



Proceedings of the sixth session of the First Assam Legislative Assembly assembled under the provisions of the Government of India Act, 1935

The Assembly met in the Assembly Chamber, Shillong, at 11 a.m., on Thursday, the 6th April 1939.

**QUESTIONS AND ANSWERS**  
**SHORT NOTICE QUESTIONS**

(To which answers were laid on the table)

**Students' Federation**

**Mr. ARUN KUMAR CHANDA** asked :

1. Will Government be pleased to state why the students connected with the Students' Federation are watched and pursued by the Police ?

2(a). Are Government aware that authorities of certain institutions are victimising students for joining this organisation ?

(b) Do Government propose to issue a circular to the effect that they have no objection to students joining the said organisation ?

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

1.—Government have no information but would be glad to enquire of any students—whether he belonged to the Association or not—being subjected to police surveillance.

2.(a)—No, Sir. Even there, the Government will be glad to know if any institution is victimising like that.

(b)—The whole subject of student discipline in educational institution including organization and of students is now under the consideration of Government, and Government will declare its policy by circular or otherwise as soon as it will arrive at a decision.

**Mr. ARUN KUMAR CHANDA**: May I take it that the Students' Federation has not been declared illegal by this Government ?

**The Hon'ble Srijut GOPINATH BARDOLOI**: Never Sir. Nor was it declared illegal by the last Government.

**Khan Bahadur Maulavi KERAMAT ALI**: Are Government aware that at Jorhat the Police is after the members of the Muhammadan Students' Federation ?

**The Hon'ble Srijut GOPINATH BARDOLOI**: I am not aware of that, Sir.

**STARRED QUESTIONS**

(to which oral answers were given)

*Re the Murarichand College, Sylhet.*

**Maulavi Dewan MUHAMMAD AHBAB CHAUDHURY** asked :

\*259. Will the Hon'ble Minister-in-charge of Education be pleased to state—

(a) Whether it is a fact that the Muslim students of the Murarichand College, Sylhet, have been protesting for a long time against the present College Crest which bears the emblem of Swan, the Carrier of the Hindu Goddess Saraswati ?



- (b) Whether it is a fact that a riot was going to take place in the College on the occasion of its founder's day, this year, when the Hindu students wanted to sing "Bande Mataram" and hoist the Congress flag in the Library Hall of the College?
- (c) Whether it is a fact that the Hindu students contended that they were granted permission by the present Congress Coalition Ministry for singing "Bande Mataram" and hoisting the Congress flag?
- (d) Is the Hon'ble Minister-in-charge aware of the fact that the Muslim students, their guardians and the Ulama Conference held at Sylhet under the presidency of Maulana Abdul Kadir Azad Subhani, protested against the decision of the Governing Body of the College regarding the grievances of the Muslim students and requested the Government for reconsideration of the matter?
- (e) Are Government aware of the fact that the Muslim students of the Murarichand College have boycotted the College Magazine and cut off all connections with the College Union as a mark of protest against the decision of the authorities regarding their grievances?
- (f) If so, what steps do Government propose to take in this matter?
- (g) Will Government be pleased to state whether they propose to exempt the Muslim students of the Murarichand College who have cut off connections with the College Union from paying any subscription to the College Union?

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

259. (a)—No. They protested for the first time during the Session 1937-38, though the Crest has been in use for the last 14 years.
- (b)—Muslim students objected to the Congress Flag being used in decoration of the *dais* in the Library Hall for the Founder's Day celebration. To avoid trouble the celebration was postponed.
- (c)—Government have no information.
- (d)—Some protests were received by the Principal. A copy of a resolution adopted in a meeting of the Muslim public of Sylhet was also received by Government.
- (e)—Only two Muslim students took their copies of the College Magazine. Muslim students have not boycotted the College Union.
- (f)—None.
- (g)—Does not arise.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY** : May I ask what is the strength of the Muhammdan students in the college?

**The Hon'ble the SPEAKER** : This is going too far.

**The Hon'ble Srijut GOPINATH BARDOLOI** : I want notice of that question, Sir.

**Maulavi Dewan MUHAMMAD AHBAB CHAUDHURY** : Is it a fact that the Muslim students objected to singing of *Bande Mataram* in that college?

**The Hon'ble Srijut GOPINATH BARDOLOI** : I have nothing more to add than what I have said in reply.



**Maulavi Dewan MD. AHBAB CHAUDHURY:** I want to know definitely whether they objected to the singing of Bande Mataram. I do not want a vague answer.

**The Hon'ble Srijut GOPINATH BARDOLOI:** I do not know what is a vague answer, Sir. The answer I have given is there. I have no further information.

**Maulavi Dewan MD. AHBAB CHAUDHURY:** Am I to take it that the Hon'ble Prime Minister is quite indifferent?

**The Hon'ble the SPEAKER:** The hon. member may reserve such comments for another occasion.

**The Hon'ble Srijut GOPINATH BARDOLOI:** I cannot give any more information than what is contained in the reply.

**Maulavi Dewan MD. AHBAB CHAUDHURY:** The other day did not the Hon'ble Premier say that when the Moslem community would object to the singing of Bande Mataram it would be stopped?

**The Hon'ble Srijut GOPINATH BARDOLOI:** Yes, Sir. The hon. member will see that the celebration was postponed.

**Khan Bahadur Maulavi MUFIZUR RAHMAN:** Is it a fact that the Managing Committee disallowed the singing of Bande Mataram and the hoisting of Congress flag?

**The Hon'ble Srijut GOPINATH BARDOLOI:** I am not aware of that.

**Khan Bahadur Maulavi MUFIZUR RAHMAN:** I know it, Sir, because I am one of the members of the Committee.

**The Hon'ble Srijut GOPINATH BARDOLOI:** I take, the hon. member is right.

#### **Cherra-Chhatak Ropeway Company**

**Rev. J. J. M. NICHOLS-ROY** asked:

\*260.(a) Is it a fact that the Cherra-Chhatak Ropeway Company have applied to the Government for changing their alignment?

(b) Is it a fact that the Government have issued orders to allow the Ropeway Company to change their alignment without making any investigation as to the effect of that new alignment to the properties over which the lines will pass?

(c) Are Government aware that the Ropeway lines according to the new alignment will pass over many valuable orange groves and areca-nut gardens?

(d) Is it a fact that a large number of people of the British village of Sohbar, whose groves and gardens will be affected, petitioned the Deputy Commissioner objecting to this new alignment?

(e) If so, did the Government consider their objection?

\*261. Will Government be pleased to state—

(a) Whether there was any order from the Government that a just and adequate compensation should be given to the people who will be affected by this new alignment?

(b) Are Government aware that when the Ropeway was first started these people lost a large number of valuable fruit trees and that the Ropeway Company in consultation with the local officers gave a compensation of Re. 1 only for an orange tree?



- (c) Are Government aware that an orange tree lives for many years and sometimes for 50 or 60 years or more, and that it yields annually from annas 4 to about Rs. 5 or more, according to the size of a tree ?
- (d) Are Government aware that a compensation of Re. 1 for such a fruit tree, viz., an orange tree or an areca-nut tree, is not just and adequate ?

**The Hon'ble Maulavi MD. ALI HAIDAR KHAN** replied :

260. (a)—Yes.

(b)—Government have issued orders after proper enquiry and on condition that if any fruit trees or crops are damaged, the Company will be liable to pay compensation at the rates fixed by the Deputy Commissioner. The Company will also erect a protection bridge over the main path to the burial ground.

(c)—Government are prepared to accept the hon. members' statement.

(d) and (e)—Yes.

261. (a)—The hon. member is referred to the reply to question 260 (b) above.

(b)—Rupees two was paid for each orange tree except for some young ones for which Re. 1 each was paid.

(c)—Government have not sufficient information to give a definite calculation.

(d)—The aim of acquisition proceedings is to ascertain the market price of a tree. Government have no information at present about the proper price.

**Rev. J. J. M. NICHOLS-ROY :** Do Government propose to ask the Deputy Commissioner to consider that the valuation made last time was very low and it should be made according to the valuation that is usually done in that place ?

**The Hon'ble Maulavi MD. ALI HAIDAR KHAN :** Yes, Sir. We will refer the matter to the Deputy Commissioner.

**Maulavi MUHAMMAD AMJAD ALI :** With regard to (c) what is the Government information as regards the age of the fruit giving orange trees ?

**The Hon'ble Maulavi MD. ALI HAIDAR KHAN :** As far as my personal knowledge goes the trees live up to 30 years.

**Maulavi MUHAMMAD AMJAD ALI :** Is it not 50 or 60 years ?

**The Hon'ble Maulavi MD. ALI HAIDAR KHAN :** I do not think it does.

#### Government Pleaders in Assam

**Srijut BINODE KUMAR J. SARWAN** asked :

\*262. Will Government be pleased to state—

- (a) Whether there is any age limit for Government pleaders in Assam to retire as any other Government servants of the Province ?



- (b) Is it a fact that the Bengal Government have fixed the age at 60 years for Government pleaders in Bengal to retire compulsorily ?
- (c) If the answer to question (a) above is in the negative, do Government propose to introduce the age limit system in Assam also in respect of Government pleaders as in Bengal ?
- (d) Will Government be pleased to state the number of Government pleaders in Assam now over 60 years of age ?
- (e) Are Government aware that most of the Government pleaders of the Province are unfit to work on account of their old age ?
- (f) If so, do Government propose to have those Government pleaders to retire who are unfit and above 60 years of age and make room for the younger generations ?

**The Hon'ble Babu KAMINI KUMAR SEN** replied :

262.(a)—No.

(b)—Yes ; but subject to the proviso that the Government pleaders of Bengal may be granted extension of service in the interests of public service.

(c)—The suggestion will be considered.

(d)—Two ; but they are reported to be fit for work.

(e)—No.

(f)—Does not arise.

**Srijut MAHADEV SARMA** : Are Government in a position to say whether judicial officers have made any complaints against the aged Government Pleaders ?

**The Hon'ble Babu KAMINI KUMAR SEN** : No, Sir.

(Starred questions Nos. 263 and 264 standing in the name of Maulavi Mabarak Ali were not put as the questioner was absent).

### **Primary Schools in the Khasi and Jaintia Hills (British areas).**

**Rev. J. J. M. NICHOLS-ROY** asked :

\*265.(a) Is it a fact that the Government are going to take over all the Primary Schools in the Khasi and Jaintia Hills (British areas) from 1st April 1939 ?

(b) Will the Hon'ble Premier be pleased to state—

- (i) The amount granted by the Government for these schools to different Missions in the Khasi Hills separately ?
- (ii) Whether all the grant for Primary Education granted to the Welsh Presbyterian Mission will be withdrawn ?
- (iii) Whether the grants to other Missions also for Primary Schools will be withdrawn ?
- (iv) The number of all the existing schools supported by the Welsh Presbyterian Mission (a) in the Jaintia Hills and (b) in the British villages in the Khasi Hills ?
- (v) The number and names of schools to be taken over by the Government (a) in the Jaintia Hills and (b) in the British villages in the Khasi Hills ?
- (vi) The number of schools which are not in the list to be taken over by Government (a) in the Jaintia Hills and (b) in the Khasi Hills ?

(vii) The reasons why the Government do not take over all the other schools in these areas ?

(viii) Whether Government propose to give any grant to the said Mission for the schools in these areas which are not taken over by Government ?

(ix) If not, why ?

\*266. (a) Is it a fact that in taking over the said schools many of the teachers of about the age of 35 years who have served for many years under the management of the Mission will not be taken over by Government ?

(b) If so, what are the reasons ?

\*267. Will Government be pleased to state—

(a) What they propose to do with those teachers who will be thrown out of employment ?

(b) What are the minimum qualifications for a teacher in the schools to be taken over by Government ?

(c) Whether there will be a school for training those teachers ?

(d) If so, where it will be situated ?

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

265 (a)—No : only 64 schools at present.

**Rev. J. J. M. NICHOLS-ROY :** Do Government propose to take all the other schools in course of time ?

**The Hon'ble Srijut GOPINATH BARDOLOI :** Yes, Sir. The reply will be found later on.

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

		Rs.
265.(b)(i)—1. Welsh Calvinistic Mission	...	20,000
2. Roman Catholic Mission	...	1,320
3. Church of England Mission	...	180

The information is for the whole district as no separate figures are available for the Khasi Hills.

(ii) and (iii)—Yes.

(iv)(a)—157.

(b)—37.



(v)(a)—A statement is given below:—

(v) (a)—41 schools as follows:—

*Jaintia Hills*

1. Pohmusiang (Jowai).
2. Mustem.
3. Padu.
4. Nongtalang.
5. Sutnga.
6. Tongseng. (Nongkhlich).
7. Rymbai.
8. Battaw.
9. Shangpung.
10. Umkhyrmi.
11. Nongbah.
12. Tarangblang.
13. Mynso.
14. Mawdymmai.
15. Nongjngi.
16. Nartiang.
17. Mawbakhon.
18. Umpanai.
19. Putsari.
20. Umswai.
21. Lamin.
22. Wahiajer.
23. Jarain.
24. Mawkaiew.
25. Sohmynting.
26. Pamra.
27. Pala.
28. Mulasngi.
29. Sakhain.
30. Sakymphor.
31. Musniang.
32. Lakadong.
33. Thadmuthlong.
34. Saipung.
35. Iongkasaro.
36. Kyndongtuber.
37. Darrang.
38. Syndai.
39. Barato.
40. Sohkha.
41. Mawlangpih.



(v)(b)—A statement is given below :—

(v) (b)—23 schools as follows :—

*Khasi Hills (British Villages)*

1. Mawmluh.
2. Nongkroh.
3. Mynteng.
4. Tynrong.
5. Ramdait.
6. Nonglait.
7. Synnei.
8. Nongshuluit.
9. Wahlong.
10. Byrong.
11. Mahadco (Laittyra).
12. Shnongkawar.
13. Sohbar.
14. Nongjri.
15. Umniuh.
16. Mawbeh.
17. Laitlyngkot.
18. Laitkroh.
19. Marbisu.
20. Umtasor.
21. Saiden.
22. Hniangbari.
23. Tynghor.

(vi)(a)—180.

(b)—41.

(vii)—Because funds do not permit this at present.

(viii)—No.

(ix)—Because this is not provided for in the arrangement made with the Mission.

**Rev. J. J. M. NICHOLS-ROY:** Is it not a fact that the Mission used to get about Rs. 20,000 for the primary schools?

**The Hon'ble Srijut GOPINATH BARDOLOI:** Yes, Sir, the Missions used to get even a little more. It was nearly Rs. 21,500.

**The Hon'ble Srijut GOPINATH BARDOLOI** replied:

266.(a)—Such of the Mission teachers as are willing to serve Government will be taken over for trial but their retention will depend on their work being found satisfactory.

(b)—Does not arise.

**Rev. J. J. M. NICHOLS-ROY:** Is it a fact that some of the teachers have been given notice that they will be relieved of their work?

**The Hon'ble Srijut GOPINATH BARDOLOI:** I am not aware. But I presume, if such notice has been given, the teachers have not been found satisfactory.

The Hon'ble Srijut **GOPINATH BARDOLOI** replied:

267.(a)—Government can accept no responsibility for such of the teachers as prove inefficient.

(b)—Ability to teach up to the primary standard.

(c)—Yes, when funds become available.

(d)—The present proposal is to locate it at Marbisu on the Shillong-Mawphlang road.

**Rev. L. GATPHOH**: May I know the reason for choosing Marbisu as the site for the Normal School?

The Hon'ble Srijut **GOPINATH BARDOLOI**: The reason must be that it is a convenient place.

**Rev. L. GATPHOH**: Do Government look to the convenience of the inspecting officers or that of the teachers who go there for training as Normal School teachers?

The Hon'ble Srijut **GOPINATH BARDOLOI**: A training school must be located near about the schools where training can be given to the teachers, and as such I presume that the site would be advantageous.

**Rev. L. GATPHOH**: May I know where the majority of the new Government schools are located, whether in the Jaintia subdivision or the sadr subdivision near Marbisu?

The Hon'ble Srijut **GOPINATH BARDOLOI**: The question relates only to the training school, Sir.

**Rev. L. GATPHOH**: May I know from what part of the district the majority of the teachers to be recruited for the training school will come from?

The Hon'ble Srijut **GOPINATH BARDOLOI**: It is meant for Lower Primary teachers in the Khasi and Jaintia Hills.

**Rev. L. GATPHOH**: Will the Hon'ble Premier take it from me that the majority of teachers will come to the training from the Jaintia Hills?

The Hon'ble Srijut **GOPINATH BARDOLOI**: I am not aware.

**Rev. L. GATPHOH**: Will the Hon'ble Minister kindly enquire into the matter?

The Hon'ble Srijut **GOPINATH BARDOLOI**: Yes, Sir.

#### Area under Boro cultivation in Assam

**Maulavi MUHAMMAD AMJAD ALI** asked:

\*268. Will Government be pleased to state—

- (a) The area under Boro cultivation in each district of Assam?
- (b) The sum spent in furtherance of Boro cultivation in each district of Assam up till now?
- (c) The names of the districts that have been reported suitable in point of (1) soil and (2) in point of eagerness of the local cultivators for Boro cultivation?
- (d) Whether a detailed survey of each district of Assam to ascertain the suitability of the soil and the eagerness of the local people to take up and bring more area under Boro cultivation, is in the contemplation of Government.



**The Hon'ble Babu AKSHAY KUMAR DAS** replied:

268.(a)—The information in respect of the districts of Sylhet, Goalpara and Nowgong is as follows. The area under such cultivation in other districts is negligible—

	Total area		Area under irrigation	
Sylhet	...	197,500 acres	740 acres.	
Goalpara	...	700 "	62.6 "	
Nowgong	...	187 "	187 "	
			Rs.	
(b)—Nowgong	...	...	772	
Sibsagar	...	...	104	
Sylhet.—				
		1935-36	1936-37	1937-38
Total Working Expenses including repairing charges and 10 per cent. depreciation (in round figures).	9,750	16,140	6,460	
Net Expenditure, incurred by Government.	7,150	11,815	3,310	

**Maulavi MUHAMMAD AMJAD ALI:** I have got some difficulty, Sir, in following the Hon'ble Minister, as I am slightly deficient in figure works. The previous arrangement was to give these figures in tabular form and place them on members' tables.

**The Hon'ble the SPEAKER:** That is only done in case of long statements.

**The Hon'ble Babu AKSHAY KUMAR DAS** replied:

(c)—No detailed survey in this respect has been undertaken but parts of Lakhimpur, Sibsaagar and Nowgong districts in the Assam Valley and Sylhet and Cachar in the Surma Valley with necessary facilities will be suitable. The cultivators being conservative by nature and shy of innovations are not always too eager. Some amount of eagerness is, however, there.

(d)—The suggestion will be considered.

**Khan Bahadur Maulavi KERAMAT ALI:** Sir, in reply to question No.268(b), the Hon'ble Minister said that Rs.104 was spent in the district of Sibsaagar. May I know how and where the money was spent?

**The Hon'ble Babu AKSHAY KUMAR DAS:** Sir, I cannot locate the place where it was done. I only find that the money has been spent in Sibsaagar.

**Khan Bahadur Maulavi KERAMAT ALI:** I have not heard the Hon'ble Minister.

**The Hon'ble the SPEAKER:** The Hon'ble Minister said that he could not give the details as to where and how Rs.104 was spent.

**Khan Bahadur Maulavi KERAMAT ALI:** I want to know whether any experiment has been made and if so, where?

**The Hon'ble Babu AKSHAY KUMAR DAS:** I have already replied and I have nothing to say.

**Maulavi MUHAMMAD AMJAD ALI:** With regard to (c) may I know whether the Hon'ble Minister wants to take up a survey regarding the *buho* cultivation in the near future?

**The Hon'ble Babu AKSHAY KUMAR DAS:** The suggestion will be considered.

**Maulavi MUHAMMAD AMJAD ALI:** Is it not even in the contemplation of the Government?



**The Hon'ble Babu AKSHAY KUMAR DAS:** It has been noticed that *buro* cultivation is becoming more important in the flood affected areas and so this has attracted the attention of the Government, and Government is now considering the question.

**Maulavi MUHAMMAD AMJAD ALI:** Am I to understand that the Hon'ble Minister was saying that it is best grown in the flood-affected areas?

**The Hon'ble Babu AKSHAY KUMAR DAS:** It is best grown in low land and where water is available throughout the season.

**Maulavi MUHAMMAD AMJAD ALI:** May I know whether it has been tried in the flood-affected areas of the Assam Valley districts?

**The Hon'ble Babu AKSHAY KUMAR DAS:** Yes, Sir, in Goalpara and Nowgong, it has been tried.

**Maulavi MUHAMMAD AMJAD ALI:** Has it been tried recently or before?

**The Hon'ble Babu AKSHAY KUMAR DAS:** I think *buro* cultivation has become important recently.

**Maulavi MUHAMMAD AMJAD ALI:** Which year, Sir?

**The Hon'ble Babu AKSHAY KUMAR DAS:** From last year, Sir.

**Maulavi MUHAMMAD AMJAD ALI:** May I know which district of the Assam Valley is engaging the attention of the Hon'ble Minister in-charge of Agriculture at present?

**The Hon'ble Babu AKSHAY KUMAR DAS:** No particular district, Sir.

**Maulavi MUHAMMAD AMJAD ALI:** Am I to understand that Government is not giving any thought over it at present?

**The Hon'ble Babu AKSHAY KUMAR DAS:** Government is considering the question.

**Maulavi MUHAMMAD AMJAD ALI:** May I know in which district they want to have extensive *buro* cultivation?

**The Hon'ble Babu AKSHAY KUMAR DAS:** Sir, as I have replied, *buro* cultivation is abundant in the district of Sylhet and as such Sylhet is an important *buro* growing area.

**Maulavi MUHAMMAD AMJAD ALI:** Barring the district of Sylhet, is there any other district where the Hon'ble Minister wants to have extensive *buro* cultivation in the near future?

**The Hon'ble Babu AKSHAY KUMAR DAS:** I think, from the figure, the district of Goalpara stands next in *buro* cultivation.

**Maulavi MUHAMMAD AMJAD ALI:** May I know what is his proposal about the *buro* cultivation in the district of Goalpara?

**The Hon'ble Babu AKSHAY KUMAR DAS:** It is now in an experimental stage. As I have already replied that these cultivators are conservative and shy of innovations, no definite proposal has yet been made.

**The Hon'ble the SPEAKER:** The question is whether Government have arrived at any definite decision.

**The Hon'ble Babu AKSHAY KUMAR DAS:** No definite decision has been arrived at, Sir.

**Maulavi MUHAMMAD AMJAD ALI:** May I know how many Demonstrators are working in the district of Goalpara for *buro* cultivation?

**The Hon'ble Babu AKSHAY KUMAR DAS:** I cannot say this just now, Sir.



**The Hon'ble the SPEAKER:** These figures, of course, cannot be available just now.

**Maulavi MUHAMMAD AMJAD ALI:** Sir, can the Hon'ble Minister give me an idea as to how many Demonstrators are working there to have an extensive *buro* cultivation in the district of Goalpara?

**The Hon'ble Babu AKSHAY KUMAR DAS:** I cannot give that idea off hand.

**Khan Bahadur Maulavi KERAMAT ALI:** May I request the Hon'ble Minister to inquire how and where Rs.104 was spent in the district of Sibsagar and with what result?

**The Hon'ble Babu AKSHAY KUMAR DAS:** Very well, Sir.

### UNSTARRED QUESTIONS

(To which answers were laid on the Table)

#### Contractors under the Public Works Department

**Maulavi ASHRAFUDDIN MD. CHAUDHURY** asked:

291. Will Government be pleased to state the names of the persons who have been granted Public Works Department contract in the district of Sylhet, subdivision by subdivision and amount sanctioned for each of the work?

**The Hon'ble Maulavi MD. ALI HAIDAR KHAN** replied:

291.—A statement is laid on the Library table.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** Will the Hon'ble Minister in charge be pleased to say why the Muhammadans have been excluded from the contracts exceeding Rs.5,000?

**The Hon'ble Maulavi MD. ALI HAIDAR KHAN:** I cannot follow the hon. member.

**The Hon'ble the SPEAKER:** The question is why the Muhammadans were excluded from contracts exceeding Rs.5,000. But there should be a preliminary question, I think, as to how many Muhammadans, if any, submitted tenders for contracts?

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** Thank you, Sir. May I know from the Hon'ble Minister whether he has got any list of the candidates who submitted their tender for the contracts at Sylhet?

**The Hon'ble Maulavi MD. ALI HAIDAR KHAN:** I have not got it with me.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** Would the Hon'ble Minister please inquire and see whether Muhammadan contractors submitted their tenders for contracts and whether their cases were over-looked?

**The Hon'ble Maulavi MD. ALI HAIDAR KHAN:** Yes, Sir; we will inquire.



**Maulavi ABDUR RAHMAN:** May I know from the Hon'ble Minister whether the Punjabis are now-a-days occupying the place of the local contractors in the subdivisions ?

**The Hon'ble Maulavi MD. ALI HAIDAR KHAN:** I am not aware of that, Sir.

**Maulavi ABDUR RAHMAN:** May I know from the Hon'ble Minister whether he knows the fact that contract work of the Habiganj Subdivision has been almost consumed by one Punjabi contractor ?

**The Hon'ble Maulavi MD. ALI HAIDAR KHAN:** If it is so, then I think, it was done previously and not now.

**Maulavi ABDUR RAHMAN:** Will the Hon'ble Minister please make an inquiry and issue a direction to the local officers concerned that local contractors should be given the first preference in the matter of giving contracts ?

**The Hon'ble Maulavi MD. ALI HAIDAR KHAN:** There is always an order to this effect.

**Maulavi ABDUR RAHMAN:** Will the Hon'ble Minister please take it from me that 95 per cent. of the contracts are being given to the Punjabis ? Will he please make an inquiry about this ?

**The Hon'ble Maulavi MD. ALI HAIDAR KHAN:** Yes, Sir.

#### **Appointment, promotion, transfers, etc., in the Assam Educational Service**

**Babu RABINDRA NATH ADITYA** asked :

292. Will Government be pleased to state —

(a) Whether there is any circular in force debarring non-B.T. teachers of Government High Schools from being promoted to the status of the Assistant Headmasters ?

(b) If so, has that circular been followed in case of all the existing Assistant Headmasters in the district of Sylhet ?

(c) If not, why not ?

293. (a) Are Government aware of any circular debarring all teachers of Class III of the Assam School Service who are not B.Ts. from any temporary officiating chances in Class II of the same service ?

(b) If so, will Government be pleased to state whether any violation to the circular was made at any time and why it was done ?

294. (a) Are Government aware of the fact that the Sub-Inspectors of Schools, who belong to the same service with the Assistant teachers of Class III are allowed promotion to Class I direct superseding the claims of the Assistant Headmasters of Class II and of senior and more efficient Assistant teachers of the same Class III service ?

(b) If so, will Government be pleased to state what steps are being taken to remove this anomaly ?

295. Will Government be pleased to state what procedure is being followed in transferring officers from the teaching to the Inspecting line of the Assam School Service and whether all the officers of the teaching line of this service are consulted whenever any chance of such transfer arises ?

296. Will Government be pleased to state—

(a) Whether Babu Suresh Chandra Kar, B.A., B.T., was recommended by the Heads of the Education Department for a transfer from the teaching to the inspecting line and on how many occasions he was recommended ?



(b) If so, will Government be pleased to state why Babu Suresh Chandra Kar was not granted such transfer?

297. Are Government aware that mainly for this, Babu Suresh Chandra Kar was superseded and is likely to be superseded in near future also, by those who were junior to him in service and were once members of the teaching line?

298. Will Government be pleased to state whether Maulavi Saifuddin Ahmed, B.T., who had no previous experience in the Inspecting line was very recently taken as Deputy Inspector of Schools in Class I from the bottom of Class II?

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

292.(a)—No. But in practice preference is given to such trained teachers.

(b)—Does not arise.

(c)—Does not arise.

**Babu RABINDRA NATH ADITYA**: Are Government aware that a non B.T. Teacher has been appointed Assistant Head Master in the Maulvi Bazar Government High School?

**The Hon'ble Srijut GOPINATH BARDOLOI**: I am not aware of that, Sir.

**Babu RABINDRA NATH ADITYA**: Will he please inquire into this?

**The Hon'ble Srijut GOPINATH BARDOLOI**: Yes, Sir.

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

293.(a)—The hon. member's attention is invited to the reply to question 292(a).

(b)—Does not arise.

294.(a)—The practice is as stated but it must be observed that the reason for promoting Sub-Inspectors to posts of Deputy Inspector is that they have the experience in the line required, and the question of superseding more efficient men does not therefore arise.

(b)—Government are considering proposals of the Director aimed at removing the anomaly.

**Babu RABINDRA NATH ADITYA**: Is it a fact that the Professors of Colleges are often posted as Inspectors of Schools though they do not have any inspecting experience to their credit?

**The Hon'ble Srijut GOPINATH BARDOLOI**: It may be so, Sir, because they can successfully carry on the duty of inspection.

**Babu RABINDRA NATH ADITYA**: Why should not the school teachers then be promoted to the status of a Deputy Inspector to carry on the inspecting work?

**The Hon'ble Srijut GOPINATH BARDOLOI**: As a matter of fact, it has always been found that the members of the inspecting staff always do better in matters of inspection than the school teachers.

**Babu RABINDRA NATH ADITYA**: But Sir, do Government mean to say that the Professor of Colleges who have got no experience to their credit, cannot successfully carry on their work?



**The Hon'ble Srijut GOPINATH BARDOLOI:** There has been no occasion to find fault with their work.

**The Hon'ble Srijut GOPINATH BARDOLOI** replied:

295.—Officers are transferred from the teaching to the inspecting staff when vacancies occur in the latter and if they appear to be more suitable for an active touring life than for class work. It is not the practice to consult all officers, since such transfers are not made according to their wishes but for the advantage of the public service.

**Maulavi ABDUR RAHMAN:** The answer is that "Officers are transferred from the teaching to the inspecting staff when vacancies occur in the latter....."

Is it not a fact that without any vacancy no officer could be put anywhere?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** That is apparent from the answer.

**Maulavi ABDUR RAHMAN:** May I know from the Hon'ble Premier what are the special considerations for which officers from the inspecting staff are posted to the teaching staff?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** Generally the officers in the inspecting staff are to maintain a certain standard of physical fitness for an active touring life and whenever an officer in the inspecting life does not maintain such fitness, he is transferred to the teaching staff. But often times members of the teaching staff are transferred to the inspecting staff whenever vacancy occurs there.

**Maulavi ABDUR RAHMAN:** Is it a fact that in recent time some officers from the inspecting staff have been transferred to the teaching staff in spite of their complaints?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** I am not aware.

**Maulavi ABDUR RAHMAN:** Do Government know that there is an instance in the Maulvi Bazar High School where an officer has recently been transferred from the inspecting staff where he had been serving for a good number of years?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** It is quite possible that he was not found fit to undertake active touring work and he has been transferred to the teaching staff.

**Maulavi ABDUR RAHMAN:** Is it not desirable that officers who are working in the inspecting staff should be allowed to remain there as far as practicable?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** That principle is generally followed. But in certain cases where a particular officer of the inspecting staff is not found fit to do the active touring work on account of health or otherwise, he is transferred to the teaching staff.

