

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

The Assembly met at the Assembly Chamber, Shillong, at 11 a.m., on Monday the 20th December 1937

QUESTIONS AND ANSWERS

STARRED QUESTIONS

Proposal to introduce Compulsory Primary Education in the Municipalities

SRIJUT PURNA CHANDRA SARMA asked :

*115. Will Government be pleased to state what will be initial and recurring cost to introduce compulsory primary education in each of the Municipalities of the province ?

*116. Do Government propose to introduce compulsory education in the Municipalities of its own initiative and if so, what steps are proposed to be taken ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED replied :

115.—To introduce compulsory primary education in every Municipality of the province would cost something in the nature of Rs.75,000 in the first year and Rs.50,000 in subsequent years.

116.—No. Government propose to leave the initiative to the Municipalities themselves.

SRIJUT PURNA CHANDRA SARMA: Do not Government consider it possible that with the resources they have they can introduce compulsory primary education in the Municipalities by the next year ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED: As our finance stand at present, Government do not see their way to introduce it next year.

SRIJUT MAHI CHANDRA BORA: On what basis was the estimate prepared ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED: On the total number of the school population.

SRIJUT PURNA CHANDRA SARMA: Did Government take any census of the school going population in towns after the question was received ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED: No.

SRIJUT PURNA CHANDRA SARMA: Who prepared the estimate ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED: No estimates were prepared after the notice was received. But these estimates were prepared before.

THE HON'BLE THE SPEAKER: The question is who prepared the estimate.

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED: The Director of Public Instruction.

SRIJUT PURNA CHANDRA SARMA: May I know if any representations have been received from the Municipalities for grant to introduce compulsion ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED: Yes, but not during our time. During the time of the old Government some representations were received. Certain schemes were prepared by seven Municipalities but when the time for their introduction came and when they found they had to defray one-third of the cost under the Primary Education Act, they owing to financial difficulties prayed for postponement of their introduction.

MAULAVI MUHAMMAD AMJAD ALI: May I know the names of the Municipalities ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED: I want notice.

MAULAVI MUHAMMAD AMJAD ALI: Cannot Hon'ble Minister give us the names, Sir ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED: Yes, Sir, if that is required. I have not got them with me here.

THE HON'BLE THE SPEAKER: The Hon'ble Minister claims notice.

MAULAVI MUHAMMAD AMJAD ALI: From the answer given, he gives the nature of the transaction that was going on with different Municipalities and Government and I think he should, therefore, be able to give us the names of the Municipalities from whom the representations came ?

THE HON'BLE THE SPEAKER: But he says that he is not ready ; he wants notice.

SRIJUT PURNA CHANDRA SARMA: Did not Government consider that this expenditure is necessary and more necessary than the Madrassa system of education ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED: All the schemes are necessary. We are prepared to introduce if one-third of the cost under the Act is coming forth from the Municipalities.

SRIJUT MAHI CHANDRA BORA: May I know the number of school going populations in the Municipalities of Assam ?

THE HON'BLE THE SPEAKER: That question has already been answered.

Number of visits made by Hon'ble Minister, Education, to Sylhet

SRIJUT PURNA CHANDRA SARMA asked :

- *117. Will the Hon'ble Minister for Education please state—
- (a) How many times he visited Sylhet after the last Budget Session ?
 - (b) What institutions he inspected there ?
 - (c) Whether he visited any place in the Assam Valley ?
 - (d) If so, what are they ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED replied :

117. (a)—Three times.

(b)—During one visit he inspected the Sylhet Government Madrasa with a view to the opening of title classes and at a subsequent visit he opened the classes. The other visits were in connection with other tours during one of which he inspected the Karimganj High School and High Madrasa and then went on to Silchar and visited educational institutions there.

(c)—No.

(d)—Does not arise.

SRIJUT PURNA CHANDRA SARMA: Sir, were all these visits on invitation by those people of the schools or on the Minister's own accord?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED: On my own accord as necessity arose.

MAULAVI MUHAMMAD AMJAD ALI: How is it that the Hon'ble Minister's attention is never directed towards the Assam Valley?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED: I am probably visiting the Assam Valley next year from January.

SRIJUT PURNA CHANDRA SARMA: Did not any necessity arise for his visiting the Assam Valley so far?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED: Everywhere there is necessity. I propose to visit the Assam Valley next year, that is from January 1938.

SRIJUT SIDDHI NATH SARMA: Why was this postponement made in visiting the Assam Valley?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED: I mean by next year, next month, *i.e.* January 1938.

SRIJUT PURNA CHANDRA SARMA: Are all the schools which the Hon'ble Minister has paid visits to in Sylhet on the last three occasions receiving Government aid just after the budget session?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED: One is a Government institution. In Karimganj one Government institution I visited and in Silchar Government and aided schools.

Opening of post-graduate classes in the Cotton College, Gauhati

SRIJUT PURNA CHANDRA SARMA asked :

*113. (a) Have any steps been taken by Government to have post-graduate classes in all subjects for which the Cotton College has got affiliation to the University?

(b) If not, will Government state the probable expenses of such classes there?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED replied :

118. (a)—No.

(b)—About Rs. 70,000 recurring and Rs. 18,000 non-recurring.

SRIJUT PURNA CHANDRA SARMA: Have Government any proposal for the scheme of a University in Assam?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : None at present.

SRIJUT PURNA CHANDRA SARMA : Will it not be possible to have a University easier and more within the reach if these post-graduate classes are introduced in the Cotton College ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : Not necessarily, Sir.

Introduction of the Assamese as the medium of instruction in the High Schools

SRIJUT PURNA CHANDRA SARMA asked :

*119. (a) Have the Assamese text books for the purpose of introducing Assamese as the medium of instruction in the High Schools been available by now ?

(b) If so, do Government propose to introduce the system during the next year ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED replied :

119. (a)—Assamese text-books for class VII will be available before the beginning of next session and Headmasters have been informed.

Books for class VIII and higher classes will be ready by 1939.

(b)—Instruction through Assamese will be introduced at the beginning of the coming session.

Number of Forest Guards serving in Haltugaon Division of the Goalpara Forests

MAULAVI GHYASUDDIN AHMED asked :

*120. Will the Hon'ble Minister in charge be pleased to state—

(a) The total number of Forest Guards now serving in the Haltugaon Division of the Goalpara Forests ?

(b) The number of Forest Guards appointed by the Divisional Forest Officer in Haltugaon Division from 1st January 1937 to 15th October, 1937 ?

(c) Of the guards so appointed how many belong to the district of Goalpara and how many belong to other districts ?

(d) Out of the total number of Forest Guards in the Haltugaon Division how many are Muhammadans and out of them how many belong to the district of Goalpara ?

*121. (a) Is it a fact that one Jogeswar, a man of Pabna, has been appointed as a forest guard by the Divisional Forest Officer of Haltugaon ?

(b) If so, has the said man got the certificate of domicile ?

(c) If not, how he was appointed ?

*122. Will the Hon'ble Minister in charge be pleased to state—

(a) the name and home district of the Forester who was in charge of Jharbari Beat within Haltugaon Division immediately before the present Forester Babu Brajendra Kumar Chaudhury took over charge of this Range ?

(b) Whether it is a fact that there is no family quarters for the Forester in Jharbari Beat and that the former Forester was not allowed to come to Haltugaon where his family stayed on ?

(c) Will the Hon'ble Minister in charge be pleased to state whether it is a fact that the present Forester Babu Brajendra Kumar Chaudhury has been allowed to do his work in Jharbari Beat from Haltugaon ?

(d) Will the Hon'ble Minister in charge be pleased to state the amount of travelling allowance for the last three months that was drawn by the former Forester of Jharbari during his stay there and the amount of travelling allowance for a period of any three months that has been drawn by the present Forester ?

(e) Is it a fact that the present Forester has been allowed to draw his travelling allowance from Haltugaon ?

(f) If so, why this was not allowed to the former Forester ?

*123. (a) Will the Hon'ble Minister in charge be pleased to state what were the allegations against Srijut Hareswar Goswami, Forester of Deosri, within the Haltugaon Division ?

(b) Is it a fact that the Range officer made a thorough enquiry into the allegations against the said Forester and submitted his detailed report to the Divisional Forest Officer, Haltugaon ?

(c) If so, will the Hon'ble Minister state briefly the nature of the allegations made against this officer ?

(d) Is it a fact that the Divisional Forest Officer considered the Forester's action as highly irregular ?

(e) If so, what action has the Divisional Forest Officer taken against this officer ?

*124. (a) Is the Hon'ble Minister in charge aware that one Mafizuddin Ahmed, a Forester, belonging to the Goalpara district, was dismissed by the Divisional Forest Officer, Haltugaon, only for a technical offence ?

(b) Do the Hon'ble Minister in charge propose to call for the records of both these Foresters and examine the allegations against each of these officers and let this House know which of the two officers committed graver and more serious offence ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED replied :

120. (a)—Twenty-three.

(b)—Five.

(c)—All come from Goalpara, two of them being Nepalese who have settled in the Goalpara district.

(d)—Two. None of them belongs to Goalpara district.

121. (a)—No.

(b) & (c)—Do not arise.

122. (a)—Abdus Sattar Mea of the Goalpara District.

(b)—There is no family quarter at Jharbari. Forester Abdus Sattar Mea was allowed to come to Haltugaon frequently but subsequently as he neglected his duties at Jharbari, he was ordered to stay there.

(c)—Yes. Forester Brajendra Kumar Chaudhury also assists the Range Officer at Haltugaon in addition to his duties at Jharbari.

Rs. a. p.

(d)—
Forester Abdus Sattar... March to May 1937 55 0 0

Forester B. K. Chaudhury... June to August 1937 56 12 0
(including transfer travelling allowance).

(e)—Yes

(f)—This was also allowed to the former Forester.

123. (a) to (e)—The information asked for is of a confidential nature. As explained on several occasions in the past, Government are not prepared to discuss the character and conduct of their officers on the floor of the House.

124. (a)—He was dismissed by the Divisional Forest Officer. There were five serious charges against him.

(b)—Forester Mafizuddin Ahmed appealed to Government and Government have since rescinded the orders of dismissal. As regards the other officer, the question does not arise as he was exonerated.

SRIJUT BELI RAM DAS: May I be permitted to ask the hon. questioner whether Mr. Mafizuddin Ahmed is a relation of his or not?

MAULAVI GHYASUDDIN AHMED: Certainly not.

Re leave applied by Srijut Ghanashyam Gogoi, teacher of the Golaghat Government Bezbarua High School

SRIJUT RAJENDRA NATH BARUA asked:

*125. Will Government be pleased to state whether Srijut Ghanashyam Gogoi, B.A., a teacher of the Golaghat Government Bezbarua High School, now transferred to the Dibrugarh Government High School (i) has been suffering from heart disease since 1934; and (ii) is at Gauhati now for change and better medical treatment?

*126. If the reply to above is in the negative do Government propose to ascertain the truth of what is stated above?

*127. Will Government be pleased to state whether the said teacher Srijut Ghanashyam Gogoi, B.A., applied to the Department as well as Government for long leave without pay with permission to continue his law studies while he is at Gauhati for his own treatment?

*128. Will Government be pleased to state whether the said prayer of the said teacher Srijut Ghanashyam Gogoi, mentioned above, has been rejected?

*129. If the answer to question 128 above is in the affirmative, will Government be pleased to state the reasons?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED replied :

125.(i)— He is reported to have been suffering from heart disease for about three years.

(ii)—Government have no information.

126.—Does not arise.

127.—Yes.

128.—Yes.

129.—The teacher has been advised by the Director of Public Instruction to apply for invalid pension as he is apparently unfit to return to duty in future.

Re institution of money suits at Shillong Court

SRIJUT MAHI CHANDRA BORA asked :

*130. Is it a fact that in a great majority of money suits instituted at Shillong, the Magistrates decree interest at the maximum rate allowed by law ?

*131. Is it a fact that this is causing great hardship to many debtors ?

*132. Is it a fact that in some legal proceedings instituted after 1st June 1937 the Courts at Shillong are ordering attachment of pay of those whose monthly salaries are below Rs.100 ?

*133. If so, do Government propose to order the immediate stoppage of such a course ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI replied :

130.—No.

131.—Does not arise.

132.—No.

133.—Does not arise.

Contribution made by Local Boards towards maintenance of Primary Schools

MAULAVI ABDUL BARI CHAUDHURY asked :

- *134. Will Government be pleased to state—
- (1) What contributions they have made to each of the Local Boards in the districts of Sylhet and Kamrup towards the maintenance of the Primary schools under the Boards in the years 1934-35, 1935-36 and 1936-37 ?
 - (2) The number of Lower Primary Venture schools in these two districts, without Government or Local Board aid ?
 - (3) The amount that will be required to be placed in the hands of the Local Boards for making grants to and taking over all these venture schools in these two districts ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED replied :

134. (1)—A statement is given below :—

| | 1934-35 | 1935-36 | 1936-37 |
|---------------------------------|-----------|---------------|---------|
| | Rs. | Rs. | Rs. |
| North Sylhet Local Board | 59,272 | 64,903 | 62,584 |
| Habiganj Local Board | 69,554 | 73,768 | 73,730 |
| Sunamganj Local Board | 59,078 | 65,161 | 61,814 |
| South Sylhet Local Board | 54,832 | 57,322 | 57,712 |
| Karimganj Local Board | 52,632 | 54,017 | 53,436 |
| Gauhati Local Board | 69,642 | 71,955 | 72,792 |
| Barpeta Local Board | 28,792 | 29,467 | 30,392 |
| (2)—Sylhet | ... | ... | 461 |
| Kamrup | ... | ... | 181 |
| (3)— | Recurring | Non-recurring | |
| | Rs. | Rs. | |
| Sylhet | 66,384 | 11,525 | |
| Kamrup | 26,064 | 4,525 | |

MAULAVI MUNAWWAR ALI : May I know how many schools out of these the Hon'ble Minister is going to aid this time ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : A survey has been made and as many schools as possible within the funds at our disposal will be aided.

MAULAVI MUNAWWAR ALI : Has the Hon'ble Minister decided upon the principles under which the aid will be given ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : A survey has been made and we are examining the question now.

MAULAVI MUNAWWAR ALI : Examining the question of principles ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : Yes.

MAULAVI MUNAWWAR ALI : Not yet decided and will not the year glide by before decision ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : Not yet decided because the survey had to be made.

SRIJUT PURNA CHANDRA SARMA : Will the Hon'ble Minister please repeat what is the recurring and non-recurring cost of venture schools within the district of Sylhet ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : Does that question arise ?

SRIJUT PURNA CHANDRA SARMA : I want a repetition of the answer. What is meant by the expression " non-recurring cost " in taking over these schools ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED :
It means building grants.

SRIJUT PURNA CHANDRA SARMA : Are building grants meant for
venture schools also ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED :
Sometimes.

QUESTIONS AND ANSWERS

UNSTARRED QUESTIONS

[Further supplementary questions on unstarred question No. 194 regarding exemption of members of the Assam Legislatures from payment of tolls at ferries, bridges, etc.]

MR. BAIDYANATH MOOKERJEE : I have not finished with question 194. I want to hear from the Hon'ble the Chief Minister on the subject of the privileges asked for the members of this House.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : I said I would consider the question. I cannot commit Government now on the floor of the House.

MR. BAIDYANATH MOOKERJEE : When will it be considered ? Just an approximate idea, Sir.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : Next month. There will be hardly any time to consider now.

MR. FAKHRUDDIN ALI AHMED : Is the Hon'ble the Chief Minister aware that the Government officials proceeding on duty are asked to write in the book 'on duty' ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : Yes, Sir.

MR. FAKHRUDDIN ALI AHMED : On what basis did the Hon'ble Minister make a statement the other day that members going on duty have to give an explanation as to what duty they are going to perform.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : I said I would consider the whole question. When a Government servant is on duty he gets his travelling allowance. As regards the hon. members of the House they may combine their private business with Government duty. I wanted the duty to be recorded.

