



**Proceedings of the Eighth Session of the Assam Legislative Assembly
assembled after the Second General Election under the Sovereign
Democratic Republican Constitution of India.**

The Assembly met in the Assembly Chamber, Shillong at 10 A. M. on Thursday, the 7th April, 1960.

PRESENT

Shri MAHENDRA MOHAN CHOUDHURY, B.L., Speaker in the Chair, Eight Ministers, four Deputy Ministers and Seventy Members.

QUESTIONS AND ANSWERS

STARRED QUESTIONS

(To which oral answer were given)

Accommodation of a Government dispensary at Sadiya in a thatched house

Shri DEVENDRA NATH HAZARIKA (Saikhowa) asked :

*116. Will the Minister-in-charge of Medical be pleased to state—

- (a) Whether it is a fact that the Government dispensary or hospital at Sadiya is accommodated in a dilapidated thatched house ?
- (b) Since when it is accommodated in a thatched house ?
- (c) What were the difficulties of the Government to construct permanent or semi-permanent buildings for this medical unit ?
- (d) Whether Government are aware that adequate medicine is not available there ?

Shri RUPNATH BRAHMA (Minister, Medical) replied :

116. (a) & (b) —Yes, the Hospital building of Sadiya at 7th mile was accommodated in a thatched house since its construction in 1957.

(c)—It has been decided to shift the Sadiya Civil Hospital to Chapakhowa. Accordingly action is being taken to construct permanent buildings of Sadiya Civil Hospital at Chapakhowa. So the question of constructing permanent buildings for Sadiya Civil Hospital Chapakhowa. So the question of constructing permanent buildings for Sadiya Civil Hospital at its existing site does not arise.

(d)—No, it is reported by the Civil Surgeon, Lakhimpur that there is more than enough medicine in the hospital throughout the year.

Shri DEVENDRA NATH HAZARIKA : Is there any other Government dispensary in Assam which is accommodated in dilapidated thatched and leaky house ?

Shri RUPNATH BRAHMA : We are now taking steps to construct a new hospital there at Chapakhowa.

Shri PRABHAT NARAYAN CHOUDHURY (Nalbari-East) : What programme has been taken up by the Government for construction of the buildings of the dispensaries taken over by the Government from the Local Boards ?

Shri RUPNATH BRAHMA (Minister, Medical) : That is entirely a new question, Sir,

Shri DEVENDRA NATH HAZARIKA (Saikhowa) : Whether budget provision has been made for construction of a dispensary at Sadiya ?

Shri RUPNATH BRAMA : I inform the Hon'ble Member that I have ascertained that in the meantime it has been shifted and accommodated in the Assistant Project Officer's buildings temporarily until the departmental buildings are constructed by P.W.D.

Shri MOHI KANTA DAS (Barchalla) : Sadiya being an out of the way place predominantly inhabited by tribal and backward people why steps were not taken for construction of the buildings permanently ?

Shri RUP NATH BRAHMA : Because of the temporary nature of the place catcha buildings were constructed for the hospital.

Shri DEVENDRA NATH HAZARIKA : Whether we can expect the work to be commenced during the running financial year ?

Shri RUP NATH BRAHMA : That may be possible, Sir.

Shri NILMONEY BORTHAKUR (Dibrugarh) : What was the total cost of maintenance of the thatched buildings ?

Shri RUP NATH BRAHMA : I cannot give it offhand. I can supply it later on if necessary,

Appointment of a Health Officer in the Golaghat Municipal Board

Shri NARENDRA NATH SARMA (Dergaon) asked :

*117. Will the Minister-in-charge of Local Self-Government be pleased to state—

- (a) Whether there is any Health Officer of the Golaghat Municipal Board ?
- (b) If so, who is he and who appointed him ?
- (c) What are his duties and functions ?
- (d) Whether Health Officers are allowed private employment and practice ?
- (e) What is the minimum qualification required for a Health Officer of a Municipality ?
- (f) What is the pay scale and who pays the Health Officers of Municipalities and Town Committees ?

Shri GIRINDRA NATH GOGOI : (Deputy Minister, Local Self-Government) replied :

117. (a)—Yes.

(b)—Dr. Chandra Dhar Choudhury, appointed by the Director of Health Service Assam as Assistant Surgeon II on contract basis in the Department of Health and posted at Golghat as Urban Health Officer of the Municipality there.

(c)—The primary duties of the Urban Health Officers are to look after the sanitation, vaccination, sale of food-stuffs and other health matters of the Municipality concerned.

(d)—They are allowed private practice but no private employment is allowed.

(e)—L. M. P. *plus* training in Public Health and Hygiene.

(f)—Pay scale is Rs. 175—7½—250—(E.B.)—10—300. The pay, etc., of Urban Health Officers are paid by the Civil Surgeon concerned.

Shri NARENDRA NATH SARMA (Dergaon) : Whether it is a fact that the Health Officer is a retainer to some gardens ; so he is not able to super-
vise his duties at Municipalities ?

Shri GIRINDRA NATH GOGOI : I want notice for it, Sir.

Shri NARENDRA NATH SARMA : Whether there is provision for Health Officers for all municipalities or in case of a few only ?

Shri GIRINDRA NATH GOGOI : That is a new question, Sir.

Shri MOHI KANTA DAS (Barcahlla) : Are there prescribed fees for the Health Officers for doing private practice ?

Shri GIRINDRA NATH GOGOI : That is a new question, Sir.

Shri DANDESWAR HAZARIKA (Morongi) : In reply to (d) the Minister has stated that he is not allowed private employment. Will the Government be pleased to enquire whether he has been employed by any private concern ?

Shri GIRINDRA NALBI GOGOI : I would surely enquire, Sir.

Shri PRABHAT NARAYAN CHOUDHURY : (Nalbari-East) Minister's reply to (f). Who appoints these Health Officers and who pays them ?

Shri GIRINDRA NATH GOGOI (Deputy Minister, Local Self-Government) : These Health Officers are appointed by the Director of Health Services and are paid by the Civil Surgeons concerned.

Employees of the Heads of the Departments working under the Treasury Officer due to strike by the State Bank employees

Shri NILMONEY BARTHAKUR (Dibrugarh) asked :

*118. Will the Minister-in-charge of Finance be pleased to state—

- (a) Whether it is a fact that some employees working under the Heads of Departments to the Government of Assam, have been ordered recently to work under the Treasury Officer, Shillong?
- (b) If so why?
- (c) Whether Government took prior option from those employees before being put under forced deputation?
- (d) If not, why not?
- (e) Whether the Heads of Departments took into consideration of the terms and conditions of service of those Government servants who were deputed to work under the Treasury Officer before doing so?
- (f) Whether it is a fact that those Government servants were asked to execute bonds against loss of cash in the State Bank of India or the Treasury?
- (g) Whether it is a fact that these employees were not used to handling Cash?
- (h) If so, whether Government take the responsibility of making good any shortage of cash that may occur owing to the handling of cash by Government servants who are not used to such work?
- (i) Whether the Heads of Departments got any directive from the Department of Finance in this regard?
- (j) If so, what was the directive?
- (k) Whether the Chief Minister was consulted before the directive was issued by the Finance Department?
- (l) What was the basis on which the Government servants were selected to work under the Treasury Officer?
- (m) Who selected them?
- (n) Why efficient persons from the Finance Department were not selected for the purpose?
- (o) How long those Government servants, who have been deputed to work under the Treasury Officer are expected to continued as such?

Shri FAKARUDDIN ALI AHMED (Minister, Finance) replied :

118. (a) & (b)—Yes nine Accountants and Accounts Assistants were asked to work in the Shillong Treasury for the purpose of conducting Government transaction in the Treasury during the strike by the State Bank employees.

(c) & (d) — Under Fundamental Rule 11, a Government servant may be employed in any manner required by proper authority and the question of prior consent or option does not arise.

(e) — This was not a case of deputation. The Government servants were asked to work temporarily in the Treasury holding their own posts in their parent departments. But as the work was more arduous and responsible, they were granted a special pay of 20 per cent of their pay under Fundamental Rule 9 (25) (a) and (b).

All this was perfectly in accordance with their general conditions of service which are governed by Fundamental Rules.

(f) — No.

(g) — Yes.

(h) — In order to cover the risk of handling cash, Fidelity Insurance policies were ordered to be taken on their behalf, the premium being paid by Government.

(i) & (j) — The Heads of Departments were asked to release the Government servants concerned to work in the Treasury.

(k) — No.

(l) & (m) — Persons having experience in Accounts were selected in consultation with the Heads of Departments.

(n) — No persons could be spared from the Finance Departments where the work is heavy during this part of the Financial year.

(o) — They did not have to work in the Treasury at all as the Deputy Commissioner made alternative arrangements and the orders were withdrawn.

†Shri NILMONEY BORTHAKUR (Dibrugarh) : Is it a fact that because of this forced debution of employees the work in the Heads of the Departments suffered a lot ?

†Shri FAKHRUDDIN ALL AHMED (Minister, Finance) : I have already replied that they did not have to work as the Deputy Commissioner made alternative arrangements orders were withdrawn.

Posting of a Doctor at Ahotguri dispensary

Shri NARENDRA NATH SARMA (Dergaon) asked :

*119. Will the Minister-in-charge of Medical be pleased to state—

- (a) What steps have been taken by Government to appoint a Doctor at Ahotguri where there is no Doctor for at least 15 years ?
- (b) How long the people of Ahotguri will remain without a Doctor ?
- (c) Whether it is a fact that the people of Ahotguri take two days to reach the nearest hospital ?
- (d) Whether Government realise the difficulty of the people and appoint a Doctor Ahotguri dispensary immediately ?

Shri RUPNATH BRAHMA (Minister, Medical) replied :

119. (a) — A Doctor is under orders of posting to Ahotguri Dispensary

(b)—Doctor concerned is likely to join shortly.

(c)—The nearest treatment centre of Ahotguri Area is the Karatipara Travelling Dispensary at a distance of 12-14 miles. It may take two days to reach Golaghat Civil Hospital.

(d)—Yes, Government will see that a doctor joins there without delay.

Shri NARENDRA NATH SARMA (Dergoan) : Whether it is a fact that there is no doctor at all at Karatipara also ?

Shri RUP NATH BRAHMA (Minister, Medical) : So far as I remember the doctor was posted there. I do not know whether he has joined.

Shri DANDESWAR HAZARIKA (Morangi) : May I know from the Minister-in-charge when the Dispensary and doctor quarters were constructed at Ahotguri and how long it is going on without a doctor ?

Shri RUP NATH BRAHMA : The questioner knows well that this dispensary was Local Board Dispensary which was taken over only last year.

Mr. SPEAKER : He wants to know how long it is going on without a doctor.

Shri RUP NATH BRAHMA : I require notice for it, Sir.

Shri NARENDRA NATH SARMA : Whether it is a fact that there is no Compounder and medicine in the hospital ?

Shri RUP NATH BRAHMA : I have to ascertain that. This is a new question.

Shri MOHI KANTA DAS (Barchalla) : What is the reason for not appointing doctor at Ahotguri for the last 15 years ?

Shri RUP NATH BRAHMA : I have already replied that the hospital has been taken over only last year. we have posted a doctor there and he will join shortly.

†**Dr. SRIHARI DAS (Barpeta)** : Who was in charge of this dispensary for the last 15 years ? Was there even a qualified compounder ?

†**Shri RUPNATH BRAHMA** : It was a Local Board Dispensary.

†**Shri MOHI KANTA DAS** : Whether Government is aware that the Local Board Dispensary at Ahotguri was without a doctor for the last 15 years and, if so, what steps Government took to place a doctor there ? My point is whether Government had knowledge that this dispensary was without doctor for the last 15 years ?

†**Shri RUPNATH BRAHMA** : As I said there was delay in constructing the buildings there. As my friend knows, Ahotguri is an outlying area and even doctors are not willing to go there.

Mr. SPEAKER : It was started as a mobile dispensary in the beginning.

*Shri NARENDRA NATH SARMA (Dergaon) : Is it not a fact that in the previous Session also the same answer was given, *i.e.*, a doctor had been posted there ?

†Shri BIMALA PRASAD CHALIHA (Chief Minister) : The point is, Sir, unless Government get doctors we cannot post any. Not only at Ahotguri but in many other places we have not been able to place doctors.

†Shri DANDESWAR HAZARIKA (Morangi) : In view of the fact that doctors are not willing to go to outlying places, will Government consider giving extra allowances to those doctors who serve in the interior ?

†Shri RUPNATH BRAHMA (Minister, Medical) : This is being examined. We are thinking of giving some extra allowance to them.

†Shri RAM NATH DAS [Dergaon (Reserved for Scheduled Castes)] : In reply to (a), the Minister has said that "a doctor is under orders of posting to Ahotguri dispensary". May I know what is the name of that doctor so that we may be able to trace him out ?

†Shri RUPNATH BRAHMA : I want notice for that.

†Shri SARAT CHANDRA GOSWAMI (Kamalpur) : In view of the dearth of doctors in the hospitals and dispensaries, will Government move the Central Government to take steps to reintroduce the school course again ?

†Shri BIMALA PRASAD CHALIHA : That has been ruled out by the Indian Medical Council.

†Shri GOPESH NAMASUDRA [Patherkandi (Reserved for Scheduled Castes)] : গভর্নমেন্ট বলেন যে ডাক্তার পাওয়া যায় না। কিন্তু অনেক ডাক্তার ডিক্রগড় থেকে পাশ করে আনাদের সরকারের চাকরি না পেয়ে N.E.F.A. তে চাকরি নিয়েছে—এই কথা সরকার জানেন কি ?

†Shri BIMALA PRASAD CHALIHA : N.E.F.A. তে ও ডাক্তারের প্রয়োজন আছে।

†Shri MOHI KANTA DAS (Barchella) : What steps Government propose to take to fill up this short gap ?

Mr. SPEAKER : They are going to start two more medical colleges.

†Shri NARENDRA NATH SARMA : Have Government made any alternative arrangements to give medical facilities to the people at that place ?

†Shri RUPNATH BRAHMA : I don't understand what alternative arrangements the hon. Member means.

Mr. SPEAKER : He means medicines and posting of a compounder if no doctor is available.

†Shri RUPNATH BRAHMA (Minister, Medical) : But we are posting a doctor there.

†Shri DANDESWAR HAZARIKA (Morangi) : But if no doctor is available will Government consider whether medical aid can be given by placing a compounder and medicines ?

†Shri RUPNATH BRAHMA : If the doctor does not join we will see to that.

†Shri MOHI KANTA DAS (Barchalla) : If allopathic doctors are not available, will Government consider the desirability of posting one Kaviraj or Homeopathic doctor there ?

†Shri RUPNATH BRAHMA : I have already replied that a doctor is being posted there. If he does not join we will see what other arrangements can be made.

†Shri RAMNATH DAS [Dergaon (Reserved for Scheduled Castes)] : May I know whether the doctor who is under orders of posting there is an allopathic doctor or a homeopathic doctor ?

†Shri RUPNATH BRAHMA : He must be an allopathic doctor.

UNSTARRED QUESTION

(To which answers were laid on the table)

Establishment of a State Dispensary at Hazarikapart in Hindughopa Mauza of Mangaldai Subdivision

Shri DANDI RAM DUTTA (Mangaldai) asked :

294. Will the Minister-in-charge of Medical be pleased to state—
- Whether a representation was lately received by Government regarding establishment of a State Dispensary at Hazarikapart in Hindughopa Mauza of Mangaldai Subdivision ?
 - If so, what action has been taken thereon ?
 - How many Dispensaries in the State are running without Compounders ?
 - Whether Government will be pleased to state the names of such Dispensaries Subdivisionalwise ?
 - Whether it is a fact that the Government sanctioned the establishment of a State Dispensary at Chamuapara village of Chapai Mauza in the Mangaldai Subdivision in 1959-60 ?
 - If so, whether the work for the same has been started ?
 - If not, why not ?

Shri RUPNATH BRAHMA (Medical Minister) replied :

294. (a) — Yes.

(b) — Due consideration will be given in the matter along with other places.

(c)—From the information available at the moment, there are 21 such dispensaries.

(d) Nowgong—

1. Lonemati State Dispensary.
2. Aibheti State Dispensary.
3. Monaha State Dispensary.
4. Ambagaon State Dispensary.
5. Nakhola State Dispensary.
6. Kuthori State Dispensary.
7. Samaguri State Dispensary.

Cachar—

1. Daloo State Dispensary, Karimganj Subdivision.
2. Digarfulertal State Dispensary, Silchar Subdivision.

Garo Hills—

1. Tura Leprosy Colony.
2. Bhaitbari Dispensary.
3. Mendipathar Dispensary.
4. Kharkutta Dispensary.
5. Parakhasla Dispensary.
6. Ampati Dispensary.

Sibsagar —

1. Borgohainghat Dispensary, Golaghat Subdivision.
2. Charingia Dispensary, Golaghat Subdivision.
3. Tengapukhuri Dispensary, Sibsagar Subdivision.
4. Furkating Dispensary, Golaghat Subdivision.
5. Somoni Dispensary, Colaghat Subdivision.

Darrang—

1. Dumnichowki, Mangaldai Subdivision.

(e)—Yes.

(f)—Not yet.

(g)—The administrative approval was given on 2nd March, 1960.

***Shri HIRALAL (PATWARY Panery)** : In reply to (c), it has been stated that 21 dispensaries are running without compounders. May I know why this is so when so many compounders are available ?

***Shri RUPNATH BRAHMA (Minister, Medical)** : There was shortage of qualified compounders also. Fortunately we are now having more compounders and I hope this short fall of compounders will be removed soon.

***Shri DEVENDRA NATH HAZARIKA (Saikhowa)** : Do Government maintain a list of compounders who come out successfully after completion of their course ?

***Shri RUPNATH BRAHMA (Minister, Medical)** : Yes, certainly.

***Shri DANDIRAM DATTA (Mangaldai)** : গৱৰ্ণমেণ্ট stipend দি পাচ কৰাই অনা বহুতো কম্পাউণ্ডাৰ আছে। তেওঁলোকে চাকৰি পোৱা নাই। সেই বিলাকৰ কাৰণে চৰকাৰে কি কৰিছে ?

***Shri RUPNATH BRAHMA** : হয় কিছুমান কম্পাউণ্ডাৰ পাচ কৰাই অনা হৈছে, তেওঁলোকৰ সংখ্যা বহুত বেচি হৈ গল। তেওঁলোকক প্ৰয়োজন অনুসৰি নিযুক্ত কৰিবলৈ চেষ্টা কৰা হৈছে।

***Shri MOHI KANTA DAS (Barchalla)** : দৰখাস্তকাৰী সকলক কামত নিয়োগ কৰা হবনে নহয়।

Mr. SPEAKER : কৈছে নহয়, কৰা হব বুলি।

***Shri DEVENDRA NATH HAZARIKA** : In reply to (g), it has been stated that 'the administrative approval was given on 2nd March 1960'. May I know whether the amount was included in the Budget of 1959-60 or in the current year's budget ?

Mr. SPEAKER : It must be 1959-60.

***Shri DEVENDRA NATH HAZARIKA** : Then why the work could not be started within the last financial year when administrative approval was given on 2nd March 1960 ?

***Shri RUPNATH BRAHMA** : There was the question of availability of land, the plans and estimates had to be prepared, they had to be sent to the Finance Department and then administrative approval had to be given. All these things take time.

Construction of two Waiting Rooms on the Golaghat-Kamargoan Route

Shri NARENDRA NATH SARMA (Dergaon) asked :

295. Will the Minister-in-charge of State Transport be pleased to state—

(a) Whether it is a fact that the State Transport Department has decided to construct two Waiting Rooms, one at Khumtai and the other at Badlipar on the Golaghat-Kamargoan Route ?

(b) If so, how long the Department will take to construct these Waiting Rooms ?

(c) Whether the high-officials of the Transport Department have seen the miserable plight of the passengers at Khumtai and Badlipar Stations ?

(d) Whether Government will be pleased to take early steps for implementing these scheme without further delay ?

Capt. WILLIAMSON A. SANGMA (Minister, Transport) replied :

295. (a)—Yes, at Badlipar only. As to the necessity of a Waiting Shed at Khumtai, the matter is under examination.

(b)—The construction of a Waiting Sheed at Badlipar will be taken up during 1960-61, immediately after completion of the land Acquisition proceedings.

(c) & (d)—Do not arise in view of reply to (a) & (b) above.

Shri DANDESWAR HAZARIKA (Morongi) : The reply to (c) & (d) is : ‘Do not arise in view of reply to (a) & (b)’ The question was “whether the high officials of the Transport Department have seen the miserable plight of the passengers at Khumtai and Badlipar station”.

Capt. WILLIAMSON A. SANGMA : Yes, it was inspected by higher officers and decision in this regard has been taken on the basis of their reports.

Shri DANDESWAR HAZARIKA : Then why the reply is “Do not arise” ?

Mr. SPEAKER : No, it has been replied in (b) “the construction of a waiting shed at Badlipar will be taken up during 1960-61”. Regarding Khumtai, the matter is under consideration. In view of these replies, questions (c) & (d) do not arise.

Regarding Ayurvedic College Hospital at Jalukbari

Shri SARAT CHANDRA GOSMAMI (Kamalpur) asked :

296. Will the Medical Minister be pleased to state—

(a) Whether the Ayurvedic College Hospital has been opened at Jalukbari ?

(b) What facility for clinical training has been made available to the students of Ayurvedic College of Jalukbari ?

(c) Whether it is a fact that the Ayurvedic College Section of Gauhati Civil Hospital has been abolished and the Auyrvedic Section of Gauhati Civil Hospital has been converted to a Section attache to Gauhati Civil Hospital under the Civil Surgeon, Gauhati ?

(d) Whether any House Physician has been appointed for Gauhati Ayurvedic College Hospital at Jalukbari ?

(e) What is the minimum number of House Physicians required to be appointed for the Ayurvedic College Hospital ?

(f) When Government contemplates to open the said Hospital ?

Shri RUPNATH BRAMA (Minister-in-charge of Medical) replied :

296. (a)—No.

(b)—Students of the Ayurvedic College attend the Civil Hospital Gauhati for clinical training as was done before.

(c)—Yes.

(d)—Does not arise in view of reply to (a) above.

(e)—One.

(j)—As early as possible.

Shri SARAT CHANDRA GOSWAMI (Kamalpur) : উত্তর “c” ত কৈছে যে ইউনিভার্সিটিৰ ছাত্ৰ সকল গুৱাহাটীৰ চিভিল হস্পিতাললৈ আহিব লাগে। জালুকবাৰীৰ পৰা গুৱাহাটীলৈ অহাযোৱা কৰা অসুবিধাজনক নহয় নে আৰু তেওঁলোকৰ পয়ছাও খৰছ নহয় নে ?

Shri RUPNATH BRAHMA (Minister, Medical) : হয় কিছু অসুবিধা হৈছে সেই কাৰণে জালুকবাৰীত হস্পিতাল কৰিবৰ ব্যৱস্থা কৰা হৈছে—আশা কৰিছো সোনফালেই হস্পিতাল খুলিব পৰা যাব।

Shri KHOGENDRANATH BORBARUA (Amguri) : আয় কেঁদ পদ্ধতি অঙ্গ চিকিৎসাৰ যে ব্যৱস্থা তাৰ উন্নতি সাধনৰ বাবে চৰকাৰে কিবা ব্যৱস্থা লৈছে নে ?

Shri RUPNATH BRAHMA : এইটো সম্পূৰ্ণ নতুন প্ৰশ্ন, I want notice for that.

Relief and rehabilitation help to the refugees of Kharupeita Town

MD. MATLEBUDDIN (Daigaon) asked :

297. Will the Chief Minister, be pleased to state —

- (a) What is the total number of refugee population at Kharupeita Town ?
- (b) Whether these refugee people have all been given relief and rehabilitation help ?
- (c) If the answer is in the affirmative, what kind of help has been given ?
- (d) Whether all these refugees have been registered and proved to be *bona-fide* ?
- (e) Whether Government have any scheme for the rehabilitation of these people ?
- (f) If answer is in the affirmative, what are they ?

Shri BIMALA PRASAD CHALIHA (Chief Minister) replied :

297. (a)—800 families (3,581) persons.

