His next contention is that I should have suggested some proportionate compensation to the auction-purchaser for the extension of time by another 30 days. In this connection, I would invite the attention of the Hon'ble the Revenue Minister to another provision of the Land and Revenue Regulation, Section 84, where the only compensation that is provided is six per cent. to an auction-purchaser after the sale is set aside on appeal. As the House is aware, these appeals sometimes take years and not only months. As a matter of fact for the appeal under section 81 of the Regulation the period of limitation is one year. So the increase of compensation provided for the increase of period from one month to one year or more is one per cent. only. If, therefore, I have not thought it fit to raise compensation from 5 per cent. to 5½ or 5¾ per cent., I do not think any complaint may validly be made against my Bill.

Thirdly, Sir, there has been a mention of administrative difficulties from the Government point of view. This is a position, I must confess, I cannot understand. As soon as a land is put up to sale, the auction-purchaser pays the money down into the treasury and his money is not released until, in the event of any appeal being accepted or otherwise, the money is paid by the defaulter. It is then only that this money will go to the auction-purchaser. So I cannot understand how will Government in any case lose the money by extending the time from 30 days to 60 days.

So from all these I remain to be convinced about the difficulties that the Hon'ble Revenue Minister put forward before the House. I have no option, therefore, but to come to the conclusion that the only ground for opposing this Bill, which will do benefit to the poorer section of the people, is reluctance on the part of the Government to look with favour on any piece of non-official legislation.

But, Sir, in view of the fact that I have failed to find any supporter in this House and in view of the fact that Government have put forward such a stiff opposition to my Bill, I do not propose to proceed with the Bill and therefore I beg leave of the House to withdraw it.

The Hon'ble the SPEAKER: Has the hon. Mover leave of the House to withdraw the Motion?

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

Resolution re: improvement of the existing inadequate arrangements for ensuring the sanitation and cleanliness in Bazar areas adjacent to Military and Defence Projects throughout the Province.

Mr. R. A. PALMER: Mr. Speaker, Sir, I beg to move that this Assembly is of opinion that the Government of Assam do take immediate steps to improve the existing inadequate arrangements for ensuring sanitation and cleanliness in Bazar areas adjacent to Military and Defence Projects throughout the Province.

Sir, this Resolution has been brought to draw attention to a serious state of affairs existing, which, if unchecked, will have a grave effect on the health of the Province. The influx of large numbers of labourers to work on Military and Defence projects has caused nearby bazars to be overcrowded and many small huts and shops have been erected close by.

Most of these areas are in an insanitary state. There is no efficient drainage; muck and garbage are left about the place making an ideal breeding ground for the dread diseases, cholera and dysentery. Unless these areas are seen to at once, epidemics are almost certain to occur with terrible loss of life. We are fully aware that it is primarily the duty of Local Boards to ensure sanitary conditions in the rural areas but either from indifference, lack of staff, or lack of organization.....

Maulavi ABDUL BARI CHAUDHURY: Why not lack of funds?

Mr. R. A. PALMER: It may be lack of funds, this duty is not being carried out. Admittedly it is not a simple problem. Not all the bazars are Local Board ones, some of the areas are private lands, nevertheless powers to deal with it are in the Local Self-Government Act and these should be rigorously employed. The matter is so serious, however, that we feel that the slow machinery of dealing with the matter through Local Boards may be inadequate and we ask that the two Government Departments concerned, the Local Self-Government and Public Health Departments should get together and resolutely tackle the problem.

We offer the suggestion that "sanitary squads" might be inaugurated on a similar footing to village Defence Parties and given full power to deal effectively with all sanitary problems in the areas of projects. I would emphasise, above all that the matter is urgent.

The Hon'ble the SPEAKER: Resolution moved:

"This Assembly is of opinion that the Government of Assam do take immediate steps to improve the existing inadequate arrangements for ensuring sanitation and cleanliness in Bazar areas adjacent to Military and Defence Projects throughout the Province."

Mr. D. B. H. MOORE: Mr. Speaker, Sir, I rise to support this Resolution and I think, I can claim to speak from personal knowledge as I have been privileged for the last 18 months to be employed on one of the projects in Assam. I have seen for myself exactly the conditions to which Mr. Palmer has referred. The condition of the bazars in the vicinity of practically all the projects is, to say the least of it, extremely bad. This condition has persisted, I think, we may fairly say for a number of years. But a position has now arisen, as Mr. Palmer pointed out, with the large increase in the

local population, when the condition of these bazars merits immediate and most serious attention. I need not detail the conditions which go to make the bazar areas so bad. Members must know for themselves that the conditions that exist in rainy weather. In the midst of mud and water, refuse and general filth, cattle are allowed to stray all over the bazar area, together with mangy dogs and wandering goats. Surely this is a state of affairs which should and can be improved. The problem, nobody will deny, is extremely serious, and, is a very big one, but I myself feel very strongly that a great deal can be done with the machinery which is existing.

