

The Joint Sitting of the Assam Legislature met at the Assembly Chamber, Shillong, at 9-30 a.m. on Friday, the 4th August 1939. The Hon'ble the President (Rai Bahadur Heramba Prosad Barua) in the Chair

(Present 126)

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 Ram Nath 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 Mahmud Ali.
9. The Hon'ble Mr. Basanta Kumar Das.
10. Kumar Ajit Narayan Dev, M. L. A.
11. Rai Sahib Apurba Kumar Ghosh, M. L. C.
12. Mr. Arun Kumar Chanda, M. L. A.
13. Mr. Baidyanath Mookerjee, M. L. A.
14. Rai Sahib Balabaksh Agarwalla Hanchoria, M.L.C.
15. Babu Balaram Sircar, M. L. A.
16. Srijut Beliram Das, M. L. A.
17. Srijut Bepin Chandra Medhi, M. L. A.
18. Srijut Bhimbor Deori, M.L.C.
19. Srijut Bhuban Chandra Gogoi, M. L. A.
20. Babu Bipin Behari Das, M. L. A.
21. Srijut Bishnu Ram Medhi, M. L. A.
22. Babu Dakshina Ranjan Gupta Chaudhuri, M. L. A.
23. Srijut Debeswar Sarmah, M. L. A.
24. Babu Gazanand Agarwalla, M. L. C.
25. Srijut Ghanashyam Das, M. L. A.
26. Srijut Gaurikanta Talukdar, M. L. A.
27. Srijut Haladhar Bhuyan, M. L. A.
28. Babu Harendra Narayan Chaudhuri, M. L. A.
29. Rai Sahib Hem Chandra Dutt, M. L. C.
30. Babu Hirendra Chandra Chakravarty, M. L. A.
31. Srijut Jadav Prasad Chaliha, M. L. A.
32. Babu Jatindra Chandra Maitra, M. L. C.
33. Srijut Jogendra Chandra Nath, M. L. A.
34. Srijut Jogendra Narayan Mandal, M. L. A.
35. Srijut Jogesh Chandra Gohain, M. L. A.
36. Babu Kalachand Roy, M. L. A.
37. Srijut Kameswar Das, M. L. A.
38. Babu Karuna Sindhu Roy, M. L. A.
39. Mr. Kedarmal Brahmin, M. L. A.
40. Srijut Krishna Nath Sarmah, M. L. A.
41. Srijut Lakshesvar Borooah, M. L. A.
42. Babu Lalit Mohan Kar, M. L. A.
43. Srijut Mahadev Sarma, M. L. A.
44. Dr. Mahendra Nath Saikia, M. L. A.
45. Srijut Mahi Chandra Bora, M. L. A.
46. Babu Man Mohon Chaudhury, M. L. C.
47. Mr. Naba Kumar Dutta, M. L. A.
48. Srijut Omeo Kumar Das, M. L. A.
49. Srijut Paramananda Das, M. L. A.
50. Rai Bahadur Promode Chandra Dutt, M. L. A.
51. Srijut Purandar Sarma, M. L. A.
52. Srijut Purna Chandra Sarma, M. L. A.
53. Babu Rabindra Nath Aditya, M. L. A.
54. Srijut Rajani Kanta Barooah, M. L. A.

55. Srijut Rajendra Nath Barua
M. L. A.
56. Rai Bahadur Rameswar Saha-
ria, M. L. C.
57. Srijut Rohini Kumar Chau-
dhuri, M. L. A.
58. Srijut Sankar Chandra Barua,
M. L. A.
59. Srijut Santosh Kumar Barua,
M. L. A.
60. Mr. Sarat Chandra Bhatta-
charya, M. L. C.
61. Srijut Sarveswar Barua, M. L. A.
62. Babu Satyendra Mohon Lahiri,
M. L. C.
63. Babu Shibendra Chandra
Riswas, M. L. A.
64. Srijut Siddhi Nath Sarma,
M. L. A.
65. Rai Sahib Sonadhar Das Sena-
pati, M. L. C.
66. Babu Suresh Chandra Das,
M. L. C.
67. Maulavi Abdul Aziz, M. L. A.
68. Maulavi Abdul Bari Chau-
dhury, M. L. A.
69. Maulavi Abdul Hai, M. L. C.
70. Maulana Abdul Hamid Khan,
M. L. A.
71. Khan Bahadur Hazi Abdul
Majid Chaudhury, M. L. A.
72. Maulavi Abdul Matin Chau-
dhury, M. L. A.
73. Khan Sahib Maulavi Abdur
Rahim Chaudhury, M. L. C.
74. Maulavi Abdur Rahman,
M. L. A.
75. Maulavi Syed Abdur Rouf,
M. L. A.
76. Maulavi Md. Abdus Salam,
M. L. A.
77. Maulavi Dewan Muhammad
Ahab Chaudhury, M. L. A.
78. Maulavi Muhammad Amir-
uddin, M. L. A.
79. Maulavi Muhammad Amjad
Ali, M. L. A.
80. Maulavi Md. Asad-uddin Chau-
dhury, M. L. C.
81. Maulavi Ashrafuddin Md.
Chaudhury, M. L. A.
82. Maulavi Badaruddin Ahmed,
M. L. A.
83. Khan Bahadur Dewan Ekli-
mur Roza Chaudhury, M. L. A.
84. Maulavi Ghyasuddin Ahmed,
M. L. A.
85. Khan Bahadur Maulavi Golam
Mastafa Chaudhury, M. L. C.
86. Khan Bahadur Maulavi Gous
Uddin Ahmed Chaudhury,
M. L. C.
87. Maulavi Jahanuddin Ahmed,
M. L. A.
88. Khan Bahadur Maulavi
Keramat Ali, M. L. A.
89. Maulavi Muhammad Maqbul
Hussain Chaudhury, M. L. A.
90. Maulavi Matior Rahman Mia,
M. L. A.
91. Maulavi Mabarak Ali, M. L. A.
92. Khan Sahib Maulavi Mudabbir
Hussain Chaudhury, M. L. A.
93. Khan Bahadur Maulavi
Mufizur Rahman, M. L. A.
94. Maulavi Munawwar Ali, M. L. A.
95. Maulavi Muzarrof Ali Laskar,
M. L. A.
96. Maulavi Namwar Ali Bar-
bhuiya, M. L. A.
97. Maulavi Naziruddin Ahmed,
M. L. A.
98. Maulavi Sheik Osman Ali
Sadagar, M. L. A.
99. Khan Sahib Maulavi Rukun-
oddin Ahmed, M. L. C.
100. Maulavi Saiyid Sir Muham-
mad Saadulla, M. L. A.
101. Khan Bahadur Maulavi Sayi-
dur Rahman, M. L. A.
102. Shams-ul-Ulama Maulana
Abu Nasr Md. Waheed, M. L. A.
103. Mr. C. W. Morley, M. L. A.
104. Mr. A. H. Ball, M. L. A.
105. Mr. F. W. Blennerhassett,
M. L. A.
106. Mr. E. B. Sim, M. L. A.
107. Mr. E. S. Kaye, M. L. A.
108. Mr. H. Emblen, M. L. C.
109. Mr. F. W. Hockenhull, M. L. A.
110. Mr. W. J. Gray, M. L. A.
111. Mr. D. B. H. Moore, M. L. A.
112. Mr. P. Munday, M. L. C.
113. Mr. N. Dawson, M. L. A.
114. Miss Mavis Dunn, M. L. A.
115. Mr. Benjamin Ch. Momin,
M. L. A.
116. Srijut Bhairab Chandra Das,
M. L. A.

- | | |
|---|---|
| 117. Srijut Bideshi Pan Tanti,
M.L.A. | 122. Mr. Jobang D. Marak, M.L.A. |
| 118. Srijut Binode Kumar J. Sar-
wan, M.L.A. | 123. Rev. J. J. M. Nichols-Roy,
M.L.A. |
| 119. Srijut Dhirsingh Deuri, M.L.A. | 124. Srijut Khorsing Terang, M.L.A. |
| 120. Rev. L. Gatphoh, M.L.A. | 125. Mr. P. Parida, M.L.A. |
| 121. Mr. C. Goldsmith, M.L.A. | 126. Srijut Rabi Chandra Kachari,
M.L.A. |

The Assam Agricultural Income-Tax Bill, 1939—contd.

The Hon'ble the PRESIDENT : The House will now resume the debate.

Babu SATYENDRA MOHON LAHIRI : Mr. President, Sir, we have assembled to-day in an atmosphere of great tension and excitement. We have been summoned here to deliberate upon and to record our verdict on a matter of momentous importance to the province. This is the first time since the inauguration of Provincial Autonomy that we are having a Joint Session of both the Chambers to consider a Bill. There has been a deadlock in our legislature. And the very fact that a Joint Session has been summoned to resolve that deadlock shows the importance of the issue.

