



**Proceedings of the Fourteenth 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 Monday, the 13th March, 1944.

PRESENT:

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

**QUESTIONS AND ANSWERS**

**UNSTARRED QUESTIONS**

(To which answers were laid on the table)

**Clinics for the treatment of Venereal Diseases**

Babu RABINDRA NATH ADITYA asked :

36. (a) Are Government aware that clinics for the treatment of venereal diseases have been established in Bengal ?

(b) Do Government propose to take similar measures to eradicate venereal diseases in this Province ?

The Hon'ble Miss MAVIS DUNN replied :

36. (a)—Government have no information.

(b)—Not for the present.

Babu RABINDRA NATH ADITYA: The answer is "Government have no information". May I know what is the machinery of getting the information ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: We receive official intimation from different Provincial Governments. Up till now, we have not received any information from the Bengal Government on the subject.

Babu RABINDRA NATH ADITYA: Will Government take it from me that they have started clinics for the treatment of this disease ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Excepting that we have seen a press advertisement, no details are known to us.

Babu RABINDRA NATH ADITYA: Do Government feel interested in this matter ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Not at present. All patients suffering from this disease are treated in our hospitals and dispensaries and up till now we have got no report that our treatment centres are inadequate. If in future it is found that this disease is on the increase and that our hospitals and dispensaries cannot cope with it, then we shall consider the question of starting clinics.

Babu RABINDRA NATH ADITYA: Will Government try to get this information ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: No, Sir. Our district medical officers have not reported up till now that there is a large prevalence of this disease in the plains districts. It is of course prevailing in one hill district where we have started treatment centres to cope with the disease.

Babu RABINDRA NATH ADITYA: Is it not a fact that many of the poor and illiterate people are the victims of this disease and they do not know what the treatment means and how the treatment is available ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : As I said, Government do not propose to start any enquiry on the subject and Government see no reason for starting a survey.

### Re-organisation of the Public Health Department

Babu RABINDRA NATH ADITYA asked :

37. (a) Do Government propose to demarcate the functions of the Public Health and the Medical Departments ?

(b) If so, what steps Government propose to take or are taking in the matter ?

The Hon'ble Miss MAVIS DUNN replied :

37. (a)—Yes.

(b)—The hon. Member is referred to the Motion enunciating a scheme for the re-organisation of the Public Health Department which is being moved in the present session for the approval of the Legislative Assembly.

### Consumers' Co-operative Stores

Maulana ABDUL HAMID KHAN asked :

38. Will Government be pleased to state—

(a) Whether it is a fact that the consumers' co-operative stores have been placed in the category of wholesale dealers in the matters of getting their quota and paying the value of imported commodities to Government ?

(b) What other preference is given to the consumers' co-operative stores over retail private dealers so far as imported goods are concerned ?

(c) Whether it is a fact that the Supply Officer, Dhubri, treated the Hamidabad consumers' co-operative store as a retailer and fixed its quota and realised value accordingly as per his permit No. S1 94, dated the 13th December 1943 ?

(d) If so, do Government propose to enquire into the matter ?

39. Will Government be pleased to state—

(a) The total number of consumers' co-operative stores registered upto 31st December, 1943 in the Province of Assam ? (Figures to be given separately district by district.)

(b) The date on which the application was made for the registration of Hamidabad consumers' co-operative store ?

(c) The date on which the store was registered ?

(d) The date on which the fact of the store being registered was communicated to the applicants ?

(e) The date on which the quota of controlled goods for the Hamidabad consumers' co-operative store was sanctioned by the Supply Officer, Dhubri ?

(f) Whether Government propose to ask the Supply Officer, Dhubri, to allot quota of controlled goods to Hamidabad consumers' co-operative store in proportion to the area it has to serve ?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA replied :

38. (a)—Yes, consumers' co-operative stores have been given the facility of getting commodities like wholesalers at rates applicable to them from the agency direct, provided they are entitled to buy and can pay for 5 bags of a commodity at a time.

(b)—It is not very clear what the hon. Member means by 'other preference.' The fact that the consumers' co-operative stores may be placed in the category of

wholesalers is a distinct preference over the retail private dealers who are to obtain their stores from wholesalers at wholesale rates.

(c)—Yes.

(d)—The local authority is being asked to reconsider the matter.

39. (a)—

Name of district	Total number of stores registered upto 31st December 1943	Total registered upto 24th February 1944
1. Kamrup	85	142
2. Sibsagar	21	41
3. Goalpara	17	30
4. Darrang	18	29
5. Nowgong	26	48
6. Lakhimpur	11	11
7. Khasi and Jaintia Hills	12	12
8. Sylhet	103	219
9. Cachar	9	16
Total	302	548

(b)—23rd September, 1943 (received in the office of the Registrar of Co-operative Societies on 18th October, 1943).

(c)—21st October, 1943.

(d)—17th November, 1943. (The delay was due to heavy pressure of work after the Puja holidays.)

(e)—1st January, 1944.

(f)—Deputy Commissioner, Dhubri, has been asked to increase the allotment provided the stock permits.

#### Adjournment Motion re: dearth of drinking water in Gauhati

Srijut ROHINI KUMAR CHAUDHURI: Mr. Speaker, Sir, I beg leave of the House to move the Adjournment Motion which runs as follows:—

“That this House do now adjourn to consider a definite matter of urgent public importance of recent occurrence, namely, the absolute dearth of drinking water in Ward No. VII of Gauhati Municipality”.

The Hon'ble the SPEAKER: It is the primary concern of the Municipality.

Srijut ROHINI KUMAR CHAUDHURI: That Municipality has been superseded and is now being managed by the Government since 1942. So there is the direct responsibility of the Government over the affairs of the Municipality.

The Hon'ble the SPEAKER: Is it of recent occurrence?

Srijut ROHINI KUMAR CHAUDHURI: I have received information only last evening that for the last 6 or 7 days there has been absolutely no supply of drinking water from the Municipality in Ward No. VII. There has been constant complaint of scarcity of water in this ward of the town, but my information received last evening is that for about 6 or 7 days there has been absolute stoppage of water supply in Ward No. VII. Similarly there is difficulty in other wards, but in Ward No. VII there has been complete stoppage of water supply. As a result, the people are suffering from various diseases. As the Hon'ble Premier is aware, the river Brahmaputra has receded to a greater distance from Bharalumukh—it is now nearly a mile from Bharalumukh—and the small stream of Bharalu whose water is not fit for consumption has practically dried up. The scarcity of water in this season is extremely detrimental to the health of the inhabitants of that locality, and unless some immediate action is taken, the situation will be still worse. Now, whatever water is available is taken by the Military and the Military carry it up to Jhalukbari—some 8 miles from Gauhati and to different camps outside the town.

The Hon'ble the SPEAKER: Is it on account of this extra supply to the Military that this scarcity has occurred?

Srijut ROHINI KUMAR CHAUDHURI: It is largely due to that, Sir. I have also information that sometimes water is taken as far as Dimapur.

The Hon'ble the SPEAKER: I think this will do. Is there any objection from Government to the leave being granted?

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Yes, Sir, we oppose this Adjournment Motion. As a matter of fact from the statement made by my hon. Friend, Mr. Chaudhuri, it is obvious that this cannot form the subject matter of an Adjournment Motion. He stated that he received the intimation only last night. He also admitted that this scarcity is of longer duration, that is, for the last seven days. As a matter of fact the scarcity of water throughout the different areas of the Gauhati Municipality has been a long-standing affair. The machinery in the Gauhati Water Works has been out of order for a long time, and the Municipal Engineers have failed to run it for more than a few hours of the day as against the whole day they used to run previously. The result has been scarcity of water in Gauhati for a long time. Now, probably the disorder of the machinery has become greater, or because Bharalumukh is farthest from the Water Works, the water that is available is drawn by those wards which are fortunately near the Water Works.

Therefore it is not negligence on the part of the Government. Both the Municipality as well as the Government had tried to get a new engine, but they have failed to do so. The filtered water of the Gauhati Water Works is being utilised by the Military not now, but since 1942, and there has not been any scarcity on that account. Therefore the cause given by my hon. Friend is not correct. Moreover, Sir, we have had up till now no official intimation that there has been any scarcity in that particular ward. The municipal authorities will in due course intimate this fact to the Deputy Commissioner, who will forward the report to the Commissioner who in his turn will send it to the Government. Under these circumstances when this is a purely local matter of the Municipality, Sir, I do not think this is a fit subject for an Adjournment Motion, and it also does not satisfy all the requirements for an Adjournment Motion.

Srijut ROHINI KUMAR CHAUDHURI: I cannot see how Government can disclaim any responsibility in the matter.....

The Hon'ble the SPEAKER: From the wording of the Motion I do not find anything to indicate that there has been a failure on the part of the Government to do anything. The hon. Member says that this is of recent occurrence, but this itself is not sufficient, unless the case the hon. Member wants to make out against Government is clear.

Srijut ROHINI KUMAR CHAUDHURI: Sir, I attribute responsibility to the Government for three reasons. Firstly, the Government having found that they were unable to give sufficient water supply from the existing Water Works should have adopted some other means. For instance, they should have dug tube-wells or other wells so that the people of the locality might get some sort of drinking water. This was brought to the notice of the Deputy Commissioner as well as the Government several times, but the Government remained absolutely indifferent to it, with the result that now there is no drinking water in the whole of the Bharalumukh Ward.

Then, Sir, there are water vans in the Municipality. On previous occasions when water supply failed for some reason or other, these water vans were used to give supply to the affected areas. Now, these municipal water vans are used to give supply to the Military.

Thirdly, Sir, Government having undertaken the management of the Municipality ought to make some sort of arrangement. The people in this country are very patient. If things of this sort happened in any other country the very roots of the Government would have been shaken. But we have tried to take all sorts of water in order to keep the Government safe here. If this is not a matter of urgent public importance I fail to see what else is.

Mr. A. WHITTAKER : Mr. Speaker, Sir, I think Mr. Chaudhuri has got this much justice in his case that when Government say they cannot get pumping machinery under any circumstances such statements are not wholly true. The question of machinery is largely a question of vigour with which the Local Government urge the case against all other parties. There is the machinery ; it is not a complete answer to say there is no machinery available. How are the large number of troops scattered in every locality in Assam receiving their water supply ? Obviously they are getting their water supply—and a good water supply—by machinery imported into India. Surely, the justice of Mr. Chaudhuri's case is that in comparison with the military personnel the civilian personnel in this Province are being frozen out. I therefore say it is not a complete answer for Government to say that they cannot get the machinery.

The Hon'ble the SPEAKER : I find there is a real grievance. Mr. Chaudhuri has said all he could say. I should like to hear what more Government have got to say with regard to this grievance.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : I have already admitted, Sir, that there has been a shortage of filtered water supply in the town of Gauhati not now but for the past one year. My hon. Friend says that for the last seven days there has been a greater scarcity in his particular ward. That ward happening to be farthest from the main filtered beds, has suffered as the available water is drawn by the people of wards nearer to the beds. It is not correct to say that the Municipality has not taken the trouble of sinking any tube wells or any other wells. On the contrary, the Municipal Board has sunk a large number of tube-wells throughout the town. The only grievance that Mr. Chaudhuri makes in his second speech to justify his Motion is that the military are using the municipal water to our notice, we would have certainly taken action and stopped the use of municipal wagons by the military.

Srijut ROHINI KUMAR CHAUDHURI : The municipal van is also used to supply water to the military camps in the town.

The Hon'ble the SPEAKER : The question is what is going to be done now.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : After this Motion, I will take every possible steps to see that the Executive Officer, who is a Government servant, takes necessary steps to supply water to that particular ward. There is nothing in the wording of the Motion to show—as you have pointed out—that Government had a duty which they have not done, and which has resulted in this scarcity. Therefore Adjournment Motion is not the proper thing by which this grievance should be brought to our notice. The hon. Member has got intimation of this fact only last night. Government have not up till now received any complaint either from the Municipality or from the public of Gauhati.

Srijut ROHINI KUMAR CHAUDHURI . This scarcity is not of recent origin. I am not ambitious enough to demand first class water ; I want a substitute drinking water. Why could not sufficient tube-wells and wells be sunk in the meantime ? Is it not indifference on the part of Government ? The Executive Officer is not at fault. He is doing what he can, but unless Government provide him means, he cannot do anything further.

The Hon'ble the SPEAKER : What can be said has been said by the hon. Member, and what Government can say has also been said by the hon. Premier. Now, what does the hon. Member want to do with his Motion ?

Srijut ROHINI KUMAR CHAUDHURI : I will come to the House again in a week's time about this if Government do not take suitable steps in the meantime. I do not propose to press the Motion now.

The Hon'ble the SPEAKER : As the hon. Member does not press his Motion for leave, it is not necessary for me to decide whether the Adjournment Motion given notice of is in order or not.

**Adjournment Motion re: Government's failure to release security prisoner, Dr. Homeswar Chaudhuri and to make arrangements for his treatment**

Srijut ROHINI KUMAR CHAUDHURI : Mr. Speaker, Sir, I beg leave of the House to move the following adjournment motion :—

“That this House do now adjourn to consider a definite matter of urgent public importance and of recent occurrence, *viz.*, imminent danger of permanent invalidation of Dr. Homeswar Chaudhuri, a prisoner in Sylhet Jail, for failure of Government to release him or to make arrangements for his proper treatment.”

The House has heard the name of this person mentioned during this Session. Dr. Homeswar Chaudhuri, a security prisoner in Sylhet Jail, had met with an accident dislocating his knee joint.

Since November last he has been unable to move about and there is no X'ray arrangement in Sylhet Jail or in the dispensary in the town of Sylhet. The Superintendent of the Jail, as my information goes, is anxious to have him X'rayed and the delay in either not releasing him or transferring him has seriously affected his health. I received a telegram, Sir, on Saturday—it was delivered late—from his father to the effect that there is every danger of his permanent invalidation unless he is either released or transferred to some other jail where he can be properly treated. I have brought this Motion to censure Government for this reason only, Sir, that it was known to the Government in November 1943, at any rate, that this prisoner had met with a serious accident and from November till now about four months nothing has been done by Government to give him proper treatment. Sir, a man with a broken knee would not be of much mischief to Government and so he should have been released to get treatment. He is a medical man himself. If he could not be released, he should have been transferred to either Dibrugarh or Shillong where there is some arrangement for X'ray.....