(b)—Only 189 families have been granted rehabilitation assistance so far.

(c)—Business and house building loans.

(d)—Yes.

(e)—Yes, in respect of those displaced whose cases are considered to be hard and deserving.

(f)—Business and house building loans.

*Shri HIRALAL PATWARI (Panery) : উত্তৰত কৈছে যে business and housing loan দিয়া হব। কিমান দিনৰ ভিতৰত দিয়া হব জানিব পাৰেনে ?

*Shri BIMALA PRASAD CHALIHA (Chief Minister) : কিমান দিনৰ ভিতৰত দিয়া হব কব নোৱাৰি। ইয়াৰ কাৰণে ভাৰত চৰকাৰৰ পৰা টকা দিয়ে আৰু লগতে দৰখাস্তবোৰ অনুসন্ধান কৰি যোগ্যতাৰূপে বাচিব লাগিব। বিশেষকৈ টকাৰ ওপৰতে বেচিটক কথাটো নিৰ্ভৰ কৰে।

Publication of Assam Code

Shri GAURISANKAR BHATTACHARYYA (Gauhati) asked :

298. Will the Minister-in charge of Printing and Stationery be pleased to state—

- (a) When were Volumes I and IV of Assam Code printed and published last ?
- (b) Whether Volumes II and III are in Press ?
- (c) If answer to (b) above is in the affirmative, since when ?
- (d) When Volumes II and III of the Assam Code are expected to be available in the market ?

Shri RUPNATH BRAMA (Minister, Printing and Stationery) replied :

298. (a)—Volume I on 6th August 1956, Volume IV on 11th November 1958.

(b)—Yes.

(c)—Manuscripts were received by Press on 7th September 1957 and they are in proof stage now.

(d)—In about six months or so.

Lack of courtesy of the staff of Government Book Depot

Shri GAURISANKAR BHATTACHARYYA (Gauhati) asked :

299. Will the Minister-in-charge of the of the Government Book Depot be pleased to state—

- (a) Whether Government is aware that the staff in charge of the Government Book Depot attached to the Government Printing Press at Shillong do not offer the ordinary courtesy that is always offered by private firms and establishments to their customers ?
- (b) Whether Government is aware that customers are often to wait standing for an hour or more for their orders being attended to by the staff of the Government Book Depot at Shillong ?
- (c) Whether Government is aware that Assam Government publications are generally not available with the so-called agents of the Government publications ?
- (d) Whether Government is aware that some of the firms which are shown as agents of Assam Government publication have ceased to exist for the last 15 years or more ?

(e) What is the difficulty in opening sales depots for Government publications at Police Bazar, Shillong and Panbazar, Gauhati?

Shri RUPNATH BRAHMA (Minister, Printing and Stationery) replied :

299. (a)—Government is not aware of any lack of courtesy by the staff of the Government Book Depot to the customers, but the necessity of showing utmost courtesy and consideration to the customers has been impressed upon them.

(b)—This may be the case when the Book Depot was under process of shifting to its present building which is more commodious. Re-arrangement is nearly complete in the present building where arrangement has been made for reception of customers and for quicker supply.

(c)—This may be so due to the fact that the agents do not often indent for supply of Government publications.

(d)—Government have no information but an enquiry is being made to find out if any of them has ceased to exist.

(e)—Expenditure on accommodation and additional staff will be prohibitive.

Business Advisory Committee's recommendation of allocation of time for the outstanding business of the Session

Shri RAJENDRA NATH BARUA (Deputy Speaker) : Mr. Speaker Sir, beg to move—

That this Assembly agrees with allocation of time proposed by the Business Advisory Committee in its Report dated the 6th April, 1960 in regard to each item of outstanding Government business for the current Session and that Rule 232 of the Rules of Procedure and Conduct of Business in Assam Legislative Assembly be invoked by the Chair for timely completion of all outstanding matters.

As regards the time allotted, a time table has been placed on the Table of the House. I hope the House will approve the same.

Mr. SPEAKER : The motion move Do the hon. Members agree to this ?
(Voices—Yes, yes).

The Assam Embankment and Drainage Validation Bill, 1960

Shri DANDESWA HAZARIKA (Morangi) : Mr. Speaker Sir, before we take up the motion that was moved by Shri Barbarooah for sending the Bill for eliciting public opinion, I beg to submit that this motion was sufficiently discussed and my friend Shri Bhattacharyya has already took two hours on the day before yesterday, so may I request you Sir, that under Rule 288 of the Assembly Rules which says—“Whenever the debate on any motion in connection with a Bill or on any other motion becomes unduly protracted, the Speaker may, after taking the sense of the House, fix a time limit for the conclusion of discussion on any stage, etc. to fix a time limit for this discussion and.....”

Mr. SPEAKER : No, we have already agreed to the recommendation of the Business Advisory Committee for giving 3 hours for discussion of this particular Bill, therefore, your contention does not hold good now.

***Shri GAURISANKAR BHATTACHARYYA (Gauhati)** : Sir, I was discussing certain legal implications emanating from the proposed amendment particularly clause 2 and I was saying that it is to the best interest of the country to admit mistakes when they are detected instead of trying to cover them up.

Mr. SPEAKER : Mr. Bhattacharyya, how long will you take ?

***Shri GAURISANKAR BHATTACHARYYA** : About half-an-hour only Sir.

***M. MOINUL HAQUE CHOUDHURY (Minister, Embankment and Drainage)** : Sir, may I point out that you have allotted three hours only for this motion including Division as well as amendments.

Mr. SPEAKER : Yes, that time limit will be observed.

***Shri GAURISANKAR BHATTACHARYYA** : Now Sir, it was said by Shakespar—"When beggars die commets do not appear", similarly when individuals commit illegalities or mistakes it may be bad enough but it cannot be very very dangerous but when a Government commits mistakes or its agencies commit mistakes and thereby if Government try to cover it up those mistakes, not for a short period, but for a period of five years in the least, that is a very bad thing indeed and it is a dangerous precedent for the democratic set up. Particularly in this respect I should like to submit that three important principles are involved. Firstly, the principle of retrospective operation, second, the principle of reversal of previous law and third the construction of impairing obligation or permitting advantage from one's own wrong. In these matters Sir, in view of the fact that you have decided to restrict the time I shall try without much elaboration, to go straight to the authorities. Now, with regard to the principle of retrospective operation may I refer to Maxwell Interpretation of Statutes at page 213 onwards. I am placing only a few relevant portions and I shall invite legal luminaries that adorn the Treasury Benches and also enriched the Benches behind them just to ponder over this matter and to answer themselves as to whether they are going in the right direction or in the wrong direction. Sir, Maxwell says, "Upon the presumption that the legislature does not intend what is unjust rests the leaning against giving the statutes a retrospective operation". Sir, we find in this proposition that it is presumed that the legislature would act wisely and justly and therefore, when a legislature passes a Bill makes it a law, it is presumed that after wise counsel they did it and therefore, subsequently another Bill if it is sought to be given retrospective effect, then it is not showing proper respect to the cause of justice or to the cause of the rule of law. It has also been said, and this is from no less a Judge than Justice Wright Report in the Queen's Bench Division I am quoting from Justice Wright - "No rule of construction is more firmly established than this that a retrospective operation is not to be given to a statute so as to impair the existing right or obligation otherwise than as regards matters of procedure unless that effect cannot be avoided without doing violence to the language of the enactment. If the enactment is expressed in a language which is fairly capable of either interpretation it ought to be construed as prospective only"—not retrospective. Now here the existing right of the individual as enunciated under sections 3, 8 and 10 particularly of the old Act, is going to be

infringed. I should like to suggest that the legal adviser of the Government would do well to consider what Maxwell and Justice Wright said in this matter. It was also said in King's Bench Division in a case coming in 1939.

Every Statute, it has been said, which takes away or impairs vested rights, that is the vested rights of the citizens, acquired under the existing law, here is the law is one of 1944, or creates a new obligation, or imposes a new duty or attaches a disability in respect of transactions or considerations already past, must be presumed, out of respect to the legislature to be intended not to have a retrospective operation. Here also the law is against a retrospective operation and it is also said in the Maxwell's interpretation "where vested rights are affected, prima facie it is not a question of procedure. Here then we will find that it is a question of retrospective operation and where vested rights are concerned prima facie it is not a question of procedure. Now Sir, here in this matter, we are discussing the question of vested rights of the individuals. Now also we find in another case—*Prince versus United States*, it is said "Eve a statute which confers a benefit, such as abolishing a tax, would not be construed retrospectively to relieve the persons subject to the borden before it was abolished. An Act passed in August, providing that on all goods captured from the enemy and made prize of war a deduction of one-third of the ordinary duties should be made, was not to apply where the prize with her cargo, though condemned in September, had been brought into port in June, when certain duties accrued due".

Here Sir, it was only a question of June to August. But here we are now discussing of the Act of 1955 and so the operation and dimension of the Act is so tremendous indeed.

Now another point is reversal of the previous law which I have already said before, particularly with regard to the rights invested to the people and the under the existing Act and we have also so many authorities. In this connection, I want to refer again to Maxwell's Interpretation of Statutes which is considered almost like a Bible by the lawyers and judges. Maxwell is the authority of judges, of kings and kingdoms. Regarding the invested rights of the people proposed to be taken away by this Bill, we find at page 260 of the same interpretation where it is said "a statute to natural equity or reason (such as one which made a man a judge in his own cause) or contrary to Magna Carta, which gives the right of person and property, the same interpretation again says "The law on this subject cannot be better laid down than in the following words of a great American authority: It is a principle in the English law, that an Act of Parliament, delivered in clear and intelligible terms, cannot be questioned, or its authority controlled, in any court of justice. "It is" says Sir, William Blackstone, the exercise of the highest authority that the kingdom acknowledges upon earth"— Then again the same interpretation says. "The will of the legislature is the supreme law of the land and demands perfect obedience". But we are now here speaking about Act I of 1941. Again Maxwell's interpretation says — "But while we admit this conclusion of the English law, we cannot but admire the intrepidity and powerful sense of justice which led Lord Code, when Chief justice of the King's Bench, to declare, as he did in Doctor Bonham's Case, that the common law doth control Acts of Parliament, and adjudges them void, when against common right and reason. The same sense of justice and freedom of opinion led Lord Chief Justice Hobert, in *Gay versus Savage*, to insist that an Act of Parliament, made against equity, as to make a man judge in his

own case, was void ; and induced Lord Chief Justice Holt to say in the case of the City of London *versus* Wood, that the observation of Lord Coke was not extravagant, but was a very reasonable and true saying.

Now Sir, I don't know whether we want to make a better law or to infringe on it. If we want to better our law to a great extent, then in that case, the Supreme Court or the Court of Law will have to deal this matter, therefore, Sir, I oppose this Bill and it seems Government also have got no respect for law. What the previous Government sought to execute orders this Government want the stamp of validity, the stamp of legality. Things which were done for more than five years past are now to be legalised, that is to be given the stamp of legality and that I say is a dangerous thing. If it is due for to certain defect or if is due to certain mistakes and that we are now going to give the stamp of legality or the stamp of validity then that is very dangerous. In this connection Sir, I will refer to page 377 of the All India Reporter. It will do more good for those lawyer friends in the Government benches to read this statement leisurely and that will show what this Government that they will do. I need not read all these things as the time at my disposal is very small. In this connection I should like to submit, it has been said on the principle of avoiding jundustice and absurdity any construction would if possible be rejected which enabled a persons to defeat or impair the obligation of his contract by his own act, or otherwise to profit by his own wrong. The Government is therefore bound by natural justice and by substantive law to issue certain notifications and declaration to follow certain importance procedure. They now want to profit by their own wrong by bringing this Validation Act. They now want to validate those invalid things.

Sir, in this connection I would like to point out what was said by Justice Multon in *Kish versus Tailor*, 1911 at page 65. It is said that a man may not take advantage of his own wrong particularly in the "self created necessity". The words "self created necessity" may have prompted my learned lawyer friends on the Government side to bring this Validation Act. Therefore this is a self created necessity on the part of the Government. They want to deprive the common men of their just and legitimate dues.

Sir, in clause 4 it has been said "No should prosecution or other legal proceedings shall lie against any person for doing anything which is in good faith done or intended to be done in connection with the embankment and drainage schemes deemed to have been executed under section 2 of this Act." Here it is not said no person or agency of the Government. He may be an officer of the Government, he may be a contractor or a contractor's man or he may be anybody under the sun, if he does these things in good faith then he will be absolved of all the responsibilities if this clause 4 is passed.

Sir, again in clause 5 it has been said that, "if any doubt arise as to the interpretation of the provisions of this Act or the applicability of any of its provisions, the State Government may, as occasion may require, by order, do anything, not inconsistent with the purpose of this Act, as appear to them to be necessary or expedient for removing the doubt". Sir, here the words used are very scanty. Firstly, to remove any doubt, no court of law is necessary to be approached. It is the executive Government which will decide this question whether anything done is inconsistent with the provision of

the Act for the purpose of procedure of the Act. Sir, these are very vague terms. If somebody is satisfied that something should be done or it appears that it is necessary to do something that is enough. Here so far as the legislature is concerned, the Government is trying to negative the time honoured procedure in the legislature. In May's Parliamentary Procedure at page 215, it has been very elaborately discussed in the context of ruling that the Government should not try to take the vague power. Now, however, in this particular case, the Government wants to take the cover of vagueness and confusion at this stage when they are considering the question of validating the invalid things which were done 5 years back under the very vague general power framed under the provision of this Act. Therefore, Sir, so far as the general principle underlying the present bill is concerned, it is opposed not only to the principle but also the letter and all common of law of legislative procedure. I know Sir, that I am crying in the wilderness; we are confronting mammoth majority that anything which is brought here may be passed. We are quite alive to the weakness in number. But we are determined to raise our voice of protest against this sort of thing, against this sort of debauchery and against this sort of autocracy in our country in the name of validating the invalid thing so that the future generation may at least know how these things were done here.

So with these words Sir, I support the motion that the matter should go to the public so that public may discuss it in their own way about the wisdom of this bill, about the necessity or otherwise of this Bill.

Thank you Sir.

Shri PRABHAT NARAYAN CHOUDHURY (Nalbari-East) : মাননীয় অধ্যক্ষ মহোদয়, এই বিলৰ সম্পৰ্কে আমাৰ ভট্টাচাৰ্য ডাঙৰীয়াই সকলোখিনি কথা কৈছে। ১৯৫৪ চনৰ পিচৰ পৰা যিবিলাক মথাউৰি আদি হল সেই বিলাক হৈ যোৱাৰ পাচত এই আইন কৰিব লগা হৈছে। যিবিলাক বেয়া কাম হল সেই বিলাকৰ বাবে আইন কৰিবলৈ উলোৱাৰ কাৰণেই আমি সমালোচনা কৰিব লগাত পৰিলো।

Mr. SPEAKER : আপুনি ধাৰাৰ ভিতৰত আবদ্ধ থাকিলে ভাল।

Shri PRABHATNARAYAN CHOUDHURY : যিবিলাক অপৰি কল্পিত কাম হৈ গল সেইবিলাকৰ পৰা বাইজৰ ক্ষতি হৈছে। তাৰ পাচত চৰকাৰে **revising committee** কৰিব লগা হল তাৰ **Report** ত সদনত দিয়াৰ কথা আছিল।

এই **Validation** বিল আনিব লগীয়া হোৱাৰ কাৰণ হৈছে আগতে যিবোৰ মথাউৰিৰ কাম কৰা হল সেইবোৰ আঁসোহায়ুক্ত হল। তাৰ ফল কি হৈছে মন্ত্রী মহোদয়ে নিজেই জানে যে কিছুমান ঠাইত মানুহৰ অশেষ দুখ দুৰ্গতি হৈছে। উদাহৰণ স্বৰূপে বৰলীয়া আৰু নুনাৰ মাজত মানুহবোৰ মাত্ৰ মাছৰ দৰে জীয়াই ৰখা হৈছে। আজি তিনি বছৰ সেই বিষয়ে আলোচনা বিলোচনা কৰা হৈছে; কিন্তু তেওঁলোকৰ দুখ দূৰ কৰা দূৰৈৰ কথা তাক ধাম-চাপা দিবৰহে ব্যৱস্থা কৰিছে। কিছুমান ঠাই আছে যত ঠিকাদাৰক কাম দিবৰ কাৰণেই কাম কৰাইছে যেনে বৰলীয়াৰ মথাউৰি কৰালে ঠিকাদাৰক দিবৰ নিমিত্তেই। তাৰ কথা বিভাগীয় বিষয়াসকলেও নেজানে, কিন্তু তৎকালিন মন্ত্ৰীয়ে মথাউৰি বন্ধালে। এতিয়া সেই মথাউৰি ৰাখিলেও মক্ষিল আৰু কাটিলেও মক্ষিল। সেই কাৰণেই এই আইন কৰিব লগা হৈছে।

১৯৫৪ চনৰ পৰা এই ৬ বছৰে মখাউৰি বান্ধোতে যিবোৰ মাটি অধিগ্রহণ কৰিলে তাৰ কোনো ক্ষতিপূৰণ আজিলৈকে দিয়াৰ ব্যৱস্থা কৰা নাই। বেতিয়া দেখিলে যে Land Acquisition Act মতে ক্ষতিপূৰণ দিয়ে তেনেহলে যেটুকৈ পাব তেতিয়া flood control আইন কৰিলে এই আইন মতে মাটিৰ খাজনাৰ ২০ গুণ ক্ষতি পূৰণ দিলেই হয়। কিন্তু কংগ্ৰেছত বৰমুৰীয়া জনদিয়েকে আপত্তি কৰাত ক্ষতি পূৰণৰ পৰিমাণ মাটিৰ খাজনাৰ ৪০ গুণ কৰিলে কিন্তু চৰকাৰে এইটো বিবেচনা নকৰিলে যে নলবাৰীত মাটিৰ বিঘা প্ৰতি ৭০০ টকা তাত খাজনাৰ ৪০ গুণ ক্ষতি পূৰণ একো নহব। কিন্তু তাকে আজিলৈকে দিয়াৰ ব্যৱস্থা কৰা নাই।

তাৰ পিচত এতিয়া আনিছে Betterment Tax বিল অৰ্থাৎ যিবোৰ ঠাই উন্নত কৰা হল তাৰ বাবে এই Betterment Tax দিব লাগিব। যিবোৰ মানুহক ক্ষতিপূৰণ দিব লাগে সেইবোৰ মানুহৰ পৰাই এই betterment tax দ্বাৰা সেই টকা আদায় কৰা হব। গতিকে তেওঁলোকে ক্ষতিপূৰণ পৰিবৰ্তে আকো betterment tax হে দিব লগা হৈছে। ইয়াত কিছুমান Provision আছে, যেনে—“While putting into operation the embankment and drainage schemes under Sub-Section (1) of Section 2 of this Act, if any person has claimed any compensation for any loss sustained by him, the Deputy Commissioner shall award such compensation as he considers fair and reasonable in accordance with the principles laid down in section 10 of the “said Act.”

ইয়াত কোনো সময় বান্ধি দিয়া নাই। ফলত আইন প্ৰনয়ণ হোৱাৰ পিচত কেতিয়া ক্ষতিপূৰণ পাব কোনেও একো কৰ নোৱাৰে আৰু ক্ষতিপূৰণ দিব ডেপুটি কমিচনাৰে নিজ ইচ্ছা মতে। মোৰ মনেৰে ক্ষতিপূৰণ দিয়াবো সময় ধাৰ্য কৰি দিব লাগে। ইয়াত আৰু এটা ডাঙৰ ক্ষমতা দিয়া হৈছে যে “No suit, prosecution or other legal proceedings shall lie against any person for doing anything which is in good faith done or intended to be done in Connection with the embankment and drainage schemes deemed to have been executed under Section 2 of this Act.” এই “anything” টো বৰ ডাঙৰ কথা, অৰ্থাৎ যি ইচ্ছা তাকে কৰিব পাৰে।

Mr. SPEAKER: You are repeating what Mr. Bhattacharyya was saying.

Shri PRABHATNARAYAN CHAUDHURY (Nalbari-East): মই শ্ৰী ভট্টাচাৰ্য্যৰ কথাখিনি সমৰ্থন কৰিছো আৰু বাইজৰ মতামত সংগ্ৰহৰ কাৰণে পঠোৱাবো সমিচীন বুলি ভাবো আৰু বিল খন পাচ নকৰিবলৈ চৰকাৰক অনুৰোধ কৰো।

M. MOINUL HAQUE CHOUDHURY (Minister, Embankment and Drainage): Mr Speaker, Sir, I have heard with rapt attention the speeches delivered in this House in support of the Motion brought by Shri Khagendra Nath Barbaruah. Before I reply to the specific points raised by my Friends opposite, I would like just to recapitulate the background under which these works which are sought to be validated by this Act were done. Sir, it might be remembered that there was a great earthquake in the year 1950 in Assam resulting in changes in the topography river system of this land. Thereafter frequent floods became a phenomena in the State. Lots of rivers got diverted. Beds of so many rivers went up making the lives of

hundreds and thousands of people of Assam miserable. At that time there was a persistent demand from all sides of Assam that Government should come forward to take up flood control schemes, to save the people. The problem was further aggravated by the successive floods after 1950 particularly those which took place in the year 1952 and in the year 1954. There is no doubt that there was an Act passed by the legislature in the year 1941, but it was an Act completely outmoded to work in an emergency like this one that had been created by the earthquake and the floods, because people wanted speed. So, Sir, another Act was passed in the year 1953 *viz* the Assam Embankment and Drainage Act giving certain summary powers to the Government undertake such work. But even then these powers provided inadequate the procedures laid down in this Act were so elaborate and so difficult that it became impossible to meet the public demands. Even today if you Sir, look up to the debates in this House in connection with Budget discussion or on the Voting on Demands on Embankment and Drainage you would find Sir hundreds of Demands coming from all sections of this House requesting the Embankment and Drainage Department to take up new flood control schemes and to execute them with speed. The same stories have been repeated in this Session of this House. While the Embankment and Drainage Budget came up for discussion, either at the time of general discussion of the Budget or there after at the time Voting on demand almost everybody wanted that there should be more urgency in execution of the schemes, almost every speaker suggested to Government that there should be more speed in completing the schemes. The result was Sir, till the year 1957, I would like my Friends to underline the year 1957, in this State as many as 156 schemes were executed from the beginning of the first Five Plan till the period of September, 1957 in which the Government of Assam in the Embankment and Drainage Department could not follow strictly and meticulously the provisions laid down in the Embankment and Drainage Act, 1933. My friends were very keen to suggest motive as this has become the habit with some people to cast reflections on others I heard them telling that the present Minister wants more power for himself. Therefore, he is not content with the Act of 1953, hence he has brought this Bill. For their information I can tell them that from the year 1957 September till today, only 11 schemes have been done in which the provisions of the Act has not been meticulously followed. From September 1957 till the passing of this Act or till bringing this Bill before this House only 11 Schemes have been done in which the provisions of the Act could not have been meticulously followed. Most of the works executed were till to the year 1957 September and their number is 156. This would give an idea what a crisis it had been, how people were passing their days in such a crisis and how much they were wanting the Government to do the work speedily. Not in one case Sir, out of the projects 156 projects done till September 1957, or the 11 cases done after September 1957, not even one citizen went to the court of law challenging the action of the Government of Assam or as servants either asking for damages or for prosecuting anybody for trespass. This one fact is significant to show that nothing was done either in my time or at the time of my predecessor in whose time most of the works were done, without the tacit consent of the people. All these works were done, more or less with the consent of the people in-as-much as the people themselves wanted these works to be done, and therefore they gave possession of the land and invited the department to act so that they get the protection. If the Government of Assam did these acts illegally the House will have to ponder why upto the year 1957, in all these 156 cases, not a

single citizen in the State of the Assam went to the court of Law and challenged the action of the Government of Assam that the Government has either trespassed into his land or done damages, or to his land claiming compensation for the damages, or punishment for the officers who trespassed in his land should be penalised. Similarly after the year 1957 till today in these 11 cases also, nobody has gone to the court of law. These facts would amply justify my contention that there was a great urgency in the State and the people themselves wanted the Government to undertake the works. Even today the amount of pressure that is put on the Minister of Embankment and Drainage both inside this House or outside to take up works without waiting for formalities is colossal. Everybody want the works to be taken up in the Embankment and Drainage department without delay. Everybody want that there should be speed. Nobody want any delay in this matter.