MR. FAKHRUDDIN ALI AHMED : Is the Hon'ble Minister aware that most of the members when they go to their constituencies do not go there on private business but on public duty ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : In some cases they may combine their private business with public duty.

MR. FAKHRUDDIN ALI AHMED : On what information has the Hon'ble Minister got to say that members combine their private business with public duties ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : I have got the information and I need not detail it here.

MR. BAIDYANATH MOOKERJEE : Sir, the other day in reply to my question the Hon'ble the Finance Minister said that he was under the impression that when members come to join Assembly they are not to pay any tolls. In that case, Sir, henceforth we shall sign 'on duty' only.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : Sir, my impression was that those members who are also members of the Local Boards have not to pay any tolls in Local Board ferries. I say the whole question will be considered by me.

MR. B. I. BARRY : Is the Hon'ble the Chief Minister aware that in the North Bank considerable amount has to be paid while crossing the ferry ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : As I said, I would consider the question.

SRIJUT PURNA CHANDRA SARMA : Have not the considerations of Government regarding this been fruitful up till now after a similar reply in the Budget Session by the Hon'ble the Chief Minister in reply to a question of mine ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : We cannot change the practice during the contractual period. We have given the contract for a certain period and during the period we cannot change the terms.

MR. BAIDYANATH MOOKERJEE : Will the Hon'ble Minister let us have his decision before we meet again ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : Orders will be passed before the next session.

Rates of tolls on the Public Works Department Bridges

SRIJUT JOGENDRA NATH BARUA asked :

195. Will Government be pleased to state—

(a) The rates of tolls on the bridges on the Public Works Department roads both in the Assam Valley and the Surma Valley and Hill Division ?

(b) Whether there is any rule by which rates of such tolls are regulated ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA replied :

195.(a)—A copy of the rates in force is placed on the Library table.

(b)—Yes. Government frame rules under the Indian Tolls Act, 1851.

Regarding Pension of Dr. H. K. Das

SRIJUT JOGENDRA NATH BARUA asked :

196.(a) Is it a fact that the pension of Dr. H. K. Das of Gauhati, a retired Civil Surgeon, was stopped by the Assam Government for his participation in the Congress movement ?

(b) If so, is the Hon'ble Minister aware that on a question put by Mr. Fakhruddin Ali Ahmed, Bar-at-Law, a member of the Assembly in the last session, Government stated that the matter would be considered on receipt of an application for Dr. H. K. Das ?

197. Is Government aware that Dr. Das applied for the removal of the restriction on his pension on the 4th September 1937 ?

198. Is Government aware that an assurance has been asked from Dr. Das for disassociating himself from movements "which aim at the subversion of Government established by law in British India" ?

199. Will Government please state whether Dr. Das' pension was stopped only on account of participation in the Congress movement ?

200. Are Government aware that Congress is a recognised political organisation not banned by Government ?

201. Is Government aware that monies forfeited and properties confiscated even in connection with the Civil Disobedience movement have been returned without any assurance from the persons and organisations concerned in other provinces ?

202. Will Government please state whether they propose to withdraw the restriction imposed on his pension without demanding any assurance from him for participation in Congress work ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA replied :

196.(a)—The hon. member is referred to the reply given to question No.199.

BABU HARENDRA NARAYAN CHAUDHURI: Is it a fact that a clerk of the Deputy Commissioner's office, Silchar, who was convicted of an offence and imprisoned was granted pension by the Government ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : Does this question arise, Sir.

THE HON'BLE THE SPEAKER : Of course it does not strictly arise.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : However, I am prepared to answer although it does not strictly arise. I remember the facts of the case. Yes, Sir.

BABU HARENDRA NARAYAN CHAUDHURI: Is a patriot a worse criminal than a forger ?

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

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : replied.

196.(b)—The matter has already been under the consideration of Government.

197.—Yes.

198.—Yes.

SRIJUT JOGENDRA NATH BARUA: From the answer given by the Government do I understand that the Congress is not within the movements which aim at the subversion of Government established by law in British India ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : This is apparent when so many Congress Government are functioning throughout India now.

MR. FAKHRUDDIN ALI AHMED : Will the Hon'ble the Chief Minister please state the nature of the subversive movement Dr. Das was alleged to be involved in ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : Extolling the murderer.

MR. FAKHRUDDIN ALI AHMED : Did he take part in any other movement ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : He extolled the murderer and exhorted the audience to follow his footsteps.

MR. FAKHRUDDIN ALI AHMED : Was any public or judicial enquiry held ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : No, Sir. We got our stenographer's report.

MR. FAKHRUDDIN ALI AHMED : Is the Hon'ble Minister aware that Dr. Das has repeatedly denied that he ever associated with any murderer ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : We have never heard any repudiation to that effect.

MR. FAKHRUDDIN ALI AHMED : Was he prosecuted, Sir ?

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

MR. FAKHRUDDIN ALI AHMED : Is it fair that Government should rely only on reports submitted by police officers ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : We have got the report of the stenographer.

MR. FAKHRUDDIN ALI AHMED : Is it a fact that Dr. Das had denied the allegations made against him by police officers.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : He does not repudiate that statement.

MR. FAKHRUDDIN ALI AHMED : Has Government received a reply from Dr. Das ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : I have got a reply. He refuses to give the assurance that I want.

MR. FAKHRUDDIN ALI AHMED : May I read Dr. Das's reply ? The reply is :

" I have the honour to acknowledge the receipt of your letter No. 1141-C.B., dated 19th November 1937 and in reply beg to state that I am a member of the Indian National Congress and believe in the attainment of Purna Swaraj by peaceful and non-violent means. In the present atmosphere of the country where the Indian National Congress is running the Government in seven different provinces of India an assurance contemplated in the letter is considered to be unnecessary and as such I am not prepared to give any other assurance."

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : That makes the position quite clear.

THE HON'BLE THE SPEAKER : The point that the Hon'ble Minister is stressing is that he wants a definite assurance.

MR. FAKHRUDDIN ALI AHMED : Sir, why is an assurance necessary ? The Congress movement with which he is associated is not regarded by the Hon'ble the Chief Minister as a movement which aims at the subversion of Government established by law in British India ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: If an assurance is not necessary, it is up to him to pass orders. We have asked the Doctor to repudiate, in which case his pension question would be considered. Without that assurance my hands are tied.

MR. FAKHRUDDIN ALI AHMED: Does the Hon'ble Minister mean that Mr. Das should not take part in the Congress movement and work for the attainment of Purna Swaraj?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: I never said that.

SRIJUT PURNA CHANDRA SARMA: Was it made clear to Mr. Das that the assurance required was that he should not take part in any movement involving violence?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: I meant that and he had also information from the hon. questioner himself.

MR. FAKHRUDDIN ALI AHMED: Does the Hon'ble Minister mean that he has no objection to Dr. Das's taking part in the non-violent Congress movement?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: Yes.

MAULAVI MUHAMMAD AMJAD ALI: With regard to the words "Government established by law in British India", is it in consonance with the definition of sedition?

THE HON'BLE THE SPEAKER: We have not come to that question yet.

BABU DAKSHINARANJAN GUPTA CHAUDHURI: From the reply, Sir, do I take it that the speeches which he delivered did not fall under the Indian Penal Code?

THE HON'BLE THE SPEAKER: That is a matter of opinion.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: It did fall within the provisions of the Indian Penal Code. But Government did not take the measure of prosecuting.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA replied:

199.—The hon. member is referred to the replies given to questions No.163 and 163(c) (STARRED) put by Mr. Fakhruddin Ali Ahmed at the last Budget Session of the Assembly.

200.—Yes.

201.—Government have no information.

202.—No assurance was demanded from him for participating in Congress work but for dissociating himself from movements which aim at the subversion of Government established by law in British India.

MAULAVI MUHAMMAD AMJAD ALI: With reference to the words "Government established by law in British India" will the Hon'ble Minister please say whether it is in consonance with the definition of sedition given in section 124 of the Indian Penal Code?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: I could not follow the hon. member, Sir. If he thinks that this reply offends against the definition of 'sedition' in the Indian Penal Code, I disagree with him.

MAULAVI MUHAMMAD AMJAD ALI: Is not sedition meant by this phrase?

THE HON'BLE THE SPEAKER: I cannot also understand the hon. member.

MAULAVI MUHAMMAD AMJAD ALI: What I want to know is whether the act of Mr. Das is seditious, as the phrase referred to in the reply occurs in the definition of sedition as given in section 124 of the Indian Penal Code?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: I have already answered, Sir.

THE HON'BLE THE SPEAKER: Did the Hon'ble Minister say 'sedition'? He did not say so.

MAULAVI MUHAMMAD AMJAD ALI: I refer to the phrase, Sir, "dissociating himself from movements which aim at the subversion of Government established by law in British India". I think that comes under the definition of sedition.

THE HON'BLE THE SPEAKER: That expression might be used. But the question of subversive movement is not covered by section 124A. It relates to creating disaffection. Subversion is quite another matter.

MAULAVI MUHAMMAD AMJAD ALI: It is the definition of sedition, Sir, that is to say subversion of Government.

THE HON'BLE THE SPEAKER: But what is the question then?

MAULAVI MUHAMMAD AMJAD ALI: Is it sedition that is meant by the answer?

THE HON'BLE THE SPEAKER: Does the hon. member mean, whether the definition of sedition in the Penal Code is consistent with the form of Government established under the new Constitution?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: It is a question of opinion.

MAULAVI MUHAMMAD AMJAD ALI: May I know what was demanded of him, also whether any sedition was apprehended, barring the fact that he was only taking part in the Congress movement?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: No question of sedition arose. What we wanted was an assurance that he does not agree with the cult of violence. The fact that in seven provinces a Congress Government is now running supreme clearly shows that the Congress movement is not seditious or in contravention of the British Government established by law in British India.

SRIJUT GOPINATH BARDOLOI: With reference to question No.202, the reply is "for dissociating himself from movements which aim at the subversion of Government established by law in British India." Has the Hon'ble Minister any reason to think that he ever had at any time associated himself with movements of that kind?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: I have already answered, Sir. About the particular speech over which the question of suspension arose, the Stenographer's report shows that he extolled the feats of Baghat Singh and Rajguru and other patriots of that type whose cult was violence.

SRIJUT GOPINATH BARDOLOI: Does that amount to association with a movement?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: If he extols the cult and exhort his hearers to follow the same way it would practically mean that he associates himself with the movement.

SRIJUT GOPINATH BARDOLOI: Is Government aware that certain persons who extolled these murders are running the administration in certain provinces in India?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: I will take the hon. member's statement as correct.

MR. ARUN KUMAR CHANDA : And has the British Empire collapsed, Sir ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : That is a matter of opinion, Sir.

B ABU DAKSHINARANJAN GUPTA CHAUDHURI : Does Government know that the aim of the Congress is the subversion of Government in British India by legitimate and peaceful means ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : The reply is there, Sir, in the answer I have given to question No 202.

SRIJUT GOPINATH BARDOLOI : The very fact that a particular member shows that he belongs to the Congress, does not that fact itself repudiate that he does not belong to the cult of violence ?

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

Collection of tolls at the Chaulkhowa Bridge

SRIJUT GHANASHYAM DAS asked :

203. Are Government aware that the lessee of the Chaulkhowa Bridge in the Barpeta Subdivision is to watch the Bridge throughout the day and night for collection of tolls ?

204. Are Government aware that there is no accommodation for raising a temporary shed there for the collecting staff ?

205. Are Government aware that the western end of the bridge where the lessee has raised the shed causes inconvenience to the passengers and motor buses that are to stand when the toll is collected ?

206. If the answers to questions 203, 204 and 205 are in affirmative, do Government propose to extend the western slope to remove the inconvenience mentioned ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA replied :

203.—As the lessee has purchased the right to collect tolls he will no doubt desire to do so during the night as well as the day.

204.—No.

SRIJUT GHANASHYAM DAS : What I mean to say, Sir, is that the slope is a narrow one and the lessee's shed by the side of the slope, causes inconvenience to the passengers. My point is either the slope must be extended or the lessee should be directed to withdraw his shed from that place.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : If my hon. friend tabled a question referring to the slope, I would have given the answer. I have already answered the question in the shape in which it was put.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA replied :

205.—No. Vehicles must stand while paying the tolls and wherever the gate is, there must be some delay.

SRIJUT GHANASHYAM DAS : Do Government say that the traffic across the bridge has not increased now ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : I am not aware of that.

SRIJUT GHANASHYAM DAS : Do Government say that the slope of the bridge is very broad ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : I am afraid I do not know. I have not yet seen the place.

SRIJUT GHANASHYAM DAS : How then can Government say that it does not create inconvenience to the passengers ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : The question of slope does not come in at all in this question, Sir. The question is—'Are Government aware that the western end of the bridge where the lessee has raised the shed causes inconvenience to the passengers and motor buses that are to stand when the toll is collected?' And my reply is—'No. Vehicles must stand while paying the tolls and wherever the gate is, there must be some delay.' No question of slope arises.

206.—No.

Diversion of the Eastern Bengal Railway Line

SRIJUT KAMESWAR DAS asked :

207. Is it a fact that the Eastern Bengal Railway line will be diverted northward to make it pass near the Fatemabad Tea Estate from a point west of the Beki river, thus abandoning some of the existing stations (including the Barpeta Road station) east of the Beki ?

208. Do Government realise that in case of diversion as indicated above the people in the neighbourhood of the stations in the abandoned portion of the line will have to suffer a huge amount of loss in various ways, and that the subdivisional headquarters and the only steamer ghat at Tarabari of the subdivision will recede to an abnormal distance from the new stations to be opened in the diverted portion of the line ?

209. Do Government propose to intervene with any such proposal of diversion and in case of failure, insist that the diversion be southward to make the line pass as near the Barpeta Town as possible ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA replied :

207.—Government have no information but will enquire.

SRIJUT KAMESWAR DAS : May we know when Government will enquire about the matter ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : As soon as the notice of this question came, Sir, we addressed the proper authorities.

SRIJUT KAMESWAR DAS : May we expect to know the results of the enquiry ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : If the hon. member would like private correspondence, I will send the information to him when I get it.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA replied :

208.—Does not arise at this stage.

209.—Does not arise at this stage.

Closure of the Sub-Registrars and Subdivisional Offices on the last Saturday of the month

MAULAVI DEWAN ALI RAJA asked :

210. Will the Hon'ble Minister in charge be pleased to state whether it is a fact that the Sub-Registrars of district and Subdivisional Offices get the last Saturday of every month, as a holiday ?

211. Is it a fact that the Sub-Registrars of circle offices are denied the privilege mentioned in question 1 above ?

212. If the answers to questions 210 and 211 are in the affirmative, do Government propose to extend the privilege mentioned in question 1 above to the Sub-Registrars of circle offices also ?

THE HON'BLE MAULAVI MD. ALI HAIDAR KHAN replied :

210.—Yes, as far as Sylhet and Cachar districts are concerned.

211 and 212.—The hon. member is referred to the reply given to question No.1317 asked at the September session of the Legislative Assembly.

MAULAVI ABDUR RAHMAN : May I know whether the Hon'ble Minister in charge is prepared to give equal concession to all the Sub-Registrars throughout the whole district ?

THE HON'BLE MAULAVI MD. ALI HAIDAR KHAN : The reply was given in the last Budget Session, Sir. I will refer the hon. member to the reply given to question No. 1317.

MAULAVI ABDUR RAHMAN : The reply was not definite. May I know whether the Hon'ble Minister is prepared to issue a circular to that effect ?

THE HON'BLE MAULAVI MD. ALI HAIDAR KHAN : The reply is quite clear, Sir.

Giving of Contracts in the Nowgong District

SRIJUT DHIRSINGH DEURI asked :

213. Are Government aware that contracts were given to Rai Sahib Bhogdutta Hazarika, Mauzadar of Dharamtul (Nowgong) and Srijut Ramani Kanta Hazarika, a cousin of the Rai Sahib, under the Public Works Department, and that both these contractors are related to the Executive Engineer, Nowgong ?