**The Hon'ble Srijut GOPINATH BARDOLOI** replied:

296. (a)—Government regret that they cannot disclose the recommendations made by their officers.

(b)—Does not arise.

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\*Speech not corrected.



297.—He was superseded, as many other officers in the teaching staff have been, by Sub-Inspectors who became Deputy Inspectors. As stated, the practice is being re-examined.

298.—Yes.

### Middle Vernacular and Middle English Examinations

**Maulavi MUHAMMAD AMJAD ALI** asked :

299. Has the attention of Government been drawn to a correspondence published in the Bi-weekly *Assamiya* dated the 20th January, 1939 under the caption “ছোৱালীৰ মজলীয়া ইংৰাজী আৰু অসমীয়া বুলব পৰীক্ষা। অসমীয়া প্ৰশ্ন কাকতৰ বেমেজালীৰ দ্বাৰা একেধাৰ”।

300. Will Government be pleased to state—

(a) Whether they have made any enquiry as to the correctness of the said communication ?

(b) If so, will Government be pleased to state the result of such enquiry ?

301. Will Government be pleased to state—

(a) The functions of the Moderation Board at Shillong in the matter of setting questions for Middle Vernacular and Middle English Examinations ?

(b) Whether the said Board scrutinized the questions on “Literature—Assamese” and “Literature—Bengali” for the Middle Scholarship and School Leaving Certificate Examinations, 1938-1939 for girls ?

302. Will Government be pleased to state—

(a) Whether it is a fact that no questions were set from any one of the books prescribed as texts for all the schools and that all questions were set from books recommended as additional books ?

(b) Whether it is a fact that no question was set from “নৌতি পাঠ ৬ষ্ঠ ভাগ” which is a prescribed text book ?

(c) If so, why such a course was adopted ?

303. Are Government aware that there is a feeling of consternation amongst the examinees and their guardians regarding the chances of success in the Examination ?

304. Do Government propose to take steps to allay it ?

305. Do Government propose to issue instructions for making adequate and necessary allowance to the examinees for their failure to answer questions ?

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

299.—Yes.

300.—(a) Yes.

300(b), 301(a), (b), 302(a), (b), (c), 303, 304 and 305.—This year for the first time the lists of text books for boys and girls were printed for economy's sake in a combined list. This combined list contained a special section with the heading “Additional books for girls schools.” It is regrettable that the Examiner, apparently thinking that the additional books for girls schools were the only books prescribed, set questions only from these additional books on the subject “Literature”.

It is more regrettable that the Board of Moderators failed to notice the omission.



On the mistake being discovered the Examiner was asked to make special allowance for those candidates who had not read the books from which the questions were set ; and the answer to these questions were left out of consideration and their marks distributed among the other questions in the paper.

It is clear that neither the examiner nor the Moderation Board did their work efficiently and Government agree that there is cause for serious complaint.

It is not likely that any such mistakes will occur in future, as it has been decided that the Text Book Committee will publish books on Literature which will be the sole prescriptions for the Middle School Leaving Certificate Examination in this subject.

These books are now being prepared and will be published before next session.

The amalgamation of the Girls' Examination Moderation Board with the Boys' Examination Moderation Board is also under consideration.

**Maulavi MUHAMMAD AMJAD ALI:** Would it be possible to give me the names of the examiners ?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** I want notice of that question, Sir.

**Maulavi MUHAMMAD AMJAD ALI:** Will the Hon'ble Premier give me the names later on ?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** Yes.

**Maulavi MUHAMMAD AMJAD ALI:** Will he also give me the names of the Moderators ?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** I hope it will be possible to give them.

**Maulavi MUHAMMAD AMJAD ALI:** I am thankful. May I know whether there was a Board of Examiners for the Middle English Examination ?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** I suppose the Board of Moderators appointed a Board of Examiners.

**Maulavi MUHAMMAD AMJAD ALI:** Then, may I take it that there was a Board for conducting the Middle English and Middle Vernacular Examinations ?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** Yes, Sir.

**Maulavi MUHAMMAD AMJAD ALI:** Who was the head of that Board, Sir ?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** I am not aware of that.

**Maulavi MUHAMMAD AMJAD ALI:** In the answer it is said that "It is regrettable that the Board of Moderators failed to notice the omission". Is it also the fact that the omission also escaped the notice of the Board of Examiners ?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** The information is already in the reply.

**Maulavi MUHAMMAD AMJAD ALI:** It is not there.

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** I suppose it is there.



**Maulavi MUHAMMAD AMJAD ALI:** To be more clear, is it also regrettable that the Board of Examiners for conducting the Middle English Examinations in the province also failed to detect the omission?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** The answer is there, Sir. "It is more regrettable that the Board of Moderators failed to notice the omission."

**Maulavi MUHAMMAD AMJAD ALI:** I want a definite reply—Yes or no, regarding the Board of Examiners.

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** It was a joint Board—the Board of Examiners and the Board of Moderators. So, it must have escaped the notice of the Board of Moderators too.

**Maulavi MUHAMMAD AMJAD ALI:** May I know the percentage of failures on account of this omission?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** I want notice of that question, Sir.

**Maulavi MUHAMMAD AMJAD ALI:** Will the Hon'ble Premier supply me the information later on?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** I think, it will be possible to do so.

**Maulavi MUHAMMAD AMJAD ALI:** I am thankful for that.

**Srijut PURNA CHANDRA SARMA\*:** Is it a fact that complaints have been filed against the Board of Moderators?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** I am not aware of that.

**Srijut PURNA CHANDRA SARMA\*:** Is it the intention of Government to change the members of the Board of Moderators?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** We are not considering the suggestion.

**Maulavi MUHAMMAD AMJAD ALI:** How long is the present Board of Moderators functioning?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** I am not aware of that.

**Maulavi MUHAMMAD AMJAD ALI:** Will the Hon'ble Premier supply me with the information?

**The Hon'ble Srijut GOPINATH BARDOLOI\*:** Yes, it will be given.

#### Grants-in-aid to Middle English Schools

**Maulavi ASHRAFUDDIN MD. CHAUDHURY** asked:

306. (a) Has the attention of the Hon'ble Minister of Education been drawn to series of articles under the heading "ফক্স বিভাগ ও মধ্য ইংরেজী স্কুল" published in the vernacular weeklies "Jugaveri" dated 8th November 1937, 22nd November 1937, 7th February 1938, "Janasakti" dated 1st December 1938, 2nd February 1938, and "Jugashakti" dated 14th November 1937, 21st November 1937, 23rd January 1938, 6th February 1938 and 20th February 1938?

(b) Does the Hon'ble Minister-in-charge propose to take any step to redress the grievances referred to in these articles?

(c) If the reply to question (b) above is in the affirmative, will the Hon'ble Minister-in-charge please give an idea of the nature of steps he intends to take and when?



(d) Is it a fact that the percentage of Middle English Schools receiving grant-in-aid from Government is very small in comparison with that of High English Schools?

(e) If so, will the Hon'ble Minister please state the reason for this differential treatment?

(f) Are Government aware that most of the Middle English Schools in the Surma Valley are very much handicapped for want of funds, that they cannot afford to pay even the minimum scale of pay laid down under section 68 of the Rules and Orders, in the Education Department to their teachers?

(g) Will Government be pleased to state the number of Middle English Schools in the district of Sylhet and how many of them receive aid from Government?

(h) What is the number of Middle English Schools in the South Sylhet, Karimganj, Habiganj and Sunamganj Subdivisions of the district of Sylhet?

(i) How many of them receive aid from Government?

(j) What is the amount of aid per month given to each of them?

(k) Are Government aware of the fact that there are some Middle English Schools which are not financially in a position to meet the expenses of taking part in the annual sports tournaments?

(l) If so, do Government propose to give financial aid to those Middle English Schools to enable them to bear the expenses of joining the tournaments?

(m) If not, do Government propose to give option to those Middle English Schools, which are not financially well-off in the matter of joining the tournaments and issue instruction to the Inspecting Officers accordingly?

307. Will Government be pleased to state—

(a) Whether there is likelihood of any surplus being left with the Director of Public Instruction at the end of the financial year ending on the 31st March 1939 from the Educational grant for that year?

(b) If so, do Government propose to consider the desirability of distributing the surplus to Middle English Schools by way of grant-in-aid?

308. Will the Hon'ble Minister-in-charge of Education be pleased to state why the Educational grant of Rs.20,000 obtained in September, 1937 has not been distributed by way of giving grants to Middle English School although the amount has mostly been spent in feeding High English Schools of the province?

**The Hon'ble Srijut GOPINATH BARDOLOI replied:**

306. (a)—Yes.

(b)—The condition of Middle English Schools, especially in the light of the tendency of local boards to abandon them, is under consideration of Government, who will do what they can to improve matters.

(c)—It is not possible at the moment to state Government's policy on the subject, but they hope to give larger grants so far as funds permit.



(d)—Yes.

(e)—This is a complicated matter which has a long history behind it ; Government have to make their grants where they are most needed and deserved.

(f)—Yes.

(g)—Number of recognised Middle English Schools in the district of Sylhet—75. Number of Middle English Schools in the district of Sylhet receiving aid from Government—18.

(h)—Number of Middle English Schools in the—

(1) South Sylhet Subdivision	...	...	18
(2) Karimganj	„	...	14
(3) Habiganj	„	...	16
(4) Sunamganj	„	...	14
			<hr/> 62

(i)—(1) South Sylhet	...	...	...	2
(2) Karimganj	...	...	...	3
(3) Habiganj	...	...	...	1
(4) Sunamganj	...	...	...	2

(j)—South Sylhet—

(i) Krishna Chandra Middle English ... Rs. 25 per mensem.  
School.

(ii) Baramchal Middle English School ... 15 „

Karimganj—

(i) Wood's Middle English School ... 10 „

(ii) Narayan Nath Middle English School ... 15 „

(iii) Charkhai Middle English School ... 15 „

Habiganj—

(i) Habiganj Middle English School ... 38 „

Sunamganj—

(i) Deraï Middle English School ... 25 „

(ii) Sunamganj Town Girls' Middle English School. ... 150 „

(k)—No.

(l)—The question does not arise.

(m)—The matter will be considered when representations are received from the schools concerned.

307. (a)—No savings are anticipated.

(b)—The question does not arise.

308.—Please see answer to question No.306 (e).

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** My question was whether any of the Middle English schools situated in the interior of that big subdivision of Habiganj has got any aid from Government ?

**The Hon'ble Srijut GOPINATH BARDOLOI:** The reply is already there.



**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** In view of the fact that not a single village Middle English school of Habiganj subdivision has received any aid from the Government, may I draw the attention of the Hon'ble Premier to the condition of at least one school, viz., the Bamai Middle English School?

**The Hon'ble the SPEAKER:** I think this matter was sufficiently discussed in connection with a cut motion, and I think the Hon'ble Premier gave some sort of assurance in the matter.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** Sir, I have got more facts and figures now, and my case has considerably strengthened. May I have a definite assurance from the Hon'ble Premier?

**The Hon'ble Srijut GOPINATH BARDOLOI:** There is no question of definite assurance. It will be found in the reply that it may not be possible for Government to take up many schools, because the Local Boards have suddenly given up responsibility of maintaining these schools. The whole position is that if all the schools have to be taken up, a sum of Rs.30,000 is necessary. But, as I said in reply to a cut motion, that so far as some individual schools are concerned, the matter will be taken into consideration.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** In view of the fact that in the whole of the thana of Lakhai, there is not a single High School but only one Middle English School, may I know from the Hon'ble Premier whether that school will receive the foremost consideration of Government?

**The Hon'ble Srijut GOPINATH BARDOLOI:** The matter will receive our consideration.

**Mr. ARUN KUMAR CHANDA:** Are Government aware that in certain areas these Middle English schools are the only agencies for imparting instruction?

**The Hon'ble Srijut GOPINATH BARDOLOI:** I am prepared to accept the hon. member's information.

**Mr. ARUN KUMAR CHANDA:** Will Government consider the desirability of curtailing the grants to local bodies, which have abandoned the schools, and place the savings thus effected in the hands of the Director of Public Instruction for being spent on Middle English Schools?

**The Hon'ble Srijut GOPINATH BARDOLOI:** The matter may be considered, though it is a far-reaching recommendation.

**Maulavi ABDUR RAHMAN:** May I enquire from the Hon'ble Minister in charge whether he has made any provision in his Budget towards the maintenance of Middle English schools?

**The Hon'ble Srijut GOPINATH BARDOLOI:** We have not yet made provision for particular schools. As I said, these suggestions will be taken into consideration.

**Maulavi ABDUR RAHMAN:** Not for particular schools. I said for Middle English education.

**The Hon'ble Srijut GOPINATH BARDOLOI:** Up till now we have not done that, but the suggestion will be considered.

**Maulavi ABDUR RAHMAN:** May I know from the Hon'ble Premier whether he will accede to the recommendation of the Director of Public Instruction, if any, in this connection, so far as Habiganj subdivision is concerned?

**The Hon'ble Srijut GOPINATH BARDOLOI:** If it is consistent with the distribution of the amount through various areas, that will surely be taken into consideration.



**Maulavi ABDUR RAHMAN:** The amount required for maintenance of the 15 Middle English schools in the Habiganj subdivision will not be more than Rs. 175. Will the Hon'ble Minister take this fact into consideration in view of the fact that a monthly contribution of Rs. 175 will be sufficient for maintaining those schools?

**The Hon'ble Srijut GOPINATH BARDOLOI:** No definite reply can be given without examining the question, but the matter will be examined.

**Maulavi ABDUR RAHMAN:** Will he take it from me that the Local Board used to spend this amount for maintaining these schools?

**The Hon'ble Srijut GOPINATH BARDOLOI:** It may be so.

### Grants-in-aid to Middle English Schools

**Babu RABINDRA NATH ADITYA asked :**

309. (a) Has the attention of the Hon'ble Minister of Education been drawn to series of articles under the heading “শিক্ষা বিভাগ ও মধ্য ইংরেজী স্কুল” published in the vernacular weeklies “Jugaveri” dated the 8th November 1937, 22nd November 1937, 7th February 1938 “Janasakti” dated the 1st December 1937, 2nd February 1938, “Jugasakti” dated the 14th November 1937, 21st November 1937, 23rd January 1938, 6th February 1938 and 20th February 1938?

(b) Does the Hon'ble Minister-in-charge propose to take any step to redress the grievances referred to in those articles?

(c) If the reply to question No. (b) above is in the affirmative, will the Hon'ble Minister-in-charge please give an idea of the nature of steps he intends to take and when?

(d) Is it a fact that the percentage of Middle English Schools receiving grant-in-aid from Government is very small in comparison with that of High English Schools?

(e) If so, will the Hon'ble Minister-in-charge please state the reason for this differential treatment?

(f) Are Government aware that most of the Middle English Schools in the Surma Valley are very much handicapped for want of funds, that they cannot afford to pay even the minimum scale of pay laid down under section 68 of Rules and Orders in the Education Department to their teachers?

(g) Will Government be pleased to state the number of Middle English Schools in the district of Sylhet and how many of them receive aid from Government?

(h) What is the number of Middle English Schools in the South Sylhet, Karimganj, Habiganj and Sunamganj Subdivisions of the district of Sylhet?

(i) How many of them receive aid from Government?

(j) What is the amount of aid per month given to each of them?

(k) Are Government aware of the fact that there are some Middle English Schools which are not financially in a position to meet the expenses of taking part in the annual sports tournaments?

(l) If so, do Government propose to give financial aid to those Middle English Schools to enable them to bear the expenses of joining the tournaments?



(m) If not, do Government propose to give option to those Middle English Schools, which are not financially well-off in the matter of joining the tournaments and issue instruction to the inspecting officers accordingly?

310. Will Government be pleased to state—

(a) Whether there is likelihood of any surplus being left with the Director of Public Instruction at the end of the financial year ending on the 31st March, 1939, from the Educational grant for that year?

(b) If so, do Government propose to consider the desirability of distributing this surplus to Middle English Schools by way of grant-in-aid?

311. Will the Hon'ble Minister-in-charge of Education be pleased to state why the educational grant of Rs. 20,000 obtained in September 1937 has not been distributed by way of giving grant to Middle English Schools?

**The Hon'ble Srijut GOPINATH BARDOLOI** replied:

309-311.—The hon. member's attention is invited to the replies given to a set of similar questions (unstarred questions Nos. 306 to 308) asked by Maulavi Ashrafuddin Md. Chaudhury, M.L.A., during the current Session of the Legislative Assembly.

#### **Communal cases at Hailakandi.**

**Maulavi ASHRAFUDDIN MD. CHAUDHURY** asked:

312.(a) Is it a fact that in the recent communal cases at Hailakandi, the Government of Assam have engaged two lawyers from the District Bar of Cachar?

(b) If so, will Government be pleased to state the daily fees for appearance of these lawyers?

313.(a) Is it a fact that in the case brought by some congress men against Babu Hirendra Chandra Chakravarty, M.L.A., and others, the Government Pleader of Cachar has been appointed by the Government of Assam?

(b) Is it a fact that besides the Government Pleader, another lawyer has been engaged at Government expense in that case?

(c) Is it a fact that for Hailakandi cases, the Government had been all through engaging local lawyers before the present Ministry came into power?

(d) Is it a fact that Government engaged Maulavi Abdul Matlib Majumdar, M.A., B.L., in large number of intricate criminal cases of Hailakandi previously?

(e) Will Government be pleased to state why this Government did not engage him in any of these cases?

314. Is it a fact that the appointments of the Public Prosecutors in these cases have been made not by the Deputy Commissioner but by the Government?

**The Hon'ble Babu KAMINI KUMAR SEN** replied:

312.(a)—Yes.

(b)—Rupees 32 per diem for the Government Pleader and Rs.10 per diem for the associate pleader.



313.(a)—Yes.

(b)—Yes, at the Government Pleader's request.

(c)—At Hailakandi lawyers have very rarely been engaged by Government either before or after the present Ministry took office.

(d)—Government engaged him in only one case.

(e)—Because he had filed *vakalatnama* for the opposite party.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** With regard to (e), may I know from the Hon'ble Minister in charge whether the lawyer filed *vakalatnama* in all these cases?

**The Hon'ble Babu KAMINI KUMAR SEN:** I am not aware of that.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** So far as the engagement of this lawyer is concerned, may I know whether any enquiry was made as to whether he filed *vakalatnama* for the opposite party in all these cases?

**The Hon'ble Babu KAMINI KUMAR SEN:** The cases were more or less analogous. So if he had filed *vakalatnama* in one case, it was thought expedient not to engage him on behalf of Government for any other cases.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** May I draw the attention of the Hon'ble Minister to the fact that the two cases are of different nature, and one cannot by any stretch of imagination be analogous to the other?

**The Hon'ble the SPEAKER:** This is entering into an argument.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** One case was *Emperor versus Muhammadans*, and the other was *Emperor versus Babu Hirendra Chandra Chakravarty*.

**The Hon'ble Babu KAMINI KUMAR SEN:** It may be, Sir, but the issue was almost same in all these cases.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** May I draw the attention of the Hon'ble Minister to the fact that the analogous cases were tried by one Magistrate, but the case against Babu Hirendra Chandra Chakravarty, because of its different nature, was tried by another Magistrate?

**The Hon'ble the SPEAKER:** How does it effect the question of the engagement of lawyers about which the hon. member was trying to make a point?

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** Sir, the Government replied that these were analogous cases. But by the engagement of two Magistrates is it not proved that these cases were of different nature?

**The Hon'ble Babu KAMINI KUMAR SEN:** Government is not bound to engage a particular pleader in all cases.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** May I know the facts from which the Hon'ble Minister came to the conclusion that these were analogous cases?

**The Hon'ble the SPEAKER:** I cannot allow this question. These facts cannot be given on the floor of this House.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** May I know whether in these cases, the lawyers were engaged by the District Magistrate or by the Government?

**The Hon'ble Babu KAMINI KUMAR SEN:** In which case?

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** In the latter case, i.e., against Babu Hirendra Chandra Chakravarty.



**The Hon'ble Babu KAMINI KUMAR SEN:** By the District Magistrate.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** In the previous case?

**The Hon'ble Babu KAMINI KUMAR SEN:** The answer is already there in reply to question No.314.

**The Hon'ble Babu KAMINI KUMAR SEN** replied:

314.—In view of the complicated and voluminous brief of the case Government gave direction to engage the Government Pleader in addition to Babu Upendra Sankar Datta who had already been engaged by the Deputy Commissioner.

**Khan Bahadur Maulavi KERAMAT ALI:** May I take it that Babu Upendra Sankar Datta was engaged in this case on the recommendation of the Deputy Commissioner?

**The Hon'ble Babu KAMINI KUMAR SEN:** The reply is there.

**Khan Bahadur Maulavi KERAMAT ALI:** The answer is "In view of the complicated and voluminous brief of the case Government gave direction to engage the Government Pleader in addition to Babu Upendra Sankar Datta". My point is whether Government received any recommendation from the Deputy Commissioner.

**The Hon'ble Babu KAMINI KUMAR SEN:** No, Sir.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** Are Government aware that according to the rule of engagement of Government Pleaders, the District Magistrate is to do that? May I know why Government took initiative in this case?

**The Hon'ble Babu KAMINI KUMAR SEN:** The reply is there, that in view of the complicated and voluminous brief of the case, Government gave direction to engage the Government Pleader in addition to Babu Upendra Sankar Datta.

**Khan Bahadur Maulavi KERAMAT ALI:** May I ask what was the necessity for this direction on the part of Government when Babu Upendra Sankar Datta was already engaged by the Deputy Commissioner?

**The Hon'ble Babu KAMINI KUMAR SEN:** In one case only, there were as many as 95 accused, and the question of religious and customary rights of Hindus and Muhammadans was involved. In view of these, Government thought it fit to engage the Government Pleader to help Babu Upendra Sankar Datta, who had already been briefed by the Deputy Commissioner.

**Maulavi ABDUR RAHMAN\*:** Was Babu Upendra Sankar Datta first appointed?

**The Hon'ble Babu KAMINI KUMAR SEN\*:** The reply is there.

**Khan Bahadur Maulavi KERAMAT ALI:** My question is: when he was already engaged by the Deputy Commissioner, what was the necessity for engaging him?

**The Hon'ble Babu KAMINI KUMAR SEN\*:** Government thought it was not possible for one single Pleader to conduct such a voluminous case.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY\*:** The answer is that this was a voluminous case. May I know whether any instruction was given by the District Magistrate or by the lawyer engaged?

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\* Speech not corrected.



**The Hon'ble Babu KAMINI KUMAR SEN\***: A representation was made by the Hindus of Hailakandi and not by the District Magistrate or by the lawyer engaged.

**Babu RABINDRANATH ADITYA\***: Is it not a fact that the Government pleader helped towards the compromise of the case?

**The Hon'ble the SPEAKER**: I think this is going beyond the scope of the question.

### Officers in the Livestock Section

**Mr. NABA KUMAR DATTA** asked:

315. Will Government be pleased to state—

- (a) The number of officers now working in the Livestock Section?
- (b) How many of them are Assam Valley Hindus, Surma Valley Hindus and Muhammadans?
- (c) Whether they are all I. D. D. passed?
- (d) Whether it is a fact that there is still one officer in this section who is not an I. D. D.?
- (e) Is it a fact that some other officers who were appointed in the Livestock Section from the general section in the Agriculture Department have been taken back to their original posts when I. D. D. passed men became available?
- (f) If so, why this officer was not taken back?
- (g) Whether there is any dearth of I. D. D. passed men now?
- (h) If not, why this officer should not be taken back to his original job to make room for an I. D. D. man and thus to give adequate percentage to an under represented community?
- (i) Are Government aware that this non-I. D. D. officer is now undergoing training in I. D. D.?
- (j) If so, did Government give him any assurance to retain him in the Livestock Section?
- (k) If not, do Government propose to direct the Department concerned, to revert him to his substantive appointment?

316. If the reply to question 315(i) is in the negative, do Government propose to make any enquiry in this matter?

317. Is it a fact that one Muhammadan Assistant Manager of the Jorhat Farm is now under the order of reversion, only because he is not an I. D. D.?

**The Hon'ble Babu AKSHAY KUMAR DAS** replied:

315.(a)—Sixteen.

(b)—Assam Valley Hindus ...	...	...	3
Surma Valley Hindus ...	...	...	4
Muhammadans ...	...	...	7

(c)—No.

(d)—No. There are more than one.

(e)—Yes.

(f)—The particular officer has been retained because of his long experience of work in the Livestock Section.

(g)—No.

(h)—The hon. member's attention is invited to the reply to question (f) above. His retention in the section does not affect the state of communal representation as it is calculated on the basis of the entire Department and not on that of a particular section under it.



(i)—No. He is taking Post Graduate Training.

(j)—Does not arise.

(k)—Government do not consider it necessary to order his reversion in view of his long experience in the section and the training he is at present undergoing.

316.—In view of the reply to the question referred to, no enquiry is needed.

317.—Yes.

### Price of paddy in the district of Goalpara

**Srijut JOGENDRA NARAYAN MANDAL** asked :

318.(a) Are Government aware that the price of paddy in the district of Goalpara, has gone high, due to boat-loads of paddy being sent daily by brokers to other provinces and thereby giving rise to shortage of foodstuff in the district ?

(b) If so, do Government propose to enforce necessary restriction to it ?

**The Hon'ble Babu AKSHAY KUMAR DAS** replied :

318.(a)—The price does not appear to have gone up. There is neither any evidence nor report from any quarter about the alleged shortage of foodstuffs.

(b)—Does not arise.

**Srijut JOGENDRA NARAYAN MANDAL\*** : What was the price of paddy for the last three months in the district of Goalpara ?

**The Hon'ble Babu AKSHAY KUMAR DAS\*** : I cannot answer that question off-hand.

**Srijut JOGENDRA NARAYAN MANDAL\*** : Whether Government has got any report ?

**The Hon'ble Babu AKSHAY KUMAR DAS\*** : I am not in a position to answer that question. If the hon. member wants, we may have a report.

**Maulavi MUHAMMAD AMJAD ALI** : Did he not get a report from the local officer regarding the price of paddy for the last three years ?

**The Hon'ble Babu AKSHAY KUMAR DAS\*** : I am not in a position to say.

**Maulavi GHYASUDDIN AHMED\*** : What is the basis of the reply that the price has not gone up ?

**The Hon'ble Babu AKSHAY KUMAR DAS\*** : The answer is there.

**Maulavi GHYASUDDIN AHMED\*** : I want to know what is the basis of the reply that the price does not appear to have gone up.

**The Hon'ble Babu AKSHAY KUMAR DAS\*** : Because there is no report to the Government. Government consider that the price is normal.

**Maulavi GHYASUDDIN AHMED\*** : Has he consulted the Gazette for the last three months ?

**The Hon'ble Babu AKSHAY KUMAR DAS\*** : The hon. member gets one copy of the Gazette weekly.

**The Hon'ble the SPEAKER** : The Hon'ble Minister says that the hon. member is getting a copy of the Gazette every week.



**Maulavi MUHAMMAD AMJAD ALI:** Why should an hon. member consult the Gazette. It is for the Hon'ble Minister to do it. He ought to base his answer on the report. The price of the agricultural produce is published in the local Gazette every week.

**Srijut JOGENDRA NARAYAN MANDAL\*:** Whether it is a fact that the price of paddy per maund has gone higher from Re. 1-8-0 to Rs. 2?

**The Hon'ble Babu AKSHAY KUMAR DAS\*:** How can that be? I think the hon. member is suffering from a misconception of the laws of economy. Paddy is being exported from Goalpara. It is cheaper in Goalpara than in the places where it is being despatched.

**Maulavi MUHAMMAD AMJAD ALI:** I do not want any comparative price. Are Government aware that the price of paddy in the district of Goalpara has gone higher on account of this sort of export according to this economic principle of demand and supply.

**The Hon'ble Babu AKSHAY KUMAR DAS\*:** I do not think it is a fact.

**Maulavi JAHANUDDIN AHMED\*:** May I know, Sir, how the Hon'ble Minister came to the conclusion that the price has not gone high?

**The Hon'ble Babu AKSHAY KUMAR DAS\*:** Because paddy is being exported from Goalpara. So we have to come to the conclusion that price has not gone high.

**Babu HIRENDRA CHANDRA CHAKRAVARTY\*:** Does the Hon'ble Minister think that because paddy is being transported from Goalpara, price of paddy in Goalpara is very low.

**The Hon'ble Babu AKSHAY KUMAR DAS\*:** There is no question of high or low. From the conclusion that paddy is being transported from Goalpara, it means that the price of paddy is not high at Goalpara.

**Babu HIRENDRA CHANDRA CHAKRAVARTY\*:** Shall I be correct in saying that the price has gone up?

**The Hon'ble Babu AKSHAY KUMAR DAS\*:** It is a question of opinion.

**Maulavi GHYASUDDIN AHMED\*:** Whether he has got definite information from the district authorities?

**The Hon'ble Babu AKSHAY KUMAR DAS\*:** Yes, Sir. It is definite information from the district Officer and I can read out:

"The question is based on a misconception of the laws of economy. Paddy is being exported because it is cheaper in Goalpara than the places where it is despatched."

**Maulavi JAHANUDDIN AHMED\*:** Is it not a fact that when a thing is being exported from one place to another in a larger quantity, the price of that commodity becomes higher?

**The Hon'ble Babu AKSHAY KUMAR DAS\*:** I have nothing to add.

**Khan Bahadur Maulavi KERAMAT ALI\*:** May I request the Government to take steps to restrict the export of paddy from Goalpara because the price is going high there.

**Babu RABINDRA NATH ADITYA\*:** Will the hon. member say under what law Government can enforce restriction?

**The Hon'ble the SPEAKER:** The hon. member may consult the Government of India Act.



*Re the office of the Inspector of Schools, Surma Valley and the Murarichand College, Sylhet, etc.*

**Maulavi ASHRAFUDDIN MD. CHAUDHURY** asked :

319.(a) Is it a fact that Government desires to shift the office of the Inspector of Schools, Surma Valley and Hill Districts, from Sylhet to Silchar ?

(b) If so, will Government be pleased to state the reasons for such a change ?

320. Is it a fact that during the time of Mr. Cunningham, the Director of Public Instruction, there was a move for such a transfer but he was of opinion that such transfer would be heavily expensive to the Government ?

321. Will Government be pleased to state the travelling allowances drawn by the Director of Public Instruction and the two Inspectors of Schools in the course of the last 3 years ?

322. (a) Will Government be pleased to state the number of Middle English Schools in the Surma Valley ?

(b) Will Government be pleased to state the number of Middle English Schools which are receiving Government aids at present ?

(c) Will Government be pleased to state the reasons as to why the Government did not raise the Middle English Schools of Lakhai to that of a High School as promised by the Hon'ble Premier in the last Assembly Session ?

323. Are Government aware that educationally the Mussalmans of the Surma Valley are very backward ?

324 (a) Is it a fact that Mr. S. C. Gupta, the officiating Inspector of Schools is the only Doctor of literature in English in the Murarichand College, Sylhet ?

(b) In view of the bad results of the Murarichand College in English, will Government be pleased to state whether Government propose to transfer him to the said College ?

(c) Are Government aware that there are Senior Professors, natives of the Province who are competent to hold charge of the office of the Inspector of Schools in the Surma Valley ?

325.(a) Is it a fact that in the presence of the Hon'ble Premier and the Hon'ble Finance Minister at their Sylhet visits, on each occasion, the Government officials, particularly the Muslim Professors were engaged to secure support for the present Ministry ?