The question before us is whether agricultural income above a certain limit shall or shall not be taxed. The question is simple enough, and the answer to the question is still more simple—either 'yes', or 'no'. But the implication of the answer is of tremendous consequence to the province of Assam. If the question is answered in the affirmative, if the Bill is passed, we get a large sum of money, the exact amount depending on the rates ultimately fixed by the Finance Act. If, on the other hand, the Bill be not passed we do not get a pice of it. Therefore, the further question arises whether we are in need of this money, and if so, if the proposal before us is a legitimate method of getting that money. That we are in need of money admits of no doubt, and I do not propose to dilate upon this aspect of the matter. But, the further question arises, I how are we to get this money? So far as land revenue is concerned, there is no question of a further increase; already there is a persistent demand for further reduction on the ground that Government assessment does not leave enough of food to the cultivator for the maintenance of himself and his family. Therefore we have got to fall back upon some measure of taxation. Whether, as an abstract proposition, there should be any tax on income or not is a matter which need not be discussed here now, but this measure of taxation has this advantage or recommendation in its favour that the burden of taxation falls on the shoulders of those who can either easily, or at least, without much discomfort or inconvenience bear it. And if that be the principle, then I do not see why agricultural income should be exempted from taxation. It is an accepted principle of taxation that the subjects of the State should contribute to the support of the Government in proportion to their respective abilities, that is, in proportion to the revenue they enjoy under the protection of the State. If a man carrying on any business or trade or a man engaged in some profession or holding some employment and earning certain income is liable to pay income-tax then I do not see on what principle another man having that income from another source,—I mean agriculture, is not liable to the same taxation.

As a matter of fact the majority of the members who have spoken have no objection to the principle of the Bill—rather they have clearly supported the principle—but, curiously enough, when the question of implementing that principle comes before them they withdraw their support on the ground that the proposal has come before them in a bad form,—they say the Bill has been drafted very badly ; it has been drafted hastily, and therefore, they are not prepared to support it. That the drafting of the Bill is not ideal may possibly be conceded,—several members have pointed out some imperfections and defects in the Bill—some of which might be real. But the question is—is that a sufficient reason for rejecting the Bill altogether ? Cannot these defects, if any, be remedied later by suitable amendments ? Will it do any good to anybody to be told that we have sympathy with the object of the Bill, we support the principle of the Bill, but we cannot support the proposal before us because the Bill is not properly drafted ? This may give us the sentimental satisfaction of not having passed a Bill which is not ideal, but what is the practical result ? We do not get a pice—we lose so much money in one year. In a province like Assam where there is so much poverty and destitution, so much ignorance and illiteracy,—where the mass of the people really do not live but merely exist, is it not cruel for anybody who has the good of the people at heart—and I have no manner of doubt that all the hon. members of this House have the good of the people at heart—to throttle this attempt to tap an additional source of revenue—which I imagine will mostly be spent for the benefit of the poorer section of the people ? I appeal to all the hon. members of both the Chambers—and I do so with all humility, that they should realise their responsibility in to-day's affair, that they should realise that on their verdict depends not merely the convenience or inconvenience, the comfort or discomfort of certain sections of the people whom Providence has given enough, but the fate of the vast majority of the people who have got so little. You may call me a visionary, you may call me an ideologist, you may call me anything you like,—you may,—but I feel that the defeat of this Bill will mean a great calamity to the province. I feel, therefore, that it is the bounden duty of each one of us to try to avert that calamity. It is the clear duty of all of us to pool our strength together and to demonstrate to those who want to profit by our discussions that, at least, at the supreme moment of trial we can sink our differences and combine for a right cause (*hear, hear*).

As regards the details of the Bill, I do not like to repeat what I have already said in the other House. But before I resume my seat I would like to mention one matter, *viz.*,—several members of the Assembly have given us credit for our performance in the other House, and they seem to be very anxious to see that the prestige of our House is maintained. I hope those hon. members at the time of recording their own votes will maintain the prestige of their own House. One hon. member of the Assembly, who was a member of the Cabinet at one time, reminded us definitely of the prestige of the Upper House. I thank him for that. I wish he had remembered that when he was a member of the Cabinet, and I further hope that at the time of voting he also will maintain the dignity of his own House. So far as the dignity of the Upper House is concerned—this is neither the place, nor the occasion, to speak anything about it, but as this subject has been raised here I can only repeat what I said on another occasion. We the members of the Upper House will not be so unreasonable as to claim any privilege not given to us by the Government of India Act, but we would not agree to give up one jot or one tittle of the rights and privileges to which we are legitimately entitled under the Government of India Act, the Instrument of Instructions or even under the Parliamentary conventions.

With these words I support the motion for consideration of the Bill.

Mr. P. PARIDA : Mr. President, Sir, I beg to oppose this Agricultural Income-tax Bill. This Bill is very harmful for the Tea Industry. What will be the result if this Bill is passed ? It will affect the tea garden labourers very much because at the present moment the manufacture of tea is under restriction and the gardens cannot manufacture a single pound more than the licensed quota—and if they cannot do so, and have to pay this tax in addition how are they going to pay their labourers and staff. They will be compelled to retrench their staff and labourers' wages, and they will further withdraw all the privileges which their staff and labour are at present enjoying. This being so the passing of this Bill will do more harm than good to the country.

With these few words I oppose the motion.

Maulavi MD. MAQBUL HUSSAIN CHAUDHURY : Mr. President, Sir, I rise to oppose the Bill. Since the Congress Party came into power taxation measures became a pastime with them. On the very first day of the National Week of India the much advertised Popular Government of Assam brought this Bill, which according to me is the Black Bill of Assam. (*Hear ! Hear*).

Sir, I am not opposed to the principle of the Bill, but I am sorry that I cannot agree with the details in their present form. The Hon'ble the Finance Minister has waxed eloquent in the name of the masses, but, I am sorry, Sir, to say that it is an eye-wash only. He was seen shedding tears for the labourers, but it was during his regime that the labourers were shot like cats and dogs at Digboi—(*Pity*). Sir, it was in this regime that poor cultivators in some districts in the Assam Valley were rendered homeless. I am tempted to quote here a couplet from a Persian Poet who said—

Har rang ke khwahi jàrà biposh,
Man andaz-i-qadat ra mi shinàsam

i.e., you may wear a garb of any colour you like, but from your very build I can recognise who you are.

In the Statement of Objects and Reasons the Hon'ble Finance Minister had said that the money derived from this Bill would be spent in meeting the deficit caused by prohibition and land revenue reduction. Only the other day the Hon'ble Minister made an announcement at Gauhati that he would reduce the land revenue up to the extent of 50 per cent..... (question.) If this announcement materialises the deficit under this head will be near about 50 lakhs.....

The Hon'ble Mr. FAKHRUDDIN ALI AHMED : On a point of information, Sir. May I know from the hon. member what is the authority of his information that he is now giving us ?

Maulavi MD. MAQBUL HUSSAIN CHAUDHURY : It is from the "Hindustan Standard", Sir.

Srijut ROHINI KUMAR CHAUDHURI : May I know if the Hon'ble Minister denies having made the statement ?

The Hon'ble Mr. FAKHRUDDIN ALI AHMED : I never made any statement, Sir.

Maulavi MD. MAQBUL HUSSAIN CHAUDHURY : Government proposes to realise 25 lakhs by this Bill. So it is clear that the money derived from the operation of this Bill will not be sufficient to meet the ordinary deficit of the budget. Benefit of the masses is nothing but an eye-wash only.

How this Bill will affect the masses indirectly was discussed by my friends yesterday, so I will not repeat their arguments. Out of their zeal of taxing the people Government have not excluded the amount spent in the shape of "khairat" and "zaqat"; they are not prepared to exclude mustard or jute; they are not prepared to exclude the amount of paddy that is required for family consumption from the clutches of the Bill. The Hon'ble Minister for Finance said that the cultivators would not be affected by the operation of this Bill. If that is so, I fail to understand what prevents him from including paddy in the list of exemptions.

Sir, we moved amendments in the last session of the Assembly, but all our amendments were brushed aside. I would have no hesitation to support the Bill if some sections could be amended, but there is no scope for amendment in this session.

I am not going to discuss the details of the Bill. I am simply appealing to the Hon'ble Finance Minister to withdraw the present Bill for the sake of equity and justice, and to bring a fresh Bill in consultation with all the groups of the Legislature which will receive my whole-hearted support. The passage of the present Bill will mean nothing but the oppression of the majority.

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

Mr. F. W. HOCKENHULL: Mr. President, Sir,—any doubts which remained in our minds as to the wisdom of the course which we have steadily pursued during the progress of this Bill must surely have been dispelled by the volume of opinion we have had during the last three or four months. All over the country politicians, legislatures and others who have no interest in this province directly and who have no connection with the tea or any other interests which are affected under this Bill, have recorded their opinions on the proposals.