214. Is it a fact that Rai Sahib Bhogdutta Hazarika, Mauzadar of Dharamtul (Nowgong) and Srijut Ramani Kanta Hazarika, a cousin of Rai Sahib have no previous experience of any contract works and that they were given contracts for the first time for big amounts and that they could not complete their works in time ?

215. (a) Is it a fact that Rai Sahib Bhogdutta Hazarika worked in partnership with one Dharendra Chandra Datta of Dharamtul and did not pay their sub-contractors, Bhobuk Laloong and others, Muhorars and coolies regularly, and that there were several complaints against them to the Executive Engineer, Subdivisional Officer, and Deputy Commissioner, Nowgong, and that the Rai Sahib as a Mauzadar is threatening the Laloong coolies with attachment, if they would press for their dues ?

(b) If so, what action has been taken by the Executive Engineer and Subdivisional Officer, to redress the grievances of the Laloong sub-contractors and coolies ?

216. Will Government be pleased to state the number of contractors under the Public Works Department, from the Tribal people residing in the district of Nowgong, Assam ?

217. If there is none, do Government propose to give all kinds of facilities to the Tribal people in the matter of contracts when tendered for ?

218. With a view to safeguard the interests of the ordinary people specially the Laloongs, the Kacharies and the Mikirs, will Government be pleased to see that no contracts are given indiscriminately in contravention of the rules and regulations obtaining therefor ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA replied :

213.—Contracts were given to these contractors. A paternal uncle of one of the contractors married two sisters of the Executive Engineer and the last wife died in 1910. There is no surviving issue of either marriage so the relationship is extremely distant.

214.—They are both new contractors living in the Nowgong district. The contracts were for the supply of boulders. One contractor was short in his supply by 6,000 C.ft. out of 48,500 and the other by 1,750 out of 13,000 C.ft.

SRIJUT HALADHAR BHUYAN : Are Government aware that because of this distant relationship the Rai Sahib contractor defied all orders and instructions and ignored the suggestion of the Subdivisional Officer, Nowgong, and the Executive Engineer knowing it, connived at all these, and that is why the contractor failed to complete the work ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : No, Sir, Government do not admit any of the allegations put forward by the hon. member.

SRIJUT HALADHAR BHUYAN : Will Government take it from me that it is a fact ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : No, Sir, I won't take it as a fact.

SRIJUT HALADHAR BHUYAN : Will Government please enquire into the matter ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : If the hon. member sends all the details of the matter, I will send them to the Executive Engineer for an explanation. I cannot condemn the Executive Engineer without hearing him. My hon. friend has just now made these allegations, and they will be in the proceedings. I will send them to him for a reply.

215. (a)—Government have no information in the matter and no such partnership was recognised by the Executive Engineer. Some complaints were received by the Executive Engineer about non-payment. Government have no information about any alleged intimidation, or any complaint to Deputy Commissioner. A reference has been made to him and his reply is awaited.

(b)—The Executive Engineer and the Subdivisional Officer advised an amicable settlement of the claim but cannot interfere in any other manner between a contractor and his labourers.

216.—None at present.

217.—As no tenders have been received from such people since 1936 there can be no question of giving them contracts. When tenders are received they will be considered along with others.

218.—The question is not understood. Government have no reason to believe that contracts are being given in any other way than in accordance with Government orders.

Charging of Chain-fee in Mechpara and Bijni Raj Wards Estates

MAULAVI MATIOR RAHMAN MIA asked :

219. Will the Hon'ble Minister in charge be pleased to state whether it is a fact that for measuring any land at the time of mutation in the Mechpara and the Bijni Raj Wards Estates, Officers demand a Chain-fee ?

220. Is it a fact that no measurement is done till the Chain-fee is paid ?

221. Is it a fact that in cases in which no such fee is paid a good number of boundary disputes arise ?

222. (a) Is it a fact that due to boundary disputes many double settlements take place in the Bijni and Mechpara Wards Estates ?

(b) If so, will Government please state whether it is a fact that as a consequence there has happened many riotings, rioting attended by murder and endless quarrels and litigations in Dhubri and Goalpara courts ?

223. If the replies to (a) and (b) above are in the negative, will Government please state whether Government propose to enquire into these allegations against the Mechpara and the Bijni Raj Wards Estates ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI replied :

219.—No fee known as "Chain fee" is charged by any of the Wards Estates. A survey fee is, however, realised by the Estates on all petitions according to the custom prevailing from pre-Court time.

220.—No petition is entertained without the fee and no survey undertaken until the said fee is paid.

221.—The survey fee has nothing to do with boundary disputes.

222. (a)—No.

(b)—Government have no such information.

223.—In the absence of any specific case an enquiry is not possible.

Dismissal of some forest guards in Mechpara Wards Estate

MAULAVI MATIOR RAHMAN MIA asked :

224. Will the Minister in charge of Revenue be pleased to state—

(a) the number of Muhammadan Forest Guards dismissed by Srijut Banamali Das, during his tenure of office as Sub-Manager of the Mechpara Wards Estate ?

(b) the number of allegations made out against each of the Guards who were dismissed ?

(c) the amount of pay Srijut Banamali Das is receiving as Sub-Manager of the Mechpara Wards Estate ?

(d) whether Srijut Banamali Das has been appointed after his retirement from Government service ?

(e) whether any certificate of his physical fitness was called for at the time of his present appointment ?

(f) if not, why not ?

(g) how much does he receive as his pension from Government ?

(h) what is the present age of the said Sub-Manager Srijut Banamali Das ?

(i) how long did he serve in Government service ?

- (j) when he is due to retire from the Mechpara Wards Estate service ?
 (k) whether the post of Forest Sub-Managership in Mechpara Wards Estate is reckoned as a post with outdoor duties ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI replied :

224. (a)—One Muhammadan Forest Guard was removed from estate service by the Manager and not by the Forest Sub-Manager.

(b)—Assuming that the word "Allegation" is used for conveying the idea of "Charges framed", the Forest Guard was found guilty of—

(a) Insubordination.

(b) Neglect of duty.

and (c) Submission of false diaries.

(c)—Rs. 90 per month.

(d)—Yes.

(e)—Yes.

(f)—Does not arise.

(g)—Rs. 50 a month.

(h)—55 years.

(i)—For a period of 25 years and five months.

(j)—When the Estate is in a position to dispense with his services.

(k)—Yes.

MAULAVI MUHAMMAD AMJAD ALI : May I know whether it is within the Civil Service Rules that a pensioner, when re-appointed in a Government concern, cannot get more salary as pension and his new emoluments than his original pay ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : That may be so, Sir, but an officer of the Court of Wards is not a Government servant.

MAULAVI MUHAMMAD AMJAD ALI : Does he not come within the Government Servants' Conduct Rules ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : He is not a Government servant in full sense of the term.

MAULAVI MUHAMMAD AMJAD ALI : With regard to (h) and (k) how Government comes to regard a young man of 55 years to be still going strong, *i.e.*, for outdoor duties ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : That is a fact so far as the officer is concerned.

MAULAVI MUHAMMAD AMJAD ALI : May I know whether this state of things is still to continue ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : May I hear the question again, Sir, and to the question he is referring ?

MAULAVI MUHAMMAD AMJAD ALI : The answer to question 224(h) has been given that he is a man of 55 years. To this you can add (k) "whether the post of Forest Sub-Managership in Mechpara Wards Estate is reckoned as a post with outdoor duties". The answer is "Yes". That is, a man of 55 has been placed as an officer of the estate with outdoor duties. May I know how long this state of things will continue ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : I think I have replied that he will have to be kept on so long the estate requires his services and he is able to give that service.

MAULAVI MUHAMMAD AMJAD ALI: Does Government think that at the age of 55 or more he is still able to give the same service ?

THE HON'BLE THE SPEAKER: That is a question of opinion. The hon. member may think that a man of 55 is not capable of doing outdoor duties. Others may think otherwise.

MAULAVI MUHAMMAD AMJAD ALI: That is not a question of opinion, Sir. I beg to differ from you. A question of policy is involved. Government admits that a man of 55 must retire from service. I want to know whether Government thinks so in this particular case, and also in every other case ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: So far as this particular gentleman is concerned, his work has been found to be quite satisfactory, and he is able to discharge his duties although he is 55.

Amount realized as land revenue in Cachar for the years 1934-35, 1935-1936 and 1936-37

MR. ARUN KUMAR CHANDA asked :

225. Will Government be pleased to lay on the table a statement showing—

- (i) Land Revenue realized in Cachar during the years 1934-35, 1935-36 and 1936-37 separately ?
- (ii) Amounts realized for default of kists as Process fees separately, year by year, during the above period ?
- (iii) Number of mahals sold for default, year by year, during the above period ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI replied :

225.—A statement is laid on the table.

Statement showing the land revenue and process fees realised and number of estates sold for default during the three years 1934-35, 1935-36 and 1936-37 in Cachar.

| Year | Land Revenue realised | Amount realised for default of kists as process fees | Number of estates sold |
|---------|-----------------------|--|------------------------|
| | Rs. | Rs. | |
| 1934-35 | 7,37,757 | 20,276 | 32 |
| 1935-36 | 9,26,821 | 36,687 | 29 |
| 1936-37 | 8,97,439 | 30,301 | 49 |

MR. ARUN KUMAR CHANDA: Does not this statement indicate increasing adversity and diminishing prosperity in Cachar, Sir ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: The hon. member may draw his own inference.

MR. ARUN KUMAR CHANDA: What is the Government's inference, Sir? I have drawn my inference.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Government's inference about what ?

MR. ARUN KUMAR CHANDA: About this statement. Does not this substantiate my inference that it indicates increasing adversity and diminishing prosperity in Cachar ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : I am not in a position to come to this conclusion, because there are various factors to be taken into account.

MR. ARUN KUMAR CHANDA : On this Statement as it stands ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : No, Sir. Not on this alone.

Framing of rules by the Bengal Public Service Commission regarding Judicial Service under the Calcutta High Court

MAULAVI DEWAN MUHAMMAD AHBAB CHAUDHURY asked :

226. Are Government aware of the fact—

- (a) That the Bengal Public Service Commission is at present framing rules and regulations regarding the Judicial Service under the Hon'ble Calcutta High Court ?
- (b) That the province of Assam is at present underrepresented in that Service ?
- (c) If so, do Government propose to move the proper authorities to fix a proportion to the total number of appointments in the Judicial Service under the Hon'ble Calcutta High Court, reserved for this province ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI replied :

226. (a)—Yes.

(b)—It is somewhat underrepresented, since against 12 posts held in the Sylhet district by officers of the Bengal Judicial Service, 8 similar posts are held elsewhere in Bengal by men from Assam.

(c)—The whole matter is under consideration.

MAULALI DEWAN MUHAMMED AHBAB CHAUDHURY : Sir, will the Hon'ble Minister in charge of law be pleased to state whether he has prepared any scheme and has sent to the Government of Bengal for reservation of appointment for this province in the Judicial service under the Hon'ble Calcutta High Court ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : Sir, as regards that matter, we have written to the Government of Bengal that we should be informed when the next vacancies are going to be filled up in consultation with the Bengal Public Service Commission.

MAULAVI DEWAN MUHAMMED AHBAB CHAUDHURY : I have not heard the Hon'ble Minister.

MAULAVI MUNAWWAR ALI : The Hon'ble Minister is requested to answer facing the hon. member ?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : That cannot be done Sir. He must face the Hon'ble Speaker.

MAULAVI DEWAN MUHAMMAD AHBAB CHAUDHURY : Will the Hon'ble Minister please repeat his reply as I have not heard ?

MAULAVI MUNAWWAR ALI : I hope the Hon'ble Minister will be as loud as he was while crying out his big 'no' (hear ! hear !)

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : Will the hon. member please repeat his question ?

MAULAVI DEWAN MUHAMMAD AHBAB CHAUDHURY : Will the Hon'ble Minister in charge of law be pleased to state whether he has prepared

any scheme and sent to the Government of Bengal regarding reservation of appointment in this province of Assam in the Judicial service under the Hon'ble Calcutta High Court ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: We are drawing up a scheme for our separate Judicial service in Assam and so far as the filling up of the future vacancies are concerned the Government of Bengal has been requested to inform us so that we may request them to give our representation in this matter.

MAULAVI MUNAWWAR ALI: May we know the number of posts which the Hon'ble Minister is demanding from the Government of Bengal ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: We have not yet demanded for any particular number but we may draw the attention of the Government of Bengal that we are entitled to get four posts more in the Judicial service.

MAULAVI DEWAN MUHAMMAD AHBAB CHAUDHURY: Has Government written to the Government of Bengal about this ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: The question about appointment has not yet arisen.

MAULAVI ASHRAFUDDIN MD. CHAUDHURY: Is the Hon'ble Minister aware of the fact that there are twelve posts to be filled up by candidates from this province and at the same time, pay of the officers coming from Bengal is much higher in comparison with the officers from Assam who are employed in Judicial Service ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: I have no information Sir.

Number of Physical Instructors in the Province

MAULAVI ABDUL BARI CHAUDHURY asked :

227. Will the Hon'ble Minister in charge of Education be pleased to state—

- (1) How many physical instructors are there in the province ?
- (2) What is their scale of pay ?
- (3) Whether they are eligible for promotion in class II of the Assam School Service ?
- (4) If not, do Government propose to create a selection grade or upper division service for the physical instructors ?

228. Is it a fact that the Physical Instructors are to carry out greater amount of out-door duties than the Sub-Inspectors of Schools ?

229. Is it a fact that the Physical Instructors are not allowed any peon while the Sub-Inspectors of Schools have such peons ?

230. Do Government propose to provide the physical instructors with peons in consideration of their strenuous out-door Services ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED replied :

227. (1)—Five.
- (2)—Rupees 75—5—125—5—175—5—200 plus a special pay of Rs. 25 per month.
- (3)—No.
- (4)—No.

MAULAVI ABDUR RAHMAN: Is the Hon'ble Minister aware that the number of Physical Instructors is insufficient in view of the bulk of work that is done by these five Instructors ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : It has not proved to be insufficient.

MAULAVI DEWAN MUHAMMAD AHBAB CHAUDHURY : What is the number of Muhammadans out of five Physical Instructors ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : I have not got that information Sir. I want notice of that question.

MAULAVI DEWAN MUHAMMAD AHBAB CHAUDHURY : I want a reply to my question Sir.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : He has already replied that he wants notice of that question.

228.—No.

229.—Yes.

230.—The provision of peons for these instructors is not regarded as a matter of imperative necessity and must await better times.

MAULAVI ABDUR RAHMAN : Is there any scope for promotion of these Officers ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : The question is not clear Sir.

MAULAVI ABDUR RAHMAN : All other officers in Class III of the Assam School service have got scope for promotion. Now may I know whether these Physical Instructors have got any scope for promotion ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : The reply is given with reference to question 227 (3).

Re appointment of Jurors

MR. NABA KUMAR DATTA asked :

231. Will Government please state the qualifications that are considered in the appointment of Jurors in the province ?

232. Do Government propose to take immediate steps to remodel the system of appointing Jurors so as to secure the services of literate and responsible persons ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI replied :

231.—The hon. member is referred to sections 319 and 320 of the Code of Criminal Procedure.

232.—The existing provisions of law, especially sections 277 and 278 of the Code of Criminal Procedure, are considered to be sufficient for the purpose. Government is, however, prepared to consider any reasonable suggestion that may be put forward.

MR. NABA KUMAR DATTA : May I know who selects the jurors ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : That is not the question Sir.

MR. NABA KUMAR DATTA : May I know what is the minimum qualification fixed for the Jurors ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : The hon. member is referred to sections 319 and 320 of the Code of Criminal Procedure, as the qualifications are laid down there.

MAULAVI ASHRAFUDDIN MD. CHAUDHURI : Sir, no qualification is laid down in those sections referred to by Hon'ble Minister.

MR. NABA KUMAR DATTA: Sir, is it a fact that the Deputy Commissioners at the time of selecting the Jurors consult with the Government Pleaders and Police Officers?