(b) Is it a fact that these Muslim Professors invited Maulvis of Fulbari Madrassa and Maulvis of Jhingabari Madrassa at Sylhet during the visit of the Hon'ble Revenue Minister at Sylhet and to his knowledge, these Professors arranged reception for him through these Maulvis ?

(c) Is it a fact that the said Muslim Professors of the Murarichand College took leave from the College and stayed with the Hon'ble Revenue Minister at Shillong ?

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

319.(a)—Such a change has not been considered by Government.

(b)—Does not arise.

320.—Government have no information.



321.—The information required is as follows:—

	1935-36	1936-37	1937-38
	Rs.	Rs.	Rs.
Director ... ..	1,895	2,348	2,365
Inspector, Assam Valley Districts	3,798	3,496	3,476
Inspector, Surma Valley and Hill Districts.	2,703	2,871	2,266

322.(a)—101.

(b)—28.

(c)—The question is not understood. No promise was made and no funds were available.

323.—Though they may be behind some communities they have made much advance in recent years and occupy now a not unsatisfactory position.

324.(a)—Yes.

(b)—No. It is not a fact that the results of the Murarichand College have been bad. They have been uniformly higher than the University average.

(c)—Government are not prepared to express an opinion on the point.

325.(a)—No.

(b)—Government are not aware.

(c)—Government have no information.

### Grants-in-aid to certain schools in the Jaintia Hills

**Rev. L. GATPHOH** asked:

326. Will Government be pleased to state—

(a) The number and names of the existing Middle English Schools in the Jaintia Hills?

(b) Whether any of the existing schools receives Government grant-in-aid?

(c) If not, why?

327. (a) Are Government aware that only the non-Khasi Middle English Schools, with the exception of one in the district of Khasi and Jaintia Hills have hitherto been in receipt of Government grant-in-aid and that all such schools are situated in the capital of the province?

(b) Will Government be pleased to state what is the proportion of revenue contributed by the Jaintia Hills to the total revenue of the Khasi and Jaintia Hills District?

328. (a) Do Government propose immediately to provide facilities for Middle English Schools and Secondary education in the Jaintia Hills as is the case in other subdivisions in the Province?

(b) If so, what is their scheme towards that end?

329. Are Government aware that there has been a great agitation among the public to immediately open a Middle and a High School at the headquarter of the Jowai subdivision?

**The Hon'ble Srijit GOPINATH BARDOLOI** replied:

326. (a) Four, viz.—

- (1) Jowai Boys Middle English School.
- (2) Jowai Girls " " "
- (3) Shangpung " " "
- (4) Bishop's " " "



(b)—No.

(c)—The first three schools applied for grants some ten years ago when funds were not available and have not applied since. The Bishop's Middle English School applied for a grant in 1937, but as the whole question of grants to Mission in the Hills was under consideration, no grant was given.

327. (a)—Yes.

(b)—This is difficult to answer in the time available. It would be necessary to separate the district revenue from the revenue of provincial headquarters and from other revenues lodged in the Treasury.

328. (a) & (b)—The Director of Public Instruction, Assam, will visit Jowai shortly and will prepare a scheme for the consideration of Government.

329.—Yes.

### Participation in political activities by Government servants

Maulavi ABDUR RAHMAN asked:

330.(a) Will Government be pleased to state whether Government officials are entitled to take part in any political activities?

(b) Are Government aware that a Congress Procession of Hindus came out in the Habiganj town, on the day the present Coalition Government came in power in the month of September, 1938?

(c) Is it a fact that the then Senior Extra Assistant Commissioner Babu U. C. Roy of Habiganj took an active part in this procession?

The Hon'ble Srijut GOPINATH BARDOLOI replied:

330.(a)—Under Rule 20 and Rule 21 respectively of the Government Servants Conduct Rules framed by the Secretary of State and the Assam Government Servants Conduct Rules, officials are not allowed to take part in, subscribe in aid of, or assist in any way any political movement in India or relating to Indian affairs.

(b)—Yes.

(c)—No.

### Contracts under the Public Works Department

Maulavi BADARUDDIN AHMED asked:

331. Will Government be pleased to state—

(a) The number of contracts under the Public Works Department given by the Executive Engineers of the province to the *bonafide* Assamese, the domiciled inhabitants, and the foreigners with their amounts in each case, during the period from the 1st April, 1938 to the 31st January, 1939?

(b) The number of such contracts given to the natives of the district of Darrang with their amounts in each case during the period from the 1st April, 1938 to the 31st January, 1939?

(c) The number of such contracts given to the Muslims of the district of Darrang with their amounts in each case during the said period?



**The Hon'ble Maulavi MUHAMMAD ALI HAIDAR KHAN** replied :

331.(a)—This will run to over a thousand, as many contracts are for petty sums of Rs. 50 and under. So the labour involved is not commensurate with the result to be achieved.

(b) & (c)—A statement is laid on the library table.

### **Contract for the Printing of Forms**

**Srijut OMEO KUMAR DAS** asked :

332. Will Government be pleased to state when the next contract for the printing of forms will be made ?

333. (a) Are Government aware that there are private presses in the province equipped with up-to-date machineries to undertake the printing of all the standardised forms required by this Government ?

(b) If so, do Government propose to distribute the whole work of printing of forms to the presses in the province and encourage the local industry to thrive ?

334. (a) Is it a fact that the cost of printing at the Government Press is higher than at private presses ?

(b) Is it a fact that the price of Municipal Rate Bill forms was realised by Government at Re. 1 per book ?

(c) Is it a fact that the Government discontinued the printing of Municipal Rate Bill forms and allowed the Boards to make their own arrangement ?

335. Will Government be pleased to state—

(a) Whether they propose to give more work to the Government Press ?

(b) If so, whether it will entail any extra expenditure to Government and if so, to what extent ?

336. Will Government be pleased to state whether they have taken into consideration the high rate of freight that Government have to pay to the Commercial Carrying Company in bringing papers upto Shillong and again in sending them from Shillong ?

337. (a) Is it a fact that Messrs. Seetal Chandra Banerjee and Company of Calcutta have failed to supply the forms ?

(b) If so, what action do Government propose to take for the printing of these forms ?

**The Hon'ble Babu KAMINI KUMAR SEN** replied :

332. From 1st April 1940.

333. (a) & (b)—Government will consider to what extent the private presses of the province can take up the printing work, and will give them a reasonable share of it.

334. (a)—Overhead charges in the Government Press are higher and higher salaries are probably paid to employees than in private presses. But the Press Establishment has to be maintained in any case as printing of forms is not the major portion of the work of the Secretariat Press. On their present information, Government believe therefore that outsiders and paying Departments will, on the whole, have to pay more for forms or anything else printed at the Secretariat Press and that service Departments get their work as regards supply of forms from the Secretariat Press done free of charge except for the cost of paper to Government. The question of comparative cost will however be thoroughly examined before giving out the next contracts.



(b)—Yes.

(c)—Yes.

335. (a) and (b)—Nothing has been decided. Government will not give more work to the Government Press than at present unless this proves economical.

336.—This is one of the factors that will be taken into consideration in deciding the distribution of printing under the next contract but it should be noted that the cost of transport of paper and of printed forms has to be taken into account also in the case of private presses some of which are situated at one end of the province, e.g., Dibrugarh or Sylhet.

337. (a)—Yes.

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

### Printing of Treasury forms

**Srijut OMEO KUMAR DAS** asked :

338. (a) Is it a fact that the Treasury Forms are being printed at and supplied from the Assam Government Press for the last two years ?

(b) Is it a fact that these forms were formerly printed and supplied by the Contractors and as the Superintendent of Press complained that there was not sufficient work for the people employed in the Press, he wanted more work and as such the standardised Treasury Forms are now being printed at the Government Press ?

(c) Will Government be pleased to state whether it is cheaper to print these forms in the Government Press or to have them printed by contractors ?

(d) Will Government be pleased to state the total cost for printing the Treasury Forms during the years 1934, 1935, 1936, 1937 and 1938 ?

**The Hon'ble Babu KAMINI KUMAR SEN** replied :

338. (a)—Yes ; since 1936.

(b)—The forms were formerly printed and supplied by a private press which failed in 1936 when the Government Press came to the rescue and printed them in spite of a heavy rush of work. The Superintendent did not complain of lack of sufficient work.

(c)—Government believe on their present information that it is definitely cheaper for a service department to have them printed in the Government Press but before giving out the next contract this question will be carefully examined.

(d)—1934

1935

1936

1937

1938

Rs.

1,655

Not available as forms were printed locally.

Rs.

2,860

2,188

1,663

The quantity of indents varies every year.



## Contractors under the Public Works Department

**Srijut RAJANI KANTA BAROOAH** asked :

339. Will Government be pleased to state—

(a) The total number of contractors employed under the Public Works Department in the Dibrugarh Subdivision ?

(b) How many of them are (1) Assamese, (2) Foreigners with domicile certificates, (3) Foreigners without domicile certificates ?

(c) What are the total amounts paid for works done by each of these classes of contractors in 1936-37, 1937-38 and 1938-39 ?

340. (a) Will Government be pleased to state whether the Government Circular No.2-A., dated the 7th April, 1934, explains the present policy of the Government in regard to employment of contractors in the Public Works Department ?

(b) If so, will Government be pleased to state the reasons as to why Punjabi contractors without domicile certificates are given big works by the Public Works Department at Dibrugarh ?

**The Hon'ble Maulavi MD. ALI HAIDAR KHAN** replied :

					49
339. (a)—1936-37	...	...	...	...	54
1937-38	...	...	...	...	54
1938-39	...	...	...	...	

(b)—			1938-39
	1936-37	1937-38	
(1) Assamese	32	31	37
(2) Foreigners with domicile certificates.	7	10	9
(3) Foreigners without domicile certificates.	10	13	8

(c)—			Rs.
	Rs.	Rs.	
(i) Assamese	1,24,286	45,413	43,343
(ii) Foreigners with domicile certificates.	51,486	46,872	51,297
(iii) Foreigners without domicile certificates.	1,21,104.	45,691	47,114

N. B.—The figures for 1938-39 represent the amount paid up to date.

340. (a)—Yes.

(b)—These Punjabi contractors are old contractors of the Department and by their experience are able to undertake work for which other suitable tenderers are not forthcoming.



**Re the Experimental Farms and Seed Depots under the Agricultural Department**

**Babu RABINDRA NATH ADITYA** asked :

341.(a) Is it a fact that the Experimental Farms and Seed Depôts under the management of the Agricultural Department have an expenditure far greater than their income ?

(b) Do Government propose to consider the question of running them on a commercial line with a view to practising economy and teaching businesslike method in Agriculture ?

(c) Is it a fact that very few recommendations of the Royal Commission on Agriculture and of Sir John Russel and Doctor N. Wright were given effect to in Assam ?

(d) If so, will Government be pleased to state what steps they propose to take to give effect to them ?

342. Is the Hon'ble Minister of Agriculture aware that no work on the line of dairying has been done by the Live Stock Expert during the last ten years except starting a few milk societies in the Plains Districts which also proved failure ?

343.(a) Will the Hon'ble Minister of Agriculture please state the percentage of negative re-actors from positive animals of Johnes disease at Sylhet Farm now ?

(b) Is it a fact that breeding, etc., can be carried on a herd, all being positive to Johnes disease as is being done now at Sylhet Farm ?

(c) Is it a fact that Johnes disease exists in other Government Farms in other Provinces and nowhere destruction of animals were adopted as in Assam ?

(d) Will the Hon'ble Minister be pleased to state the number of animals destroyed showing the value of those animals in the Sylhet Farm ?

(e) Is it a fact that the value of those animals was reduced before destruction to obtain sanction of higher authorities to write-off the value ?

344. Is the Hon'ble Minister of Agriculture aware that after destruction of cattle suffering from Johnes disease at Sylhet and Khanapara Farms, the carcasses were sold to the Mahamadans for meat and they took it without any fear of infection ?

**The Hon'ble Babu AKSHAY KUMAR DAS** replied :

341.(a)—Yes.

(b)—These Farms and Seed Depôts are concerned with finding out new varieties of seeds, their suitability with respect to their yield in different localities, and distribution of improved types. They unlike commercial firms, are experimental institutions but utmost care is taken to secure economy and eliminate waste.

(c)—Such of the recommendations as have been considered beneficial to the province and within the limits of financial resources have been given effect to.

(d)—Does not arise.

342.—The information of the hon. member is not correct. Dairies have been organised in a number of Jails in the province and also at the different Government farms. All the Milk Societies have not been a failure. Such of the Societies as have failed have indicated the importance of cattle improvement.



343.(a)—No test has been carried out during the past two years. About 70 per cent. of the present animals had given a re-action previous to that. Many which gave a positive re-action as long as four or five years ago are still healthy. In the course of 3 years only 3 per cent. of the re-actors have developed the disease.

(b)—Yes. The calves are kept separate and all precautions to prevent possible infection are taken.

The disease appears to be dying out under treatment with extra mineral supplies in the food and controlled grazing which prevents re-infection.

(c)—Johnes disease has been found to exist in Government Farms in other Provinces. As far as is known destruction in those cases has been restricted to actual clinical cases, if done at all.

(d)—164 in the course of 4 years ending in 1937. Value Rs. 6,560 (Rupees six thousand five hundred and sixty).

(e)—No. Cattle are valued once a year on the 31st March and no change is made during the year.

344.—Yes. Johnes disease is not communicable to human beings.

### Examiners of the Middle English School Leaving Certificate and Scholarship Examination

**Maulavi MABARAK ALI** asked :

345. Will Government be pleased to state—

(a) The minimum qualifications of the Examiners of the Middle English School Leaving Certificate and Scholarship Examination ?

(b) Whether the 3rd year Normal passed vernacular teachers of the Assam Lower School Service are eligible for being appointed as examiners of the said examinations ?

(c) How many examiners are appointed every year for the said examination and how many of them are taken from the Assam Lower School Service ?

(d) How many examiners from the Assam Lower School Service were appointed during the years 1930-31 to 1937-38 and 1938-39 ?

(e) How many of these examiners were remunerated ?

(f) Do Government propose to help the vernacular teachers of the Assam Lower School Service by appointing them as examiners of the said examinations ?

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

345. (a)—No qualifications are prescribed. The best qualified available persons are selected. The Board of Moderators appoints the examiners : the Examination is the Middle School Leaving Certificate and Scholarship Examination.

(b)—Any person is eligible provided he is likely to prove a good examiner.

(c)—About 100 : the details are given in reply to question (d).



(d)—The number of examiners appointed from the Assam Lower School Service are :—

1930	...	...	...	8	out of 91
1931	...	...	...	8	„ 98
1932	...	...	...	8	„ 98
1933	...	...	...	9	„ 100
1934	...	...	...	12	„ 100
1935	...	...	...	11	„ 100
1936	...	...	...	7 and 1	from teachers with fixed allowance out of 100.
1937	...	...	...	6 and 1	from teachers with fixed allowance out of 104.
1938	...	...	...	4 and 2	from teachers with fixed allowances out of 105.

(e)—All examiners are remunerated.

(f)—This may be done if they are likely to be the best qualified persons.

### Hajo Dargah and Mosque

**Maulana ABDUL HAMID KHAN** asked :

346. Will Government be pleased to state—

- The acreage of lands of *wakf* by Emperor Shah Jahan, for Hajo Dargah and Mosque in the district of Kamrup ?
- The area of land granted by Emperor Aurangzeb and other subsequent Hindu Rulers for the same Dargah and Mosque ?
- How much of it is now under the administration of the management committee.
- To whom is the management committee responsible for rendering the accounts of the said *wakf* property ?

347. Will Government be pleased to lay on the table a detailed statement of the expenditure and income of the said *wakf* property during the last 10 years ?

348. Will Government be pleased to state—

- Whether they have got any record of *wakf* property of the Rangamati Mosque in the district of Goalpara ?
- If so, will Government be pleased to lay on the table a copy of the said record ?

349. Will Government be pleased to state the amount of donations by each Zaminder of the Goalpara district for relief of the flood-stricken people during the recent flood ?

350. Will Government be pleased to state the amount allotted for the supply of seeds during the ensuing sowing season in the Goalpara district ?



**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

346.(a)—996 *Puras*, 1 *bigha* and 12 *lechas*.

(b)—41 *Puras*, 2 *bighas* and 2 *kathas* by Emperor Aurangzeb.

Other details asked for are not readily available.

(c) & (d)—Government have no information.

347.—Government have not the information at their disposal.

348.(a)—None.

(b)—Does not arise.

349.—The amount sanctioned by the following estates for gratuitous relief and agricultural loans respectively are :—

				Gratuitous relief	Agricultural loans
				Rs.	Rs.
Bijni Raj	...	...	...	1,000	25,000
Mechpara	...	...	...	2,350	35,000
Chapor	...	...	...	4,000	4,000 or 5,000
Gauripur	...	...	...	5,000	Information not available.

350.—The total amount allotted for seed loans is Rs.22,250 in round figures.

### Pay of teachers of the Aided High Schools

**Maulavi MABARAK ALI** asked :

351. (a) Will Government be pleased to state the reasons as to why the resolution moved by Khan Bahadur Keramat Ali, in the Assam Legislative Council and passed in 1934, regarding the improvement of the pay and prospects of the Aided High School teachers was not given effect to ?

(b) Are Government aware of the invidious distinction that now exists between the pay of the Government High School teachers and that of the Aided High School teachers ?

(c) Are Government aware that some of the Aided High Schools show better results than many Government High Schools ?

(d) If so, what steps, if any, do Government propose to take to ameliorate the financial condition of the teachers of the Aided High Schools ?

(e) Do Government propose to give effect to the resolution passed in 1934, and as an *adinterim* relief, to increase the pay of teachers and menials of the Aided High Schools by 25 per cent. on their present salary with effect from 1st March 1939 ?

**The Hon'ble Srijut GOPINATH BARDOLOI** replied :

351. (a)—In view of the financial position of the province, the pre-reform Government could not give effect to the resolution.

(b)—Yes.

(c)—Yes, in some cases.

(d) & (e)—On account of the existing financial condition of the province, Government cannot immediately undertake to raise their pay by 25 per cent. but are giving the matter their consideration.



**Appointment and promotion of Mistresses in Dibrugarh  
Government Girls' High School**

**Srijut JOGESCHANDRA GOHAIN** asked :

352. Will Government be pleased to state whether the dates of appointments noted against the names of the following school mistresses are correct ?

- (1) Miss Saraju Bala Hazarika, B.A.(B.T. fail)—2nd December 1925.
- (2) „ D. Franklin, B.A.,B.T.—3rd June 1927.
- (3) Mrs. Punya Probha Das, B.A.,B.T.— 6th March 1928.
- (4) Miss Priyalota Kakati, B.A.,B.T.—6th September 1928.
- (5) „ Bassie Thomas, B.A.,B.T.—30th November 1929.

353. (a) Is it a fact that Miss Bassie Thomas, the junior-most of the above named school mistresses, was sometime ago promoted and appointed as Assistant Headmistress of the Government Girls' High School at Dibrugarh, by superseding the claims of her seniors ?

(b) If so, will Government be pleased to state why the claims of each of the above named senior mistresses of the said school have been superseded ?

354. (a) Are the above named first four mistresses in any way disqualified for promotion to the post of the aforesaid Assistant Headmistress-ship ?

(b) What special qualification Miss Thomas has in securing preferential treatment ?

(c) Has she any training in England ?

(d) If so, may I take it that training in England is a special qualification for promotion in the Education Department ?

(e) Do the present Government propose to accept this principle ?

355. Will Government be pleased to state—

(a) The date of Miss Ashalota Khastagir's appointment in the Assam School Service ?

(b) Whether she has also been promoted on the same ground as that of Miss Thomas ?

(c) If so, will Government be pleased to state why an ordinary graduate was given preference when there are so many experienced B. Ts. available ?

(d) The names of the Officers who are responsible for these two promotions ?

(e) Do Government propose to reconsider the cases of the four mistresses named above and redress their grievances ?

(f) If not, why not ?

356. (a) Are Government aware that all the above questions were meant for the September Session of the Assembly, but no answers to them were given even in the December Session of the Assembly ?

(b) If so, why ?

(c) How many such other questions were left unanswered in the December Session of the Assembly 1938 and whose questions are those ?



**The Hon'ble Srijut GOPINATH BARDOLOI** replied.

352.—Yes, except in the case of Miss Franklin. She was appointed on the 3rd January 1927.

353.(a)—Yes.

(b)—Because of her exceptional qualifications and the fact that alone of mistresses possessing the B.T. she was an Assamese and therefore suited to the post at Dibrugarh on account of the medium of instruction.

354.(a)—These teachers, except Miss Franklin had not then the B.T., qualification which is desirable in the case of a Headmistress or Assistant Headmistress.

(b)—She holds the University of London Teachers' Diploma and the Board of Education Teachers' Diploma.

(c)—Yes.

(d)—It may be taken into consideration according to the circumstances of the case.

(e)—To the extent stated in answer to the last question Government will consider what instructions to the Public Service Commission may be necessary.

355. (a)—26th September 1927.

(b)—Not quite. She was also the seniormost woman teacher in class III of the Assam School Service.

(c)—Besides her seniority and record of service, she, though not a B. T., had passed a Senior Training Course, had gone through Courses of training in the Moray House Training College, Edinburgh, Scotland, and under the Educational Handwork Society, Scarborough, England, and had made an extensive instructional tour on the continent of Europe.

(d)—Last Government were responsible.

(e)&(f)—Government do not propose to reconsider at this stage the question nor are they prepared to state that the mistresses mentioned have any grievance.

356. (a)—Yes.

(b)—The answers were not ready at the September Session before the last Ministry resigned: thereafter the file was mislaid and was not traced until the 14th January 1939.

(c)—Government in the Education Department have no information except as regards questions in that Department.

### **Contract for supply of country spirit**

**Srijut DEBESWAR SARMAH** asked :

357. Will Government be pleased to state—

(a) If it is a fact that under the Excise rules, tenders for the supply of country spirit are to be called 18 months before the expiry of the term of the previous contract ?

(b) When the tender for the current contract was called, and why ?

(c) When the contract with the present lessee Khan Bahadur Habi-bur Rahman was completed ?

(d) The rule, practice or procedure for the settlement of the value of the plant and machinery and other implements of the out-going lessee for the purpose of taking over the same by the new one ?



358. Will Government be pleased to lay on the table a copy of the notice calling for tenders for the purpose ?

359. Will Government be pleased to state—

(a) Whether the price of the plants and implements belonging to the outgoing lessee, *viz.*, Hazi Ismail Sait and Sons has been settled by now ?

(b) If so, at what amount ?

(c) If not, why not ?

(d) Whether the current contractor has taken over the plants, machinery and implements, etc., from the previous lessee ?

(e) If so, on what terms and conditions ?

(f) If not, how the new contractor is managing ?

(g) Whether Government advanced any money to the present lessee, *viz.*, Khan Bahadur Habibur Rahman ?

(h) If so, how much and when ?

(i) If the answer to question (g) above is in the affirmative, will Government be pleased to state what led Government to advance such money ?

(j) Whether the advance given has since been recovered ?

(k) If so, when and how much ?

360. Will Government be pleased to state —

(a) The period for which the previous lessee supplied country spirit to the Province ?

(b) Whether they worked satisfactorily ?

(c) Whether Government promised to give the contract for the period from 1st April 1938 to 31st March 1940 to the previous lessee, *viz.*, Haji Ismail Sait and Sons ?

(d) If so, what led the Government to retract ?

(e) Will Government be pleased to lay the correspondence on the table ?

361.(a) Will Government be pleased to state the grounds in detail which moved the Government to discard the old lessee, *viz.*, Haji Ismail Sait and Sons and prefer the new one, *viz.*, Khan Bahadur Habibur Rahman ?

(b) Are Government aware that the old lessee, *viz.*, Haji Ismail Sait and Sons employed natives of the Province in all the Warehouses under them and that the new lessee discarded the old employees and substituted them by people imported from outside the Province ?

(c) If the answer to question (b) above is in the affirmative, what steps do Government propose to take to save the old employees and their families from unemployment and consequent starvation ?

(d) Are Government aware of the unemployment of a considerable number of clerks, etc., referred to in question (b) above ?

(e) If so, how do they propose to redress the wrong done ?

362. Will Government be pleased to state—

(a) Whether the new lessee, *viz.*, Khan Bahadur Habibur Rahman supplied sufficient spirit for one month's consumption in compliance with clause 6 of the notice calling for tenders on or before the 21st March, 1938 ?

(b) Is it a fact that by the 31st March 1938, a quality of spirit different from and not to be used in Assam was supplied ?

(c) Is it a fact that the lessee first undertook to take back the said spirit, that is, 46 overproof spirit at his own cost and replace it by the contracted quality, *viz.*, below 40 overproof ?

(d) Are Government aware that subsequently the lessee did not take back the 46 overproof spirit but sold it to the consumers ?



- (e) Is it a fact that the Commissioner of Excise demanded rupees one lakh and fifty thousand from the new lessee towards the security of deposit and value of the outgoing contractor's property on 21st March 1938 ?
- (f) Will Government be pleased to lay on the table the undertaking given by the new lessee on 28th March 1938 to the Government and state clause by clause whether each of the undertakings was complied with or not ?
- (g) If not, what steps have been taken for failure of such undertakings ?
- (h) Are Government aware that the new lessee has not been able to maintain an adequate supply of country spirit to the Warehouses and that there have been numerous complaints about it from the same ?
- (i) Are Government aware that the new lessee has supplied dirty liquor for which there are various complaints from the vendors as well as Excise officers ?
- (j) If the answers to questions (h) and (i) above are in the affirmative, what steps do Government propose to take in this matter ?

**The Hon'ble Babu AKSHAY KUMAR DAS** replied :

357.(a)—Ordinarily the call for tenders is to issue eighteen months before the expiry of the existing contract.

(b)—Some delay having occurred in obtaining particulars from the districts for the new contract, the call was issued on the 13th February, 1937.

(c)—Government's acceptance of the tender was intimated to the Excise Commissioner on the 19th February, 1938.

(d)—Failing agreement between the incoming and outgoing contractors, the matter is to be referred to three arbitrators, one nominated by the incoming and one by the outgoing contractor and one by the Excise Commissioner, subject to an appeal to the Provincial Government.

358.—A copy has been placed on the Library table.

359. (a)—Not yet.

(b)—Does not arise.

(c)—The valuation accepted by the first and the third of the said arbitrators has not been accepted by the second, and an appeal may arise under the license.

(d)—He has taken over charge.

(e)—The precise position is matter of dispute and Government therefore do not consider it desirable to discuss it at present.

(f)—Does not arise.

(g)—No. Pending final adjustment certain interim payments have been sanctioned by Government, which they do not propose to discuss further.

(h)—The outgoing contractor was paid provisionally Rs.1,25,000 in May 1938 in addition to the sum deposited by the new contractor. The incoming contractor has been paid a total sum of Rs.1,50,000 against cost of spirit supplied, in September, January and March last.

(i)—Does not arise. It may however be explained that the previous Ministry made interim payment to the outgoing contractor in order to expedite the transfer of charge of the plant, etc.

(j)—The adjustments are not yet complete.

(k)—Does not arise.



360. (a)—From 1st April 1918 to 31st March 1938.

(b)—Yes.

(c)—No.

(d)—Does not arise.

(e)—Government do not consider it to be in the public interest to lay the correspondence on the table, especially as the matter is in dispute.

361.(a)—Government are unable to state in detail the considerations which actuated their predecessors, but understood it was in view of the lower rate tendered.

(b)—Government have no exact information, but are prepared to accept the statement as generally correct, so far as regards the outgoing contractor. They understand that the incoming contractor has undertaken to replace those few clerks who are not natives of Assam or domiciled by local men as soon as suitable trained men are available.

(c)—Government cannot hold themselves responsible for the employees of a private person.

(d)—Government are only aware that the incoming contractor has employed some of the employees of the outgoing, and will enquire whether he can take any others who may be unemployed.

(e)—Does not arise.

362. (a) to (j)—Government do not consider it to be in the public interest to discuss the subject-matter of these questions, which may possibly have some bearing on the subject-matter of dispute.

### *Re: Labour Strike at Digboi*

**Mr. F. W. HOCKENHULL:** Mr. Speaker, Sir, before proceeding to the business of the day I wish to draw the attention of the Hon'ble Prime Minister to certain reports which are reaching us disclosing that in Lakhimpur District many strikes are happening, other strikes are threatened, and the whole situation there is one of considerable anxiety. We are apprehensive that if these reports are to be relied upon there may be a breach of peace and shall be obliged if the Hon'ble Prime Minister can see his way of making a statement on the whole situation disclosing the real state of affairs and what steps he is taking.

**The Hon'ble Srijut GOPINATH BARDOLOI:** Sir, three days ago I received a telegram from the Deputy Commissioner, Dibrugarh, that a strike of the labourers of Digboi has taken place over the dismissal of certain labourers. From the report of the Deputy Commissioner, so far as I can gather, the atmosphere is peaceful but the Government are taking all precautions against breach of any order in the locality by bringing to the notice of the District authority the necessity of increased attention to the situation. While on one hand we have asked that the law and order must be maintained we have also asked the District authority to be cautious to see that no precipitate situation is resulted on account of any hasty action on the part of the authority.

As regards the strike in a tea garden we have not definitely received any information but a vague statement most probably from some garden managers was received only yesterday. We are giving our attention to these facts and surely we shall try to see that no breach of peace takes place.



**The Assam Agricultural Income-Tax Bill, 1939**

**The Hon'ble the SPEAKER :** Order, order. Discussion on \*amendment No. 35, to the Agricultural Income-Tax Bill, is to be resumed now.

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHOUDHURY :** Mr. Speaker, Sir, I make a submission to the fact that some important questions that were admitted have not been replied to. I put some questions about Puran Laur Forest Reserve, in the last December Session. The questions were admitted but no reply came from the Cabinet. This time also I repeated the questions, the questions were admitted but no reply has yet been given. I do not know whether the hand of the Government is too short to touch Sunamganj. Sir, I put some questions about Industries Department also, but I see that no reply has been given. I simply draw your attention and through you I draw the attention of the Hon'ble Prime Minister to these facts,

**Maulavi JAHANUDDIN AHMED :** Sir, I also put some questions.

**The Hon'ble the SPEAKER :** Order, order. All these complaints may be communicated to me by a letter. Hon. members know that from time to time I have told the House that I do my best to get the answers as speedily as possible from Government ; but if Government do not send the answers, I cannot compel them.

**Mr. J. R. CLAYTON :** Sir, I have a submission to make with regard to the point of order which was raised yesterday.

**The Hon'ble the SPEAKER :** It will be taken later on.

**Maulavi JAHANUDDIN AHMED :** Sir, the first point I should like to say is that our Assembly Library is so poor in law books. It is really a disgrace on the part of the Legislative Assembly and also to the Hon'ble Ministers that though we are supposed to be law-makers our library does not contain the law books. Sir, the law book that I wanted has been supplied just now about 10 minutes before. I like to bring this to your notice. Sir, and we hope to get our library full of law books from the next year.