Primarily we all know that responsibility for the clearing up of these sites lies, in the case of Government land with the Local Boards or in the case of private land with the owner of the land. I think the time has come when Government must accept their share of responsibility for this position and set an example. By speedy action they can help in many ways. In the first place, the Local Boards themselves can, I believe, contribute considerably to the solution of this enormous problem. There is existing machinery which can and should be utilised more than has been done in the past. If I might refer for a moment to the Act, section 61 sub-section (1) empowers all Local Boards to serve notice on the owner or occupier of any building which, in its opinion, is in a filthy or unwholesome state, or of any land which is in such state or the owner can be compelled to cleanse, clear, or otherwise put such building or land in a proper state within a time to be specified.....'

Further if I might refer to Rules 105 and 106 under this Act. Rule 105, sub-rule (i) gives powers for bazar ground to be properly drained and the areas to be kept clear of filth and refuse. All sweepings and garbage shall be removed to a distance of not less than 250 yards from the bazar, fair or *mela* and shall be burned at frequent intervals.

I submit, Sir, that only in a few instances, if at all, are these rules observed. Sub-rule (iii) states that a place shall be set apart for cattle brought for sale.

Here again, Sir, if this rule were properly enforced, we would not see cattle and the like allowed to stray all over the bazar areas thus contributing to the bad conditions.

Sub-rule (iv) to which I attach more importance states :

"When the Director of Public Health certifies that, in the interests of the public health, latrine accommodation is necessary at any such bazar, fair or *mela*, the Board shall be bound to provide a public latrine with adequate accommodation and cleansing staff."

I know from personal observation that the number of labourers and the general public attending many of these bazars, on a weekly bazar day, has increased enormously and I think there is no question whatever that additional latrine accommodation is most urgently required. This is a point which I feel strongly Local Boards should look into.

Again sub-rule (v) states that "Local Board shall appoint a person who shall be personally responsible for the cleanliness of the bazar ;"

If any such people are at all appointed, I question whether they are doing their duties efficiently.

Rule 106 states that in the case of privately owned bazars the owner may be required to take steps, to the satisfaction of the Local Board, that the bazar is properly drained ; provided with a wholesome supply of drinking water ; and maintained in a clean and sanitary condition.

I think, I have quoted sufficiently from the Act and the Rules to show that many of these are observed more in the breach than in the observance.

Maulavi ABDUR RAHMAN : Is there any penal provision, Sir, in these Rules ? I do not think, Local Boards have been given any power to penalise the law breakers.

Mr. D. B. H. MOORE : Yes, Sir, there are. If I may refer to the question of funds which my Friend Mr. Abdul Bari Chaudhury has raised a moment ago, I believe I am right in saying that in many cases roads which were previously maintained in service by Local Boards have now been taken over by Military authorities. I know from my personal knowledge that in one case considerable surplus funds are available in the Local Board which might be usefully diverted to this kind of sanitation of bazar

areas. Government might help in several directions; firstly I suggest an increase in grants-in-aid to enable the additional work to be carried out. Secondly I suggest that Government might examine the possibility of approaching the Military authorities for funds to enable this work to be more efficiently carried out and thirdly Government might assist with the allocation of additional staff in the form of health inspectors and sweepers. If I may again quote from personal experience, we have ourselves come up against this problem of sanitation with the arrival of large numbers of new labour and we have been able to obtain sweepers from outside the Province. If a private organisation can do this, I suggest that it should be possible for Government to obtain additional sweepers as well.

Lastly what I think is very important is the question of supervision of the activities of these Boards. The machinery quite clearly exists. But unless some form of supervision is exercised on the activities of these Boards the machinery as such is quite useless. Rules were framed to be made use of and with supervision and the enforcement of these Rules in a reasonable manner I think a great deal can be done to improve on this problem. We wish to see this machinery functioning not like an old Windmill, creaking and groaning but working smoothly and efficiently, lubricated by, if necessary, additional staff and additional funds, and most important of all, adequate supervision. It is a big problem and it must be tackled in a big way. Too often we hear the age old expression "We have no staff, we have no money, *Kia Karega*". I think, Sir, the time has come when this attitude must be changed and the effort must be made immediately. In short, Sir, what we ask is action, immediate and positive.