MAULAVI ASHRAFUDDIN MD. CHAUDHURI: Sir, I have not got my reply. The Hon'ble Minister has referred us to sections 319 and 320 but so far as my information goes these sections rather defines disqualification rather than definite qualification laid down for the Jurors?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: I would advise the hon. member to read those sections again.

MR. NABA KUMAR DATTA: Sir, is it not a fact that the Deputy Commissioners consult the Government Pleaders and Police Officers while selecting Jurors?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: The procedure is that the Deputy Commissioners or the Senior Magistrates consult with the Government Pleaders and not with the Police Officers, and any suggestion that may be put forward by the Bar Association is also taken into account.

KUMAR AJIT NARAYAN DEV: Sir, is it a fact that the list of Jurors is supplied either by the Sub-Inspectors of Police or Inspectors of Police?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: It may be so Sir, that the Sub-Inspectors or Inspectors of Police or Mauzadars may be asked to submit preliminary list but it is not final. The final list of Jurors is prepared in consultation with the Government Pleaders and any suggestion made by the Bar Association is taken into consideration.

MAULAVI DEWAN MUHAMMAD AHBAB CHAUDHURY: Is it a fact that respectable persons do not like to be enlisted as Jurors?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Such instances are very rare. On the other hand there is rather anxiety to serve as Jurors.

MAULAVI ABDUR RAHMAN: May we know who finally approves the list of the Jurors.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: I think the District Judge finally approves the list of the Jurors.

MAULAVI GHYASUDDIN AHMED: Sir, do Government know that the Bar Associations are never consulted?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: I believe the list is hung up and any suggestion that is made by anybody or any member of the Bar is duly taken into consideration.

MAULAVI ABDUR RAHMAN: Is it a fact that there is a general complaint of public against the selection of Jurors?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: By the Jurors?

MAULAVI ABDUR RAHMAN: No Sir. There is a general complaint from the public against the selection of the Jurors.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: No such complaint has come to my notice.

MAULAVI ASHRAFUDDIN MD. CHAUDHURY: Is the Hon'ble Minister aware of that the system of Monday Jurors are prevalent in the district of Sylhet?

THE HON'BLE THE SPEAKER: What does the hon. member mean by 'Monday Jurors'?

MAULAVI ASHRAFUDDIN MD. CHAUDHURY: Monday Jurors mean those who are always ready to be taken whenever there is any want of Jurors.

THE HON'BLE THE SPEAKER: I find the hon. member is going to supply information.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: I thank the hon. member for supplying this information.

MAULAVI ASHRAFUDDIN MD. CHAUDHURY: He also invites some suggestion.

MAULAVI ABDUR RAHMAN: Will the Hon'ble Minister prepare a scheme or adopt certain means so that the Jurors can be selected in a better way.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: I can do all that is prescribed by the Criminal Procedure Code and not more than that.

KHAN SAHIB MAULAVI SAYIDUR RAHMAN: Sir, it will be better if the opinion of the Bar Association is obtained before the appointment of the Jurors?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: I shall consider that suggestion.

THE HON'BLE THE SPEAKER: Order, order.

Enquiry as to the receipt of replies to questions

SRIJUT MAHADEV SARMA: Sir, I put a few short notice question some days back. May I expect to get the reply to these questions tomorrow?

THE HON'BLE THE SPEAKER: Has the hon. member got the consent of the Minister in charge about his question?

SRIJUT MAHADEV SARMA: The consent of the Hon'ble Minister has already been obtained and the questions are admitted.

THE HON'BLE THE SPEAKER: Then, of course, the question may come up to tomorrow but I cannot give any definite assurance about it as it depends upon the Government.

BABU RABINDRA NATH ADITYA: Sir, most of the important questions both starred and unstarred have not been answered as yet. Is it the intention of the Government to put them off for the last day in order to evade supplementary question?

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: No Sir. As regards those questions which can be answered from the head-quarter, we are doing our best to answer them but as regards the questions that require reference to the Subdivisions or districts, it will not be possible for us to get their replies in such a short time in which we have got notices of the questions.

SRIJUT KAMESWAR DAS: On a point of information, Sir. I put nine questions in the last budget session of the Assembly, they were admitted, but remained unanswered. I again put the same questions in this session of the Assembly also, and although they have been admitted none of them have been as yet answered.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA: Is it a question of the Pathisala Feeder Road?

SRIJUT KAMESWAR DAS: No, Sir, not that.

BABU SHIBENDRA CHANDRA BISWAS: A short notice question of mine was also admitted but is unfortunately not going to be answered.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA :
Is it with reference to the attitude of the Subdivisional Officer of Habiganj ?

BABU SHIBENDRA CHANDRA BISWAS : Yes, Sir.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA :
We got the question very late und have called for information. It will take some time before we get a reply.

MAULAVI ABDUR RAHMAN : Sir, my questions also have not been replied.

THE HON'BLE THE SPEAKER : Hon. members will please note that I will not be able to deal with these complaints just now. If they have any complaints to make they should do so in writing so that I may give answers to them later.

MAULAVI ABDUR RAHMAN : Only one word, Sir. In the last session I put some questions regarding certain matters about the Habiganj Court. I was informed that these answers were obtained from the Subdivisional Officer of Habiganj during the last session, but they were not supplied during the last session. Then I put similar questions during this session which were admitted, and that was done three weeks before I started for Shillong, but unfortunately none of the questions have come up in this session also, and no other questions of mine have been answered too.

THE HON'BLE THE SPEAKER : The Hon'ble the Chief Minister has already explained the cause of delay.

MAULAVI JAHANUDDIN AHMED : Sir, I had some questions which refer to the headquarters and could have been answered from here ; it refers to the Public Service Commission ; but I have not got a reply yet.

THE HON'BLE THE SPEAKER : Hon. members should realise that I cannot compel the Government to answer these questions. I can only urge upon their attention to submit answers, but if the Government fail to do so I cannot compel them.

MAULAVI JAHANUDDIN AHMED : Sir, I asked some questions about two months ago, but I have not got an answer yet. The question was regarding the nomination of some candidates in the Education Department by the Public Service Commission and their appointment.

SRIJUT DEBESWAR SARMAH : There was another important matter. A motion was tabled by hon. Srijut Mahadev Sarma in connection with forthcoming Local Board elections. May we be enlightened by the Hon'ble Minister on the subject ?

THE HON'BLE THE SPEAKER : I have already said that I cannot compel the Government to give a reply.

SRIJUT DEBESWAR SARMAH : Will the Hon'ble Minister for Local Self-Government please give a reply. The matter is very urgent.

THE HON'BLE THE SPEAKER : The hon. member says that a motion was tabled in connection with ballot voting in the next Local Board election. The hon. member wants to know whether the Hon'ble Minister has given his consent.

THE HON'BLE REV. J. J. M. NICHOLS-ROY : I have already said that we have no objection. It may be discussed by the House.

SRIJUT DEBESWAR SARMAH : To-day or to-morrow ?

THE HON'BLE REV. J. J. M. NICHOLS-ROY : We can discuss this even to-day. I have no objection.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA :
Tomorrow is a Government day, but I can get orders from His Excellency to take this matter up after we finish with Government business.

SRIJUT DEBESWAR SARMAH: The Hon'ble Minister for Local Self-Government has said that he has no objection to the matter being discussed to-day.

THE HON'BLE THE SPEAKER: I cannot allow that question to be taken up to-day because I have got Bills to-day.

**ADJOURNMENT MOTION *RE* LEASING OUT A PLOT OF LAND
IN MOUZA RAMPUR, TEZPUR TO MR. HIMATSINGKA
FOR BUILDING PURPOSES**

SRIJUT BELIRAM DAS: Mr. Speaker, Sir, I have got an adjournment motion to move to-day.

THE HON'BLE THE SPEAKER: Will the hon. member read his motion?

SRIJUT BELIRAM DAS: The motion is:—

This Assembly do now adjourn for the purpose of discussing a definite matter of urgent public importance namely—the leasing out by Government to a capitalist Mr. Himatsingka for the purpose of constructing a permanent building a plot of land in mouza Rampur, village Tezpur, Kukurmara Depot, district Kamrup, measuring approximately one bigha, so long used as a place for mooring boats and stocking timber by general public.

THE HON'BLE THE SPEAKER: What are the grounds of censure?

SRIJUT BELIRAM DAS: This place has been used for the purpose of stocking timber and for mooring boats by the timber merchants of Goalpara and Kamrup, and boats from outside Assam also, coming generally, from Bengal are moored here, and the people purchase timber from there. On account of leasing this place out to Himatsingka for the construction of a permanent building, the people have not got a suitable place to moor their boats or to stock their timber, and these people have been put to great difficulty. It is a matter of urgent public importance and I only got information of the fact on the 15th December, 1937.

THE HON'BLE THE SPEAKER: When did the occurrence take place?

SRIJUT BELIRAM DAS: I do not know that, Sir. I know that on the 13th December the people came to learn that Mr. Himatsingka has employed some labourers to erect the plinth of the house, and it is understood that he is going to have it finished within a month.

THE HON'BLE THE SPEAKER: Have the people submitted any representation to Government?

SRIJUT BELIRAM DAS: They have sent news to the press, but it is not yet published. I myself received the information on the 15th instant and I have no information whether they have moved the Government. There is a great resentment in the locality and the people of both the districts are concerned in this matter. Moreover if the House is once erected it will be difficult to eject him without paying heavy compensation.

THE HON'BLE THE SPEAKER: In the motion the words 'foreign capitalist' have been included. In that case it was not necessary to have mentioned them.

SRIJUT DEBESWAR SARMAH: That is incidental, Sir.

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : May I know from the hon. mover of the adjournment motion whether the land has already been taken possession of by this Himatsingka and what the full name of this gentleman is ?

THE HON'BLE THE SPEAKER : When was the site given out ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : It has already been given.

THE HON'BLE THE SPEAKER : What is the date ?

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : I wish to ask the hon. mover of this adjournment motion to know from him whether it has been already leased out and what the full name of this Himatsingka is, whether he has taken possession of the land.

SRIJUT DEBESWAR SARMAH : It is for the Government to say that. Does Government deny this lease ? If so the whole thing falls to the ground.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : The Hon'ble Minister in charge wants to know the full name of the gentleman.

SRIJUT DEBESWAR SARMAH : What ? Himatsingka is not known ? His name is a byword here about.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : There are more than one Himatsingka. That is why the full name is wanted.

SRIJUT BELI RAM DAS : His name is Babu Ramkumar Himatsingka.

THE HON'BLE THE SPEAKER : I have heard the hon. member who has tabled the adjournment motion and the Minister in charge.....

THE HON'BLE MAULAVI SAYID SIR MUHAMMAD SAADULLA : The Minister in charge has not made any statement yet, Sir.

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : Sir, our recent information is that there is feeling that the particular gentleman Himatsingka is gradually acquiring some sort of monopoly. On Friday last some Assamese traders made a petition to me against some cases of sale that were pending. I at once issued stay orders pending enquiry. This case was not mentioned in the petition and I do not know anything about it, whether it is of recent occurrence or not, or it is of public importance and whether the settlement has already been made and land taken possession of by Himatsingka. I need hardly say that Government are always prepared to see that no undue favouritism is shown to any particular person specially to the prejudice of suitable local traders. I may give the assurance to the hon. mover to this effect and this case can be enquired into as I have already enquired into the other case and issued orders.

SRIJUT DEBESWAR SARMAH : On a point of information, Sir. Will the Hon'ble Minister be pleased to state whether settlement of the land has been made with Himatsingka or not and what his policy would be in that respect ?

THE HON'BLE THE SPEAKER : He said he will enquire into that if there is anything. The point now is whether the hon. mover who tabled this motion is satisfied with the assurance or not.

SRIJUT LAKSHESVAR BOROOAH : Will the Hon'ble Minister be pleased to state whether the progress of construction of the house be stayed in the meanwhile ?

THE HON'BLE SHAMSUL-ULAMA MAULANA ABU NASR MD. WAHEED : I cannot give that assurance because this is a question of law. I do not

know yet whether the land has been taken possession of or not and whether under law we can cancel or not, if so desired.

SRIJUT LAKSHESVAR BOROOAH : The progress of the construction of the house can be stayed in the meantime pending the enquiry.

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : As I have said, this is a question of law and whether Government can do it or not has to be looked into.

SRIJUT DEBESWAR SARMAH : Has it not yet been enquired or thought of.

THE HON'BLE SHAMS-UL-ULAMA MAULANA ABU NASR MD. WAHEED : As I said, I shall enquire into the matter and do what is needed.

SRIJUT DEBESWAR SARMAH : May we not hear from the Hon'ble the Chief Minister, Sir ?

SRIJUT LAKSHESVAR BOROOAH : What I submit is, Sir, whether the Hon'ble Minister will give us an assurance whether he would stay the progress of the construction of the house pending the enquiry ?

RAI BAHADUR PROMODE CHANDRA DATTA : The answer has been given twice.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : My name has been mentioned, Sir. The position is that three or four days ago, I had a deputation from the indigenous Assamese contractors of the Forest Department hailing from Kukurmara and other places. I think the person named in the adjournment motion comes from the same area. I referred the deputationists to my Hon'ble Colleague who is the Minister in Charge. Those people had not a single word to say as regards the particular person Ramkumar Himatsingka. Suitable action on the grievances which they alleged have been taken by my Hon'ble Colleague and the position of Government in this matter is this. We have not been enlightened by the hon. mover or any one what the exact position is. Orders should be passed by Government settling this land on Ramkumar Himatsingka after the land has been settled by the Forest Department on a periodical or an annual patta. If possession had been taken and if he is constructing the building, I do not think under law we can do anything in the matter, without being liable to payment of compensation or damages. My Hon'ble Colleague has said that he has got notice of this adjournment motion and that he will enquire whether there is any bar for the Government just now to cancel the right that has been already given. If Government has that right the matter will be further looked into carefully and my Hon'ble Colleague has said that he will try to stay the erection of the building.

SRIJUT BELIRAM DAS : My information is that only the plinth is being erected and the construction has not been taken up.

THE HON'BLE MAULAVI SAIYID SIR MUHAMMAD SAADULLA : We can do nothing until we see what title he has acquired up till now. That we will have to enquire into.

SRIJUT BELIRAM DAS : In view of the assurance given that the matter will be enquired into and if possible the lease will be cancelled, I do not wish to press the adjournment motion.

THE HON'BLE THE SPEAKER : In view of the fact that the hon. mover does not want to press his adjournment motion on the assurance that has been given by the Hon'ble Minister in Charge, it is not necessary for me to decide whether the motion is in order or not. The motion stands withdrawn.

THE ASSAM MUNICIPAL (REMOVAL OF FEMALE INELIGIBILITY) AMENDMENT BILL, 1937

THE HON'BLE THE SPEAKER: The next item is that the Assam Municipal (Removal of Female Ineligibility) Amendment Bill, 1937, introduced and as passed by the Legislative Council be taken into consideration, clause by clause. I see that there is no amendment tabled to any of the clauses of the Bill. So under the rules I can at once put this Bill before the House for being passed. The hon. member Miss Mavis Dunn may move that the Bill be now passed.

MISS MAVIS DUNN: I beg to move that the Assam Municipal (Removal of Female Ineligibility) Amendment Bill, 1937 be passed into law.

THE HON'BLE THE SPEAKER: The motion moved is that the Assam Municipal (Removal of Female Ineligibility) Amendment Bill, 1937, introduced and as passed by the Legislative Council be passed.

BABU RABINDRA NATH ADITYA: Mr Speaker, Sir, I will only add a few words (*laughter*). It is really gratifying to note that the paternity of this Bill goes to the House of elders. It shows that age has not killed the creative energy of our elders (*loud laughter*). Now the maternity for the Bill is with this House, because here it will take the final shape before it sees the light of the day.

In this particular Bill we the different groups have sunk all our differences and all are unanimous in support of the Bill as we were unanimous on the question of our claims for the duty on oil and I think my hon. friend Mr. Fleming the King of the Assam oil will agree with us. I thank Miss Dunn for the labour she undertook (*loud laughter*) in sponsoring the Bill to the House. I hope Miss Dunn's efforts won't be undone if our womenfolk take due part in politics. With these words I support the Bill.