**The Hon'ble the SPEAKER :** This is not speaking on the discussion of the amendment 35 of the Agricultural Income-tax Bill. If there is any complaint with regard to the library the hon. member may inform me in a different way. I may tell the hon. member that the law books that we had in the library previously are now in the library of the Legal Remembrancer. All of them belonged to the Legal Remembrancer and not to the previous Council. Therefore, the law books are not in the Assembly Library and I may, however, inform the hon. member that I am taking steps to have law books for the Assembly Library, as many as would be possible, with the funds at my disposal.

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\*That both the provisos of clause 9 shall be omitted.



**Maulavi JAHANUDDIN AHMED:** I am much thankful to you, Sir.

The next point that I wish to point out, Sir, is that this is a very important amendment which really affects the religious endowments of the Muslims. I should like to request you that you should allow us to record our votes by going to the lobby. Sir, I will read from the Awab Act for the information of the hon. members when this *Wakf-alal-aulad* was made and what are the restrictions therein. I will only point out the restrictions, Sir. "Provided that the ultimate benefit is in such cases expressly or impliedly reserved for the poor or for any other purposes recognised by the Musalman law as a religious, pious, or for charitable purposes of a permanent character". Though these endowments are primarily made for the benefit of the descendants of the donors still the donor must make provision that, whoever the beneficiary may be the benefit must ultimately go to some charitable or religious purpose. Now, Sir, how and why these *Wakfs* are made? These *Wakfs* are only made in those circumstances when the donor finds that his descendants are not pulling well with him, or if he thinks that his property will be mismanaged by them if he does not make some *Wakfs*. It is only because of this reason that these *Wakfs* are made just to give something to his descendants, but the ultimate aim of the donor must be that whole property must go towards some charitable purposes at the end. Now, Sir, I would like that these *Wakfs* should be excluded from the operation of this taxation when the ultimate aim of the donor is for religious purpose, and when it will ultimately go towards the benefit of the poor or some religious or charitable purposes, it should not be taxed, and I think this is a reasonable amendment. Another difficulty is that, in Bengal and other provinces there are *Wakf* Acts for the management of these *Wakf* estates. In the Bengal *Wakf* Act, there it is written—"whereas it is expedient to make provision for the proper administration of *Wakf* property in Bengal". In Assam we have got no such *Wakf* Act for the proper management of the *Wakf* estates. Now, Sir, the *Mutawalis* of these estates are mismanaging the estates, and it will be very difficult for the Government to have any sort of accounts from them unless the Government of these estates by some Act, it or to have some power upon the management of these estates by some Act. So, before having any *Wakf* Act passed it will be undesirable to have taxation upon these estates.

With these few words, I support the amendment.

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHOUDHURY:** Mr. Speaker, Sir, I rise to support the amendment. I thought that section 9 is a very good section and that the Hon'ble Finance Minister appears to be just like a good boy making a very good provision for Muslim Trusts, but when I read the proviso I found that he is a full-fledged stern Income-tax Officer. Yesterday, he was good enough to exclude *Lillah*, *Khairat* and *Zaqat* from the operation of this Agricultural Income-tax Act, and I hope that he will be less stern in the case of this amendment.

With these few words, I support the motion.

**Maulavi MUNAWWAR ALI:** Mr. Speaker, Sir, I support this amendment.

A *Wakf* whether it is *Wakf-ullah ab initio* or whether it is *Wakf-alal-aulad*, stands on the same footing. As my hon. friend from Goalpara has elaborated this point whenever there is an ultimate gift to a charitable or religious purpose, fundamentally all *Wakfs* in the eye of *Shariat* stand on the same footing be they *Wakf-alal-aulad* or otherwise. Now, the beneficiaries under a *Wakf*, with an ultimate gift to God, are persons, whether they are



relatives or descendants, of the *Wakif*, who receive the benefits in charity. Now, if a *Wakf-alal-aulad* is treated on a different footing, it would be departing from the spirit of Islamic law and *Shariat*. So, I think, it should not be impossible for the Hon'ble Finance Minister to exclude these because under the Islamic law these charitable institutions are endowments for all times to come, and there is no reason why these endowments should be treated differently, and no instance can be cited by the Hon'ble Finance Minister from anywhere—either from the *Shariat*, or from the High Court or the Privy Council, to show that there is a difference between a *Wakf-alal-aulad* and a *Wakf-ullah-aulad* in spirit and conscience they are the same—the only difference is that certain persons who are the beneficiaries of a *Wakf-alal-aulad* generally belong to the line of the *Wakif*, but the principle is the same, but that does not detract from the spirit of the *Shariat*. I would give a warning to the Hon'ble Finance Minister that if he will treat these *Wakfs* in a different manner he will make a law which will offend against the spirit of *Shariat*.

**Maulavi Saiyid Sir MUHAMMAD SAADULLA:** Mr. Speaker, Sir, the law of the *Wakfs* of the Muhammadans is very little understood, and in order to clarify the position I would like to say a few words on this question. The Muhammadan law recognises two kinds of *Wakfs* of charitable trusts—one is called *Wakf-fi-sabilillah* or an endowment in the name of Allah or God, and the other is called *Wakf-alal-aulad*, i.e., a trust in favour of helping one's own descendants. The underlying principle of both these *Wakfs* is that the dedicator gives up his proprietary rights over the property, which vests in Allah and only the usufruct of the property go for charitable and religious purposes. The first kind of the *Wakf*, e.g., *Wakf-fi-sabilillah* will be covered by the provision of our clause 8. By clause 9, it has been proposed that *Wakf-alal-aulad* should not escape from the operation of the Agricultural Income-tax Act.

Sir, it must be remembered that even in *Wakf-alal-aulad*, the *Wakif* or the proprietor of the estate has got to divest himself of his proprietary right. Therefore, he is as much a trustee as any other trustee. Under the Muhammadan law, provision for one's family is a charitable and pious act. Therefore, if there be some provision for an allowance or a maintenance being given to one's children, it cannot be said to detract from the character of a real *Wakf*, for even in *Wakf-alal-aulad* there must be an immediate grant of portion of the usufruct to be spent for charitable and religious purposes and there must be an ultimate grant to charity that is, in the case of beneficiaries dying out, the entire property will go for charity. Therefore, on the fundamental principles of either *Wakfs*, there is no difference. The only difference that may be made is that in one case there is no provision for the family of the *Wakif*, whereas in the other there may be. The fundamental principle being the same, it stands to reason whether we should make any exception in the case of *Wakf-alal-aulad*. By the present motion, the difference is sought to be removed.

Sir, this matter was discussed in the Select Committee in which I had the privilege to sit and I was told by my hon. friend the Minister-in-charge that this question was discussed amongst the Bihar members of the Assembly and the present provision is the compromise that was arrived at between the Moslems and the Legislators in Bihar. I have been subsequently told that this does not convey the correct position and although the Muslim members in the Assembly in Bihar accepted this compromise, the Muslim councillors did not accept and as a matter of fact, they walked out as a protest when this provision was moved in the Bihar Upper Chamber. Sir, on the floor of this House, the Hon'ble Finance Minister had stated that the number of



*Wakfs* in this province is very small. I agree with him. Similarly the number of *Wakf* estates, the beneficiaries of which will come under the purview of this Bill or of this Act will be very small. If that is a fact, can we not do away with this provision which hurts the feeling of most of the Muhammadans? My hon. friends who have spoken before me have given *duhai of shariat* law not to adopt this provision.

**The Hon'ble the SPEAKER:** *Duhai of shariat* should not be used here.

**Maulavi Dewan MUHAMMAD AHBAB CHAUDHURY:** May I ask the Chair whether he can use *duhai of shariat*?

**Maulavi Saiyid Sir MUHAMMAD SAADULLA:** I have used the phrase *duhai* and not the Hon'ble Speaker (looking towards Maulavi Dewan Muhammad Ahabab Chaudhury and in an angry tone). My friends used the word *Shariat* in the sense that that this provision is almost an encroachment upon religious principles and goes contrary to the Muslim notion of charity. *Wakfs-alal-aulad* are not merely a matter of personal law but this is now a codified law or the law which has been accepted by the Indian Legislature. In view of the fact that this provision brings nothing in the practical sense of additional tax to the province and in view of the fact this this is resented by almost the entire Muhammadan community, I enquire whether it would not be fit and proper for my hon. friend the Minister-in-charge to accept this motion?

**The Hon'ble Mr FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I am thankful to the hon. Leader of the Opposition for the exposition he has given in connection with this point. But I will request him and the other hon. members who have spoken in support of this amendment to be reasonable and to be just. Sir, as he has explained, there are two kinds of *Wakfs* under the Muhammadan law. Under one *Wakf* the entire property is donated or is given for charitable and religious purposes. Under the other *Wakf* which is commonly known as *Wakf-alal-aulad* a portion of the property is given for the benefit of the donor's children or children's children and a portion is allotted for religious or charitable purposes.

**Maulavi Saiyid Sir MUHAMMAD SAADULLA:** The property remains vested in God, only the usufruct goes to the beneficiaries.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Yes, the benefit is given to the beneficiaries. The object of the donor in enacting such trust is to prevent wasting his property by his descendants and to increase that benefit from the income of such property derived by his children or children's children. But, Sir, for this reason is it reasonable, is it just.....

**Maulavi JAHANUDDIN AHMED:** May I ask the Hon'ble Minister that under the proviso of *Wakfs* whether the ultimate benefit in such cases, explicitly or implicitly, is reserved for the poor or for any other purpose recognised by Muslim law as religious, pious or charitable of a permanent character?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Will the hon. member have some patience and let me go on? I am coming to that point. Therefore, Sir, I want these hon. members to be just and to be equitable and to say whether it is fair not to levy an income-tax on the income derived by the donor's children or children's children if in the case of other community all the dependants, who derive such income, are taxed.

Secondly, the hon. Leader of the Opposition said that in Assam there are very few *Wakfs* and I said the same thing only the other day. It would have been easier for me to accept this amendment if it were not for the fact that the moment we make this provision there will be a fictitious trust which will deprive Government of the legitimate tax on inherited properties. Sir, it is in view of these facts that we have made this provision. But I am in



agreement with the hon. Leader of the Opposition that that portion of the property, or that portion of the benefit which is allotted for charitable or religious purposes should be exempted from taxation. It is not the intention of this Government or of this provision to levy any income-tax on such trusts. And if the hon. members were careful enough to go through the provisions of this Bill, they will find that such exemptions have been provided in clause 8 of the Bill where trust which has been enacted for charitable purposes will be exempted from income-tax. If the purpose of the hon. members who have moved the amendment is that that portion of the benefit or income which is given to God, religious or charitable purposes, should be exempted from the levy of this tax, that purpose has been provided in clause 8 of this Bill. In view of these circumstances, I think, hon. member should not press for this amendment.

**Maulavi MUNAWWAR ALI:** Will the Hon'ble Minister please explain whether it is his intention to exclude *wakfs* made for charitable purposes?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Yes, Sir.

**Maulavi MUNAWWAR ALI:** Then *Wakf-alal-aulad*, the purpose for which it is made is charitable, and as such should be excluded.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** It is for the benefit of the children.

**The Hon'ble the SPEAKER:** Order, order; let us not enter into such discussions now.

**The Hon'ble the SPEAKER:** The question is:  
"That both the provisos of clause 9 shall be omitted".

The Assembly divided.

Ayes—36.

- |  |   |
|--|---|
| 1. Babu Hirendra Chandra Chakravarty.          | 16. Maulavi Munawwar Ali.                       |
| 2. Srijut Jogendra Narayan Mandal.             | 17. Maulavi Muzarrof Ali Laskar.                |
| 3. Maulavi Abdul Aziz.                         | 18. Maulavi Namwar Ali Barbhuiya.               |
| 4. Maulavi Abdul Bari Chaudhury.               | 19. Maulavi Naziruddin Ahmed.                   |
| 5. Khan Bahadur Hazi Abdul Majid Chaudhury.    | 20. Maulavi Saiyid Sir Muhammad Saadulla.       |
| 6. Maulavi Abdul Matin Chaudhury.              | 21. Khan Bahadur Maulavi Sayidur Rahman.        |
| 7. Maulavi Abdur Rahman.                       | 22. Shams-ul-Ulama Maulana Abu Nasr Md. Waheed. |
| 8. Maulavi Dewan Muhammad Ahbab Chaudhury.     | 23. Col. A. B. Beddow.                          |
| 9. Maulavi Muhammad Amjad Ali.                 | 24. Mr. A. H. Ball.                             |
| 10. Maulavi Ashrafuddin Md. Chaudhury.         | 25. Mr. F. W. Blennerhassett.                   |
| 11. Maulavi Ghyasuddin Ahmed.                  | 26. Mr. J. R. Clayton.                          |
| 12. Maulavi Jahanuddin Ahmed.                  | 27. Mr. W. R. Faull.                            |
| 13. Khan Bahadur Maulavi Keramat Ali.          | 28. Mr. F. W. Hockenhull.                       |
| 14. Maulavi Muhammad Maqbul Hussain Choudhury. | 29. Mr. W. J. Gray.                             |
| 15. Maulavi Matior Rahman Mia.                 | 30. Mr. D. B. H. Moore.                         |
|  | 31. Mr. R. A. Palmer.                           |
|  | 32. Mr. Benjamin Ch. Momin.                     |
|  | 33. Rev. L. Gatphoh.                            |
|  | 34. Mr. C. Goldsmith.                           |
|  | 35. Mr. Jobang D. Marak.                        |
|  | 36. Mr. P. Parida.                              |



Noes.—55.

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|---|---------------------------------------|
| 1. The Hon'ble Srijut Gopinath Bardoloi.        | 25. Srijut Jogendra Chandra Nath.     |
| 2. The Hon'ble Mr. Fakhruddin Ali Ahmed.        | 26. Srijut Jageschandra Gohain.       |
| 3. The Hon'ble Babu Kamini Kumar Sen.           | 27. Babu Kalachand Roy.               |
| 4. The Hon'ble Srijut Ram Nath Das.             | 28. Srijut Kameswar Das.              |
| 5. The Hon'ble Babu Akshay Kumar Das.           | 29. Babu Karuna Sindhu Roy.           |
| 6. The Hon'ble Maulavi Md. Ali Haidar Khan.     | 30. Mr. Kedarmal Brahmin.             |
| 7. The Hon'ble Srijut Rupnath Brahma.           | 31. Srijut Krishna Nath Sarmah.       |
| 8. The Hon'ble Khan Bahadur Maulavi Mahmud Ali. | 32. Srijut Laksheswar Barooah.        |
| 9. Kumar Ajit Narayan Dev.                      | 33. Babu Lalit Mohan Kar.             |
| 10. Mr. Arun Kumar Chanda.                      | 34. Srijut Mahadev Sarma.             |
| 11. Mr. Baidyanath Mookerjee.                   | 35. Srijut Mahi Chandra Bora.         |
| 12. Babu Balaram Sircar.                        | 36. Srijut Omeo Kumar Das.            |
| 13. Srijut Beliram Das.                         | 37. Srijut Paramananda Das.           |
| 14. Srijut Bepin Chandra Medhi.                 | 38. Rai Bahadur Pramode Chandra Dutt. |
| 15. Srijut Bhuban Chandra Gogoi.                | 39. Srijut Purandar Sarma.            |
| 16. Babu Bepin Behari Das.                      | 40. Srijut Purna Chandra Sarma.       |
| 17. Srijut Bishnu Ram Medhi.                    | 41. Babu Rabindra Nath Aditya.        |
| 18. Babu Dakshina Ranjan Gupta Chaudhuri.       | 42. Srijut Rajani Kanta Barooah.      |
| 19. Srijut Debeswar Sarmah.                     | 43. Srijut Rajendra Nath Barua.       |
| 20. Srijut Ghanasyam Das.                       | 44. Srijut Sankar Chandra Barua.      |
| 21. Srijut Gaurikanta Talukdar.                 | 45. Srijut Sarveswar Barua.           |
| 22. Srijut Haladhar Bhuyan.                     | 46. Babu Shibendra Chandra Biswas.    |
| 23. Babu Harendra Narayan Chaudhuri.            | 47. Srijut Siddhi Nath Sarma.         |
| 24. Srijut Jadav Prasad Chaliha.                | 48. Maulavi Muhammad Amir-uddin.      |
|   | 49. Srijut Bhairab Chandra Das.       |
|   | 50. Srijut Bideshi Pan Tanti.         |
|   | 51. Srijut Dhirsingh Deuri.           |
|   | 52. Rev. J. J. M. Nichols-Roy.        |
|   | 53. Srijut Karka Dalay Miri.          |
|   | 54. Srijut Khorsing Terang.           |
|   | 55. Srijut Rabi Chandra Kachari.      |

The motion was negated.

**The Hon'ble the SPEAKER:** Amendments \*37 and 38 are amendments to correct the spelling of a word and need not be moved. The correction can be made without such an amendment being moved and accepted.

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHOUDHURY:** I want to say, Sir, that both the spellings are incorrect. It should be 'Mutawali'.

**The Hon'ble the SPEAKER:** If so, it may be corrected like that. The hon. member may please inform Secretary about it.

Now the motion before the House is that clause 9 stands part of the Bill.

The motion was adopted.

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\*That in the fourth line of the second proviso of clause 9 for the word "Mutwalli" the word "Mutwali" shall be substituted. (Amendments Nos. 37 and 38 were the same standing in the names of different members).



**The Hon'ble the SPEAKER:** I think Mr. Clayton has got to make a statement regarding amendment \* No. 10, regarding which a point of order was raised yesterday.

**Mr. J. R. CLAYTON:** Mr. Speaker, Sir, I have a submission to make regarding the point of order raised yesterday regarding amendment No. 10 on the consolidated list. The objection apparently is that, as my amendment deals with the subject of taxation, it is not competent for me to move it, but that such an amendment can only be moved on the recommendation of the Governor. The principle upon which this objection is alleged to rest, is a very old principle not susceptible to misunderstanding. It is the principle that, as the Executive Government is responsible for the maintenance of the public services, that authority alone is vested with the responsibility for proposing measures of taxation or increase in taxation. When the Executive Government has made its proposal, the tax-payer has the right, through his representatives, to refuse to grant the sums asked for or to cut down, but not to increase the tax proposed. There is no principle of constitutional law to the effect that amendments affecting taxation may not be moved—the only principle is that increases in tax may not be proposed nor any fresh taxation be suggested by a private member.

This ancient principle is embodied in Section 82 of the Government of India Act, the relevant portion of which says that a Bill or Amendment making provision for imposing or increasing any tax shall not be introduced or moved except on the recommendation of the Governor. I would draw your attention, Sir, to the words 'imposing or increasing'.

**The Hon'ble the SPEAKER:** Is it only increasing an existing tax or both an existing or proposed tax?

**Mr. J. R. CLAYTON:** It is only increasing a proposed tax, Sir.

**The Hon'ble the SPEAKER:** It is open to doubt.

**Mr. J. R. CLAYTON:** According to my reading of the section, Sir, that section allows me to move as many amendments as I like reducing the tax or regulating the manner of payment of the tax, or even saying how and when the tax should be fixed—the only thing that it prevents me from doing is imposing a fresh tax or increasing an existing tax.

The two amendments which bear on this question and to one of which objection has been taken are Nos. 10 and 87. Although they are logically connected, each of those two amendments has its own distinctive purposes. Amendment No. 10 seeks to lay down that the tax is to be fixed by a schedule to the Bill. As the Bill now stands, it says that the right tax should be fixed by another Bill, viz., the Finance Bill. Our amendment seeks to say—"No, the tax will not be fixed in the Finance Bill, the tax should be fixed in this Bill". I submit, Sir, that section 82 of the Government of India Act can have no possible application to this amendment. The amendment does not impose a tax, it does not increase a tax, it merely says that the tax should be fixed in this Bill.

**The Hon'ble the SPEAKER:** How does the hon. member say that it does not impose a tax? There was no schedule to the original Bill.

**Mr. J. R. CLAYTON:** It is only the manner of imposing the tax.

**The Hon'ble the SPEAKER:** No.

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\* That in clause 3 of the Bill words "Annual Assam Finance Acts" shall be omitted and the words "Schedule to this Act" shall be substituted.



**Mr. J. R. CLAYTON:** It surely cannot be the contention of Government that, as they have proposed that the tax instituted by this Bill should be fixed in another Bill, this House is bound to accept their proposals and cannot make any amendments as to the manner of determining the tax. Such a contention is stressing the well-recognised constitutional principle far beyond the maximum reasonable limits, and in a way in which it has never been stressed in any other part of the British Empire.

Up to now, Sir, the only amendment moved by me so far in this connection has been No. 10, and I suggest that you should consider our representation on that amendment at this stage and give your ruling on it, leaving amendment No. 87 to be considered in due course when the proper stage is reached.

**The Hon'ble the SPEAKER:** Yesterday, practically I gave a ruling that this amendment requires previous recommendation of His Excellency the Governor and I may now inform the hon. members that His Excellency the Governor has refused giving his recommendation to this amendment. The reasons for which I held that this amendment required previous recommendation of His Excellency the Governor, I shall fully explain subsequently in the course of the day. I do not like to take the time of the House now by stating those reasons. It comes to this then, that amendment No. 10 cannot be moved. Amendment No. 11 can now be moved.

**Mr. J. R. CLAYTON:** Mr. Speaker, Sir. I beg to move that in clause 3 of the Bill after the words "Annual Assam Finance Acts" the words "subject to the provisions of section 5" shall be added. This is really a verbal amendment intending to make it clear that the rates which may be fixed by the Assam Finance Act shall not be greater than the Central Income-tax rates. It may be argued that this is a mere repetition of what is already found in proviso to clause 5. The reasons for the repetition are however duplication which already exists in the Bill itself, as between clause 3 and clause 5.

**The Hon'ble the SPEAKER:** Amendment moved:  
That in clause 3 of the Bill after the words "Annual Assam Finance Acts" the words "subject to the provisions of section 5" shall be added.  
Then I may point out to the hon. members that amendment No. 14\* also goes with amendment No. 10.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** I have no objection in accepting this amendment because it is a verbal amendment.

**The Hon'ble the SPEAKER:** The question is:

"That in clause 3 of the Bill after the words 'Annual Assam Finance Acts' the words 'subject to the provisions of section 5' shall be added".

The motion was adopted.

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\* That clause 5 of the Bill shall be omitted.



Then the question is that clause 3 as amended stands part of the Bill.

The motion was adopted.

Question is that clause 5 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER :** Then comes clause No. 10.

**Mr. F. W. HOCKENHULL :** Mr. Speaker, Sir. I beg to move that clause 10 of the Bill be omitted.

In moving this amendment, I should like to point out that its acceptance or rejection in no way affects the interests which we represent but we move it as a matter of principle for the clause as it now stands appears to us to be a piece of entirely unjustified discrimination in favour of undivided family as separate individuals contrary to the very conception of such a family. It must be remembered that the members of a Hindu joint undivided family already enjoy certain distinct advantages as compared with other communities in regard to such matters as succession, etc. Their present claim to be treated as individuals for taxation purposes is an attempt to have it both ways. They want to be treated as members of a single entity for most purposes but for this particular purpose they would like to be treated as individuals. We can see no justification for this view.

Even if for the sake of argument we were to admit that the members of Hindu undivided joint family should be treated as individuals, it is difficult to see any justification for the fixing of tax at 4 pies. The Bihar Agricultural Income-Tax Bill put up by a Government predominantly Hindu and applied to a mainly Hindu population has not gone anything like as far as this in its direction of favouritism to the Hindu joint or undivided family. Under the provisions of the Bihar Bill in cases where the share of each brother is less than the lower limit of taxation applicable to an individual, the tax is to be levied at the minimum rate which in the case of Bihar is 6 pies. If the Government of Assam want to follow the same precedent they should retain the figure of 9 pies instead of admitting a substitution of 4 pies and our next amendment will attempt to correct this defect.

Let us consider for a moment the method adopted by the Central Government to deal with this question. The rates applicable to the Hindu undivided family are exactly the same as those applicable to individuals. As regards the successive slabs which apply to individuals, let me illustrate this by two examples.

Take first the case of a joint Hindu family having an income of Rs.50,000 per annum consisting of 50 co-sharers of the classes dealt with in the proviso to clause 10. The theoretical share of each brother will be Rs.1,000 per year and the rate of tax applicable will thus under the present Bill be 4 pies in the rupee. The total tax payable will be Rs.1,010-10-0. Under the Central Bill the tax payable will be—

On the first Rs.3,000	...	...	Nil
On the next Rs. 7,000	...	...	Rs. 328 2 0
" Rs.10,000	...	...	Rs. 781 4 0
" Rs.10,000	...	...	Rs.1,250 0 0
" Rs.20,000	...	...	Rs.3,125 0 0

Total Rs.5,484 0 0

This would perhaps suffice to show how favourably this Bill treats a joint Hindu undivided family as compared with their treatment by the Central Income-tax Act. Lest it be supposed that the illustration is too far fetched and that the apparent disparity arises from the choice of a family with so large number of members, let me take the case of a Hindu undivided family with an income of Rs.10,000 consisting of five brothers or brothers'



sons. The share of each brother being Rs.2,000 the whole income under the present Bill will be assessed at the rate of 4 pies in the rupee after the deduction of Rs.1,500 free of tax of assessment. The tax payer will thus pay Rs.177. Under the Central tax the sums payable by the same family would be Rs.390-10-0.

These examples will make clear the unjustifiable degree of preferential treatment which the Bill affords to the Hindu undivided family.

**The Hon'ble the SPEAKER:** Amendment moved:—

“That clause 10 of the Bill be omitted.”

**Adjournment.**

The Assembly then adjourned for lunch till 2 p.m.

**After lunch**

**The Hon'ble the SPEAKER:** Discussion on amendment No. 39.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I oppose the amendment moved by hon. Mr. Hockenhull. The Government when drafting the provisions of this Bill gave consideration to all the facts which have been brought to our notice to-day by hon. Mr. Hockenhull. As the hon. members will realise that this section provides for Hindu joint and undivided family and from the point of administrative convenience also we see no justification why we should depart from the provision which we have made in the Bill. Therefore, I oppose the amendment.

**The Hon'ble the SPEAKER:** The question is:

“That clause 10 of the Bill be omitted”.

The motion was negatived.

**Maulavi ABDUL BARI CHAUDHURY:** I will not move my amendment\* Sir.

**The Hon'ble the SPEAKER:** Babu Hirendra Chandra Chakravarty amendment† No. 41—absent.

(Amendment‡ No. 42 was not moved).

**The Hon'ble the SPEAKER:** Amendment No. 43.

**Mr. F.W. HOCKENHULL:** May I say a word, Sir?

So far as this provision\*\* is concerned, I think it appeared under a misapprehension. In the second part of clause 10 in the Select Committee Report—page 2—it is stated that the rate in clause (b) is reduced from pies six to pies four according to the new rate proposed under the recent Indian Finance Act. I think that is a mistake.

**The Hon'ble the SPEAKER:** What is in the original Bill?

**Mr. F. W. HOCKENHULL:** It is six pies in the original Bill.

\*“That for the whole of clause 10 together with the proviso and the explanation thereof the following shall be substituted:—

10. In the case of a Hindu joint family the share of each individual member' and not the total income of the whole family shall be the basis of assessment”.

†“That in the second line of the proviso to clause 10 after the words ‘consists of’ the words ‘father and sons governed by Dayabhagaor’ shall be added and in item (a) of the said proviso the figure ‘5,000’ shall be substituted by the figures ‘10,000’”.

‡ “That in clause 10 of the Bill, in the proviso, the figure ‘5,000’ wherever they appear shall be omitted and the the figures ‘2,000’ shall be substituted.

\*\*\*“That in clause 10 of the Bill in the proviso, in sub-clause (b) the figure and word 4 pies shall be omitted and the figure and word ‘9 pies’ shall be substituted”.



**The Hon'ble the SPEAKER :** Is it a fact that the Select Committee have reduced it to four pies ?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED :** Yes, it has been reduced to four pies by the Select Committee.

**Mr. F. W. HOCKENHULL :** The reduction was made under some misapprehension. It is my impression.

**The Hon'ble the SPEAKER :** We have nothing to do with that. We are dealing with the clause as altered by the Select Committee. It is not for me to enquire if the alteration was done under any misapprehension or not.

The question is that clause 10 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER :** Clause 11. Amendments Nos. 44 and 45 are the same. Hon'ble Mr. Fakhruddin Ali Ahmed may move.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED :** Mr. Speaker, Sir, I beg to move that in sub-clause (1) of clause 11 for the words "in like manner and to the same amount and at the same rates as would be leviable and recoverable from such persons and from each of such beneficiaries respectively" the following words shall be substituted, namely :—

"At the rate which would be applicable if such person had held the land exclusively for his own benefit".

Sir, the amendment intends to restore the wordings as they stood in the original Bill. I think that the words in the original Bill were much better. As amended, they are not only difficult to work, but would prevent taxation of the profit of the Companies and Associations of individuals taken together as units in themselves. So far as we can make out, the original clause 11 proposed to tax the profits of the Company or Associations as a unit. As amended, the taxation will be according to the income of each share-holder and as very few share-holders in a Company derive agricultural income of Rs. 3,000, almost the entire profits of the Company will be exempted. Secondly, Sir, the amendment proposed by us is intended to remove any risk as regards the wording covering Companies, Firms, etc., and then Associations in the manner contemplated by the Select Committee being rendered almost impossible.

Lastly, the amendment is intended to provide for cases not covered by clauses 4, 10, 12 and 13 which must be very few in number to be assessed in a convenient way and then to provide for refunds in cases of hardship. One of the cases which will come under the clause is that of a trustee or guardian. With these words, I propose the amendment for acceptance of the House.

**The Hon'ble the SPEAKER :** Amendment moved :

"That in sub-clause (1) of clause 11 for the words 'in like manner and to the same amount and at the same rates as would be leviable and recoverable from such persons and from each of such beneficiaries respectively' the following words shall be substituted, namely.

"At the rate which would be applicable if such person had held the land exclusively for his own benefit."

**Mr. J. R. CLAYTON :** Sir, I oppose this amendment as it refuses something which was put by the Select Committee. As clause No. 11 now stands in the Bill, in the case of trustee and beneficiaries, although the tax may be charged in the name of one person only, it must be charged at the rates applicable to the individuals.

This conforms to clause 10 of the Bill which deals with Hindu families and is also in line with the principles of taxation in the United Kingdom and under the Central Income-tax Act.



If the Finance Minister's amendment is carried, in such cases the tax will be charged at the rate applicable to the total income of the co-owners or of the trust and no corresponding provision for refunds to the individuals is made.

Therefore, Sir, I oppose this Amendment.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Sir, I have nothing to add to what I have already said.

**The Hon'ble the SPEAKER:** The question is:

"That in sub-clause (1) of clause 11 for the words 'in like manner and to the same amount and at the same rates as would be leviable and recoverable from such persons and from each of such beneficiaries respectively' the following words shall be substituted, namely:—

'at the rate which would be applicable if such person had held the land exclusively for his own benefit'."

(A summary division was taken by asking the members to rise in their places).

The House divided with the following result.

Ayes:—55.

Noes:—20.

The motion was adopted.

**Mr. F. W. HOCKENHULL:** I beg to move, Sir, that in clause 11 of the Bill in sub-clause (1) after the words "at the same rates as would be leviable" the word "upon" shall be inserted.

This, Sir, is merely to make a grammatical correction. I think it will be accepted.

**The Hon'ble the SPEAKER:** Amendment moved:

"That in clause 11 of the Bill in sub-clause (1) after the words 'at the same rates as would be leviable' the word 'upon' shall be inserted".

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** I accept it.