The Hon'ble the SPEAKER : How long has he been in jail ?

Srijut ROHINI KUMAR CHAUDHURI : Sir, he has been in jail for about a year now and this accident took place in November 1943. The Hon'ble Prime Minister the other day said in course of reply to a question that a petition was addressed by him for his release in October 1943 and not in November 1943 as he said and the Hon'ble Prime Minister also said that he did not receive any information about the dislocation of this man's knee. So, Sir, it seems that the local authorities are trying to conceal things from Government.....

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

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA : Mr. Speaker, Sir, I am sorry that the provision for Adjournment Motion which is in our rules is being lightly treated in this House. Only four days back, in reply to a question of Mr. Karuna Sindhu Roy before this House, I distinctly replied that up till now the local authorities had not reported about any accident to Dr. Homeswar Chaudhuri. My Friend now says that this accident took place in November 1943. Mr. Karuna Sindhu Roy wanted to insinuate that as a result of this accident the gentleman wanted to go on parole for his treatment. In fact, however, there was no mention of any accident by him but in his petition submitted in October last he wanted parole to sell his pharmacy and to attend the 'Annaprasan' ceremony of his son. We could not grant him any parole on those grounds. He himself being a doctor, Sir, if the accident was a serious one, could have submitted another petition for parole on that ground. Moreover, Sir, if there was anything serious, his father could have either sent in a petition to Government for the same immediately or approached Mr. Chaudhuri who has now received a telegram from him. I have also received a telegram from his native place—Pathacharkuchi. As soon as I got notice of the question of Babu Karuna Sindhu Roy, as I have already stated, Sir, I asked for a complete report. I have enquired from my Hon'ble Colleague in charge of Jails who says that up till now no report has been received by him.

In a private conversation, either Mr. Chaudhuri or Mr. Karuna Sindhu Roy told me that the Civil Surgeon of Sylhet has recommended that this prisoner's knee

should be X'rayed. I assured the hon. Member that if that was the recommendation of the Civil Surgeon, I would surely accede to the prayer. Why then Government should be censured, Sir? If really it was such a serious accident, Sir, in the month of November last, either the son or the father could have approached Government. But then it may be that this gentleman met with an accident, but neither the sufferer nor the jail authorities thought much of it. Now that the injury or pain is persisting, it is causing anxiety and a report may have been made. Unofficially I said that if an X'ray examination has been recommended, I am perfectly willing to accede to the recommendation of either my Friend or of the Jail Superintendent, and I repeat the assurance here.

**Srijut ROHINI KUMAR CHAUDHURI:** Sir, it is not very difficult to get the information quickly. As a matter of fact, if the Government had given any importance to it, the information whether X'ray treatment is necessary to this prisoner could have been obtained in six hours or even less than six hours. Now the Hon'ble Prime Minister himself admitted that he got information four days ago but still no step has been taken to find if the statement I made on the floor of the House is correct or not, whether the man is running the danger of a permanent invalidation or not. This is the reason for this Adjournment Motion. That shows the helplessness of Government. The local authorities did not give Government any information of their own accord or even when wanted by Government. If this is the position, Sir, it is necessary that we move a separate Adjournment Motion against the Government officers. Surely this is necessary as my Hon'ble Friend, the Prime Minister, said that he has not received any information about this prisoner although he has asked for a complete report. Is it not the fault of the Jail authorities, that they have kept the information back from him. There is a tendency of the bureaucracy not to let the Hon'ble Prime Minister any information as it is known that the Hon'ble Prime Minister is somewhat sympathetic towards these unfortunate people. If we now excuse Government, Sir, how can they rectify things? He has got no information, Sir, although information was sought for. The jail authorities did not give the information. Then, Sir, let us pass a Motion which will certainly affect the officers in the long run. Let the Hon'ble Prime Minister stand by and let us pass a censure Motion against the officers who are responsible for this state of things, Sir.

**The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I do not think, Sir, I need add much to what I have already stated. Sir, privately either Mr. Chaudhuri or Mr. Karuna Sindhu Roy—I get a very large number of visitors and I get muddled—told me that the Civil Surgeon, Sylhet, has already recommended X'ray examination of this prisoner. We are waiting to get that recommendation Sir, as soon as we got notice of Mr. Karuna Sindhu Roy's question we asked for a report. As Mr. Karuna Sindhu Roy told me privately that the Civil Surgeon has recommended his X'ray examination only four days ago, Sir, before he left for Madras I have taken no steps to call for a further report. Like my Friend Mr. Chaudhuri, I received a telegram from the father of the prisoner, but I have not taken any action on it as we have already asked for a complete report about the alleged injury. But as I am told that an X'ray examination has been recommended, I will at once accede to the request of either the prisoner or the recommendation of the Civil Surgeon, as soon as I get the papers.

**Srijut ROHINI KUMAR CHAUDHURI:** Sir, it is very difficult to get any information from jail. He is a 'B' Division prisoner and is entitled to write only one letter a month. Then the letters written by the prisoners are censored by the jail authorities and the letter containing complaint against the jail authorities regarding want of proper medical treatment would not be sent out at all.....

**The Hon'ble the SPEAKER:** Does the hon. Member press his Motion for leave of the House?

**Srijut ROHINI KUMAR CHAUDHURI:** In this case, I hope the Hon'ble Prime Minister will get the necessary information in the course of a day or two. So I would not press this Motion.



The Hon'ble the SPEAKER : As the hon. Member does not press his Motion for leave being granted to move this Adjournment Motion, I need not decide whether the Motion is in order or not.

**Adjournment Motion re: panic amongst the Mikirs of the Namati Mauza in the district of Nowgong owing to forcible occupation of lands by some persons**

Srijut ROHINI KUMAR CHAUDHURI : Mr. Speaker, Sir, I beg leave of the House to move a Motion for the adjournment of the House which runs as follows:—  
 “That this House do now adjourn to consider a definite matter of urgent public importance and of recent occurrence, viz. the panic created amongst the Mikirs in Meteka, Borbeal and other villages in Namati Mauza of the district of Nowgong owing to forcible occupation of lands in mass scale by some persons.”

I received a telegram day-before-yesterday and, I think, the Hon'ble Minister in-charge of Revenue must have got a similar telegram which runs as follows:—  
 “Hindu Mahasabha getting alarming reports of forcible occupation of lands in mass scale by Muslims in Meteka, Borbeal and many other villages in Namati Mauza in Mikir Hills, Nowgong. Mikirs becoming panic-stricken at this lawlessness. Please move.”

Two gentlemen came from Nowgong and saw me this morning and they also gave me a copy of a telegram which was addressed by Srijut Mohi Chandra Bora, one of the Members of the Legislative Assembly, to His Excellency the Governor which runs as follows:—

“Innumerable Muslim immigrants, Surma Valley Muslims occupying lands in Meteka, Borbeal, Hatipara, Jamunagaon, Maudonga, Howraghat, Dighalpani, Dak-maka, Chulani, Parakhowa, Sorgathi villages within Mikir Hills area Namati Mauza, Nowgong against all previous restrictive prohibitive orders. Great consternation amongst Mikirs prevails. Pray Excellency's immediate intervention.”

Copy of a similar telegram addressed to Srijut Khorsing Terang, who is a Member from that area of the Legislative Assembly was also handed over to me. Mr. Terang is absent from the House and so probably he has not been able to take any action.

Sir, this lawlessness is the direct outcome of a Government order which was passed recently. In reply to certain questions on the floor of this House the Hon'ble the Revenue Minister said the other day that instructions have been issued to the district officers not to interfere with possession or forcible occupation by unauthorised persons in the grazing reserves.

The Hon'ble Maulavi MUNAWWAR ALI : On a point of personal explanation, Sir.....

The Hon'ble the SPEAKER : The Hon'ble Minister will have time to say his say. Srijut ROHINI KUMAR CHAUDHURI : Certain dates he mentioned and he mentioned the date—4th of January, 1943, and I drew attention to the fact at the time of issuing the Line Abolition Resolution in 1932. Government issued instructions not to disturb those immigrants who had forcible occupation in grazing areas upto January, 1937. So the decision of the Government at that time was, as they had been allowed to continue possession for more than 3 or 4 years they could not be disturbed then, but they would be ordered to remove from that place when suitable lands elsewhere could be given to them. That was the order of the Government in 1937 and strictest instructions were issued to district officers not to allow anybody to occupy lands within the reserves. This date was further pushed up to January 1938 but since then strictest injunctions were given to the district officers not to allow anybody to occupy any portion of the grazing reserves and we were not informed of any such instructions till this year.

The Hon'ble the SPEAKER : When has the forcible occupation commenced ?

Srijut ROHINI KUMAR CHAUDHURI : This forcible occupation commenced since the order of the Government towards the end of 1943.

The Hon'ble the SPEAKER : Is it the earliest time to move the Adjournment Motion now ?

Srijut ROHINI KUMAR CHAUDHURI: This unauthorised occupation or forcible occupation has been going on since 1943. So far as this particular occurrence is concerned it took place this month and I have got this information last evening and detailed information this morning.

The Hon'ble the SPEAKER: What was the number of persons when that occupation commenced?

Srijut ROHINI KUMAR CHAUDHURI: The number would not be less than one hundred.

The Hon'ble the SPEAKER: There is also another point. Are they dispossessing any persons?

Srijut ROHINI KUMAR CHAUDHURI: Not actually dispossessing any person. They are occupying lands in the Mikir villages. Even non-Mikirs of any caste or indigenous people are not allowed to settle there. These people have gone to the Mikir villages and have gone even to the interior of these villages and are squatting there and as a result there has been a great deal of panic; as is well known, these people at the advent of immigrants fly to the neighbourhood. But here they have gone inside the villages.

The Hon'ble the SPEAKER: No local people have been or are going to be dispossessed? Is it unoccupied Government land that is being occupied?

Srijut ROHINI KUMAR CHAUDHURI: So far as Government land is concerned it is not in occupation of anybody. They are not meant to be occupied by non-Mikir people.

The Hon'ble the SPEAKER: This is the look-out of Government. Then it comes to this that it is the alleged panicky situation which is to be discussed.

Srijut ROHINI KUMAR CHAUDHURI: A panicky situation has been created by this lawlessness. Sir, it is certainly the look-out of the Government to ease the situation. We have been given to understand that some sort of regulation is in force in this area. These people have encroached the inside of the villages. If any one party becomes lawless, the other party will also become lawless.....

The Hon'ble the SPEAKER: I think this will do. Is there any objection from the Government side?

The Hon'ble Maulavi MUNAWWAR ALI: Mr Speaker, Sir, I have very strong objection to this Adjournment Motion being allowed. In the first place, it is in very vague terms and the point of 'recent occurrence' has not been made out. There is also vagueness in the hon. Member's last wordings 'in mass scale by some persons. Who or what those some? So, Sir, legally this Adjournment Motion is inadmissible and that for a mental torture of certain persons whether an Adjournment Motion is to be allowed, it is for you to decide. He says panic. As you rightly pointed out whether panic should be a subject matter of an Adjournment Motion. I think, Sir, the hon. Member has failed totally—a cent. per cent. failure—in making out a case for an Adjournment Motion. I would request you, Sir, to hold that this Adjournment Motion is not in order.

The Hon'ble the SPEAKER: Having heard the hon. Member who has given notice of this Adjournment Motion and also the Hon'ble Minister in-charge, I do not think that it is in order. It appears that the object of the Motion is really to discuss a certain much talked of policy of Government with regard to the old problem of land settlement in the Assam Valley districts. That policy has very often come up for discussion on the floor of this House during these years either in the shape of questions or in the shape of some Motions and is likely to be discussed during this Session of the House also; so, I do not think that that policy can be discussed in an Adjournment Motion like this in which the occupation of some Government lands by a number of immigrants has been made the subject of a complaint, although it appears that such occupation which may be unauthorised, has not affected the lands in possession of other people, who, it is said, have been struck by panic on account of the influx of a large number of strange people in their midst. This is hardly a matter for discussion in an Adjournment Motion. Therefore, I hold that it is not in order.

**Resolution re: inclusion of the Ahom Community among the recognised minorities for the future Indian Constitution**

Srijut ROHINI KUMAR CHAUDHURI: Mr. Speaker, Sir, to-day a \*Resolution about the Ahom Community is likely to be taken up for discussion. I made a request through you to the Hon'ble the Prime Minister if he would kindly take steps to allow the Members of this House, who are vitally interested in this question, to attend the Session for the purpose of taking part in its discussion and he promised to look into this matter. I again make my request to him to take steps in time.

Another request I have to make to him is this that I have heard—I do not know how far it is true—that a protest against the Resolution signed by about 7,000 people have been sent to the Government. If this is a fact, will the Hon'ble Premier kindly read out the context of the protest in the House.

The Hon'ble the SPEAKER: I cannot allow it now. The hon. Member will get opportunity to hear what the Hon'ble Premier has got to say on the matter in proper time, when the Resolution will come up before the House for discussion.

**Government statement on the Adjournment Motion re: failure of Government to protect the Mosque of Kamalpur village in Akaliya in Sylhet Sadar from complete demolition by Military people**

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: Mr. Speaker, Sir, may I be permitted to make a statement about the †Adjournment Motion of my Friend Khan Bahadur Maulavi Mahmud Ali regarding demolition of a mosque by the Military?

My hon. Friend, Khan Bahadur Maulavi Mahmud Ali, wanted to move an Adjournment Motion on the floor of this House on the allegation that the Military demolished a Mosque in the village called 'Kamalpur' near Akhalia in the Sylhet Sadar Subdivision. I mentioned to him the policy which has been adopted by the Government and on my request that I will look into this matter, he withdrew the Motion.

Now, Sir, I am to inform my Friend, the Khan Bahadur, that I have received a report from the Additional District Magistrate Mr. Sharp of Sylhet saying that there is no such village called Kamalpur near Akhalia in the Sylhet Sadar Subdivision and that no mosque has been demolished by the Military in that village.

Khan Bahadur Maulavi MAHMUD ALI: Sir, it is Kumargaon and not Kamalpur.

The Hon'ble the SPEAKER: I think the hon. Member first gave notice of an Adjournment Motion in which the name of Kamalpur occurred. Subsequently he withdrew that Motion and tabled another ‡ Motion in which he gave the name of the village as Kumargaon.