THE HON'BLE THE SPEAKER: I want those members to speak who oppose the Bill. (After a pause) As there is no opposition I put the question.

The question is that the Assam Municipal (Removal of Female Ineligibility) Amendment Bill, 1937 introduced and passed by the Assam Legislative Council be passed.

The motion was carried and the Bill passed.

THE SYLHET TOWN TENANCY BILL, 1937

CLAUSE 12

Then comes the consideration of the Sylhet Town Tenancy Bill, 1937, clause by clause.

When we dispersed the other day we were on clause 12. I think we have disposed of the amendments on that clause and if there is any amendment remaining to be disposed of hon. members will please tell me. Regarding amendment No.21 standing in the name of Mr. Baidya Nath Mookerjee, I do not know whether he said that he would like to move the amendment.

MR. BAIDYA NATH MOOKERJEE: I was going to move but I do not want to move now.

THE HON'BLE THE SPEAKER: Hon. members will please scrutinise the list and tell me what amendments they want to move. As far as I have seen there is no amendment to be disposed of under this clause; but I may be mistaken and therefore I ask the hon. members to scrutinise them.

Then I am putting the clause. The question is that clause 12 as amended do form part of the Bill.

The motion is carried and the clause as amended forms part of the Bill

CLAUSE 13

Then we come to clause 13. There are 14 amendments under this clause. As I have analysed, I find that practically there are two amendments. Is it not so? The first amendment stands in the name of Babu Karuna Sindhu Roy.

[Amendments from (i) to (ix) were not moved.]

BABU RABINDRA NATH ADITYA: Sir, I beg to move that in proviso (a) of sub-clause (ii) of clause 13 the words "ordinarily and five annas in special cases" be omitted.

Sir, it has not been defined here what the special cases are. The distinction between special and general is rather vague and there is a very likelihood of 'special' encroaching upon 'general' and 'general' upon 'special'. Therefore I think that in order to avoid ambiguity and litigation these words should be deleted. With these words I move the motion for the acceptance of the House.

THE HON'BLE THE SPEAKER: The question is that in proviso (a) of sub-clause (ii) of clause 13 the words "ordinarily and five annas in special cases" be omitted.

MAULAVI MABARAK ALI: Mr. Speaker, Sir, I rise to support the amendment. It is laid down that in special cases it shall be five annas. But that will make every case a special case and there will be no ordinary case. Only on this point I support the amendment.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: I have no particular objection if the House wants to delete this clause.

THE HON'BLE THE SPEAKER: I am putting the amendment to the vote—"That in proviso (a) of sub-clause (ii) of clause 13 the words "ordinarily and five annas in special cases" be omitted".

The motion was put and carried.

[Amendments (xi) and (xii) were not moved].

MR. BAIDYANATH MOOKERJEE: I beg, Sir, to move that in proviso (b) of sub-clause (ii) of clause 13 for the word 'twelve' the word 'five' be substituted. When we dealt with this matter in the Committee it was decided, Sir, that the occupancy right will be given to the tenants if they occupy that land for 12 years and accordingly in this place also where the word 'ten' appeared in the original Bill, 'ten' was changed into 'twelve' on the understanding and assurance given by the hon. members present in the Committee. Sir, now the situation has been changed.

MAULAVI MABARAK ALI: On a point of information, Sir. Will the hon. member put 'ten' in place of 'five'?

MR. BAIDYANATH MOOKERJEE: Sir, I am just going to pacify my friend who is so very anxious.

It was decided that in special cases the enhancement will be upto five annas. That also has been rejected. So there are two grounds—First, it was decided on the basis of clause 7 and on the basis of enhancement and on special case then. Two points which were unanimously decided there have been changed now. I appeal to this House that the enhancement should be now after every five years as a special case in the town lands. If the Court thinks proper it can refuse enhancement. This power has already been given to the Court. In proper cases they can refuse enhancement. So I do not find any reason why we should be afraid to substitute the years 'five' in place of 'twelve'. If the Court finds that there are not sufficient grounds to increase they will not increase. With these words Sir, I appeal to the House to consider all my points and hope that they will support my amendment.

THE HON'BLE THE SPEAKER : The motion moved is that in proviso (b) of sub-clause (ii) of clause 13 for the word 'twelve' the word 'five' be substituted.

MAULAVI MABARAK ALI : I rise to oppose the amendment of my friend Mr. Baidyanath Mookerjee. The Select Committee came to the conclusion that the right of occupancy will accrue after the lapse of 12 years. So they proposed that enhancement would be made after 12 years. But when this House has adopted a motion that occupancy right will accrue in the course of ten years, I suggest that in place of 'twelve' the word 'ten' be substituted.

THE HON'BLE THE SPEAKER : In that case the hon. member may formally move an amendment. I must tell the hon. member that if it is not accepted by the mover of the present amendment I think the hon. member will have some difficulty in having his amendment accepted.

MAULAVI MABARAK ALI : I beg to move that in clause 13, proviso (b), sub-clause (ii) the figure 'ten' be substituted in place of 'twelve.'

THE HON'BLE THE SPEAKER : I want to know whether the hon. mover will accept the amendment.

MR. BAIDYANATH MOOKERJEE : I accept the amendment.

THE HON'BLE THE SPEAKER : The question is that in proviso (b), sub-clause (ii) of clause 13 for the word 'twelve' the word, 'ten' be substituted.

The amendment was carried.

MR. BAIDYANATH MOOKERJEE : Sir, I beg to move that the 'full stop' after the word "cases" in the last line of proviso (c) to sub-clause (ii) of clause 13 be omitted and the words "but in deserving cases may enhance rent up to such an amount as in its discretion may be considered just and equitable" be added thereafter.

Sir, on special consideration of past services, friendship or indigenous circumstances of the tenants, landlords have granted leases on abnormally low rent or they have allowed tenants to occupy lands at abnormally low rent or even without any lease, Sir. If we give powers to the Court to refuse enhancement, I think we can rely on it and can give the power of enhancing in proper cases.

Sir, in the Committee also I put this question but it was decided that five annas in special cases should be given, but this has been thrown out.

Now, Sir, I appeal before the House that we can give this power to the Court to enhance in proper cases exceeding the limit which has already been prescribed in this Act. I do not like to say anything more. I hope the hon. members will consider my point favourably. I am not suggesting any fixed amount. I request that this power be given to Courts whenever they find it equitable and just to enhance the rent exceeding the limit provided in proviso (a).

THE HON'BLE THE SPEAKER : The motion moved is "That the 'full stop' after the word 'cases' in the last line of proviso (c) to sub-clause (ii) be omitted and the words 'but in deserving cases may enhance rent up to such an amount as in its discretion may be considered just and equitable' be added thereafter".

MAULAVI ABDUR RAHMAN : Sir, I have to say a word in regard to this amendment. The hon. mover wants by his amendment that the Court should exercise its discretion. But, Sir, from sub-clause (c) it is seen that this discretion is already given to the Court. This sub-clause says—"The Court may refuse to grant enhancement in proper cases." From this I think the Court has not only the power to enhance, but to decrease also whenever it finds just in proper cases.

MR. BAIDYANATH MOOKERJEE : Sir, I want enlightenment from the Chair as to whether what he is thinking is correct. Is it implied there, Sir ?

THE HON'BLE THE SPEAKER : Let the hon. member explain.

MAULAVI ABDUR RAHMAN : It is within the competence of the Court to refuse also. In some cases the Court has been given discretion and I do not think it infringes upon the right of the Court.

RAI BAHADUR PROMODE CHANDRA DATTA :—Sir, so far as the justice of the amendment is concerned, I am entirely at one with the hon. mover ; but the question is whether this would be consistent with proviso (a) where it is laid down that the enhancement cannot go beyond 3 annas.

SRIJUT GOPINATH BARDOLOI : It is inconsistent with that proviso, which has been accepted.

THE HON'BLE THE SPEAKER : It looks like that. Does the hon. member think that an inconsistent provision should be inserted in the Bill ?

MR. BAIDYANATH MOOKERJEE : I think, Sir, I am not responsible for it, because the unanimous decision has been overthrown. So I have been compelled to move this. It was so decided in the Select Committee.

THE HON'BLE THE SPEAKER : Does it appear so in the report of the Select Committee or in any note of dissent ? If it was really decided in the Select Committee, I do not understand why it was not incorporated in the Bill.

MR. BAIDYANATH MOOKERJEE : I mean the 5 annas question, Sir. My impression was that whatever would be decided in the Select Committee, which was a Committee elected by the hon. members of this House, would hold good here. But I am really disappointed to find that everything is going to be overthrown.

THE HON'BLE THE SPEAKER : Does the hon. member press his amendment ? Does it appear from the report of the Select Committee and the notes of dissent that this matter was pressed ?

MR. BAIDYANATH MOOKERJEE : Sir, in my note of dissent which you will find at page 5 of the Report :—I proposed to add the following after the word 'cases' in proviso (c). 'And may enhance rent up to such an amount as in its discretion may be considered just and equitable'.

THE HON'BLE THE SPEAKER : The hon. member should have also suggested the consequential change in sub-clause (a).

MR. BAIDYANATH MOOKERJEE : I think, Sir, as you suggested in a similar situation in the previous motion, you can assist me in this matter also.

THE HON'BLE THE SPEAKER : I cannot propose an amendment.

MR. BAIDYANATH MOOKERJEE : All right, Sir, I shall request some other hon. member to do so.

(After some time)

Sir, have I got your permission to move ?

THE HON'BLE THE SPEAKER : Permission is not necessary.

MR. BAIDYANATH MOOKERJEE : I beg to move, Sir, that the sub-clause (a) to the proviso may be substituted by the following :—“that the rent previously payable for the land shall not be enhanced by more than 3 annas in the rupee, but in deserving cases may be enhanced up to such an amount as in the discretion of the Court may be considered just and equitable.”

THE HON'BLE THE SPEAKER : We have disposed of that sub-clause and the motion was passed. I think the motion was for deletion of the words '3 annas ordinarily and 5 annas in special cases' and for the insertion of 3 annas in their stead.

SRIJUT GOPINATH BARDOLOI: Sir, as the clause stands now the hon. member cannot bring in an amendment even to clause (a) as he has done. If we look to the wording, I think the addition will make the clause meaningless. I will read the clause with the hon. member's amendment: "The Landlord may apply by a petition to the Court having jurisdiction to entertain a suit for ejection, to fix a reasonable rent for the occupation of the land by the tenant, and thereupon the Court shall, by its order, fix such rent as it deems reasonable, provided always that the rent previously payable for the land shall not be enhanced by more than 3 annas in the rupee". If after this my hon. friend's amendment is added it be confusing.

RAI BAHADUR PROMODE CHANDRA DATTA: As a matter of law, Sir, I have no objection. Probably as has been suggested another proviso may be added as follows: "The Court may in deserving cases give, etc."

THE HON'BLE THE SPEAKER: Then there is no necessity of introducing the words '3 annas' in sub-clause (a) as just moved by Mr. Mookerjee, if a separate proviso is to be added.

RAI BAHADUR PROMODE CHANDRA DATTA: It might be in these terms—Proviso (d)—The Court may in deserving cases enhance the rent up to....."

THE HON'BLE THE SPEAKER: Yes, that can be done.

RAI BAHADUR PROMODE CHANDRA DATTA: May I be permitted to move, Sir? "That after (c) proviso (d) be added to this effect: Notwithstanding anything contained in proviso (a) the Court may, in deserving cases, enhance rent up to such an amount as it may consider just and equitable".

THE HON'BLE THE SPEAKER: Does the hon. member agree to this change?

MR. BAIDYANATH MOOKERJEE: Yes, Sir, I am quite agreeable to the amendment moved by the hon. Rai Bahadur.

THE HON'BLE THE SPEAKER: Should it go down in the name of Rai Bahadur Promode Chandra Datta?

RAI BAHADUR PROMODE CHANDRA DUTTA: No, Sir, this amendment is not mine. I am just helping Mr. Mookerjee.

THE HON'BLE THE SPEAKER: Then the amendment as now altered by introducing some verbal changes stands like this: "That after proviso (c) of sub-clause (ii) of clause 13 the following new proviso be added—'(d) Notwithstanding anything contained in proviso (a) the Court may in deserving cases enhance rent up to such an amount as it may consider just and equitable". I think it does not alter the object of the amendment which was originally moved by Mr. Mookerjee. It only introduces some verbal changes in order to make it consistent with other amendments. So, I think the amendment should be allowed.

MAULAVI ABDUL AZIZ: But we are going beyond the Select Committee's amendment, Sir.

THE HON'BLE THE SPEAKER: The hon. member suggested this amendment in the Select Committee and, therefore, I think he is entitled to move this. It does not go outside the scope of the Bill.

SRIJUT GOPINATH BARDOLOI: It will yet continue to be complicated for the word "always" being there.

THE HON'BLE THE SPEAKER: But the word "notwithstanding" covers that.

BABU DAKSHINARANJAN GUPTA CHAUDHURI: But it makes the proviso far more cumbrous. In clause (ii) we find ".....Court

shall, by its order, fix such rent as it deems reasonable". That reasonableness has been limited by proviso (a), and then we come and say "equitable" and "reasonable" again. Does not the one contradict the other, Sir ?

THE HON'BLE THE SPEAKER : I have allowed the amendment to be moved like this. If any hon. member wants to oppose the amendment, he may speak on the subject.

MAULAVI MABARAK ALI : I oppose the amendment, Sir.

THE HON'BLE THE SPEAKER : The hon. member should give his reasons.

MAULAVI ASHRAFUDDIN MD. CHAUDHURI : He has no reasons, Sir.

KHAN SAHIB MAULAVI MUDABBIR HUSSAIN CHAUDHURY : Mr. Speaker, Sir, in opposing the amendment I give the following reasons.

First of all, Sir, in proviso (a) to sub-clause (ii) of clause 13, we have accepted the amendment "that the rent previously payable for the land shall not be enhanced by more than three annas in the rupee". Now, proviso (c) runs thus : "that the Court may refuse to grant enhancement in proper cases".

Now, Sir, the Court may grant enhancement of rent up to three annas in the rupee. From this it necessarily follows that beyond that Court should not have any power. The Legislature wants to give this much power to the Court that the Court may grant enhancement up to three annas in the rupee. Then another power is that in special and deserving cases the Court may refuse to grant this enhancement even. Now, if the amendment that has been moved by my hon. friend Mr. Baidyanath Mookerjee is accepted, this will give very wide powers to the Court and it will also reduce the force of proviso (a), which has been accepted by the House. That is, the Court has power of enhancement only up to three annas in the rupee ; beyond that the Court should not have power. By adding this amendment we are going to give unlimited power to the Court and what will be the result ? The result will be that every case is likely to be brought as a special case and the Court will have unlimited power in granting enhancement.

THE HON'BLE THE SPEAKER : Will not Court have unlimited power in refusing enhancement ?

KHAN SAHIB MAULAVI MUDABBIR HUSSAIN CHAUDHURY : Well, Sir, the Court may in deserving cases refuse to grant enhancement. Its power will vary from zero to 3 annas in the rupee.

THE HON'BLE THE SPEAKER : So, in deserving cases the Court may grant enhancement.

KHAN SAHIB MAULAVI MUDABBIR HUSSAIN CHAUDHURY : Then proviso (a) will be useless, Sir.

THE HON'BLE THE SPEAKER : Proviso (a) is also useless by reason of proviso (c).

KHAN SAHIB MAULAVI MUDABBIR HUSSAIN CHAUDHURY : Sir, the intention of the Legislature is that we give so much power to the Court—i.e., three annas in the rupee and not more. And we give this power to the Court that in deserving cases it may refuse to grant enhancement. That is the intention of the Legislature. We are not willing to give such power to the Court which would enable the Court, if it thinks fit, to give enhancement up to any amount it likes. And that is not the intention of the Legislature. In this view of the matter I oppose the amendment moved by my hon. friend Mr. Baidyanath Mookerjee.