These are the circumstances Sir. I am just trying to narrate so that House might remember under what circumstances or exigency, under what difficulties the works had to be taken up. There was no time to make any delay. There is no intention either on the part of this Government collectively or myself individually as the Minister-in-charge of Embankment and Drainage department to get more power. What I want is to legalise all these actions that have been done. Why I want to do it? There are two reasons. Sir, as soon as the Government does work of embankment or drainage, one duty at once enjoins on the Government that the court should pay reasonable compensation to the people who are affected. Second thing Sir, if by the execution of that work people are benefited in that locality they should bear the cost of work done either fully or partially. Works were done in the year 1957, 1955, 1954 and 1951 but till today no compensation has been paid. In the discussions in the House you must have heard Sir, that everyone of the speakers were telling that compensation had not been paid to the people. But under what Act compensation was to be paid? Sir under the ordinary law of the land there is no chance for getting compensation. My Friend Shri Patwari has asked me that I should look up the Constitution to give compensation to the people. I have not found any provision in the Constitution of India as such for payment of compensation in such cases. But I know that in case of tort compensation is to be paid. If some body enter into somebody else's land and thereby diminishes the value of the land then it can be called tort and compensation for it must be claimed within three years from the date of commission of such tort. Compensation for tort is to be claimed within three years and if it is not claimed within three years then it becomes time-barred. Suffice it to say if all the present cases tort, can be called tort or if they are at all called tort because I said that they were done with the consent of the people, most of them are three years or more than three years old or will be so in the year 1960 and no one of the cases no one of the citizens of Assam will get compensation. Great majority of the embankment and drainage work numbering 157 were done prior to 1957. Yet my Friends are shedding tears for the poor people of the country that the Government have not paid any compensation. Sir, I want to pay compensation by bringing this Validation Act and they are standing on my way and asking me for circulating the Bill for public opinion. Is the public opinion not known to the Assembly that the people of Assam want compensation for the works done? I want to pay compensation for the work done, be it time-barred or not. Sir, section 10 of the Act provides for payment of compensation. I have come to the conclusion, after hearing the elaborate speech that none of my Friends in the opposite has really read the Validation Bill or the original Act.

Shri HIRALAL PATWARI (Panery) : I think the Minister has forgotten the Act of 1953.

M. MOINUL HAQUE CHOUDHURY (Minister, Embankment and Drainage) : Sir, the Act of 1953 has got Section 10 which reads as follows:—

Whenever any obstruction is removed or embankment or drain removed, constructed or altered under section 4 (1) (a) and (b) or embankment or or drainage work carried on under section 9 or emergent work undertaken under section 16 (5) and in direct final consequence there-by there has occurred stoppage or diminution of supply of water in any existing drain or accumulation and diminution of water in any place resulting in deterioration in the productivity of any land or any other loss or damage arising from any of the causes referred to in clauses (a), (b) and (c) which is capable of being estimated; or right of fishery, right of drainage right of use of water or right of property other than those mentioned above, have been injuriously affected and any person feeling agrieved by any of the causes referred to in clauses (a) (b), (c) and (d) may claim compensation before the Deputy Commissioner within two years of the physical completion of the work as notified by the State Government and the Deputy Commissioner shall award such compensation as he considers fair and reasonable after enquiry in the prescribed manner."

(Interruption by Hiralal Patwari)

Mr. SPEAKER : Order, order. You can stand up for a personal explanation or on a point of order but you cannot interrupt in this way.

M. MOINUL HAQUE CHOUDHURY : Now Sir in none or most of the cases which are more than three years old the people have no remedy in the ordinary law of the land because their claim has become time-barred. If the works are illegal as has been sought to be represented by the hon. Members opposite, and if the works are not justifiable and if the entry into the land of others is considered tresspass then the remedy of the people has gone. if we validate the action as is sought to be done under this Bill, Sir, then they will have another two years time to get compensation. Why, therefore, such a Bill should be circulated to elicit public opinion? Everyone was saying that compensation should be paid and when I want to pay compensation the hon. Members opposite want me to send the Bill for eliciting public opinion. Every body knows that the people want that they should be paid compensation for the work done on their land. I have simply respected the wishes of the House expressed in course of various debates and speech that the people should be given compensation.

Secondly, Sir, in this Bill there is a provision that betterment tax should levied on areas where the benefits have accrued or derived by the people of that locality. Now, Sir, a great confusion has been made. The argument advanced is this "you have taken away my land and you now want me to pay betterment levy," as if Sir, when a particular embankment is constructed over the land of a particular man, he is the only beneficiary of that embankment in that locality. The beneficiaries may be the whole field and so why should they not pay to the exchequer? Therefore this provision of the Act simply seeks to validate levy of betterment tax which is provided for under the original Act of 1953 to be paid by the people who are the beneficiary of the scheme.

Thirdly, Sir, this Bill also seeks to give protection to the officers who did work on good faith. I know when there was an emergency almost all the people of a village request the Government to take up embankment work in that particular locality. But there might be one or two absentee landlord or co-sharers say in case of Muslim owners a lady co-sharer may be absent in her husband's village and so she did not give her consent expressly. She might come afterward and claim compensation against the Government servant who worked in good faith. Therefore, what is the harm in giving protection to those who did the work in good faith? Sir, my Friend Shri Gaurisankar Bhattacharjee has said that if the work is done in good faith the word good faith being defined in the Penal Code there is no necessity of making a provision here for protecting the man who did the work in good faith. This argument is strange. If a man kills another man in good faith then it is for him to prove that he did so in good faith. Then again Sir, good faith for the purpose of a criminal act and good faith for the purpose of a civil act are quite different things. So the good faith will have to be considered under two different circumstances. One good faith may be sufficient for giving protection in a criminal court but that may not be so for a civil suit. So, Sir, we want to protect our officers fully for the acts done in good faith. The hon. Member can express any opinion he likes but the Government cannot accept it

Sir, I agree with him that normally and generally a State do not come before the Legislative Assembly for validation of its own Act or indemnifying its officers. But Government do come after war, after great events and after great emergencies. I do not think Assam had a greater emergency than in the year 1950, 1952 and 1954. Everyone knows what catastrophe there had been in the earthquake of 1950. If we do not consider the event of 1950 to be a major emergency, I have nothing to say. But any one, the man in the street, will say that in the year 1950 there was a great occurrence, namely the earthquake which not only shook the people of Assam but which shook the public opinion of the world in sympathy for Assam. Similarly, Sir, floods that took place after the year 1950 not only brought miseries to hundreds and thousands of people of Assam it brought tears to whole of India for us. Even the Prime Minister of India had to come to Assam to see our conditions. Therefore, Sir, there was a great emergency and as a result of that emergency certain steps had to be taken. Some of my friends were telling we understand the action which you had taken in 1950, 1952 and 1954 but why did you continue the work upto the year 1957 and thereafter and in some cases up to the present day. Yes, Sir, this is correct. An event has its repercussions. It is a fact that the repercussions so also the fight against them; is a continuous process. Man fights against nature, not in an isolated manner, not in an isolated way for a certain period only. It is a continuous fight till the emergency is over. We were fighting continuously so long. We are thinking of a master plan and we have announced about the steps taken for drawing up a master plan before this House. Hence time has come for validating what had been done.

My friend was reading some of the cases where it has been found that validation and for indemnification were done in the same Act and no two different Acts were passed by the Parliament. His case seems to be, Sir, that validation and indemnification being unusual Acts, the Government should have referred this Bill to a Select Committee or alternatively it should have gone for eliciting public opinion. Sir, in this very House, in the previous year, namely, in 1959, we passed a similar Validation

Act. *Viz.* the Assam Acquisition of Land for Flood Control and Prevention of Erosion Validation Bill of 1959. It was passed in this House wherein, Sir, we have validated the action purported to have been taken under the Act of 1955 namely, the Assam Acquisition of Land for Flood Control and Prevention of Erosion Act of 1955.

My friend was asking me to follow the procedure of the British Parliament. In the British Parliament some such Bills were it is pointed out referred to the Select Committees. Therefore, this House should also refer this Bill to the Select Committee. One looks for precedent when there is no precedent available at home. This very House had set up a precedent that validation Bill need not necessarily go to the Select Committee. Why should we look to the English Parliament? Is not this House the master of its own? This House had laid down its procedure under the Rules of Procedure and Conduct of Business of this House. In the Constitution it has been laid down that till a House lays down its own procedure, we should follow the British Parliament. Our limitations are that till we decide our own procedure we shall have to look to the British Parliament for procedure. But here in this very House we had already set up procedure in the matter of Validation Bills that the same need not necessarily go for either some public opinion or to a Select Committee. It was because, Sir, the House realized the emergency. The House knew that there was public opinion for validating these Act. The people wanted compensation; they wanted a solution to these problems, the long standing open wounds. Therefore in these House, when the earlier Validation Bill came up the House did not send it either for eliciting public opinion or to a Select Committee. Therefore, there is no reason to do it today when public opinion is amply demonstrated both inside and outside this House. Compensation should be paid and the peoples' grievance should be removed as early as possible. Therefore I do not propose to refer it to a Select Committee. I do not propose to send it for eliciting public opinion either. My friend Shri Bhattacharyya now came forward to say that it was great mistake committed by that without any suggestion or opposition from him the earlier validation Bill was passed. He says dramatically. I admit my sin. I am ready for a trial by public opinion. This demonstration does not help the work of this venerable House. This may help political growth of a party by all questionable means.

The next argument that has been adduced is, Sir, that no deadline has been fixed for this Act. That is not correct, Sir, I would request you to look to the provision at section 2 (a) in the middle wherein it has been stated "from the 1st day of February 1955 to the date of commencement of this Act shall be valid". There is a deadline given in this Bill. *Viz.*: The date of commencement of this Act. Therefore, Sir, it is clearly stated in—the period which we want to validate the work done or purported to have been done under the main Act.

Sir, my friend today while raising his discussions has said that according to Maxwell there should not be any retrospective operation of any Act. No normal Act should be given a retrospective effect. I entirely agree with him. It is a correct proposition so far as any normal law is concerned. But there is always exceptions to rules. The exception is to be found when an Act is passed by a Parliament or a House validating a past action. My friend has been repeating a general proposition which is always there. It is to be presumed that a Bill passed by the House is to take its effect from the day when it becomes a law, an Act. A Bill passed by this House as soon as it gets

assent becomes law. That is the general rule. But this general Rule has its own exception, namely, Sir, that the Validation Bill shall always take retrospective effect otherwise there is no meaning of the word validation. This word will have to be taken out of the dictionary or the Statute Book if a Validation Act cannot take effect retrospectively. I am just reading a portion from the General Clauses Act 1897, 4th Edition—

‘Purely validating legislation rendered necessary by the discovery of a misapprehension of the existing law is more common. An English instance in the India Divorce Validity Act, 1921 (11 and 12 Geo 5 c. 18). Indian instances are: Act XV of 1895 passed to validate certain certificates, Act XVII of 1895 and Act XVI of 1936, both passed to validate certain marriages in Bengalore, Ordinance V of 1916 and Act X of 1916, validating certain acts in respect of the property of hostile foreigners and Act XIV of 1918, validating the continuance of notifications, orders and rules made under the Ordinance of 1916, Act XI of 1921 validating certain indentures transferring property formerly held by certain enemy missions, Act XXXI of 1927 validating certain recoveries of cess improperly levied under the Assam Labour and Emigration Act, 1901 (VI of 1901), Act XXXI of 1930 validating certain works, Act XX of 1931 validating custody by the Sheriff of Calcutta in certain cases where it had been unlawful, Act XI of 1932 validating certain suits relating to public matters, Act XIII of 1935 validating certain proceedings of the High Court of Judicature at Allahabad and Act XIX of 1937 validating certain marriages among Arya Samajists’.

Sir, there have been more than one cases of the Indian Legislatures validating past acts. There is nothing wrong in this. My friend is quoting Maxwell that an Act should not be given retrospective effect to impair the existing perspective, I entirely agree that in normal cases no law should be passed giving retrospective effect or encroaching upon the existing rights. But some acts were done in the past by which in the right have already been encroached upon—that is quite a different thing. In this case Sir; up till today certain encroachments had already been done, namely, officers of the Government had entered upon the lands and constructed embankments etc. These encroachments had been made already either in 1952, or 1956, or 1957 it does not matter, in which year the encroachments were done before today and now we are going to legalise that entry. It is not a question encroaching upon existing rights. As I said, that encroachments had already been done and that is going to be validated. I entirely agree with what Maxwell and Justice Wright had said but my friend's argument in quoting them in this particular case, I am afraid is misapplied. Here the right has been encroached upon either rightly or wrongly either with consent or without consent, what we propose now is to validate that action. The Government is not only going to validate that action but it will also pay compensation. Therefore, this argument does not apply here.

The next argument of my friend in this connection was that no new law should be created by giving retrospective effect to a statute. But we are not creating any new law. Under the normal laws of the land if any benefit is received by a man he has got to pay for that benefit. Similarly Sir, if I have encroached upon the rights of a man either by his consent or otherwise, I have got to pay him some sort of compensation. And that compensation whether it is reasonable or not will have to be justified by an Act of the Legislature. It is the Legislature which will have to determine the best by which reasonable compensation is to be calculated. As I said at the time when I discussed the

question of retrospective operation what we are deciding now is procedure connected with only that is, as to what procedure we follow in paying compensation to the affected people and in realising the cess or tax from the beneficiaries.

Then Sir, my friend says that we are going to reverse the prevailing law. In this connection he particularly refers to sections 3, 8 and 10 of the existing Act. That is a misconception. My friend has entirely misconceived the whole matter. I am going to extend the existing law, namely, whatever land has been taken or whatever action has been done it shall have to be purported to have been done under the existing law, that is, the Act of 1953. Therefore, nothing is going to be reversed. In other words, the existing law is not going to be reversed or any provision thereof, rather by this Validation Act we are to apply the existing Act, namely the Assam Embankment and Drainage Act, 1953. We say in clause 2 of the proposed Bill that everything done shall be purported to have been done under the Act I of 1954, that is the Assam Embankment and Drainage Act, 1953. Therefore, there is no case of anything being reversed.

My friend further argues that we are going to rob certain rights of the people. What are those rights? As I have said, no man uptill today has gone to any court of law challenging the Government of Assam for doing anything wrong nor anyone has come forward in court asking for compensation for any alleged wrong. On the contrary we propose to give that compensation. Again my friend invoked here the question of natural justice. Natural justice is no doubt a very nice term in law books. But even then what is natural justice at a particular time has got to be determined. That means the construction of natural practice varies from time to time. For example, in the earlier centuries man's his church which could not be violated. But today that is no longer natural justice. We are taking lands from many people on payment of nominal compensations; without paying market value, that is not against natural justice. Payment of compensation as provided for similar action is not against natural justice. And in the proposed Bill the Government propose to hallow meticulously the provisions of the existing Act of 1953. So Sir, my friend's argument concerning natural justice is not at all sound nor acceptable because as a matter of fact we are not doing anything unnatural. We are going to give what is naturally due to others if their land was taken away under the provisions of the existing laws.

My friend says that if this case goes to the Supreme Court, the Supreme Court will possible invalidate it. But Sir, do we not whenever we pass a Bill into an Act take that risk; whether a law passed by the legislature is a right law or a wrong law, that test does not lie with us. What we do we do with the best of motive and judgment. The Court of law may say that it contravenes the Constitution or that it is ultra-vires or that it is wrong.

Sir, inspite of all our best intentions the High Court may declare any law ultra-vires, however the legislature may feel that they stand for full justice. If any body challenges or if anybody takes it to the court, the judiciary may do something which is different than what we intend for that reason we cannot avoid our responsibilities in doing what we consider best for the people. Another point that has been made out by my friend is that we are taking advantages against our own wrongs. In this connection my friend has mentioned the case of 'Kist versus Taylor'. He has quoted from the

judgment of, Justice Moulton one should not take advantage of his own self created necessity. The analogy is not correct. Neither the State has created the necessity nor done any wrong to anybody for as own advantage. After all, what is the wrong done by the State. Certain emergency arose, many people were going to be effected. Hence for greater good of greater number certain works had to be done to meet the situation. An embankment is being reached or threatened to be reached. To protect the life and property of hundreds and thousands of the State proposes to construct a retirement, then that works will have to be taken up immediately. Otherwise the whole area will be inundated with the result that our people will suffer greatly. In such a case, if we are to follow the procedure of 1944 Act, it will take three years before we can take up the work. It thus becomes a question of protecting the individual right of one man save the thousands then it cannot be said that a necessity to do something wrong in order to take or of saving thousands. If in case the State those to the State created advantage later on. Thus it would be seen that nothing wrong had been done by the Government. Then my friend has raised another point, that is regarding the Bhagawati's report. I had already told the House that his report would be published soon and actually I had requested the Special Officer of the Government Press to print it as early as possible, but unfortunately they could not print it in time due to the Assembly work and other urgent work. As soon as the report is printed, I shall place the report on the table of the House. With these words I request My Friend Shri Barbarua to withdraw his amendment. In fact this Bill has been brought for the good of the people of our State and effort to delay in passing of this Bill be prejudicial to the interest of our own people for whose benefit we have come to this House. My friend Shri Bhattacharyya thinks if we pass this Bill, the people will not send us back to this House. I am waiting for that day to see whether in 1962 the people will not send us back to this House if we pass this Bill now.

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

Shri KHAGENDRA NATH BARBARUA (Amguri) : I am not convinced with the statement of the Minister.

Mr. SPEAKER : I put the question.

The question is that the Assam Embankment and Drainage Validation Bill, 1960, be circulated for eliciting public opinion.

The House divided.

Ayes—11

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|---|--|
| 1. Shri Gaurisankar Bhatta-
charyya. | 7. Shri Nilmoney Barthakur. |
| 2. Shri Ghanashyam Talukdar. | 8. Shri Prabhatnarayan Chau-
dhury. |
| 3. Shri Gopesh Namasudra. | 9. Kumar Prokritish Chandra
Barua. |
| 4. Shri Hiralal Patwary. | 10. Maulavi Sahadat Ali. |
| 5. U. Jor Manick Siem of
Mylliam. | 11. Shri Tarun Sen Deka. |
| 6. Shri Khogendra Nath Bar-
baruah. | |

Nos—52

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| 1. Bimala Prasad Chaliha. | 27. Shri Hakim Chandra Rabha. |
| 2. Capt. Williamson A. Sangma. | 28. Shri Harinarayan Barpah. |
| 3. Shri Fakhurddin Ali Ahmed. | 29. Shri Indreswar Khaund. |
| 4. Shri Rup Nath Brahma. | 30. Mrs. Jyotsha Chanda. |
| 5. Shri Kamakhya Prasad
Tripathi. | 31. Shri Karka Chandra Doley. |
| 6. Shri Hareswar Das. | 32. Prof. (Shrimati) Komal
Kumari Barua. |
| 7. M. Moinul Haque Choudhury. | 33. Swami Krishnananda Brahma-
chari. |
| 8. Shri Mahendra Nath Hazarika. | 34. Shri Lila Kanta Borah. |
| 9. Shri Radhika Ram Das. | 35. Srimati Lily Sen Gupta. |
| 10. Shri Larsingh Khyriem. | 36. Shri Mahadev Das. |
| 11. Shri Girindra Nath Gogoi. | 37. Maulvi Mahammad Idris. |
| 12. Pu Lalmawia. | 38. Shri Manik Chandra Das. |
| 13. Shri Lalit Kumar Daley. | 39. Shri Mohi Kanta Das. |
| 14. Shri Sai Sai Terang. | 40. Shri Molta Tati. |
| 15. Shri Chatrasingh Teron. | 41. Shri Narendra Nath Sarma. |
| 16. Maulavi Abdul Matlib
Mazumdar. | 42. Maulavi Nurul Islam. |
| 17. Shri Baikuntha Nath Das. | 43. Shri Omeo Kumar Das. |
| 18. Shri Bhuban Chandra
Pradhani. | 44. Shri Radha Charan Chou-
dhury. |
| 19. Shri Dandeswar Hazarika. | 46. Shri Radha Kishan Khemka. |
| 20. Shri Dandi Ram Dutta. | 46. Maulavi Rahimuddin Ahmed. |
| 21. Shri Devendra Nath Hazarika. | 47. Shri Rajendra Nath Barua. |
| 22. Shri Dhirsingh Deuri. | 48. Dr. Ram Prasad Chaubey. |
| 23. Shri Durgeswar Saikia. | 49. Shri Sarat Chandra Goswami. |
| 24. Shri Emerson Momin. | 50. Shri Tajummul Ali Barlaska . |
| 25. Dr. Ghanashyam Das. | 51. Shri Tankeswar Chetia. |
| 26. Shri Gauri Sankar Roy. | 52. Mrs. Usha Barthakur. |

(The question was negatived)

Mr. SPEAKER : The amendment motion is lost. I put the main question.

The question is that the Assam Embankment and Drainage Validation Bill, 1960 be taken into consideration.

(The question was adopted)

M. MOINUL HAQUE CHOUDHURY (Minister, Embankment and Drainage) : Sir, I beg to move that the Assam Embankment and Drainage Validation Bill, 1960 be taken into consideration clause by clause.

Mr. SPEAKER : The motion moved is that the Assam Embankment Drainage Validation Bill, 1960 be taken into consideration clause by clause.

(The question was adopted)

Mr. SPEAKER : There is no amendment in clause 1 of the bill.

The question is that Clause 1 of the bill does form part of the bill.

(The question was adopted)

Mr. SPEAKER : Clause 2.

Shri GOPESH NAMASUDRA [Pathar Kandi (Reserved for Scheduled Castes)] : Sir, I beg to move that after sub-clause (1) of clause 2, the following provisos shall be added :—

“Provided that the agencies of the State Government failed to follow the provisions of Law as required to follow under Assam Act I of 1954 for no other reason than due to emergent situation created by the great earthquake of 1950 and subsequent high floods of 1952 and 1954.

Provided further that the agencies of the State Government in-charge of execution of Embankment and Drainage Scheme shall notify in the official Gazette the full particulars of the projects where they failed to follow the provisions of the law for emergency as stated above.”

Mr. SPEAKER : You may move your second amendment also.

*Shri GOPESH CH. NAMASUDRA : Sir I beg to move that sub-clause (2) of clause 2 shall be deleted.

এই বিলের প্রসঙ্গে এ কথা জানা উচিত যে Embankment গুলি জনসাধারণের কামে আসে নাই এবং অধিক ক্ষেত্রে, স্থানীয় জনসাধারণের Consent নিয়ে এগুলি বাধা হয় নাই। যেখানে যাওয়া দরকার, যেদিক স্বার্থ জড়িত কতগুলি ব্যক্তির স্বার্থের জন্ত

সরকারি কৰ্মচাৰী সেখান থেকে divert করে অন্য স্থানে নিয়ে গেছে। এর ফলে এয়াই উপৰুত হয়েছে এবং অল্পেরা ক্ষতিগ্রস্ত হয়েছে। এমন অবস্থায় যদি betterment tax লাগিয়ে দিলে তাহলে এদিক এইলোকদের স্বার্থ রক্ষার জন্য অধিক সংখ্যকের উপর tax levy করা হয়। এরকম যদি হয়ে থাকে তাহলে সরকারের কাৰ্যের দ্বারা জনসাধারণ ক্ষতিগ্রস্ত হবে এবং এই বিল এরকম ভাবে, এই পৰ্য্যায়ে পাশ না করে জনমত সংগ্রহ করলে ভাল হয় এবং তখন এর উপর জনগন একটা অভিমত দিবেন যে অভিমত নিয়ে বিলটা সংশোধন করা প্রয়োজন এবং তখনই এর Passing Stage এ আসা সরকার।

Mr. SPEAKER : The motion moved is that after Sub-Clause (J) of Clause 2 the following provisions shall be added :—

“Provided that the agencies of the State Government failed to follow the provisions of the law as required to follow under Assam Act I of 1954 for no other reason than due to emergent situation created by the Great earthquake of 1950 and subsequent high floods of 1952 and 1954.