The motion was put and carried.

**The Hon'ble the SPEAKER:** The question is that clause 11 amended stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** Clause 12, amendment No. 47.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** I beg to move, Sir, that in clause 12 for the words "in like manner and to the same amount and at the rates same as would be leviable upon and recoverable from each person interested in such income and the common manager, receiver, administrator or the like" the following words shall be substituted, namely:—

"on such common manager, receiver, administrator or the like and he".

Sir, this amendment is in order to restore the wording of the original Bill. The reasons for which this amendment has been tabled are the same as were explained by me in moving my previous amendment No. 44.

**The Hon'ble the SPEAKER:** Amendment moved:

"That in clause 12 for the words 'in like manner and to the same amount and at the same rates as would be leviable upon and recoverable from each person interested in such income and the common manager, receiver, administrator or the like' the following words shall be substituted namely:—

'On such common manager, receiver, administrator or the like and he'."



**Mr. J. R. CLAYTON:** Sir, I oppose this amendment for the same reason for which I opposed the previous amendment.

The motion was put and adopted.

**The Hon'ble the SPEAKER:** This disposes of all amendments to clause 12. Now the question is that clause 12 as amended stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** There is no amendment to clause 13. The question is that clause 13 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** Clause 14.

**Mr. F. W. HOCKENHULL:** I am not moving that \*amendment, Sir.

**The Hon'ble the SPEAKER:** Then there is no amendment to clause 14. The question is that clause 14 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** There is no amendment to clause 14A.

The question is that clause 14A stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** Similar is the case with clause 14B. The question is that clause 14B stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** Clause 15.

Amendment No. 50 † stands in the name of Babu Hirendra Chandra Chakravarty, but he is absent. The next amendment stands in the name of Abdul Bari Chaudhuri.

\*That after clause 14B of the Bill, a new clause be added as follows:—  
 “Reduction of tax when margin above a certain limit is small.”  
 14C. Where owing to the fact that the total agricultural income of any assessee has reached or exceeded a certain limit, he is liable to pay agricultural income-tax at a higher rate, the amount of agricultural income-tax payable by him shall, where necessary, be reduced so as not to exceed the aggregate of the following amounts; namely,

- (a) the amount which would have been payable if his total agricultural income had been a sum less by one rupee than that limit, and
- (b) the amount by which his total agricultural income exceeds that sum.”

† That after sub-clause (1) of clause 15 the following proviso shall be added after item (d)—

“Provided that at least half of the members of the Board referred to in item (a) of sub-clause (1) shall be taken from persons belonging to land-holding class representing different interests who are assessed to agricultural income-tax.”



**Maulavi ABDUL BARI CHAUDHURY:** I beg, Sir, to move:

That after sub-clause (1) of clause 15, the following new sub-clause shall be added as sub-clause (1A)—

“(1A) The Assam Board of Agricultural Income-tax shall be elected by the Assam Provincial Legislature and shall exercise and perform such duties as may be prescribed by rules under the Act”.

Sir, by clause 15(1) we are told that one of the authorities for the purposes of the Act shall be the Assam Board of Agricultural Income-tax. But nowhere is this Board defined. Nor are we told how this Board is to be constituted.

Sir, the Bill itself is very drastic in nature and it will very materially affect the properties of the people. Some of the provisions are so elastic that there is great apprehension of these being misused. I may mention for instance the provision regarding return of income. Those who are conversant with the operation of the Indian Income-tax know full well the amount of harassment experienced regarding the question of return. Here in the case of the Agricultural Income-tax the problem will be all the more acute. The ordinary agriculturists, excepting the tea planters, can hardly sign his name. So the question of a return will be a real problem with him.

So, it is essential that the members of the Legislature should have efficient control over the constitution of this Board. With this aim in view, I have drafted this amendment. I request the Hon'ble Finance Minister to be a little more considerate and accept it.

**The Hon'ble the SPEAKER:** Amendment moved:

“That after sub-clause (1) of clause 15, the following new sub-clause shall be added as sub-clause (1A)—

“(1A) The Assam Board of Agricultural Income-tax shall be elected by the Assam Provincial Legislature and shall exercise and perform such duties as may be prescribed by rules under the Act”.

**Maulavi ABDUR RAHMAN:** Sir, I beg to support this amendment. It will be found, as has been pointed out by the hon. mover, that the Board has never been defined. There is nothing in the Bill to show who is to appoint this Agricultural Board. In clause 2 of the Bill there is definition in sub-clause (b) that the Board means the Assam Board of Agricultural Income-tax appointed under sub-section (2) of section 15. This is the only indication, but it is not defined anywhere as to who is the person to appoint this Board. So, the mover has justly pointed out that this should be appointed by this House and that the election of the members of this Board should rest with the members of this House. So, I support the motion.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** Sir, I find herein in sub-section (2) of clause 15 that the authorities shall be appointed by the Governor and shall exercise and perform in the prescribed areas the prescribed powers and duties. I think anyhow that my friend has suggested that the Board should be elected by this House. I think, this is a very salutary and beneficial proposal and in view of the circumstances that have been placed before the House by the hon. mover, I think, the Hon'ble Finance Minister will do well to accept this proposal. With these few words, I think, this suggestion will be accepted by Government.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, the hon. mover and those who have taken part in supporting this amendment have certainly given me a surprise. I maintain that there is nothing which a Member of Legislative Assembly cannot do. But I maintain that in the interests of the public they should



not be dissipating their energies and abilities on such a matter. Sir, the Assam Board of Agricultural Income-tax will be like the Central Board of Revenue under the Indian Income-tax Act. It will have experienced officials under the control of the Board to secure proper and uniform administration all throughout the province. He will be directly responsible to the Minister-in-charge of Finance.

Therefore, I oppose this amendment.

**The Hon'ble the SPEAKER:** The question is:

"That after sub-clause (1) of clause 15, the following new sub-clause shall be added as sub-clause (1A):—

'(1A) The Assam Board of Agricultural Income-tax shall be elected by the Assam Provincial Legislature and shall exercise and perform such duties as may be prescribed by rules under the Act'."

The motion was negatived.

**The Hon'ble the SPEAKER:** The next amendment stands in the name of Maulavi Abdul Bari Chaudhury.

**Maulavi ABDUL BARI CHAUDHURY:** I do not like to move it, Sir.

**The Hon'ble the SPEAKER:** There is no other amendment to clause 15.

The question is that clause 15 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** Clause 16.

**Mr. F. W. HOCKENHULL:** Sir, I beg to move that in clause 16 of the Bill in sub-clause (1) after the words 'first day of May or' the words 'any other day' shall be omitted and the words 'for the year commencing 1st April 1939 any later day' shall be inserted.

We see no reason why we should not have power to fix any day after the first of April. Notification may issue within thirty days wherever possible and it is desirable that this must be given before the first day of May. Here we recognise however that a later date may be necessary for the first year and our amendment provides for this.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** I accept this amendment.

**The Hon'ble the SPEAKER:** The question is that in clause 16 of the Bill in sub-clause (1) after the words "first day of May or" the words "any other day" shall be omitted and the words "for the year commencing 1st April 1939 any later day" shall be inserted.

The motion was adopted.

**The Hon'ble the SPEAKER:** Amendment No. 54. I object to the use of the word 'vernacular'. Some other word may be there.

**Maulavi ABDUL BARI CHAUDHURY:** I suggest the words 'language of the districts' for the words "vernacular of the districts".

I beg, Sir, to move that in the fourth line of sub-clause (1) of clause 16 after the words 'in the press' the following words shall be added:—

'both in English as well as in the language of the districts'.  
My motive in bringing this amendment is that cent. per cent. of the agriculturists in villages are not familiar with English. So notice should also be published in the language of the district.

\*That in sub-clause (2) of clause 15 after the words and figure "in sub-section (1)" appearing in the first and second lines the following words shall be added:—

"Excepting the Assam Board of Agricultural Income-tax."



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

**The Hon'ble the SPEAKER:** Amendment moved:

"That in the fourth line of sub-clause (1) of clause 16 after the words 'in the press' the following words shall be added:—

'both in English and in the language of the districts'."

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, the amendment of my friend does not seem necessary because this does not preclude that the notice should not be given in the language of the province. Moreover, the purpose for which objection has been raised that, because villagers do not understand English, the notice should be given in the language of the district, will hardly be served by this amendment as those persons who would be liable to tax on an income of Rs.3,000, would know English language.

**Maulavi JAHANUDDIN AHMED:** May I know how many persons the Hon'ble Minister has seen who pay an income-tax on Rs.3,000 know English?

**The Hon'ble the SPEAKER:** The question is:

"That in the fourth line of sub-clause (1) of clause 16 after the words 'in the press' the following words shall be added:—

'both in English as well as in the language of the districts'."

The motion was negatived.

**The Hon'ble the SPEAKER:** There are no amendments to clause 16. The question is that clause 16 as amended stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** The question is that clauses 17 and 17A stand part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** Clause 18. Will the hon. member explain his amendment No.55?

**Mr. F. W. HOCKENHULL:** We see no justification for the large margin between Rs.3,000 lower limit of taxation and the figure Rs.5,000 referred to in this clause. The intention is to avoid infliction of penalty on a man who *bonafide* believes that his income is less than Rs.3,000 whereas in practice his income turns out to be more. Then, Sir, we understand that a man whose income is in fact to be Rs.3,000 may have been under the *bonafide* belief that his income is within the limit but we are not prepared to believe that a man whose income is Rs.4,900 may be under a genuine misapprehension. The reasonable margin of income has to be allowed in our view and replaced by Rs.2,500 margin of which would be ample.

**The Hon'ble the SPEAKER:** We were under the impression that it relates to the question of penalty.

**Mr. F. W. HOCKENHULL:** It relates to estimation of a man's income.

**The Hon'ble the SPEAKER:** Very well, the hon. member may move it.

**Mr. F. W. HOCKENHULL:** Mr. Speaker Sir, I beg to move:

"That in clause 18(1) of the Bill, in clause (a) of the proviso, the words 'rupees five thousand' be omitted and the words 'rupees two thousand and five hundred' be substituted."

I feel sure that the Hon'ble Minister can have no possible objection to accept this amendment in view of the explanation I have given.

**The Hon'ble the SPEAKER:** Amendment moved:

"That in clause 18(1) of the Bill, in clause (a) of the proviso, the words 'rupees five thousand' be omitted and the words 'rupees two thousand and five hundred' be substituted."



**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Sir, the Select Committee have given reasons for this amendment and Government consider that the reasons given are cogent. I think, I shall be supported in this matter also by the hon. the Leader of the Opposition and I think the hon. members should not press this amendment for the reasons which the Select Committee gave.

**The Hon'ble the SPEAKER:** The question is:  
 "That in clause 18(1) of the Bill, in clause (a) of the proviso, the words 'rupees five thousand' be omitted and the words 'rupees two thousand and five hundred' be substituted."

The motion was negatived.

**The Hon'ble the SPEAKER:** The question is that clause 18 stands part of the Bill.

The motion was adopted.

(Clause 19 of the Bill was deleted by the Select Committee).

**The Hon'ble the SPEAKER:** There is no amendment to clause 20. The question is that clause 20 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** Clause 21, amendment No.56.

**Mr. J. R. CLAYTON:** As this amendment\* is very long and as all members have been supplied with copies of the amendment I would ask Sir, whether I should read it or should I take it as read.

**The Hon'ble the SPEAKER:** Very well, if the hon. members agree.  
 (Voices—yes.)

\*"That clause 21 of the Bill shall be omitted and the following clause shall be substituted:—  
 'Appeals.

21. (1) Any assessee objecting to any order made by an Agricultural Income-tax Officer under this Act may appeal to the Assistant Commissioner against such order.

(2) The appeal shall ordinarily be presented within thirty days of receipt of the notice of the order appealed against; but the Assistant Commissioner may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner and until a form has been prescribed any such appeal may be presented in the form prescribed under the Indian Income-tax Acts, or as near thereto as circumstances admit.

(4) The Assistant Commissioner shall fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing.

(5) The Assistant Commissioner may before the disposing of any appeal, make such further enquiry as he thinks fit, or cause further inquiry to be made by the Agricultural Income-tax Officer.

(Continued in the next page.)



**Mr. J. R. CLAYTON:** I beg to move that the clause in the amendment as recorded be substituted for clause 21. Hon. members who are familiar with the old Income-tax Act will doubtless realise that clause 21 of this Bill is not up-to-date and contains many of the defects of the old Income-tax Act. These defects were in some cases put right by the 1939 (Amending) Act and the intention of this amendment is to follow the 1939 Act in remedying the defects. The amendment as framed will permit appeals in such matters as refund proceedings as well as against any order of the Central Income-tax Officer. We attach the greatest importance to appeals in refund proceedings for long experience has shown and indeed this was emphasised by the Income-tax Enquiry Committee—that the Department is singularly callous in its attitude towards refunds.

Then again under Clause 14A of the Bill as inserted by the Select Committee the Agricultural Income-tax Officer computes the loss which is to be carried forward. It seems only just that the assessee should have a right of appeal and if a point of law arises he should also have the consequential right of a reference to the High Court. Many other instances might be given of, orders which may be passed by the Agricultural Income-tax Officer against which we feel the right of appeal should be provided.

Members of the Congress Party have always recognised the importance of providing adequate rights of appeal against the orders of executive authorities and in the matter of income-tax where the merits of Income-tax Officers to some extent tend to be judged by their success as collecting officers and not by their fairness or otherwise of their treatment of the public, I feel sure that the Congress Party will recognise the particular importance of providing adequate rights of appeal and will support this amendment.

**The Hon'ble the SPEAKER:** Amendment moved:

“That clause 21 of the Bill shall be omitted and the following clause shall be substituted:—

‘Appeals.

21. (1) Any assessee objecting to any order made by an Agricultural Income-tax Officer under this Act may appeal to the Assistant Commissioner against such order.

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(6) The Assistant Commissioner may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if the Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

(7) In disposing of an appeal the Assistant Commissioner may, confirm, reverse, cancel or vary the order of the Agricultural Income-tax Officer and give such directions to the Agricultural Income-tax Officer as he may think fit for the purpose of giving effect to the order of the Assistant Commissioner in disposing of the appeal:

Provided that the Assistant Commissioner shall not enhance an assessment or a penalty unless the appellant has had a reasonable opportunity of showing cause against such enhancement:

Provided further that at the hearing of any appeal against an order of an Agricultural Income-tax Officer, the Agricultural Income-tax Officer shall have the right to be heard either in person or by a representative’.”



(2) The appeal shall ordinarily be presented within thirty days of receipt of the notice of the order appealed against ; but the Assistant Commissioner may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner and until a form has been prescribed any such appeal may be presented in the form prescribed under the Indian Income-tax Acts, or as near thereto as circumstances admit.

(4) The Assistant Commissioner shall fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing.

(5) The Assistant Commissioner may before the disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Agricultural Income-tax Officer.

(6) The Assistant Commissioner may, at the hearing of an appeal, allow an appellant to go into any, ground of appeal not specified in the grounds of appeal if the Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

(7) In disposing of an appeal the Assistant Commissioner may, confirm, reverse, cancel or vary the order of the Agricultural Income-tax Officer and give such directions to the Agricultural Income-tax Officer as he may think fit for the purpose of giving effect to the order of the Assistant Commissioner in disposing of the appeal :

Provided that the Assistant Commissioner shall not enhance an assessment or a penalty unless the appellant has had a reasonable opportunity of showing cause against such enhancement :

Provided further that at the hearing of any appeal against an order of an Agricultural Income-tax Officer, the Agricultural Income-tax Officer shall have the right to be heard either in person or by a representative.

**Hon'ble Mr. FAKHRUDDIN ALI AHMED :** Mr. Speaker Sir, I beg to oppose this amendment. The existing provision seems sufficient. The improvement proposed in sub-clauses (1), (3), (6), and last proviso to the amendment does not seem necessary. Sub-clause (1), clause 16 provides for notice, requisition for further evidence and so also an order of assessment. Would the mover call the notice under sections 16 and 17 requisition which may be appealable ?

Sub-clause (3) seems unnecessary until the form that is prescribed is binding on the assessee to submit the appeal in any form. This I am not sure that applicant should be allowed to bring in any points which are not taken up in the original court or assessing authority. Therefore I oppose this amendment, Sir.



**Khan Bahadur Maulavi KERAMAT ALI:** Sir, what about references to High Court?

**Hon'ble Mr. FAKHRUDDIN ALI AHMED:** There is provision, Sir.

**The Hon'ble the SPEAKER:** The question is:

"That clause 21 of the Bill shall be omitted and the following clause shall be substituted:—

' Appeals.

21. (1) Any assessee objecting to any order made by an Agricultural Income-tax Officer under this Act may appeal to the Assistant Commissioner against such order.

(2) The appeal shall ordinarily be presented within thirty days of receipt of the notice of the order appealed against; but the Assistant Commissioner may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner and until a form has been prescribed any such appeal may be presented in the form prescribed under the Indian Income-tax Acts, or as near thereto as circumstances admit.

(4) The Assistant Commissioner shall fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing.

(5) The Assistant Commissioner may before the disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Agricultural Income-tax Officer.

(6) The Assistant Commissioner may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal if the Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

(7) In disposing of an appeal the Assistant Commissioner may, confirm, reverse, cancel or vary the order of the Agricultural Income-tax Officer and give such directions to the Agricultural Income-tax Officer as he may think fit for the purpose of giving effect to the order of the Assistant Commissioner in disposing of the appeal:

Provided that the Assistant Commissioner shall not enhance an assessment or a penalty unless the appellant has had a reasonable opportunity of showing cause against such enhancement:

Provided further that at the hearing of any appeal against an order of an Agricultural Income-tax Officer, the Agricultural Income-tax Officer shall have the right to be heard either in person or by a representative."



**Khan Bahadur Maulavi KERAMAT ALI:** On a point of information, Sir. What about a reference to the High Court?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** That is provided for.

(A summary division was taken by asking the members to rise in their places.)

The House divided with the following result:

Ayes:—33.

Noes:—54.

The motion was negatived.

**The Hon'ble the SPEAKER:** Amendment No. 57.\*

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** I think this amendment goes as the object is to omit certain words and replacing the same by certain other words just as in the former amendment.

**The Hon'ble the SPEAKER:** Yes, I see that. I think this amendment goes.

**Mr. J. R. CLAYTON:** The object of this amendment is to bring all orders of the Income-tax Officer under the present section. That is all. I think that can easily be accepted.

**The Hon'ble the SPEAKER:** Is it changing any word of the existing clause?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** The intention is to change certain words and to alter it as was provided in the amendment moved before.

**The Hon'ble the SPEAKER:** Does it not bring in the same matter as was contained in sub-section (1) of section 21—in amendment No. 56?

**Mr. J. R. CLAYTON:** Yes, Sir, but not quite so far reaching.

**The Hon'ble the SPEAKER:** Then the verdict of the House is against it, and it goes.

Amendment No. 58† also goes.

**The Hon'ble the SPEAKER:** Amendment No. 59.

**Babu HIRENDRA CHANDRA CHAKRAVARTY:** Mr. Speaker, Sir, I beg to move that for the proviso to sub-clause (1) of clause 21, the following proviso shall be substituted:—

“Provided that the cost of appeal shall be deducted from the total amount of the Agricultural Income-tax assessed on the appellant.”

\*“That in clause 21 of the Bill in sub-clause (1) the words ‘the amount of income or the amount of tax as determined under section 17 or denying his liability to be assessed under this Act or objecting to any order passed against him under section 17A or 18 made by the Agricultural Income-tax Officer’ shall be omitted and the words ‘any order made by an Agricultural Income-tax Officer under this Act’ shall be substituted”.

†“That in clause 21 of the Bill in sub-clause (1) the words ‘against the assessment or’ shall be omitted”.



Sir, I have moved this amendment in order to give some relief to the person who will be assessed to agricultural income-tax. Sir, we know that the Income-tax Officers very often assess people according to the sweet will, and in many cases assessee are to file appeals against the assessment, and in some cases they do get a relief. In this case also it is sure that there will be some grounds for the persons assessed to prefer appeals against the assessment. Now, if the cost of the appeal is borne by the assessee then it will mean another taxation. With a view to save these people from this further taxation, I have moved this amendment.

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

**The Hon'ble the SPEAKER:** Amendment moved:

That for the proviso to sub-clause (1) of clause 21, the following proviso shall be substituted:—

“Provided that the cost of appeal shall be deducted from the total amount of the Agricultural Income-tax assessed on the appellant”.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Sir, I oppose this amendment on the ground that it will encourage an appeal in every case where a man has been assessed to Agricultural Income-tax because he stands to lose nothing by going to the Appellate Court.

**The Hon'ble the SPEAKER:** The question is:

“That for the proviso to sub-clause (1) of clause 21, the following proviso shall be substituted:—

“Provided that the cost of appeal shall be deducted from the total amount of the Agricultural Income-tax assessed on the appellant”.

The motion was negatived.

(Amendment No. 60\* was not moved).

**The Hon'ble the SPEAKER:** Amendments Nos. 61 and 62 (same).

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** I beg to move that in the fourth line of sub-clause (2) of clause 21 between the words “to” and “but” the words “or of the order under section 17A, as the case may be” shall be inserted and the “comma” after the said word “to” shall be deleted.

The motion was put and adopted.

**Mr. F. W. HOCKENHULL:** Mr. Speaker, Sir, I beg to move that in clause 21 of the Bill to sub-clause (3) the following shall be added:—

“and until a form has been prescribed any such appeal may be presented in the form prescribed under the Indian Income-tax Acts, or as near thereto as circumstances admit.”

**The Hon'ble the SPEAKER:** Was not this matter raised in sub-clause (3) of amendment 56?

**Mr. F. W. HOCKENHULL:** No, Sir. According to the present wording of the Bill every appeal must be presented in the prescribed form. “Prescribed” means prescribed by rules made by the Provincial Government under this Bill and as the Bill now stands until such time as rules have been made by the Provincial Government it would be impossible for an appellant to comply with the provisions of sub-clause (3) of clause 21. In view of the large number of matters with regard to which the Provincial Government will have to make rules after the passing of the Bill, it is possible that considerable time may elapse before the rules describing the form of presentation of appeals are passed.

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\*That in clause 21 of the Bill in sub-clause (2) the words “demand relating to the assessment or penalty” shall be omitted and the words “the order” shall be substituted.



This amendment will make it clear that an appellant is not debarred from appealing in the *interim*. I think, this is a reasonable suggestion and is a safeguard for appeals which otherwise may be ruled out.

**The Hon'ble the SPEAKER:** Amendment moved:

"That in clause 21 of the Bill to sub-clause (3) the following words shall be added:—

'and until a form has been prescribed any such appeal may be presented in the form prescribed under the Indian Income-tax Acts, or as near thereto as circumstances admit' "

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, as I have already said this amendment does not seem necessary. If the prescribed forms are not available the assessee need not submit it and he will therefore not be liable to taxation.

**The Hon'ble the SPEAKER:** I think, it is covered by clause 21.

**Mr. F. W. HOCKENHULL:** This is a question of appeal and not a question of taxation. Suppose the tax is paid and when an appeal is preferred against that decision it cannot be presented until the prescribed form is available.

**The Hon'ble the SPEAKER:** My point is that this matter was in amendment 56 sub-clause (3). Is it not so?

**Mr. F. W. HOCKENHULL:** That amendment not having been accepted, this particular point is raised by itself. The point is that it appears a second time. It only applies until such time as a form is prescribed. I do not see why the Hon'ble Finance Minister should not accept this.

**The Hon'ble the SPEAKER:** Amendment 56 was also a consolidated amendment of all the points in clause 21 and again it is separately tabled. That is the point.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** May I add in this connection that, until the rules are prescribed, no taxation will be realised?

Therefore, when the rules are prescribed the forms will also be printed and will be available. We cannot sacrifice even a pie which may be required for the purchase of forms and it is for this reason that I do not accept the amendment.

**Mr. F. W. HOCKENHULL:** If the assurance means that no tax will be levied until the prescribed forms are available, then I see no objection to withdrawing my motion.

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

**Babu HIRENDRA CHANDRA CHAKRAVARTY:** Mr. Speaker, Sir, I beg to move that in the first line of sub-clause (4) of clause 21 after the word "day" the words "not earlier than one month from the date of lodging the appeal" and after the word "place" in the second line of the same sub-clause the following words shall be added:—

"in the subdivision or district headquarters of the district of the appellant's residence or place of business where the land of the appellant is situated."

Sir, by this amendment I want to give at least one month's time to the aggrieved person to lodge the appeal and another one month's time for the hearing of the appeal so that there may not be any inconvenience to him.



By the second part of the amendment I want to make the place of hearing as near as is possible to the person aggrieved so that he may not be required to spend money unnecessarily and run up to a distant place like Shillong for lodging an appeal.

With this end in view, I commend my amendment to the acceptance of the House.

**The Hon'ble the SPEAKER:** Amendment moved:

"That in the first line of sub-clause (4) of clause 21 after the word 'day' the words 'not earlier than one month from the date of lodging the appeal' and after the word 'place' in the second line of the same sub-clause the following words shall be added:—

'in the subdivision or district headquarters of the district of the appellant's residence or place of business where the land of the appellant is situated.' "

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Sir, I beg to oppose the amendment moved by Mr. Chakravarty. I think the amendment suggested by him is very unreasonable. We cannot expect an appeal to be heard to the advantage of any one except of the pleaders. So, we oppose this amendment.

**The Hon'ble the SPEAKER:** The question is:

"That in the first line of sub-clause (4) of clause 21 after the word 'day' the words 'not earlier than one month from the date of lodging the appeal' and after the word 'place' in the second line of the same sub-clause the following words shall be added:—

'in the subdivision or the district headquarters of the district of the appellant's residence or place of business where the land of the appellant is situated' "

The motion was negatived.

**Mr. J. R. CLAYTON:** I am not moving this amendment,\* Sir.

**The Hon'ble the SPEAKER:** Amendments Nos. 66 and 67 are the same.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I beg to move that in the fifth line of item (b) of sub-clause (5) of clause 21 between the word "section" and the figure "18" the figure, letter and word "17A or," shall be inserted. The purpose of moving this amendment is to do away with the printing mistake.

The amendment was put and adopted.

**Mr. F. W. HOCKENHULL:** I am not moving the next amendment† standing in my name, Sir.

**The Hon'ble the SPEAKER:** Then there is no other amendment to clause 21. The question is that clause 21 as amended stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** Then clause 21A. There is only one amendment.

\* "That in clause 21 of the Bill in sub-clause (5) the words 'in the case of an order of assessment' and sub-clauses (a) and (b) shall be omitted and the following words substituted:—

'confirm, reverse, cancel or vary the order of the Agricultural Income-tax Officer and give such directions to the Agricultural Income-Tax Officer as he may think fit for the purpose of giving effect to the order of the Assistant Commissioner in disposing of the appeal'.

† "That in clause 21 of the Bill the following new sub-clause be added:—

'(6) All the provisions of the foregoing sub-sections shall so far as may be applied to any order allowing or refusing to allow any refund admissible under this Act or under the Rules prescribed under Section 44.' "



**Mr. F. W. HOCKENHULL :** I do not wish to move it\*, Sir.

**The Hon'ble the SPEAKER :** The question is that clause 21A stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER :** There are no amendments to clauses 22 and 23. The question is that clauses 22 and 23 of the Bill stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER :** Then clause 24.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED :** Amendment \*No.70 cannot be moved as No.68 was not moved.

**The Hon'ble the SPEAKER :** Yes. The question is that clause 24† stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER :** Then we come to Clause 24A. There are several amendments.

**Mr. J. R. CLAYTON :** I beg to move, Sir.

That in clause 24A of the Bill a new sub-clause be inserted at the commencement as follows :—

“Reference to be heard by Benches of High Courts and appeal to lie in certain cases to Privy Council. (i) When any case has been referred to the High Court under section 24, it shall be heard by a Bench of not less than two Judges of the High Court, and in respect of such case the provision of Section 98 of the Code of Civil Procedure, 1908 shall, so far as may be, apply notwithstanding anything contained in the Letters Patent of the High Court or in any other law for the time being in force.”

This amendment follows section 66A(1) of the Indian Income-Tax Act. Under section 226 of the Government of India Act Courts in original jurisdiction are not committed to interfere in revenue matters. Secondly, the Income tax jurisdiction is a special jurisdiction in which the courts act in an advisory capacity and give judgment by way of opinion only. The case is not in the nature of a suit in an original court ; nor does it follow the nature of an appeal. And, therefore, it is important to provide for the type of Bench to hear the cases.

It has been suggested that the province has no power to legislate for a High Court. In discussing the constitution of the High Court in connection with Provincial Autonomy, the Joint Parliamentary Committee stated :

“As regards the judicial jurisdiction of the High Court in so far as this depends as it mainly does depend on the provisions of the Indian enactments it will henceforth be determined by enactment of that Legislature which is competent to regulate the subject that is to say it will be for the Federal Legislature alone to determine the jurisdiction of the High Court in respect of any matters upon which that Legislature has exclusive power to legislate and for the Provincial Legislature to determine the jurisdiction of its High Court in provincial subjects subject to the approval in the concurrent field in respect of any matter in which both Legislatures are competent to legislate”.

\*“That the clause 21A of the Bill shall be omitted.”

† That in clause 24 of the Bill in Sub-clause (2) after the words “served with notice of an order under section 21” the words “or Section 21A” be inserted.



It will thus be seen that the High Court under our proposals will be institutions which will not be accurately described as provincial. We have, therefore, the power to decide what sort of Bench it should be.

**The Hon'ble the SPEAKER:** Amendment moved:

"That in clause 24A of the Bill a new sub-clause be inserted at the commencement as follows:—

(i) When any case has been referred to the High Court under Section 24, it shall be heard by a Bench of not less than two Judges of the High Court, and in respect of such case the provisions of Section 98 of Code of Civil Procedure, 1908, shall, so far as may be, apply notwithstanding anything contained in the Letters Patent of the High Court or in any other law for the time being in force."

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I oppose this amendment on those main grounds and reasons which I stated before the Select Committee. Though the hon. mover has referred to the Joint Committee's report we are not sure that the Provincial Legislature can pass legislation affecting the procedure on such matters of the High Court which is not subordinate to it. Here in our own province we have no such High Court; and, therefore, our making any provisions to that effect will be *ultra vires*. For this reason the Select Committee had not accepted the amendment which was proposed by the hon. mover there also. I oppose the amendment moved.

The motion was then put and lost.

**Mr. F. W. HOCKENHULL:** Amendment No. 71 has been defeated and so No. 72\* does not arise.

**The Hon'ble the SPEAKER:** No. 73 also goes because 72 assumed that 71 would be passed and similarly 73 assumes that 72 will be moved and passed.

**Mr. F. W. HOCKENHULL:** No, Sir. It is a question of whether costs that are incurred and costs that are awarded.

**The Hon'ble the SPEAKER:** The first portion of amendment must go.

**Mr. J. R. CLAYTON:** So far as the amendment, as actually worded, is concerned, that could be altered.

**The Hon'ble the SPEAKER:** Then the hon. member may move the amendment with the necessary alterations.

**Mr. F. W. HOCKENHULL:** I beg to move:

That in clause 24A of the Bill in sub-clause (ii) in the second proviso the words "any costs incurred thereby" shall be omitted and the words "any costs awarded thereby" shall be substituted.