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY: Mr. Speaker, Sir, I am obliged to the hon. Mover of this Resolution and Mr. Moore for the masterly way that they brought such an important matter to the notice of this House. Sir, when I received the notice of the Resolution I was wondering as to what might be the intention of the hon. Mover and also I could not understand at that time from the wordings of the Resolution what might be the grievances and what improvement acutally he wants and how far Government will be able to remedy those. We know, Sir, there are four kinds of bazars; bazars under the control of the Municipality, bazars under the control of Local Boards, bazars on private lands such as on Tea Garden areas and bazars on lands of private owners. Now, Sir, in these days a fifth kind of bazars is coming into existence. These are not real bazars, but due to the presence of a large number of Military people and labourers working in different Military Projects, certain tea stalls, sweetmeat shops, fruit stalls and the like have been erected in different parts in the Country, and those stalls are visited, I know, Sir, by a large number of people. So far as the Municipal and Local Board markets are concerned, under the existing rules, Sir, certainly if those markets are not kept in proper sanitary condition the Local Government have got the power to insist upon those Boards to see that these are brought into proper condition. But as regards the other bazars, Sir, that is bazars on private owners' land, I am afraid, we have got very little power under which we can take action. Of course, the Public Health Department can take action if they think that certain foodstuffs which are being sold are not wholesome or if such foodstuff is taken, this may impair the health of the people, they can come in and stop the sale of such food-stuffs.

(At this stage the Hon'ble Speaker vacated the Chair and Babu Kamini Kumar Sen occupied the Chair.)

The Mover of the Resolution, Sir, has minimised my trouble by speaking about the difficulties of the Government in dealing with this problem. Mr. Moore also has quoted certain sections from the Local Self-Government Act, saying that though powers to deal with such matters rest not much with the Provincial Government but with the Local Bodies much improvement can be done. He also has shown what steps those Local Bodies can take. Now, Sir, I think I can say this much that I shall bring this to the notice of all the Local Bodies concerned to see that the Rules just now quoted by Mr. Moore for keeping the bazar areas in proper sanitary condition are enforced and matters improved. Besides that, Sir, I can say that if the hon. Mover please gives me the names of the bazars that are in his mind, but cannot give out here for obvious

reasons as in that case he will have to name the Project, I shall certainly ask the District authorities concerned to visit those areas and see the condition themselves and suggest to Government ways and means how the sanitary condition of those places can be improved.

Here in this Local Self-Government Act I find certain Rules which give the Local Bodies the power to close markets if they are not kept in proper sanitary condition. I would also request the Chairmen concerned to see if they can take any action under those rules. There is a penal section, Sir. If order is disobeyed the Chairmen can take certain action against those persons. The Government is certainly very anxious to see that the health of these people is not injured by any negligent action either by our people or by anybody. The time is certainly very abnormal and the places which are visited by a large number of labourers are bound to be very filthy because very few people have got the complete idea of neatness and cleanliness. I think, I have given sufficient indications that the Government is taking this matter very seriously and they would try their best to improve the sanitation. I hope, Sir, with this assurance the hon. Member will please withdraw his Resolution.

Dr. C. G. TERRELL : Mr. Chairman, Sir, I would like to say a few words in support of this Resolution and to endorse what the Hon'ble Minister has just now told us, namely, that he undertakes to take the matter up and make use of the existing machinery available to improve conditions.

I want, however, to emphasise the indirect implications that exist in the matter that we have under discussion. We all know and realise in our hearts the great importance of sanitation and hygiene, but unfortunately these matters are so often shelved and appear to be looked upon as of second rate importance and the shortage of finance is too often used as an excuse for procrastination. Sanitation in this Province is notoriously behind the times and is practically nonexistent in the rural areas and actually in most of the towns, as we well know, is little better. The matter is of particular importance at the present time owing to the large increase in the temporary population of Assam as the result of war. We have in Assam a large number of young men in the Army, recruited from India and from all over the world, whose health and welfare have been entrusted to us and who must be looked after and protected from disease. I feel it right to bring this specially to the notice of the House with the hope that the responsibility that exists at the present time may be appreciated. It is for these reasons that a special effort is being made to draw the attention of Government to the need for improved sanitation in the bazar areas adjacent to places occupied by Military and Project personnel. It is useless to say that the matter of sanitation is hopeless and that no improvement can be effected now. I can assure you that this is not the case. It is the general belief throughout India that the problem of sanitation will take its own course and that probably in a thousand years will solve itself automatically. That is not the case. The people are ready at the present time to accept sanitation if it is put before them in a proper way.

Sir, I myself have been connected with and am in medical charge of a large Project for a considerable time. This Project has employed large numbers of labourers who before their arrival had never heard of the question of sanitation. A small percentage are drawn from tea gardens, but the large majority from areas in the Surma Valley and including those of Bengal and Chittagong. Despite their ignorance of sanitation within a very short time and by a simple process of education we are able to teach them the principles of sanitation which are adopted by them at once. Now, Sir, I suggest to you that the time is ripe for carrying this matter farther. From this Project alone over a hundred thousand labourers, who have learnt the principles and value of sanitation, have returned to their homes, and as such what better opportunity could exist to further this education in the Province.