The Bill has been studied on its merits without regard to how it will affect the interests concerned, and there is a striking unanimity in their verdict. No one who is not wholly a partisan supporter of the Government can agree that this Bill is worthy of being passed into law. Even the authors of this Bill have themselves admitted its shortcomings and the more it is examined the more faulty it appears. One of my correspondents views it as a test case, and although I do not identify myself with his view entirely, he said that the Government which would make itself responsible for sponsoring such a Bill was capable of anything.

The Finance Minister in winding up the debate in the last Session claimed that no legislation was perfect. I will concede that point. But I put it to him that what he is really asking us to do this morning is to pass with our eyes wide open a Bill which is admittedly, obviously and avoidably imperfect. Surely, it is a novel proposal in the realm of legislation that we should be invited to lend our support to the passing of a measure this month with the promise of an amending Bill next.

It is unfortunate that the Government having taken the decision to impose a tax on agricultural income and having obtained a promise of support from the parties principally concerned, from whom the major portion of the tax would be realised were persuaded that time was the essence of their problem and that so long as certain major principles were incorporated in the Bill the details might be relegated to the future on the principle of trial and error, I am confident that if this bogey of the time

R-73D

factor had not entered into the question a great many of the difficulties and much of the controversy which has arisen over this Bill could have been avoided.

Just a word about the time factor. It is well-known that this Bill will have retrospective effect from April 1, 1939, and that there was no risk incurred by the Bill not being passed in the Budget Session. Indeed, we might fruitfully have spent many months in perfecting this Bill and making it thoroughly comprehensive without the slightest risk to the Government in the matter of the revenue it would bring in. It is also well-known that until January next, no proceeds can be collected for the simple reason that until the crop of 1939 is sold the profits cannot be computed. It is also well-known to everybody that even those who dispose of their tea in Calcutta are not selling until February or March and the majority who sell in London are disposing of their crops till as late as June or July. Obviously it follows that the proceeds which would be obtained under the Agricultural Income-tax Bill will mostly be received in the succeeding year. The Government therefore, stood to lose nothing by delaying the Bill in order to make it a thoroughly reliable and protective one.

It is a melancholy fact that there was less agreement regarding this Bill after it was passed in April than during the *pourparlers* which commenced in the month of January. This was in no small measure due to the number of details which were entirely neglected. Whatever the Government may think the details are of the greatest importance to the tax-payers as it is only from the details that they can derive the protection to which they are entitled. The hope was held out to us that there would be ample opportunities to discuss these details in the select committee. It is well-known to members of the Lower House how the select committee assembled during the progress of a busy Budget Session. Only two days were devoted to it—a matter of eight or nine hours—numerous amendments had to be hurried through and the proceedings were so imperfectly reported as to require a third meeting before the Bill was brought back to the Assembly. When I say that at the second reading no fewer than 87 amendments were tabled it should convince the House how inadequate an opportunity was given to members of the select committee to do their work.

In any case, I claim that it is not the business of laymen to deal with a Bill of this description. I doubt very much if there is a single person in this province who could lay claim to being an expert in income-tax law. While I have every respect for the officials who assisted in the draft, it is well-known to us that only by an intimate acquaintance with an income-tax law the necessary protection which is the right of every tax-payer can be ensured.

I have said enough to convince everybody that there are blemishes in this Bill, and if it is passed into law, it must be borne in mind that until that law is amended, the tax-payer is legally liable to pay, however unjust the conditions: alternatively his only option would be to indulge in expensive litigation.

Now, our *bona fides* have been challenged both within and outside the House. We have consistently adopted the policy we have done in order to ensure protection to everybody in this province who becomes liable under this Bill, because we believe that it is equally the duty of the Government to protect the honest tax-payer as much as it is their duty to punish the evader or the person who renders a fraudulent return. This is a most important consideration of taxation legislation in which the Government should be strictly impartial. Secondly, we have opposed this Bill because

it is lacking in those provisions which provide against double taxation. We are—and I say it unhesitatingly once more—prepared to support the principles of this Bill, we are prepared to pay our share in the expansion of those schemes which are necessary for the development of this province. All we ask in return is that we should receive under the Bill that protection which is provided in the Indian Income-tax Act—nothing more but nothing less.

To this end we have consulted experts. It is well-known that none of us is competent to deal with this intricate and technical subject, and moreover we offered the services of the same experts to the Government—an offer, which, I am sorry to say, they were unable to avail themselves of during the progress of the select committee.

I will not detain you longer. At the beginning of these discussions in January last I had hopes that the Government and ourselves were going to see eye to eye. Our relations were cordial and at that time there were hopes that both sides were going to be mutually helpful. When it became necessary to go into matters of details and it was found that our demands would probably defer the passage of the Bill, which as I have already explained ran no risk because of the delay, the Government construed our opposition to the Bill as obstructive tactics. Surely the very essence of this parliamentary system is that while the Bill is on the anvil it is the right of every party and every member of every party to criticize it with a view not, as I have said, to evading our responsibilities but to making it a better Bill which will give justice to all.

Even now, I am not without hope and if our relations with the Government were not as cordial as they were, this does not apply in any personal sense to the members of the Government themselves, I would say that we have never pursued the sterile path of non-cooperation, and I feel that there are still possibilities of getting together with a view to improving the conditions of the province.

I would like to assure the Prime Minister that we sincerely regret the personal attacks on him in the Press, and I would offer him an apology for a cartoon not in very good taste which appeared in a journal the other day. We are not in any way responsible for it, and we will take such action as we are capable of to see that this kind of thing is not repeated.

I once more repeat that far from opposing the principle of agricultural income-tax we are really endeavouring to mould this Bill into one which will be acceptable to all parties in this House and in the country, which will increase the resources of revenue and give protection to all who are involved. (*Applause*).

Rev. J. J. M. NICHOLS-ROY: Sir, I would like to speak a few words on this subject.

The Hon'ble the PRESIDENT: Order, order. The hon. member will try to be brief. As a matter of fact I was assured yesterday that there would not be any member speaking from this side. But if the hon. member is willing to speak I would certainly allow him to do so, but he will certainly be brief.

Rev. J. J. M. NICHOLS-ROY: Yes, I will certainly be brief. There is no question that we need money in the province. The province has a big deficit and we are losing money also from prohibition of opium and from the reduction of land revenue. Money must be found somewhere. There are demands from all sides that there should be

improvements in the country. There is demand for more dispensaries, demand for education etc. All these demands are very great indeed but where is the money to come from? Whichever party will come into power, will need money. Without that administration cannot be run and if this Bill is not passed what will be the effect? Government will have to make retrenchments and the sufferings, probably of some people will be great. It has been said that this Bill will affect the mass population. It is very plain that that is not a fact. Only the middle class people who can pay will be affected. The motive for introducing this Bill is not to ruin any Industry, but is for the sake of wiping out the deficit and for making some improvements in the country. Nobody can doubt the good intention and the honest attempt which Government have made.

I have gone very carefully into the speeches which have been delivered in this House by our European friends. I was very much impressed with the speech of hon. Mr. Clayton which is a very reasonable and impressive speech. His greatest objection to the Bill is that there would be double taxation on the companies which are registered in England. Undoubtedly there will be great hardship if that be the case. But when I read that speech I found that Mr. Clayton was not very sure whether there may not be relief from the United Kingdom if a representation for such relief is made. His words are like this: "Now one of our major complaints is that there is no provision in this Bill regarding double income-tax relief, and to Sterling Companies this is a very important point indeed". Then he said "But I would again emphasise that, as the existing relief arrangements are essentially reciprocal in nature, if no relief is provided for in the Assam Bill, this may result in the withholding of relief in the United Kingdom". He says "this may result" but does not say "shall result". Now the question is where is the relief to come from? From Assam or from England? That is the only difference between the European group and the Government. And what has the Ministry said in this regard? The Hon'ble Minister in charge has promised that he will negotiate with the United Kingdom on this point.

Khan Bahadur Maulavi KERAMAT ALI: Is there any promise from the Ministry that they will not take recourse to double taxation as long as they do not settle up with the Government of England in this matter?

Rev. J. J. M. NICHOLS-ROY: That is a big question. What the Hon'ble Minister said is this: "I had given him (*i.e.* Mr. Hockenhuil) an assurance that we were prepared to come to some sort of an arrangement with the United Kingdom if a portion of the benefit accruing to the United Kingdom as a result of the United Kingdom relief is transferred to our province". Now the only question is whether this province should lose or whether England should lose. That is the whole point. The Assam Government is willing to negotiate with England, but whether Assam should lose on this income-tax or whether England should lose, that will be decided by negotiation and Government has promised to the European planters to do this. So I do not see why this question may not be left to the future. This law is not like the laws of the Medos and Persians that cannot be changed. The Act may be amended afterwards. It appears to me that as the planting association is a mighty body in England they will be able, somehow, to get relief from the United Kingdom. So I think there should not be very much complaint from our

European friends. That is the most important objection to the Bill. All other objections are minor objections and since our European friends have shown a conciliatory attitude they can after this Bill has been passed make some arrangement with the Government and come to an amicable settlement. I hope from their standpoint there should be no objection. Let the Bill be passed and if there be any defects in the Bill those defects can be rectified in the near future by amending the Bill at the future sessions.