I feel sure that the Hon'ble Minister will have no difficulty in accepting this.

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\*That in clause 24A of the Bill, sub-clauses (i), (ii), and (iii) be renumbered (ii), (iii) and (iv) and in sub-clause (ii) as so renumbered the words 'in a reference made under the foregoing Section' shall be omitted and the words 'on a reference made under Section 24' shall be substituted.



**The Hon'ble the SPEAKER:** Amendment moved :

"That in clause 24A of the Bill in sub-clause (ii) in the second proviso the words 'any costs incurred thereby' shall be omitted and the words 'any costs awarded thereby' shall be substituted."

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Before I accept this amendment, I want to get one information from the hon. mover. Our wording follows the Income Tax Act. Will the hon. member please say whether the wording of that Act have since been changed ?

**Mr. F. W. HOCKENHULL:** It is not a question of following any Act. This is a question of the interpretation of the English language as it is understood. The costs incurred may be the costs incurred outside the court ; whereas the court's costs which are awarded are definitely those which are given by the court.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** For the purpose of this Bill the costs incurred will be the same as the costs awarded by court.

**Mr. F. W. HOCKENHULL:** As I said there is this difference that the costs incurred may be extraneous which the costs awarded by court may not include.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** I have no objection in accepting the amendment. But I think, it will be in the interests of the taxpayer to have the same wording as exists in the Indian Income Tax Act. But if this amendment better satisfies the hon. member I have no objection in accepting it.

**The Hon'ble the SPEAKER:** The question is :

"That in clause 24A in sub-clause (ii) in the second proviso the words 'any costs incurred thereby' shall be omitted and the words 'any costs awarded thereby' shall be submitted."

The motion was adopted.

**Mr. J. R. CLAYTON:** I beg to move :

That in clause 24A of the Bill the following new sub-clause be added:—

- "(iv) Nothing in this section shall be deemed—
- (a) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council or otherwise howsoever, or
  - (b) to interfere with any rules made by the Judicial Committee of the Privy Council and for the time being in force, for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee."

The words, I think, are self-explanatory and as I have heard that the Hon'ble Finance Minister likes to follow the wording of the Central Act, I need only say that it has only reproduced section 66A of the Indian Income Tax Act and it has been made because it is felt that a similar provision should appear in this Bill.

**The Hon'ble the SPEAKER:** Amendment moved :

"That in clause 24A of the Bill the following new sub-clause be added:—

- "(iv) Nothing in this section shall be deemed—
- (a) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council or otherwise howsoever, or
  - (b) to interfere with any rules made by the Judicial Committee of the Privy Council and for the time being in force, for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee."



**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, the amendment seems to us to be unnecessary. We have allowed right of appeal to the Privy Council, but we see no reason to extend the jurisdiction of that Court in the manner suggested. We think that the right of appeal should suffice for all cases where relief would be due under this Act.

**The Hon'ble the SPEAKER:** The question is:

"That in clause 24A of the Bill the following new sub-clause be added:—

"(iv) Nothing in this section shall be deemed—

(a) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council or otherwise howsoever, or

(b) to interfere with any rules made by the Judicial Committee of the Privy Council and for the time being in force, for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee'."

The motion was negatived.

**The Hon'ble the SPEAKER:** The question is that clause 24A of the Bill as amended stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** Clause 25.

**Babu HIRENDRA CHANDRA CHAKRAVARTY:** Mr. Speaker, Sir, I beg to move that in clause 25 the words "or has been assessed at a low rate", occurring in the third and fourth lines shall be deleted and for the words "three years" occurring in the fifth and sixth lines of the same clause, the words "eighteen months" shall be substituted and that the words "three years" appearing in the ninth line of the second proviso of the said clause shall be substituted by the words "eighteen months".

Sir, I like to move this amendment in order to protect the assessee from the hardship that may be caused to them by the Income-tax Department. Sir, if by the carelessness of the Income-tax Officer any part of agricultural income of an assessee escapes his notice and if it is detected within 3 years, the assessee will be required to produce the records as old as three years. If this provision is kept in the Bill the assessee will be put to troubles for the carelessness of the Income-tax Officer with regard to an assessment. It would give power to the Income-tax Officer to call papers at any time within the period of 3 years. That will certainly cause inconvenience and hardship to the assessee.

Then, Sir, the period of three years is, in my opinion, a very long period. It means that at least for three years the assessee has to keep all their records, and if for any cause, viz., flood, fire and things like that, records are destroyed, they will be put to unnecessary trouble. So, Sir, half of that period should be given, so that the assessee may not be required to keep the records for a long period of 3 years. With these words, I commend my amendment for the acceptance of the House.

**The Hon'ble the SPEAKER:** Amendment moved:

"That in clause 25 the words 'or has been assessed at a low rate', occurring in the third and fourth lines shall be deleted and for the words 'three years' occurring in the fifth and sixth lines of the same clause, the words 'eighteen months' shall be substituted and that the words 'three years' appearing in the ninth line of the second proviso of the said clause shall be substituted by the words 'eighteen months'".



**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I oppose this amendment. Three years' period is a convenient period which has been adopted elsewhere, so it is useless to take the suggestion of the hon. member and adopt broken periods. Therefore, I oppose this amendment.

**The Hon'ble the SPEAKER:** The question is:

"That in clause 25 the words 'or has been assessed at a low rate', occurring in the third and fourth lines shall be deleted and for the words 'three years' occurring in the fifth and sixth lines of the same clause, the words 'eighteen months' shall be substituted and that the words 'three years' appearing in the ninth line of the second proviso of the said clause shall be substituted by the words 'eighteen months'."

The motion was negatived.

**Mr. F. W. HOCKENHULL:** Mr. Speaker, Sir, I beg to move that in clause 25 of the Bill in the second proviso the words "when the income, profits or gains concerned are agricultural income, profits or gains liable to assessment for a year ending prior to the commencement of this Act, or" shall be omitted.

Obviously, Sir, you cannot assess for income prior to the commencement of this Act.

**The Hon'ble the SPEAKER:** Amendment moved:

"That in clause 25 of the Bill in the second proviso the words 'when the income, profits or gains concerned are agricultural income, profits or gains liable to assessment for a year ending prior to the commencement of this Act, or' shall be omitted".

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Sir, I beg to oppose this amendment. The existing words are put on the assumption that it would be difficult if proper accounts are not kept, to compile them for a longer period than one year in case of those persons who have not kept the accounts.

**Mr. F. W. HOCKENHULL:** I mean the preceding year.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** I oppose it all the same.

**The Hon'ble the SPEAKER:** The question is:

"That in clause 25 of the Bill in the second proviso the words 'when the income, profits or gains concerned are agricultural income, profits or gains liable to assessment for a year ending prior to the commencement of this Act, or' shall be omitted".

The motion was negatived.

**The Hon'ble the SPEAKER:** The question is that clause 25 stands part of the Bill.

The motion was adopted.

The question is that clause 26 stands part of the Bill.

The motion was adopted.

The question is that clause 27 stands part of the Bill.

The motion was adopted.

The question is that clause 28 stands part of the Bill.

The motion was adopted.

The question is that clause 29 stands part of the Bill.

The motion was adopted.



**The Hon'ble the SPEAKER:** Clause 30, amendment No. 77.

**Mr. J. R. CLAYTON:** Sir, I beg to move that in clause 30 of the Bill in sub-clause (2) in the proviso the words "the Agricultural Income-tax Officer may, in his discretion" shall be omitted and the words "the Agricultural Income-tax Officer shall" be substituted.

The practice in the United Kingdom is never to collect disputed tax pending the hearing of an appeal. Does the Bill give the Income-tax Officer power to refer to the Appellate authority for orders to treat the assessee as in default so that the Income-tax Officer should be obliged to postpone collection of the disputed tax until he obtains such orders?

Past experience indicates that the Income-tax Officer will never exercise his discretion in favour of the tax-payer. Even in cases where difficult and important questions are in dispute and the tax-payer is a large industrial company from which the disputed tax could be realised at any time, the Income-tax Officer will refuse to postpone the date for payment of the disputed tax and usually pleads that he must have the money for his budget. This is a most harsh and dishonest practice which has been condemned in the Income-tax Enquiry Report (page 52-sec.3) and the amendment is accordingly pressed.

It may be said that it is proper for the discretion to remain with the Income-tax Officer and that unless he has such discretion all tax-payers will put in appeal in order to delay payment. The answer to this is that experience has shown that Income-tax Officers are not to be trusted to use this discretion, which they will never exercise in favour of the assessee even in the most obvious cases and they invariably give as their reply that they require the money for their budgets whether the tax-payer is liable or not. As regards protection to the revenue, the clause enables the Income-tax Officer to obtain orders from his superior and he may, therefore, always obtain orders when he considers that the Bill is put in merely to delay payment. If the amendment is not accepted it will merely mean that the Central organisation who will administer the Act would put the tax-payers to the same harassment which has been done under the Central Act and for which there is no justification.

**The Hon'ble the SPEAKER:** Amendment moved:

"That in clause 30 of the Bill in sub-clause (2) in the proviso the words 'the Agricultural Income-tax Officer may, in his discretion' shall be omitted and the words 'the Agricultural Income-tax Officer shall' be substituted".

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Sir, I beg to oppose this amendment. Because if the Bill affects assessment, refund will be admissible. Discretion is, however, given to meet the cases of hardship. Therefore, I oppose this motion.

**The Hon'ble the SPEAKER:** The question is:

"That in clause 30 of the Bill in sub-clause (2) in the proviso the words 'the Agricultural Income-tax Officer may, in his discretion' shall be omitted and the words 'the Agricultural Income-tax Officer shall' be substituted".

(A summary division was taken by asking the members to rise in their places.)

The House divided with the following result:

Ayes—31.

Noes—54.

The motion was negatived.



**The Hon'ble the SPEAKER :** The question is that clause 30 of the Bill stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER :** Clause 31. Amendments Nos. 78 and 79 are same.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED :** I beg, Sir, to move that in the first and second lines of sub-clause (4) (a) of clause 31 for the words "is, under section 8 payable by a trustee, or", the following words shall be substituted namely :—

"is payable by a trustee or is" .

**The Hon'ble the SPEAKER :** Amendment moved :

"That in the first and second lines of sub-clause (4) (a) of clause 31 for the words 'is, under section 8 payable by a trustee, or' the following words shall be substituted namely :—

'is payable by a trustee or is' "

(After a pause)

The motion was put and adopted.

**The Hon'ble the SPEAKER :** The question is that clause 31 of the Bill as amended stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER :** The question is that clause 32 of the Bill stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER :** The question is that clause 33 of the Bill stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER :** Clause 33 A.

**Mr. J. R. CLAYTON :** Amendment No. 80 to clause 33 A is again a very long amendment and the members have got copies.

**The Hon'ble the SPEAKER :** This amendment has got several parts, I see. I think, I should ask the hon member to move each part separately.

**Mr. J. R. CLAYTON :** The whole amendment covers the question of refunds.

**The Hon'ble the SPEAKER :** Very well the hon. member may move all the amendments, but I shall have to place them separately, before the House, if necessary.

**Mr. J. R. CLAYTON :** Mr. Speaker, Sir, I beg to move that clause 33A of the Bill shall be omitted and the following new clauses shall be substituted :—

"Procedure in registration of firms.

(1) Application may be made to the Agricultural Income-tax Officer on behalf of any firm, constituted under an Instrument of partnership specifying the individual shares of the partners, for registration for the purposes of this Act and of any other enactment for the time being in force relating to Agricultural Income-tax.



- (2) The Application shall be made by such person or persons, and at such time and shall contain such particulars and shall be in such form, and be verified in such manner as may be prescribed ; and it shall be dealt with by the Agricultural Income-tax Officer in such manner as may be prescribed".

This part of the amendment is tied up the latter portion.

**The Hon'ble the SPEAKER:** May I know one thing from the hon. member ? It appears that in amendment No.81, it is stated that after clause 33 of the Bill a new clause be added as 33E. How can it be ? The hon. member's amendment relates to clause 33A. Will the hon. member please explain ?

**Mr. J. R. CLAYTON:** This is a separate item altogether, Sir.

**The Hon'ble the SPEAKER:** Then why should the hon. member say "after clause 33" ?

**Mr. J. R. CLAYTON:** It comes after clause 33A.

**The Hon'ble the SPEAKER:** But all these amendments are dependent on one another.

**Mr. J. R. CLAYTON:** 33E is not dependent on any other.

**The Hon'ble the SPEAKER:** What will be the position if 33A be rejected by the House then 33B and 33D would go.

**Mr. J. R. CLAYTON:** No, Sir ;

**Mr. F. W. HOCKENHULL:** That is only consequential.

**The Hon'ble the SPEAKER:** Very well, the hon. member may move.

**Mr. J. R. CLAYTON:** Sir, to save time it will be better if I take all these clauses 33B, 33C, and 33D together. All these amendments cover the question of refund.

"Refunds

33B.—(1) If a Shareholder in a company who has received any dividend therefrom satisfies the Agricultural Income-tax Officer or other authority appointed by the Assam Government in this behalf that the rate of agricultural income-tax applicable to the agricultural income of the company at the time of the declaration of such dividend is greater than the rate applicable to his total agricultural income of the year in which such dividend was declared (or that his total agricultural income in such year is below the minimum chargeable with income-tax) he shall, on production of the certificate received by him under the provisions of Section 14D, be entitled to a refund on the amount of such dividend (including the amount of the tax thereon) calculated at the difference between those rates or at the rates applicable to the agricultural income of the company at the time of the declaration of such dividend, as the case may be.



## Refunds.

33B.—(2) If a member of a registered firm or any person who being a minor has been admitted to the benefits of partnership in such firm, satisfies the Agricultural Income-tax Officer or other authority appointed by the Assam Government in this behalf that the rate of income-tax applicable to his total agricultural income of the previous year was less than the rate at which agricultural income-tax has been levied on the agricultural income of the firm of that year or that his total agricultural income of the previous year was below the minimum chargeable with agricultural income-tax, he shall be entitled to a refund on his share of that agricultural income calculated at the difference between those rates or at the rate at which income-tax has been levied, as the case may be.

## Relief in respect of Indian Income-tax.

33C. If a shareholder in a company which has agricultural income and who has received any dividend from the company satisfies the Agricultural Income-tax Officer that Indian Income-tax or Indian Super-tax has been charged on any portion of the dividend which corresponds to all or any part of the company's agricultural income, as ascertained for the purpose of the Indian Income-tax Acts, he shall be entitled to a refund on the amount of such portion of the dividend (including the amount of agricultural income-tax thereon) at the rate applicable to the agricultural income of a company for the same year as that of which the rate of Indian Income-tax or Indian Super-tax was charged in the assessment of the dividend in the hands of the shareholder but not exceeding the amount of Indian Income-tax or Indian Super-tax or both so charged.

## General power to make refunds.

33D.—(1) If in any case not provided for by provisions relating to refunds elsewhere contained in this Act, any individual Hindu joint or undivided family, company, firm or other association of individuals, or any partner of a firm or any person who being a minor has been admitted to the benefits of partnership or any member of an association individually satisfies the Agricultural Income-tax Officer or other authority appointed by the Assam Government in this behalf that the amount of tax paid by him



or on his behalf or treated as paid on his behalf for any year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess.

- (2) The Assistant Commissioner in the exercise of his appellate powers, or the Commissioner in the exercise of his appellate powers, or powers of revision, if satisfied to the like effect shall in like manner cause a refund to be made by the Agricultural Income-tax Officer of any amount found to have been wrongly paid or paid in excess.
- (3) Nothing in this Section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief."

**The Hon'ble the SPEAKER:** I find that the question of refunds was not in the original Bill but it has been introduced for the first time by the Select Committee. The hon. member may go on.

**Mr. J. R. CLAYTON:** Sir, I do not propose to speak in detail on these amendments, but would like to speak on the general principles of refunds. The principle of income-tax is that the person who actually enjoys the income is to be taxed and at the rate applicable to his income. For the convenience of collection for the Revenue, the Acts permit of the taxation at source, *i.e.*, taxation of the company, taxation of the firm, in the case of co-owners of property taxation of one person on the whole income, or in the case of a trustee and beneficiaries taxation of the trustee and so forth. The elaborate machinery to enable taxation at source for the benefit of the Revenue correspondingly involves elaborate machinery for the allowance of refunds to the tax-payer.

The system of taxation at source means that until the refunds are granted the Revenue have had more tax than they are entitled to and the tax-payer to correspondingly out of pocket. Since this intricate system is introduced into the Bill as effective clauses to assist the revenue in taxation at source, it follows that it is equally important to introduce into the Bill as effective clauses the detailed provisions for refunds. Such is the scheme of the United Kingdom Income-tax Acts and of the Central Income-tax Acts and it has never been suggested anywhere (apart from the Bihar Bill) that refunds should be left to the rule-making powers.

It is proposed that the Central Income-tax organization shall administer the Assam Agricultural Income-tax Act. The Central organization, notwithstanding the provisions contained in the Central Acts for refunds, are notorious for their lack of interest in seeing that the tax-payer gets fair treatment over refunds. These shortcomings in the Indian Income-tax Department were noticed by the Income-tax Enquiry Committee, who have made serious comments against the Department in their report at pages 79 and 80, as a result of which steps are already being taken in the Central organization to improve the position of the tax-payer.



In view of their record in this matter, however, it is quite unsuitable to leave any discretion with the authorities and the tax-payer cannot expect a square deal unless effective provisions are introduced into the Act at least to give the same legal safeguards as are given by the Central Acts.

It will be seen from the amendments dealing with refunds that these are of a complex and technical nature where even a slight alteration in phraseology may defeat the object of the refund clause. If the provisions are to be left in the rule-making powers, it will be in the hands of the Executive to frame any rules they please or even to frame no rules, but in neither case will the Assembly have any voice in the matter and Government will be free to inflict upon the tax-payer any regulations they may please.

One of the main objections to the scheme of this Bill is its principle of double agricultural taxation and that objection will not be removed by an assurance from Government that refunds will be dealt with under the rule-making powers. Even supposing Government were prepared to give an assurance to introduce rules in the form of our amendments, this would not remove the difficulty because it is in the hands of Government to revise those rules at any time without reference to any of us and possibly without even the advice of a tax expert who understands the difficulties of the tax-payer, and a future Government needing additional taxation might at any time decide to withdraw the refund rules. The objects of my amendments is to include the required provisions for refunds in the Act itself and again I am asking for no more consideration than is provided in the Central Income-tax Acts.

**The Hon'ble the SPEAKER:** Amendment moved:

"That clause 33A of the Bill shall be omitted and the following new clauses shall be substituted:—  
'Procedure in registration of firms.

33A.—(1) Application may be made to the Agricultural Income-tax Officer on behalf of any firm, constituted under an Instrument of partnership specifying the individual shares of the partners, for registration for the purposes of this Act and of any other enactment, for the time being in force relating to agricultural income-tax.

(2) The application shall be made by such person or persons, and at such time and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed; and it shall be dealt with by the Agricultural Income-tax Officer in such manner as may be prescribed.

Refunds

... 33B.—(1) If a Shareholder in a company who has received any dividend therefrom satisfies the Agricultural Income-tax Officer or other authority appointed by the Assam Government in this behalf that the rate of agricultural income-tax applicable to the agricultural income of the company at the time of the declaration of such dividend is greater than the rate applicable to his total agricultural income of the year in which such dividend was declared (or that his total agricultural income in such year is



below the minimum chargeable with income-tax) he shall, on production of the certificate received by him under the provisions of Section 14D, be entitled to a refund on the amount of such dividend (including the amount of the tax thereon) calculated at the difference between those rates or at the rates applicable to the agricultural income of the company at the time of the declaration of such dividend, as the case may be.

- (2) If a member of a registered firm or any person who being a minor has been admitted to the benefits of partnership in such firm, satisfies the Agricultural Income-tax Officer or other authority appointed by the Assam Government in this behalf that the rate of income-tax applicable to his total agricultural income of the previous year was less than the rate at which agricultural income-tax has been levied on the agricultural income of the firm of that year or that his total agricultural income of the previous year was below the minimum chargeable with agricultural income-tax, he shall be entitled to a refund on his share of that agricultural income calculated at the difference between those rates or at the rate at which income-tax has been levied, as the case may be.

Relief in respect of  
Indian Income-  
tax.

33C. If a shareholder in a company which has agricultural income and who has received any dividend from the company satisfies the Agricultural Income-tax Officer that Indian Income-tax or Indian Super-tax has been charged on any portion of the dividend which corresponds to all or any part of the company's agricultural income, as ascertained for the purpose of the Indian Income-tax Acts, he shall be entitled to a refund on the amount of such portion of the dividend (including the amount of agricultural income-tax thereon) at the rate applicable to the agricultural income of a company for the same year as that of which the rate of Indian Income-tax or Indian Super tax was charged in the assessment of the dividend in the hands of the shareholder but not exceeding the amount of Indian Income-tax or Indian Super-tax or both so charged.

General power to  
make refunds.

33D.—(1) If in any case not provided for by provisions relating to refunds elsewhere contained in the Act, any individual Hindu joint or undivided family, company, firm or other association of individuals, or any partner of a firm or any person who being a minor has been admitted to the benefits



of partnership or any member of an association individually satisfies the Agricultural Income-tax Officer or other authority appointed by the Assam Government in this behalf that the amount of tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess.

- (2) The Assistant Commissioner in the exercise of his appellate powers, or the Commissioner in the exercise of his appellate powers, or powers of revision, if satisfied to the like effect shall in like manner cause a refund to be made by the Agricultural Income-tax Officer of any amount found to have been wrongly paid or paid in excess.
- (3) Nothing in the Section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief."

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED :** Mr. Speaker, Sir, I oppose this amendment. The purpose for which this amendment has been moved will be served by the provisions which have been made under section 33A of this Bill. The manner and circumstances in which refunds should be allowed will be prescribed by rules. Sir, it is not necessary for us to make provisions in this Act specifying all the circumstances as mentioned in this amendment.

**The Hon'ble the SPEAKER :** The question is that clause 33A of the Bill shall be omitted and the following new clauses shall be substituted—  
 "Procedure in registration of firms. 33A.—(1) Application may be made to the Agricultural Income-tax Officer on behalf of any firm, constituted under an Instrument of partnership specifying the individual shares of the partners, for registration for the purposes of this Act and of any other enactment for the time being in force relating to agricultural income-tax.

- (2) The application shall be made by such person or persons, and at such time and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed; and it shall be dealt with by the Agricultural Income-tax Officer in such manner as may be prescribed."



Refunds.

33B.—(1) If a Shareholder in a company who has received any dividend therefrom satisfies the Agricultural Income-tax Officer or other authority appointed by the Assam Government in this behalf that the rate of agricultural income-tax applicable to the agricultural income of the company at the time of the declaration of such dividend is greater than the rate applicable to his total agricultural income of the year in which such dividend was declared (or that his total agricultural income in such year is below the minimum chargeable with income-tax) he shall, on production of the certificate received by him under the provisions of Section 14D, be entitled to a refund on the amount of such dividend (including the amount of the tax thereon) calculated at the difference between those rates or at the rates applicable to the agricultural income of the company at the time of the declaration of such dividend, as the case may be.

Refunds ...

... 33B.—(2) If a member of a registered firm or any person who being a minor has been admitted to the benefits of partnership in such firm, satisfies the Agricultural Income-tax Officer or other authority appointed by the Assam Government in this behalf that the rate of income-tax applicable to his total agricultural income of the previous year was less than the rate at which agricultural income-tax has been levied on the agricultural income of the firm of that year or that his total agricultural income of the previous year was below the minimum chargeable with agricultural income-tax, he shall be entitled to a refund on his share of that agricultural income calculated at the difference between those rates or at the rate at which income-tax has been levied, as the case may be.

Relief in respect of  
Indian Income-  
tax.

33C. If a shareholder in a company which has agricultural income and who has received any dividend from the company satisfies the Agricultural Income-tax Officer that Indian Income-tax or Indian Super-tax has been charged on any portion of the dividend which corresponds to all or any part of the company's agricultural income, as ascertained for the purpose of the Indian Income-tax Acts, he shall be entitled to a refund on the amount of such portion of the dividend (including the



amount of agricultural income-tax thereon) at the rate applicable to the agricultural income of a company for the same year as that of which the rate of Indian Income-tax or Indian Super-tax was charged in the assessment of the dividend in the hands of the shareholder but not exceeding the amount of Indian Income-tax or Indian Super-tax or both so charged.

General power to make refunds.

33D.—(1)

If in any case not provided for by provisions relating to refunds elsewhere contained in this Act, any individual Hindu joint or undivided family, company, firm or other association of individuals, or any partner of a firm or any person who being a minor has been admitted to the benefits of partnership or any member of an association individually satisfies the Agricultural Income-tax Officer or other authority appointed by the Assam Government in this behalf that the amount of tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess.

(2) The Assistant Commissioner in the exercise of his appellate powers, or the Commissioner in the exercise of his appellate powers, or powers of revision, if satisfied to the like effect shall in like manner cause a refund to be made by the Agricultural Income-tax Officer of any amount found to have been wrongly paid or paid in excess.

(3) Nothing in this Section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief."

(A summary division was taken by asking the members to rise in their places.)

The House negatived divided with the following result:—

Ayes—26.

Noes—55.

The motion was lost.

**The Hon'ble the SPEAKER:** The question is that clause 33A stands part of the Bill.



The motion was adopted.

Then I think there should be some alteration in the next amendment. In the place of "33F" it should be "33B".

**Mr. F. W. HOCKENHULL:** Mr. Speaker, Sir, I beg to move that after clause 33A of the Bill a new clause be added as follows:—

"Payment of income-tax by company to be deemed payment by shareholder.

33B. Where a shareholder has received a dividend from a company which has paid agricultural income-tax, he shall be deemed, in respect of such dividend, himself to have paid such agricultural income-tax paid by the company on so much of the dividend as bears to the whole the same proportion as the amount of income on which the company has paid such agricultural income-tax bears to the whole income of the company."

This amendment reproduces new section 49B of the Indian Income-tax Act introduced by the amending Act of 1939. The new section has been introduced merely to make it clear that the company pays income-tax on behalf of the shareholders and to remove legal doubts on this point and to clarify the intention that there should be no double taxation, once in the hands of the company and again in the hands of the shareholders; also that the shareholders may get a refund in proper cases. The reply I anticipate from the Hon'ble Finance Minister is that these are matters which would be dealt with in the rules. But I may point out that we protest against taking very great powers from the hands of the Legislature. These are such enormous powers that we feel we should protest against this extraordinary rule-making power being taken away from us. We submit that these rules should be discussed on the floor of this House, and the principles should be embodied in the Bill itself.

**The Hon'ble the SPEAKER:** Amendment moved:

"That after clause 33A of the Bill a new clause be added as follows:—

Payment of income-tax by company to be deemed payment by shareholder.

33B. Where a shareholder has received a dividend from a company which has paid agricultural income-tax, he shall be deemed, in respect of such dividend, himself to have paid such agricultural income-tax paid by the company on so much of the dividend as bears to the whole the same proportion as the amount of income on which the company has paid such agricultural income-tax bears to the whole income of the company."

**The Hon'ble Mr. FAKHURUDDIN ALI AHMED:** Mr. Speaker, Sir, I oppose this amendment. In view of section 3A it is not understood for what purpose this amendment has been tabled. The amendment would apparently make both the company as well as the shareholder the assessee in connection with the tax paid. This will be against the whole idea of the Bill. The purpose for which the hon. member has moved this amendment has been provided under section 3A. So, I oppose this amendment.

The motion was put and negatived.



**Mr. J. R. CLAYTON :** Mr. Speaker, Sir, I beg to move :  
That after clause 33A of the Bill the following new clause be added :—

“Relief in respect of 33B.—(1) If any person who has paid by deduction or otherwise agricultural income-tax for any year on any part of his income proves to the satisfaction of the agricultural income-tax officer that he has paid by deduction or otherwise United Kingdom Income-tax for the corresponding year in respect of the same part of his income and that the rate at which he was entitled to, and has obtained, relief under the provisions of Section 27 of the Finance Act, 1920, is less than the Assam rate of tax charged in respect of that part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Assam rate of tax (or the appropriate rate of United Kingdom Income-tax whichever is less), and the rate at which he was entitled to, and obtained relief under that Section.

Provided that in no case shall the rate at which such refund is calculated exceed half the Assam rate of tax appropriate to the income of the person entitled to relief.

(2) In sub-section (1)—

(a) the expression ‘agricultural income-tax’ means income-tax charged in accordance with the provisions of this Act ;

(b) the expression ‘Assam rate of tax’ means the amount of Assam Agricultural Income-tax after deduction of any relief due to a claimant under the other provisions of this Act but before deduction of any relief due to him under this section, divided by his total agricultural income after deducting therefrom any income (including income from a share in an unregistered firm) exempted from tax by or under the provisions of this Act ;

(c) the expression ‘United Kingdom income-tax’ means income-tax, super-tax and sur-tax chargeable in accordance with the provisions of the Income-tax Act ;



(d) the expression 'appropriate rate of United Kingdom Income-tax' has the meaning assigned to that expression in Section 27 of the Finance Act, 1920, as amended by the Finance Act, 1927".

Sir, this amendment provides for reciprocal relief where agricultural income is taxed in Assam and in the United Kingdom, and relief has been granted by the United Kingdom in terms of section 27 of the Finance Act.

It has been said that reciprocal relief first involves an agreement between the two countries. Government have said that before they can refer the matter to the United Kingdom Government, the Bill must be passed, as the United Kingdom Government will require to see it and thereafter, if agreement is reached, they will introduce at a later stage an amending Bill to give some form of reciprocal relief. This argument, however, is quite fallacious as the amendment asked for goes no farther than section 49 of the Indian Income-tax Act, that is to say, no claim for relief could be made in Assam, unless the claimant could prove that he had already obtained relief in the United Kingdom.

We maintain that no agreement is required, because section 27 of the United Kingdom Finance Act already allows the refund to be claimed in the United Kingdom.

**The Hon'ble the SPEAKER:** Amendment moved:

"That after clause 33A of the Bill the following new clause be added:—  
 "Relief in respect of 33B.—(1) If any person who has paid by deduction or otherwise agricultural income-tax for any year on any part of his income proves to the satisfaction of the agricultural income-tax officer that he has paid by deduction or otherwise United Kingdom Income-tax for the corresponding year in respect of the same part of his income and that the rate at which he was entitled to, and has obtained, relief under the provisions of Section 27 of the Finance Act, 1920, is less than the Assam rate of tax charged in respect of that part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Assam rate of tax (or the appropriate rate of United Kingdom Income-tax whichever is less), and the rate at which he was entitled to, and obtained relief under that Section.

Provided that in no case shall the rate at which such refund is calculated exceed half the Assam rate of tax appropriate to the income of the person entitled to relief.

(2) In sub-section (1)—

(a) the expression 'agricultural income-tax' means income-tax charged in accordance with the provisions of this Act;



- (b) the expression 'Assam rate of tax' means the amount of Assam Agricultural Income-tax after deduction of any relief due to a claimant under the other provisions of this Act but before deduction of any relief due to him under this section, divided by his total agricultural income after deducting therefrom any income (including income from a share in an unregistered firm) exempted from tax by or under the provisions of this Act ;
- (c) the expression 'United Kingdom income-tax' means income-tax, super-tax and sur-tax chargeable in accordance with the provisions of the Income-tax Act ;
- (d) the expression 'appropriate rate of United Kingdom Income-tax' has the meaning assigned to that expression in Section 27 of the Finance Act, 1920, as amended by the Finance Act, 1927".