Sir, what of the future, we all must remember what happened at the end of the last war of 1914-18 when epidemics swept the whole world. I suggest that conditions now are no better than at that time and that we are again in great danger of similar happenings. All that we can do now to improve conditions of health, sanitation and

hygiene will be of great value to minimise the dangers which undoubtedly lie ahead. All public measures should be adopted now and we should act at once in the interests of all.

*Maulavi ABDUL BARI CHAUDHURY: Mr. Chairman, Sir, I seek your permission to suggest a very small amendment to the Resolution. It is like this: that in the fourth line after the words "cleanliness in bazar areas" the words "specially to those" be inserted. The Resolution as amended would read thus "This Assembly is of opinion that the Government of Assam do take immediate steps to improve the existing inadequate arrangements for ensuring sanitation and cleanliness in bazar areas specially to those adjacent to Military and Defence Projects throughout the Province."

My intention is not to oppose the Resolution but by this small amendment I want to bring to the notice of the hon. Members the deplorable insanitary condition of the bazars, in Muffasil areas.

*Mr. R. A. PALMER: I will accept that amendment, Sir.

*Mr. F. W. BLANNERHASSETT: On a point of information, Sir. Has the Hon'ble Minister any objection to the amendment?

*The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY: I have no objection to accept this amendment, Sir.

Maulavi ABDUL BARI CHAUDHURY: Many of the village bazars are a source of constant nuisance to the public. Ownership of these markets is generally vested on private individuals and this factor is a stumbling-block in the way of improvement by the Government or by the Local Boards. The Local Boards also have not adequate power under the Assam Local-Self Government Act and under the section which has been read out by Mr. Moore they cannot take any effective measures for improving the sanitary conditions of these markets. Unfortunately in the Act itself there are no adequate penal clauses. Moreover the Local Boards have got no executive power. In case the Local Boards are convinced that some markets are insanitary and stern actions are called for, they are to approach the Subdivisional Officer for taking necessary steps, and being a Chairmen of a Local Board you know what are the difficulties they experience. The present Resolution wants that Government should take steps to improve the existing conditions regarding sanitation and cleanliness in the bazars which are adjacent to the Military Projects. My amendment is that although such bazars may receive special attention of the Government the claims of other markets should not be lost sight of. With these words I support the Resolution.

Babu ROBINDRA NATH ADITYA: On a point of order, Sir. Is the Hon'ble Minister for Local Self-Government competent to accept this amendment, because after the amendment has been accepted, the Resolution goes to the jurisdiction of the Hon'ble Minister for Public Health?

The CHAIRMAN: Any of the Ministers can do it.

Mr. F. W. BLANNERHASSETT: Mr. Chairman, Sir, as the subject has been extended to include rather more than the original Resolution intended, perhaps I might be permitted to suggest that the matter of provincial sanitation is fast becoming Defence Problem No.1. I have recently spent three months in a town not far from Shillong—at the bottom of the hill in fact, in one direction, where, I speak from my personal experience, I tell you the conditions down there are nothing short of an absolute disgrace to any form of civilization. The place literally stinks: because of the behaviour not only of Military personnel but also of beggars and all kinds of other people not connected in any way with projects, who come into the Province from all over the place. You may go down now if you can, and you may see beggars erecting permanent encampments at the side of the roads, using slit trenches as public latrines, and doing all they possibly can to endanger the health of the populace.

The CHAIRMAN: That is going beyond the scope of the Resolution.

Mr. F. W. BLANNERHASSETT: It may be, Sir, but I crave your indulgence when I ask Government once more—this question was also raised by my Friend Mr. Rohini Kumar Chaudhuri last session—what they intend to do. I do want to

*Speech not corrected by the hon. Member or the Hon'ble Minister concerned.

emphasise the stern necessity of Government taking very real and adequate measures to put a stop to this danger right now.

Mr. G. GOLDSMITH: As the Resolution stands, I think, its scope, is very limited. It says that steps should be taken for ensuring the sanitation and cleanliness in the bazar areas "adjacent" to Military Projects and Defence Projects. We might improve the sanitation and cleanliness in all the bazar areas whether they are adjacent to Military Projects or not. From the public point of view this Resolution will look as if because there are Military Projects and Defence Projects therefore cleanliness and sanitation is necessary for the whole of the Province. But as a matter of fact cleanliness and sanitation are necessary in all market places whether they are adjacent to Military Projects or not. Of course I do not mean thereby that since the influx of Military and other population into the Province our problem has been minimised. Surely the problem and the work are increasing. But what I mean to say is that it is limiting the work, the scope and the good intention of the Mover. I have full sympathy with the intention of the Hon'ble Mover but as the Resolution stands I think from the stand point of the public it does not look well. If it is worded in some other form I think it will look better in the eyes of the public. The Resolution may be worded like this "That this Assembly is of opinion that the Government of Assam do take immediate steps to improve the existing inadequate arrangements for ensuring sanitation and cleanliness in bazar areas throughout the Province especially at this time when there is a large influx of population both Military and civil". Otherwise it looks ugly to me.