THE HON'BLE THE SPEAKER: The hon. member will realise that this clause has been moved due to the onesidedness of the amendment.

MAULAVI MUNAWWAR ALI: Mr. Speaker, Sir, I have no manner of doubt in opposing this amendment because in the first place it creates confusion and the second place it gives scope to every landlord to take over the case to Court whatever the result may be. Sir, it militates against the very principles which this Bill has adumbrated. The tendency of the Bill is to limit the enhancement and not to increase. It is to put a limit to annas 3 and if this clause is accepted then the Court will be given unlimited power and it may raise it to annas 3, 5, 10, 20 or to any annas. The tendency of the entire Bill is to curtail the power of the Court and if this clause is accepted then unlimited power will be given to the Court and it will lay the axe at the root of the Bill.

The House was then adjourned to 2 p.m. for lunch.

After Lunch.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: Mr. Speaker, Sir, I have only a few words to say. I think it is a recognised principle of jurisprudence that the Court should not be deprived of its power of granting equitable relief. The amendment which my hon. friend Mr. Baidyanath Mookerjee has moved implies that the Court should be in a position in deserving cases to grant equitable relief. It has been laid down in the proviso to sub-clause (b) that the enhancement should not exceed 3 annas in a rupee. That is the general rule, but Mr. Mookerjee intends that the Court should have power to grant equitable relief in such cases, of which he has cited instances not only to-day but which he has also mentioned in his note of dissent. It has also been pointed out that the Court has power to grant enhancements in certain cases, but it has thought proper to have another proviso to provide that the Court can refuse enhancement in certain cases too. That shows that this piece of legislation intends to give power to the Court to grant equitable relief and to deny enhancement where the Court considers it proper. On the same ground I think it would be only fair to give the Court power to grant enhancements in excess of 3 annas where it considers equitable and just to do so.

I think the hon. mover of the Bill will realise the reasonableness of this amendment and accept it as a compromise.

THE HON'BLE THE SPEAKER: The amendment moved is: "that after proviso (c) of sub-clause (ii) of clause 13 the following new proviso be added:—

(d) Notwithstanding anything contained in proviso (a) the Court may in deserving cases enhance rent up to such an amount as it may consider just and equitable."

The House then divides as follows:—

AYES—20.

1. The Hon'ble Maulavi Saiyid Sir Muhammad Saadulla.
2. The Hon'ble Shams-ul-Ulama Maulana Abu Nasr Md. Waheed.
3. The Hon'ble Rev. J. J. M. Nichols-Roy.
4. The Hon'ble Srijut Rohini Kumar Chaudhuri.

NOES—53.

1. Babu Akshay Kumar Das.
2. Mr. Arun Kumar Chanda.
3. Babu Balaram Sircar.
4. Srijut Beliram Das.
5. Srijut Bhuban Chandra Gogoi.
6. Babu Bipin Behari Das.
7. Srijut Bipin Chandra Medhi.
8. Babu Dakshina Ranjan Gupta Chaudhuri.
9. Srijut Debeswar Sarmah.
10. Srijut Gaurikanta Talukdar.
11. Srijut Gopinath Bardoloi.

5. The Hon'ble Maulavi Md. Ali Haidar Khan.
6. Kumar Ajit Narayan Dev.
7. Mr. Baidyanath Mookerjee.
8. Babu Kamini Kumar Sen.
9. Dr. Mahendra Nath Saikia.
10. Mr. Naba Kumar Dutta.
11. Rai Bahadur Promode Chandra Dutt.
12. Srijut Purandar Sarmah.
13. Srijut Santosh Kumar Barua.
14. Col. A. B. Beddow.
15. Mr. W. Fleming.
16. Mr. F. W. Hockenhill.
17. Mr. D. B. H. Moore.
18. Mr. R. A. Palmer.
19. Srijut Bideshi Pan Tanti.
20. Mr. P. Parida.
21. Srijut Haladhar Bhuyan.
22. Babu Harendra Narayan Chaudhuri.
23. Srijut Jadav Prasad Chaliha.
24. Srijut Jogendra Chandra Nath.
25. Srijut Jogendra Nath Barua.
26. Srijut Jogeschandra Gohain.
27. Babu Kalachand Roy.
28. Babu Karuna Sindhu Roy.
29. Mr. Kedarmal Brahmin.
30. Babu Rabindra Nath Aditya.
31. Srijut Lakshesvar Borooah.
32. Babu Lalit Mohon Kar.
33. Srijut Mahadev Sarma.
34. Srijut Mahi Chandra Bora.
35. Srijut Omeo Kumar Das.
36. Srijut Purna Chandra Sarma.
37. Srijut Rajani Kanta Barooah.
38. Srijut Rajendra Nath Barua.
39. Srijut Sankar Chandra Barua.
40. Srijut Sarveswar Barua.
41. Babu Sibendra Chandra Biswas.
42. Srijut Siddhi Nath Sarma.
43. Maulavi Abdul Aziz.
44. Maulavi Abdul Bari Chaudhury.
45. Maulavi Abdul Matin Chaudhury.
46. Maulavi Md. Abdus Salam.
47. Maulavi Dewan Muhammad Ahabab Chaudhury.
48. Maulavi Muhammad Amiruddin.
49. Maulavi Muhammad Amjad Ali.
50. Maulavi Badaruddin Ahmed.
51. Khan Bahadur Dewan Eklimur Roza Chaudhury.
52. Mr. Fakhruddin Ali Ahmed.
53. Maulavi Jahanuddin Ahmed.
54. Maulavi Muhammad Maqbul Hussain Chawdhury.
55. Maulavi Matior Rahman Mia.
56. Maulavi Mabarak Ali.
57. Khan Sahib Maulavi Mudabbir Hussain Choudhury.
58. Khan Bahadur Maulavi Mufizur Rahman.
59. Maulavi Munawwar Ali.
60. Maulavi Naziruddin Ahmed.
61. Maulavi Sheikh Osman Ali Sadagar.
62. Khan Sahib Maulavi Sayidur Rahman.

The Ayes being 20 and the Noes 53, the amendment is lost.

THE HON'BLE THE SPEAKER: Then I think there is no other amendment to clause 13. The question that clause 13 as amended do form part of the Bill.

The question was put to the House and carried. Clause 13 as amended stood part of the Bill.

CLAUSE 14

THE HON'BLE THE SPEAKER: Now we come to clause 14. Amendments (i) to (vii) are really the same amendments standing in the names of different hon. members. But in the same amendments really two amendments have been comprised. So I take up the first amendment which stands in the name of Babu Rabindra Nath Aditya.

BABU RABINDRA NATH ADITYA: Sir, I beg to withdraw the first part of my amendment. I beg to move only the second part.

THE HON'BLE THE SPEAKER: Then I ask the other hon. members as to what they will do in the case of their amendments from (ii) to (vii). (No response came out). Then am I to take it that no other members are going to move?

BABU RABINDRA NATH ADITYA: Sir, I beg to move that the words "up to a value of Rs. 1,000, provided that if the value exceeds Rs. 1,000 the excess shall be payable if the express consent of the landlord shall have been obtained to the erection of such building" in lines 5—9 of sub-clause (i) of clause 14 be omitted.

Sir, if this portion of the sub-clause is retained then practically it negatives the whole right that has been given to the tenant. Every one knows that in the town of Sylhet no one can build even an ordinary house for Rs. 1,000. So if one takes lease of a land for the purpose of building a house, that building will cost him not less than 2 to 3 thousand rupees; and if on ejection he is to give up his right over it only at Rs. 1,000 to be paid by the landlord, then it will be most unfair to the tenant.

MR. BAIDYANATH MOOKERJEE: On a point of information. Under what circumstances?

BABU RABINDRA NATH ADITYA: Whatever may be the circumstances, the fact remains that if the landlord is to pay only Rs. 1,000 for a building which was constructed for Rs. 3,000 by the tenant, then the landlord will surely get an unfair advantage over the tenant.

Secondly it deters the tenant from building better houses in the town, because those houses which have been built with much labour, energy and money will not fetch more than Rs. 1,000 on ejection.

MR. BAIDYA NATH MOOKERJEE: The statement is misleading.

BABU RABINDRA NATH ADITYA: Again no landlord would be ready to give consent to the tenant for making a better house. So the object for which the Bill was taken would be defeated if this part of the clause is retained.

Occupancy right means right for the free use of the land as the tenant likes, provide the land does not deteriorate in its value. But the restriction laid down by the Act kills all the incentive. So, I think, if this clause is deleted it will be a fair adjustment of rights both to the landlord as well as the tenant. If the landlord takes the house of the tenant the latter should get at least the market price. That is the only reason why this clause should be deleted, otherwise it would put a tenant to a penalty which he hardly deserves. With these words I beg to move my amendment to the acceptance of the House.

THE HON'BLE THE SPEAKER: The motion moved is that the words "up to a value of.....such building" in lines 5-9 of sub-clause (i) of clause 14 be omitted.

MAULAVI MAQBUL HUSSAIN CHAUDHURY: Mr. Speaker, Sir, I rise to support the amendment moved by my hon. friend Babu Rabin-dra Nath Aditya. Every one who is acquainted with the condition and gradual progress of growth of the town of Sylhet, knows full well that the development of the town was possible by the lease holders. It is not unknown to you, Sir, that a large part of the town was covered with jungles and a considerable portion of land was merely marshy land. These portions were abodes of mosquitoes. These lands have been developed by the leaseholders at the cost of efforts and money. Now if the compensation is limited to Rs.1,000, I think the growth of the town will be checked to a great extent. An ordinary house requires to be constructed at least at a cost of two to three thousand rupees. If a landlord is given the advantage of paying as compensation only Rs.1,000, I think, no body will come forward to spend for decent houses and this will hamper the progress of the growth of the town. It is generally said that the poor landlords will be in difficulty. I say it will not. The poor landlords do not create troubles. They are quite satisfied and friendly with the tenants if they only get their rents regularly. It is only the tremendously rich and influential Zeminders who try to disturb the relation between the tenants and the landlords. If this amendment is not accepted, I think, the Zeminders will have a sharp weapon to use against the tenants. The use of the words "up to a value of Rs.1,000.....such building" is restrictive and I think this should go. With these words I whole-heartedly support the amendment.

Mr. BAIDYANATH MOOKERJEE: I rise to oppose the amendment. I think both the mover of the amendment and the supporter did not care to go through the whole Bill. If somebody cares to look at the section it will be found that a person who has acquired the status of an occupancy tenant shall not be ejected from his holding except under the provisions of this Act. Now let us see what is the provision of this Act. Under what circumstances can an occupancy tenant be ejected? My friends have conveniently forgotten to inform the House under what circumstances an occupancy tenant can be ejected. When an arrear of rent remains due from an occupancy tenant at the end of any year of the tenancy such tenant shall be liable to be ejected from the land in respect of which the arrear is due; provided that no such tenant shall be ejected otherwise than in execution of a decree passed by a Civil Court for ejection on the ground of non-payment of arrears. So, Sir, it is quite evident that it is not the arbitrary power of the landlord. There is the Court behind. No such decree shall be executable if the tenant or any other person having an interest in the tenancy pays into Court the full amount of the decree including costs of execution, if any, within thirty days from the date of the signing of the decree or such further time as the Court may at the time of passing the decree allow. So, Sir, as soon as a decree is passed the tenant is not going to be ejected forthwith. Thirty days have been allowed in the Act and in some cases the Court has got discretion to enhance the time, if deemed proper. If we read section 10 we find that notwithstanding anything contained in the last preceding clauses an occupancy decree for ejection passed on the ground that he has used the land or any portion of it in a manner which materially impairs its value or renders it unfit for the purpose of the tenancy or on the ground that the tenant has incurred forfeiture on the breach of an express covenant in the lease not inconsistent with the provisions of this Act and on breach of which he is under the terms of a contract between himself and the landlord liable to be ejected.

Sir, it is quite evident that it is not at the sweet will of the landlord that a tenant can be ejected. I am sorry, Sir, that the hon. mover being a lawyer did not care to see all these things. It is quite evident that it is only due to the fault of the tenant and tenant alone that an occupancy tenant can be ejected. It is not due to the whim or due to any fault of the landlord that an occupancy tenant can be ejected. This point was discussed at good length in the Committee. If you kindly look at page 2 of the report of the Committee it will be found as pointed out then that this clause might operate very harshly against the poor landlords and cause them to be exploited by rich tenants erecting elaborate buildings on their land and possibly defaulting in their rent intentionally and it was, therefore, decided by a majority of eleven to four that the following words should be added. This point was considered at great length. Now, Sir, it is quite evident that if a landlord—it does not matter whether poor or rich—wants to eject an occupancy tenant there must be some default on the part of the tenant and not on the part of the landlord. So, Sir, I do not find any reason why a tenant who will wilfully stop payment of rent or will break some conditions of the contract entered into by both the parties should get assistance in this House. Sir, I think there is no justification for moving this amendment and Sir, the motive behind it is anything but straight forward. With these words I oppose the amendment.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: I think, Sir, it is clear to the House that this amendment is most unreasonable of all the amendments that have been put forward. If the tenant becomes a wilful defaulter in payment of rent the landlord obtains a decree of ejectment and if the tenant happens to build up magnificent buildings then the landlord will be called upon to pay compensation. Now it may be that the particular landlord may be in indigent circumstances, *e. g.*, a widow, and the tenant may be a rich person and he deliberately refuses to pay his rent year after year. There is the order for ejectment. The widow will have to pay all this money and would be driven to a very helpless position. We know from our own experience that there are many instances where the widow who had seen better days has been reduced to comparative poverty. If the man refuses to pay rent, a suit of ejectment will be brought but that decree will be meaningless. Again that tenant may make a condition which is agreed upon, namely not to dig a tank on the land and in defiance of that condition a tank is dug there. Suppose the landlord wants to eject him, and ejectment decree is passed, but because he cannot pay compensation, he cannot be ejected.

In the Select Committee this was fully discussed. We find that 11 were in favour of this amendment and 4 only against. We do not find from the note of dissent which was submitted by Babu Karuna Sindhu Roy, Babu Akshay Kumar Das, Maulavi Abdul Matin Chaudhuri that they did object to this amendment at all.

BABU KARUNA SINDHU ROY. In my additional note.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: That portion has now been omitted.

So I would request the House that in order to get the benefit of some of the clauses in this Bill such extreme amendment should not be pressed.

BABU DAKSHINA RANJAN GUPTA CHAUDHURY: Sir, I only want to speak on two aspects of the question as dealt with by my friends Mr. Mookerjee and the Hon'ble the Revenue Minister. They both say that the landlord will not be able to realise rent. But there are other procedures by which the rent can be realised. The main object of the Bill is to give rights on land to the occupancy tenants and the landlord has the right to get his rent. There are other ways open to him of getting rent. Over and above that under the present law the tenants are allowed to remove their fixtures. When the Act is passed, then the fixtures and structures that will be on the land will become the property of the landlord. The tenant will have no right to remove these fixtures. (*a voice*: poor lawyers!) In that case I think it is just that limitation as regards compensation should go.

THE HON'BLE REV. J. J. M. NICHOLS-ROY: I feel, Sir, that there is some inequity in dealing with this proviso (*a voice*: inequity and inequality). It appears as if there is an idea that the landlords are big people oppressing the tenants and therefore all kinds of laws should be made against them. This proviso has attempted to do justice to both sides. There may be a poor landlord who may not be able to pay compensation. If that be the case, what will be the effect on that landlord if he is not able to pay the amount of compensation? The court has passed a decree for ejection, but unless the landlord is able to compensate, he will not be able to put that into effect. Then that tenant will stay on the land and the poor landlord will be at the mercy of the tenant. The tenant will become the landlord and the landlord the tenant. (*loud laughter*). That is revolutionary. I think, Sir, this House will not allow such a thing. This proviso has made the matter just and equitable for both the tenants and the landlords. If this be deleted, it will be a very bad thing indeed.