**Khan Bahadur Maulavi KERAMAT ALI:** Sir, this amendment concerns only the Sterling Tea Companies in Assam. But I know that the Hon'ble Finance Minister will not deny that the Sterling Companies here, like all other tea concerns, are entitled to protection from the Government of Assam. If this principle is admitted, there is no justification to penalise the Sterling Companies. Will it, therefore, be desirable to put them in a different position from that of the Sterling Companies in Bengal, Madras, Ceylon and Java ? It is no doubt true that, as the estates are within the province and the income is made from a product of the province, Assam is entitled to a major portion of the tax. But we all know that from time immemorial the Sterling Companies have been paying taxes on their income in Europe. The Government of Assam, I am sure, is not in favour of double taxation. If this is so, they should approach the Secretary of State for India in Council and come to some settlement with the income-tax authorities there. I would therefore suggest that before we call upon the Sterling Companies to pay taxes here, we should take steps to give some relief with regard to the taxes they pay in Europe. What I feel is that the Sterling Companies should have fair treatment from the Government. In this view of the matter, I support the motion.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED :** Mr. Speaker, Sir, it was surprising for me to find a champion in hon. Khan Bahadur Maulavi Keramat Ali speaking in support of this amendment. The facts which I propose to place to-day will, however, convince him and other members of this House that the decision which we have taken in this matter is not only justified but also deserving of support from each and every section of this House. Sir, a demand in respect of the United Kingdom relief has been urged upon us by the European Group from time to time on the ground that there is an agreement between England and India which is binding on us. I, therefore, propose to lay before this House the facts which will reveal clearly as to what kind of agreement, if at all, was made between India and England and whether such agreement is binding on us. In



order to understand these facts we have to go back to the history and the circumstances which have brought into existence the so-called agreement under which the United Kingdom relief is claimed. I propose to deal with this matter thoroughly both for the benefit of the hon. members and also for the information of those on whose behalf the cry is made.

Sir, prior to 1916, the grievance of double income-tax within the British Empire has been prominently before the United Kingdom public for several years. The heavy taxations consequent upon the Great War made the grievance so acute that certain remedial measures were provided by the United Kingdom Finance Acts of 1916 and 1918, but the expedience adopted were admittedly temporary. The remedial measures mentioned above consisted of relief granted by the United Kingdom authorised only to their own tax-payers. The Royal Commission on the United Kingdom Income-tax appointed in 1919 deputed a Sub-Committee from among its own members to confer with the members of the various dominions to consider practical arrangements for remedy of any existing hardship arising from the imposition of double-income-tax within the Empire. Australia, Canada, India, New Zealand and South Africa were represented in that Conference. India, for reasons well-known, was represented by Sir James Scorgie Meston (afterwards Lord Meston). The Sub-Committee commenced its deliberations on 23rd September 1919. The main problem taken up by the Sub-Committee was one which was the subject of discussion at the Imperial War Conference, 1917, *i.e.*, to enquire into the influence of the system of double income taxation on the investment of capital in the United Kingdom, the dominions and India and to its effect of any change in the position of British capital invested abroad and to suggest remedial measures for relief to British tax-payers. The Sub-Committee were of opinion that—(a) every State has unrestricted right to adopt its own method of taxation within the sphere of its jurisdiction. (b) In present financial circumstances, no State ought to be called upon to sacrifice more revenue than is absolutely necessary. (c) The demands of equity would be met by the elimination of such excessive taxation as exists in the individual cases; in other words that the removal of the burden of double income-tax would be affected if an amount equal to the lower of the two taxes imposed by the two States on an individual were remitted. (d) Free circulation of capital within the Empire is affected if a person resident in the United Kingdom is subject to a varying rate of tax according to the part of the Empire from which income is derived.

The deliberations of the Conference were not free from difficulties. While, it was admitted that some mutual sacrifice was called for to remove individual hardship, the representatives of the different dominions attending the Conference had a predilection that the intention of the Royal Commission was to encroach on the independent right of taxation inherent in every State. Series of memoranda were drawn up mainly by Mr. Knibbs, the representative of the Australian Commonwealth, for use of the Sub-Committee who was supported by the representatives of Canada, South Africa and India, *i.e.*, the countries where income-tax is levied at the basis of place of origin. It was argued that if the place of origin is not the sole or primary fact to be considered in deciding whether liability attaches, and if residence is equally a potent factor, then India or any other dominion which abstains from basing a charge of income-tax on residence, has already made its proper sacrifice in any reciprocal arrangement for eliminating double income-tax. This argument apparently did



not suit the British Exchequer. This contention without qualification, that a primary right to tax income was possessed by the country whence the income is derived—to the exclusion of the right to tax it in the country of residence if admitted, then United Kingdom would have to surrender a considerable slice of its inland revenue which is realised on the basis of *residence only*, a system adopted by a few of the British Dominions and many foreign countries, on a theory of taxation based on the ability to pay.

A large number of witnesses were examined by the Royal Commission on this subject. Their suggestions may be summarised as follows:—

(a) That throughout the Empire income should be charged primarily in the State where the income arises, with or without a further charge for any excess of the tax assessable in the State of residence over the tax paid in the State of origin. (b) that the State which imposes the higher rate should collect its tax and adjust the loss of revenue between the two States. (c) That income arising outside the State of residence should not be charged therein. (d) That the tax assessable in the State of residence in respect of income arising in another State within the Empire should be charged only and the amount of income remitted to the State of residence.

These suggestions also for obvious reasons did not suit the Board of Inland Revenue of the United Kingdom. Proper sacrifice by all dominions was requisitioned with regard to the homogeneity of the Empire and for common purpose, *i.e.*, well-being of the British Empire. It was felt and rightly too, that the practical effect of accepting these solutions would be that the cost of solving the double income-tax problem would be thrown almost entirely on the United Kingdom exchequer, owing to the proportion between the amount of United Kingdom capital invested in the dominions and the amount of dominion capital invested in United Kingdom. To solve this difficulty, Dr. Joshua Stamp suggested two rates of taxation in the United Kingdom, one in respect to income arising within United Kingdom and a comparatively lower rate on income arising beyond the boundaries of United Kingdom but taxed on residence basis. This also was not accepted. Mr. Harrison on behalf of the Inland Revenue authorities placed before the Conference a proposal embodying the principle which should govern the allocation of the cost of relief from double income-tax on the basis of mutual sacrifice by the States concerned. The original proposal was substituted by another owing to the representative of the Commonwealth of Australia objecting to the terms and specially to its complexity. The latter proposal with certain modifications was recommended by the Sub-Committee to the Royal Commission. The latter agreeing with the recommendations, accepted it and incorporated it in their report published in 1920. The final recommendation was as follows:—

Firstly, that in respect of income taxed both in United Kingdom and in a Dominion, in substitution for the existing partial reliefs there should be deducted from the appropriate rate of the United Kingdom Income-tax (including super-tax). The whole of the rate of Dominion income-tax charged in respect of the same income, subject to the limitation that in no case should the maximum rate of relief given by the United Kingdom Income-tax (including super-tax) to which the individual tax-payer might be liable; and secondly, that any further relief to the lower of the two taxes (United Kingdom and Dominion) should be given by the Dominions concerned.

Such is the agreement which has been so spoken of by the members of the European group not once but on many occasions. As far as the facts reveal, it must have by now become evident to the hon. members that



it was a mere recommendation made by the Sub-Committee appointed for the purpose of Income-tax in the United Kingdom. How the recommendation of a Sub-Committee can either be called an agreement or can be binding on us is difficult for us to understand.

The above-mentioned recommendation was accepted by the United Kingdom and was embodied in the Finance Act, section 27. Under that section, a person whose income was assessed both in the United Kingdom and in the Dominions which accepted the proposal was entitled to claim from the authorities in United Kingdom a refund or rebate of the rate levied in the Dominions concerned upto one-half of the English rates. In making this provision it was assumed that further relief necessary in order to confer relief amounting in all to the lower of the two taxes should be given by the Dominion. The Indian Income-tax Act for the first time provided for double income-tax relief in section 49 of the Indian Income-tax Act of 1922. *But where the law in force in any Dominion makes no provision for the allowance of any relief in respect to United Kingdom tax, further provision was incorporated in section 27 of the United Kingdom Finance Act, 1920. The further provision is as follows:—*

*Sub-clause 4 (b) of Section 27, Finance Act, 1930.—“Where under the law in force in any Dominion no provision is made for the allowance of relief from Dominion income-tax in respect of the payment of United Kingdom income-tax, then in assessing or charging income-tax in the United Kingdom in respect of income assessed or charged to income-tax in that Dominion a deduction shall be allowed in estimating income for the purpose of the United Kingdom income-tax of an amount equal to the difference between the amount of the Dominion income-tax paid or payable in respect of the income and the total amount of the relief granted from the United Kingdom income-tax in respect of the Dominion income-tax for the period on the income of which the assessment or charge to United Kingdom income-tax is computed.”*

Obviously in making the above provision the United Kingdom authorities anticipated the natural opposition to this so-called reciprocal arrangements by some of the Dominions. History shows that the anticipation of the United Kingdom Government has not been without foundation.

The total cost of relief was estimated at £ 4,000,000 to the British Exchequer and the whole of this amount was exclusively enjoyed by British capitalists who invested their capital in the Dominions. On this estimate the contribution by the different Dominions to the same capitalists is somewhere about £ 3,000,000. Comparing the different Governments, it will be interesting to know India's contribution in respect of Indian income-tax. Out of a gross revenue of about 18 crores, India is made to surrender more than one and a half crore annually which compares very unfavourably to the surrender of 4 million pounds against a gross income-tax and super-tax revenue of over 300 million pounds in the United Kingdom.

Although Assam is predominantly agricultural, it is perhaps the first among the Indian provinces in respect of its tea industry. This industry in its modern sense was inaugurated almost exclusively by British Capital, and despite an increasing percentage of Indian participation, British capital still represents the major part of the capital invested in tea. An accurate estimate of the exact amount of British capital involved is impossible, because the available statistics do not include the records of private companies, and because in the case of joint stock companies domiciled both in India and elsewhere, the determination of stock ownership is of doubtful



value. From the accessible records, it is not unnatural to declare that British capital in Assam is as great if not greater than in any other province in India. The profits earned by British owned Tea concerns in Assam are all taken out of the Province. Computing the average profits earned and taken away, Assam's tribute to British capitalists during the last thirty years has not been less than 5 per cent. of the capital invested, i.e., one and a half times the capital has already been taken away in profits alone.

Sir, such are the facts which should convince the hon. member, who has moved this amendment, for the purpose that a man should not be made to pay twice, it is quite open to him to approach the United Kingdom and get such relief there for which provision is made there and I have quoted the section also. Secondly, Sir, a point was made out because of the capital invested here and therefore the United Kingdom is entitled to some sort of income-tax on account of the capital which has been brought from that country to this country. I can assure the hon. members of this House that if they were given the figures, they will have to admit that they have taken more by way of profits than the amount which they actually invested in our country. In view of these reasons, Sir, they will not consider us unjust if we have not made any provision in this Act for such a relief because if they are entitled to such relief they should approach the United Kingdom rather than approach us. With these words, Sir, I oppose this amendment.

**Mr. F. W. HOCKENHULL :** Sir, as this is an important question, we should be obliged if you would kindly give us a recorded division in the lobbies.

**The Hon'ble the SPEAKER :** Very well. The question is :—

“That after clause 33A of the Bill the following new clause be added :—  
Relief in respect of 33B.—(1) If any person who has paid by deduction United Kingdom Income-tax.

or otherwise agricultural income-tax for any year on any part of his income proves to the satisfaction of the agricultural income-tax officer that he has paid by deduction or otherwise United Kingdom Income-tax for the corresponding year in respect of the same part of his income and that the rate at which he was entitled to, and has obtained, relief under the provisions of Section 27 of the Finance Act, 1920, is less than the Assam rate of tax charged in respect of that part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Assam rate of tax (or the appropriate rate of United Kingdom Income-tax whichever is less), and the rate at which he was entitled to, and obtained relief under that Section.

Provided that in no case shall the rate at which such refund is calculated exceed half the Assam rate of tax appropriate to the income of the person entitled to relief.

(2) In sub-section (1)—

(a) the expression ‘agricultural income-tax’ means income-tax charged in accordance with the provisions of this Act ;



- (b) the expression 'Assam rate of tax' means amount of Assam Agricultural Income-tax after deduction of any relief due to a claimant under the other provisions of this Act but before deduction of any relief due to him under this section, divided by his total agricultural income after deducting therefrom any income (including income from a share in an unregistered firm) exempted from tax by or under the provisions of this Act ;
- (c) the expression 'United Kingdom income-tax' means income-tax, super-tax and sur-tax chargeable in accordance with the provisions of the Income-Tax Act ;
- (d) the expression 'appropriate rate of United Kingdom Income-tax' has the meaning assigned to that expression in Section 27 of the Finance Act, 1920, as amended by the Finance Act, 1927".

The Assembly divided.

Ayes—31.

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|--|---|
| 1. Babu Hirendra Chandra Chakravarty.          | 16. Maulavi Namwar Ali Barbhuiya.         |
| 2. Srijut Rohini Kumar Chaudhuri.              | 17. Maulavi Naziruddin Ahmed.             |
| 3. Maulavi Abdul Aziz.                         | 18. Maulavi Saiyid Sir Muhammad Saadulla. |
| 4. Maulavi Abdul Bari Chaudhury.               | 19. Col. A. B. Beddow.                    |
| 5. Khan Bahadur Hazi Abdul Majid Chaudhury.    | 20. Mr. A. H. Ball.                       |
| 6. Maulavi Abdul Matin Chaudhury.              | 21. Mr. F. W. Blennerhassett.             |
| 7. Maulavi Abdur Rahman.                       | 22. Mr. J. R. Clayton.                    |
| 8. Maulavi Dewan Muhammad Ahbab Chaudhury.     | 23. Mr. W. R. Faull.                      |
| 9. Maulavi Ashrafuddin Md. Chaudhury.          | 24. Mr. F. W. Hockenhull.                 |
| 10. Maulavi Badaruddin Ahmed.                  | 25. Mr. W. J. Gray.                       |
| 11. Maulavi Jahanuddin Ahmed.                  | 26. Mr. D. B. H. Moore.                   |
| 12. Khan Bahadur Maulavi Keramat Ali.          | 27. Mr. R. A. Palmer.                     |
| 13. Maulavi Muhammad Maqbul Hussain Choudhury. | 28. Srijut Binode Kumar J. Sarwan.        |
| 14. Maulavi Munawwar Ali.                      | 29. Rev. L. Gatphoh.                      |
| 15. Maulavi Muzarrof Ali Laskar.               | 30. Mr. C. Goldsmith.                     |
|  | 31. Mr. Jobang D. Marak.                  |



## Noes—54.

1. The Hon'ble Srijut Gopinath Bardoloi.
2. The Hon'ble Mr. Fakhruddin Ali Ahmed.
3. The Hon'ble Babu Kamini Kumar Sen.
4. The Hon'ble Srijut Ramnath Das.
5. The Hon'ble Babu Akshay Kumar Das.
6. The Hon'ble Maulavi Md. Ali Haidar Khan.
7. The Hon'ble Srijut Rupnath Brahma.
8. The Hon'ble Khan Bahadur Maulavi Vahmud Ali.
9. Kumar Ajit Narayan Dev.
10. Mr. Arun Kumar Chanda.
11. Mr. Baidyanath Mookerjee.
12. Srijut Beliram Das.
13. Srijut Bepin Chandra Medhi.
14. Srijut Bhuban Chandra Gogoi.
15. Babu Bipin Behari Das.
16. Srijut Bishnu Ram Medhi.
17. Babu Dakshinaranjan Gupta Chaudhuri.
18. Srijut Debeswar Sarmah.
19. Srijut Ghanashyam Das.
20. Srijut Gauri Kanta Talukdar.
21. Srijut Haladhar Bhuyan.
22. Babu Harendra Narayan Chaudhuri.
23. Srijut Jadav Prasad Chaliha.
24. Srijut Jogendra Chandra Nath.
25. Srijut Jogeschandra Gohain.
26. Babu Kalachand Roy.
27. Srijut Kameswar Das.
28. Babu Karuna Sindhu Roy.
29. Mr. Kedarimal Brahmin.
30. Srijut Krishna Nath Sarmah.
31. Srijut Lakshesvar Borooah.
32. Babu Lalit Mohan Kar.
33. Srijut Mahadev Sarma.
34. Srijut Omco Kumar Das.
35. Srijut Paramananda Das.
36. Rai Bahadur Promode Chandra Dutt.
37. Srijut Purandar Sarma.
38. Srijut Purna Chandra Sarma.
39. Babu Rabindra Nath Aditya.
40. Srijut Rajani Kanta Barooah.
41. Srijut Rajendra Nath Barua.
42. Srijut Sankar Chandra Barua.
43. Srijut Sarveswar Barua.
44. Babu Shibendra Chandra Biswas.
45. Srijut Siddhi Nath Sarma.
46. Maulavi Dewan Ali Raja.
47. Maulavi Muhammad Amiruddin.
48. Srijut Bhairab Chandra Das.
49. Srijut Bideshi Pan Tanti.
50. Srijut Dhirsing Deuri.
51. Rev. J. J. M. Nichols-Roy.
52. Srijut Karka Dalay Miri.
53. Srijut Khorsing Terang.
54. Srijut Rabi Chandra Kachari.

The motion was negatived,



**Mr. J. R. CLAYTON:** Mr. Speaker, Sir, I beg to move—that after clause 33A of the Bill the following new clause be added:—  
 “Relief in respect of 33B.—(1) The Assam Government may, by notification in the official Gazette, make provision for the granting of relief in respect of income on which has been paid both income-tax (including super-tax) under this Act and Dominion Income-tax.

(2) For the purposes of this section “Dominion Income-tax” means any income-tax or super-tax charged under any law in force in any Indian State or in any part of His Majesty’s Dominions (other than the United Kingdom) where the laws of that State or part provide for relief in respect of tax charged on income both in that State or part and in British India which appears to the Assam Government to correspond to the relief which may be granted by this Section.”

This introduces the new Section 49A added to the Indian Income-Tax Act by the 1939 Amendment Act. The Central Act clearly recognises that there is to be no double taxation as between British India and any of the Indian States or any other part of the Dominions and there would appear to be no reason why the reciprocal relief should not be given in Assam.

If, for instance, a person deriving agricultural income from Assam happens, say, to live in an Indian State where he has to pay State Income-tax on the agricultural income, he will suffer from double taxation unless this amendment is carried.

This power must, however, be discretionary only as it is to provide against the future introduction of taxation by other States or Dominions.

**The Hon’ble the SPEAKER:** The amendment moved is:

That after clause 33A of the Bill the following new clause be added:—  
 “Relief in respect of 33B.—(1) The Assam Government may, by notification in the official Gazette, make provision for the granting of relief in respect of income on which has been paid both income-tax (including super-tax) under this Act and Dominion Income-tax.

(2) For the purposes of this section ‘Dominion Income-tax’ means any income-tax or super-tax charged under any law in force in any Indian State or in any part of His Majesty’s Dominions (other than the United Kingdom) where the laws of that State or part provide for relief in respect of tax charged on income both in that State or part and in British India which appears to the Assam Government to correspond to the relief which may be granted by this Section.”

**The Hon’ble Mr. FAKHRUDDIN ALI AHMED:** I oppose this amendment. This follows the same principle about which an amendment was moved and rejected by this House. I need not give reasons afresh for opposing this amendment.

The motion was put and lost.



**The Hon'ble the SPEAKER :** The amendments that now remain to be disposed of are the amendments to clause 43. I shall, therefore, take up clause 43 now.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED :** Mr. Speaker, Sir, I beg to move that the "full stop" at the end of exception (3) of clause 43 shall be substituted by a "colon" and the following proviso shall be added, namely:—

"Provided that for the purposes of ascertaining agricultural income in regard to tea, the aforesaid Income-tax authorities may call for any papers produced or liable to be produced before the Income-tax authorities administering the Indian Income-tax Act".

This amendment is proposed in order to keep in line with the Indian Income-tax Act.

**The Hon'ble the SPEAKER :** Amendment moved :

That the "full stop" at the end of exception (3) of clause 43 shall be substituted by a "colon" and the following proviso shall be added, namely:—

"Provided that for the purposes of ascertaining agricultural income in regard to tea, the aforesaid Income-tax authorities may call for any papers produced or liable to be produced before the Income-tax authorities administering the Indian Income-tax Act".

**Mr. J. R. CLAYTON :** Mr. Speaker, Sir, I beg to oppose this amendment. On the face of it, the amendment does not appear to be unreasonable, but in practice it will cause considerable inconvenience, as most tea garden assessments under the India Act will be made away from the district in which the garden is situated, probably most in Calcutta. It is not reasonable to expect all books, vouchers, correspondence, accounts and other documents to be sent from the garden's headquarters outside the Province up to the garden at any time to satisfy the Agricultural Income-tax Officer who is only concerned with the Agricultural Income.

Moreover, since the Agricultural Income-tax Officer is obliged to accept the Indian computation, this should be unnecessary, as he could obtain all information by inspection of the Indian Assessment Proceedings, and if he is not satisfied, he should have no difficulty in obtaining any documents from the Indian Income-tax Department of which he is also a member.

The motion was put and adopted.

**The Hon'ble the SPEAKER :** The question is that clause 34 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER :** The question is that clause 35 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER :** The question is that clause 36 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER :** The question is that clause 37 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER :** The question is that clause 38 stands part of the Bill.

The motion was adopted.



**The Hon'ble the SPEAKER:** The question is that clause 39 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** The question is that clause 40 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** The question is that clause 41 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** The question is that clause 42 stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** The question is that clause 43 as amended stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER:** The question is that clause 44 stands part of the Bill.

The motion was adopted.  
(Here the clock struck 4-30 p. m.)

### Adjournment

The Assembly then adjourned for half an hour till 5 p. m.

### After Adjournment

**The Hon'ble the SPEAKER:** There is one small amendment to clause I standing in the name of the Hon'ble Mr. Fakhruddin Ali Ahmed and a similar amendment stands in the names of the hon. members. Mr. Arun Kumar Chanda and Babu Rabindra Nath Aditya.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** I beg to move that for sub-clause (2) of clause I the following shall be substituted:—

“It shall take effect from the 1st of April, 1939”.

The purpose of this amendment is that we want to state definitely from which date this Act will come into effect. And for this purpose the amendment has been moved.

**The Hon'ble the SPEAKER:** Amendment moved :

That for sub-clause (2) of clause I the following shall be substituted:—

“It shall take effect from the 1st of April, 1939”.

**Mr. J. R. CLAYTON:** I rise to oppose this amendment. The effect of this amendment is to make the Bill take effect from a back date which is against all accepted principles in taxation legislation. Such an enactment should not come into force until the public have had an opportunity of studying the enactment in its final form and ascertaining their rights and liabilities. For instance, the Indian Income-tax Amendment Bill, 1938, was passed by the Legislature in November and December 1938, but it has not been brought into force until the 1st April, 1939. Again, I believe, the Finance Minister in the early stages of the Bill stated that it was not proposed to collect more than half the year's tax in the first year. I, therefore oppose the amendment.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** I do not think I said like that.

**The Hon'ble the SPEAKER:** The question is:

That for sub-clause (2) of clause I the following shall be substituted:—

“It shall take effect from the 1st of April, 1939”.

(A summary division was taken by asking the members to rise in their places.)



The House divided with the following result :—

Ayes—53.

Noes—22. ✓

The motion was adopted.

**The Hon'ble the SPEAKER :** The question is that clause 1 as amended stands part of the Bill.

The motion was adopted.

**The Hon'ble the SPEAKER :** The question is that the title and preamble of the Bill stands part of the Bill.

The motion was adopted.

**Hon'ble Speaker's ruling on the admissibility of certain amendments to the Agricultural Income-tax Bill, 1939, which attract section 82 (1) (a) of the Government of India Act, 1935**

**The Hon'ble the SPEAKER :** I now proceed to give the ruling I promised in the early part of to-day, on the point that was raised by Mr. Clayton in connection with the Amendments Nos. 10\* and 87†. Objection was taken yesterday to the admissibility of amendment No. 10 on the ground that it was an amendment which went against the principle of the Bill. Again, having perceived that the amendments consequential upon this amendment are amendments Nos. 14, 42, 43 and 87 proposing a Schedule to the Bill prescribing a scale of rates for the taxation for different limits of income a further point was raised to the effect that these amendments require previous recommendation of His Excellency the Governor under section 82 (1) (a) of the Government of India Act, 1935. On this point, however, I held yesterday that these amendments did require previous recommendation under section 82 (1) (a), and pending my decision on the question whether these amendments are within the scope of the Bill, I took steps to obtain such recommendation from the Governor and the consideration of amendment No. 10 was postponed for to-day. His Excellency

\*10. That in clause 3 of the Bill the words "Annual Assam Finance Acts" shall be omitted and the words "Schedule to this Act" shall be substituted.

†87. That after clause 44 of the Bill the following Schedule be added :—

#### SCHEDULE

( See Section 3 )

*Rates of Agricultural Income-tax*

- |   | <i>Rate</i>              |
|---|--------------------------|
| (1) When the total agricultural income exceeds Rs. 2,000 but does not exceed Rs. 10,000.  | Six pies in the rupee.   |
| (2) When the total agricultural income exceeds Rs. 10,000 but does not exceed Rs. 15,000. | Seven pies in the rupee. |
| (3) When the total agricultural income exceeds Rs. 15,000 but does not exceed Rs. 20,000. | Eight pies in the rupee. |
| (4) When the total agricultural income exceeds Rs. 20,000 but does not exceed Rs. 30,000. | Ten pies in the rupee.   |

(Continued in the foot-note of next page)



has refused to accord recommendation to these amendments. The hon. Mr. Clayton, however, has attempted to point out to-day that amendment No. 10 considered along with amendment No. 87 did not require any previous recommendation under section 82 (1) (a). This he did with my permission although there was my ruling, given yesterday, that it did. Therefore, it is necessary that I should give the reasons, which led me to hold that these amendments required previous recommendation, more fully than I did yesterday, and in giving reasons I should also state that to me it appears that the amendments are also not strictly within the scope of the Bill. Amendment No. 87 proposing a Schedule to the Bill is really intended to implement the principle underlying amendment No. 10, *viz.*, that the rates of taxation instead of being fixed every year by a Finance Act should be fixed by the Agricultural Income-tax Act for all time to come. Herein comes the clash of principles and the amendment No. 87, proposing an elaborate Schedule of rates varying with varying limits of income, at once indicates vividly the clash in regard to a very fundamental principle of the Bill. The whole plan of the Bill is apparent from the various clauses of the Bill as it was introduced. The Bill seeks only to lay down certain principles on which the scheme of the taxation proposed should be based, leaving out the determination of the rates, at which the tax should be levied, to a separate Bill called the Finance Bill. Actually such a Bill has been introduced in the House, and the House has accepted a motion for consideration of that

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- |  |                                 |
|--|---------------------------------|
| (5) When the total agricultural income exceeds Rs. 30,000 but does not exceed Rs. 40,000.        | Twelve pies in the rupee.       |
| (6) When the total agricultural income exceeds Rs. 40,000 but does not exceed Rs. 75,000.        | Fifteen pies in the rupee.      |
| (7) When the total agricultural income exceeds Rs. 75,000 but does not exceed Rs. 1,00,000.      | Eighteen pies in the rupee.     |
| (8) When the total agricultural income exceeds Rs. 1,00,000 but does not exceed Rs. 1,50,000.    | Twenty-two pies in the rupee.   |
| (9) When the total agricultural income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000.    | Twenty-four pies in the rupee.  |
| (10) When the total agricultural income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000.   | Twenty-six pies in the rupee.   |
| (11) When the total agricultural income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000.  | Twenty-eight pies in the rupee. |
| (12) When the total agricultural income exceeds Rs. 10,00,000 but does not exceed Rs. 15,00,000. | Twenty-nine pies in the rupee.  |
| (13) When the total agricultural income exceeds Rs. 15,00,000.                                   | Thirty pies in the rupee.       |



Bill. The second and the third readings of that Bill are to be taken up to-day, and to the various provisions of that Bill several amendments have also been tabled by different hon. members. The very fact that the question of rates is to be dealt with by the Finance Bill accounts for the absence of a Schedule of rates in this Bill as introduced in the Assembly. The Select Committee has accepted the principle and the Bill emerging out of the Select Committee is without a Schedule appended to it. If there was a Schedule appended to this Bill, as it was introduced in the House, or if there was a Schedule added to this Bill by the Select Committee, the hon. members would have been entitled to table amendments to that Schedule. Amendments to the Schedule of the Finance Bill have been actually tabled by some hon. members and the amendments do really propose rates and limits of income different from those now proposed by amendment No. 87. So, it comes to this then that if this Agricultural Income Tax Bill had a Schedule appended to it as it was introduced in the Assembly or if any Schedule was appended to it by the Select Committee, different amendments from different hon. members would have been tabled. But if the amendment, No. 87, be now allowed to be moved it would not be so easy to give a scope to other hon. members to table amendments to it.

Further, having taken this fact into consideration I am of opinion that this amendment, No. 87, and the other amendments connected therewith are really amendments which propose a taxation within the meaning of section 82(1)(a), because the Schedule prescribed by amendment No. 87 would be proposing amendments imposing a tax, as the Bill as originally introduced in the House and as has emerged from the Select Committee had no such Schedule imposing a tax. The reason for this is that just as a clause of a Bill proposing rates of a tax to be imposed is a clause which seeks to impose a tax, any amendments to that clause seek also to impose a tax, and therefore require previous recommendation from the Governor. Section 82(1)(a) provides that a Bill or an amendment making provision for imposing or increasing a tax shall not be introduced or moved except on the recommendation of the Governor. I leave aside the contention that "increasing a tax" means increasing an existing tax. It is opined in some quarters that just as a clause of a Bill or a Bill proposes a tax so also an amendment to that clause or to that Bill proposes a tax, and that the question whether the amendment increases or decreases the tax proposed appears to be quite immaterial, and the previous recommendation becomes necessary in all cases. It is said that a taxation proposal is always brought forward by Government with a view to increase the revenues of the Province up to a certain limit which they consider reasonable. So, an amendment to a proposal for taxation, either to increase the revenues beyond that estimated by the Governor or to decrease it, must be examined by the Governor, who decides on the advice of his Ministers whether previous recommendation should be granted to such an amendment. But clearly in this case, even if this contention is not correct, the absence of a Schedule to the Bill makes the amendment, No. 87, which proposes a Schedule, an amendment which seeks to impose a tax, and therefore I held that it required previous recommendation from the Governor.