Maulavi MUHAMMAD MAQBUL HUSSAIN CHAUDHURY: Mr. Chairman, Sir, I am sorry I cannot support the Resolution as worded by Mr. Palmer and amended by Maulavi Abdul Bari Chaudhury. I am a representative of the villagers. I know what the conditions of the village markets are. This Resolution only limits the scope and concentrates the activities of Government to particular areas, shutting their eyes towards other markets. You know, Sir, the conditions of the Ajmiriganj market, Nabiganj market, Sachna and Madhyanagar markets particularly. These are nothing but quagmires during the rains. You cannot walk over them. This Resolution does not give any power to Government to improve those village markets where thousands of people gather weekly. My hon. Friend Maulavi Abdul Bari Chaudhury has amended the Resolution by adding the words "Specially to those" but he does not extend the scope of the Resolution. I would suggest that the Resolution be amended in this way: "This Assembly is of opinion that the Government of Assam do take steps to improve the existing inadequate arrangements for ensuring sanitation and cleanliness in all the bazar areas throughout the Province" and delete the words "adjacent to Military and Defence Projects". If the Resolution is amended in this way then I shall whole-heartedly support it, otherwise not.

Mr. A. WHITTAKER: Mr. Chairman, Sir, I think the difficulty mentioned by my Friend, Mr. Maqbul Hussain Chaudhury, could be met entirely if the Hon'ble Minister would expand the scope of his assurance. That is what is wanted—more action and not more Resolutions. And if we could hear the Hon'ble Minister again, in view of the unanimous request from all sections of the House for action for dealing with this problem, I think we could all join hands with Mr. Maqbul Hussain Chaudhury.

The CHAIRMAN: The Hon'ble Minister is at liberty to expand it as far as he can.

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY: Mr. Chairman, Sir, I think in my first speech I made it sufficiently clear.....

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: The hon. Mover of the Resolution has got a right of reply.

The CHAIRMAN: The Hon'ble Minister has been requested to expand his assurance; after he has spoken the hon. Mover can exercise his right of reply in the light of the assurance. But if the Hon'ble Minister is giving his final reply I would ask the hon. Mover to exercise his right of reply first.

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY: Mr. Chairman, Sir, I think in my first speech I made it quite clear that Govern-ment.....

The CHAIRMAN : I don't think the Hon'ble Minister is giving his final reply now.

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY : I am giving my final reply. I thought the hon. Mover had forgone his right of reply.

The CHAIRMAN : No. I understood the Hon'ble Minister was expanding his assurance as suggested by Mr. Whittakar. But if he gives his final reply I would first ask the hon. Mover whether he has anything further to say on this Resolution.

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY : I do not exactly follow what is meant by "expanding the assurance".

The CHAIRMAN : Expanding so as to include the general sanitation of the Province.

The Hon'ble Srijut HIRENDRA CHANDRA CHAKRAVARTY : I made it quite clear that we shall take all possible steps to improve the sanitation of the bazar areas. So far as the Local Board and Municipal markets are concerned we shall bring the matter to the notice of those authorities. As regards other markets, the District Officers will be instructed to visit the places where insanitary conditions prevail, and would try to effect improvement. I have already said these things. So, there is no necessity for any further expansion of the assurance at all.

Mr. A. WHITTAKAR : Mr. Chairman, Sir, as I have got a similar Resolution standing in my name further down in the list, I should like, contrary to the usual practice, to threaten the Hon'ble Minister that if nothing happens as a result of this Resolution I shall have the greatest pleasure during the next Budget Session in moving cuts on his budget which I hope will be supported by all those Members who spoke in support of this Resolution.

Mr. R. A. PALMER : In view of the assurance given by the Hon'ble Minister, and Mr. Whittaker's remarks, I beg leave of the House to withdraw the Resolution.

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

Resolution regarding inclusion of the Ahom Community among the recognised minorities for the future Indian Constitution

The CHAIRMAN : The next Resolution stands in the name of Srijut Surendra Nath Buragohain.

Srijut ROHINI KUMAR CHAUDHURI : Sir, before the next Resolution is moved, may I request the hon. Member, who has tabled this Resolution, to refrain from moving it in this Session? The question involved in this Resolution largely affects the interest of the Hindu Members, most of whom

The CHAIRMAN : I think the hon. Member will have an opportunity of saying what he has got to say after the Resolution has been moved.