Maulavi MUHAMMAD AMJAD ALI: Mr. President, Sir, you very aptly and truly remarked yesterday that this is "a combined show of both the Houses" ...

The Hon'ble Mr. FAKHRUDDIN ALI AHMED: Sir, we object to the word 'show'. It is not a cinema house.

The Hon'ble the PRESIDENT: Perhaps he meant a combined House.

Khan Bahadur Maulavi KERAMAT ALI: May I call it a combined ceremony of both Houses (*Loud laughter*).

Maulavi MUHAMMAD AMJAD ALI: Sir, you are a clever lawyer and a keen observer of men and things. You have combined in yourself the experience not only of Assam, but also of both the higher Legislature of Simla and Delhi. We have great confidence in your fairness and judicial acumen I quite appreciate the remark, as being apt and timely and we have got to respect and bow down to whatever you may say Sir. It is really a "big show".

The Hon'ble the PRESIDENT: I do not know if that is the subject for discussion before the House. (*Laughter*).

Maulavi MUHAMMAD AMJAD ALI: The subject before the House just now is the Bill under consideration, *viz.*, the Assam Agricultural Income-Tax Bill.

We have found that there has been party grouping on both sides on strange lines. Not a single soul is independent. Speeches, however cogent can make no impression on any body for everybody has come to this Hall making up his mind either this way or that. Everyone is eager to make a case for himself. Every speaker who is on his legs, speaks to the most important man in the Hall *viz.*, the reporter. And having appeared in print, eager to show how much he has attempted for his own people.

Sir, if I may be allowed to say so, I must say I am not opposed to the principle of the Bill (*Hear, hear*).

From the objects and reasons of the Bill it has not been made clear by the Hon'ble the Finance Minister what beneficial objects he wants to finance out of this (*interruptions*).

The Hon'ble the PRESIDENT: I do not think the hon. member should be interrupted like that. I hope the House will show more courtesy. He deserves a little more courtesy from this hon. House.

Maulavi MUHAMMAD AMJAD ALI: Mr. President, Sir, you will often find it difficult to control my hon. friend Baidyanath Mukherjee.

Sir, the term beneficial measure is beautifully vague. He ought to have mentioned or at least, given us some idea of what they are like. Just to let us know No. 1 is this, No. 2 is this No. 3 is this and so on.

So far as I can gather 50 per cent land revenue reduction in temporary settled areas is one of the items of these beneficial measures. I may tell the Hon'ble Minister that 11 or 12 members of our district have come to represent Goalpara in this House. If they bestow any thought over it they will surely see that not only it will not give them any benefit but rather prejudice their cause to a large degree. It is a permanently settled area and the land revenue reduction will not affect them (*Maulavi Dewan Ahbab Chaudhury :-*

— Sylhet also). The tenants of the Goalpara district will be hard hit. As my hon. friend to my left points out Sylhet is another instance in point. Here, Sir, if I may mention, as the zaminders have been enjoying certain privileges from time immemorial and in return they have been forced to confer certain benefits upon tenants in the shape of hospitals medical aid; they are spending for water-supply and sanitation. they are granting some stipends to stipendiaries who go to schools and colleges; they are maintaining some schools themselves. After this Bill comes into operation Goalpara is likely to pay to the general Exchequer at least 2 lakhs if not more. The Zamindars were prevailed upon to spend at least some part of their income on beneficial activities. With the growth of population the demand is on the increase. We want more money: Goalpara is one of the most backward Districts. It is the Cinderella of the province but to her the Prince never comes. It is in perpetual neglect. So after this money goes out of the pockets of the Zaminders can we legitimately force their hands to spend increased amount 5 for the beneficial measures? A number of existing institutions there are suffering for want of proper aid. They wanted more grants and more money. But rather than financing the existing institutions properly and opening up new beneficial institutions for the poor ryots, the grants to the existing institutions are likely to be withdrawn in the near future. This is curious for rather than do any good to them the people of permanently settled areas of Goalpara district are going to suffer most by the passing of this Bill. Landlords and Zamindars will try to collect money in various ways to pay up this tax. After the passing of the Bill, I am confident, that a number of rent suits against poor tenants will be filed. Rent suits in these days, Sir, after the flood havoc and dire calamity of flood distress when little money has been left to them to pay arrears of rent will be very severe; but they will file rent suits and eject tenants. After ejectment the good relationship between the landlords and tenants will cease. They will try to settle it with new tenants at higher rate of premium, higher rate of *nazar* and at a higher rate of rent also. A number of poor tenants shall be rendered landless, and harassed in various other ways.

There is another aspect of the matter which I want to mention that the people of the permanently settled areas of Goalpara and Sylhet are likely to suffer. Sir, even before this my district of Goalpara was the worst sufferer in this respect because during the time of Assam Legislative Council also there was reduction of land revenue in the temporarily settled areas of Upper Assam and without giving any sort of benefit or any convenience or any advantage to the tenants of Goalpara district they were saddled with certain taxation in the shape of enhanced Court Fees and Stamps. The same burden of taxation is still on them like a dead weight. Another instalment of a hard tax is going to be imposed upon them without any sort of benefit. If my Hon'ble friend Mr. Fakhruddin Ali Ahmed or his Ministry, for the matter of that, was eager to find out some money to finance certain beneficial object which he has got in view there are other ways also. At the beginning of the life of this Assembly a Committee for the enquiry of the Line System in Assam was formed. The Committee has submitted its recommendations. And with the overthrow of the Saadulla Cabinet the recommendations of this Committee were also thrown to the winds.

Maulavi Dewan MUHAMMAD AHBAB CHAUDHURY: On a point of order, Sir. It seems some visitors in the gallery are taking photograph. Is it allowed?

The Hon'ble the PRESIDENT: Order, Order. I cannot allow any visitor in the gallery to take any photograph; that is not allowed and if it is found hereafter that anybody in the gallery is taking any photograph, I will have no other alternative but to request him to clear out of the gallery.

Maulavi MUHAMMAD AMJAD ALI: But personally I will feel very much flattered Sir, if, those who come 'to look down upon us' from above, take a fancy to have my photograph. (*Uproarious laughter*).

If I am correctly informed, 18 million acres of land in Assam are awaiting the plough. Thousands of poor Mymensing settlers of Bengal are clamouring for settlement of land and the Ministry will see their way to settle lands with them. I think there is enough scope for this. And the economic regeneration of the Province depends largely upon this very fact. The question of the abolition of the Line System is a phobia to them and I fail to see the reason why it is so. The other Committee that was formed to give us money was the Retrenchment and Resources Committee. The other side of the House, when they were in the opposition, had the opportunity of sitting in the Retrenchment and Resources Committee; some members of the Upper House were also taken. And it was a "big show".

Mr. SARAT CHANDRA BHATTACHARYA: Again the word show:

Maulavi MUHAMMAD AMJAD ALI: The whole thing took a year, if not more, for consideration, discussion and all sorts of things. But after all these considerations and discussions the Ministry, when asked the other day, said that it is still under consideration. It is very curious, Sir, that after six or eight months of their coming in possession of the report it could be still under consideration. When will they see their way to unearth the recommendations of the Retrenchment Committee and try to see if some money could be eked out for the nation-building departments and other beneficial projects to be financed? On the other hand, Sir, we have been presented with a legislation the character of which has been criticised by one speaker after another as being a hasty and ill-drafted piece of legislation. Out of the 7 Congress Provinces none but Bihar has adopted the Agricultural Income-Tax in their provinces. The Government of Bombay and Madras have taken recourse to Employment Tax.....

The Hon'ble Mr. FAKHRUDDIN ALI AHMED: Support it when it comes.

Maulavi Saiyid Sir MUHAMMAD SAADULLA: No, the United Provinces has taken recourse to Employment Tax and Bombay to Property Tax.

Maulavi MUHAMMAD AMJAD ALI: Bombay has adopted Property Tax, but why for poor Assam the implements of husbandry and products of hard earned agriculture is being taxed? When a question is asked why do you go by Bihar they say we are copying Bihar because that is the ideal law in that respect. Sir, let me also think with the Ministry, if they like, that Bihar Land Tenancy Amendment is an instance in point which should be taken word for word. But the other day when we had the privilege of sitting in the Select Committee of the Goalpara Tenancy Bill the Chairman said that certain liberal provisions which have been included in the Bihar Tenancy Act could not be included because conditions were different. Conditions in points of giving rights to the tillers of the soil can never be different. Poor peasantry is the same everywhere. We wanted better treatments at the hands of the party in power, viz., Congress on the other hand, I am told Sir, there the party in power has entered into a secret pact with the Goalpara Zamindar Members of the Legislative Assembly

that the passage of the Goalpara Tenancy (Amendment) Bill shall be delayed if they support this Bill. I give the Ministry a chance to deny it. I pause for a reply—I shall be glad if the Ministry denies it. And shall also be glad if no delay is made in passing of the Bill in furtherance of that secret pact. Herein, Sir, I may refer to one point.