The Hon'ble Maulavi Saiyid Sir MUHAMMAD SAADULLA: I had not received any copy of the amended Motion, Sir.

Khan Bahadur Maulavi MAHMUD ALI: Will the Hon'ble Prime Minister take it from me that the name of the village is Kumargaon?

**The Assam Primary Education (Amendment) Bill, 1942**

Maulavi ABDUL BARI CHAUDHURY: Mr. Speaker, Sir, I beg to present the Report of the Select Committee on the Assam Primary Education (Amendment) Bill, 1942, and to move that the Bill, as reported by the Select Committee, be taken into consideration.

Sir, at the very outset, I must express my gratitude to the Hon'ble Minister of Education and the Members of the Select Committee for taking up a very sympathetic attitude towards the Bill. As a matter of fact, the Select Committee submitted an

\* Srijut SURENDRA NATH BURAGOHAIN to move: 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.

† Khan Bahadur Maulavi MAHMUD ALI to move: That this House do now adjourn to discuss the following urgent matter of public importance of recent occurrence namely the failure of Government to protect the Mosque of Kamalpur village near Akaliya in Sylhet Sadar from complete demolition by military people. (Notice withdrawn.)

‡ "That this House do now adjourn to discuss the following urgent matter of public importance of recent occurrence namely the failure of Government to protect the Mosque of Kumergaon village in Akaliya in Sylhet Sadar from complete demolition, by Military people".

unanimous report except one notable exception,—one hon. Member being absent. The changes they have suggested in the report was for clarification of certain clause and for better working of the Act. However, there are certain important change which need mention.

In the original Bill there was a provision for appointing a Director of Primary Education, which was as follows :—

“Director of Primary Education means the Director of Public Instruction or any other person appointed by the Provincial Government and designated by this name for the purposes of this Act”.

The Select Committee thought that as a big expenditure will be involved for the present it would not be possible to appoint a separate person as Director of Primary Education. Therefore this clause was left out.

Then, regarding the constitution of the Primary Education Board, some changes have been suggested. In the original Bill the term of the Board was for five years which was reduced to three years by the Select Committee. Also there are some modifications regarding the personnel constituting the Board. In the original Bill it was stated as follows :—That the Board “shall consist of the following members, namely :—(a) The Director of Primary Education; (b) ten members shall be elected in the prescribed manner by the local authorities; (c) “five members to be appointed by the Provincial Government.” The changes that have been suggested by the Select Committee are that “the Board shall be constituted for three years at a time, and shall consist of the following members, namely :—

(a) The Director of Public Instruction ; (b) Six members who shall be elected by the Assam Legislative Assembly from among its Members ; (c) Two Members who shall be elected by the Assam Legislative Council from among its Members ; and (d) Seven members who shall be nominated by the Provincial Government, of whom at least four shall be members of local authorities”.

Then, Sir, a new clause has been inserted as Clause (6). By this clause the Select Committee thought it necessary that the functions of the Board should be defined and some procedure should be laid down regarding meetings of the Board and regarding all matters incidental thereto. I am definitely of opinion, Sir, that the Bill if passed will go a great length towards introduction of compulsory Primary Education at least in some selected areas. The establishment of a Primary Education Board will be a bold step forward towards reorganisation and co-ordination of primary education in Assam.

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

Srijut ROHINI KUMAR CHAUDHURI : On a point of information from the hon. Mover. Will he please explain what will be the effect of this amendment? This is not clear to me.

In the original Act V of 1926, sub-section (3) of section 1 runs as follows :—

“Part I of this Act shall extend to the whole of Assam, excluding the backward tracts.” By clause 2 of the Bill it is proposed to add to sub-section (3) of section 1 of the original Act that Part III shall subject to sub-section (1) of section 92 of the Government of India Act, 1935, extend to the whole of Assam. Now, this Part will exclude backward tracts. This has not been touched by the amending Bill. The backward tracts as defined in the Act of 1926, also comprise the district of Garo Hills. Now, whether this Act (Part I of this Act) shall extend to the Garo Hills. The Garo Hills is within the partially excluded areas and within the jurisdiction of the Government of Assam. Now, will there be any change there? Will first Part I make any difference? It is not so clear to me.

Maulavi ABDUL BARI CHAUDHURY : I do not think this will make any difference and as a matter of fact the hon. Member was a Member of the Select Committee. Still if he has got any doubt on the point I think he shall be able to clarify it.

The Hon'ble the SPEAKER : Before the House proceeds further with the Motion moved I shall announce the message from His Excellency the Governor under sub-section (3) of section 82 of the Government of India Act with regard to this Bill.

The message runs as follows :—

“Under the provisions of sub-section (3) of section 82 of the Government of India Act, 1935, I, Andrew Gourlay Clow, Governor of Assam, hereby recommend to the

Assam Legislative Assembly the consideration of the Assam Primary Education (Amendment) Bill, 1942.

SHILLONG :  
The 29th January 1944.

A. G. CLOW,  
Governor of Assam."

Mr. D. B. H. MOORE : Mr. Speaker, Sir, I rise to support the Motion before the House. No one would deny that some practical scheme for compulsory primary education in the Province is theoretically entirely desirable but before any such scheme can be launched there must be a careful and thorough examination of the necessary machinery.

Turning to the Report of the Select Committee there are one or two points to which I desire to draw attention. The Act of 1926 failed to introduce any scheme for compulsory primary education due primarily to the fact that no local authority could raise the requisite one-third of the cost of the scheme. The Bill as it has emerged from the Select Committee retains this one-third of cost to be borne by local authorities and does nothing to remove the original difficulty. It seems probable therefore that any scheme visualised under the present Bill will have little prospect of success.

As regards the Central Primary Education Board we regard the re-constitution of this Board as it has emerged from the Select Committee as some improvement on the original constitution but we are not entirely satisfied that the suggested preponderance of Members of the Assembly and the Council can entirely be justified. We would prefer to see local authorities given increased representation as it is I think reasonable to suppose that members of the local authorities have special knowledge and experience of local educational problems and would therefore be in a better position to advise Government. On this basis, we suggest that the number of members nominated by Government should be increased by two—from seven to nine—of which six at least should be members of local authorities and that the number of Members of two Legislatures should be reduced from eight to six. The time has surely now come when Government should take an increasing share in the responsibility for the activities of the local authorities and this is particularly so in the sphere of primary education.

Finally, Sir, there is one important point which must be borne in mind by Government. The launching of any scheme of compulsory primary education even on a limited scale will undoubtedly entail, firstly, considerable machinery for enforcement, secondly, a considerable increase in cost depending on the area involved and thirdly, it will be necessary to find numbers of additional good teachers. To launch any such scheme with insufficient staff, inadequate funds or equipment or machinery for effective operation may well have disastrous consequences for the younger generation.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN : Mr. Speaker, Sir, I do not oppose the consideration of the Bill as it has emerged out of the Select Committee. The Bill as it stands now is an improvement in many respects and has got rid of some of the defects which were mentioned by me on the last occasion when the Motion for reference of the Bill to the Select Committee was discussed. There has been also a distinct improvement in drafting, but I shall be failing in my duty if I do not assert that the Bill is not a comprehensive one and will not 'go a long way towards the attainment of those aims and objects which the hon. Mover has in view. In this respect I entirely agree with what has just been said by my hon. Friend Mr. Moore. This Bill, Sir, was brought forward with two objects *viz.*, firstly to simplify matters for want of which it was presumed that the local authorities could not take any initiative for the introduction of compulsory primary education. Now, with a view to simplify matters three amendments have been proposed in this Bill. First, under the scheme for introduction of compulsory primary education, on the initiative of local authorities, a resolution had to be passed in which a majority of two-third of the members were necessary. The amendment in this Bill has done away with this two-third and makes it a bare majority. Similarly, the objection to any scheme under the whole Act should be rejected by at least two-third of the members at a meeting specially convened

for the purpose. Now, the amendment in this Bill does away with that two-third. Then in a scheme for introduction of compulsion on the initiative of local Government there was a proviso in the Act that the question should be laid before the Legislature. Now that proviso has been done away with in the present Bill. These are the three amendments which have been proposed. Sir, I am afraid that these amendments alone will not achieve the object, namely, to expedite the introduction of compulsory Primary Education in the Province. It is no doubt a melancholy fact that this Act of 1926 is a dead letter. But how to make it an operative one is a very difficult, I should say, a baffling problem. It is common knowledge that although attempts have hitherto been made to introduce compulsory Primary Education in different parts of the Province, these attempts had foundered on the rock of the additional taxation which such schemes inevitably involve. The crux of the problem is therefore finances and unless and until Local Bodies are prepared to raise the amounts required for the purpose by taxation or are compelled by Government to do so, I think, nothing can be achieved. So the principal difficulty in this Bill is its omission to provide for funds. A minimum rate of educational cess on the lines laid down in the English Act and the Bengal Act should have been thought out so that the minimum necessary for introducing compulsory education might be available to Government. Now without such a provision, Sir, this proposed Bill seems a half measure which will share the same fate as the present Act itself.

**Srijut ROHINI KUMAR CHAUDHURI:** What about the defect of the Bill— in Sub-Section (3) of Section 3 of the said Act ?

**The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN:** My hon. Friend Srijut Rohini Kumar Chaudhuri has just now pointed out about the defect. That defect still remains. I think the whole Act needs recasting and it probably won't do if only some patched amendments are made here and there.

Now, the second object of the Bill, Sir, is to provide for the central Primary Education Board for the co-ordination and reorganisation of Primary Education in the Province. The Central Advisory Board of Education had for some time past been convinced of the necessity of a board of vernacular education and had been insisting for the formation of such a board in each province. The Central Advisory Board has decided that the function and constitution of such a board will be left to each individual province. As the hon. Members know, in connection with the Motion for withdrawal of Mass Literacy Campaign, I called a conference some time in March last and in July last we had a committee to consider how to place the Primary Education on a sounder basis. In that committee in which my hon. Friend Maulavi Abdul Bari Chaudhuri was also present, we made one recommendation to form a Central Board and we proposed that there may be a Central Board for Primary Education in the Province with statutory power for control including administration of funds and determination of conditions of service of employees with other necessary powers. When this Bill was discussed on the last occasion hon. Members will remember that I assured the House that given time and opportunities, Government was going to introduce a more comprehensive Bill within a reasonable time. I will just remind the House what I said on that occasion—

“ Government is already taking steps to give effect to the Resolution of the Committee to which the hon. Mover was a party. I am confident that unless the hon. House wants a half measure like this, they would prefer to wait till the Government brings forward a more comprehensive Bill on the subject. I can assure the House that all possible steps to introduce a legislation on this line embodying the provisions of this Bill will be taken as speedily as possible. I would appeal to the Mover to withdraw the Bill and if he does not do so, I hope the House will reject this Motion for reference of the Bill to a Select Committee for the reasons I have already given.”

Now, I am extremely sorry to say that my appeal fell flat on the hon. Mover's ears. An Advisory Board of the nature contemplated by this Bill is not expected to do much towards advancing the cause of primary education. Moreover, the functions of this Board have been left very vague in the Bill. My opinion, Sir, therefore, is what Rai

Sahib Nadia Behari Das said. An extract of his opinion is:— "The only justification for getting the Bill into a statute would be the wise plea of settling the preliminaries well ahead so that when the time comes we may start off without a moment's delay."

I welcome the Bill only as a half measure which is better than nothing. As I have said, my hon. Friend the Mover of this Bill doubted my *bonafides* on the last occasion and pressed his Motion. Thus an opportunity has been lost and nobody is more sorry than myself for the missing of this opportunity.

I place these facts before the House to come to a decision independently of the Government whether this Bill should be proceeded with or the Government should be given an opportunity to come forward with a more comprehensive Bill in the near future.

\*Srijut ROHINI KUMAR CHAUDHURI: Mr. Speaker, Sir, there had been a demand in this country for introduction of compulsory primary education long before the Assam Primary Education Act, 1926 was passed. This Act of 1926 was only an attempt to meet that widespread demand. But it must be admitted that that attempt subsequently failed, and although many years have passed since the passing of that Act, the compulsory primary education, as a matter of fact, has not been introduced either in the urban or rural areas. Sir, since 1940, I think for two years, Government has made certain grants in an indirect way for introduction of compulsory primary education in urban areas. They made a suitable grant of money so that all available school-going children could be accommodated in the town schools and compelled them indirectly to come to the school. That grant was stopped when the 93 Regime came into operation and since then, I do not think, it has been revived. So practically an attempt which was made in 1940 to introduce compulsory primary education in the town areas has also been abandoned. Now I welcome this Bill as another attempt to introduce compulsory primary education in our Province and I had the hope that as soon as this Bill is passed the Government will come forward with the necessary finance for making the intention of the hon. Mover fulfilled. I thought the hon. Mover of this Bill being an important Member of the Ministerial party will be able to exert his influence in seeing that a serious attempt is made to introduce compulsory primary education in our Province, if not in the entire Province, at least a beginning will be made in some areas of the Province. But, Sir, having heard the Hon'ble Education Minister this morning and having considered all that he had said before, in the light of the information which I personally gathered in the meanwhile, I think, it will be prudent on the part of the hon. Mover to withdraw this Bill and once for all believe the Government assurance that they will come forward with a Bill of their own to carry out the desire of this House so far as the spread of primary education is concerned. I do not for a moment doubt the *bonafides* of the Government in this matter because I believe there is no one in this House who do not want primary education to be spread in our Province.