Srijut ROHINI KUMAR CHAUDHURI : If the Resolution is moved, it requires to be withdrawn, but if the hon. Member does not move the Resolution, the question of withdrawal would not arise. The permission of the House is necessary for withdrawal once the Resolution is moved. I think, the House remembers that it was generally agreed to, particularly by the Hon'ble Revenue Minister, that controversial measures should not be moved in such a thin House. He also requested certain Members not to move controversial legislation. It is in that spirit that I am asking the hon. Member not to move his Resolution because it affects the interest of the Assamese Hindus, most of whom are now absent from this House for reasons beyond their control.

Srijut SURENDRA NATH BURAGOHAİN : Mr. Chairman, Sir, I beg to move that this Assembly is of opinion that the Ahom Community of this Province be included among the recognised minorities for the future Indian Constitution and that the Government of Assam do move the Government of India and His Majesty's Government for consideration and acceptance of the Community as such a minority.

Srijut ROHINI KUMAR CHAUDHURI : May I take it that the hon. Member does not take any notice of my request?

The CHAIRMAN : I think it will be clear from his speech whether he likes to drop the Resolution or proceed with it.

Srijut SURENDRA NATH BURAGOHAİN: With regard to the observations made by my hon. Friend, Mr. Choudhuri, I would like to say that my hon. Friend seems to have anticipated me and has misconceived the position that I am going to put before the House. I feel sure that after he has heard me he will not be inclined to press his request. In any case I am open to conviction, and I will be glad to be convinced of the strength of his contention. If he can convince me and the House about the course he suggests I would certainly be glad to accommodate him.

Sir, I rise to discharge a highly important task of asking this House, on behalf of the Ahom Community of this Province, to which I have the privilege to belong along with two other hon. Members of this House, Mr. Joges Chandra Gohain and Rai Sahib Daulat Chandra Gohain, to accept the plea of the Community to be recognised as a minority in the future free Indian Constitution.

Srijut ROHINI KUMAR CHAUDHURI: On a point of information. Do I understand that the hon. Mover was referring to the future *free* Indian Constitution? In that case I have no objection to support his Resolution because it will mean nothing.

Srijut SURENDRA NATH BURAGOHAİN: I desire to avoid going into details at any great length into this question which appears to me very obvious and almost self-evident. Besides I have supplied some of the hon. Members of this House with copies of a document entitled "Memorandum on the Ahoms as a minority", published under the authority of the All-Assam Ahom Association, in order to give some information to them about the question before the House. To most of them this document will, however, appear to be very old and stale one, because that document was published and circulated 28 months ago, when it made its first appearance. In any case I would not like to refer to all the things appearing there, most of which are only of historical importance. But in view of certain things which have happened ever since the publication of the document which are of great importance to this Community as well as to the political aspect of the whole question of the Indian Constitution, I will try to restate the whole position in brief. Before I would plunge myself into a discussion of the treatise of the proposition which I have sought to put forward in the Resolution before the House, I would take the House to certain preliminary questions necessarily involved in this connection. Why of all communities the House is familiar with, the Ahom Community should have been chosen for special consideration? My answer is that this is the only one of the communities whose separate entity this House recognises, but which is outside the pale of recognised statutory minority communities that we find in the Constitution Act. This is the vital and essential difference between this Community and the other Communities. It is this difference that has necessitated the present move on my part. It may be presumed that the statutory minorities will continue to be recognised in the future Indian Constitution and any apprehension on that account will be unreasonable and unnecessary.

Then the second question that I will invite the House to go into is that why I should have framed the Resolution in the form that is now presented and why this matter should go up the way it is suggested in it? To explain this position I will take the House to the Constitutional proposals, popularly known as Cripps' proposals, of Spring 1942. These proposals when they were first brought by Sir Stafford Cripps into this country, I must confess, raised hopes in many quarters. But when Sir Stafford had to pack off, regret reigned all over and his parting words "We revert to the position as it was before I came out here though not quite perhaps to that position", still rings in our ears. After Sir Stafford left this country we have got it on the authority of Mr Churchill himself, Prime Minister of England, in his statement in the House of Commons on September 10, 1942, that this offer to India still holds the field. He said the broad principles of the declaration made by the British Government, which formed the basis of the Mission of the Lord Privy Seal (Sir Stafford Cripps) to India must be taken as representing the settled policy of British Crown and Parliament. These principles stand in their full scope and integrity.

The CHAIRMAN: Cripps, proposal seems to have been withdrawn.

Srijut SURENDRA NATH BURAGOHAJ: I will endeavour to explain. What Mr. Churchill said was that it marked the settled policy of the British Parliament. Some of the proposals were of immediate concern and must necessarily have lapsed, for instance, the proposals for an all-Indian Executive Council or of National Government, as Sir Stafford chose to call it.