Provided further that the agencies of the State Government in charge of execution of Embankment and Drainage Schemes shall notify in the official Gazette the full particulars of the project where they failed to follow the provisions of the law for emergency as stated above.”

And the motion moved is that Sub-clause (1) of Clause (2) Shall be deleted.

Shri PRABHAT NARAYAN CHOUDHURY (Nalbari-East) : Mr. Speaker, Sir, I want to move that the following amendment after sub-clause 2 shall be made.

“Provided that no levy of water rate, betterment cess and premium shall be assessed and realised until the Government are fully satisfied that there is tangible improvement caused by the embankment and drainage scheme.”

অধ্যক্ষ মহোদয়ে, এই sub-clause টোৰ দ্বাৰা চৰকাৰে প্ৰভূত ক্ষমতা দিয়া হৈছে যে মথাউৰি আদি হোৱাৰ পিচত water rate, betterment tax আদি আদায় কৰিব পাৰিব। এই ক্ষমতাৰ অন্তৰালত হয়তো চৰকাৰৰ নিজ ইচ্ছা থাকিব পাৰে যে যেতিয়ালৈকে মানুহৰ উপকাৰত নাহে তেতিয়ালৈকে যাতে এই ক্ষমতা প্ৰয়োগ নহয় নকৰিব পাৰে কিন্তু কাৰ্য্য ক্ষেত্ৰত কৰ্মচাৰী সকলে এই আইনৰ সুযোগ লৈ যেতিয়াই তেতিয়াই এই ক্ষমতা প্ৰয়োগ কৰি ৰাইজৰ ক্ষতি সাধণ কৰিব পাৰে। সেই কাৰণে, এই বিলখন যদি এনে অৱস্থাত আজি পাচহৈ যায় তেন্তে ইয়াৰ ক্ষমতাৰ অপপ্ৰয়োগ আৰু অপব্যৱহাৰ হোৱাৰ আশা আছে। কাজেই এই proviso টো ইয়াত সংলগ্ন কৰিব লাগে যে যেতিয়ালৈকে ইয়াৰ দ্বাৰা ৰাইজৰ উপকাৰ নহয় তেতিয়ালৈকে চৰকাৰে কোনোৰকমৰ ‘টেকচ্’ ৰাইজৰ পৰা আদায় কৰিব নোৱাৰে। ইয়াকে কৈ মই সংশোধনী প্ৰস্তাবটো যাতে চৰকাৰে মানি লয় তাকে কলো।

Shri HIRALAL PATWARI (Panery) : মাননীয় অধ্যক্ষ মহোদয়, মাননীয় সদস্য শ্ৰীযুত গোপেশ নমোসুন্দ মহাশয়ে যিটো সংশোধনী প্ৰস্তাব দাঙি ধৰিছে মই সেইটো সমৰ্থণ কৰিছো। ইয়াত তেখেতে এইটো সংযোগ কৰিব বিচাৰিছে যে যেহেতু ১৯৫০ চনৰ ভূমিকম্প আৰু ৫২-৫৪ চনৰ বান পানীৰ ফলত হোৱা সমস্যাৰ সমাধান চৰকাৰে কৰিব পৰা নাই গতিকে এই সংশোধনী টো অনাৰ বৰখেষ্ট যুক্তি ইয়াতে আছে।

ইয়াৰ আগতে **statement of objects and reasons** কোনো ক্ষতিপূৰণৰ কথা নাছিল। বিলখনৰ উদ্দেশ্যলৈ লক্ষ্য কৰিলে এইটো তাত থকা আৱশ্যক আৰু এই কথাৰ সত্যতা আছেনে নাই বিলখন 'পাবলিক অপিনিয়নলৈ' দিলেই ওলাই পৰিব।

Clause 2 :—১৯৫৪ চনৰ পৰা যি কাম এই ক্ষেত্ৰত হৈছে সেইবিলাক আইন সঙ্গত ভাবে লব লাগিব।

এই বিলৰ মূল কল্পিত কথা খিনি আছিল, গতিকে চৰকাৰে আইন অমান্য কৰি আকৌ এখন আইন কৰিব খোজাটো কেনেকুৱা কথা।

যি খিনি কথা আছে যিটো কাম হাতত লৈছে, কৰা হৈছে বা কৰা হব তাত কোনো আইন **follow** কৰিব পৰা নাই 1953 ৰ **act**, কোন কোনটোত আইন **follow** কৰিব পৰা নাই তাক বুজাই কৈছে।

সেই কাৰণেই শ্ৰীগোপেশ নমোসুন্দ ডাঙৰীয়াই তেখেতে **ammendment** ত কৈছে যে ইয়াৰ দ্বাৰা **irregularity** ত আপত্তি কৰিবৰ কাৰণ নাই কিন্তু আমি যিটো কল্প দিছো সেইটো কথা হলে কথা নাই, কিন্তু সেইটো হোৱা নাই।

ইয়াত এই কথা **Vague** কথা হৈছে গতিকে এই খিনি কথা **clause II sub-clause** ৰ পাচত যোগ দিলে যুক্তি সঙ্গত কথা হব। আৰু শ্ৰীপ্ৰভাৰু নাৰায়ণ চৌধুৰীৰ **amendment** টোত কোৱা কথা খিনি যোগ দিলে আৰু ভাল হব। চৰকাৰে নভবাকৈ ল'বালৰিকৈ **Project** হাতত লৈছে আৰু সেই বিলাক **Project** ৰ পৰা বাইজ্বৰ একো উপকাৰ হোৱা নাই গতিকে বাইজ্ব নিশ্চয় টেক্স দিবলৈ আপত্তি কৰিব। এইবোৰ বেমেজালিৰ কাৰণেই ভাগবতী কমিছন পতা হৈছিল কিন্তু সেই কমিটিৰ **report** ওলোৱাৰ আগতে আইন পাশ কৰিবলৈ ওলোৱাৰ কাৰণে আমাৰ অশ্ল ধৰণৰ কথা আছিল। এতিয়া যিটো **Vague clause** কৰিছে সেইটো গায়সঙ্গত হোৱা নাই। সেই কাৰণে মন্ত্ৰীমহোদয়ক অন্তৰোধ জনাইছো যে **clause II sub-clause I** ৰ পাচত আমি কোৱা কথাখিনি যোগ দিব। ইয়াকে কৈ মই **ammendment** টো সমৰ্থন কৰিছো।

***Shri NILMONEY BORTHAKUR (Dibrugarh)** Mr. Speaker Sir, I support both the amendments moved by my friends. Now these amendments refer to clause 2 of the Bill, and clause 2 is the basic clause of the entire Bill. Now this clause seeks to validate all things that have been executed by the State Government through their agencies without taking into account the provisions established by law. Here in the first stage of the Bill we are discussing the procedure. It is simply a matter of legalising the illegal actions of the Government. It would be an injustice to the people. People would say that Government themselves have violated the law. After five years of the passing of the Act they have again come with the Bill because they have not been able to follow the law. That will not help building up of a welfare State. Here the arguments offered by the Minister is that because of the emergent situation created by the great earthquake of 1950 and subsequent high floods of 1952 and 1954 it made obligatory on the part of the Government to execute certain schemes with top speed and therefore, because of the emergent situation it was not

possible to obey the letters and spirit of the law. In certain cases it was done with the good intention of protecting the people by providing them with embankments etc. If it is correct then let the State Government prove it that all these actions taken by the Government were done only in emergent cases and in no other cases. Let them frame rule for that purpose that emergent cases will be judged by the District Judge or some other Judge. The amendments suggest that Government must come forward if they are aware that only in emergent cases they have broken the law. Let them publish it in the official gazette that only in those cases they have not been able to follow the letter and spirit of the law, and therefore, they had to work with top speed and now they want to legalise it. Let them prove it. I may say that in most of the emergent cases Government failed to act. Several mouzas in Dibrugarh are inundated for year together from 1950 uptil now but there is no talk of embankment. People have sent deputations after deputations, both to the Ministers of Finance and also Embankment and Drainage but the work did not proceed with top speed. But in other cases Government came up with schemes where people did not need it where people objected to it. So it is not correct that Government acted in good faith and in good intention. They acted arbitrarily, and therefore this amendment which seeks to lay the burden on the Government. Let the Government prove that only in emergent cases law was broken, and only in that case we may validate otherwise it would be wrong to validate the wrong actions of the Government.

Now Sir, the Minister-in-charge has said that prior to 1957, 156 schemes were executed and after that only 7 cases. If that is correct, if the emergent situation was from 1955 upto 1957 then in this whole period the Government could not think of bringing another law. If the situation was changed it was open to the Government to seek amendment of the old law. Or if it was not possible, if the situation was so urgent, then they could have come with an Ordinance. But they did not do it. And after doing so, many illegal things they now seek protection of this House to legalise the past wrong actions of the Government by bringing this particular Bill. If it was correct that there were emergent situations and so it was necessary to execute works with top speed and it was not possible to serve notice, or make survey and make schemes then the burden must be on them, and they must prove that there was emergent situation. Secondly the whole list of the projects of the entire schemes must be published in the official gazette. Let the people know it. But the Minister did not dare to elicit public opinion. If he was confident that people have given verdict in favour of this Bill, he would have been the first man to accept the proposal of Mr. Barbaruah to send this Bill for eliciting public opinion. But that was not done. Now let it be published in the official gazette, let the people know that laws were violated by the Government, and Government could not act according to the letter and spirit of the law. Let the reason be stated.

Secondly, Sir, in Sub-clause (2) it is stated "the State Government may, after the commencement of this Act, levy a water rate, betterment cess or premium on land improved by embankment and drainage schemes executed by the Government under sub-section (I) at the same rate and in the same manner as provide in section II of the said Act". That means the old act of 1954. Now it is a fact Government seek power to impose a levy or cess on the people on the ground that there has been improvement.

But who will judge that there has been improvement? Here the basic principle underlying this levy is against the principle of welfare State. It is ordinarily the duty of any Government to protect people from the onslaughts of nature -- fire, floods etc. But here for protecting people from flood Government impose levy, cess or premium. Normally the people except of a Government to maintain law and order and to protect them against any natural calamity and to give an organisation to build up a welfare state. But here just protecting the people against natural calamities the Government are creating an atmosphere to levy tax. We have no finance for giving to Schools. There must be school cess. So, the principle of levying tax on the people for a supposed improvement is entirely wrong. Actually has there been any improvement? Bhagabati Commission's report has not yet been placed on the table, but during the evidence I found that in every mouza the people said that after construction of the embankments the soil was robbed of natural fertility. As a result, production per acre has been reduced and therefore there is no real improvement. It may be that people might have been protected in certain areas, but on the other hand they have been robbed of the greater quantum of produce. So I do not think that simply on the ground that a particular area has been protected from flood or has been protected from erosion Government have the right to levy any tax. But if we really take the totality of the whole thing, it is the people who stand to lose because on the one hand they have lost their quantum of produce and on the other hand because of the construction of embankment in some areas it happened that because there is no provision for sluice gates and drainage for draining out rain water and flood water these area have become uncultivable and unfit for human habitation. But technically it might be accepted by the Government that as their is an embankment for protection from flood large sums of money have been spent and therefore the Government would like to realise the entire cost from the public. That will be ruinous to the people and wrong in principle. Therefore, I support the amendments moved by my friend Shri Namasudra.

Shri KHAGENDRANATH BORBARUA (Amguri): অধ্যক্ষ মহোদয়, মই এই বিলখন জনসাধাৰণৰ মতামত সংগ্ৰহৰ নিমিত্তে পঠাবৰ কাৰণে সংশোধনী প্ৰস্তাৱ দাঙি ধৰিছিলো। কিন্তু মন্ত্ৰীয়ে সেই মত সমৰ্থন নকৰিলে। এতিয়া এই অৱস্থাত শ্ৰীগোপেশ নমসুদ্ৰ আৰু শ্ৰীপ্ৰভাত নাৰায়ণ চৌধুৰীয়ে যি সংশোধনী দাঙি ধৰিছে মই তাক সমৰ্থন কৰিছো। প্ৰথম কথা হৈছে **betterment tax** এই **betterment tax** কেনেকৈ নিৰ্দ্ধাৰণ কৰা হব কোৱা নাই। এই **betterment tax** সমৰ্থন নকৰো কাৰণেই সংশোধনী দিছিলো। এই টেক্স লগোৱা প্ৰকৃততে উচিত নহব। আমাৰ জনসাধাৰণক প্ৰাকৃতিক বা অন্যান্য বিপদৰ পৰা বক্ষা কৰাৰ বাবেই কি **betterment tax** হব লাগে? এইটো চৰকাৰৰ কৰ্ত্তব্য। আজি আমাক পঢ়ুৱাই উপযুক্ত কৰিছে তাৰ বাবদ অৱশ্যে মাচুল লৈছে যদিও কিছুমানক মাফ দিয়ে। তেনে হলে স্বাস্থ্য ভাল কৰাৰ কাৰণেও **betterment tax** দিব লাগিবনে কি? মন্ত্ৰী সকলে আটাইতকৈ ভাল স্বাস্থ্য কৰিছে, গতিকে বেচিকৈ **betterment tax** দিব লাগিব। ইয়াৰ উপৰিও চৰকাৰে আনিবাট কৰি দিছে মানুহৰ সুবিধাৰ কাৰণে, পুখুৰী খানি দিছে ভাল পানী খাবৰ কাৰণে, তেনেহলে সকলোতে **betterment tax** দিব লাগিব। এইটো কি আচৰিত কথা। আজি টেক্সৰ ওপৰত টেক্স দিবলগা হৈছে মানুহ **better** হব নোৱাৰা হলে, তাতো টেক্স দিব লাগে। কোনো কোনো ক্ষেত্ৰত বিঘাত ৬/ মোগ খান হৈছে মাটিত ভালকৈ বোৱাৰ কাৰণে নাইবা সাৰ দিয়াৰ কাৰণে, তাত কেনেকৈ **betterment tax** নিৰ্দ্ধাৰিত কৰিব?

Adjournment

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

After lunch

Shri KHAGENDRANATH BARBARUA (Amguri) : অধ্যক্ষ মহোদয়, ১৯৫৩ চনৰ যিখন said Act বুলি কোৱা হৈছে, Assam Embankment and Drainage Act সেই খনৰ ১৩ ধাৰাত কৈছে—“Rates to be charged per bighas according to the degree of benefits derived. এই degree of benefits টো কেনেকৈ ঠিক কৰিব? এই প্ৰশ্নৰ উত্তৰ—সেই আইনতো নাই এই বিলতো নাই। কাজেই এই ভাৱটো যদি অকল চৰকাৰী কৰ্মচাৰী সকলৰ হাতত এৰি দিয়া যায় তেন্তে সেইটো কেনেকুৱা কথা হব? এই ক্ষেত্ৰত আমি আজি পৰ্যন্ত চৰকাৰৰ ভৱৰ্তাৰ পৰা বিশেষ বিশ্লেষণ পোৱা নাই। এই ‘বেনিফিট’ (benefit) কিমান হৈছে নহৈছে তাক নিৰ্ণয় কৰিবলৈ এটা মাত্ৰ agency দেখা পাও সেইটো হৈছে গাওঁ পঞ্চায়ত বিলাক। গাওঁ পঞ্চায়ত বিলাকত গধূলি গধূলি ঘৰে ঘৰে বহি আলোচনা কৰিলে নিৰ্দ্ধাৰিত হব পাৰে। এই নিচিনা এজেন্সি (agency) তৈয়াৰ নকৰি যদি সেই ভাৱ অকল চৰকাৰী কৰ্মচাৰীৰ হাততেই দিয়া যায় তেন্তে খেলি মেলি হব আৰু অনৰ্থক জনসাধাৰণ ৰাইজে ‘টেক্চ’ ভৰিব।

(সময়ৰ সংকেট ধ্বনি)

আৰু এটা কথা চাব, এখন sluice gate কৰোতে হয়তো দুহেজাৰ টকা খৰচ হব আৰু তাৰ দ্বাৰাই কেইবাটা মৌজাও লাভবান হব। তেতিয়া হলে কি কৰিব? যদি এই উপকৃত হোৱা মৌজা কেইটাৰ জনসাধাৰণক টেক্চ লগোৱা হয় তেন্তে (sluice gate) ‘স্লাইচ গেটৰ’ খৰচ দুহেজাৰৰ ঠাইত বহুত টকা ৰাইজৰ পৰা আহিব এইটো তেতিয়া কেনেকুৱা কথা হব? তাৰো পৰি, মথাউৰি বান্ধিবলৈ যি মাটি কাটিব লাগিব তাতে ৰাইজৰ বহুত মাটি কমি যাব ইয়াৰ ক্ষতিপূৰণৰ কোনো ব্যৱস্থা এই বিলত নাই আৰু চৰকাৰৰ এই বিষয়ত নিমাত। তাৰোপৰি এফালে, মথাউৰি দিয়াৰ ফলত আনফালৰ ৰাইজৰ অপকাৰ হলে তাৰ ক্ষতিপূৰণ কেনেকৈ দিব তাৰ কোনো ব্যৱস্থা ইয়াত নাই।

Mr. SPEARER : আপোনাৰ আৰু সময় নাই।

Shri KHAGENDRANATH BARBARUA : চাব, মই আৰু এটা কথা কৈ শেষ কৰিছো। চৰকাৰৰ পৰা ৰাইজে অতি বৰষুণ বা কম বৰষুণৰ দিনত সহায় বিচাবে। যদি সহায় প্ৰয়োজন অনুসাৰে প্ৰকৃতিক গতিত বৰষুণ পাই আহে তেন্তে চৰকাৰৰ প্ৰয়োজন নাই। দেখা যায় যি চৰকাৰে জনসাধাৰণ ৰাইজক এই বিলাকৰ পৰা ৰক্ষা কৰিব নাই আৰু ৰাইজৰ বহু হানি হৈছে। চৰকাৰৰ বান্ধ বা খালৰ দোষত ৰাইজৰ হানি হলে ক্ষতিপূৰণ বা **worsenment compensation** দিব লাগে।

(সময়ৰ সংকেট ধ্বনি)

কাজেই চাব, মই এইটোকেই কওঁ যেন, ৰাইজ লাভবান হোৱাৰ ব্যৱস্থা চৰকাৰে কৰিব লাগে আৰু তাৰ নামত কোনো **betterment tax** ৰাইজৰ ওপৰত লাগোৱা সমীচিন নহব।

M. MAINUL HAQUE CHAUDHURY [Minister, Public Works Department (E. & D.)] : Mr. Speaker, Sir, I oppose both the amendments tabled by Shri Gopesh Namasudra. I will take up the first one. By the first amendment he has sought to incorporate that only those schemes which were done due to reasons created by the great earthquake of 1950 and floods of 1952 and 1954 should only be indemnified under this Act. But according to us, Sir, we want to bring within the purview of the Bill all the works that were taken due to the emergent situation created by the great earthquake of 1950 and the subsequent high floods of 1952 and 1954. There is a difference between work arising out of the flood and the work required to be undertaken due to the emergent situation created by the great earthquake of 1950.

Now, Sir, for argument's sake if we accept this amendment, it will defeat the very purpose of the Bill itself. What is connected with the 1950 situation created by the great earthquake of 1950—which are the schemes executed due to the emergent situation created by the great earthquake of 1950 and the floods of 1952 and 1954—who will decide these? It will create a sort of vagueness. The amendment will defeat its own purpose. Therefore, we have said, Sir, that all works done without meticulously following the procedure as laid down in the Act of 1953 upto the date when the present Bill becomes Act should also be covered. We have given the deadline. If this amendment is accepted, it will not only defeat the purpose of this Bill but it will also create a sort of vagueness.

Then Sir, he has said that these works are to be notified in the official Gazette. Even the original Act provides that the works undertaken by the Government and the projects undertaken shall have to be notified. Therefore, the second part of the amendment is redundant. At such I oppose the whole of the amendment No. 1.

Now, Sir, he has sought also to delete clause 2 of the Act. His whole case is, Sir, that many projects were undertaken, not for the benefit of the people but at the instance of a few people and not for all. He has cited the case of Singla Embankment in Patharkandi where land was taken in Karimganj for the S.D.O's Office. I have checked up these cases. None of these projects was done illegally as they called. Whether this Act is passed or not passed by the Legislative Assembly today.

It has nothing to do with Singla Embankment or the land taken at Patharkandi or Karimganj town for S.D.O's Office. These projects were done legally after proper notification. These lands were taken after due notifications in the official Gazette and objections were called for. These projects were done in accordance with law and this House has got nothing to indemnify or validate about them. Therefore, these arguments are meant for the purpose of clouding the issue and have nothing to do with this Bill. Some people whose lands were going to be taken for Singla Project might have said that they did not want the embankment. This is natural. I have found, Sir, that in beginning everybody comes forward demanding an embankment and then as soon as the embankment is sanctioned, some people whose lands are going to be affected go against it and want the alignment to be changed. If the alignment is not changed, as it is not sometimes possible to do so, they go against it and say they do not want it. There will always be this type of people. It may be that with regard to the singla project some people came and did they did not want it. But hundreds of people came who wanted the embankment. An embankment is not undertaken merely for the sake of fun,

but because of public demand. Therefore Sir, so far as these few instances are concerned, they have nothing to do with the present Bill. Sir, I may cite the seven cases which were undertaken in recent times after 1957.

They are : A ring bund at Berenga village in Silchar Subdivision.

Training of the new course of Aie river near Srijangram.

(The Aie river took a different course and it had to be stopped.)

The Bhumki Irrigation Scheme, about which the public demand is known to anybody who is connected with the community project works there.

The construction of an embankment along with right bank of the Beki river.

My friends in the Opposition, particularly Mr. Chaudhury referred to it several times. His speeches in this connection may be referred to. He was asking so many questions about it in every Session and making speeches in support of this embankment.

Then come protection works in Sibsagar and Nazira towns and the protection works in Jorhat town to save the water works.

These are the seven projects which were undertaken after 1957. The ring bund at Berenga village had to be done in order to save a big area. The Aie river scheme had to be taken to arrest its diversion to a different course. The Bhumki Irrigation Scheme was undertaken without causing any loss to anybody and for the benefit of the agriculturists there. The demand was that it should be done immediately. The Beki river embankment was taken because there was a great pressure for it from the opposition and also from our side and Government was convinced that it was a necessity. Then there had been persistent demands for the protection works undertaken in Sibsagar Nazira and Jorhat town.

Now, Sir, Mr. Barbaruah, has delivered a very interesting speech about what a betterment levy is. He even said that there might be a levy on him because his health was good? Now, Sir my friend seems to have made a mistake about social services and betterment. A welfare State is expected to give social services to the people the cost for which is met from the general exchequer. But betterment levy stands on a different footing. The people who are directly benefited by these works should pay for them. We have taken loan; running to crores of rupees from the Government of India and we will have to pay them back. We can do so only by means of a betterment levy. I understand that Shri Nilmony Borthakur's objection to betterment levy because his constituency, Dibrugarh has been protected and he is now joining with others who are against this levy. But may I ask him why should Government spend lakhs of rupees for protecting private properties in Dibrugarh town? People whose properties are saved and whose lands are improved must be prepared to pay for it.

Then, Sir, coming to the amendment of Shri Prabhat Narayan Chaudhury, his case is that only when there is tangible improvement this betterment levy should be imposed. But, Sir, our Bill clearly states this "The State Government may, after the commencement of this Act levy, a water rate

betterment cess or premium on land *improved* by embankment, etc." Unless the land is improved the question of betterment levy will not arise. What does he mean by tangible improvement? We have provided for all tangible and intangible improvements in our Bill. The use of the word "tangible" will only complicate matters. What we want is "improvement," tangible or intangible. I would refer my friend to Section 11 of the main Act, where it is laid down that "if the State Government be satisfied that due to any unforeseen circumstances or natural causes any area or part thereof falling under a Scheme ceases to receive any benefit in full or part from such Scheme, the State Government may, by a notification in the Official Gazette abate or reduce the betterment cess or water-rate for so much of the area as may be determined". This provision in the main Act will also be available for any redress necessary. Therefore, I think my friend's amendment is redundant. I can however assure my friend that merely because there is a provision for betterment levy, it should not be apprehended that it will be levied on one and all whether any improvement has been effected or not. If there is improvement you have got to pay, because we have to repay the Government of India's loan money. And that should be paid by the people for whose benefit the money is spent. But, Sir, as I have said, every case will be decided on its merits. If there is no improvement or if there is loss to the cultivators certainly they will not be required to pay. I would, therefore request my friends to withdraw their amendment.