The Hon'ble the PRESIDENT: The hon. gentleman will now try to conclude his remarks. The time is nearly up.

Maulavi MUHAMMAD AMJAD ALI: I will do it Sir. Sir, an eminent person like Srijut Subash Chandra Bose, an erstwhile President of the Indian National Congress who was responsible for the formation of this Coalition Ministry is very much against the idea of this sort of taxation. Does this Ministry mean to say that as he is not in power now, there is an end of the matter, and as he is no longer the President of the Indian National Congress, his wishes should be flouted and his views disregarded? Sir, I would call upon the Ministry to look to the whole question and see whether they can withdraw the Bill and come with any other better alternative measure which might satisfy all interests. Under the above circumstances and in view of the peculiar economic position of my district, the people of which are being deprived of a huge sum of 2 lacs of rupees by this Bill, and in view of their backwardness, Sir, may I call upon the Ministry to earmark and give to the District authorities, an equal amount or a little more in addition to this 2 lacs to be annually spent for the beneficial purposes of my district of Goalpara.

The Hon'ble Mr. FAKHRUDDIN ALI AHMED: Mr. President, Sir. Yesterday we had decided that we would be concluding all the speeches within one hour. Though one hour has passed the Hon'ble Leader of the Opposition has not yet spoken.

The Hon'ble the PRESIDENT: I never said that it will be concluded in one hour. All that I said was that the session would be concluded by 12 O'clock.

The Hon'ble Mr. FAKHRUDDIN ALI AHMED: I did not say, Sir, that the Chair had said that the speeches would be concluded within one hour. What you had said, Sir, was that the entire business should be concluded by 12 o'clock. We have yet to consider the Bill clause by clause. I simply want to draw your attention to all this.

The Hon'ble the PRESIDENT: That is all right.

Rai Sahib Srijut SONADHAR DAS SENAPATI: Mr. President, Sir, a misfortune has befallen me and my train of thoughts has gone. I thought that I would be unable to join the deliberations of the Joint Session but I have come to discharge my moral obligations to this august Session and also to explain my conduct in connection with an allegation, i.e., a 'row' in the country that I have supported this Bill because I have been given a bribe of a Lorry. This is a serious accusation against me and with fever in my person I have come to explain my conduct in that matter. I had already said in the last session of the Council why I supported the Agricultural Income-tax Bill and how I felt about the justification of a taxation measure like this. The past Governments have all along kept the agricultural income in the reserve free from tax. Now due to national emergency this present Coalition Ministry is bound to find money from the reserve. It is also a patent fact that the imposition of this tax is the only practical solution of the critical financial situation and the present Ministry or whoever may come in the Cabinet in its place will have to seek protection from the agricultural income. Sir, you and the hon. members of the Joint Session will allow me to explain my conduct against the serious accusation also in this matter. Government is changing hands very repeatedly and every change has brought unrest to Government as well as to people. I have to confess as a

conservative old fool that I feel very much for such changes and want to avoid these and the consequent unrest. I may be allowed to illustrate this fact—when the last Ministry left the Cabinet, what happened? We lost that eminent and capable God-sent man in Sir Muhammad Saadulla and that loss has become irreparable. Now the circumstances have changed in the political atmosphere to such an extent that if now the Ministry is offered to Sir Muhammad Saadulla, I may say that in all probability he may not accept it. As an old conservative fool I am always against such changes. My own policy in the Council is always to lend support and co-operation and to help the Ministry with all the weapons for the running of the administration. I always acted according to that principle, and served the Saadulla-Ministry with the same loyalty. I am always for giving sufficient trial to a Ministry when it comes to its goal through an obstacle race. The present Ministry is just now making earnest efforts to get money to carry on the administration. Therefore it is now too early to say what it is doing. Sir, from this policy and principle, as I have explained just now, I supported the Bill in the last session of the Council and I will also support it in the present session. Sir, it is known to all that I supported the bill even after my lorry had been taken away by the present Ministry in December last. The Hon'ble Premier will bear me out that I never bargained in the Council affairs in the name of a lorry. It is, of course, true that my wife had submitted a petition to Government for a lorry as it could not be given in my name on account of my position in the Council. I can boldly say that I never bargained nor demanded any order on my wife's petition (*laughter*) before I had voted. I gave my vote in the last session of the Council while the fate of my wife's petition was still uncertain and pending in the Secretariat. At this present stage also I have not bargained for the lorry and I am earnestly supporting the Bill even if it so happens that the Ministry rejects my wife's petition (*loud laughter*) after the crisis of this Bill is over. I sincerely pray that my colleagues and friends of both the Houses will accept my explanation and acquit me honourably from this dishonest motive so unjustly and cruelly ascribed to my voting, specially by the "Prativa" paper.

Maulavi Saiyid Sir MUHAMMAD SAADULLÀ: Mr. President, Sir. It was my misfortune yesterday that when the Hon'ble Finance Minister was introducing his motion I had to absent myself at the beginning, and I am sure I have lost a very illuminating speech, but as soon as I entered the chamber I heard him mentioning about adversity and strange bed fellows. Although I have not had the chance of inquiring as to what he was referring to, still the subsequent sentence led me to believe that he was criticising the action of the various groups of the opposition as regards the passage of this Bill. I am not surprised at the remarks but I am surprised that the remark has come from such a quarter, for if any visible demonstration of "adversity making strange bed-fellows" is required we have it in the present Ministry. Even if the composition of the Treasury Bench is not sufficiently visible or demonstrable proof of that proposition, then we have only to look at the provisions of this Bill itself to see the truth of it. In this Bill what do we find? We find planters and peasants, Zamindars and Jotdars, ordinary cultivators as well as special cultivators have all become "strange bed-fellows" in this "adversity" Bill and in the manner sought to bring them all under its purview.

Sir, I advanced some of the arguments why I opposed this Bill at the time when it was discussed in the Assembly in the last March-April Session. Ever since I have considered the matter further and I am strengthened in

my opposition to the Bill for a variety of reasons some of which I will lay before the House now. In my opinion, whatever may be the case of the permanently-settled areas, a tax on agricultural income is the most obnoxious form of taxation for the temporarily-settled areas. Our revenue system is based upon a very old one, that was in vogue at the time of Ain-i-Akbari, that is the State demands a certain percentage of the produce and this demand is to be met not in kind but in cash. That is the reason why we have got so many classifications of land in our settlement proceedings. In other words, a land is judged by its productivity and as the State takes a certain percentage of the productivity in the shape of revenue, the better the classification of the soil, the higher is the rate of revenue. I must thank my esteemed friend from the Upper House, I mean my friend Srijut Lahiri, when he said that the land revenue exaction has gone up to a pitch where any further enhancement is impossible. He conceded that even at the present rate, the rate of revenue taxation is so high that the ordinary cultivator finds it difficult to maintain himself and his family with the produce that remains to him. Sir, if that is so, is it justified to put an additional burden in the shape of further taxation on the produce of the soil which will form the basis of calculation to ascertain the income that is derived from agriculture? It may be said that the poor cultivators or especially the poorer section of them will be exempt from this taxation. I will concede that through the labours of the Select Committee the limit of exemption from tax on agricultural income has been raised from Rs.2,000 to Rs.3,000, but the fact that in the original Bill the Ministry had put the limit at Rs.2,000 only clearly shows their own ideas about the matter. My learned friend Srijut Lahiri mentioned one pertinent fact when he said that he could not understand the opposition when they say that they were not opposed to the principle of the Bill but they were opposed to the details, and he requested the Opposition to implement that admission that they were not opposed to the principle of the Bill. I think my hon. friends on this side who used that phrase meant that they were not opposed to the principle of further taxation as money is required for the administration of the Province. But I do not think they admit that this tax on agricultural income is the best form of taxation which the Province should adopt. When my hon. friend made that appeal to the Opposition, I expected that he would make the same appeal to the Ministry, whom he is supporting, that they should implement their own promise—promise not only made on the floor of this House but also made at the time of the Election—that they were going to tax the rich and not the poor. I would have been very glad if my learned friend had asked the Ministry to frame the Bill in such a way that not a single peasant, not a single raiyat would be brought under the operation of this Bill. That would have been implementing the pledges that were given by the great Congress Party to the raiyats.

Then, Sir, the point arises that the province wants money not only for its day to day administration but also for taking in hand certain beneficial measures. Now a little bit of calculation would show that even if this Bill is passed into law and the expected sum of about 25 lakhs can be realised it will not be sufficient to take up any new beneficial measures for it was mentioned in the Press—the Hon'ble Finance Minister is in a position to know better—that the deficit of the current year will be in the neighbourhood of some 17 lakhs. I do not know whether final accounts have been made for the administration of the last year and what has been the actual deficit. The final figures are prepared in September and I don't think that the Hon'ble Finance Minister can give us the figures now. But may I know from him the approximate calculation of deficit for the last year as according to preliminary accounts? (The Finance Minister: About 17 lakhs).