One of the difficulties which I would mention to the hon. Mover for solution is this. I am not yet convinced by what he said. Sub-section (3) of Section I of the Assam Primary Education Act, 1926 says: "Part I of this Act shall extend to the whole of Assam, excluding the backward tracts. Part II of this Act shall extend only to those local areas to which it may be applied in accordance with the provisions of Part I". Section 3 of Part I is a vital Section where it is said: "Any local authority may resolve, by a majority of two-thirds of the members present, at a meeting specially convened for the purpose, to propose that Part II of this Act shall be applied to the whole or any part of the area within its jurisdiction or to the children of either sex or both sexes resident in the area within its jurisdiction, with or without the exemption of any particular community or communities." This Sub-section (1) of Section 3 has not been touched by the present Act. Here Sub-section (1) has been touched in as much as the word, "two-thirds" has been omitted. So the important changes which he has made in the present Act is in Part I of the Assam Primary Education Act. Part I of the Act shall extend to the whole of Assam, excluding the

\*Speech not corrected.

backward tracts. Now "backwards tracts" have been defined in Sub-section (5) of Section 2 of the Assam Primary Education Act and Sub-section 5 says: "Backward tracts" means the territories in the Province of Assam declared by the Governor General in Council, under Sub-section (2) of Section 52A of the Government of India Act, to be 'backward tracts.' But I think the words "backward tracts" do not occur in the Government of India Act and the word 'excluded' has been substituted therefor. Under the original Act the District of Garo Hills was included in the "backward tracts". So the position as it remains is this: the benefit of the Assam Primary Education Act, 1926 or the benefit of the Amendment Act of 1942 will not be available to the people of the Garo Hills. Now this is the state of things which can be hardly tolerated by my hon. Friend Mr. Jobang D. Marak. I am afraid my Friend Mr. Marak is not alive to the position which will be created by this Amendment Act. I hope he will be roused up when he knows that his district has been entirely neglected by this Act. He is complacent to believe that so long as the present Government is in power and so long as Maulavi- Abdul Bari Chaudhury has any influence, his district—whether there is any law or not—will not suffer from any difficulty. But I think it would be better to have some sort of comprehensive amending Bill in which this difficulty can be easily removed. We cannot for a moment reconcile ourselves to the idea that the benefit of the Compulsory Primary Education Act should not be extended to the Garo Hills. But in this I should like to hear the opinion of the representatives of the Garo Hills whether they really want compulsory primary education to be introduced in their District.

\*Mr. JOBANG D. MARAK: We do not want.

\*Srijut ROHINI KUMAR CHAUDHURI: My Friends do not want. For obvious reasons there was a time when a good section of the intelligensia, who could not do without servants, were apprehensive of the spread of primary education. There was an idea—if every one was compelled to be literate and if the boys of the peasants were to go to the school, it would be very difficult to secure domestic servants—and that is perhaps one reason. Why Mr. Marak even now does not want primary education to be introduced in his hills?

Another difficulty which is, and was at that time, apprehended is that if compulsory primary education is introduced to the people of both the sexes there would be a much greater danger. It would be difficult for the man to have that complete sway over the members of the opposite sex which is both necessary and desirable. And it is probably for this reason also that Mr. Marak does not want compulsory primary education to be introduced in the Garo Hills. If Government will go by the wishes of Mr. Marak then of course the difficulty which I have pointed out would not at all be a difficulty in the way. But if the Government wish that the Garo Hills also should progress in education as the Lushai and the Khasi Hills have progressed and they think that there is scope for spread of primary education in the Garo Hills, the Government should take steps for making the necessary amendments.

Then, Sir, the crux of the situation is, as has been said by some speakers who have preceded me, about finance. Now let us examine whether by making the amendments which we have made in Section 3 the position will improve in any way. So far as my experience as a member of the Local Board goes, it was difficult for any Local Board to introduce compulsory primary education unless it agreed to impose some sort of cess, and it was very difficult to make the villagers or even men of the town to support any decision for this purpose. There was this difficulty then that even though a particular Local Board or a Municipality agreed to introduce compulsory primary education in its area, the provisions of the Act—by making the imposition of the cess compulsory—stood in the way. But now I believe one of the objects of the Amendment Bill would be to do away with that difficulty. If that is one of the objects of the Bill I do not see, Sir, how that object can be achieved. I think I have not yet been able to make myself clear on this point. Now, let us in this connection read Section 4 of the Assam Primary Education Act. Sub-section (1) says: "subject to any rule



which the Local Government may make in this behalf, the local authority of any area which resolves to introduce a scheme of compulsory primary education under Section 3, shall, without diminishing its current expenditure on primary education in that area, provide one-third of the additional cost mentioned in Sub-section (5)(b) of Section 3, and shall for this purpose ordinarily levy an education cess in the manner hereinafter described". So, Sir, this Section 4, which has not been amended by the present Amendment Bill, still makes it compulsory ordinarily to levy the additional cess, and it is this matter of levying additional cess that so long stood in the way of the spread of primary education.

So, there are two points, Sir. The Act of 1926 wants that if you want to introduce compulsory primary education in any area that decision must be arrived at by a two-thirds majority of a Local Body. This is difficulty No.1. Difficulty No. 2 was that compulsory primary education could be introduced in any particular area provided it did not affect the existing expenditure on primary education in that area. And the difficulty No 3 was that ordinarily you must levy some sort of a cess for introduction of compulsory primary education. Now, these are the three difficulties that so long stood in the way. To elucidate the point further, I may say that even if the Hon'ble Minister in-charge of Education now decides to introduce compulsory primary education, as an experimental measure, either in his present District of Lakhimpur or in his old District of Kamrup, which are the most progressive Districts in the Province, and even if he can persuade his Colleague, the Finance Minister to allow him the necessary funds, the Act of 1926 stands in the way of his doing so. Even the desire of the Government is not sufficient under the provisions of the Primary Education Act of 1926. That Act lays down that if you desire to introduce compulsory primary education in any area the provision of money would not be sufficient. The people of that locality must express a desire either through the Local Board or the Municipality to introduce compulsory primary education. But that mere desire will not do. That desire will have to be implemented by agreeing to tax themselves.

Now, let us see whether by adopting the present Bill of Maulavi Abdul Bari Chaudhury we have met those difficulties. I do not want for a moment to throw any blame or responsibility on the hon. Mover. I was myself a member of the Select Committee but I had been unable to see those difficulties at that time. But that is no reason why he or I should obstinately cling to this Bill. He has been able to meet one difficulty that is to say instead of two-thirds majority he has introduced this amendment that a bare majority will do. That is so far so good. But what about the other difficulty—what has proved to be an insurmountable difficulty all these years? Can you persuade the villagers of any locality or the people of a town to pay education cess? That is the crux of the situation. I have seen very laudable attempts being made by the Gauhati Local Board as well as by the Golaghat Local Board but in each case there is such a volume of opposition that the proposal had to be turned down. We ought to suggest to my Friend Mr. Chaudhury to meet this question, *i.e.*, last three lines of sub-clause (1) of Section 4. I will read the whole Section:—

“Subject to any rules which the Local Government may make in this behalf, the local authority of any area which resolves to introduce a scheme of compulsory primary education under Section 3, shall, without diminishing its current expenditure on primary education in that area, provide one-third of the additional cost mentioned in Sub-section (5) (b) of Section 3 and shall for this purpose ordinarily levy an education cess in the manner hereinafter described.” Sir, this ought to be deleted, *i.e.*, the words “without diminishing its current expenditure on primary education in that area and then “provided” one-third of the additional cost mentioned in Sub-section (5) (b) of Section 3”—this also insist on the Local Board to provide their own resources—one-third of the additional cost mentioned in Sub-section 5 (b) of Section 3. If they cannot provide the additional fund, they cannot introduce this. This is most objectionable and so ‘for this purpose ordinarily levy an

education cess in the manner hereinafter described.' These lines ought to have been omitted altogether, *i.e.* 'shall for this purpose ordinarily levy an education cess in the manner hereinafter described'.

Then again it says 'subject to any rule which the Local Government may make in this behalf, the local authority of any area which resolves to introduce any scheme of compulsory primary education under Section 3' shall provide the necessary additional lines 'subject to any rule which the Local Government may make in this behalf' will meet the objection which I have raised—whether the Government is competent to make any rule which will lay down that they can waive this clause of the Bill. Of course I cannot say that, Sir, how far these rules authorise the Government to modify the provision of this Bill

The Hon'ble the SPEAKER:— The hon. Member knows, that there is no time limit for speeches on Bills ; but I would request the hon. Member not to repeat his arguments.

\*Srijut ROHINI KUMAR CHAUDHURI: Sir, my main objection was about finance and unwillingness on the part of the people to submit themselves to education cess. We all know Sir that in the neighbouring province of Bengal there was some education cess for primary education ; but Assam has so much advanced that when I mentioned that to Dr. Shyama Prasad Mookerjee he was very much surprised.

Now the attitude which has been taken by the Government of Assam has encouraged the people in the belief that Government, if they do not care for higher and collegiate education, are at least solicitous for primary education ; and that under the circumstances will they impose any education cess ? People are unwilling to pay any additional tax and therefore any Local Board member who wants to introduce education cess becomes very unpopular. In the circumstances unless this Act is amended in various other ways than the way that has been pointed out, our object will not be achieved and that is why after second thought I believe and sincerely believe that perhaps it will be wise not to proceed with the Bill provided my hon. Friend Maulavi Abdul Bari Chaudhury has reason to believe that Government will come forward with a Bill of that nature in the near future ; if he has any information which makes him dubious about Government's coming forward with a Bill in the near future in that case he will insist and we will follow him. With these words, Sir, I resume my seat.

Maulavi ABDUL BARI CHAUDHURY: Mr. Speaker, Sir, I think, I should not take much time of the House in making a very lengthy speech at this moment.

I am really thankful to hon. Mr. Moore, for the generous support he has accorded to the Bill. I agree with him that the question of primary education needs thorough examination. I also agree and it is my individual opinion that the representation of the Local Bodies in the constitution of the Primary Education Board should have been more. But in the Select Committee I had to yield to the opinion of other Members. Any way, Sir, it is a matter of details and if the hon. Member really thinks in that line, he shall have an opportunity to change this according to his intention.

Regarding the speech that has been delivered by the Hon'ble Minister for Education I only submit, that he has advanced the self same argument that was put forth by him during the last session of the Assembly. During the last session of the Assembly, I had asked from him a definite assurance that if the Hon'ble Minister was prepared to come forward with a Bill for introduction of compulsory primary education in the Budget Session of the Assembly, I would see my way to withdraw my Bill.

Khan Bahadur Maulavi KERAMAT ALI: Sir, may I know from the Hon'ble Education Minister whether it is a fact that he could not come forward with a comprehensive Bill as this Bill was pending.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Yes, Sir, that is so. Moreover, it was not possible to come forward with a Bill within so short a time.

Maulavi ABDUL BARI CHAUDHURY: Sir, unfortunately the Hon'ble Education Minister did not give me a definite assurance as to when the proposed Bill would be ready.

In these circumstances, I had no other alternative but to push on with my Bill. Sir, he has said that the matter for introduction of primary education by Local Boards will not be simplified even by passing of this Bill. In this connection he has referred to the education cess as provided in the Assam Primary Education Act of 1926. It is my sincere belief that if any Local Board wants to introduce compulsory primary education some sort of education cess ought to be levied. Sir, he has referred to the resolution that was adopted in the Primary Education Committee, in which I also happened to be present. That resolution recommended the constitution of a Primary Education Board of a different nature, but so far as my information goes, Government have no intention of starting such a Board. It was intended that primary education would be separated from the control of the Local Boards. The Education Board, as I propose in the Bill, will only be an advisory body for co-ordination between Government and the Local Boards. I admit that the present Bill is not a full measure. It is really a half measure as has been stated by the Hon'ble the Education Minister. I would appeal to him that his hands should not be stayed for the introduction or passing of this Bill and that he should come forward with a more comprehensive Bill as early as possible so that primary education may be introduced in all parts of the Province.

As regards the lengthy speech that has been delivered by my hon. Friend, Mr. Rohini Kumar Chaudhuri, I think I need not say more. He has already agreed to the principles of the Bill. He said that if I got a definite assurance from the Hon'ble the Education Minister for introduction of a more comprehensive Bill, the present Bill should be dropped.

Srijut ROHINI KUMAR CHAUDHURI: Not only a definite assurance.....

Maulavi ABDUL BARI CHAUDHURY: I submit it is too hypothetical to need any reply.  
Khan Bahadur Maulavi KERAMAT ALI: May I know from the Hon'ble Minister.....

The Hon'ble the SPEAKER: The hon. Member who is speaking may be asked.

Khan Bahadur Maulavi KERAMAT ALI: May I know from the hon. Member, who is speaking, whether he is prepared to withdraw his Bill, if the Hon'ble Education Minister comes forward with a more comprehensive Bill in the next Session.

Maulavi ABDUL BARI CHAUDHURY: Sir, I do not think it is an opportune time to withdraw the Bill. We have proceeded too far. Sir, in answer to the question put by Mr. Rohini Kumar Chaudhuri I may say that there is no bar to the introduction of a more comprehensive Bill even if this Bill is passed. He has referred at length on the question of the excluded areas.....

Srijut ROHINI KUMAR CHAUDHURI: On a point of information, Sir, from the hon. Member. Does this Primary Education Act of 1926, or the amending Bill which is now being discussed apply to the Garo Hills, or not?

Maulavi ABDUL BARI CHAUDHURY: So far as my reading of the Act goes, the Primary Education Act does not apply to the Garo Hills. The main principle of the Primary Education Act of 1926, was to give some powers to the Local Boards, but there is no Local Board in the Garo Hills or in the excluded areas. So it is evident that the Bill does not apply there.

Srijut ROHINI KUMAR CHAUDHURI: There is a District Fund Committee.

Maulavi ABDUL BARI CHAUDHURY: In conclusion, I appeal to the House to pass the amending Bill. To me it appears that it will be a distinct improvement upon the Act of 1926. With these words, I commend my Bill to the acceptance of the House.

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Mr. Speaker, Sir, I have nothing more to add to what I have already stated, but I must protest against what has been said to the effect that Government has no intention of bringing in a comprehensive Bill. As I already suggested, soon after the decisions of that Committee Government has been seriously considering this question and my

Hon'ble Colleagues will bear me out that we were almost ready to bring forward a Bill. We were about to come to a decision about it. I again reiterate this assurance that if my hon. Friend withdraws his Bill, Government will come forward with a more comprehensive Bill during the next session of the Assembly. And if in spite of this assurance my hon. Friend presses this Bill, Government will have to remain neutral.

Maulavi ABDUR RAHMAN: Was it not possible to raise this question at the time when the Select Committee met. Had he come forward with such a request at that time the hon. Mover would not have gone so far.

Babu NIRENDRA NATH DEB: Is there any objection to bring in a comprehensive Bill even if this Bill is passed to-day?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Yes. If this Bill is pressed then Government will not try to bring in a comprehensive Bill just now.

Babu NIRENDRA NATH DEB: Where is the objection since the Government recognises that the Bill is not comprehensive enough?