Mr. SPEAKER : Shri Namasudra, are you withdrawing your amendment?

Shri GOPESH NAMASUDRA [Patherkandi (Reserved for Scheduled Castes)] : No, Sir.

Mr. SPEAKER : Mr. Chaudhury?

Shri PRABHAT NARAYAN CHAUDHURY : I don't want to press my amendment.

(The amendment was, with the leave of the House, withdrawn).

Mr. SPEAKER : I put the question. The question is that — "After sub-clause (2) of clause 2, the following provisos shall be added — Provided that the agencies of the State Government failed to follow the provisions of law as required to follow under Assam Act I of 1954 for no other reason than due to emergent situation created by the great earthquake of 1950 and subsequent high floods of 1952 and 1954.

Provided further that the agencies of the State Government in charge of embankment and drainage schemes shall notify in the official Gazette the full particulars of the projects where they failed to follow the provisions of the law for emergency as stated above" and, secondly, that sub-clause (2) of clause 2 shall be deleted."

The House divided

AYES 6

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|------------------------------------|-----------------------------------|
| 1. Shri Gaurisankar Bhattacharyya. | 4. Shri Khagendra Nath Barbaruah. |
| 2. Shri Gopesh Namasudra. | 5. Shri Nilmoney Bharthakur. |
| 3. Shri Hiralal Patwary. | 6. Shri Tarun Sen Deka. |

NOES—35

1. Shri Bimala Prssad Chaliha.
2. Capt. Williamson A. Sangma.
3. Shri Fakhruddin Ali Ahmed.
4. Shri Rupnath Brahma.
5. Shri Hareswar Das.
6. M. Moinul Haque Choudhury.
7. Shri Manendra Nath Hazarika.
8. Shri Radhika Ram Das.
9. Shri Larsingh Khyrim.
10. Shri Girindra Nath Gogoi.
11. Shri Lalit Kumar Doley.
12. Maulavi Abdul Matlib Mazumder.
13. Shri Buikutha Nath Das.
14. Shri Bhuban Chandra Pradhani.
15. Shri Dandeswar Hazarika.
16. Shri Devendra Nath Hazarika.
17. Shri Durgeswar Saikia.
18. Dr. Ghanashyam Das.
19. Shri Hakim Chandra Rabha.
20. Mrs. Jyosna Chanda.
21. Prof. (Shrimati) Komol Kumari Barua.
22. Swami Krishnananda Brahmachari.
23. Shri Lila Kanta Barah.
24. Shrimati Lily Sen Gupta.
25. Shri Mahadev Das.
26. Shri Manik Chandra Das.
27. Shri Mohi Kanta Das.
28. Shri Nanda Kishore Sinha.
29. Shri Omeo Kumar Das.
30. Shri Purnananda Chetia.
31. Shri Radha Kishna Khemka.
32. Shri Rajendra Nath Barua.
33. Shri Ram Nath Das.
34. Shri Sarat Chandra Goswam.
35. Shri Tajammal Ali Barlrskar.

(The question was negatived)

Mr. SPEAKER : The question of that Clause 2 does form part of the Bill.

(The question was adopted)

Clause 3.

Shri PRABAAT NARAYAN CHOUDHURY (Nalbari-East) : Mr Speaker Sir, I beg to move that at the end of Clause 3 the following new sentence shall be added—“payment of compensation should be completed within six months of the due date of beginning of the embankment and drainage scheme.”

Sir, this is necessary because of the fact that the Minister has also admitted in this House that there are several cases pending for several years for which payment has not been paid to the people who are suffering very bad for non-payment of compensation. In the main Act there is provision

that after expires of two years the claim for compensation should be paid but there is no guarantee to that and even now for so many years past the poor people have not received any compensation. There is no guarantee from the Government as to within what specified period the compensation will be paid. So it is necessary, that there should be some definite time for payment of the compensation and I hope Government will see that immediately after taking up the work, within six months the compensation to the person to which he is entitled to get should be paid. It has been observed by the House and the Minister himself has also remarked that there are several cases still pending where payment of compensation has not been made. In the north bank of Kamrup there are innumerable cases where compensations have not been paid as yet, so to give some sort of security to the aggrieved persons who have lost their houses and the standing crops, it will be obligatory on the part of Government to pay compensation to the aggrieved persons within some specified time. I want to draw the attention of the Minister to this point and to see that necessary action is taken in order that payment of compensation will be paid within some specified time and therefore, I request the Minister to accept my amendment.

Mr. SPEAKER : The amendment moved is that end of Clause 3 the following new sentence shall be added.—“Payment of compensation should be completed within six months of the date of beginning of the embankment and drainage scheme.”

M. MOINUL HAQUE CHOUDHURY [Minister, P.W.D. (E. & D..)] : Mr. Speaker, Sir, the sentiments expressed by my Friend are very good and I also agree with him the proceedings in respect of payment of compensation should be terminated as possible, but I am afraid I am not in a position to accept his amendment as such. Because the proceedings in which compensations are determined and paid, are judicial proceedings. Therefore it is not possible for any body, even with best of intention, to fix a date line for the termination of the judicial proceedings. However, we may wish that the cases in the court of law should terminate as early as possible, but may I point out, that a court of law has its own difficulties in terminating cases within a date line. Therefore, to fix a date line and if we cannot adhere to the same in all or every case, then, that means there is a violation of the wishes of the House or a law passed by the House. So, Sir, I am not in a position to accept this amendment. However, I can assure my Friend that it is the intention of Government to make every endeavour to terminate these cases as early as possible and pay the compensation. With these words, Sir, I request my Friend to kindly withdraw his amendment.

Mr. SPEAKER : Will the hon. Member withdraw his amendment ?
(After a pause)

The amendment is lost.

Now the question is that clause 3 to 5 do form part of the Bill.

(The question was adopted)

Now, the question is that the short title and preamble of the Bill do form part of the Bill.

(The question was adopted)

M. MOINUL HAQUE CHOUDHURY [Minister, P.W.D. (E. & D.)] :
Mr. Speaker, Sir, I beg to move that the Assam Embankment and Drainage Validation Bill, 1960, be passed.

Mr. SPEAKER : The motion moved is that the Assam Embankment and Drainage Validation Bill, 1960 be passed.

***Shri GAURISANKAR BHATTACHARYYA (Gauhati)** : Mr. Speaker, Sir, now the different clauses of the Bill have been passed, it has become like a swam to make certain suggestions at this stage and this is more so because the way this Government is moving with regard to the different Bills is in violation of the law and they will always be going that way. However, I cannot but make certain observations even at this stage. One thing that struck me was the observation made by the Minister with reference to Dibrugarh. He said that the betterment levy for Dibrugarh was a justified thing. The word "Betterment" may mean has become better than it was before. So far the question of Dibrugarh is concerned, prior to the great erosion of that town, Dibrugarh was a smiling town and one of the best towns in Assam and now due to erosion, the town became threatened. Now the question of revetment or bund comes and that was the necessity for protecting Dibrugarh town and therefore, there should be protection levy, that would to some extent be understandable. But when protecting work for Dibrugarh is going on there is a betterment levy. I find there is no new meaning to the word "better" in the English dictionary.

It has also been said that certain illegalities or irregularities were done with regard to the protection works of Nazira, Sibsagar and Jorhat towns, this protection work was not done for certain other thing but these come out of earthquake and of great floods of 1952 and 1954 and so protection work is going on in these towns also, therefore, the argument advanced in this respect does not hold any water. The Minister when submitting the list of those works would have been better if he has given the list of the other ones also.

Only seven is now known to the members of this House. If the members would have known other also they could have examined whether the steps taken by the Government are really correct. However, let me hope that this matter would be published in the Official Gazette so that the people might know whether these cases are really deserving ones for which the Government had to take extraordinary steps. Another thing which has struck in my mind was that in the reply which the Minister has given shows that he was trying to get this bill passed by this House not with the same Object and Reasons of the bill which was placed before the House. In that Statement of Objects and Reasons it has been said that due to some exigency certain formalities like giving notification or objections were not called for all any other things or acts were not done by the State Government as required to be published, could not have been done. But the Minister, in his reply said that the object of this bill was to give some money to some people who could not get earlier. If that is so, this is a very good idea. But my point is that the Minister has some confusion. Certain properties are being taken away violating the normal procedure *i. e.*, without giving proper publicity and calling for objections. If that would have properly made, the people could have submitted their representations and in that case they could have got certain remedies. In this connection, I should like to place before this House the past records of this Government which do not actually elaborate with the statement of the Minister. I refer to Unstarred

question No. 161 which was put on 13th March, 1958 with regard to the compensation for Acquisition of land for construction of embankment on the Puthimari. That is the specific question raised by my friend Shri Sarat Chandra Goswami. Member from Kamalpur. In reply to the supplementary question, the Revenue Minister was kind enough to give a very truthful statement. He said what the Government did was irregular. The supplementary question was "How could the provision of this Act of Assam Acquisition of land for Flood Control and Prevention of Erosion Act, 1955 could be extended to the land of which possession was taken in the year 1954? The Minister replied that the application of the Act was not regular. This is admittedly an honest reply. And therefore the Minister asked the Deputy Commissioner to assess compensation of land, houses, trees, etc., which were damaged in connection with the construction of the embankment in 1954 so that it may be assessed according to the provision of the Land Acquisition Act, 1894, and as a result of this a much bigger amount than the originally proposed was to be paid. It has also been found that some specially favoured individuals unexpectedly big amount. At that time we saw that some individuals were given a very big amount without ascertaining properly whether they really deserved. On the other hand some poorer people who were otherwise deserving were not given the proper compensation. The Minister gives the assurance that the money would be paid to the individuals in the shape of compensation. Since the bill has been brought to invalid things, let us hope that the poorer section will get their legitimate dues and let us hope that no special favour should be shown to anybody. Let the downtrodden people who cannot agitate and go to the Supreme Court get their legitimate dues. Out of the 167 cases, only one case has come to the court and this particular case was enough to push the Government to bring such an extraordinary bill. If all these 167 cases were instituted, we do not know what would have happened. One case has alone pushed the Government to such a position.

Therefore, I again repeat that in this particular case, the Government should be more careful. Sir, I should like to draw the attention of the Government to another thing. It appears that the Minister has made a confusion about the Civil and Criminal liabilities. When an officer does something in the Civil capacity it becomes Civil liability. The criminal liability arises between the servant and the Master when something is committed in the individual capacity if there is mensrea. The Civil liabilities are not covered by the Indian Penal Code. Now therefore, if due to some omission or commission of the Government some individual suffers, the sufferers should be given the adequate compensation for the damages.

According to the All-India Acquisition Act of 1894 there is much more guarantee for adequate compensation. It has also been said by the Minister that we did not bother about the principle and procedure of this House. But I like to remind the Minister that it is better to learn things from experience, particularly from the experience of those from whom he borrowed these parliamentary procedures. Last year, somehow and other it slipped and the Government ran away with bill. As I have said that in all these cases there should be valid and specific factors. Things should not be made in general. In all cases certain concrete reasons should be there. In our bill there are not concrete and valid reasons. Now the legislator has passed the bill and let the Government do the rest,

So far as singla, Patharkandi and others are concerned, they do not come within the purview of this bill. This is another reason which strengthened my suggestion that so far as the concrete reason were concerned, they should be brought to public. What has been said by the Minister, there is no indication of concrete case since 1957, but he said that in the exigency of things, this procedure was followed. Let me hope and submit that this sort of exploitation should not become a rule. I hope that in future there may not be single case of exploitation hence-forward. The bill may be passed due to overwhelming majority, but for the good for the country, I hope; that Government should not indulge this sort of exploitation.

M. MOINUL HAQUE CHOWDHURY [Minister, P. W. D. (E. & D.)]:
Mr. Deputy Speaker, Sir, I am not going to take much time of the House. The speech just now delivered by my friend Shri Gaurisankar Bhattacharyya is actually an effort to reply to the speech I have delivered earlier in the House. He has raised no points, as such, I would not deal at length about meet of the points raised by him. Shri Bhattacharyya seems to be under the impression that I have given new interpretation to the aims and objects of the bill. What I said was this that as a result of not following the provision of the existing Act meticulously and carefully three difficulties had arisen. Firstly that the action of the Government has got to be validated and the officers and agents of the Government who undertook the work are to be indemnified. Secondly, people have got to be paid their compensation for the land taken from them or for other injuries they had suffered due to the work as laid down in Section 10 of the main Act. Thirdly, if out of the work any people have been beneficiary then the beneficiary should pay cess. In fact, points 2 and 3 are the corolaries to point No. 1 and needs no further elucidation the same. No new interpretation has been given to the aims and objects as recorded in the body of the bill.

No doubt, the case referred to by my Friend about the compensation to be paid in Puthimari embankment brought the question of validation and indemnification to the lime light. Actually, my Friend Hon. Shri Sarat Ch. Goswami brought this matter to the lime light. Since there was no validation act, people had to be paid under the normal and Acquisition Act. There is no question of discrimination. People has got to be paid for according to the law and the legal remedies then available. Their compensations were determined in course of judiciary proceedings and there is no reason to believe or to conclude that they got excess payment or more than what the law had provided for simply because some particular people were interested for early settlement of the claims of these people. It was the duty of Shri Goswami to move the Government in this matter being a representative of the people of that locality. It is unfortunate that Shri Bhattacharyya is casting aspiration upon judiciary. It is bad day for the country when it loses confidence on the judiciary. After all what is wrong there? My friend argued that if this bill was passed into an act all the people involved in 200 and odd cases would get higher compensation under the Land Acquisition Act. In this case people got little extra as he wants for all these 200 cases to be paid for. Therefore, he has brought this case just to cloud the whole issue.

My friend seems to think that to betterment levy can be realised from the people of Dibrugarh for the protection work done there. His views seem to be that in cases of town protection works of Nazira, Sibsagarh etc. Same principal would apply. I am unable to agree with him. While a property is

going to be extinguished and if it is saved from being extinguished then it is betterment to that extent, *viz.*, threatened non-existence is converted into existence and the people benefited should pay for their services rendered by the State. So there is absolute justification of charging the beneficiaries for such a service done by the State. However there is no harm in deferring in our interpretations. When the betterment levy would be charged the beneficiaries of that particular town protection work will have the right to prefer objections under the law, and the competent authority will decide as to whether the levy or betterment cess would be justified in a particular case, or not. In fact the matter will be decided in accordance with law. If the competent authority agrees with the interpretation given by me, there would be betterment cess, if not. In fact, this is not a very relevant issue for the matter before us. We must remember one thing that the State has borrowed crores of Rupees for undertaking the flood control and protection works. This money has got to found out from some source. If we do not agree to pay the betterment levy or cess, this Legislative Assembly will have to find out other source of revenue to pay back the debt which would mean fresh taxation for everybody whether all of us are beneficiaries or not. Instead of panalising everybody in the State we are thinking to collect the money from the people who have been benefited by this work. I am sure everyone will agree with this that a good proposition. Everywhere in the world and also in India people pay irrigation cess and betterment levy. This is not unusual.

I have not been able to agree with the legal proposition of my Friend that for all actions done by the Government servants, the Government will be liable for compensation. This is not a correct proposition of law. The master is liable for the action of his agent provided the agent is acting within the limits of law. In every case there could not be vicarious liability, the masters can only be penalised for the action of the agents provided the agents work within the powers conferred on them, *viz.*, Sir, a servant of the Government of Assam, while acting as a Government servant even if he commits a trot, his liability will be the liability of the Government of Assam provided that Government servant was acting within the limits of law. But if the Government servant does not work within the limits of law then that trot, that liability will be his own. That is what I differed from my friend Shri Bhattacharyya and said in course of my speech that the civil liability was quite different from the criminal liability, and the liability of the State might be quite different from the liability of the Government servant.

Sir, Legislators also have the right to differ in legal interpretations. Let me differ. Any way Sir, we have noted the objections raised by my Friend about the uncertainty about these cases. Well Sir, these cases can be notified again in the Official Gazette, and we shall notify all these cases which are sought to be indemnified. Under this Act.

With these words, Sir, I request the House to pass the Bill unanimously.

Mr. SPEAKER : I put the question. The question is that the Assam Embankment and Drainage Validation Bill, 1960 be passed.

The Assam Co-operative Land Mortgage Bank Bill, 1960.

M. MOINUL HAQUE CHOUDHURY : (Minister, Co-operation) Sir, I beg to move that the Assam Co-operative Land Mortgage Bank Bill, 1960 be taken into consideration.

Mr. SPEAKER : Motion moved is that the Assam Co-operative Land Mortgage Bank Bill, 1960 be taken into consideration.

Shri KHAGENDRA NATH BARBARUAH (Amguri) : Sir, I beg to move that the Assam Co-operative Land Mortgage Bank Bill, 1960 be referred to a Select Committee which will submit its report by July, 1960. The Members are :—

- (1) The Minister in-charge.
- (2) Shri Hareswar Goswami.
- (3) Shri Gaurisankar Bhattacharyya.
- (4) Shri Mohi Kanta Das.
- (5) Shri Jor Manik Syiem.
- (6) Shri Nilmoney Borthakur.

Shri KHAGENDRA NATH BARBARUAH (Amguri) : The Assam Co-operative Land Mortgage Bank Bill, 1960, খনৰ উদ্দেশ্যলৈ চাই বিৰোধীতা কৰিব লগীয়া কথা নাই। এনেকুৱা এখন আইন আজি প্ৰয়োজন হৈ পৰিছে। বহুত মানুহৰ বিশেষকৈ গাৱলীয়া মানুহৰ মাটি বন্ধকত সোমায়। কিছুমান ববসায়ী দোকান আছে যিবোৰ পৰা মাল বাকী দি দি তাৰ মূল্য ইমান বোধ হৈ যায় যে—ধাৰ মাৰিব নোৱাৰা হয় আৰু তাৰ ফলত মাটি বন্ধকত সোমায় যায়। এই দৰেই অধিক সংখ্যা গাৱলীয়া বাইজৰ মাটি বন্ধকত যায় আৰু টকা পৰিশোধ কৰিব নোৱাৰাৰ ফলত শেষত মাটি মহাজনৰ হাতলৈ যায়গৈ। এই শ্ৰেণীটোৰ মানুহ বিলাক সাধাৰণতে খেতিয়ক আৰু তেওঁলোক অতি দুখীয়া। এওঁবিলাকৰ বন্ধা কৰাৰ উদ্দেশ্যে যেতিয়া ইয়াৰ জৰিয়তে অৰ্থ সাহায্য কৰিব সেইটো ভালেই কথা। কিন্তু আইন কৰিলে কি হব? আইন কৰাৰ পিচত তাক **implement** কৰোতে কৰোতে পলম হৈ যায়। তাৰোপৰি এনে বিলো আইনত পাচ হৈ যোৱা দেখিছো যাক কাৰ্য্যত পৰিণত কৰা নাই। **Small Industries Act** যি খন এই সদনত পাচ হৈ গল তাক এতিয়াও কাৰ্য্যকৰী কৰিব পৰা নাই। ইয়াৰ অধীনত যিবিলাক **Rule Regulation** হব লাগে সেই বিলাক এতিয়াও হৈ উঠা নাই। দৰ্খাস্তৰ—‘ফৰম’—যেনেকৈ ‘একধ’ মতে লাগে সেই মতে উলিয়াব পৰা নাই। ইয়াৰ ফলত বাইজ সকলে অসুবিধাৰ মাজত অসুবিধা ভোগ কৰি আহিছে। সেই কাৰণে মই কও যেতিয়া চৰকাৰে আইন প্ৰণয়নৰ কাৰণে ‘বিল তৈয়াৰ কৰে ঠিক একে সময়তে তাৰ অধীনত একলগীয়া **Rule Regulation** বে ধৰা তৈয়াৰ কৰি সদনত উপস্থাপিত কৰিব লাগে। নহলে আইনৰ পিচত তাৰ অধীনত নিয়ম কানোন কৰোতে বহুদিন বহু বছৰ পাৰহৈ যায় আৰু আইনৰ উদ্দেশ্য পৰাজিত হয় আৰু জনসাধাৰণে ইয়াৰ বাবে অসুবিধা ভোগ কৰে। **Land Mortgage Bank** ৰ প্ৰসঙ্গতে মই কেৱলমাত্ৰ এজন মানুহৰ কথা উল্লেখ কৰো যে—এই মানুহ জনে তেওঁৰ বন্ধকত থকা মাটি মুকলি কৰিবলৈ টকাৰ ধাৰ বিচাৰোতে প্ৰথমতে তেওঁক ৫৬ টকা দি বন্ধক ‘চেয়াৰ’ কিনিবলৈ কলে। তেওঁ এনেয়ে দুখীয়া, তাতে ভুতৰ ওপৰত দানৰ।

টকা নাপালে। তেওঁৰ নাম শ্ৰীধোবাং গগৈ, ভিক্ৰয়াল গাওঁ, দোপদৰ মৌজা, নাজিৰা চাৰ্কল, দুবছৰ ধৰি এই চেপ্টা তেখেতে কৰা স্বত্বও ধাৰ নাই পোৱা। এতিয়া খোলৈ এই মানুহ জনে, চাই আছে; জমা দিয়া টকাতো উলিয়াই দিব লাগিব মই—এতিয়া এচেঞ্চলীৰ পৰা ঘূৰিগৈ। শেষত দোষ পৰিব মোৰগাত যদি মই টকা উলিয়াই দিব নোৱাৰো। এই বিলাক কয় দোষ চৰকাৰৰ; পলম কৰাৰ কাৰণে। বিলৰ লগতে, তাৰ Rules regulations আদিও তৈয়াৰ কৰিলে বহুত অসুবিধাৰ পৰা জনসাধাৰণ ৰক্ষা পায়। যেতিয়া মানুহে দৰ্খাস্ত কৰে, টকা জমাদিয়ে তাৰ এটা নিৰ্দিষ্ট সময়ৰ ভিতৰত যেনে এমাহ বা দুমাহৰ ভিতৰত টকা পোৱাৰ ব্যৱস্থা চৰকাৰে কৰিব লাগে।

তাৰ পিচত এই বিলৰ ৩৬ ধাৰাৰ (৩) ত কৈছে—“A” rules made under this section shall be laid for not less than fourteen days before the Assam Legislative Assembly as soon as possible after this are made...” ইয়াত কি কৈছে বুজি পোৱাটান। যেতিয়া দিয়া হৈছে, তেতিয়া সদনত এক দিনৰ পিচতে ইয়াক দাখিল কৰিব লাগে। কিন্তু কোন অধিবেশনত—ইয়াত কোনো উল্লেখ নাই। ইয়াৰ দ্বাৰা পলম কৰা হৈছে। তাৰোপৰি ইয়াত কোনো ব্যাখ্যা (ডেফিনেচন) নাই। কিছুমানৰ আছে—কিছুমানৰ নাই। property আদিৰ ব্যাখ্যা নাই। মানুহৰ ‘প্ৰপাৰ্টি’ সম্পত্তিৰ কথা কৈছে—property ৰ ব্যাখ্যা নাই। Receiver, debenture আদিৰ ব্যাখ্যা নাই। এই বিলাকৰ ব্যাখ্যা নাই; এই বিলাকৰ ব্যাখ্যা থকা ভাল। লগে লগে এই বিলত আৰু বহুত আসোৱাহ আছে। ৮(১) কৈছে—If any instalment payable under mortgage executed in favour of a Mortgage Bank or any part of such instalment has remained unpaid for more than one month from the date on which it will due, the Committee may in addition to any other remedy available to the said Mortgage Bank, apply to the Registrar or to such persons as the State Government may appoint in this behalf for the recovery of such instalment or part by distraint and sale of the produce of the Mortgaged and including the standing crops there on.

চাব যদি টকা ধাৰে নিয়ে তাৰ কিস্তি দিব লাগে। কোনৱাই কিস্তি দিব নোৱাৰিলে এমাহ বাট চাব তাৰ পাচত ক্ৰোকী যাব। সময়টো ২১০ মাহ হলে ভাল আছিল। ইমানবোৰ হোৱা ভাল নহয়। অনেক সময়ত চৰকাৰেও দিব লগা টকা দিব নোৱাৰে।

চাব ৮(৩)ত—কৈছে The value of the property distrained shall be as nearly possible, equal to the amount due and the expenses of the distrained and the cost of the sale.