MAULAVI ABDUL MATIN CHAUDHURY: Sir, the Hon'ble the Revenue Minister in opposing this amendment did not go so much on its merits as to excite the sympathy of the House by appealing to the poor plight of the widow. He was taking the widow as the landlord. I would refer to an instance, Sir, where the widow is the tenant instead of being the landlord. Supposing a widow spending all the savings of her husband built a house for Rs.3,000 on a plot of land and she was ejected from that house. (*a voice*: How can she be ejected? Under what circumstances?) She being a widow and having very limited worldly possession was not in a position to pay the rent and was consequently under order of ejection. Then, Sir, the only compensation she will get will be about a thousand rupees and so will be mulcted to the extent of Rs.2,000. This surely is unfair.

MAULAVI JAHANUDDIN AHMED: Sir, as I was in the Committee I like to say something in opposing this amendment. Sir, the tenant is to be ejected only when he defaults or when he uses the land in such a way as to lead the landlord to file a suit. Then only the tenant will be ejected. It appears to me it will be very unjust and inequitable to give the tenants this right *i. e.*, as proposed by the amendment. A rich tenant will wilfully default and bring the landlord to a position in which he will never be able to eject him unless he pays the compensation which may come to thousands and thousands of rupees. Sir, considering this matter in the Committee we have gone very deeply and minutely into it and I feel that I should oppose this amendment. With these few words I oppose the amendment.

BABU KAMINI KUMAR SEN: Sir, I want to speak only a few words on this motion. My friend Mr. Abdul Matin Chaudhury has said that, even if a tenant is ejected on grounds of non-payment of rent, there may be other remedies. I admit, Sir, there may be other remedies except ejection. But ejection is made on the ground that the tenant has used the land which renders it unfit for the purposes of tenancy. What will be his remedy, Sir, if he is not in a position to pay compensation? The remedy that has been given to the landlord under section 10 will be totally denied to him if this amendment is accepted. Therefore, I think, Sir, that this clause which was discussed at length in Select Committee and passed by an overwhelming majority should be accepted.

THE HON'BLE THE SPEAKER: I am now putting the motion. The question is that the words 'up to the value of Rs.1,000 provided that if the value exceeds Rs.1,000 the excess shall be payable if the express consent of the landlord shall have been obtained to the erection of such building' in lines 5-9 of sub-clause (i) of clause 14 be omitted.

The amendment was put and the House divided as follows:—

AYES—46

1. Babu Akshay Kumār Das.
2. Babu Balaram Sircar.
3. Srijut Beliram Das.
4. Srijut Bhuban Chandra Gogoi.
5. Babu Bipin Behari Das.
6. Srijut Bipin Chandra Medhi.
7. Babu Dakshina Ranjan Gupta Chaudhuri.
8. Srijut Debeswar Sarmah.
9. Srijut Gauri Kanta Talukdar.
10. Srijut Haladhar Bhuyan.
11. Babu Harendra Narayan Chaudhuri.
12. Srijut Jogendra Chandra Nath.
13. Srijut Jogendra Narayan Mandal.
14. Srijut Jogendra Nath Barua
15. Srijut Jogeshchandra Gohain.
16. Babu Kalachand Roy.
17. Srijut Kameswar Das.
18. Babu Karuna Sindhu Roy.
19. Srijut Krishna Nath Sarmah.
20. Babu Rabindra Nath Aditya.
21. Srijut Mahadev Sarma.
22. Srijut Omeo Kumar Das.
23. Srijut Rajani Kanta Barooah.
24. Srijut Rajendra Nath Barua.
25. Srijut Sankar Chandra Barua.
26. Srijut Sarveswar Barua.
27. Babu Shibendra Chandra Biswas.
28. Srijut Siddhi Nath Sarma.

NOES—35

1. The Hon'ble Maulavi Saiyid Sir Muhammad Saadulla.
2. The Hon'ble Shams-ul-Ulama Maulana Abu Nasr Md. Waheed.
3. The Hon'ble Rev. J. J. M. Nichols-Roy.
4. The Hon'ble Srijut Rohini Kumar Chaudhuri.
5. The Hon'ble Maulavi Md. Ali Haidar Khan.
6. Mr. Baidaynath Mookerjee.
7. Babu Kamini Kumar Sen.
8. Dr. Mahendra Nath Saikia.
9. Mr. Naba Kumar Dutta.
10. Srijut Purandar Sarma.
11. Khan Bahadur Hazi Majid Chaudhury.
12. Maulavi Ashraf Uddin Md. Chaudhuri.
13. Maulavi Jahanuddin Ahmed.
14. Khan Bahadur Maulavi Keramat Ali.
15. Khan Bahadur Maulavi Mahmud Ali.
16. Khan Sahib Maulavi Mudabbir Hussain Chaudhury.
17. Khan Bahadur Maulavi Mufizur Rahman.
18. Col. A. B. Beddow.
19. Mr. A. F. Bendall.
20. Mr. J. R. Clayton.
21. Mr. W. R. Faull.

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| 29. Maulavi Abdul Aziz. | 22. Mr. W. Fleming. |
| 30. Maulavi Abdul Bari Chaudhuri. | 23. Mr. B. I. Barry. |
| 31. Maulavi Abdul Matin Chaudhuri. | 24. Mr. F. W. Hockenhull. |
| 32. Maulavi Abdur Rahman. | 25. Mr. D. B. H. Moore. |
| 33. Maulavi Md. Abdus Salam. | 26. Mr. R. A. Palmer. |
| 34. Maulavi Dewan Muhammad Ahabab Choudhuri. | 27. Mr. Benjamin Ch. Momin. |
| 35. Maulavi Muhammad Amiruddin | 28. Srijut Bhairab Chandra Das. |
| 36. Maulavi Muhammad Amjad Ali. | 29. Srijut Bideshi Pan Tanti. |
| 37. Maulavi Badaruddin Ahmed. | 30. Srijut Binode Kumar J. Sarwan. |
| 38. Khan Bahadur Dewan Eklimur Roza Chaudhury. | 31. Rev. L. Gatphoh |
| 39. Mr. Fakhruddin Ali Ahmed. | 32. Mr. C. Goldsmith. |
| 40. Maulavi Muhammmad Maqbul Hussain Chaudhury. | 33. Mr. Jobang D. Marak. |
| 41. Maulavi Matior Rahman Mia. | 34. Srijut Khorsing Terang. |
| 42. Maulavi Mabarak Ali. | 35. Mr. P. Parida. |
| 43. Maulavi Munawwar Ali. | |
| 44. Maulavi Muzarraf Ali Laskar. | |
| 45. Maulavi Namwar Ali Barbhuiya. | |
| 46. Maulavi Sheikh Osman Ali Sadagar. | |

The Ayes being 46 and the Noes 35 the motion was carried.

THE HON'BLE THE SPEAKER: The question is that clause 14 as amended do form part of the Bill.

The motion was carried.

CLAUSE 15

THE HON'BLE THE SPEAKER: Clause 15 is practically the same amendment and stands in the name of seven hon. members. The first is in the name of Babu Rabindra Nath Aditya, second in the name of Maulavi Abdur Rahman, third in the name of Babu Dakishna Ranjan Gupta Chaudhuri, fourth in the name of Babu Karuna Sindhu Roy, fifth in the name of Babu Akshay Kumar Das, sixth in the name of Babu Kalachand Roy, and seventh in the name of Babu Balaram Sircar. Is any body going to move? (No hon. member stood up to move any of the amendment).

The question is that clause 15 do form part of the Bill.

The motion was carried.

CLAUSE 15

THE HON'BLE THE SPEAKER: Then comes clause 16 and there are two amendments standing in the name of Babu Karuna Sindhu Roy and Babu Akshay Kumar Das. (No hon. member stood up to move any amendment).

The question is that clause 16 do form part of the Bill.

The motion was carried.

CLAUSE 18

THE HON'BLE THE SPEAKER: Then comes clause 18. There are some amendments in the name of seven hon. members.

It is the same amendment I think.

MR. ARUN KUMAR CHANDA: Up to five is the same.

THE HON'BLE THE SPEAKER: Yes, up to 5 is the same and 6 and 7 are the same amendments. The first stands in the name of Babu Rabindra Nath Aditya, second in the name of Maulavi Abdur Rahman, third in the name of Babu Dakishna Ranjan Gupta Chaudhuri, fourth in the name of

Babu Karuna Sindhu Roy, fifth in the name of Babu Akshay Kumar Das, sixth in the name of Babu Kamini Kumar Sen and seventh in the name of Khan Bahadur Maulavi Mahmud Ali. Is any hon. member going to move any amendment ?

BABU RABINDRA NATH ADITYA : I beg, Sir, to move that in clause 18 the figure ' 8 ' be inserted before the figure ' 14 ' and that in line 3 of the same clause after the word ' but ' the words ' decrees wherein ' be inserted.

BABU KAMINI KUMAR SEN : I think, Sir, my amendment should come first.

THE HON'BLE THE SPEAKER : When the whole thing is to be deleted, I think, Babu Kamini Kumar Sen should move his amendment first.

BABU KAMINI KUMAR SEN : I beg, Sir, to move that clause 18 be omitted. The purpose of moving this amendment is firstly to remove some inconsistency and secondly to avoid some dangerous complications. I would refer you, Sir, to the Select Committee's report regarding clause 8. There it is stated that it was unanimously decided that sub-clause (ii) should be omitted as it is a sound principle of law that no new right should be created and no existing right should be extinguished during the pendency of the suit. If this clause is retained the effect will be that this Act will apply not only to pending suits but also to unexecuted decrees. If we accept it as a sound principle of law that no new rights should be created and no existing rights extinguished, as in clause 8 I do not know how we can depart from that principle in clause 18. The matter was unanimously decided in the Select Committee, and there was no amendment moved in this House, and so I presume that the House had accepted this principle.

Secondly, my objection to the retention of this clause is that it will create some dangerous complications. Here if this Act is made applicable to pending suits on the 1st of April it will have the effect that suits pending for 3 or 4 or 5 years will also be affected by it, and that I think is not at all desirable. As regards unexecuted decrees, a decree can be executed within 12 years, and as such a decree passed 10 years ago may also come within the purview of the Act. If this happens, I do not know what will be the position of the parties to these suits and who will pay the costs.

With these words I beg to move the motion standing in my name that clause 18 be omitted.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : Mr. Speaker, Sir, I also submitted a note of dissent, and suggested that this clause should be omitted. As this House knows our legislation should always be prospective and not retrospective, and if this clause is accepted it will lay down a very dangerous provision.

I, therefore, support the motion.

BABU RABINDRA NATH ADITYA : Mr. Speaker, Sir, I beg to oppose this amendment. This is a special law and is meant for a particular area, and we all know the situation which gave occasion for the drafting of this Bill. If we mean to give any relief we must be cognisant of the fact that as soon as this Bill was introduced, about 150 suits were filed against these tenants. So if this Bill is not retrospective in operation, the main object with which this Bill was brought will be defeated and a large section of the people will be ejected in the meantime. Naturally this Bill will have to be sent to the Upper House, and if there be any amendments by the Upper House the Bill will come back, and the landlords will take full advantage of this laborious process of legislation and by the time the Bill is passed all the mischief will be committed. So having regard to the peculiar nature of things I think that retrospective effect should be given.

RAI BAHADUR PROMODE CHANDRA DATTA: May I know the date on which this Bill was introduced ?

THE HON'BLE THE SPEAKER: In the last session.

The HON'BLE MAULAVI SAYYID SIR MUHAMMAD SAADULLA: In August last.

THE HON'BLE THE SPEAKER: The question is that clause 18 be omitted.

The House then divided as follows :—

AYES—28.

1. The Hon'ble Maulavi Saiyid Sir Muhammad Saadulla.
2. The Hon'ble Shams-ul-Ulama Maulana Abu Nasr Md. Waheed.
3. The Hon'ble Rev. J. J. M. Nichols-Roy.
4. The Hon'ble Srijut Rohini Kumar Chaudhuri.
5. The Hon'ble Maulavi Md. Ali Haidar Khan.
6. Mr. Baidyanath Mookerjee.
7. Babu Kamini Kumar Sen.
8. Dr. Mahendra Nath Saikia.
9. Mr. Naba Kumar Dutta.
10. Srijut Purandar Sarma.
11. Srijut Santosh Kumar Barua.

NOES—59.

1. Babu Akshay Kumar Das.
2. Mr. Arun Kumar Chanda.
3. Babu Balaram Sircar.
4. Srijut Beliram Das.
5. Srijut Bhuban Chandra Gogoi.
6. Babu Bipin Behari Das.
7. Srijut Bipin Chandra Medhi.
8. Babu Dakshina Ranjan Gupta Chaudhuri.
9. Srijut Debeswar Sarmah.
10. Srijut Ghanashyam Das.
11. Srijut Gaurikar ta Talukdar.
12. Srijut Gopinath Bardoloi.
13. Srijut Haladhar Bhuyan.
14. Babu Harendra Narayan Chaudhuri.
15. Srijut Jadav Prosad Chaliba.
16. Srijut Jogendra Chandra Nath.
17. Srijut Jogendra Narayan Mandal.
18. Srijut Jogendra Nath Barua.
19. Srijut Jogeschandra Gohain.
20. Babu Kalachand Roy.
21. Srijut Kameswar Das.
22. Babu Karuna Sindhu Roy.
23. Srijut Krishna Nath Sarma.
24. Babu Rabindra Nath Aditya.
25. Srijut Lakshesvar Borooah.
26. Babu Lalit Mohon Kar.
27. Srijut Mahadev Sarma.
28. Srijut Mahi Chandra Bora.
29. Srijut Omeo Kumar Das.
30. Srijut Purna Chandra Sarma.
31. Srijut Rajani Kanta Barooah.
32. Srijut Rajendra Nath Barua.
33. Srijut Ramnath Das.
34. Srijut Sankar Chandra Barua.

12. Col. A. B. Beddow.
13. Mr. A. F. Bendall.
14. Mr. J. R. Clayton.
15. Mr. W. R. Faull.
16. Mr. W. Fleming.
17. Mr. B. I. Barry.
18. Mr. F. W. Hockenull.
19. Mr. D. B. H. Moore.
20. Mr. R. A. Palmer.
21. Srijut Bhairab Chandra Das.
22. Srijut Bideshi Pan Tanti.
23. Srijut Binode Kumar J. Sarwan.
24. Rev. L. Gatphoh.
25. Mr. C. Goldsmith.
26. Mr. Jobang D. Marak.
27. Srijut Khorsing Terang.
28. Mr. P. Parida.
35. Babu Shibendra Chandra Biswas.
36. Maulavi Abdul Aziz.
37. Maulavi Abdul Bari Choudhury.
38. Maulavi Abdul Matin Chaudhury.
39. Maulavi Abdur Rahman.
40. Maulavi Dewan Muhammad Ahbab Choudhury.
41. Maulavi Muhammad Amiruddin.
42. Maulavi Muhammad Amjad Ali.
43. Maulavi Ashraf Uddin Md. Choudhury.
44. Khan Bahadur Dewan Eklmur Roza Choudhury.
45. Mr. Fakhruddin Ali Ahmed.
46. Maulavi Jahanuddin Ahmed.
47. Khan Bahadur Maulavi Keramat Ali.
48. Maulavi Muhammad Maqbul Hussain Choudhury.
49. Maulavi Matior Rahman Mia.
50. Maulavi Mabarak Ali.
51. Khan Sahib Maulavi Mudabbir Hussain Chaudhuri.
52. Khan Bahadur Maulavi Mufizur Rahman.
53. Maulavi Munawwar Ali.
54. Maulavi Muzarrof Ali Laskar.
55. Maulavi Namwar Ali Barbhuiya.
56. Maulavi Naziruddin Ahmed.
57. Maulavi Sheikh Osman Ali Sadagar.
58. Khan Sahib Maulavi Sayidur Rahman.
59. Srijut Karka Dalay Miri.