The Hon'ble Khan Bahadur Maulavi SAYIDUR RAHMAN: Government will not be in a position to bring in a comprehensive Bill unless they have time and opportunity to see how this Bill works.

The Hon'ble the SPEAKER: Order, order.

I am putting the question before the House.

The question is:

“That the Assam Primary Education (Amendment) Bill, 1942, as reported by the Select Committee be taken into consideration.”

The question was adopted.

### The Sylhet Non-Agricultural Tenancy Bill, 1941

Maulavi ABDUL AZIZ: Mr. Speaker, Sir, I beg to place before the House the preliminary report of the Select Committee on the Sylhet Non-Agricultural Tenancy Bill, 1941.

Sir, the Select Committee met on 14th December, 1943 and when the Committee started its discussion, the Revenue Secretary drew attention to the fact that when the Bill was referred to the Select Committee Government remained neutral and the Hon'ble Minister in-charge of the Bill seemed to indicate that Government were not prepared to support the main principle, namely, grant of occupancy rights to non-agricultural tenants inasmuch as this principle was not conceded at any time as far as is known. Then the Hon'ble Revenue Minister who was presiding over the Committee in answering this question expressed his opinion that there was not sufficient materials before the Government to enable them to decide definitely whether they should support the Bill or not. He reiterated the opinion expressed by the Hon'ble Khan Bahadur Maulavi Sayidur Rahman when replying to the Mover in the Budget Session of 1943 that the Bill possessed many defects such as that had been pointed out during the course of the debate and he, therefore, proposed that the Committee should now submit a preliminary report before the date fixed by the Assembly, to the effect that they were not prepared to make a final report until they have made a tour of the subdivisional towns of Sylhet district to which this Bill mainly applied, so that they might know the conditions prevailing between the landlords and tenants in those towns.

Sir, we then discussed and we unanimously decided that there should be a preliminary report. Accordingly, the Select Committee Members went out on tour visiting the subdivisional towns in the district of Sylhet from the 11th February to the 24th February. While we were on tour, Sir, we received a notice announcing 24th February as the date for holding the final sitting of the Select Committee. As there was no time, the final sitting of the Committee was postponed and for want of time we have not been able to sit up till now. During our tour in the district of Sylhet a large number of witnesses were examined and evidences were numerous. These require time to consider them and up till now we have not been able to consider them for want of time.

Sir, we intend to sit in early May for final report on the Select Committee on the Sylhet Non-Agricultural Tenancy Bill, 1941. Copies of the preliminary report have been placed on the tables of the hon. Members and I do not think I should add anything more. With these words I place the preliminary report of the Select Committee on the Sylhet Non-Agricultural Tenancy Bill, 1941.

The Hon'ble Maulavi MUNAWWAR ALI: Sir, when the final report is going to be submitted? I think there should be a definite date of submission of the report.

The Hon'ble the SPEAKER: I think it will be better to move a Motion, because last time it was decided that the final report was to be submitted in this Session and when it has not been done there ought to be a Motion before the House fixing the next date for the submission of the final report.

Maulavi ABDUL AZIZ: I beg, Sir, to move that the Select Committee do submit its final report on the Sylhet Non-Agricultural Tenancy Bill, 1941, by the 31st of May 1944.

The Hon'ble the SPEAKER: I think there is no objection to this Motion. I take it then that the Motion is accepted.

The Motion was adopted.

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

Maulavi ABDUR RAHMAN: Mr. Speaker, Sir, I beg to move that the Assam Money-Lenders' (Second) (Amendment) Bill, 1943, be referred to a Select Committee, consisting of—

- (1) The Hon'ble Minister in-charge,
- (2) Maulavi Abdul Bari Chaudhury,
- (3) Khan Sahib Maulavi Dewan Muhammad Ahabab Chaudhury,
- (4) Babu Rabindra Nath Aditya,
- (5) Srijut Surendra Nath Buragohain,
- (6) Maulavi Jahanuddin Ahmed,
- (7) Maulavi Abdul Aziz,
- (8) Mr. C. Goldsmith, and
- (9) The mover.

Four to form a quorum of the meeting of the Committee and that the report should be submitted by the 31st August, 1944.

Sir, in this connection I want to remind the House that when this Bill was introduced during the last session of the Assembly the House was pleased to refer it for eliciting public opinion. Nearly ninety per cent. of the opinions so far received are in favour of the Bill, barring one or two exceptions. In this connection I may refer to some of the opinions which will help the consideration of the Bill in the House.

Mr. S. K. Bhattacharyya, Munsif of Jorhat, has given his opinion which reads as follows:—

“To give proper effect to Sub-section (2), Section 9 as amended by the amending Act, 1943, the Assam Money-Lenders' (Second) (Amending) Bill, 1943, as laid down by Maulavi Abdur Rahman, M.L.A., is absolutely necessary and quite in the fitness of things. Without the proposed amendments by the hon. Members of the Assembly, the very foundation of the Money-Lenders' Act is being frustrated by clever creditors. For want of all the provisions of entitling mortgagors to put in possession of the mortgaged property on their application, the relief in the form of discharge of the mortgage given by the Court to the debtors is a paper relief only incapable of being execution as a decree as defined by the Civil Procedure Code (1908) and so in order to give proper relief to the debtors of the property, the sooner the proposed Bill is passed into Act the better it is for the poor cultivators of the soil.”

This is one opinion, but there are numerous other opinions too. Curiously enough, Sir, one opinion from no less a person than Mr. N. L. Hindley, District Judge, Assam Valley Districts, in giving his opinion cast certain aspersion against the lawyers of the Province. He along with other remarks said “At least it can be said that the constant amendments are profitable to the legal profession and that is perhaps one of the objects”—a very objectionable term and I do not think he has any right to infringe upon the business of the hon. Members of this House. He was simply asked to give his

opinion whether he supports it or he likes to make any amendment in the proposed amending Bill ; but instead he being placed in a high position as Judicial head of a Valley came out with this aspersion against the professional men of this Province, and particularly against him who is in charge of the Bill.

### Adjournment

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

### After lunch

Maulavi ABDUR RAHMAN: Sir, I was just referring to the opinion of Mr. Hindley the Sessions Judge, Assam Valley Districts. I do not find any justification that a man of his position would go so far as to justify such opinion. Furthermore it is not the business of an official who is likely to deal with such matters to give such an opinion. It is to a great extent objectionable because he is holding the position of a judge. Sir, with regard to the opinion which Mr. Hindley has expressed I find there have been some press comments also. I find, the lawyers in general at Sylhet Bar have taken serious objection which was published in the Sylhet Chronicle.

Now, let me examine some other opinion. The Secretary Bar Association, Hailakandi has said that the phrase "usufructuary mortgage of any form or description", in Section 2 (2) should explicitly include all mortgages of any kind in which possession is transferred from the mortgagor to the mortgagee—otherwise anomalous mortgages may remain outside the operation of the Act. Sir, I had occasion to consult all the four Munsifs at Habiganj. All these gentlemen were telling me that since after the passing of the existing Act, *i.e.*, Act VI of 1943 a good number of redemption suits were instituted there. But they are now of the opinion that as the usufructuary mortgage has not been properly defined they are not in a position to give relief to the poor debtors, although it was the intention of the Legislature to give due relief to them. In the original Act the words 'usufructuary mortgage' have been used and this does not clearly show what sort of mortgage the Act suggests. So my intention was to make it more clear by putting the word 'usufructuary mortgage of any form or description'.

Then, certain other anomalies have arisen in the present Act regarding possession. Even if the court comes to the finding that the land should be redeemed, but according to the provision made in the present Act he is not authorised to give immediate possession to the land. So we have tried to make it more clear and give some authority to the court by adding clause (iii) which runs as follows:—

"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." This is a necessary amendment, and this does not make matters anyway complex. So, I would naturally expect that the hon. Members of the House would not grudge to give their support to this amendment. There is only one amendment which appears to be contentious. It is with regard to Clause 3 of the Bill where we put "After Sub-section (4) of the same Section the following new Sub-section shall be added as Sub-section (5)" that is to say:— 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, shall apply to any into force, and such a decree shall not be executable until the amount payable thereunder be reduced in accordance with the said provisions." Regarding this Clause, from the opinions which we have received, we will find that there are some disagreement. But if we take the whole thing together we find that a vast majority are in favour of the Bill as a whole. If I am to meet the objections which have been raised by some persons or some of the institutions regarding the insertion of the new Clause (5), I may tell the hon'ble House that this is only

regarding the interpretation of the Clause of the parent Act. Some have said that this is redundant in view of the fact that it has already been embodied in the parent Act. While, Sir, we find that the matter is debatable, our intention was that we should put this Clause just to make the matter more clear. In this connection I may refer to the opinion of the Special Officer, Court of Wards' Estate, Sylhet, dated the 22nd December, 1943. He says that:—"Section 9 of the present Act lays down that 'No money-lender shall, in respect of any loan made before or after the commencement of this Act, recover, on account of interest and principal, whether through Court or otherwise or by way of usufruct of lands in usufructuary mortgages, a sum greater in aggregate than double the principal of the loan.' According to one view, this wording is quite elastic to cover existing decrees. But as the point is debatable, the present Bill has been brought to clarify the issue and remove all doubts and ambiguities in the matter." I think, Sir, the view expressed by this gentleman is quite sufficient to clarify the intention of the Mover of the Bill. These are the only two necessary amendments which the present Bill has intended to. As I have said at the outset, that voluminous opinions generally are in support of the Bill, I need not dilate upon the matter and I do believe that the Bill, as presented, will receive unanimous support of the House.

The Hon'ble the SPEAKER:—The Motion moved:

"That the Assam Money Lenders' (Second) (Amendment) Bill, 1943, be referred to a Select Committee consisting of the following Members:—

- (1) The Hon'ble Minister-in charge,
- (2) Maulavi Abdul Bari Chaudhuri,
- (3) Maulavi Jahanuddin Ahmed,
- (4) Maulavi Abdul Aziz,
- (5) Srijiut Surendra Nath Buragohain,
- (6) Babu Rabindra Nath Aditya,
- (7) Mr. C Goldsmith,
- (8) Khan Sahib Maulavi Dewan Muhammad Ahabab Chaudhury,
- (9) The Mover.

Four Members to form a quorum and the report to be submitted by the 31st August 1944."

\*Srijiut ROHINI KUMAR CHAUDHURI: On a point of information from the hon. Mover, Sir. Is the term "usufructuary mortgage" defined in the Assam Money Lenders' Act?

\*Maulavi ABDUR RAHMAN: First this was not clearly defined in the Act, but it is defined there and a reference has been given in the Act.

\*Srijiut ROHINI KUMAR CHAUDHURI: That is apparent. But I do not find any definition.

\*The Hon'ble the SPEAKER: If the hon. Member is not finding any definition then there is no definition.

\*Mr. BINODE KUMAR J. SARWAN: I find, Sir, that the hon. Mover has ignored the interest of Labour community. So, I propose that one Labour Member should be included in the Select Committee.

\*Maulavi ABDUR RAHMAN: I have no objection, Sir. Then I beg to propose that the name of Mr. Binode Kumar J. Sarwan may be included in the Select Committee.

The Hon'ble the SPEAKER: Mr. Binode Kumar J. Sarwan is to be another Member of the Select Committee proposed.

\*Srijiut ROHINI KUMAR CHAUDHURI: Mr. Speaker, Sir, I am really surprised that such scanty interest has been taken in one of the most important Bills which have been moved in this Session of the Assembly. It seems from the facts that the hon. Member who is in charge of this Bill does not care or is indifferent to the meaning put on the usufructuary mortgage. The expression "usufructuary" shows

\*Speech not corrected by the hon. Member.

that there is very little seriousness behind the attempt at this legislation. Sir, throughout my career as a Member of the Legislature I was always very anxious to have such relief measures, but as the present Bill will indicate, I will always oppose a hasty legislation of this kind. There is some whispering from the side where the hon. Mover is sitting that this is not a hasty legislation. If it is not a hasty legislation it is at least a very dangerous step in the sense that it wants to have retrospective effect. I have been, Sir, always opposed to retrospective effect being given to any legislation. Because that upsets the position and the entire system of economics. Now this Bill, Sir, can be considered in three aspects. One is the fact of its provision in judicial, that is to say, how provisions of this Bill will be interpreted and how the want of clarity in the provisions of this Bill may, instead of working for the good of the debtors, ultimately end in their loss. This is one aspect of the matter which has been discussed by some members of the public who have expressed their opinions. Another aspect of the matter is about their habilitation of the condition of the raiyots. And the third point is, who will actually be benefited. Mr. Hindley, an esteemed Judge, who is extremely courteous to the lawyers and litigants, has expressed a shrewd suspicion about the object of the Mover in having this Bill. What he says about this Bill I need not repeat.

\*Maulavi ABDUR RAHMAN : May I know from the hon. Member if he is still practising in the Court ?

\*Srijut ROHINI KUMAR CHAUDHURI : Yes, I can testify that I am still a lawyer.

\*Maulavi ABDUR RAHMAN : My enquiry is, Sir, whether the hon. Member has suspended practising or still working as a lawyer in the Court.

\*Srijut ROHINI KUMAR CHAUDHURI : Sir, I lose my trend of thought like this. What my hon. Friend was just enquiring — whether I practise in Courts even now. The answer is in the affirmative, I practise in any Court of law high or low wherever it is and I actually appeared before Mr. Hindley and can testify his courtesy towards the lawyers. But this sort of expression from Mr. Hindley as a great surprise to me. As we know this House has a large representation from lawyers and my hon. Friend the Mover of the Bill is also himself a lawyer — of course I do not know whether he actually practises or whether he is in business. May I know if he actually practises ? (*laughter*).

Maulavi ABDUR RAHMAN : I have since suspended my practice.

Srijut ROHINI KUMAR CHAUDHURI : So my hon. Friend has no personal interest in this Money Lenders' Act. This expression of opinion on the part of Mr. Hindley, the Judge is rather unkind not only to the lawyers but also a sort of reflection on the Members of this House :— “At least it can be said that these constant amendments are profitable to the legal profession and that is perhaps one of the objects”. Whether that is one of the objects or not it is for the hon. Mover to say and the hon. Mover has repudiated that suggestion quite clearly because he holds no brief for lawyers and particularly as he has not practised in civil courts, he has no desire to benefit the civil lawyers. If we pass this legislation Mr. Hindley may again come forward with a remark “because these legislations benefit the lawyers or those Members who are in the Assembly, therefore they have passed this legislation”. So when our motives are being suspected even by a person of Mr. Hindley's standing, most of our energy seems to be wasted because if we cannot convince of our usefulness and sincerity of purpose to a man of Mr. Hindley's education it must be assumed that we have achieved nothing.