যিটো বস্তু ক্ৰোক কৰিব তাৰ মূল্য কিস্তিৰ যিটো টকা সিমান বুলি কৈছে কিন্তু পিচৰ পৰাত এনেকুৱা কথা কৈছে যে ক্ৰোকী বস্তুৰ মূল্য নিৰ্ণয় কৰিব sales officers ২, আৰু বস্তু যি নিলাম কৰিব তাৰ ৰাজহৱা জাননী দিয়াৰ কথা নাই। যদি ৰাজহৱা নিদিয়ৈ তেন্তে sale man নিজৰ ইচ্ছাত মানুহ মাতি আনি বস্তু সস্তাক নিলাম দিব পাৰে। গতিকে আইনত বস্তুতো আসোৱাহ আছে। সেই আসোৱাহবোৰ দূৰ কৰিবলৈ হলে লাহে লাহে আইন পাচ কৰা উচিত। তাৰাই তাৰাই প্ৰত্যেক ক্ষেত্ৰতে আসোৱাহ আছে। ধাৰামতে বন্ধকি বস্তু ৰাখিলে সেই বস্তু যদি নষ্ট নয় তেন্তে যিজন বন্ধকি ৰাখিছিল তেওঁ দায়ী। গতিকে কোনো বন্ধে যদি টকা ধাৰ দি মাটি বন্ধকি লয় তেন্তে

সেই মাটি যদি ভূমিকম্পত তাক যায় তেন্তে সেই বাবে বেঞ্চ দায়ি হব লাগিব। গতিকে মই ধাৰাটোত আসোৱাৰ আছে। বস্ত নিলাম কৰাৰ পাচতো যদি মানুহজন defaulter হৈ থাকে তেন্তে সেই টকাতে কেনেকৈ আদায় হব তাৰো কোনো নিৰ্দেশ নাই। এখন কমিটি আৰু বোর্ড আৰু কেতিয়াক কিবা কথা refer কৰিবলৈ হলে কমিটিকৈ যাব কমিটিয়ে নামানিলে বোর্ডলৈ যাব আৰু যদি বোর্ডে যদি নামানে তেনেহলে কলৈ যাব তাৰ কোনো উল্লেখ নাই। এই আইনত যথেষ্ট আসোৱাহ আছে গতিকেই আইনখন লৰালৰিকৈ পাচ কৰিব নালাগে। সেই কাৰণেই জ্বলাই মাহলৈকে পিচুৱাই দিব লাগে। এই বিল নিশ্চয় পাচ হোৱা উচিত কিন্তু যি বিলাক গোলমাল আছে সেইবোৰ দূৰ কৰিব লাগে সেই কাৰণে বিল খন Select Committee লৈ পঢ়িয়াই আসোৱাহবোৰ আতৰাই লোৱা উচিত।

Mr. SPEAKER : The amendment moved is that the Assam Co-operative Land Mortgage Bank Bill, 1960 be referred to a Select Committee which will submit its report by 1st July, 1960 The Members are :—

1. The Minister-in-charge ;
2. Shri Hareswar Goswami ;
3. Shri Gaurisankar Bhattacharyya ;
4. Shri Mohi Kanta Das ;
5. U Jor Manik Syiem ; and
6. Shir Nilmuney Bhatnakur.

Shri TARUNSEN DEKA (Nalbari-West) : অধ্যক্ষ মহোদয়, Select Committee লৈ যোৱাৰ যি প্ৰস্তাব দাঙি ধৰিছে তাৰ সমৰ্থন জনাইছো। লগতে মোৰ কবলগীয়া কথা হল যে বিলখনৰ মুখবন্ধত (Preamble) কোৱা হৈছে যে খেতিয়কৰ স্বাৰব সম্পত্তিৰ জামিনৰ ওপৰত ভিত্তি কৰি খেতিৰ উন্নতিৰ বাবে আৰু ধাৰ শোধৰ বাবে এই বিলৰ দ্বাৰা ধাৰ দিয়াৰ ব্যৱস্থা কৰা হৈছে। কোৱা হৈছে যে বিজাৰ্ড বেঞ্চে চৰকাৰক দীৰ্ঘম্যাদী ধাৰ দিবলৈ টকা দিব নোখোজে। তেওঁলোকৰ পৰামৰ্শ অনুসৰি চৰকাৰে ডিবেঞ্চাৰ বিক্ৰি কৰি টকা সংগ্ৰহ কৰাৰ নীতি লৈছে আৰু খেতিয়কক টকা ধাৰ দিয়াৰ উদ্দেশ্য প্ৰকাশ কৰিছে। খেতিয়ক খেতিৰ উন্নতিৰ বাবে টকা ধাৰে দিয়া নীতিত উৎসাহ দিব লাগে। কিন্তু এই বিলত এনে কিছুমান ধাৰা সন্নিবিষ্ট কৰা হৈছে, বিশেষকৈ মাটিৰ ওপৰত থকা খেতিয়কৰ স্বত্ব সম্বন্ধে ১৬ ধাৰাৰ ২য় দফাত কোৱা হৈছে যে যেতিয়া স্বাৰব সম্পত্তি বিক্ৰি কৰিব আৰু 'চেল অফিচাৰে এ চাৰ্টিফিকেট দিব, তেতিয়াও যদি কোনো মানুহ দখলত থাকে তেওঁলোকক উচ্ছেদ কৰি কিনোভাক সেই মাটি চমজাই দিয়া হব। ইয়াৰ দ্বাৰা আধিয়াৰ সকলৰ আৰু অগ্ৰাণ্য শ্ৰেণীৰ বায়তৰ ক্ষতি কৰা হব আৰু বেমেজালিৰ সৃষ্টি হব। এইদৰে খেতিয়কক উচ্ছেদ কৰা কথা চৰকাৰৰ ঘোষিত নীতিৰ লগত

খাপ নেখায়। বিলখনত কোৱা হৈছে যে বেঙ্কে যেতিয়া ১৫০ বিঘাৰ বেচি মাটি বাখিব তেতিয়া চিলিং আইনৰ কোনো ধাৰা তাত প্ৰয়োজিত নহব। এনে কথাবোৰ খকাৰ কাৰণে কিছুমান সুবিধাবাদী লোকে বেঙ্ক গঠন কৰি তাৰ অধিনত বেচিকৈ মাটি বাখিবলৈ সুবিধা পাব। আকৌ ৮ ধাৰাৰ ২য় দফা আৰু ১১ ধাৰাৰ ১ম দফাত কৈছে যে ধাৰৰ টকা পৰিশোধ নকৰিলে কৰ্তিব বিনা অনুমতিত বেঙ্কে সেই বন্ধকী সম্পত্তি চেল-অফিচাৰৰ যোগেদি বিক্ৰি কৰিব পাৰে। ইয়াৰ দ্বাৰা sale officer ক প্ৰচুৰ ক্ষমতা দিয়া হৈছে আদালতৰ ক্ষমতাও অস্বীকাৰ কৰা হৈছে। চেল-অফিচাৰে নিজ ইচ্ছামতেই বিক্ৰি কৰিব পাৰে। বিলখনৰ ১৮ ধাৰাত কোৱা হৈছে যে বিক্ৰি কৰা সম্পত্তিৰ বিষয়ে আইন সঙ্কত ভাবে নোটিচ নিদিয়ো বা অগ্ৰাণ্ড irregularity কৰা হলেও সি আইনতঃ অবৈধ নহয়। আইনতঃ কোনো এটা বস্তু বিক্ৰি বা নিলাম কৰা হলে সেই সম্বন্ধে কিছু দিনৰ আগতে নটিচ দিব লাগিব, যদি দিয়া নহয় তেন্তে সেই বস্তু বিক্ৰি বা নিলাম হব নোৱাৰে। ইয়াত সেইটো অস্বীকাৰ কৰা হৈছে। sale officer এ যদি আইনৰ নিয়ম ভঙ্গ কৰিও বিক্ৰি কৰে তাক 'সিদ্ধ' বুলি ১৮ ধাৰাত উল্লেখ কৰিছে, ২২ ধাৰাত কৈছে যে বন্ধকী সম্পত্তি যদি পিচত নষ্ট হৈ যায় তেনেহলে পুনৰতাব বাবে আকৌ দ্বিতীয় বাৰ সম্পত্তি জামিন দিব লাগিব। ঘৰ সাজিবৰ বাবে যদি টকা ধাৰ লয় আৰু দুৰ্ভাগ্য বশতঃ যদি ধুমুহা বানপানী বা অগ্ৰাণ্ড কাৰণত নষ্ট হয় তেনেহলে অগ্ৰ সম্পত্তি জামিন দিব লাগিব। মোৰ বোধেৰে এইটো অত্যন্ত অগ্ৰাণ্ড হৈছে আৰু ইয়াক উঠাই দিব লাগে। এই বিলখনে Transfer Property Act ৰ বিধি অগ্ৰাহ কৰিছে।

বিলখনৰ ২৭ ধাৰাত কোৱা হৈছে যে Land Improvement Loans Act 1883, বা the Agriculturist Loans Act, 1884 ৰ বিধান অনুসাবে কোনে লোকে কোনো মাটি বন্ধক দি যদি ধাৰ লয়, তাক যদি সেই একেমাটি বন্ধক দি—এই বিলত উল্লেখ কৰা ধৰনে মৰ্চগেজ বেঙ্কৰ পৰা ধাৰ লয়,—তেনেহলে বন্ধকী সম্পত্তিৰ ওপৰত—মৰ্চগেজ বেঙ্কৰ দাবীয়েহে আনঠাই পাব। এই ধাৰাটো সন্নিবিষ্ট কৰাত—কোনো কোনো ধৰুৱাই ধাৰৰ কাঁকি দিয়াৰ সুবিধা পাব।

...তাব পিচত বিলখনত আৰু এটা কথা কৈছে—

(সময়ৰ সংকেট ধ্বনি)

Debenture—সম্বন্ধে আমাৰ খেতিয়ক সকলে টকা পাব তেতিয়াহে যেতিয়া ডিবেণ্ডাৰ বিক্ৰি কাৰ টকা সংগ্ৰহ কৰা হয়। ই আওপকীয়া কথা, এই টকা ৰিজার্ভ বেঙ্কে দিয়া হেতেন ভাল আছিল Reserve Bank of India ই দীৰ্ঘম্যাদী ঋণ দিবলৈ অস্বীকাৰ কৰিছে। মোৰ মতে, চৰকাৰে দীৰ্ঘম্যাদী ঋণৰ কাৰণে Reserve Bank লৈ লিখালিপি কৰিব লাগে নহলে ধাৰ সংগ্ৰহৰ টকাৰে খেতিয়ক সকল টকা ধাৰ দিয়া পদ্ধতিত সমস্যা সমাধান কৰিব নোৱাৰিব।

ইয়াত কৈছে, মাত্ৰ ১৭টা প্ৰাইমাৰী বেঙ্ক গঠন কৰা হব। মই ভাবো, এই অলপ—সংখ্যাক বেঙ্কেৰে কাম নহব আৰু ইয়াৰ সংখ্যা অধিক কৰিব লাগে। টাউন বা সৰু সৰু টাউনত কেন্দ্ৰ কৰি এই বেঙ্ক বিলাক থাকিলে গ্ৰাম্যঞ্চল আৰু আভ্যন্তৰীণ গাঁওবিলাকৰ খেতিয়ক সকলৰ উপকাৰত নাহিব আৰু ধাৰ বিচাৰি আহোতে অনৰ্থক বহু টকা খৰচ হব। এই বেঙ্ক বিলাক যাতে গাঁও অঞ্চলত পতা হয় আৰু ইয়াৰ লগত যাতে ভিতৰক সৰু সৰু গাঁওবিলাকো সংযোগ বাখিব পাৰি তাৰ কাৰণে চিন্তা কৰিব লাগে এনে দৰে কৰা নহলে—প্ৰকৃত খেতিয়কৰ কিমান টকাৰ প্ৰকৃত প্ৰয়োজন আৰু তাৰ বাবে উচিত মূল্যৰ মাটি জামিন দিয়া হল নে নাই নিৰ্ণয় কৰিব পৰা নহব।

(সময়ৰ সংকেট ধৰি)

নহলে চৰকাৰী কৰ্মচাৰী সকলে এই ক্ষেত্ৰত মাটিৰ দাম নিৰ্দ্ধাৰণৰ ক্ষেত্ৰত ছুৰীতিব আশ্ৰয় লব পাৰে খেতিয়ক সকলক ধাৰ পোৱাৰ পৰা বঞ্চিত কৰিব পাৰে অথবা কম মূল্যৰ মাটিকৈ বেচি মূল্য বুলি জাৰিন দিয়াৰ ব্যৱস্থা কৰিব পাৰে। এই আটাই বিলাক কোনৰ পৰা বিল্লেখ কৰি পাওঁ যে—এই বিলখন অত্যন্ত আয়োৰাহ পূৰ্ণ আৰু জটীলতাৰে ভৰা আৰু সেই কাৰণে বিলখন এইদৰে পাচ নকৰি বাছনি কমিটীলৈ (Select Committee) পঠাব লাগে।

***Shri NILMONEY BORTHAKUR (Dibrugarh)** Mr. Speaker, I agree with the spirit of this Bill. This Bill seeks to implement one of the recommendations of the All India Rural Credit Survey Committee and some of the Reserve Bank of India. The main purpose is to extend long term credit to our agriculturists. But in extending credit to our agriculturists two things should be borne in mind. One is credit worthiness of our rural population most of whom are not credit worthy because they have no tangible property. The Government of India have reoriented their cooperative credit policy to give facilities of credit particularly short term and long term credit not on the basis of credit worthiness but on the basis of property. Now, credit worthiness is based on productive capacity of the land. It should be the duty of a welfare State to give credit facilities to its rural population. Now the Rural Credit Survey Committee has endorsed the remarks of the Reserve Bank of India that the question of agricultural finance should be linked up with the question of the improvement of agriculture. Before credit can become freely available to the farmer he must be credit worthy. We must make provision so that agriculture should be improved and so that long term credit may be given in order that the farmer may produce food crops and also other cash crops. For that purpose the Land Mortgage Bank was already functioning. It has been said in the Statement of Object and Reasons—'In pursuance of the aforesaid policy, a Central Land Mortgage Bank has been established in this State. To fulfil the above objectives, the Central Land Mortgage Bank requires larges sums of working fund. Its own resources are too inadequate to meet the requirements of the agriculturists. The Reserve Bank of India does not advance long terms loans. The procedure suggested by the Reserve Bank of India is that the Central Land Mortgage Bank should raise working funds by floating debentures, the repayment of which is guaranteed by Govt. Hence this Bill'. Now it is also suggested that payment to officers of the Central Land Mortgage Bank is to be made by deferred payment. Here what do we find in this Bill? One is that the State Govt. guarantees to the debenture with interest. Secondly, to redeem the property mortgaged in case this Land Mortgage Bank fails or its branches, the Govt. shall have to pay the debenture holders. But this Bill speaks nothing as to how this money will be realised. Will this Bill be financed only by floating debentures? Now, the All Inndia Rural Credit Survey recommends that the Reserve Bank should contribute not less than Rs. 5 crores per annum to the National Agriculture Credit (Long term operations) Fund and not less than Rs. 1 crore per annum to the National Agriculture Credit (Stabilisation) Fund; the position in regard to these contributions should be reviewed at the end of 5 years. In addition, there should be an initial non-recurring contribution of Rs. 5 crores to the National Agriculture (Long Term Operation) Fund. The operation of these Funds and the planning and execution (within the Reserve Bank's own sphere) etc. Now again, this suggests that so far this Land Mortgage Bank is concerned the State Government should review their tenure and tenancy laws and take steps to eliminate such features

in them as, without being essential to policy, are hindrances to the development of land reforms necessitates restrictions on the mortgaging of title, the scope of such restrictions should be the minimum necessary. Thus selective mortgages - e.g., to co-operative societies and to Govt.—could be made permissible. Further any special procedure for registration of mortgages under the land reforms Acts should be made simple, cheap and expeditious.

Now again as far as finance is concerned, according to the All India Rural Credit Survey, the size of Government contribution to share capital, while subject to a minimum of 51 per cent, should be such, as to help establish, irrespective of the proportion of private capital forthcoming, an adequate number of central land mortgage banks whose financial structure enables them to borrow adequately and land adequately. But here we find, nothing has been said in this Bill what will be contributed by the State Government. The debenture holders they are really the cooperators of this Central Land Mortgage Bank and so all their lands will be mortgaged to the bank that is to say only these property holders who will be able to mortgage their lands or properties will have a good hold on the Central Land Mortgage bank and the poor agriculturists having no land to mortgage will have no say in the matter, so we find that the very purpose of this Bill is wrong. Nothing has been said how the debentures will be issued, it has been entirely left to the rule making of the Government, therefore, our rural population will not understand how to purchase these debentures. The rural population may have small savings and all these things, and on the other hand debenture holders having small properties may be there, that factor also may be taken into consideration. But here in this Bill we find that regarding the social structure of the Bill nothing has been said. Nothing has been said how the Government will stand the security when the debentures will be issued, so the main purpose is not going to be served by this Bill. Therefore, along with the suggestions given by my friend Shri Barbaruah, this Bill should be referred to a Select Committee so that together with the findings and suggestions of the Select Committee, the Bill will be more comprehensive because there are certain clauses in this Bill which are defective. Now I am referring to clause 2(d) of the Bill. Here we find, as far as the Governing Body is concerned, "Committee" means in relation to Mortgage Bank, the Board of Directors or Board of Management or the Panchayat or the Committee of Management or the Governing Body to whom the management of its affairs is entrusted" Why is it necessary to have so many things, why it is not possible to have only one set of modelled rules which will be operated by the Central Mortgage Bank. Then again in section 3(I) it is said where the State Government appoint any other person in this behalf, such officer, shall be the trustee for the purpose of securing the fulfilment of the obligations of the Central Mortgage Bank to the holders of debentures issued by the Board" Here we find only the persons appointed on behalf of the State Government shall be the trustee of the State Government and excepting the employees or officers appointed by the State Government no other person can become the trustee, therefore, the Bill is defective from that angle also. The All India Rural Credit Survey recommended that the State Government should hold at least 51 per cent of the share capital but here we find no such clause has been brought in this Bill. Therefore, the whole Bill is defective, so I support the amendment brought by my friend Shri Barbaruah to refer the Bill to a Select Committee which will go into all these things carefully so that necessary changes and improvement may be made in order that the Bill may become more comprehensive.

Shri PRABHAT NARAYAN CHOUDHURY (Nalbari-East) : Sir, we are discussing the Assam Co-operative Land Mortgage Bank Bill, 1960. At the very outset I may say that the very scheme appears to be a misnomer. So far the Bill is concerned, it does not contain anything about the function and also about the conduct and procedure of the Land Mortgage Bank, it only deals only one specified subject that is, floating of money by selling debentures. It appears to be incomplete piece of legislation brought in this House. According to the necessity, this Bill has been brought here at the instance of the All India Rural Credit Survey and that Survey recommended that a piece of legislation should be made for floating money by selling of debentures. It appears that suggestion was given as early as in 1957 and even now when this Bill is brought here, here, it is found to be defective, it is silent as to what step should be taken during the interim period when no money is forthcoming from the Central Land Mortgage Bank upto-now. Even if this Bill is passed now, there will still be sufficient time necessary to complete other things because there is a procedural matter to be done, Government should have to stand guarantee for debentures to be issued and there are many other things for which sufficient time is necessary to complete all procedural matters. The Bill itself is defective inasmuch as that it has not made any provision during the interim period the arrangement that was necessary to be made. It is better that Government should have come forward with this Bill to help the land mortgage bank with necessary arrangement for issuing of loans during the interim period but that has not been done. Sir, I find in the preamble of the Bill, it is said, that long term loans are proposed to be issued to owners of land or other immovable property. I understand that there are banks in other States in India where money is issued to all deserving people, but here in our State, the person who does not possess any piece of land is not legible to get the loan but in other States in India landless persons also can get the loans by placing some security. I find here that Government have made undue delay in bringing this Bill and even when the Bill is brought sufficient time should be given to the legislators to examine the Bill and give their suggestions. If the Bill is passed in this way, I am afraid, the purpose in passing this Bill will not be fully served. It will take sufficient time after issue of the debentures as pointed out by my friend Shri Barbaruah. Also the relationship between the Government and the Land Mortgage Bank is not clearly written here in this Bill. So I find that this Bill is defective and in order to make it a more comprehensive Bill, I support the motion moved by my friend Shri Barbaruah to refer this Bill to a Select Committee so that the Bill can be improved and become more comprehensive.

M. MOINUL HAQUE CHOUDHURY (Minister, Co-operation) : Mr. Speaker Sir I am opposed to the amendment moved by my friend Shri Khagendra Nath Barbaruah. In opposing it, I quote the arguments put forward by my friend Shri Probhat Narayan Chaudhury from the opposition. He has said that floating of the debenture for the Land Mortgage Bank has already been delayed considerably and the same is likely to be delayed further even if the bill is passed, and that we should have come earlier with the Bill so that there would not have been any delay. If this argument adduced by Shri Probhat Narayan Chaudhury is a valid one I donot know how then he can support that this bill should be referred to a Select Committee by which process it will be delayed further. Certain very vague arguments have been given to justify the proposal to send the bill to the Select Committee. If any one finds some of the clauses unacceptable, he may bring amendments to these clauses and place the same before this House. The House will then

decide the desirability or otherwise of accepting the amendments and thus avoid the delay likely to happen by a reference to the Select Committee.

Now, my friend Mr. Khagendra Nath Barbarua has said that there is a provision by which power has been kept with the government to make rules and that we should have come forward with the rules along with the bill. How the government can come forward with the rules before passing of the bill? The government frames the rules in conformity and in accordance with the provisions of the Act. The government cannot frame rules in advance. Such an action will be clear contempt of this House. So this is not a feasible suggestion and as such we cannot take it seriously. Next my Friend . . . The rules can be framed after the Shri Khagendra Nath Barbarua: passing to the Bill *i.e.* within one or two months.

M. MOINUL HAQUE CHAHDHURY (Minister, Co-operation) : When the rules are framed, these are always placed before the House. The hon. members aware that there is the Subordinate Legislation Committee of this House which examines the rules so as to ascertain if the rules framed are in conformity with the provisions of the Act to which the rules refer to My friend has also referred to certain terms such as mortgage etc., finding place in the bill which according to him have not been defined at all or properly defined. Sir, I think, these terminologies like mortgage, mortgagee etc., have been clearly defined in the Indian Transfer of property Act. So they need not be defined here. Similarly the terms debenture, corporation etc., also have not been defined here. Because these terms are also defined in the General Clauses Act and in other relevant Acts.

Sir, my friend has referred to section 8 of the bill and said that this is a stringent provision. Sir, section 8 reads as follows :

“If any instalment payable under mortgage executed in favour of a Mortgage Bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the Committee may in addition to any other remedy available to said Mortgage Bank apply to the Registrar or to such person as the State Government may appoint in this behalf for the recovery of such instalment or part by distraint and sale of the produce of the mortgaged land including the standing crops thereon.”

I donot find anything stringent in this clause. Sir, we shall have to stabilise the Co-operative land mortgage bank for giving loan to the people at large. This bank can give loan to the people only if realisation is good. If there is any delay in repayment naturally the purpose will be defeated. Provision have, therefore, been made for realising the dues. The authority will recover the money by distraint and sale of the produce of the mortgaged land including standing crops and sell it in auction for the purpose of collecting the dues. This is a common practice in our court of law also. In our court of law, if any decree is passed, the attachment of movables including the standing crops is allowed first. When there is no movable property then only attachment of immovable property is allowed. So there is nothing stringent about it.

My friend Shri Tarun Sen Deka referred to clause 16 which reads as follows :

“Where the mortgaged property sold is in the actual possession of the mortgagor or of some person on his behalf or of some person claiming under a title other than a lease for a period not exceeding three years created by the mortgagor subsequent to the mortgage in favour of the Mortgage Bank and certificate in respect thereof has been granted under section 15, the court shall on the application of the purchaser, order delivery of the property to be made by putting such purchaser or his agent specially appointed in writing for the purpose ‘in possession of the property.’”