While I refer to the view as above, that all amendments to an existing clause of a Bill imposing a tax—whether it increases or decreases the tax proposed—requires previous recommendation of the Governor under section 82(1)(a), I must however make it clear that in regard to Bills and amendments coming under sections 82(1)(b) and 82(1)(c) recommendation given for a higher sum would constitutionally imply recommendation for reduction to a lower figure as those provisions relate to expenditure from the revenues



of a province or to expenditure charged on the revenues of a province. But this principle cannot, it is said, be applicable to the case of a taxation Bill or an amendment prescribing rates and limits of a taxation which, it is contended, stands on a different footing. I may illustrate the point by saying that an amendment to a Bill proposing, for instance, the salaries of members of the Legislature, if it seeks to decrease the salary to a lower figure than the figure mentioned in the Bill, there will be something like implied recommendation for that amendment, but strictly within the letter of the law explicit recommendation is necessary. But in taxation proposals such explicit recommendation instead of an implied recommendation in similar cases may sometimes be considered necessary and advisable. But so far as amendments 10 and 87 were concerned, the question whether amendment proposing a decrease of a tax proposed requires previous recommendation does not arise, for the simple reason that these are not amendments to any original clause of the Bill proposing rates higher than those mentioned in amendment 87. But they themselves contain a new proposal prescribing rates of taxation.

Before the Hon'ble Mr. Fakhruddin Ali Ahmed moves his motion, I may intimate to the House that His Excellency the Governor has recommended to this House the consideration of the Bill under section 82(3). Now hon members will find that this recommendation was necessary on account of the fact that this Bill is proposing some expenditure from the revenues of the province, as would appear from Chapter III of the Bill, which makes provision for appointment of Income-tax Authorities. Therefore, this recommendation to the Chamber was necessary and that recommendation should be communicated to the Chamber through the Speaker. Therefore, His Excellency has sent that recommendation.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I beg to move that the Assam Agricultural Income-tax Bill, 1939, as amended, be passed.

**The Hon'ble the SPEAKER:** The motion moved is—

“That the Assam Agricultural Income-tax Bill, 1939, as amended, be passed”.

**Mr. F. W. HOCKENHULL:** Mr. Speaker, Sir, I rise to oppose this motion. At this late date in this session and at this late hour in the day I will not keep the House any longer than is necessary. I will, therefore, just enumerate those points which we feel it is necessary to record in opposing the passing of this Bill.

In the first place, Sir, I should like to reiterate what has been said more than once during the discussion of the Bill, namely, that we are not opposed to the levy of Agricultural Income-tax. Our opposition has been to the form in which the Bill has been presented, and I may say our chief grievance is that it has been so hastily compiled. I admit the difficulties which the Hon'ble Finance Minister had to face, but at the same time I feel that we must protest against the great haste with which this measure has been pushed through. Here is a Bill, Sir, which will collect something like a quarter of a crore of rupees and we feel that nothing like adequate time has been allowed to it. We feel that a special session might have been held for this Bill and Government would still have lost nothing in the current financial year.

The next point I wish to raise, Sir, is the theory which has been advanced by the Hon'ble Finance Minister that in all legislation the trial and error method should be admitted. We cannot admit that, Sir. Throughout the whole of these proceedings our effort has been to contribute so far as we could to what we felt to be improvements to a very difficult and technical



Bill. No one has even suggested that the amendments that we have brought forward at this stage, which might we think have been brought forward earlier in consultation, have been given full consideration. There is one difficulty about the trial and error method. In a taxation measure, namely, that those who are concerned have to pay while the mistakes are being rectified. That we feel is not as it ought to be.

Lastly, Sir, I would like to emphasise that all we have been asking for is nothing more or less than what is conceded to us by the Indian Income-tax Act, and I leave it to the House and to judge whether we have been making too great a claim.

These are our principal objections to the Bill, Sir. We have done our best and I think you will admit that we have put forward our objections in as reasonable a manner as possible with a view to improving the Bill before it is passed.

**Maulavi ABDUR RAHMAN:** Mr. Speaker, Sir, I also beg to oppose the passing of this Bill. In doing so I do not like to give my own views, but simply I shall quote certain remarks which were made by Mr. James, the Leader of the European group in the Central Legislative Assembly in connection with the Finance Bill there. Also I should like to place before the House certain comments which were published in a daily paper of the country. This runs thus:—"Taxes and more taxes".

"From the time person rises up from his bed in the morning to the time when he retires again to his bed he has to pass through tax", said Mr. James, the Leader of the European group of the Central Assembly. He also observed that all the middle class people in this country are being heavily taxed. They are perpetually taxed and that the burden of taxation in India is getting alarmingly heavier every day. Not only our middle class people are being taxed by the Government but also the poorer classes of people are being affected. In the United Provinces severe measures of taxation have been adopted upon which the paper says, "we have made commitments before". The paper continues:—"We heartily endorse the suggestion made by Mr. James that there should be a thorough and scientific investigation into the incidence of taxation in this country, with a view to bring in about a more equitable readjustment of taxes among the various communities. This is a suggestion which the Government of India would very considerably act upon if it has really the interest of the people at heart." Sir, the remarks I have quoted here really give an idea how the population of our province also are going to be taxed. This is not a new kind of taxation in this House. In a single session we are going to pass as many as half a dozen taxation bills. This, I should say, will certainly break down the shoulders of the peasants of this country as well. With these few words, Sir, I oppose this motion.

**Maulavi MUHAMMAD MAQBUL HUSSAIN CHOUDHURY\*:** I also rise to oppose this motion. I can dilate upon two points only. Firstly it is a new measure and means a very heavy burden of the national charge upon the people of Assam. Secondly some substantial amendments have been made by the Hon'ble Revenue Minister and so this Bill cannot be passed to-day. With these few words, I oppose the motion.

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** Mr. Speaker, Sir. As to the importance of this Bill I need not emphasise. What I want to know is whether you are going to exercise your discretion in this case or not. When an important amendment has been made and is accepted in principle, may I object to the passing of the same Bill?

\*Speech not corrected.



**The Hon'ble the SPEAKER :** That objection has not yet been taken. Only the motion for passing the Bill has been opposed and there has been no objection under sub-rule (2) of Rule 70 of the Assembly Rules. So the hon. member need not refer to that.

**Maulvi ASHRAFUDDIN MD. CHAUDHURY :** I take leave of the House to raise objection as to the passing of the Bill on the grounds that the importance of this Bill has been recognised and that so many amendments have been placed. These amendments have been also accepted by the House to-day in this very sitting. I hope, Sir, that you would be pleased not to exercise your special discretion and permit this Bill to be passed into Act in the same sitting.

**The Hon'ble the SPEAKER :** I may intervene at this stage, that opposing the passing of the Bill is one thing and taking objection to the passing of the Bill at to-day's sitting is quite different.

**Maulavi JAHANUDDIN AHMED\* :** I also rise to oppose the passing of the Bill as amended. Sir, it is really a very hasty measure that we are taking. We have given our views about the amendments. This Bill is very important and we wanted to keep the amendment excluding *Wakf-ul-Aulad* from the provisions of this Bill. This has not been accepted by the Hon'ble Minister and by not accepting this the Hon'ble Minister has taken the personal law of Muhammadans and overlooked it and they have taken away the personal rights of the Muhammadans with such a hasty legislative measure. This amendment which affects the personal law of the Muhammadans should have been decided on the floor of this House by the Muhammadan votes only. (*Laughter* by the Hon'ble Finance Minister.) The Hon'ble Minister may laugh but he should remember that he is taking the personal law of the Muhammadans with the help of other communities. It is really a shame on the part of the Hon'ble Minister and with these few words, Sir, I oppose the passing of the Bill. I also raise objection.

**The Hon'ble the SPEAKER :** After the motion was moved by the Hon'ble Finance Minister that the Bill as amended be passed that motion was opposed by some hon. members but Maulavi Ashrafuddin Md. Chaudhury then raised objection that the Bill cannot be passed at this sitting under sub-rule (2) of Rule 70 of the Assembly Rules. Now the rule says that when such an objection is raised, the Chair has to exercise its discretion ; but it appears to me that this objection was raised just after the motion was moved. As to the grounds which I would generally follow in exercising my discretion in such a matter, I may refer the hon. members to what I said the other day ; but here is a case which is exactly analogous to a case which arose in the Central Assembly in 1922 and I wish to point out to the hon. members the procedure that was followed by the Hon'ble President there. On the 15th of September, 1922 after the consideration of the clauses, Sir William Vincent moved that the amended Bill be passed whereupon Dr. H. S. Gour objected and moved an amendment which is exactly similar to ours that the amended Bill be postponed. The President putting the motion for postponement, Dr. H. S. Gour pointed out that it was for the Chair to decide the point and that the motion need not be put to the House. The President thereupon remarked, "I have used my jurisdiction and allowed the Hon'ble Home Member to make his motion. Similarly in the use of my jurisdiction I understood and accepted the motion from the hon. member from the Central Provinces to postpone consideration leaving it thereby to the House to decide whether they wish to go on or not". Now, here the objection of Maulavi Ashrafuddin Md.



Chaudhury is really an objection to the passing of the Bill. He practically asks the House to postpone the passing of the Bill to another date. So, I shall take vote whether the House decide to postpone the passing of the Bill.

[A summary division was taken asking the members to rise in their seats and it was found that the majority of the members (54 members) were against postponement.]

So, I find that the majority are not in favour of postponement. This I take as a ground for not exercising my discretion in favour of postponing the passing of the Bill to-day. When practically all substantial amendments proposed by the opposition have been rejected by the House, I do not find any reason why the passing of the Bill should be postponed. So, I do not allow the objection to the passing of the Bill to-day to prevail.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, Mr. Hockenull has opposed the motion on the ground that the legislation has been hasty. As I said the other day, we do not claim perfection. It is an accepted principle that no taxation law in any country—whether enacted within a short time or over the enactment of which a considerable time of one year or two years has been taken—has been found complete or perfect. We are bound to come across a number of defects in the law which we propose to enact to-day. In the light of experience it will be our duty to review such defects, by bringing forward fresh amendments. Therefore, Sir, on that ground there is no justification why this Bill should now be opposed. My hon. friend Mr. Jahanuddin Ahmed could not get out of his mentality of bringing communalism even in this last stage (Maulavi Jahanuddin Ahmed:—I challenge that statement.)

Sir, the statement made by him on the floor of this House will itself reveal whether his contradiction now will serve any useful purpose. He went to the extent of saying "let us take the vote of the Muhammadan people and find out whether the provision embodied in the Bill with regard to *Wakf* is proper or not." If that is not communalism, what else can be called communalism?

**Maulavi JAHANUDDIN AHMED:** I referred to the Muhammadan law.

**The Hon'ble the SPEAKER:** Order, order.

The Hon'ble Minister is not saying that the hon. member was not justified in referring to the Muhammadan law. But he is taking exception to what the hon. member said to the effect that for the provision in the Bill relating to *Wakfs* only the votes of the Muhammadans should prevail.

**Maulavi JAHANUDDIN AHMED:** My point is that the whole world is following the religious sentiment and why should not this Government. It cannot be said that this is only in the Muhammadan law.

**The Hon'ble the SPEAKER:** The point of the Hon'ble Minister is that all Muhammadans do not understand the Muhammadan law in the same way.

**Maulavi JAHANUDDIN AHMED:** That is true.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** On exactly the same grounds, the objections may well be raised by my hon. friends in the European Planting group that, as Agricultural income-tax will affect chiefly the Tea Industry, no one else except the members of the Planting group should exercise the right of vote—in which case we can never dream even of bringing this Act into being. I submit, Sir, that no case has been made out by any member of the House why this Bill should not be passed into a law. I, therefore, commend my motion for the acceptance of the House.



The Hon'ble the SPEAKER: The question is that the Assam Agricultural Income-tax Bill as amended be passed.

The Assembly divided.

Ayes—57.

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|---|--|
| 1. The Hon'ble Srijut Gopinath Bardoloi.        | 27. Babu Kalachand Roy.                  |
| 2. The Hon'ble Mr. Fakhruddin Ali Ahmed.        | 28. Srijut Kameswar Das.                 |
| 3. The Hon'ble Babu Kamini Kumar Sen.           | 29. Babu Karuna Sindhu Roy.              |
| 4. The Hon'ble Srijut Ram Nath Das.             | 30. Mr. Kedarmal Brahmin.                |
| 5. The Hon'ble Babu Akshay Kumar Das.           | 31. Srijut Krishna Nath Sarma.           |
| 6. The Hon'ble Maulavi Md. Ali Haidar Khan.     | 32. Srijut Lakshesvar Borooah.           |
| 7. The Hon'ble Srijut Rupnath Brahma.           | 33. Babu Lalit Mohon Kar.                |
| 8. The Hon'ble Khan Bahadur Maulavi Mahmud Ali. | 34. Srijut Mahadev Sarma.                |
| 9. Kumar Ajit Narayan Dev.                      | 35. Srijut Mahi Chandra Bora.            |
| 10. Mr. Arun Kumar Chanda.                      | 36. Srijut Omco Kumar Das.               |
| 11. Mr. Baidyanath Mookerjee.                   | 37. Srijut Paramananda Das.              |
| 12. Babu Balaram Sircar.                        | 38. Rai Bahadur Promode Chandra Dutt.    |
| 13. Srijut Beliram Das.                         | 39. Srijut Purandar Sarma.               |
| 14. Srijut Bipin Chandra Medhi.                 | 40. Srijut Purna Chandra Sarma.          |
| 15. Srijut Bhuban Chandra Gogoi.                | 41. Babu Rabindra Nath Aditya.           |
| 16. Babu Bipin Behari Das.                      | 42. Srijut Rajani Kanta Barooah.         |
| 17. Srijut Bishnu Ram Medhi.                    | 43. Srijut Rajendra Nath Barua.          |
| 18. Babu Dakshina Ranjan Gupta Chaudhury.       | 44. Srijut Sankar Chandra Barua.         |
| 19. Srijut Debeswar Sarmah.                     | 45. Srijut Sarveswar Barua.              |
| 20. Srijut Ghanashyam Das.                      | 46. Babu Shibendra Chandra Biswas.       |
| 21. Srijut Gaurikanta Talukdar.                 | 47. Srijut Siddhi Nath Sarma.            |
| 22. Srijut Haladhar Bhuyan.                     | 48. Maulavi Dewan Ali Raja.              |
| 23. Babu Harendra Narayan Chaudhuri.            | 49. Maulavi Muhammad Amiruddin.          |
| 24. Srijut Jadav Prasad Chaliha.                | 50. Khan Bahadur Maulavi Mufizur Rahman. |
| 25. Srijut Jogendra Chandra Nath.               | 51. Srijut Bhairab Chandra Das.          |
| 26. Srijut Jogeschandra Gohain.                 | 52. Srijut Bideshi Pan Tanti.            |
|   | 53. Srijut Dhirsingh Deuri.              |
|   | 54. Rev. J. J. M. Nichols-Roy.           |
|   | 55. Srijut Karka Dalay Miri.             |
|   | 56. Srijut Khorsingh Terang.             |
|   | 57. Srijut Rabi Chandra Kachari.         |

Noes—28.

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|---------------------------------------|--|
| 1. Babu Hirendra Chandra Chakravarty. | 6. Maulavi Dewan Muhammad Ahab Chaudhury.      |
| 2. Srijut Rohini Kumar Chaudhury.     | 7. Maulavi Ashrafuddin Md. Chaudhury.          |
| 3. Maulavi Abdul Bari Chaudhury.      | 8. Maulavi Jahanuddin Ahmed.                   |
| 4. Maulavi Abdul Matin Chaudhury.     | 9. Khan Bahadur Maulavi Keramat Ali.           |
| 5. Maulavi Abdur Rahman.              | 10. Maulavi Muhammad Maqbul Hussain Chaudhury. |



11. Maulavi Munawwar Ali.
12. Maulavi Namwar Ali Barbhuiya.
13. Maulavi Naziruddin Ahmed.
14. Maulavi Saiyid Sir Muhammad Saadulla.
15. Col. A. B. Beddow.
16. Mr. A. H. Ball.
17. Mr. F. W. Blennerhassett.
18. Mr. J. R. Clayton.

19. Mr. W. R. Faull.
20. Mr. F. W. Hockenhull.
21. Mr. W. J. Gray.
22. Mr. D. B. H. Moore.
23. Mr. R. A. Palmer.
24. Mr. Benjamin Ch. Momin.
25. Sriyut Binode Kumar J. Sarwan.
26. Rev. L. Gatphoh.
27. Mr. C. Goldsmith.
28. Mr. Jobang D. Marak.

The Bill as amended was passed.  
(Loud applause from the Ministerialist Benches after the result of the division was announced by the Chair.)

**Maulavi ASHRAFUDDIN MD. CHAUDHURY:** Mr. Speaker, Sir, the other day when you announced the results of voting on a particular matter I greeted the results with "*Hear, hear*". It was taken as an insinuation to the Chair though I had not the remotest idea that it would be taken like that. You ruled the other day that when the Chair would announce the results there should not be any expressions of any nature. But to-day the results were received with claps from the Government Benches.

**The Hon'ble the SPEAKER:** The hon. member has really missed the point. The other day the hon. member was crying "*Hear, hear*" when the Chair was announcing the result. But to-day the applause came from the Government Benches after the results had been announced and I had declared that the Bill was passed. Again, the cries to-day have come from those hon. members, who have secured a victory so to say. But the other day the hon. member cried out "*Hear, hear*" when the result of voting announced was against him.

### The Assam Finance Bill, 1939

**The Hon'ble the SPEAKER:** The next item of business is the consideration of the Assam Finance Bill, 1939, clause by clause.

There are three amendments to clause 2 standing in the names of the Hon'ble Minister-in-charge of Finance, the hon. Khan Bahadur Maulavi Sayidur Rahman, and hon. Col. A. B. Beddow. I shall now ask the hon. Khan Bahadur Maulavi Sayidur Rahman to move his amendment. Has the Hon'ble Minister any objection to that?

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** No, Sir.

### Clause 2

**The Hon'ble the SPEAKER:** I think Khan Bahadur Maulavi Sayidur Rahman should move his amendment now.



**Khan Bahadur Maulavi SAYIDUR RAHMAN:** I beg, Sir, to move :

That in Division A of clause 2 the words and figures of the rates of Agricultural Income-tax shall be replaced by the following words and figures :—

	Rs.		Rate
First	... 3,000 of income	...	Nil
Next	... 7,000	...	Six pies in the rupee.
"	... 5,000	...	Seven pies
"	... 5,000	...	Eight pies
"	... 10,000	...	Ten pies
"	... 10,000	...	Twelve pies
"	... 35,000	...	Fifteen pies
"	... 25,000	...	Eighteen pies
Balance of income...	...	...	Twenty pies

Sir, the rates put in the proposed Bill are all variable. The existing rates will vary year after year. The proposed rates are, I should say, arbitrary. There is no data from which we can get an idea of the percentage of agriculturists who will be assessed to this income-tax. We cannot therefore say, Sir, what will be the incidence of taxation on these assesseees. It is, therefore, desirable that we should begin with a low rate. And as we proceed, I think, in the light of experience, these rates may be reduced year after year, because the proposed rates are sure to operate very harshly against the assesseees. It has been said, Sir, that the maximum amount of tax payable by an individual or any estate is about 6 to 7 thousand rupees, but it is found on calculation based on the proposed rate and after allowing deduction charges enumerated in the Bill such tax would not be less than 50,000 rupees. Now, will it be fair to impose such heavy taxation all at once. So, the rates I propose are almost similar to the rates given in the schedule in the Bihar Agricultural Income-tax Act. There the assessable income is Rs. 5,000 and accordingly I have changed the figure. Sir, my rates are almost similar to those given in the Bihar Agricultural Income-tax Act. So in the interest of the assessee I think we should adopt these lower rates.

**The Hon'ble the SPEAKER:** Amendment moved :

"That in Division A of clause 2 the words and figures of the rates of Agricultural Income-tax shall be replaced by the following words and figures :—

	Rs.		Rate
First	... 3,000 of income	...	Nil.
Next	... 7,000	...	Six pies in the rupee.
"	... 5,000	...	Seven " "
"	... 5,000	...	Eight " "
"	... 10,000	...	Ten " "
"	... 10,000	...	Twelve " "
"	... 35,000	...	Fifteen " "
"	... 25,000	...	Eighteen " "
Balance of income...	...	...	Twenty " "

Now it would be convenient if the Hon'ble the Finance Minister moves his amendment also.



**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** I beg Sir, to move that for the existing clause 2, the following shall be substituted, namely :—

Rates of Agricultural Income-tax. 2. The rates of agricultural income-tax for the year beginning on the 1st of April, 1939, shall for the purpose of sections 3 and 5 of the Assam Agricultural Income-tax Act, 1939, be the rates given below :—

A.—In the case of every Hindu undivided or Joint Family—

- (a) at the rate applicable under the list of rates contained in paragraph B below to a sum equal to the share of a brother if such share exceeds Rs. 5,000.
- (b) at four pies in the rupee, if the share of a brother is Rs. 5,000 or less.

B.—In the case of every individual, firm and other association of persons (other than companies)—

	Rate
1. On the first Rs. 1,500 of total income.	Nil.
2. On the next Rs. 3,500 of total income.	Nine pies in the rupee.
3. On the next Rs. 5,000 of total income.	One anna and three pies in the rupee.
4. On the next Rs. 5,000 of total income.	two annas in the rupee.
5. On the balance of total income	two annas and six pies in the rupee.

C.—In the case of every Company—

On the whole of total income.

two annas and six pies in the rupee.

Provided always that—

- (i) no agricultural income-tax shall be payable on a total agricultural income which does not exceed Rs. 3,000, and
- (ii) the agricultural income-tax payable shall in no case exceed half the amount by which the total agricultural income exceeds Rs. 3,000".

Sir, these amendments have become necessary in view of the alterations made in the Assam Agricultural Income-Tax Act in the Select Committee and as passed by this House. For this reason we had to come forward with this amendment which I commend for the acceptance of this House.



The Hon'ble the SPEAKER: The amendment moved is:

"That for the existing clause 2, the following shall be substituted, namely:—

Rates of Agricultural Income-tax.

"2. The rates of agricultural income-tax for the year beginning on the 1st of April, 1939, shall for the purpose of sections 3 and 5 of the Assam Agricultural Income-tax Act, 1939, be the rates given below:—

A.—In the case of every Hindu Undivided or Joint Family—

(a) at the rate applicable under the list of rates contained in paragraph B below to a sum equal to the share of a brother if such share exceeds Rs.5,000 ;

(b) at four pies in the rupee, if the share of a brother is Rs.5,000 or less.

B.—In the case of every individual, firm and other association of persons (other than companies)—

	Rate.
1. On the first Rs.1,500 of total income.	Nil.
2. On the next Rs.3,500 of total income.	Nine pies in the rupee.
3. On the next Rs.5,000 of total income.	One anna and three pies in the rupee,
4. On the next Rs.5,000 of total income.	Two annas in the rupee.
5. On the balance of total income.	Two annas and six pies in the rupee.

C.—In the case of every Company—

On the whole of total income Two annas and six pies in the rupee.

Provided always that—

- (i) no agricultural income-tax shall be payable on a total agricultural income which does not exceed Rs.3,000, and
- (ii) the agricultural income-tax payable shall in no case exceed half the amount by which the total agricultural income exceeds Rs.3,000".

The Hon'ble the SPEAKER: I shall first put the amendment moved by Khan Bahadur Maulavi Sayidur Rahman. The question is: "That in Division A of clause 2 the words and figures of the rates of Agricultural Income-tax shall be replaced by the following words and figures:—

		Rs.		Rate.
First	...	...	3,000 of income	... Nil.
Next	...	...	7,000 "	... Six pies in the rupee.
"	...	...	5,000 "	... Seven pies
"	...	...	5,000 "	... Eight pies "



	Rs	Rate.
Next ...	10,000	Ten pias in the rupee.
" ...	10,000	Twelve pias "
" ...	35,000	Fifteen pias "
" ...	25,000	Eighteen pias "
Balance of income		Twenty pias "

The motion was negatived.

The Hon'ble the SPEAKER : The question is :

"That for the existing clause 2, the following shall be substituted, namely :—

Rates of Agricultural Income-tax. 2. The rates of agricultural income-tax for the year beginning on the 1st of April, 1939, shall, for the purpose of sections 3 and 5 of the Assam Agricultural Income-tax Act, 1939, be the rates given below :—

A.—In the case of every Hindu Undivided or Joint Family—

(a) at the rate applicable under the list of rates contained in paragraph B below to a sum equal to the share of a brother if such share exceeds Rs.5,000 ;

(b) at four pias in the rupee, if the share of a brother is Rs.5,000 or less.

B.—In the case of every individual, firm and other association of persons (other than companies)—

	Rate.
1. On the first Rs.1,500 of total income.	Nil.
2. On the next Rs.3,500 of total income.	Nine pias in the rupee.
3. On the next Rs.5,000 of total income.	One anna and three pias in the rupee.
4. On the next Rs.5,000 of total income.	Two annas in the rupee.
5. On the balance of total income	Two annas and six pias in the rupee.

C.—In the case of every Company—

On the whole of total income Two annas and six pias in the rupee.

Provided always that—

(i) no agricultural income-tax shall be payable on a total agricultural income which does not exceed Rs.3,000, and



(ii) the agricultural income-tax payable shall in no case exceed half the amount by which the total agricultural income exceeds Rs.3,000".

The motion was adopted.

**Col. A. B. BEDDOW:** Mr. Speaker, Sir, I beg to move that in Division B.....

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** In Division C.

**Col. A. B. BEDDOW:** I am sorry, thank you, Sir, that in Division C of clause 2—Rate for Companies of the Rates for Agricultural Income Tax, the words "Two annas and six pies in the rupee" be omitted and the words "one anna and six pies in the rupee" be substituted.

The reasons for moving this amendment is to make as a last appeal to the House to deal fairly with the Industry that will have to shoulder nearly 90 per cent. of the burden of Agricultural income-tax.

During the hearing of the Bill clause by clause we have received no sign of consideration from Government—though we have at no time asked or recommended anything outside the scope of the Central Income Tax Act. As an illustration, yesterday amongst many others, we put forward an amendment in regard to the taxation of Insurance payments on Capital Account, that was turned down by the Finance Minister without any kind of explanation whatsoever. The reason for such churlish behaviour is not far to seek, as there could not possibly be any explanation and his only justification was that he believed he had 56 votes behind him. Such treatment is sheer victimization.

I do not appeal to the Government, for we have seen that we may expect no mercy there—but I appeal to the House—that those members who have a sense of fair play and reality will support this motion if only so that the great expectations of the yield of this tax may be realised, not only for one year or two years but that it may not be hampered and even terminated by the crippling application of the Bill as it stands.

It must be patent to every one who has the welfare of the Province at heart and not just the victimization of Capital, that the whole success of the proposed taxation is dependent on the success of the Tea Industry. With these words, I commend the amendment for the acceptance of the House.

**The Hon'ble the SPEAKER:** The amendment moved is that in Division C of clause 2—Rate for companies of the Rates for Agricultural Income Tax, the words "two annas and six pies in the rupee" be omitted and the words "one anna and six pies in the rupee" be substituted.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED:** Mr. Speaker, Sir, I oppose this amendment. The hon. mover has accused me for showing disrespect to some of his members for not replying to some of the amendments moved by them. Sir, as far as I remember, in speaking on these amendments I gave some reasons or other (voices from European Group: *No, no*) and if in any case I had not spoken, it was because I had given my reasons in the case of a preceding amendment of a similar nature. I think, the only amendments which concern the tea industry chiefly were those relating to the United Kingdom relief, etc., and as hon. members will bear me out, I spent more time in replying to them than on any other amendment. Therefore, Sir, I feel that such a remark from the European group was not only unjustified but indeed very unkind. We do not want to show disrespect to any section of this House. We want to



protect the interests of the minorities as much as we look after the interest of the majority party. Therefore, Sir, if there has been any reason or ground for him to think that we have shown any sign of disrespect I may assure him that it was neither intentional nor meant as such.

I oppose this amendment, Sir, on the ground that we want to work out this Bill on the same basis as the Indian Income Tax Act and the rates which we have now proposed are the same rates as have been provided in the Indian Income Tax Act. If these rates have not been considered very harsh in the Indian Income Tax Act, there is no justification to say that these rates are very high for the purpose of our Bill.

**The Hon'ble the SPEAKER :** The question is that in Division C of clause 2—Rates for Companies of the Rates for Agricultural Income Tax, the words “two annas and six pies in the rupee” be omitted and the words “one anna and six pies in the rupee” be substituted.

The motion was negatived.

The question is that clause 2 of the Bill as amended stands part of the Bill.

The motion was adopted.

### Clause 3

**The Hon'ble the SPEAKER :** Clause 3, amendment No.4. Here I should say that if the amendment of the Hon'ble Mr. Fakhruddin Ali Ahmed is carried the other amendments to this clause go.

**The Hon'ble Mr. FAKHRUDDIN ALI AHMED :** Mr. Speaker, Sir, I beg to move that for the existing clause 3, the following shall be substituted, namely :—

Rates of Sales Tax. 3. The tax levied under section 3(1) of the Assam Sales Tax Act, 1939, shall be a tax of 5 per centum on the retail sale of each of the following articles :—

Motor Cars.

Motor Cycles.

Radio or Wireless Sets”.

Sir, these amendments I have proposed in view of the assurances I gave on the floor of this House that cycle and other articles to which hon. members have raised objection will be excluded from the purview of the taxation.

**The Hon'ble the SPEAKER :** Amendment moved is :  
“That for the existing clause 3, the following shall be substituted, namely :—

‘Rates of Sales Tax.

3. The tax levied under section 3(1) of the Assam Sales Tax Act, 1939, shall be a tax of 5 per centum on the retail sale of each of the following articles :—

Motor Cars.

Motor Cycles.

Radio or Wireless Sets’ ”.

The motion was put and adopted.

Bill. The question is that clause 3 of the Bill as amended stands part of the

The motion was adopted.



*Clause I*

The Hon'ble the **SPEAKER**: The question is that clause 1 of the Bill stands part of the Bill.

The motion was adopted.

*Title and Preamble*

The Hon'ble the **SPEAKER**: The question is that the Title and Preamble of the Bill stand part of the Bill.

The motion was adopted.

The Hon'ble Mr. **FAKHRUDDIN ALI AHMED**: Mr. Speaker, Sir, I beg to move that the Assam Finance Bill, 1939, as amended be passed.

The Hon'ble the **SPEAKER**: The motion moved is that the Assam Finance Bill, 1939, as amended be passed.

The motion was put and adopted.

### THE ASSAM EXCISE (AMENDMENT) BILL, 1939

The Hon'ble Mr. **FAKHRUDDIN ALI AHMED**: I beg to move, Sir, that the Assam Excise (Amendment) Bill, 1939, be passed.

The Hon'ble the **SPEAKER**: As there is no amendment the question is that the Assam Excise (Amendment) Bill, 1939, be passed.

The motion was adopted.

### Prorogation of the Assembly

The Hon'ble the **SPEAKER**: We do not proceed further to-day. Before I announce the prorogation message from His Excellency I express my heart felt thanks to the hon. members for the ready co-operation I got from them in conducting the proceedings of the House in regard to 3 very important Bills to which undoubtedly there was the tremendous opposition. I feel happy that the opposition to the Bills was kept within very reasonable limits, which made it possible for me to guide the House to finish the business so expeditiously.

I wish now to announce the message of His Excellency the Governor proroguing the Assembly.

"In exercise of the powers conferred by clause (b) of sub-section (2) of Section 62 of the Government of India Act, 1935, I, Henry Joseph Twynam, hereby prorogue the Assam Legislative Assembly, at the conclusion of its meeting of the 6th April, 1939.

H. J. TWYNAM,  
Governor".

The Assembly was then prorogued.

Shillong,  
The 7th July 1939.

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

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