The CHAIRMAN: That lapsed so far the future of India is concerned.

Srijut SURENDRA NATH BURAGOHAJ: The proposals still remain. This statement of Mr. Churchill still remains. This statement was made on September 10, 1942. Sir Stafford Cripps came in March 1942 and returned in April of that year. It was some months after that that this statement was made by Mr. Churchill. So according to him, this particular principle or policy as declared in the Cripps' proposals still remains. So then it will be worth our while to examine this declaration, which still holds the ground, with particular reference to the Resolution before the House. Relevant paragraph of that declaration reads as follows—It is sub-clause (ii) of Clause (C).

“His Majesty's Government undertake to accept and implement forthwith the Constitution so framed subject only to:

(ii) the signing of a Treaty which shall be negotiated between His Majesty's Government and the Constitution-making body. This Treaty will cover all necessary matters arising out of the complete transfer of responsibility from British to Indian hands; it will make provision, in accordance with the undertakings given by His Majesty's Government, for the protection of racial and religious minorities; but will not impose any restriction on the power of the Indian Union to decide in the future its relationship to the other Member States of the British Commonwealth”.

It is common knowledge, Sir, that there was an inclination on the part of all the parties in India to accept the principles of Cripps' offer about the future of India. The break-down in the negotiations actually occurred over the question of the proposals which related to the immediate present. So it may be taken that so far as this particular clause is concerned, about which no objection from any quarter was raised in India, and about which the assurance of His Majesty's Government is always there, and who always take opportunities to repeat it to re-assure the minorities, it may be taken that those principles involved in this clause remain, more or less, intact, whatever may be the fate of the other parts of the proposals. That being so, according to this, Sir, what is contemplated is that the racial and religious minorities will be protected by a Treaty, the parties to which will be the Constitution-making body and the British Government.

Here in this very clause, complete transfer of responsibility is contemplated. The word ‘complete transfer of responsibility’ is there necessitating collateral treaty. That is why, Sir, I have said that my Resolution is meant for the future free Indian Constitution, *i.e.*, complete freedom as contemplated here.

Then again will arise the question who will be the recognised minorities who should find a place in that Treaty. It is only to make provision for such an occasion that I crave the indulgence of the House to accept my Resolution.

If I have been able to carry the House with me so far, then I would like to make the position of my community perfectly clear on another question. I must tell them that the Ahom Community is as freedom-loving as any other community in India. I want to make this perfectly clear that we are no camp-followers of the British. What we actually want is to share in the complete independence that we hope, will be ours, after this war is over. We want to take our due share in the public life of the country. As regards the nature of the constitution that we would like to be set up in India, this community stands for the establishment of democratic freedom in India, of a more progressive type, or I should rather say, of an intrinsically Indian type, and not a mere majority rule of the western type, (*hear hear*) by which constituent nationalities and communities will get their democratic rights of self-determination and statutory safeguards.

I now come to the merits of the minority claim that is advanced on behalf of the community. In doing so, I have got to take the House to the twenties of the thirteenth

Century. More than 700 years ago a very vigorous Tai clan migrated away from South China and came into Assam and established themselves here. They established a kingdom, and it was not a very small kingdom too, because it covered an area much bigger than the present Assam Valley Districts, and they held their sway until the British took over this country from them in the twenties of the last century as a legacy from the Burmese. According to 1941 census, there are about three hundred thousand Ahoms including Buddhist Ahoms. Though the vast majority of Ahoms are Hindus it is common knowledge that they do not inter-marry other Hindus. They, of course, inter-marry Ahoms of Buddhist faith. In social matters, Hindu Ahoms have retained their own customs based on Buddhist concept. They have their own ethnological differences and their own traditions.

Srijut ROHINI KUMAR CHAUDHURI: On a point of information Sir. Is it not a fact that the Ahoms inter-marry the Caste Hindus?

Srijut SURENDRA NATH BURAGOHAIN: There may be exceptions but as a rule they do not inter-marry the Caste-Hindus. Such exceptions only prove the rule. So the difference is not only one of stock but also of tradition and social position. If I have been able to show to the House that the Ahoms are a distinct racial community then I would next invite the attention of the House to the treatment that this community receives in the body politic of India. I need not take the House beyond the 1909 Act, what is known as the Morley-Minto Reforms.

The CHAIRMAN: I think, the hon. Member will try to finish because the Hon'ble Minister should get 30 minutes to reply.