Sir, I would like to request my friend to note specifically sub-clause (2), which reads “where the property sold is in the occupation of a tenant or other person entitled to occupy the same and a certificate in respect thereof has been granted under section 15, the court shall on the application of the purchaser, and after notice to such tenant or other person, under delivery to be made to the purchaser by affixing a copy of the certificate of sale in some conspicuous place on the property and proclaiming to the public by beat of drum or other customary mode at some convenient place that the interest of the mortgagor has been transferred to the purchaser”.

So Sir, in Section 16(2) it has been provided that when the property is not capable of being delivered Khas possession due to the occupation of a tenant or other person symbolic possession should be delivered. As such there is no question of tenants being dispossessed

Shri KHAGENDRA NATH BARBARUAH (Amguri) : After this delivery will have to given to the purchaser.

M. MOINUL HAQUE CHAUDHURY (Minister, Cooperation) : I think my friend also referred to Section 20 of the bill. According to him, this section violated the provision of Fixation of Ceiling on Land Holdings Act, 1955. Here the position is this : so far as the Land Mortgage Bank is concerned, the limit of 150 bighas of land as prescribed for a family in the Fixation of Ceiling on Land Holdings Act would not apply. Because the Bank has to deal with numerous people so the Bank may be required to acquire more than 150 bighas of land. Therefore the Bank has been exempted from the operation of the provision of the Act.

My friend has also said that this bill would come into conflict with the transfer of Property Act. The provisions of the Tenancy Acts passed by us encroached upon the provisions of the Transfer of Property Act. Actually, Transfer of Property Act lays down that it would be applicable as far as not repealed or amended or changed by any local law. Therefore, there is nothing wrong in that. Another objection that has been taken is this : that property mortgaged has for certain reason been destroyed or diminished ; in that case, the person who mortgaged the property shall be called upon to give a second mortgage. You were right Sir, in asking Shri Barbaruah as to what should be done under the circumstances. When a loan is taken, the loan should be repaid either from the property mortgaged or by the person who took the loan. In this case, provision has been made here that the Committee would be called upon to provide further or second mortgage before he is called upon to repay the entire loan. My friend, Shri Nilmoney Barthakur has (Bell rang). Within two minutes I am finishing, Sir. raised a point Sir, that this Bill is an incomplete one and that we have not made provisions as to what would be the position of the Government

vis-a-vis, the Land Mortgage Bank. What would be the constitution of the Board and its work etc. etc., Sir, the Bank and its' Board are already in existence. Its work has been defined very clearly and so also the function of the Board. What we want to do to-day is to float debentures, and to call upon the people to purchase the same. In order to float debentures, Sir, an Act is necessary; the guarantee of the State Government is necessary. Hence, this bill. We have other Co-operative Acts. Hence everything need not be brought just to make this Bill cumbrous. As such, I would request the House to pass the Bill as it is so as to enable us to give effect to it as early as possible. With these words, Sir, I would request my friend, Shri Barbaruah to be pleased to withdraw his amendment.

Mr. SPEAKER : The question is that the Assam Co-operative Land Mortgage Bill, 1960, be referred to a Select Committee, consisting of :

- (1) Minister-in-charge.
- (2) Shri Hareswar Goswami.
- (3) Shri Gaurisankar Bhattacharyya.
- (4) Shri Mohi Kanta Das.
- (5) Shri Jor Manik.
- (6) Shri Nilmoney Barthakur.

(The question was negatived).

Mr. SPEAKER : The question is that the Assam Co-operative Land Mortgage Bank Bill, 1960 be taken into consideration.

(The question was adopted)

M. MOINUL HAQUE CHOUDHURY : Sir, as there is no amendment I beg to move that the Assam Co-operative Land Mortgage Bank Bill, 1960 be passed.

Mr. SPEAKER : The question is that the Assam Co-operative Land Mortgage Bank Bill, 1960 be passed.

(The question was adopted)

The Assam Motor Vehicles Taxation (Amendment) Bill, 1960.

Capt WILLIAMSON A. SANGMA (Minister Transport)—Mr. Speaker Sir, I beg to move that the Assam Motor Vehicles Taxation (Amendment) Bill, 1960 be taken into consideration.

Mr. SPEAKER : The question is that the Assam Motor Vehicles Taxation (Amendment) Bill, 1960 be taken into consideration.

Capt. WILLIAM A. SANGMA : Sir as there is no amendment, I beg to move that the Assam Motor Vehicles Taxation (Amendment) Bill, 1960, be passed.

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(The question was adopted)

Mr. SPEAKER : I put the question. The question is that the Assam Motor Vehicles Taxation (Amendment) Bill, 1960 be passed.

(The question was adopted)

The Assam Maintenance of Public Order (Amendment) Bill, 1960.

Shri BIMALA PRASAD CHALIHA (Chief Minister) : Sir, I beg to move that the Assam Maintenance of Public Order (Amendment) Bill, 1960 be taken into consideration.

Mr. SPEAKER : Motion moved is that the Assam Maintenance of Public Order (Amendment) Bill, 1960, be taken into consideration.

***Shri GAURISANKAR BHATTACHARYYA (Gauhati) :** I rise on a point of order, Sir. The point is that this Bill may not go in the present form. Here in this Bill, we find that two distinct Acts are involved. One is the Assam Act V of 1947 and the other is Assam Act XVI of 1953. In the usual course of business, there ought to be two amending Bills for these two specific purposes. Here in the statement of Objects and Reasons, it has been stated that "it is necessary to undertake security measures for the important industrial undertakings in the interest of the safety and the security of the State. It is proposed to make necessary provisions by amendments to the Assam Maintenance of Public Order Act, 1947, Assam Act V of 1947 and the Maintenance of Public Order (Amendment) Act of 1953, Assam Act XVI of 1953. Hence the Bill."

So, from the statement of Objects and Reasons itself, we find that two distinct Bills require amendment. In a particular session, Sir, not only two Bills but several Bills may require amendment and these Bills might have some common features or near-common features or similar features. But simply because the two Bills might have something in common or near about common, we cannot cover both the Bills or all the Bills by one and the same amending Bill. Just to illustrate my points, Sir, let me take some extreme cases. In this present Assembly, we have before us as many as six or seven amending Bills. Now, if the logic which is sought to be pushed through this Bill is to be taken to the logical conclusion, there might be one single Bill, namely, here is the amending Bill—the Assam Maintenance of Public Order (Amendment) Bill, 1960. Whereas it has become necessary to amend the Bill regarding Drainage Bill, regarding mosquito control Bill, regarding Maintenance of Public Order Bill, therefore it is hereby enacted as follows. And so in one clause, the Drainage Bill is amended, in another clause, another Bill is amended, and in this way, all the Bills that are to be amended in a particular session might be sought to be amended in one single amending Bill. This is with regard to extreme cases only as I said and in order to illustrate my point I have brought this extreme measure. What might be said in support of bringing the two things together? I only find that the two things might be said. One is that both the Acts, that is to say, Assam Act V of 1947 and Assam Act XVI of 1953 are Maintenance of Public Order

Acts. That is one common feature. The second common feature may be that some of the provisions in the Amending Bill are almost identical that is to say, the same type of things are sought to be put in both. The third feature that might be said in support is that there are certain precedents in Indian legislature or in Bengal or Assam. We seek here through one Amending Bill to amend the provisions of several Acts. For example, it might be said that when the Panchayat Act was passed by this House, as a result some provisions of the Northern Indian Ferries Act, which fell within the provincial sphere, had to be amended. It may be said that when the Representation of Peoples' Act was amended in 1956 by the Indian Parliament some procedural changes were also effected by the same Amendment Act. It may also be said that when, say for example, the Criminal Procedure Code was amended in 1955, in consequence thereof some provisions of the Indian Penal Code also had to be amended. When in Bengal the Calcutta Police Act was amended, the Howrah Police Act was also amended alongwith it. But this similarity is only apparent, not real. I am showing the distinction one after another. Let me take the All-India Acts. The Criminal Procedure Code was amended, as a consequence some provisions of the Indian Penal Code had to be amended. Not that Parliament took the two Acts together and said "here is an Amending Bill which is going to amend both the Criminal Procedure Code and the Indian Penal Code". The Bill of 1935 was a Bill to amend the Criminal Procedure Code and the amendment of Indian Penal Code came as a consequence thereof. Similarly when the Representation of Peoples' Act was amended in 1955, the preparation of electoral rolls and other things came as a consequence and to that extent the change in procedure became pertinent. Similarly when we passed the Panchayat Act what this House did was to amend, consolidate and prepare a fresh Act with regard to local self-government in the rural areas and in doing that certain provisions of the Northern Indian Ferries Act, which fell within the sphere of the State Legislature, had to be changed in consequence. I shall be entirely wrong if I say that we were at that time taking a Bill to amend both the Assam Rural Panchayat Act and the Northern Indian Ferries Act. This point of distinction is very clear. If certain consequential changes are effected of different measures this is understandable, but two different Acts cannot be amended by means of the same Bill.

Then another point to which I draw your attention is that the purposes as laid down in the original two Acts are also different. If the provisions were identical it could be understood. But let us first see Act V of 1947. The preamble to that Act reads "An Act to enable the Provincial Government to provide for preventive detention, imposition of collective fines, control of meetings and processions and all essential services connected with matters within exclusively provincial legislative field for the maintenance in Assam of public order and of services essential to the life of the community." So, we find here spheres are clearly defined. The geographical or administrative sphere has been clearly laid down, viz, matters falling exclusively within the provincial legislative field. That means the Act did not at that time go to include the excluded and partially excluded areas—it included only those areas which fell exclusively within the provincial legislature. To that extent it was limited and the purposes were also clearly defined. Now, let us see what was the extent of the Assam Act of 1953 relating to autonomous districts. That was an amending and consolidating Act. Whereas the 1947 Act was an original Act, the Assam Act of 1953 was an amending and consolidating Act and that amendment and consolidation was also not in the same sphere, geographical or administrative, as the Act of 1947. The Act

of 1953 related to the maintenance of public order in the autonomous districts specified in Part A of the Table appended to para 20 of the Sixth Schedule of the Constitution. So, we find that so far as these two Acts are concerned their purposes are entirely different. So far as the autonomous districts are concerned, it simply speaks of maintenance of public order, but so far as Act V of 1947 is concerned, the purpose is "preventive detention, imposition of collective fines, control of meetings and processions and of essential services connected with matters, etc. etc." Therefore, those two Acts not only geographically and administratively but also from the point of view of purpose and scope differed substantially. Merely because there are certain provisions common to both the Acts they do not necessary become one. Such common provisions are to be found in all the Acts where there are certain penal provisions. There will be provisions like "he will be fined Rs. 100, or in default imprisonment for so many months and so on and so forth." This sort of common provisions may be found in 101 Acts. But it cannot be said that simply because there are certain common features the two Acts become similar. Say for example there are certain common provisions in the Indian Penal Code and the Criminal Procedure Code, but they do not necessarily become similar. The Indian Penal Code is the substantive penal law and the Criminal Procedure Code is the procedure for making the substantive law of offence and therefore we see while they are of the same group one is substantive and the other is objective. Now, similar is the case with regard to the Representation of Peoples Act. It speaks of election, statutory elective bodies, etc. and the preparation of electoral rolls, constituencies, etc. come consequentially. They are two aspects of the same thing, two sides of the same hat, as it were. But this is not the case with regard to these two Acts. One is exclusively of territorial jurisdiction and the other is of another jurisdiction—one is for particular purposes and the other is of other purposes. How can these two things be drawn together? There is no parallel to the amending bill of 1955. How can they be compared. This is entirely far fetched and not in keeping with general spirit of the law. If you agree, Sir, this bill may be postponed. I am raising this point of order to invoke your ruling. There is certain legal complication for which the advice of the Advocate General may be sought. I have raking my head to come the understanding whether somehow the bill can be taken together. I think, therefore, if you be pleased to adjourn the debate on this bill till later date when the Advocate General gives a clarification in this matter. So I seek your comment in this matter. In this connection, there is no clear ruling even in the House of Commons, but there are certain discussions in this respect that is, with regard to the different type of bills that come for discussion to that House. Now, I am referring Chapter 21 of the Parliamentary Procedure. We need not go into details. We find here that "An amendment cannot be moved to statute law revision bill to deal with an act still in force, as such a bill deals solely with statutes no longer in force."

Here the scope of the present bill is confusing. We find that Assam Maintenance of Public Order Act 1947 and Assam Autonomous District Act cannot be so consolidated as to accommodate amendments to both through a single amending bill. The Assam Act V of 1947 are for certain specific purposes—let us call them X Y Z etc. Its extent also is a specific territorial jurisdiction viz. the whole of Assam within the exclusive provincial legislative field as it stood in 1947 i.e. the whole of Assam minus the excluded and partially excluded areas which later become the Sixth Schedule Dis-

tract Act 16 of 1953, however, is for another territorial jurisdiction viz. Autonomous District specified in Part A of the table appended in paragraph 21 of the Sixth Schedule of the Constitution. Its purpose is also much limited in comparison with the purpose of the Act V amend of 1947.

If I ask him the question what are you going to do by Assam Maintenance of Public (Amendment) Bill, 1960, the Minister will not be able to answer in singular and he shall have to give answer in plural. He shall have to say I am going to amend another Act viz. Act 16 of 1953. The rules of construction for amending bills, however, are clear on this point. No amending bill can go beyond the scope of the parent Act, either in the matter of "Objects and Reasons" or purpose of the parent Act. All amendments must be strictly confined to the four walls of the parent act. As Mr. *May* says "Extension of objects cannot be made on one's will. "An instruction is necessary to authorise the introduction of the amendment into a bill which extends its provision to objects not strictly covered by the subject matter of the bill as disclosed on the second reading, provided that these objects are cognate to its general purpose."

With regard to extension of area, Mr. *May* says "An instruction is necessary to render to the whole of the United Kingdom the provision of a bill which is limited by a title of a part of the United Kingdom or otherwise to extend its operation beyond the limits defined in the title. A Committee can without instruction extend the operation of a bill to Scotland or North Ireland, if the bill is not by the title restricted to England or limited in area to which the bill is to apply." With regard to the decision of a bill, Mr. *May* says "an instruction is required to enable a committee to divide a bill into two or more bills, but such an instruction is in order only if the bill is drafted in 2 or 3 distinct parts or else comprising more than one subject matter to lend itself to such division into parts."

Further, according to Mr. *May* "an instruction is required to empower the committee to consolidate two bills into one bill." Mr. *Bramwell* in 'The Manner of Proceedings of the Bill in the House of Commons' states that "Committees of private as well as public bills can attempt any provisions which do not come within the scope of the title." Where a title of a bill is only to consolidate the law on a particular subject, it is out of order to amend the provisions of the statute which by the bill are to be consolidated and fused together, as such amendments are regarded as outside the scope of the bill.

"Where the title of the bill is to consolidate with correction and improvements made under the consolidation of enactment (procedure) Act, 49, the same rules apply. The corrections and minor improvements as defined in the Act (Sec. 2) are laid before the Parliament by the Lord Chancellor in a memorandum which is printed by both Houses must be approved by the Lord Chancellor and the Speaker must concur any such approval."

"Where the title of the bill is to consolidate and amend or to consolidate with amendments, with the law, amendments must be moved to the statute which are to be consolidated."

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Apparently this Bill is not a Bill to consolidate. By this amending Bill it is not sought that the Assam Maintenance of Public Order Act, 1947 and the Assam Autonomous Districts Act of 1953 will be consolidated and in doing that consolidation certain amendments will be done. That is not the case, and in that way it materially differs from the Assam Panchayat Act or it materially differs from the Assam Municipal Act which were accepted and which were consolidating Act and also amending Acts. Therefore, I find that in view of the fact that this Bill is neither a consolidating and amending Bill nor it is a Bill pertaining only to one Statute and in view of the fact that this amending Bill covers different territorial jurisdictions, different subjects, different provisions and different powers altogether, the same Bill cannot cover.

Lastly Sir, another things. Of course I do not propose to go into the merits at this time. But in this connection I should like to say that if a perusal is made of the Assam Act V of 1947 and the Assam Act XVI of 1953 we shall see that while the provisions of the Assam Act V of 1947 has taken into consideration all the subsequent amendments are sweeping and in certain respect very far reaching. The scope and sphere of Assam Act XVI of 1953 is rather limited. So far as the autonomous districts are concerned the scope and sphere of operation of Assam Act XVI of 1953 is not sweeping as it is in the Assam Act V of 1947. If by some amendment both are covered then the leniency which was shown in the matter of the autonomous districts will no longer be there, and to that extent Sir, the purpose of Act XVI of 1953 also will be defeated, otherwise if the same provision could have served the purpose for the two different spheres, there would not have been any necessity of passing a separate Act at all. The Assam Maintenance of Public Order Act, 1947 could have been amended and its sphere could have been extended, that now it will extend to the whole of Assam including the autonomous districts. That could have been done, but that has not been done because there are certain substantial difference.

Another point is that so far as the Criminal Procedure is concerned, in the areas outside the autonomous district, the Cr. P. Code is to be followed not only in spirit but also in letter. But so far as the autonomous districts are concerned, it is not necessary that the Cr. P. Code should be followed both in letter and spirit. It is sufficient if the spirit is followed, and it is for all these proposes it was considered necessary that in the matter of the Maintenance of Public Order -- well in the autonomous districts there should be certain amount of wider liberty and a great deal of leniency because taking advantage only of following the spirit and not the letter there might be infringement on the liberties of the individuals in this area. Now, therefore, taking all these points in view it will be better to consider the proposals separately. I am not going to say about the merit or demerits of the amending Bill at this stage. I am only saying that not only for the sake of convenience of policy, for the sake of public policy and also for the sake of the procedure heretofore followed - it will be dangerous if by one amending Bill all these 2 completely divergent and different Acts are amended together, and that will create a very bad precedent. Next year my friend Shri Moinul Haque Choudhury may come with all legislative proposals under his Ministry in one single amending Bill and then he will confront me by saying that here there is a precedent and I shall be tongue-tied. I shall have no reply, if he says, "everything is under my Ministry, so I am preparing everything in one Bill". Therefore, we cannot agree to this sort of precedent

also apart from what danger it will bring just now. It will create a very bad and dangerous precedent in future, and public liberty will be jeopardised and hampered.

At any rate these are only my fears and observations and I am subject to correction also. I should like most humbly to submit that you give consent and allow me to move that the discussion on the Bill be adjourned pending a hearing given to the Advocate General by the hon. members of this House.

Shri HARESWAR GOSWAMI (Rampur) : Mr. Speaker, Sir, I do not want to repeat what my friend Mr. Bhattacharyya has said. I will only point out one glaring thing in the Bill itself. The Bill has accepted that these are two different Acts which are going to be amended viz., Assam Act V of 1947, and Assam Act XVI of 1953. As my friend has said, the two Acts have different territorial jurisdictions. They deal also, to a certain extent, different matters. Had it been so, that as if there had been a consolidating Act, and these two Acts had been consolidated, and after that an amendment is moved for amending any of the provisions, then it would have been quite in order. Now Sir by this Bill two Acts are sought to be amended. That these are two separate Acts have been recognised by the Mover of the Bill also, because Sir, Clause 2 will show that after Section 8D of the Assam Maintenance of Public Order Act of 1947, the following sections shall be inserted. That means, this section only seeks to amend that portion of the Assam Maintenance of Public Order Act of 1947. Not that it will also automatically come in the other Act, i.e., Assam Maintenance of Public Order Act of 1953. Not that this amendment is a similar amendment for the purposes of both the Acts, and therefore one amendment will do the purpose of two amendments, and one amendment will also introduce these two amendments in the two Bills. That is not the purpose, because clause 3 again says that after section 13 of the Assam Maintenance of Public Order (Autonomous Districts) Act, 1953, the following shall be inserted, viz., so and so. Therefore, the framers of the Bill have recognised these two Acts as two different Acts. They recognised that these amendments must come in separately in the two Acts, and therefore they have made this provision. Now having admitted that position that these are two separate Acts, and for these two separate Acts two different amendments are necessary, my submission will be that if two different amendments are necessary this cannot be done by one Act. The proper course should have been to amend both the Acts separately, or to bring an Act to consolidate both the Acts and then amend it. That would be proper. But now, the two Acts are separate, the territorial jurisdictions are separate and now you want to bring out an amending Act just perhaps to shorten the process of amendment — and there also the amendment not by one clause but by two separate clauses in the two Bills which mean that these are two separate entities, and this cannot be done by one Bill. So my submission is that this Bill, to me at least, appears to be out of order, and it is necessary to have the opinion of the Advocate General. You may do certain thing here because you have majority. After all these things are scrutinised outside also. If we do certain things which are illegal and if we do something which is bad then it not only casts reflection on the Government but it also casts reflection on all of us. Therefore we should be very careful about these matters. As I have already stated that had there been a consolidated Act then this could have been done. The Panchayat Act has amended something and in consequence certain results follow. But here there is no result for which these two Acts are to be

amended. If for a result these two Acts are to be amended then such thing should have been provided here. But here no result is following as a result of the introduction of the two different things. I say two things because these have been put separately under two different clauses and these two things are newly introduced. My submission is that you could have brought a Bill like the Security of Industrial Bill and these things could have been put in that Bill. If you want to amend the Act 5 and 16 you could have put that in a clause and that would have been proper. You are competent to do that, but these two things cannot be put in one Bill, and therefore my submission is that it is necessary to have the opinion of Advocate General. That will be best course and after taking his opinion if you consider to be proper you can do it.

* **Shri FAKHRUDDIN ALI AHMED (Minister, Law)** : Mr. Speaker, Sir, I have listened with great attention to the points raised by both of my friends, and in placing their view points they have made a suggestion that this matter should be referred to the Advocate General, and his opinion be sought before a decision is taken in this matter. Sir, I may point this out to my friends, both of whom are lawyers and one of them is a eminent constitutional lawyer, and they will agree with me that what we seek to provide by this Bill is not a novel or a new thing. In fact my friend Shri Gaurishankar Bhattacharjee, when he was trying to develop his points, had to admit that such kind of legislation exists in our country, both in the Central Parliament as well as in the State Legislatures, and he found it difficult, because of these precedents, to develop his argument further. He has referred to a rule of this legislature just to get help in order to refer the matter to the Advocate General and he read some portion from May's Parliamentary procedure which is irrelevant in so far as the consideration of this Bill is concerned. Here I may just point out that whenever two Acts are to be amended, the provisions of the two Acts are not taken together. I have got the copies of the Representation of the People's Act, 1950 and 1951. He was saying that there only one Act is mentioned where consequential amendments are made in the body of the Act. But here he raised an objection as to how we could amend the two Acts.

* **Shri GAURISHANKAR BHATTACHARYYA (Gauhati)** : Whether the extent of the two different Bills are the same or different ?

* **Shri FAKHRUDDIN ALI AHMED** : Here it seeks to amend the two Acts. Now, we have also precedent in our neighbouring State West Bengal where by the same Act the Calcutta Police Act 1886 and the Calcutta Suburban Police Act, 1886 were amended. So the jurisdiction of the two Acts are different altogether. The jurisdiction of the Calcutta Police Act is Calcutta city and the jurisdiction of the Calcutta Suburban Police Act is the suburbs of Calcutta, and so they do not relate to the same area. Now my friend was telling that since the jurisdiction of the two Bills are not the same, we could not amend them in one Bill.

Mr. SPEAKER : Whether the extent of the two is the same ?

* **Shri FAKHRUDDIN ALI AHMED** : Calcutta suburban area cannot be the same as the Calcutta city area and my friends know it and everybody knows it. I can multiply such instances. So this is not the first time that

the two Acts have been sought to be amended, by the legislature. We have in our State the Assam Panchayat Act where under one Act provisions of different acts were sought to be amended, the Cr. P. C (Amendment) Act, Assam Board of Revenue Act and so on. So Sir my submission is that this is not a new thing. When we have come for the first time to amend the two Bills my friends have raised objection that we cannot do it and that the matter should be referred to the Advocate General. I submit, Sir, that here there is nothing about which my friends own have any apprehension that we are committing any unconstitutional act by trying to amend the two Acts.