Sir, the prohibition scheme of the present Ministry, *i.e.*, the scheme to wipe out the use of opium from two subdivisions within a space of two years has already been launched. Sir, during the last discussion on the subject, I had abundantly proved by facts and figures, the authenticity of which cannot be assailed or challenged—that even under the ordinary prohibition scheme or the restriction scheme in vogue since 1929 Assam was bound to get rid of the registered consumers in three years. I do not see the advantage of accelerating that process by only one year, and that too in two subdivisions, by the expenditure of a huge amount which, according to Press reports, will be in the neighbourhood of 8 lakhs. Sir, therefore, a little bit of addition will show that the deficit of 17 lakhs and the proposed expenditure of 8 lakhs for the prohibition scheme of opium will just about cover the proceeds of this present Bill, if it is passed and gets into operation; not to speak of any further relief of land revenue, as has been promised not only outside but also inside the House—I remember on one occasion when one of the leading members of the then opposition in the Congress gave me a direct challenge that when they came into power they would show to the country as well as to the outside world how they will be able to give 50 per cent. reduction of land revenue. Sir, the country has waited in vain to see the implementing of that challenge. Now there are in certain quarters, pious hopes that if this Bill is passed into law, the Ministry will be able to grant further reduction of land revenue. Of course the Ministry has not declared in so many words that they are prepared to grant 50 per cent. reduction, but in view of their past professions, as well as recent pronouncements, I will discuss the question of 50 per cent. reduction of land revenue. Here also a little bit of information and calculation will show that it is a mathematical improbability. Our ordinary land revenue—(I will be speaking in round figures only—) is about a crore, and the present remission is committing the province to a loss of the sum of 30 lakhs. If 50 per cent. reduction is to be given then the total amount of remission will be in the neighbourhood of half a crore. Therefore the implementing of that promise will mean the expenditure of a further 20 lakhs of revenues in the interests of the tax-payers. As I have already said that, without funds at their disposal, the Ministry, has launched into a prohibition scheme at a prohibitive cost, so there will be hardly any room for giving that so-called 50 per cent. reduction to the tax-payers. From all these facts I have come to the conclusion that even if this sum of 25 lakhs is realised, all the promises that have been made, cannot be carried into effect. Therefore I say very earnestly that this Bill will not be of benefit to the country at large. Apart from the fact that raiyats whose agricultural incomes do not exceed Rs. 3,000 a year all the other raiyats will be taxed. There is no gainsaying that fact, and therefore to that extent the people will be burdened with further taxation, although we had the assurance from the Ministry that there will be no increase to the burden of taxation.

Then, I consider that though the bulk of the proceeds from this taxation is to come from the Tea Industry and the Zamindars, I doubt whether it will ultimately be of benefit to the country itself, and whether there is any safeguard to the ordinary poor raiyats that they will not be asked to meet some part of this taxation in the near future.

We know that the principal objection as regards this Bill from the planting group is to the effect that they have not been given Dominion relief in this Bill, and that means that they will be submitted to double taxation—both here and in the United Kingdom. My erstwhile Colleague, who seems to have received new light, and whose business sagacity I admire, and who has got an experience of not less than 17 years as Managing Director of one

of the indigenous companies of Shillong, has read out to us that even Mr. Clayton in the last debate was not sure whether they will not get relief in the United Kingdom. Without waiting to reply to him, I will just place a concrete example before the House to draw their own conclusions. Well, again I will take only rough and approximate figures. The taxation proposed for higher agricultural income is in the neighbourhood of 4 annas in the rupee. The taxation in the United Kingdom on the same source, if my memory serves me right, is about 5 annas in the rupee. In other words that those sterling companies which are operating in Assam will start with a handicap of 9 annas in the rupee as against their competitors not only in Bengal and Madras, but also in the outside world, i.e., China, Japan, Ceylon, Java, and even Africa. The result will be that whereas their colleagues in the same industry in the neighbouring province of Bengal will be earning or rather saving 11 annas in the rupee as profit from which they could provide amenities of life to their labour force, they will not be in a position to compete with others, and therefore they will, if they are business men, think of transferring their capital somewhere else where there is no such double taxation.

That this state of things is bound to come is evidenced by the action of the Insurance Companies hailing from outside India since the passing of the new Insurance Act of 1939. Hon. members who have information on the subject, know very well that under the present Act, 55 per cent. of the premium income of companies shall have to be invested in India, with the result that there would be such a competition that there will be no sufficient return. Therefore most of the bigger foreign companies have already ceased operations in India and have transferred their capital somewhere else. Therefore the same state of things is bound to come to Assam so far as the tea industry and the sterling companies are concerned. Now, what would be the effect of that? Some hon. members remarked yesterday—it was one of the Labour members—that one-fifth of the total population of the province are tea garden labourers. According to the census figures of 1931, there are about 11 lakhs of labour force at the tea gardens and there are about 6 lakhs who are settled just in the neighbourhood of the tea estates and who supply what is ordinarily known as “faltu” labour. The withdrawal of the capital invested by the sterling companies in Assam will mean that at least four-fifths of this 16 lakhs of people will be thrown out of employment, and who will suffer then? It is the poor labour force for whom all shed tears, both the opposition, as well as the Ministry.

Some hon. members also mentioned that killing the tea industry would only mean killing the geese that lay the golden eggs. No doubt the tea industry—especially the older and bigger ones—enjoy now considerable concession in the matter of land revenue. The older administrators of Assam had to induce them to go to the wilds and jungles of Assam and invest their capital. Nobody can deny that Assam derives a very large part of its income from the tea industry in some shape or other. Therefore we must think twice whether it would be proper for us to pass this Bill and enforce this taxation upon the tea industry at a time when it has been put on its legs by artificial means.

Most of the hon. members probably require some information on this matter. The tea industry suffers from periods of depression; approximately from the observations of the past 25 years, they seem to occur every sixth year. I remember that upto 1923, the tea industry had to pass through a great crisis and a pound of tea, the manufacturer's cost of which is in the neighbourhood of 9 annas, was selling in the Calcutta Market at 3 annas per pound. Then, on account of the expansion or reopening of the old market

there was a boom between 1923 and 1928. But from 1929 the tea industry passed through a greater crisis, with the result that not only the Government of India had to intervene but also all the Governments of the international world where tea is grown had to sit in conference and devise means for keeping the industry from an unnatural death. So in 1933 came the restriction scheme and the Government of India passed an enactment making it penal to extend cultivation even by one acre, unauthorised. Similarly, in order to increase the price in the world market, they restricted the supply, and therefore only about 60 per cent. of the total crops was made available for export for world consumption. Any one who is interested in the tea industry or who follows the sale lists that appear in the daily press, will find that the difference of the export price over the cost price shows only a small profit and that the tea that is retained for internal consumption in India even now fetches only an average price of 3 annas per pound, which is far less than the cost price.

I need not dilate on the point. But I have been labouring to inform the House that the tea industry, although they are showing a little profit, is doing this through artificial and restricted means. If the Governments of Java, Sumatra and other places refuse to continue the restriction scheme over five years—which is the life-time of the present Act—then what would be the position? Again there will be depression. We have now to think what will be the consequences to the province in case the tea industry cannot get the same price, say five years hence. The Government, in their objects and reasons of the Bill have stated that they want this money for beneficent schemes of the nation-building departments. That is a very noble object. These schemes of nation-building departments must necessarily incur considerable recurring liability. If after five years, the restriction scheme is discontinued and the tea industry is again faced with a depression, then there will be no income from the tea industry. The twenty lakhs that is expected will be wiped out. But in the meantime, the province will have undertaken considerable recurring liability. Therefore Government will be faced with the alternative of getting more money from this Act or other source. As Government has kept this loophole of taxing the ordinary cultivator, they will be compelled to reduce the limit of exemption to a ridiculous figure. We have had experience of that from the Central Government. They reduced the exemption to Rs.1,000 whereas for 50 years it has been Rs.2,000 for some time. In the event envisaged, our poor cultivators will be seriously handicapped and they will be burdened with further taxation. This aspect of the question shall have to be taken into consideration.

I wonder whether my hon. friends have considered the implications of this Bill in these lights. If they have not, it is for them to consider them in view of the facts and figures which I have given. Even now my opinion is that all our middle class peasantry will be brought under the operation of this Act as the industrious peasants who grow more than one crop from their fields cannot but derive an income of Rs.3,000. I have known quite a big percentage of peasantry who have got 50 Bighas of land as their holding and I have also known and it is in the experience of every member here that such cultivators grow paddy, jute and also winter crops, such as mustard, linseed and some other crops. I am told that in the average, the yield per bigha is in the neighbourhood of 7 maunds of jute. I will take 5 maunds to be the average. Then 50 bighas will produce 250 maunds of jute, and if the average price fetched is Rs.5 then the yield from that 250 maunds would be Rs.1,250. Add to that the paddy cultivation. Of that my Hon'ble friend the Finance and Revenue Minister who himself

is a big Zamindar knows better and there can be no gain-saying the fact that from that 50 bighas of land the yield from paddy would be much more.