Srijut SURENDRA NATH BURAGOHAIN: All right, Sir. In 1912, under the 1909 Act (Morley Minto Reforms), a Legislative Council was set up, after the Province of Assam was separated from the Eastern Bengal. As is well-known, under this Act, the Muslims were the only community in India which received recognition at that time and it was this community which could send their representatives to the Provincial Legislative Councils set up under the Act on an elective basis. The other communities who were entitled to representation were, however, represented by nomination. So under this 1909 Act, one Ahom Member was nominated to the then Assam Legislative Council. This community was recognised as a minority community along with the Muslims and no other minority community as such had any sort of representation at that time in Assam. This is a very important fact and I would invite the House to remember it throughout this debate.

Then passing on to the 1919 Act, it is well known that the same principles were carried forward into this Act also. The Muslims had their representation through the separate electorates. The other communities except in two instances in Bombay and in Madras, the Maharattas in Bombay and the Non-Brahmins in Madras, were represented by nomination, and the electorate was divided into Muhammadans and Non-Muhammadans. There were no Europeans, Anglo-Indians, Tribal communities and Scheduled-castes recognised as such under the 1919 Act.

Of course with regard to the non-Brahmins of Madras and Maharattas of Bombay they do not serve us with any parallel because they are not actually minority communities but majority communities in those Provinces. So provision of certain reserved seats for those communities were made under exceptional circumstances, because these communities happened to be very very backward. In any case those reservations would furnish us with no helpful instances for the purpose of our discussion.

Under the 1919 Act, into the first Legislative Council one Ahom was nominated who was a descendant of the Ahom Royal House. Into the second Assam Legislative Council one of the foremost personalities of the community was nominated and in the following two Councils the community was represented by election of two Members in to this House through the ordinary electorate. During all this period, under the regime of the 1919 Act, this community had its representation as a minority community in every sphere of the public life of this Province. Coming into the 1935 Act, however, this community did not seem to be very enthusiastic about securing recognition as a separate community and it was for this reason that the community did not find its place among the recognised minority communities of India. Coming to Assam we find that the Tribal community, the Scheduled caste community, which had no existence

or entity previous to the 1935 Act, came to be recognised as separate communities. The Ahom community when they found themselves in this predicament thought it better to take shelter under the provisions of the Instrument of Instructions where the Governor of a Province is directed to have a special responsibility with regard to the protection of legitimate rights of minority communities even though those minority communities may not have been recognised under the Act, even though those minority communities may not have their representatives in the Legislature. It was under the provisions of that that the Ahom community thought that they would get their consideration. In 1941 the present Prime Minister, who was also the then the Leader of the Government was pleased to accept the community among the different communities of this Province. It was through the kindness of that Government that this community got a status that it had lost and as a matter of fact it got its feet back. After this recognition by the Provincial Government, in 1942 His Excellency the Governor, at the instance and insistence of the All Assam Ahom Association, was pleased to nominate a Member of the Community into the Assam Legislative Council. So far as this Government is concerned and so far as this House is concerned, whose confidence, I believe, the present Government enjoys, they are committed to the principle of recognition of the Ahom community as a separate entity, because I have never found any one in this House finding fault with the present Government for having recognised the Ahom Community as a separate community, nor have I heard anyone raising any protest anywhere in press or in the platform of the Province. At the top of it I may tell the House that three of us, who belong to the Ahom community, are not here as representatives of the Ahom section of the electorate. We are, as a matter of fact, representing what is called the general community and I may tell the House that one of the issues on which I myself had fought the election was that the Ahom community should be recognised as a minority community within the framework of the present Constitution as well as within the framework of the future Constitution. The verdict of the electorate being what it was it may be presumed that even Cast-Hindus accorded support to this plea.

Babu ROBINDRA NATH ADITYA: On a point of information, Sir. Is there any majority community in Assam?

Srijut SURENDRA NATH BURAGOHAIN: Does it arise from what I have said?

Babu ROBINDRA NATH ADITYA: As you said minority community, there must be a majority community.

Srijut SURENDRA NATH BURAGOHAIN: I am referring to the Indian Constitution and not to the Assam Constitution.

Mr. BAIDYANATH MOOKERJEE: After this, Sir, we shall come as a minority community.

Babu ROBINDRA NATH ADITYA: In Assam there is no majority community.

Srijut SURENDRA NATH BURAGOHAIN: So, that has been the policy of the present Government and that has been the position of the community at the present moment. The Resolution before the House, therefore, is a logical fulfilment of the position which it has come to occupy. It simply seeks the assistance of the House for the recognition of this community in the future Indian Constitution. With these few words I commend the Resolution for the acceptance of the House.

The CHAIRMAN: Resolution moved:
 "This Assembly is of opinion that the Ahom Community of this Province be included among the recognised minorities for the future Indian Constitution and that the Government of Assam do move the Government of India and His Majesty's Government for consideration and acceptance of the Community as such a minority."

Adjournment

The Assembly was then adjourned till 11 A. M., on Monday, the 22nd November, 1943.

SHILLONG
 The 18th December 1943. }

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