Now, secondly he said that only consequently amendments can be made, I mean this was one of the points he raised but I would like him to go through the Central Finance Act where substantial amendments were made to the Income-Tax Act. Those were not amendments of consequential nature; those were amendments of substantial nature and could not be regarded as merely consequential. Besides he has already admitted this. I think Shri Goswami will not dispute this fact that when a Legislature has jurisdiction to amend two Acts together, there is nothing unconstitutional when the amendments are placed before the House. This has been conceded by them and it is open to this House to amend both these Acts.

The point was raised that the extent under these two Acts are different and therefore we cannot proceed with this business of amendment. One of the points he advanced was that we could bring consequential amendments and not substantial amendments and therefore we could not bring the amendments in the two Acts together. You will be pleased to see in the Bills which have been placed before this House what does it seek. So far as the new clause, the amending clause, which is sought to be incorporated, is concerned, it is the same as under 3. Identical amendments are going to be made, in two different Acts. What we want to amend is that after the different provisions of the Acts, the same provision has to be added. My friend went to the extent of saying that the Minister of Supply would bring all the legislation under one Bill and so on and so forth. You can cite this instance but he cannot make amendment in an Act dealing with trade and at the same time want to amend a Bill which has something to do with the Criminal Procedure Code. He cannot bring such an amendment but if an amendment has to be made which is relevant in these two Acts, there is no harm in saying that this amendment will be for both the Acts. Here this is the point. We seek to use certain words which are identical both under Clause 2 and Clause 3. We say that in one Act. Viz. The Assam Maintenance of Public Order (Amendment) Bill 1947 the following should be added. We again say that the same words should be added after Section 13 of the Assam Maintenance of Public Order (Autonomous Districts) Act, 1953. So we are not changing the provisions of the two Acts. The two Acts remain as they are but certain identical things we want to add or incorporate in the two Acts and instead of bringing these amendments separately in the two Acts, we have said that we want to amend these two Acts by adding such and such other words after particular Sections in those Acts. There is nothing wrong in that. I do not know what illegality or unconstitutionality we have committed by bringing this amendments through one Bill because the purpose is not to consolidate the different purposes of the Bills but to add certain things in the two Acts, one of which is for protected places. Therefore the character and the extent of the two Acts do not change altogether.

***Shri GAURI SANKAR BHATTACHARYYA (Gauhati)** : On a point of clarification. The Minister says that this amendment is not to change the extent. May I refer to Clause 1 (2) of the present amending Bill? It says: It extends to the whole of Assam. Is not it? Then I may also refer to Sub-clause 2 of Clause 1 of Act XVI of 1953: "It shall extend to all the Autonomous Districts specified in Part A of the table appended to paragraph 20 of the Sixth Schedule to the Constitution." So I shall have to re-examine my eyes to make out these things.

* **Shri FAKHRUDDIN ALI AHMED (Minister, Law)** : I am sorry my friend is entirely confused. Now if the Hon'ble Member will be pleased to see that the extent of the two Acts that are sought to be amended is one place. The extent is whole of Assam. There are two portions which comprise Assam. Therefore the words "extends to the whole of Assam" have been used in one Act and in the other.....

* **Shri GAURI SHANKAR BHATTACHARYYA** : You can say that this extends to the whole of Assam. The original Act is not applicable beyond the area specified. The amendment cannot go an inch further than the original Act.

* **Shri FAKHRUDDIN ALI AHMED** : As I was trying to explain the amendment which we seek to add in these two Acts is the same. Instead of saying that these amendments apply to these parts of Assam and to those parts of Assam, we are saying that this amendment applies to the whole of Assam. It is this that the amendment seeks to add. I personally feel that there is nothing wrong in saying that this extend to whole of Assam.

Then, the other objection taken by Shri Goswami was that this matter deserved consideration because the two things were entirely different. My submission is that things are intended to be extended to both the areas. The purpose is the same. Therefore, there is no harm for bringing amendments in both these Acts together. So I personally think that there is no objection which can be taken by my friend so far as this question is concerned.

* **Shri GAURI SHANKAR BHATTACHARYYA** : How can you go beyond the parent Act?

* **Shri FAKHRUDDIN ALI AHMED** : So far as the question of extent is concerned, we are not changing the parent Act altogether. This is not a consolidating Act. Here the point has been made that in one of the Acts it was intended to provide for a certain thing and in the other Act something different is intended to be provided. We are not changing the Acts altogether. We are adding something more in these two Acts and what we are doing will have application in the areas under their respective jurisdiction. What I mean is this: what we are seeking to add will have application to not only one area but it will have application in both the areas.

(At this stage the Speaker vacated the Chair and the Deputy Speaker occupied it)

Half-an hour discussion under Assembly Rule 49 on answers arising out of unstarred question No. 218 asked by Shri Hiralal Patwary on 2nd April 1960 .

*Shri HIRALAL PATWARY (Panery) : মাননীয় উপাধ্যক্ষ মহোদয়, যোৱা ছই এপ্রিলৰ দিনা মই কৰা ২১৮নং unstarred question টোৰ উত্তৰত বিভাগীয় মন্ত্রী মহোদয়ে যি উত্তৰ দিছিল তাত মই সন্তোষ্ট হব নোৱাৰি আজি পুনৰ আধাঘণ্টা আলোচনাৰ কাৰণে দিছো। মন্ত্রী ডাঙৰীয়াই মোৰ প্ৰশ্নৰ (a) to (e) ৰ উত্তৰত কৈছে যে চৰকাৰে শিৱসাগৰ মহকুমাৰ, for the dealership of skimmed milk, দৰ্খাস্ত আহ্বান কৰিছিল আৰু শিৱসাগৰ জিলাৰ ডেপুটী কমিচনাৰ আৰু মহকুমাধিপতিয়ে বিক্ৰমেণ্ড কৰি পঠোৱা মতে এযাবখন দৰ্খাস্ত চৰকাৰে পাইছিল। তাৰ ভিতৰৰ এজনো ব্যবসায়ীকো নলৈ কেনেকৈ Messrs. Jorhat Trading and Transport Co. ক ওপৰতে নিয়োগ কৰিলে ?

তাৰ পিচত, 'm to r' প্ৰশ্নৰ উত্তৰত Messrs. Rahman Stores আৰু Messrs. D. N. Hazarika ৰ নিয়োগৰ কথা আছে—তেওঁলোকো দৰ্খাস্তকাৰী সকলৰ ভিতৰত নাই।

তাৰ পিচত Messrs. Ram Kumar Khemani ক চৰকাৰে telegram কাৰ মাতি আনিছে।

তাৰ পিচত 'g to j' প্ৰশ্নৰ উত্তৰত কৈছে যি ১১খন দৰ্খাস্ত চৰকাৰে পোৱাৰ আগতে Messrs. Jorhat Trading and Transport Co. পোনে পোনে চৰকাৰলৈ দিয়া এখন দৰ্খাস্তৰ ওপৰত—তেওঁলোকক নিয়োগ কৰা হল। বাকী বিলাক অৰ্থাৎ ১১খন দৰ্খাস্ত consider নকৰিলে। এতিয়া মোৰ কথা হৈছে এই ছটা কোম্পানীক কেনেকৈ নিয়োগ কৰিলে? এই দৰ্খাস্তকাৰী সকলে ৫ Court fee ও দিছিল। (d) to (f) ত কৈছে Yes, their applications were forwarded to the Secretary to the Government of Assam, Supply Department তথাপি তেওঁলোকৰ দৰ্খাস্ত নিয়মিত ভাবে গ্ৰহণ নকৰি বাহিৰা হুজন ব্যক্তিক কিয় নিয়োগ কৰা হল? মই ভাবো যে ইয়াত নিশ্চয় favouritism, nepatism আৰু Red-tapism সোমাই আছে।

..... ইয়াত আহিছে favouritism ৰ কথা। প্ৰশ্নৰ উত্তৰৰ পৰা favouritism কৰিছে বুলি বুজা গৈছে। সাত তাৰিখে Deputy Commissioner যে দিয়া telegram ত আছে—Informed the Director of Supply, Assam, Shillong about this and sent a telegram to the Sub-divisional Officer, Sibsagar requesting him to direct Messrs. Khemani to contact Deputy Commissioner, Sibsagar at Jorhat positively on the next day if they are willing to lift skimmed milk quota at Sibsagar—vide Deputy Commissioner's telegram No. 37, dated 7th November, 1959 যদি এইটোৱেই হব M/S Ram Kumar Khemani submitted their petition to Deputy Commissioner, Jorhat on 10th November, 1959.

যদি সেয়ে হয় তেনেহলে এই হস্তক্ষেপ কৰিবৰ কি কাৰণ বুজি নাপাও—এনেকুৱা ধৰণৰ দৰখাস্ত নোহোৱা ব্যক্তিয়ে কেনেকৈ পাব পাৰে। ইয়াত কেছে Appointment of M/S Ram Kumar Khemani or of D. N. Hazarika who are already appointed as whole salers for Jorhat and Golaghat respectively as whole salers for Sibsagar এইটো কেতিয়া appointment হৈছিল, কোনে দৰখাস্ত দিছিল আৰু কোনে দিলে নে দৰখাস্ত নিদিয়াকৈয়ে হ'ল যে দেড়গাওঁ যোৰহাটৰ মানুহৰ বাহিৰে মানুহ নাছিল নে? Deputy Commissioner recommend কৰিলে এজনক দিবৰ বাবে চৰকাৰে নিৰ্দ্ধেশ দিলে অহু এজনৰ বাবে। Appeal পোৱাৰ পাচত review নহ'ব কিয়? তেনেহলে কিয় এনেকৈ কয়? স্থানীয় দৰখাস্ত কাৰীক কিয় নিয়োগ কৰা নহ'ল? এনেকুৱা হলে আমাৰ চৰকাৰক Democratic বুলি কেনেকৈ কব পাৰি। গতিকে অল্পবোৰ জমাও যে পাবলগীয়া case বোৰ বাবে recommend কৰি Deputy Commissioner আৰু Sub-divisional Officerৰ মৰ্যদা বখা হয়।

Shri DURGESWAR SAIKIA (Thowra): উপাধ্যক্ষ মহোদয়, সৌভাগ্যই হওঁক বা দুৰ্ভাগ্যই হওঁক এই আশা সঠিকীয়া আলোচনাৰ বাবে আবেদন কাৰছিলো আৰু আপুনিও মঞ্জুৰ কৰিলে। এই ২১৮ নং প্ৰশ্নটো মই যি মহকুমাৰ পৰা আহিছে তাৰ লগত সংযোগ পকাৰ কাৰণেই দাঙি ধাৰণা দাঙে যাতে মোৰ মহকুমাৰ স্বার্থৰ হলে কোনো কাম নোৱাৰা নোথাকে ১৯৫৯ চনৰ ৪ এপ্ৰিলটো সদনত এনে ধৰণৰ এটা প্ৰশ্ন দাঙি ধৰিছিলো আৰু শ্ৰীমতেশ্বৰ নাথ শৰ্মা দেৱে প্ৰশ্নটো ২১-৩-৫৯ তাৰিখত উত্থাপন কৰিছিল। উত্তৰত মন্ত্রী মহোদয়ে কৈছিল গোটেই অসমৰ কাৰণে ১১ লাখ পাউণ্ড স্কিমদ গাৰ্হীৰ আহিছে আৰু তাৰ কাৰণে দুজন whole saler নিযুক্ত কৰিছে। তেওঁলোক হৈছে—মেচাৰ্চ হিন্দুস্থান ট্ৰেডাৰ্চ, গুৱাহাটী আৰু মেচাৰ্চ বুধায় গদাচৰণ, বসিক বঙ্গন চাহ, চিলচৰ। পৰিপূৰক প্ৰশ্নৰ উত্তৰত মন্ত্রী মহোদয়ে কৈছিল যে গোটেই অসমতে বিতৰণ ভাল হোৱা নাই আনকি হিন্দুস্থান ট্ৰেডাৰ্চে নিদিষ্ট সময়ত ভিটেলৰ তাকো নিব নোৱাৰাৰ বাবে খুচি মতে বিক্ৰি কৰিবলৈ আদেশ বিচাৰিছিল চৰকাৰে তাকো নামঞ্জুৰ কৰিছিল। কলিকতাৰ পৰা শ্ৰী এম খাউণ্ডে এই সম্পৰ্কত বহুত আনোৱাহ দেখাই মোটেল চিঠি লিখিছিল আৰু Tribune তো প্ৰকাশ হৈছিল বিতৰণত বেমেজালি হৈছে বুলি। সেই কথা মন্ত্রী মহোদয়ৰ দৃষ্টিগোচৰ কৰাত উত্তৰ দিছিল যে ভালদৰে বিতৰণ কৰাৰ ব্যৱস্থা কৰিব। সেইবাবে অসমৰ বিভিন্ন ঠাইত whole saler নিযুক্ত কৰিবলৈ চৰকাৰে স্থিৰ কৰিছে আৰু যোৰহাট, গোলাঘাট আদি ঠাইত নিযুক্ত কৰিলে। এইটোত বৰ সন্তোষ পাইছে। মহকুমা হিচাপে whole saler নিযুক্ত কৰাটো বৰ ভাল কথা। কিন্তু শিৱসাগৰ মহকুমাৰ পৰিবৰ্ত্তে তাৰ whole saler নিযুক্ত কৰিলে গোলাঘাটৰ এজনক। ইয়াতেই মোৰ আপত্তি। ইয়াৰ দ্বাৰা বিতৰণ কেতিয়াও ঠিক হ'ব নোৱাৰে। যে যি উদ্দেশ্য লৈ ২ জনৰ whole saler তাৰ পৰিবৰ্ত্তে বিভিন্নস্থানত whole saler নিযুক্ত কৰিবলৈ চৰকাৰে বিজ্ঞপ্তি কৰিছিল, তেন্তে সেই উদ্দেশ্য শিৱসাগৰৰ পৰিবৰ্ত্তে গোলাঘাটৰ এজনক দিয়াত জানো শিৱসাগৰ মহকুমাৰ দৰখাস্ত নোহোৱা হলেও উদ্দেশ্য সিদ্ধি হ'ব পাৰে। বেলেগ কথা আছিল সেই দৰখাস্ত চৰকাৰেও খুজিছিল, তেনেস্থলত সেই দৰখাস্ত আহি পোৱাৰ পিচতো চৰকাৰে স্থানীয় দৰখাস্তকাৰীক নিয়োগ নকৰি পোন-পোনে ডিবেল্ডৰলৈ দৰখাস্ত কৰা গোলাঘাটৰ লোকক কিয় whole saler নিযুক্ত কৰিলে? কাজেই মই যি কেইটা প্ৰশ্নৰ উত্তৰৰ classification বিচাৰিছো সেই কেইটা মই দিয়েই দিছো। আশা কৰো তাৰ স্বার্থ উত্তৰ পাম। যি নীতিতৈ সি নিয়মৰ মাজেদি কাম কৰিবলৈ গৈছে সেই নীতি মূল প্ৰশ্নৰ উত্তৰ আৰু পৰিপূৰক প্ৰশ্নৰ উত্তৰৰ পৰা দেখা যায় যে চৰকাৰ কিছু অপথে গৈছে। গতিকে মই আশা কৰো মাননীয় মন্ত্রী মহোদয়ৰ পৰা ইয়াৰ সঠিক উত্তৰ পাম আৰু বিষয়টো তেখেতে ভালকৈ বিবেচনা কৰিব।

M. MOINUL HAUQE CHOUDHURY (Minister, Supply) : Sir, my friends referred to about an earlier Assembly question replied in this House regarding the distribution of skimmed milk in the year 1958. In that year, there were only two dealers in the whole of the State, one at Gauhati and the other at Silchar. All the Deputy Commissioners were asked to appoint dealers to draw their quota from these two stockists stationed at Gauhati and Silchar. Later on, in course of supplementaries to Assembly questions it was suggested that it would be in the interest of the consumers if we could appoint more parties as wholesale dealers, spread all over the State. I then gave an assurance that the suggestions given by the Hon. members of the House would be considered by the Government while the distribution in 1959 would be made. I would also like to say that we donot get skimmed milk continuously throughout the year. Whenever the State Trading Corporation of India stationed at Delhi get allotment of skimmed milk for the whole of India, they inform us, and then realise the quota according to the requirement of each State. For example, we got one quota in 1958 and one quota in 1959. We don't know yet whether we will get any thing in 1960. If we will get, we don't know whether it will be one quota or more than one and also whether more or less than previous years. So far as 1959 is concerned, this State Trading Corporation of India intimated to us that the first consignment of milk would be available towards the 3rd quarter of the year 1959. So on 6. 7. 1959, Government asked the Deputy Commissioners to recommend names immediately for appointment as wholesale dealers in their areas. The Deputy Commissioners were told that preference would be given to milk powder dealers to be more particular, the Deputy Commissioners were not told that appointment of these skimmed milk dealers would be made subdivision-wise. All DC's sent their recommendations but The Deputy Commissioner, Sibsagar recommended only one name ; that is the case of Messrs.. P. Das and Co., of Jorhat for appointment as wholesaler in skimmed milk. He did not forward any other petition except that of Messrs., P. Das and Co. This was a firm which deals only in arms and ammunition and they do not deal in milk powder or any other food-stuffs. Hence the recommendation of the Deputy Commissioner could not be accepted by the Government. So my friend will see that it was not only a question of appointing a wholesaler in skimmed milk for the Sibsagar Subdivision. I repeat : The Deputy Commissioner, Jorhat recommended only one firm and that was Messrs., P. Das & Co., but that firm was not a dealer in food-stuff or milk powder. So the recommendation of the D. C. could not be accepted.

On 10th August, 1959 the government made appointmen for the following zones :—

1. Cachar, Mizo Hills and North Cachar Hills sub-division party.
2. Dibrugarh sub-division — 1.
3. Tezpur & North Lakhimpur 1 (later one more).
4. Nowgong & Mikir Hills Districts 2 parties.
5. K. & J. Hills 1.
6. Kamrup and Mongaldoi sub-division 3.
7. Goalpara and Garo Hills 1.
8. Dhubri and Kokrajhar sub-division 2.

Sir, in the meantime some M. L. As. of district of Sibsagar represented to the government that Deputy Commissioner should have preferred local parties instead. The Deputy Commissioner was asked to send petitions and recommendations. In the meantime Sir, we had sent as stated earlier, appointed Dealers in all places except the Sibsagar District. But the Trade Adviser to the Government of Assam, informed the Government of Assam by a telegram that he had taken delivery of the milk powder and that unless dealership was finalised there would be huge loss to the government. As such on 15th September, 1959 the government made appointment in favour of the following parties for Sibsagar District which cases were received amongst other by that time :—

1. M/S. D. N Hazarika (recommended by Supply Superintendent and Sub-divisional Officer, Golaghat).
2. Rahman & Stores, Jorhat (recommended by Supply Superintendent).
3. Jorhat Trading and Transport and Co. (Managing partner Purna Chandra Saikia ; received direct).

In the absence of further recommendation from the Deputy Commissioner these parties were appointed as they were the only bonafide local Assamese people of Jorhat. That is the cause why they were preferred by the government. Therefore there was no question of favouratism or violation of laws.

It appears longer after these appointments, Sub-divisional Officer, Golaghat sent his recommendation forwarding 12 petitions including the 11 parties mentioned in the question by a letter which was received on 30th September, 1959. While forwarding these petitions, the Deputy Commissioner Jorhat himself, it appears, knew that the appointments had already been made and communicated in favour of M/s. D. N. Hazarika, Rahman and Stores, Jorhat and Jorhat Trading & Transport Co.

The Deputy Commissioner intimated about the failure of the Jorhat Trading & Transport Co., to lift, where upon he had failed to arrange the lifting through the two existing whole sellers. Subsequently Deputy Commissioner appointed M/s. D. N. Hazarika as wholesaler for Sibsagar.

On 5th November, 1959 Senior E. A. C. incharge, Supply, Sibsagar wrote : "In case it is not possible now to appoint any wholesaler for this Sub-division, the entire quota may be placed by the dealer wholesaler for our allotment through approved retailers." Against this order, Ram Kumar Khemani submitted an appeal which was received by Secretary Supply on 22nd January, 1960. Nothing could be done as it was too late because the allotment orders were already communicated on 15th September, 1959. There was no other quota available. So there was no use in allowing or rejecting the appeal.

Thus, Sir, the points raised by my friend Shri Patwari have been replied. Now I shall reply to the points raised by my friend Shri Durgeswar Saikia.

Points 1, 2 and 4 : Government did not decide Sub-division wise appointment of whole sellers. The Deputy Commissioner, Jorhat invited petitions, as all Deputy Commissioners were asked to send their recommendations.

Point 3 : No, but large number of petitions came direct to Government.

Point 5 : The intention of Government in asking the Deputy Commissioners to recommend parties to Government was to get reliable and financially sound parties. Such parties may also be known to Government directly as reliable and sound in which case recommendations of local officers might not be necessary.

Point 6 : Skimmed milk is not brought to Assam as a regular monthly or yearly allotment. It may be available once in a year if it is imported by the State Trading Corporation as explained earlier. During 1959, it was 8,77,800 lbs. There were bulk allotments and they were distributed throughout the State in one lot. There were no question of instalments as the entire quantity available was allotted area-wise as far as practicable to the wholesalers who were given fixed quantity. The wholesalers then distributed to retailers selected by Deputy Commissioners and Subdivisional Officers.

Only one allotment was made to all wholesalers. There was no question of making further allotment to Messrs Jorhat Trading & Transport Co.-

Point 7. : The government did not ask Deputy Commissioner on 4. 11. 50 specifically to appoint M/S. D. N. Hazarika. Their direction to the Deputy Commissioner was that, when M/S. Jorhat Trading & Transport Co. had refused to lift the quota allotted to them, he (D. C.) should lift the quota on Government account if he fails to arrange the lifting through M.S. Rahman Stores or D. N. Hazarika or any other suitable party willing to lift the quota. Hence the Deputy Commissioner might have asked all these parties and M/S. Ram Kumar Khemani on 7. 11. 59 to ascertain who was willing.

Point-8: The question is not understood. The point was that the skimmed milk had already been despatched when M/S. Jorhat Trading and Transport Co.'s refusal was known. The quota had therefore to be lifted and hence the government direction. The Deputy Commissioner Jorhat selected M/S D. N. Hazarika to do the job. The distribution was done by D. N. Hazarika under the supervision of Supply staff and no complaints were received by Government that D. N. Hazarika had gone against the policy of Government for distribution of skimmed milk to retailers and consumers.

Point No. 9. No reply can be given to such a question. The petition was received and dealt with as the circumstances then called for.

Point No. 10. The application dated 10th November, 1959 submitted by Messrs Ramkumar Khemani to Deputy Commissioner, Jorhat was not sent to Government by the Deputy Commissioner. But Messrs. Ramkumar Khemani filed a petition to the Director of Supply on 28th December, 1959 and a copy of the same was forwarded to Government by the Director of Supply on 21st January, 1960 which was received by Government on 22nd January 1960.

Sir, because certain very wrong aspersions have been cast about this matter in which possibly blame if there be any should go largely to the Deputy Commissioner than anybody else, I would like to say something more.

Of the 15 parties ultimately took up the work of wholesalers in powder milk in Assam 11 parties were local Assamese people. Of these 11 parties or out of the 15 parties who took up the wholesale business only 3 parties including the Rahman Stores were Muslims. (Interruptions by Shri Hiralal Patwari — It is not a question of Muslims or Hindus. Sir, he has used such a term as would involve a question of Muslims and Hindus).

Mr. DEPUTY SPEAKER : Order, order.

M. MOINL HAQUE CHOUDHURY : It is very easy to cast aspersions. What was the idea behind putting such Assembly questions is known to everybody. I would request the hon. Member to look to the supplementaries put forward on that day to the question.

The policy of the Government is to give preference to local people under all circumstances. Of the 16 parties appointed by Government only one party, *viz.*, the Jorhat Trading and Transport Co. failed to lift the quota.

ADJOURNMENT.

The Assembly was then adjourned till 9 a. m. on Friday, the 8th April, 1960.

R. N. BARUA,

Secretary, Assam
Legislative Assembly.