The Hon'ble the PRESIDENT : The hon. member's time is nearly up.

Maulavi Saiyid Sir MUHAMMAD SAADULLA : Only five words more and I finish. Therefore the opposition, at least, from this group, and if my hon. friend will bring a fresh Bill exempting the ordinary cultivators entirely, I can assure him of the support from this side of the House.

The Hon'ble Mr. FAKHRUDDIN ALI AHMED : Mr. President, Sir, I have listened with the rapt attention to the brilliant advocacy of the hon. Leader of the Opposition and to the appeal made by the hon. Mr. Hockenhull towards the closing stage of his speech. While I can only congratulate the hon. Leader of the Opposition for his achievement in placing his case before the House so well, I cannot but reiterate and assert in reply to Mr. Hockenhull that this Government stands for justice to all. What we have been trying to do since our assumption of office is to do away with any preferential treatment that might have in the past been given to any sections of the community or interest, and if in our attempt to do justice to all we are attributed motives and it is felt by any section of community or interest that we are going against their cause, I can only regard it as our misfortune to have been misunderstood in this way.

Sir, I am glad that to-day hon. Mr. Hockenhull has taken part in the discussion of this Bill for on previous occasions when this Bill was discussed in the Assembly we had the privilege of hearing mostly Mr. Clayton and some other members of his group. We are and have been accused from the very beginning for neglecting and for not consulting before framing the Bill the industry which is going to pay the major portion of the tax. Sir, it is a pity that after accommodating Mr. Hockenhull and his group as much as was possible for us to do, we have been accused in this manner. I reiterate what I stated on the floor of the Assembly that, from the very beginning we have not neglected but on the other hand we have given as much facility as we could to the group which is represented by Mr. Hockenhull. He will bear me out that, before the principle, on which this Bill was to be drafted was accepted, we had not less than two conferences in which both Mr. Hockenhull and our advisers were present. He would also bear me out that in those conferences there was an unanimous agreement between him and us on all points except the one with regard to the question of dominion income-tax relief. The Bill was drafted by our experts on the basis of that agreement and our decision not to provide for the Dominion Income-tax relief in the Bill. It is very unfortunate that to-day we have heard from Mr. Hockenhull that our experts and advisers knew nothing about their business and were in short incompetent and inefficient to advise us in the matter. Not only do I deny such baseless accusation but also vehemently protest against such an insinuation. When a Government, which, in framing the Bill took the advice of highly-paid officials who have been doing the income-tax work not for a few months but for years, can be accused that they had proceeded with the Bill without consulting the expert opinion and that the officers who advised us were incompetent and inefficient to discharge the work, I can only regard such baseless charge as perversion of mentality of which every one should be ashamed of. We are accused for not accepting the advice of the expert who, were thrust on us and who accordingly to Mr. Hockenhull also his group, is the only man who could have given us proper advice in this connection. If we had followed the course thrown by Mr. Hockenhull we would not have been accused by this House for ignoring the experts and advisers at our disposal and only

relying on the opinion of the experts which Mr. Hockenhull was so pleased to lend us. Sir, we have been told that the planting industry has from the very beginning, while accepting the principle of the Bill, were opposing it because certain sections embodied in the Bill are not just and would go against their interest. We have also heard that this is a measure to which they have been giving their anxious consideration for some years. Sir, if that is so what was Mr. Hockenhull doing when we took part in the two conferences? Why did he not place before us his own draft on which he would have liked us to have our Bill drafted? All this opposition to our Bill has come only after the Bill was drafted and introduced in the Assembly. I have made it clear that however well such a Bill might be drafted an income-tax law cannot be perfect. There may be imperfections in this Bill, but those imperfections can be remedied only after the Bill has been worked and its shortcomings discovered. If this Bill is really imperfect; if this Bill really does any injustice to any section of the House, and if the principle of the Bill is agreed upon let it be passed now, let Mr. Hockenhull or any one bring amendment for improving the Bill or doing away with any unjust clause incorporated in the Bill during the next session of the Assembly. As the actual collection of tax as has been admitted by Mr. Hockenhull will not take place till December or January, no one will stand to loose if such amendments are brought then. Throwing out the Bill now for those defects will mean delay and deprivation of collection of the taxes—the principle of which is accepted by all. Sir, it will then be realised that there is no foundation in the accusation made by the Planting group that these suggestions, which were given to us by them or any other group were not taken into consideration when this Bill was framed. It is also unfortunate that we have been accused that we did not allow their expert to be present in the Select Committee. As the hon. Leader of the Opposition will bear me out, this Income-tax Expert was in fact given a hearing by the Select Committee. Sir, it is true that we did not solicit his opinion with regard to all matters, but with regard to matters which concerned most the Tea Industry particularly with regard to Dominion Income-tax relief. We gave him as patient a hearing as was possible under the circumstances. As regards the question of Dominion Income-tax relief, I have said enough on previous occasion, and what I wanted to say to-day has been anticipated and said by my hon. friend, Rev. Nichols-Roy. If relief is desired on the ground of the principle that no one should pay the income-tax twice, I accept that principle; but my only objection is to the place wherefrom such relief should be sought. I appeal to Mr. Hockenhull and his group that they should identify their interests with the interests of the province, and therefore if they think that any relief, is due to them, they must approach the Government of England for the same because that Government is not entitled to any tax from an income that is derived from our country.

Mr. Blannerhassett was pleased enough to say that England was vitally interested and justified in realizing the tax because the English people invested 70 million pounds in this country. May I tell him that if we are to calculate the profit which those capitalists have realised during the last 30 years, they will be surprised to find that in such a short period one-half times of the capital income, *i.e.*, over 100 million pounds have already been sent back to England in the way of profit. What benefit on the other hand has this country derived? The condition of the labour as also of the country is more or less the same as it was 30 years ago. (*Voices from the Planting Group*: No). If any change for the better has taken place, I can assure these hon. members that they cannot take the credit for such a change.

Sir, I would only read a circular letter, which was published in the Newspaper (*Hindusthan Standard*) some time ago to show how far sincere these gentlemen are in saying that they accept the principle of this Bill, but they oppose it because it includes.....

The Hon'ble the PRESIDENT : Was the original letter a private and confidential one. I think you can use the arguments adduced by that paper instead of reading it out.

The Hon'ble Mr. FAKHRUDDIN ALI AHMED : I will only read a quotation from that paper.

Khan Bahadur Maulavi KERAMAT ALI : Was the genuineness of the Circular ascertained.

The Hon'ble Mr. FAKHRUDDIN ALI AHMED : If it is not genuine, hon. members are entitled to contradict it.

I shall not read the whole of this letter. I will only read a few lines. It begins—

“Although the above Bill has been thrown out by the Upper House, it is still possible that the Congress Government will gain their point when it comes for consideration at a joint session of the Council and the Assembly. It is desirable that Companies' Indian staff should be made fully aware of the possible consequences of this if the measure should become law.”

Mr. F. W. HOCKENHULL : Sir, I have no knowledge of any such circular.

The Hon'ble Mr. FAKHRUDDIN ALI AHMED : I am glad that the Circular has been contradicted by Mr. Hockenhull. But, if he would make enquiries from one of his friends, Mr. Richardson, he will find that what he has stated.....

Mr. F. W. HOCKENHULL : There is no let or hindrance to any person expressing any view. But I have definitely stated on behalf of this group that we have no knowledge of such a circular.

The Hon'ble Mr. FAKHRUDDIN ALI AHMED : I am glad that Mr. Hockenhull and his group dissociate themselves from this circular.

In conclusion, I would say that we stand for justice for all sections, interests, and for all communities, and if the co-operation, of which Mr. Hockenhull assures us, is forthcoming and if any amendments which are really desirable and necessary are given to us, for inclusion in the Bill, I reiterate that they will receive our fullest consideration.

Now, Sir, certain members of this House have opposed this Bill because they think that it will hit the poor agriculturists. It is indeed amusing to see that this section of this House which has raised this cry on behalf of the poor should join the hands with those who are opposing the Bill merely because in their opinion the Bill would effect the tea industry and not the people of the province. I find it difficult to reconcile myself between these two different views taken by the hon. members of the opposition.

Sir, I hope the hon. members will now give their support to the motion which I have made.

Maulavi JAHANUDDIN AHMED : Sir, we agree to his proposal if all the income derived from Goalpara district is spent for Goalpara district.

Mr. SARAT CHANDRA BHATTACHARYA : On a point of information, Sir.

The Hon'ble the PRESIDENT : Is the hon. member going to speak on the Bill ?