When all our legislations are viewed with such suspicion, I am afraid, we have not been able to convince the public as regards our *bona fides*.

The Hon'ble the SPEAKER : The question is whether the provisions are of any benefit to a larger community ; it matters little whether they are profitable to the lawyers or not.



\*Srijut ROHINI KUMAR CHAUDHURI : Yes, it is quite so. In that case why is this opinion expressed? We must take serious notice of that. It was absolutely immaterial. The main question for the legislators is whether it would benefit any large group of persons—that should have also been the concern of the persons to whom Bills are sent for expression of opinion. But Mr. Hindley has lost sight of that. Probably he is not in touch with those persons who are affected by legislation of this kind. He is in daily touch with the lawyers and it is perhaps the interest of the lawyers which is always at his heart. But why does he not come for the benefit of the lawyers—that is a point which we must try to know. Excepting that bare expression of his opinion he has said nothing in support of that opinion. The first Money Lenders' Act in this Province was passed in 1934. I think those who are in the Bench or Bar can say how frequently the provisions of the Money Lenders' Act came to be applied in the Court. In my experience as a lawyer, in 1934, I had never conducted a case in any Court. I do not know what is the experience of other lawyers in this House. So, I think it is rather a hasty opinion which Mr. Hindley has expressed and that shows the mentality. It is an indirect motive ascribed to the Mover of this Bill and as such, if it goes unchallenged that will seriously hinder legislative activity of the hon. Members of this House. If this opinion had come from an ordinary individual who had no knowledge either of law or matters of Court, it would have been a different matter. But when a Senior District Judge of Mr. Hindley's standing expresses an opinion like this and when he cannot have any ground for coming with that opinion it is, I think, imperative on the part of the House to express disapproval of this opinion and if such an opinion is resented to by the House, steps may be taken that persons of this sort should not be referred to for expression of opinion at all. That is a question for the Government to decide because the Government has in each district office a list of persons to whom Bills or Resolutions or any matter in which Government wants opinion are sent and that list has to be periodically revised by the Government. But when an expression of opinion given in this way hurts the feelings of the legislators, something ought to be done in the matter.

Sir, the first Money Lenders' Act was passed in 1934. Since then there was another Bill in 1937 of which Maulavi Abdul Aziz was in charge. This Bill was moved in 1937, but it took 6 years to become law. It is now known as the Assam Money Lenders' (Amendment) Act, 1943. It took 6 years for the passing of this Bill. In this Bill also there is mention of usufructuary mortgage. In the present Bill also usufructuary mortgage is referred to. But it is curious that nowhere usufructuary mortgage has been defined in any of these Acts or Bills.

Now, Sir, I can quite understand the use of the words "usufructuary mortgage" of any description or kind in this Bill. My hon. Friend has cleverly used that expression. He wants by use of that expression to avoid the unpleasant or rather the difficult task of defining the words "usufructuary mortgage" or to bring anything within the cover of those words. Usufructuary mortgage of any description clearly indicates that there are different kinds of usufructuary mortgage. I do not know how things are obtaining in the Surma Valley Districts, but in our part there is only one kind of usufructuary mortgage, which would not, strictly speaking, come under the definition of the term as defined in the Transfer of Property Act. The Transfer of Property Act defines usufructuary mortgage in Section 58(d). It runs thus: "Where the mortgagor delivers possession or expressly or by implication binds himself to deliver possession....." These words are very significant; the words "or expressly or by implication binds himself to deliver possession" were inserted by the Transfer of Property (Amendment) Act of 1929. It speaks not only of actual delivery of possession but also binding expressly or by implication delivery of possession. To come back to the definition, it runs thus "Where the mortgagor delivers possession or expressly or by implication binds himself to deliver possession of the mortgaged property to the mortgagee, and authorises him to retain such possession until payment of the

\*Speech not corrected.

mortgage-money, and to receive the rents and profits accruing from the property (or any part of such rents and profits and to appropriate the same) in lieu of interest or in payment of the mortgage-money, or partly in lieu of interest (or) partly in payment of the mortgage-money, the transaction is called an usufructuary mortgage and the mortgagee an usufructuary mortgagee". This is the definition in the Transfer of Property Act. Clearly, Sir, such kinds of usufructuary mortgage are not, strictly speaking, in vogue in the Assam Valley districts. I do not know the condition in the Surma Valley. In Assam Valley districts the only form of usufructuary mortgage is like this: the mortgagor delivers possession of the land to the mortgagee, takes an advance from the latter (generally it is a small amount), and binds himself to pay the mortgage-money within a year. If the mortgage-money is not paid within a year, then the mortgage continues, and the occupation is only in lieu of interest. Nowhere, which is in vogue in the Assam Valley districts. Nowhere is there any stipulation entered into to the effect that the whole debt will be extinguished by the mere fact of possession. The possession is given in lieu of interest, not in lieu of principal and come within the definition of "usufructuary mortgage" as defined in the Transfer of Property Act, but would come under the definition of the words "anomalous mortgages". If that is so, the whole object of the Assam Money Lenders' (Amendment) Act Money-Lenders' Act of 1934, but there we made this glaring omission of not defining the term "usufructuary mortgage". If this matter comes to a Court of Law and if cases arising out of such mortgages, which are popularly known as *দখলিবন্ধক* in the Assam Valley districts, come to a Court of Justice, then it will be held that such mortgages do not strictly come under "usufructuary mortgages", but under "anomalous mortgages", and as such the benefits of the Assam Money-Lenders' Acts of 1934, 1943 and 1944 will be denied to the debtors. So, this is a very important point in my opinion. Unless you define the words "usufructuary mortgage" the whole object of this Bill will be frustrated. That expression must be defined and for this purpose an enquiry is necessary and opinions should be obtained. We want to give relief to the debtors who have given their land to the mortgagees for use and enjoy the fruits thereof. There are three kinds of debtors; first, those who will get some credit by mortgaging any property; then comes those who get credit by mortgaging property without delivering possession; and the third class comprises those poor people who do not get any credit without delivering possession of the mortgaged property. These are the poorest class of debtors for whom this Bill is really intended. These are Maulavi Abdur Rahman wants to help these poor debtors. As my hon. Friend do is to try to define the term "usufructuary mortgage". The first thing he ought to do is to try to define the term "usufructuary mortgage". Then only we can decide whether this Bill will be of any use or not.

Sir, my next point is about the procedure of redemption which my hon. Friend has put in this Bill. Now, my hon. Friend is certainly aware of the provisions of section 83 of the Transfer of Property Act. Just to refresh his memory I may be permitted to read out section 83 of the Transfer of Property Act. We shall then consider whether it is necessary to retain this clause or whether incorporation of section 83 of the Transfer of Property Act will suffice. Sub-clause (2) of clause 2 of his Bill runs like this: "After clause (ii) the following new clause shall be added as clause (iii):—

"Clause (iii). 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 the redemption of the mortgage,".

Section 83 of the Transfer of Property Act is somewhat analogous to this provision. It reads:—

"At any time after the principal money (payable in respect of any mortgage has become due) and before a suit for redemption of the mortgaged property is barred,

the mortgagor, or any other person entitled to institute such suit, may deposit, in any Court in which he might have instituted such suit, to the account of the mortgagee, the amount remaining due on the mortgage.

The Court shall thereupon cause written notice of the deposit to be served on the mortgagee, and the mortgagee may, on presenting a petition (verified in manner prescribed by law for the verification of plaints) stating the amount then due on the mortgage, and his willingness to accept the money so deposited in full discharge of such amount, and on depositing in the same Court the mortgage-deed (and all documents in his possession or power relating to the mortgaged property), apply for and receive the money, and the mortgage-deed (and all such other documents) so deposited shall be delivered to the mortgagor or such other person as aforesaid.

(Where the mortgagee is in possession of the mortgaged property, the Court shall, before paying to him the amount so deposited, direct him to deliver possession thereof to the mortgagor and at the cost of the mortgagor either to re-transfer the mortgaged property to the mortgagor or to such third person as the mortgagor may direct or to execute and (where the mortgage has been effected by a registered instrument) have registered an acknowledgment in writing that any right in derogation of the mortgagor's interest transferred to the mortgagee has been extinguished.)"

Now, Sir, here a clear procedure has been laid down. Now, the mere adoption of this provision will help the debtor. In any way, the position here is made obscure.....

The Hon'ble the SPEAKER: The hon. Member is not paying attention to the other provisions of the Money-Lenders' Act and I think, there is something in the Act to meet the anomalies the hon. Member is so elaborately showing. There is some provision in the Money-Lenders' Act which repeals certain provisions of the Civil Procedure Code, Transfer of Property Act, and the Indian Contract Act and some other acts also.

\*Srijut ROHINI KUMAR CHAUDHURI: I will look into the parent Act, Sir.

The Hon'ble the SPEAKER: Perhaps it is in the Amending Act.

\*Srijut ROHINI KUMAR CHAUDHURI: There is nothing in the main Act, Sir.

The Hon'ble the SPEAKER: Very well, the hon. Member may go on but I hope the hon. Member will finish.

\*Srijut ROHINI KUMAR CHAUDHURI: Sir, a question of this nature requires days for discussion but I will only touch the salient points.

The Hon'ble the SPEAKER: Does the hon. Member want to proceed with the next item?

\*Srijut ROHINI KUMAR CHAUDHURI: Yes, Sir, but that is a short Bill. As no other hon. Member is trying to take part in this Bill, I am trying to point out the defects of the Bill.

The Hon'ble the SPEAKER: But there is the Hon'ble Minister to speak.

\*Srijut ROHINI KUMAR CHAUDHURI: In sub-section (4) of section 1 of the Assam Money Lenders' (Amendment) Act, 1943, there is a reference to what you were pleased to mention just now, Sir. It says:—

"That the provisions of the Transfer of Property Act, 1882, the Indian Contract Act, 1872, the Indian Registration Act, 1908, and the Civil Procedure Code, 1908, shall, to the extent necessary to give effect to the provisions of this Act, be deemed to have been repealed or modified."

The Hon'ble the SPEAKER: So, that would not create any difficulty.

\*Srijut ROHINI KUMAR CHAUDHURI: But in that case, Sir, there must be a provision for laying down the procedure.

The Hon'ble the SPEAKER : Application to the Court is the procedure.

\*Srijut ROHINI KUMAR CHAUDHURI: After the application is filed the opposite party should be served with a notice and they have to prove that the debt has been actually discharged. Unless it is proved that the debt is discharged the party cannot be in possession.

Then we come to this, Sir. All these usufructuary mortgages must be by document and there should be specific proof of the date of the execution of the document. My criticism on this Bill is that it should have been more explicit on this point and my hon. Friend should have taken a little trouble in laying down a procedure as well just as in the Transfer of Property Act. Similarly that procedure should have been laid down in this Bill also.....

The Hon'ble the SPEAKER : That can be done by the Select Committee.

\*Srijut ROHINI KUMAR CHAUDHURI: Then I come to one very important expression of opinion to which no reference has been made by the hon. Mover, that is, as regards the effect of this Bill on the Co-operative Credit Societies. That is a very important matter, Sir. It is the opinion of Mr. M. H. Hussain, M. A., I. C. S., Registrar of Co-operative Societies, Assam :—

“.....while I appreciate this Bill as a necessary addition to the series of debt relief measures which the Legislature in Assam has to its credit, I feel called upon to appeal to the Legislature to exempt Co-operative Societies from its operation. It will be remembered and, I hope, appreciated, that I did not ask for the exemption of Co-operative Societies from the operation of the First Amendment Bill. That was because I did not desire any kind of Departmental bias on my part to prevent the Co-operative Movement from falling in line with measures intended to secure one of the fundamental objects which inspire the movement, namely, relief of the masses from indebtedness. It is in the same spirit that I now approach the Legislature with the request to accord a differential treatment to Co-operative Societies in regard to the present Bill. The main plank of the programme of rehabilitation which this Department has been pursuing for the last two years or so is the recovery of as much of the outstanding dues of Co-operative Societies as possible so that with replenished financial resources they may be able to enter upon a career of usefulness by providing credit to the masses strictly in accordance with Co-operative principles. It is only societies with life in them and a future before them which have been able to participate in this programme. Now, it is exactly these societies which will be detrimentally affected by the provisions of the Bill under consideration.”

I, particularly, request the hon. Mover of this Bill as well as Government to consider this aspect of the matter. He goes on to say :

“Constituting as they do the only hope of the Co-operative Movement, I am anxious to see that they are not brought to a premature close, which will mean the end of the entire Co-operative Movement in this Province—a result which, I am confident, the Legislature would like to avoid ; for whatever the faults of the movement in its actual working, it cannot be gainsaid that it is one of the most important ameliorative activities that any Government or people can undertake.

I may set at rest any fears that Co-operative Societies will take undue advantage of this differential treatment by assuring the Legislature that every step is being taken to pay only within the limits of their capacity and in such a manner as to avoid any kind of hardship.”

But whether this is a pious hope, or, whether it will be translated into practice it remains to be seen. My criticism on this opinion would be that, after having agreed to the incorporation of Co-operative Societies in the parent Act, how that situation can be avoided will be very difficult to see. It is highly desirable to keep

Co-operative Credit Societies free from legislation of this kind, because ordinarily, Co-operative Credit Societies do not lend their money on usufructuary mortgages. Therefore, perhaps, excepting in very rare cases usufructuary mortgages are not resorted to by Co-operative Societies, but they are not referred to. On those occasions they refer to that clause whereby things happening during the last 12 years are sought to be revised by this provision. Supposing a Co-operative Credit Society has obtained a decree 12 years ago, and has kept that decree alive; you cannot execute that decree for which no money has been paid, but when conditions of raiyats improve that decree is executable, and the society will get all its money with interest. This present Bill will give power to it.

\*Maulavi ABDUR RAHMAN: Does the provision of the Act which has just been read include pending decrees?

\*Srijut ROHINI KUMAR CHAUDHURI: My hon. Friend, the Mover, has not read this portion of the Bill.