28. Mr. P. Parida.

The Ayes being 28 and the Noes 59, the motion was lost.
 BABU RABINDRA NATH ADITYA: Sir, I beg to move that in clause 18 the figure "8" be inserted before the figure "14" and that in line 3 of the same clause after the word "but" the words "decrees wherein" be inserted.

Sir, the second part of the amendment does not make any material change. It is meant for the purpose of clarifying the language only. So I think there will not be any objection to the insertion of the words "decrees wherein".

As for insertion of figure '8', I have stated the reasons why it is necessary in opposing the amendment of Mr. Sen. That is, those who have got the occupancy right during the pendency of a suit on 1st April, 1937 must have the full benefit of this Act. That is the real intention of moving this amendment. So those who have got the right of occupancy should not be

ejected from the land if any suit is instituted for ejection on or after 1st April 1937. Sir, I need not say much on this. I have already discussed that the law is meant for a certain section of people in a particular area and if it has no retrospective effect, the object of the Bill will be defeated. With these words I commend the motion to the acceptance of the House.

THE HON'BLE THE SPEAKER: The motion moved is that in clause 18 the figure "8" be inserted before the figure "14" and that in line 3 of the same clause after the word "but" the words "decrees wherein" be inserted.

MAULAVI ABDUR RAHMAN: Sir, I rise to support the motion. To me it appears that the hon. members of the Select Committee probably through oversight omitted the figure '8', clause 18 appears to give protection to clauses 14, 15 and 16, and in order to give protection to clause 8, I think, that the figure '8' may be added there.

MR. BAIDYA NATH MOOKERJEE: On a point of personal explanation, Sir. As a member of the Select Committee I request the hon. member to go through page 2 clause 18 of the report. So that the reasons which have been put forward against us the poor members of the Select Committee under wrong impression be removed from his mind.

MAULAVI ABDUR RAHMAN: I say that the figure '8' be inserted and in support of that I have got to say that realising the importance of the section, the Select Committee has retained the first part of section 8 as was proposed in the original Bill. Clause (i) of section 8 runs thus:—

"A person who has acquired the status of an occupancy tenant shall not be ejected from his holding except under the provisions of this Act".

That has been accepted by the Select Committee and this should get some sort of protection. So I think the figure '8' should be also inserted here. With these words I support the amendment.

THE HON'BLE THE SPEAKER: I think no other members are speaking.

THE HON'BLE SRIJIT ROHINI KUMAR CHAUDHURI: I think, I must oppose this amendment. I do not understand how the clause of my hon. friend the mover of this motion will be at all helpful in as much as clause 8 has been materially changed in the Select Committee. Clause 8 as it originally appeared in the Bill which was introduced had two sub-clauses. The first sub-clause was: "A person who has acquired the status of an occupancy tenant shall not be ejected from his holding except under the provisions of this Act". The second sub-clause was: "In deciding the question whether a tenant has acquired the status of an occupancy tenant under clause 7, in any suit, pending either in the original Court or in the appellate Court, the Court shall decide the matter on the finding whether such right was acquired on the day the final decision is made". By this sub-clause the original framer of the Bill intended that the retrospective effect of the Bill shall be given even to the last day of the suit, even when the matter went up to the High Court. But the Select Committee after consideration had agreed to delete this sub-clause. I read their report "It was unanimously decided that sub-clause (ii) should be omitted as it is a sound principle of law that no new right shall be created and no existing right extinguished during the pendency of a suit". I hope, Sir, the hon. members of the Select Committee who still hold this principle to be good one should strenuously object to the amendment which is now being proposed by the hon. mover, and Sir, I also find that the hon. mover Babu Karuna Sindhu Roy, the author of this Bill, did not say anything about this in his note of dissent.

BABU KARUNA SINDHU ROY: It is in the additional note.

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI: I think, Sir, it will be reasonable to expect that at least in this instance the House will throw out the amendment of Babu Rabindra Nath Aditya.

RAI BAHADUR PROMODE CHANDRA DATTA: I am entirely in agreement with the Hon'ble Minister. We do not execute suits but we execute decrees. The objection is there.

BABU KAMINI KUMAR SEN: The latter portion of this amendment may be taken up separately.

THE HON'BLE THE SPEAKER: Then I shall put the question. That in clause 18 the figure '8' be inserted before the figure '14'.

The House then divided with the following result:—

AYES—45

NOES—24

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| 1. Babu Akshay Kumar Das. | 1. The Hon'ble Maulavi Saiyid Sir Muhammad Saadulla. |
| 2. Babu Balaram Sircar. | 2. The Hon'ble Shams-ul-Ulama Maulana Abu Nasr Md. Waheed. |
| 3. Srijut Beliram Das. | 3. The Hon'ble Rev. J. J. M. Nichols-Roy. |
| 4. Srijut Bhuban Chandra Gogoi. | 4. The Hon'ble Srijut Rohini Kumar Chaudhuri. |
| 5. Babu Bipin Behari Das. | 5. The Hon'ble Maulavi Md. Ali Haidar Khan. |
| 6. Srijut Bipin Chandra Medhi. | 6. Mr. Baidyanath Mookerjee. |
| 7. Babu Dakshina Ranjan Gupta Chaudhuri. | 7. Babu Kamini Kumar Sen. |
| 8. Srijut Debeswar Sarmah. | 8. Rai Bahadur Promode Chandra Datta. |
| 9. Srijut Ghanashyam Das. | 9. Srijut Purandar Sarma. |
| 10. Srijut Gaurikanta Talukdar. | 10. Srijut Santosh Kumar Barua. |
| 11. Srijut Haladhar Bhuyan. | 11. Col. A. B. Beddow. |
| 12. Babu Harendra Narayan Chaudhuri. | 12. Mr. A. F. Bendall. |
| 13. Srijut Jadav Prosad Chaliha. | 13. Mr. J. R. Clayton. |
| 14. Srijut Jogendra Chandra Nath. | |
| 15. Srijut Jogendra Narayan Mandal. | |
| 16. Srijut Jogendra Nath Barua. | |
| 17. Babu Kalachand Roy. | |
| 18. Babu Karuna Sindhu Roy. | |
| 19. Srijut Krishna Nath Sarmah. | |
| 20. Babu Rabindra Nath Aditya. | |
| 21. Srijut Mahadev Sarma. | |
| 22. Srijut Omeo Kumar Das. | |
| 23. Srijut Rajani Kanta Barooah. | |
| 24. Srijut Rajendra Nath Barua. | |
| 25. Srijut Sankar Chandra Barua. | |
| 26. Babu Shibendra Chandra Biswas. | |
| 27. Maulavi Abdul Aziz. | |
| 28. Maulavi Abdul Bari Choudhury. | |
| 29. Maulavi Abdul Matin Choudhury. | |
| 30. Maulavi Abdur Rahman. | |

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| 31. Maulavi Dewan Muhammad Ahbab Choudhury. | 14. Mr. W. R! Faull. |
| 32. Maulavi Muhammad Amiruddin. | 15. Mr. W. Fleming. |
| 33. Maulavi Muhammad Amjad Ali. | 16. Mr. B. I. Barry. |
| 34. Maulavi Badaruddin Ahmed. | 17. Mr. F. W. Hockenull. |
| 35. Khan Bahadur Dewan Eklimur Roza Chaudhury. | 18. Mr. D. B. H. Moore. |
| 36. Mr. Fakhruddin Ali Ahmed. | 19. Srijut Bhairab Chandra Das. |
| 37. Maulavi Muhammad Maqbul Hussain Chaudhury. | 20. Srijut Bideshi Pan Tanti. |
| 38. Maulavi Matior Rahman Mia. | 21. Rev. L. Gatphoh. |
| 39. Maulavi Mabarak Ali. | 22. Mr. C. Goldsmith. |
| 40. Khan Sahib Maulavi Mudabbir Hussain Chaudhury. | 23. Mr. Jobang D. Marak. |
| 41. Maulavi Munawwar Ali. | 24. Mr. P. Parida. |
| 42. Maulavi Muzarrof Ali Laskar. | |
| 43. Maulavi Namwar Ali Barbhuiya. | |
| 44. Maulavi Sheikh Osman Ali Sadagar. | |
| 45. Khan Sahib Maulavi Sayidur Rahman. | |

The Ayes being 45 and the Noes 24 ; the amendment was carried.

The Hon'ble the Speaker then put the amendment :—That in line 3 of clause 18 after the word “but” the words “decrees wherein” be inserted.

The amendment was carried.

THE HON'BLE THE SPEAKER : How long will the House sit ?

SRIJUT DEBESWAR SARMAH : Until 5, the time fixed previously.

THE HON'BLE THE SPEAKER : I am afraid even one hour will not suffice.

(Many members : This is an important matter.)

KHAN BAHADUR MAULAVI KERAMAT ALI : If it is important, it should not be taken up hastily.

THE HON'BLE THE SPEAKER : I do not think one hour will be sufficient.

SRIJUT DEBESWAR SARMAH : May I be permitted to make a submission, Sir ? Originally the time was fixed from 11 a.m. to 5 p.m. I think at any rate we can sit up to 5.

THE HON'BLE THE SPEAKER : It was by special agreement in this session, the time was fixed up to 4 p.m.

BABU RABINDRA NATH ADITYA : Sir, to-day is the last day for Private Members' Business, and I think for one day we can wait up to 5.

THE HON'BLE THE SPEAKER : I realise the importance of passing this Bill, but hon. members are not realising the difficulties that stand in our way in getting this Bill passed to-day.

[Several hon. members still wanted the Bill to be passed to-day.]

THE HON'BLE THE SPEAKER : Very well, I shall sit for another 15 minutes, and then the hon. members will realise that the Bill would not be finished to-day.

KHAN BAHADUR MAULAVI KERAMAT ALI : Sir, when the time was fixed up to 5 p.m. it was not expected that the House would sit in December.

THE HON'BLE THE SPEAKER : The hon. member need not say these things. The question is that clause 18, as amended, do form part of the Bill. The motion was carried.

CLAUSE 19

THE HON'BLE THE SPEAKER : Are the amendments to clause 19 going to be moved ? (*Several voices* : No, Sir.)

CLAUSE 20

THE HON'BLE THE SPEAKER : Then comes clause 20. Are the amendments going to be moved ?

BABU DAKSHINA RANJAN GUPTA CHAUDHURI : Sir, I beg leave of the House to move that clause 20 of the original Bill be retained. Sir, this is the most important clause of the Bill, and if this clause be deleted nothing remains. If we delete clause 20, it means taking away by the left hand what we have given by the right. The rights which have been given by clauses 8, 9, 12, 13 and 15 will be of no use if clause 22 is not there. Take for instance clause 8. We can easily take away the provision of clause 8 by putting in a clause in the contract that the provisions of clause 8 will not apply. Clause 9 relates to prevention of ejections by payments. That also can be defeated by putting in a clause there.

I would remind the hon. members that these clauses will be nullified and will have no value if there be no clause 20. I would also request my hon. friend Mr. Mookerjee to read the signs of the times and the minds of the hon. members of the House, and to avoid delaying tactics, if any, and to allow the smooth passage of this Bill. If he does not, he will be swept away by the tide like the proverbial elephant, and neither his big zemindari nor his big bulk will be able to save him.

KHAN BAHADUR MAULAVI KERAMAT ALI : Is the hon. member right in saying that Mr. Mookerjee has taken to delaying tactics, Sir ?

BABU DAKSHINA RANJAN GUPTA CHAUDHURI : I said "if any".

MR. BAIDYANATH MOOKERJEE : Are you going to withdraw it ?

BABU DAKSHINA RANJAN GUPTA CHAUDHURI : No.

THE HON'BLE THE SPEAKER : The motion moved is that clause 20 of the original Bill be retained.

MR. BAIDYANATH MOOKERJEE : Sir, in opposing the amendment I request my hon. friends on their part not to take recourse to killing tactics. Sir, it will be evident that this clause was omitted just to give effect to the proviso to clause 7. He has said that something has been given by the right hand and which is going to be taken by the left hand. Sir, the same thing can be said so far as the proviso to clause 7 is concerned : "In view of the provisions of clause 7 it was considered that this clause was unnecessary and we, therefore, recommend its deletion". "We", *i. e.*, all the members of the Select Committee agreed to that, and so this was deleted.

With these few words, Sir, I oppose the amendment.

THE HON'BLE THE SPEAKER : Will the Hon'ble Minister say anything ?

THE HON'BLE SRIJUT ROHINI KUMAR CHAUDHURI : I have nothing to add to what Mr. Mookerjee has said, Sir.

THE HON'BLE THE SPEAKER : The question is "that clause 20 of the original Bill be retained".

The House then divided with the following result :—

AYES—48

1. Babu Akshay Kumar Das.
2. Babu Balaram Sircar.
3. Srijut Beliram Das.
4. Srijut Bhuban Chandra Gogoi.
5. Babu Bipin Behari Das.
6. Srijut Bipin Chandra Medhi.
7. Babu Dakshina Ranjan Gupta Chaudhuri.
8. Srijut Debeswar Sarmah.
9. Srijut Ghanashyam Das.
10. Srijut Gaurikanta Talukdar.
11. Srijut Haladhar Bhuyan.
12. Babu Harendra Narayan Chaudhuri.
13. Srijut Jadav Prosad Chaliha.
14. Srijut Jogendra Chandra Nath.
15. Srijut Jogendra Nath Barua.
16. Srijut Jogeschandra Gohain.
17. Babu Kalachand Roy.
18. Srijut Kameswar Das.
19. Babu Karuna Sindhu Roy.
20. Srijut Krishna Nath Sarmah.
21. Babu Rabindra Nath Aditya.
22. Srijut Mahadev Sarma.
23. Srijut Omeo Kumar Das.
24. Srijut Rajani Kanta Barooah.
25. Srijut Rajendra Nath Barua.
26. Srijut Sankar Chandra Barua.
27. Srijut Sarveswar Barua.
28. Babu Shibendra Chandra Biswas.
29. Srijut Siddhi Nath Sarma.
30. Maulavi Abdul Aziz.
31. Maulavi Abdul Bari Chaudhuri.
32. Maulavi Abdul Matin Chaudhuri.
33. Maulavi Abdur Rahman.
34. Maulavi Dewan Muhammad Ahab Chaudhuri.
35. Maulavi Muhammad Amiruddin.
36. Maulavi Muhammad Amjad Ali.
37. Khan Bahadur Dewan Ekli-mur Roza Chaudhuri.
38. Mr. Fakhruddin Ali Ahmed.
39. Maulavi Ghyasuddin Ahmed.
40. Maulavi Jahanuddin Ahmed.
41. Maulavi Muhammad Maqbul Hussain Chaudhuri.

NOES.—10

1. The Hon'ble Maulavi Saiyid Sir Muhammad Saadulla.
2. The Hon'ble Shams-ul-Ulama Maulana Abu Nasr Md. Waheed.
3. The Hon'ble Srijut Rohini Kumar Chaudhuri.
4. The Hon'ble Maulavi Md. Ali Haidar Khan.
5. Kumar Ajit Narayan Dev.
6. Mr. Baidyanath Mookerjee.
7. Babu Kamini Kumar Sen.
8. Srijut Santosh Kumar Barua.
9. Khan Bahadur Maulavi Mufi-zur Rahman.
10. Srijut Khorsing Terang.

42. Maulavi Matior Rahman Mia.
43. Maulavi Mabarak Ali.
44. Khan Sahib Maulavi Mudab-
bir Hussain Chaudhuri.
45. Maulavi Munawwar Ali.
46. Maulavi Muzorrof Ali Laskar.
47. Maulavi Namwar Ali Bar-
bhuiya.
48. Maulavi Sheikh Osman Ali
Sadagar.

The Ayes being 48 and Noes 10, the motion was carried.

THE HON'BLE THE SPEAKER: The question is that clause 20 of the original Bill do form part of the Bill.

The motion was carried.

THE HON'BLE THE SPEAKER: I think, the hon. members who wanted to finish the Bill to-day have got an idea by this time that it will not be possible to finish it to-day, and therefore, the House is adjourned till 11 o'clock on Tuesday, the 21st December 1937.

Shillong, }
The 4th February 1938. }

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