\*Maulavi ABDUR RAHMAN: He said that the execution still pending may be revived by the present Bill. Under the Act itself passed in 1943 which has already received assent of the Governor-General, therein it is provided that this Act will apply to pending suits and pending executions.

(Interruptions).

\*Srijut ROHINI KUMAR CHAUDHURI: In clause 3, a new sub-section is being added as sub-section 5. Probably, my Friend is not aware what monster he is giving birth to. Let me read the sub-section:—

“(5) The foregoing provisions contained in this section and in section 3 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.”

We all know that Co-operative Credit Societies and Rural Societies advance money at the rate even to the extent of 24 per cent. per annum. In Town Banks their interest is 9·3/8 per cent. Now, the Co-operative Societies, the management of which is done by the members themselves take the money and they know that most of the money remains unrealised—the decrees still remain unexecuted. Now, if this Bill comes into force it prevents Co-operative Societies from getting their just dues. This is the point which I am trying to make. I am not speaking of the ordinary *Mahajans*. So, at a time when this money has become realisable, it is for this House to consider whether it is desirable to adopt this provision of the Bill.

I am only giving a suggestion for consideration of the Members of the Select Committee. I, Sir, consider that we should first of all make some sort of definition of the term “usufructuary mortgage.” The definition of any thing of the kind will not do. We should consider seriously the desirability of exempting credit societies from the operation of this Bill.

The Hon'ble Maulavi MUNAWWAR ALI: Mr. Speaker, Sir, I am glad to tell the hon. House that at least on this occasion we have reasons to congratulate the hon. Mover who has sponsored this Bill, upon the fact that after circulating the Bill, he has had overwhelming opinion in his favour.

The hon. Members, surely, remember the attitude the Government took on the previous occasion. Government agreed to the circulation of the Bill after offering their views on the Bill in its various aspects.

Maulavi ABDUL BARI CHAUDHURY: After opposing?

The Hon'ble Maulavi MUNAWWAR ALI: The hon. Member says ‘after opposing’. If he would have read carefully the line taken by Government at the last Session of the Assembly, reading between the lines he would find that the Government suggested certain things which were neither wholly for nor wholly against the Bill. In

one stage of my speech on the last occasion, I referred to one of the two important aspects of the Bill, and assured the hon. House that if that aspect of the Bill only were presented before the House, Government would have lent their whole-hearted support, namely, the provisions which strove at expedition in putting into possession the debtors on afflux of time. Government indicated their general views on repugnance of retrospection. At the same time, I quoted one of the judgments—the opinion held in the execution court of the Subordinate Judge of Sylhet. The Subordinate Judge of Sylhet held that decrees under the provisions of the present Act were attracted by the present Act itself. Then I suggested that the verdict of the court might be agitating before the highest Court of justice, and I requested the hon. Members to see what the Hon'ble High Court's verdict might be. If the Hon'ble High Court held the same view as the Subordinate Judge of Sylhet did, then there was the end of the affair, but in spite of that suggestion, the Bill was circulated and there has been overwhelming opinion in its favour. The question of retrospection was agitating the mind of the Government and Government now see that it is not one of retrospection but that of interpretation, and as there is obscurity and doubt on that matter, if the hon. Members of the House consider that this Bill should be proceeded with, Government would not oppose and the Motion if pressed to a division, Government would refrain from voting.

I see, Sir, opinions have been received on this Bill from various quarters. Large number of people expressed opinions for this Bill and weighty opinions are in its favour. By weighty opinions, I mean, opinions of those whose opinions should count.

I would not like to take the time of the hon. House by stating these opinions, as my hon. Friend, Srijut Chaudhuri, has already taken one full hour and although from the speech which the hon. Member has been pleased to deliver, I could not make out anything very much except that he dilated on the points which could be considered by the Select Committee. I find that objections have been taken, both by my Friend Mr. Chaudhuri and the sponsor of the Bill, against the opinion of Mr. Hindley. Whether these are points which can be pertinently raised in this connection, I have doubt, but I can assure my hon. Friends that if any step is justified regarding that, Government will only be too glad to take. I do not think, Sir, it is necessary for me to broach further on this Motion.

Maulavi ABDUR RAHMAN: Mr. Speaker, Sir, I am glad to congratulate the Hon'ble Minister in charge as he has been good enough to extend his co-operation and support to the Bill, which is one that aims to give further relief to our poor raiyats. In reply, I shall only deal with the few remarks made by my hon. Friend Srijut Chaudhuri. Srijut Chaudhuri began his speech by enlogising his Session Judge, I mean Mr. Hindley, of Gauhati where Mr. Chaudhuri generally practices, but at the same time he has found fault with the naughty remarks of Mr. Hindley. I now come to other points which Srijut Chaudhuri so elaborately stressed upon. He found fault with the Mover of this Bill as the term "usufructuary mortgage" has not been defined in the Bill. Sir, in reply to him, I will simply say that the words 'Usufructuary mortgage' have amply been made clear in the Transfer of Property Act. The present Bill which is before the House for consideration is simply a further attempt to remove the difficulties which may come up before the Judicial Officers in course of trial. The criterion of redemption of mortgaged land is one only, that is a period of twelve years. Whenever a suit comes before a Judicial Court, the only matter for adjudication is to see that the period of twelve years has been completed. If the Munsil finds that the period of twelve years has been completed then he has no other alternative but to pass a decree that the land is redeemed.

\*Srijut ROHINI KUMAR CHAUDHURI: On a point of information, Sir. I raised the point whether usufructuary mortgage as defined in the Transfer of Property Act is actually in force in Assam. I have only mentioned that so far as Assam Valley is concerned, such kind of usufructuary mortgage as defined in the Transfer of Property Act is not in vogue in the Assam Valley.

Maulavi ABDUR RAHMAN: Yes, Sir, in Surma Valley there are several kinds of usufructuary mortgages.

The debtors take loans by mortgaging their lands and the *Mahajans* take the usufructs of the lands. They cannot charge any interest; sometimes on simple bonds the lands are given mortgaged to *Mahajans*.

There was no registered bond. Now, Courts are experiencing extreme helplessness while hearing suits. The shrewd creditor taking advantage of the unregistered bonds comes and pleads to the Court that he purchased the land and out of fear of the landlord no deed was executed. In such cases Court cannot put any relief to the poor debtors.

Sir, a very relevant opinion has been expressed by the Joint Secretary, Shillong Muslim Union. Herein, he says that the spirit of clause 2(1) of the Bill is sound, good and extremely desirable, because the present Act as amended does not clearly give relief to usufructuary mortgages on conditional sale while Muslims in general enter into this sort of transactions on account of religious scruples as both taking and giving interest is forbidden in Islam. Sir, in our part of the country there was a customary mortgage. The money was borrowed by the debtor and there was a simple bond. There was no mention of the land but there was verbal transaction that such and such land was mortgaged to the *Mahajans* in lieu of the interest and the *Mahajans* enjoyed usufructs of the land. This was an oral transaction. Sir, these are the things now arising out after the passing of this Act. Our intention by the present Bill is to remove all these defects so that poor debtors may not find further trouble.

Another point, Sir, which has been mentioned regarding the letter of the Registrar of the Co-operative Societies. I have seen that and I have thought over his letter. It really deserves consideration. Is it the occasion that his letter should be attended to now? I thought that his letter should be considered by the Select Committee.

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

The Hon'ble Maulavi MUNAWWAR ALI: I have nothing more to say, Sir.

The Hon'ble the SPEAKER: The question is:  
"That the Assam Money Lenders' (Second) (Amendment) Bill, 1943, be referred to a Select Committee consisting of the following Members:

- (1) The Hon'ble Minister in charge,
- (2) Maulavi Abdul Bari Chaudhury
- (3) Maulavi Jahanuddin Ahmed
- (4) Maulavi Abdul Aziz
- (5) Srijut Surendranath Buragohain
- (6) Babu Rabindra Nath Aditya
- (7) Mr. C. Goldsmith
- (8) Khan Sahib Maulavi Dewan Muhammad Ahabab Chaudhury.
- (9) Mr. Binode Kumar J. Sarwan, and
- (10) The Mover.

Four Members to form a quorum and the Select Committee to submit its report on or before the 31st August, 1944."

The question was adopted

### The Assam Land and Revenue (Amendment) Bill, 1944

\*Srijut ROHINI KUMAR CHAUDHURI: Mr. Speaker, Sir, I beg leave to introduce the Assam Land and Revenue (Amendment) Bill, 1944.

The Hon'ble the SPEAKER: The question is:

"That leave be granted to Srijut Rohini Kumar Chaudhuri to introduce the Assam Land and Revenue (Amendment) Bill, 1944."

The question was adopted

(Secretary of the Assembly then read the title of the Bill.)

\*Srijut ROHINI KUMAR CHAUDHURI: Mr. Speaker, Sir, I beg to introduce the Assam Land and Revenue (Amendment) Bill, 1944 and to move that the Bill be taken into consideration. The discussion of this matter, Sir, is very important and I am sure that the hon. Members will not grudge the limit of time I shall take in putting it before the House. I refer to my Friend Mr. Surendranath Buragohain who had in the last November Session of the Assembly introduced a Bill which contained one of the important provisions.

(At this stage the Hon'ble Speaker vacated the Chair and the Deputy Speaker occupied it.)

The Deputy SPEAKER: If circumstances arise that a time limit should be necessary, I shall look into it later on.

\*Srijut ROHINI KUMAR CHAUDHURI: Sir, I understood from the Chair that there is no limit but that does not mean that any Member of the House should unnecessarily take long time in discussing this Bill. If at any time I repeat my arguments or if I deal with irrelevant matters you will be there, Sir, to check me and put me right. I do not like to take undue advantage of the mere convention that there is no time limit.

There was some difference in the Bill which was introduced by my hon. Friend Srijut Surendranath Buragohain and which, on account of unsympathetic attitude of the hon. Members of the House, he had to withdraw. In one point the provisions are similar, but I have taken another point in this Bill and that will be found in clause 4 of the Bill which I am moving. It is as follows:—

"In sub-section (1) of section 78A of the principal Regulation, as inserted by the Assam Land and Revenue (Amendment) Act, 1936, the words "either owning such estate or a part thereof or holding an interest therein by virtue of a title acquired before such sale" appearing in the second, third, fourth and fifth lines of the said sub-section (1) shall be omitted."

This is a new provision and this was not in the Bill which was moved by Mr. Buragohain. Now, I have stated in my Statement of Objects and Reasons why I have introduced this particular clause. I have said, Sir, there that "Experience has shown that instead of making the process of setting aside sales simpler, various interpretations put on the words 'any person either owning such estate or a part thereof or holding an interest therein by virtue of a title acquired before such sale' in section 78A of the Assam Land and Revenue Regulation, 1886, have made the matter very complex. It does not affect the Government revenue in the least whether the deposit prescribed by the section is made by a person really interested or otherwise." It does not matter, Sir, the Government is concerned only in getting the revenue. It does not affect the coffers of Government at all, whether the money is paid by the real owner of the property or any person having any interest in the property or a complete stranger. Government is concerned for getting its revenue and if it is paid within the time prescribed by anybody the sale is set aside and ultimately the owner of the property gets the benefit. It was intended to give relief to the owner of the property and that intention is carried out if the money is paid by anybody, by A, B or C. Now, in this respect the provisions of the Civil Procedure Code are somewhat dissimilar although this very provision was taken from the Civil Procedure Code. The effect is not the same in a sale held. Under the provisions of the Civil Procedure Code a decree holder has a right to bid for the property, or the owner, to protect the interest of the decree-holder. The Court always sees that an outsider does not act and pay the money and defeat the decree-holder.



In a case of Government land revenue there is no such party as the decree-holder, because Government is not interested in acquisition of the property. Government is only interested in getting its revenue realised. Government do not generally purchase any defaulting estate. It is only in extreme cases when no bid is offered, Government purchase it through some officer on a nominal fee or a nominal amount of rupee one or something like that. So, if our intention is to save the property from being sold, to save the property from being transferred from the hands of the owner to another person, it does not affect the case at all if the money is paid by any one. So, I have inserted this provision in the Bill omitting the words "any person holding interest and so forth." By this we give to the poor defaulter real relief which was intended by this legislation of 1936. There may be one question now. Supposing, an outsider or a stranger is allowed to make a deposit of the money, that outsider or stranger may come forward subsequently before the Deputy Commissioner or Court of law and claim the whole property on the ground that as he has paid the revenue he has some right to this land. And further more, he may say that he must be presumed to have some title to the property and if he has no title the Revenue Court would not have accepted the payment that he made. So, these points might be urged by a stranger if he pays the revenue and save the defaulting estate. But in order to put an end to such a plea. I have in my Bill put in this clause as sub-clause (3) in Clause 6. It will prevent such a plea being put forward. The clause runs as:— "Nothing in this section shall create any title or right to the land sold in favour of the person making a deposit as prescribed above by virtue alone of the deposit made by him."

So, Sir, the only possible objection which might be put forward against this provision of the Bill has been met by this sub-clause and Government should have no objection to accepting my Bill. I have said here in the Statement of Objects and Reasons:— "Further, so long as the mere fact of deposit does not as provided in clause 6 create any additional right or title, a deposit made by a stranger will not affect anyone's interest adversely. Clause 4 of this Bill therefore suggests the amendment proposed therein."

As regards clause 5. Clause 5 is exactly on the same line as in the Bill which was moved in the last November Session by Mr. Buragohain. This Clause runs as:— "In sub-section (1) of section 78A of the principal Regulation, as inserted by the Assam Land and Revenue (Amendment) Act, 1936, for the word 'thirtieth' appearing in the fifth line of the said sub-section (1), the word 'sixtieth' shall be substituted." This point was embodied in the Bill of last Session and was opposed by the Hon'ble Minister in charge of Revenue and ultimately the Bill was withdrawn. I propose, Sir, in the course of this Bill to deal with the points which were urged against the provisions of this Bill by the Hon'ble Minister in charge of Revenue. Sir, for the present, I only wish to draw the attention of the Hon'ble Minister to one particular aspect of the matter which did not engage his attention on the last occasion.

It is this. A sale takes place on a certain date. That date may not be known to the defaulter or may not be known to the person who is actually interested in the land; may be known to the person in whose name the patta stands, but may not be known to the person who is actually the proprietor of the land. For instance, among brothers generally, the patta stands in the name of one individual, but he may be one of the several actual co-sharers in whose name the sale prosecution and attachment may have been issued and other co-sharers who may be in business elsewhere may not know anything about the sale. They may be in absolute darkness regarding the sale, but on account of the default or negligence of one co-sharer in whose name the patta stands, the whole property is sold. It is very difficult for anybody to get the information about the sale of land within a period of 30 days. So, the benefit of this Bill cannot be availed of by defaulters unless the period of 30 days is extended at least to 60 days.

Sir, I admit that there are several provisions in the Assam Land and Revenue Regulation whereby a sale of land of a defaulting estate can be set aside. The provision No. 1 which exists from before is to be found in section 79 of the Assam Land and Revenue Regulation. Section 79 of the Assam Land and Revenue Regulation says: "At any time

within sixty days from the date of the sale, application in writing may be made to the Commissioner, or (where there is no Commissioner) to the Chief Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it: Provided that no sale shall be set aside on this ground unless the applicant proves to the satisfaction of the Commissioner or the Chief Commissioner (as the case may be) that he has sustained substantial injury by reason of the irregularity or mistake complained of: Provided also that the non-delivery or misdelivery of a registered cover despatched under section 72, sub-section (5), shall not, for the purposes of this section, be deemed an irregularity or mistake in publishing or conducting the sale." Now, Sir, anybody who had anything to do with the use of this section knows that it is extremely difficult to prove any material irregularity or mistake in publishing or conducting the sale and it is extremely difficult to prove that such and such hardship has been caused on account of such material irregularity. Practically, the provision of section 79 did not come to the help of defaulters at all and it is therefore no good arguing and put forward section 79 as an answer to this provision and an attempt to change from 30 days to 60 days. In spite of the fact that there is section 79 of the Assam Land and Revenue Regulation in operation, the Government of the day after very careful consideration in 1933 decided to accept the legislation which was put forward by Maulavi Abdul Khalique Chaudhury providing for this extension. That measure was a temporary one at the time, but it was subsequently put on a permanent basis by the Act of 1936. Then there is another provision put on a permanent basis by the Act of 1936. Then there is another provision for setting aside the sale and that provision will be found in section 81 of the Assam Land and Revenue Regulation which says: "The Chief Commissioner may, on application made to him at any time within one year of the sale becoming final under section 80, set the sale aside on the ground of hardship or injustice". What I would respectfully submit before the Hon'ble Revenue Minister is this that these sections 79 and 81 do not meet the needs either of the defaulter or of the auction purchaser. The defaulter in absence of section 78A which gives power to set aside the sale if the money is paid within 30 days (*sic*). But the defaulter who cannot pay the money as specified by section 78A cannot get any advantage either of section 79 or 80 on the ground of hardship, which is really very difficult to prove. It is a question of mercy or sometimes caprice of the magistrate to sell the property even after a year if the man has the possession of the property. And if he has been put in possession of the property even after its sale, even after a year the sale can be (*sic*) it is much better that all those *bonafide* persons who could not pay the money in due time pay it within a reasonable time and have the matter settled up. Nobody loses anything thereby. I think my point is clear. Instead of one month if a man gets two months in order to pay the money and if within that two months the sale is set aside, nobody loses, because even for the auction purchaser the period of limitation for making application is two months. So, in any case he is never put in possession before the expiry of this period of limitation. If you therefore make two months instead of 30 days, no body will suffer.

So, I really cannot understand why this humble provision of the Bill should be resisted by the Hon'ble Minister. Does it affect adversely the auction purchaser—does Government suffer by this Bill? The answer must be 'No'. Then why this objection to this provision of the Bill? Sir, it will save much time of the officers concerned if this amendment is accepted. In that case the number of applications under section 79 will considerably diminish. If the sale can be set aside in this manner, the number of applications under section 79 will diminish and the number of applications under section 81 will be fewer still. That is the advantage which is given and unnecessary suspense is also saved. So, in any view of the matter, I do not see what objection there be in accepting this amendment.

Then as regards the other provision of the Bill which is a new one. I know from my personal experience that if this amendment which I propose is accepted, a lot of complexity will be avoided.

Sir, section 78A as at present stands runs thus: "Where an estate has been sold under section 70 or 76, any person either owning such estate or a part thereof or holding an interest therein by virtue of a title acquired before such sale, may apply within thirty days from the date of sale to have the sale set aside on depositing in the Deputy Commissioner's Court, etc." Now, if my amendment is accepted it will read like this: "Where an estate has been sold under section 70 or 76 any person may apply on or before the sixtieth day from the date of sale to have the sale set aside on depositing, etc." Now, as I have already admitted before, I practise in law courts for my livelihood; I have some experience of such matters, and I can tell the House without any fear of contradiction that the clause as it stands now has given rise to various conflicting orders by various Deputy Commissioners, Commissioners and the Revenue Tribunal in different cases. So, if we omit this portion of the clause, much uncertainty and waste of time will be avoided. I therefore request the Hon'ble Minister in charge of Revenue to accept this Bill in the light of the new facts which I have brought before him.

Sir, I should then like to meet some of the objections which my Hon'ble Friend the Revenue Minister raised during the last Session.

(Interruptions by Mr. Jobang D. Marak).

Perhaps my hon. Friend is not aware that he will also be able to avail himself of the benefits conferred by this Bill, if it is really passed into law; he should not therefore interrupt.

Now, I am meeting the objections which were raised by the Hon'ble Revenue Minister. He said "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 '1944'." Sir, that defect also exists in my Bill. I have not used the words "A Bill further to amend, etc." I think it does not matter in the least; this defect can be remedied by means of an amendment, but that is no reason for throwing out the Bill. If it suits the taste of the Hon'ble Revenue Minister, I shall put the word "further" when the Bill is considered clause by clause. The Hon'ble Revenue Minister therefore concluded that "in view of these legal defects, I submit, Sir, that the Bill is also not in order". Now, my Hon'ble Friend was wrong in making those observations. It does not matter if I call my Bill, "The Assam Land and Revenue (Amendment) Bill, 1944". The Assam Money Lenders' (Amendment) Bill of 1937 became the Assam Money Lenders' (Amendment) Act of 1943. It is no use adopting these curious dilatory tactics with the object that this Bill may not become law. This would not affect the merits of the Bill at all. Even if this Bill becomes law in the year 1946, there will be no harm; necessary changes may be made as in the case of the Money Lenders' (Amendment) Bill. So, Sir, these two objections which the Hon'ble Revenue Minister raised at that time are not at all substantial objections. These minor defects in the Bill can be removed at once if the Hon'ble Revenue Minister wishes it.

\*Khan Bahadur Maulavi KERAMAT ALI: Will the hon. Member say how these defects can be remedied now?

\*Srijut ROHINI KUMAR CHAUDHURI: I do not admit that these are defects; but even if they are they can be remedied when the Bill is considered clause by clause. If my hon. Friend Khan Bahadur Maulavi Keramat Ali will support my Motion then I can assure him that there will be no difficulty in making a law of this Bill, and these so-called defects will disappear. The question is whether he will do so, and that will

depend on the degree of the convincing arguments that I can put forward in support of my contention unless, of course, he has forsworn himself and given an assurance to the Hon'ble Revenue Minister that he would throw out this Bill at any cost.

\*Khan Bahadur Maulavi KERAMAT ALI: No.

\*Srijut ROHINI KUMAR CHAUDHURI: I am glad for this assurance. Sir, I am replying to the arguments which were put forward by the Hon'ble Revenue Minister on an identical Bill during the November Session.

\*Khan Bahadur Maulavi KERAMAT ALI: What were those objections?

\*Srijut ROHINI KUMAR CHAUDHURI: I have already read those objections.

Sir, the Member in charge of a non-official Bill has to suffer great handicaps. Our Bills are more or less treated as party legislation. But as a matter of fact such Bills ought to come from the Government themselves. But when any non-official Member wants to help Government by bringing forward such Bills, he ought to receive substantial support from the Government instead of discouragement in this way. It is only in this way that they can expect greater co-operation from us. I hope to be excused for this homily, but I hope this will be borne in mind.

Now, Sir, objection was taken by the Hon'ble Revenue Minister on another ground, which was a very curious one. I do not think the House will accept it for one moment.

He said that in all the discussions ranging from 1925 to 1936 both in and outside the Legislature in connection with the amending 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. Is it, Sir, our fault that nobody criticised in 1925 or 1936? Was it not the look out of the Government of the day to find out whether want of such an extension really affected the interest of the defaulters? That was their look out. It is not upto the Hon'ble Minister for Revenue or of the Government of any time to find fault of the non-official Members. If there was any urgency in having this Bill earlier and if this Bill had not been put forward earlier, if anybody is to be blamed for that, it is the Government.

\*The Hon'ble Maulavi MUNAWWAR ALI: Government never admitted that there was any urgency about it.

\*Maulavi ABDUR RAHMAN: What did the hon. Member do when he was Revenue Minister himself?

\*Srijut ROHINI KUMAR CHAUDHURI: It is quite unkind to recall those days when I was in Government, when my Friend Maulavi Abdur Rahman was busy to push me out and when we were looking out to other matters than this. Mr. Deputy Speaker, Sir, these interruptions upset me. Now another point, Sir, it has been put forward by the Hon'ble Minister-in-charge of Revenue that "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". These arguments will have no force now as I have stated before in the course of my speech and also in the Statement of Objects and Reasons that it is not merely to bring in line with sections 79 and 80 that I have put forward this but in order to give substantial relief to the defaulters. If you really want to give the defaulter relief in paying his arrear and having set aside the sale, give him sufficient and reasonable time. I have submitted, 30 days notice is not sufficient because many persons do not know of a sale being actually held and therefore in order to give them real opportunity in paying the money the time should be extended to 60 days.....

\*Babu RABENDRA NATH ADITYA: Does the auction purchaser suffer in any way?

\*Srijut ROHINI KUMAR CHAUDHURI: The auction purchaser does not suffer in any way. Under section 79 the man has a remedy to set aside the sale within 60 days and the auction purchaser is not given possession within 60 days. Then if an appeal is filed, he is not given possession until that appeal is disposed of.....

\*Babu RABINDRA NATH ADITYA: What is the rate of interest?

\*Srijut ROHINI KUMAR CHAUDHURI: I will come to that. That was a big point raised by the Hon'ble Minister-in-charge of Revenue. At that time he was fighting for 5 to 5½ per cent.....

\*Khan Bahadur Maulavi KERAMAT ALI: My hon. Friend has so long discussed the importance or non-importance of Bills introduced by other Members. I hope he will kindly now try to explain the importance of his own Bill.

\*Srijut ROHINI KUMAR CHAUDHURI: Sir, I am not getting an opportunity of meeting those points raised by the Hon'ble Minister. I want to deal with them now point by point so that the House may understand my position.

\*The Hon'ble the Deputy SPEAKER: The hon. Member must try to finish.

\*Srijut ROHINI KUMAR CHAUDHURI: Sir, I will not be able to finish to-day. (*Laughter*). My Friends are laughing at my inability to put things concisely. If I have not been able to put my things concisely, I plead guilty and I hope to be excused.

\*Khan Bahadur Maulavi KERAMAT ALI: You will be given more time next day.

\*Srijut ROHINI KUMAR CHAUDHURI: I think, Sir, it will simplify matter very much if I am not interrupted. I do not see, Sir, why on such a simple and short Bill like this I shall get so much opposition and interruptions. It is, to say the least, unsympathetic and if this unsympathetic attitude is taken up from the beginning, Sir, one shudders to think what will be the fate of this Bill, Sir, and my energy has been half exhausted.

Now, Sir, another point which was raised by the Hon'ble Minister for Revenue at that time. He said: "I will amplify those a bit further. The privilege in section 78A is practically a grace given to a defaulter so that he may not be deprived of his estate". The word 'grace' is very unfortunate. When a particular right has been recognised by statute, to dub that particular statute is a contempt. My Friend would have been well-advised not to characterise that provision of this Bill which was extended by Government from time to time, as a mere grace. It is not a grace. It cannot be called a grace. It becomes a matter of right when it enters into a statute. It is this attitude which the Hon'ble Minister has taken to the provisions of this Bill which has goaded me.....

\*Maulavi ABDUR RAHMAN: Am I to understand.....

\*Srijut ROHINI KUMAR CHAUDHURI: I am not giving way, Sir.

As I have stated, Sir, it is a matter of right on behalf of those who have not been able to get the best out of the Government of the day and the Legislature and I have come forward with the provisions of this Bill at the risk of reputation, even at the risk of being accused of wasting the time of the House and not to ask for a grace. He says that the privilege in section 78A is practically a grace to the defaulter so that he might not be deprived of his estate. You may as well say, there are some landholders, there are some owners of the House who insist on getting their rent and rent in advance. Government might have done the same thing. If you want to get my land for 25 years, you must pay in advance. Does it amount to grace? It is not a grace. It is a matter of contract—it is a matter of right.

\*Babu RABINDRA NATH ADITYA: Sir, the time is up.

\*Srijut ROHINI KUMAR CHAUDHURI: Let us make the progress as much as possible. The period of 30 days laid down, Sir, is apparently based on the limitation of 30 days allowed in rules 89 and 90 of the Civil Procedure Code and Article 100 of the first schedule to the Indian Limitation Act.

Section 79 of the Regulation deals with application for setting aside sales on the ground of irregularity and section 80, 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 78A is extended to 60 days as proposed in the Bill, the provision of sections 79 and 80 would be redundant, but what is that if provision of sections 79 and 80 become redundant, if they are not used, if there is no occasion to use section 79 on account of the fact that all revenues are paid within time? How does Government suffer in any way? Let sections 79 and 80 be there.....

The Deputy SPEAKER: Order, order. The hon. Member will finish now. This Bill will be allowed further discussion on the 23rd March.

I would now let the hon. Members know that the Assam Primary Education (Amendment) Bill, 1942, will again come up for discussion on that date. The consideration of this Bill, clause by clause, will be taken on, on the 23rd instant and notice of Amendments, if any, will have to be tabled before 3 P.M., on the 18th March.

### Adjournment

The Assembly was then adjourned till 11 A.M., on Tuesday, the 14th March, 1944.

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\*Speech not corrected.

SHILLONG :  
The 19th April 1944.

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