Mr. SARAT CHANDRA BHATTACHARYA : If I correctly understood the Hon'ble the Finance Minister to say that the Government themselves will move to ascertain the defects in the Bill and proceed with a supplementary Bill,

The Hon'ble Mr. FAKHRUDDIN ALI AHMED: Sir, after the Bill has been passed it is open to each and every member to bring forward an amending Bill and if those amendments are sent to the Government to be introduced by Government, Government will give their utmost and careful consideration.

The Hon'ble the PRESIDENT: Yes, it does not preclude the Government from themselves bringing in amendments.

Mr. F. W. HOCKENHULL: May I say, Sir, that the Government is not taking the right view. Government alone is competent to introduce such a Bill.

The Hon'ble Mr. FAKHRUDDIN ALI AHMED: I have said Sir, if such amendments are sent to the Government then after due consideration Government will introduce them.

Khan Bahadur Maulavi KERAMAT ALI: Does the Hon'ble Finance Minister think that all the members of this House are Income-tax experts.

Mr. SARAT CHANDRA BHATTACHARYA: On a point of another information, Sir. May we know whether the Government will try to utilize the outcome of this Agricultural Income-tax Act for expenditure on nation-building measures after meeting the deficit accumulated upto the end of the year.

The Hon'ble Mr. FAKHRUDDIN ALI AHMED: Yes, Sir, that is our intention.

Ruling of the Hon'ble the President as to whether the Hon'ble Speaker has the right of voting in the Joint Session.

Srijut ROHINI KUMAR CHAUDHURI: On a point of order, Sir. My point of order is to ask whether the Hon'ble Speaker is going to vote on this Bill and my submission is this that the Hon'ble Speaker of the Assembly cannot vote for this Bill. May I be permitted, to explain my views?

The Hon'ble the PRESIDENT: Yes.

Srijut ROHINI KUMAR CHAUDHURI: Sir, apart from the fact that if the Hon'ble Speaker of the Assembly takes side and votes in a controversial measure of the nature of the Assam Agricultural Income-tax Bill his impartiality will be impeached and whether he votes with the Congress party or with the Opposition he will be deemed a party man. I contend that our rules stand in the way of his voting.

Babu SATYENDRA MOHON LAHIRI: Is that a point of order, Sir?

Srijut ROHINI KUMAR CHAUDHURI: As far as I know, Sir, in other countries and in India also the Speaker does not generally attend a Joint Sitting. I come now to the rules on the subject. The Speaker as we know, Sir, has only a casting vote. Whenever the House over which he presides divides equally the Speaker can cast a vote. In the Rules for Joint Sittings there is nothing to show that he is entitled to vote as an ordinary member and the rules for the Joint Sittings clearly define the members as well as the Speaker. Now you find, Sir, that the definition of the member is this: "Member means a member of the Council; or a member of the Assembly as the case may be;" and the Speaker is defined in another paragraph. It is not said that the member means a member of the Council or a member of the Assembly including the Speaker but the Speaker is defined subsequently in the rules. The Speaker

means "the Speaker of the Assam Legislative Assembly". The only functions of the Speaker under the Rules of the Joint Sittings are laid down in Rule No. 8. Wherein it is stated—

"In the absence of the President the Speaker, and in his absence the Deputy President, and in his absence the Deputy Speaker and in his absence a member elected by the members present, shall preside at a joint sitting".

In order that the Speaker may exercise his function laid down in Rule 8 the definition of the Speaker has been separately given in the Rules. Then again, Sir, I refer to Rule No. 13. Where it is stated—

"At a joint sitting, the members shall sit in such order as may be fixed by the President or person presiding in his stead."

Then again Sir, I draw your attention to Rule 16 It says—

"(1) Whenever the Governor intends to address both Chambers of the Provincial Legislature assembled together under sub-section (1) of section 63 of the Act, he shall send a message to the President of the Council and the Speaker of the Assembly....."

"(2) On receipt of the message, it shall be announced to the respective Chambers by the President and the Speaker, or, if a Chamber is not in session, the message shall be communicated to the members by the Secretary."

Then, Sir, also rule 16(3) (b) says :—

"the President, or in his absence, the person referred to in rule 8 of these rules, shall throughout the meeting have all the powers for the preservation of the order vested in the President under the Rules of Procedure made applicable to the Council ;"

So, Sir, I submit before the House that the Rules of the Joint Sittings do not specifically give any right of vote to the Speaker of the Assembly and that the only rule which authorises the Speaker to vote under any circumstance is under the Assembly Rules where it is stated that when the votes are equal the Speaker shall give his casting vote. That is the only occasion when the right of voting is given to the Speaker. Sir, I draw your attention further to Rule No. 3 of the Joint Sittings Rules where it is stated—

"If any question arises as to the interpretation of these rules, it may be referred to the Governor by the President or the person presiding in his stead and the decision of the Governor exercising his individual judgment shall be final."

Babu SATYENDRA MOHON LAHIRI: My hon. friend overlooks a little point that the Speaker of the Assembly is not the Speaker of the Joint Session.

Maulavi Saiyid Sir MUHAMMAD SAADULLA: Before you give your ruling, Sir, I want to point out another thing. The point which has been raised by my hon. friend is not free from doubt. I would respectfully request you to look at section 66(1) which says :—

"Save as in this Act otherwise expressly provided, all questions in a Chamber, or a joint sitting of two Chambers of a Provincial Legislature shall be determined by a majority of votes of the members present and voting, other than the Speaker or President, or person acting as such."

The Hon'ble Srijut GOPINATH BARDOLOI: Mark the words "acting as such".

Maulavi Saiyid Sir MUHAMMAD SAADULLA: I respectfully draw your attention that the word "Speaker" is in capital and the Speaker is defined in the previous section. Therefore according to my

reading of section 66(1), the President or the person acting as such or the Speaker of the Assembly in a joint sitting has got no vote. Of course there is another sub-paragraph in the sub-section :

"The Speaker or President, or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes".

That only gives the right to casting vote under the Act itself, when one of the above presides over a session.

Babu SATYENDRA MOHON LAHIRI: On a point of information, Sir. How can the question of casting vote come in when he is not presiding ?

Maulavi Saiyid Sir MUHAMMAD SAADULLA: The sub-section refers not to Joint session because the Hon'ble Speaker is not presiding in the joint session. The sub-section refers to the ordinary session of the Assembly.

The Hon'ble the PRESIDENT: The hon. Leader of the Opposition has pointed out the section 66, sub-section 1 which reads as follows:— Save as in this Act otherwise expressly provided, all questions in a Chamber, or a joint sitting of two Chambers of the Provincial Legislature shall be determined by a majority of votes of the members present and voting, other than the Speaker or President, or a person acting as such. He refers to the fact that the word "Speaker" is there and it is in capitals. I would interpret this section as—Speaker acting as such or President acting as such or person acting as such. (*Loud ministerial applause*). As a matter of fact this refers to the question of presiding over a session of both the Houses. Then as regards the joint sitting, the rules refer only as to who should preside. It deals with precedence with regard to President, Speaker, Deputy President and the Deputy Speaker. We have no specific law before us with regard to the eligibility or otherwise of the Hon'ble Speaker taking part in the proceedings of a joint sitting when the President is presiding. There is also no specific law for his taking part or otherwise in the voting. Although it has been pointed out to me that there is a definition of the word "Speaker" and also there is a definition of a member of either House, I would like to point out to the House that these definitions are necessary because in the absence of the President, the Speaker might occupy the Chair and that he will be occupying the Chair as Speaker. Then again the question of the desirability of the Speaker's not taking part in the deliberations of a joint session and not voting in the joint session has been raised by my hon. friend Mr. Rohini Kumar Chaudhuri. As I have pointed out we have no specific law about it. But personally I feel that it is most undesirable for the Hon'ble Speaker to take part in the proceedings of the Joint session and vote with the members (*Loud applause from the Opposition benches*) because by so doing he will run the risk of facing an imputation of partiality being hurled at him from some quarter or other. Impartiality is a precious heritage of the Chair. (*Opposition applause*). Personally I think it ought to remain unassailed. As regards precedents, I can say this much that there was a joint session of both the Houses of Legislature in the United Provinces where the Hon'ble Mr. Tandon, the Speaker of the Assembly, took part in the deliberations and voted. Mr. Tandon, you will all remember, declared immediately after his election to the Chair that he never ceased to be a congress man and a party man. But we are confronted with the dictum of another great President, the late Hon'ble Mr. Patel, a congressman, who said immediately after his election to the Chair that he ceased to be a party man. So we are confronted with different opinions and different dictums. There is no hard-and-fast rule. But one thing I would like to tell the hon. House that the Hon'ble Speaker is after all a member. The

Hon'ble Speaker cannot be denied the elementary rights of a member of the Assembly and if he wishes to take part in the deliberation and vote, he may do so (*Ministerial applause*).

The Hon'ble Mr. BASANTA KUMAR DAS: Mr. President, Sir, I had not the least intention of speaking anything on the floor of this House when this measure of such a far-reaching importance to the Province was going to be disposed of. But the point of order raised touching my position here, on which you have just given your ruling, compels me to break my silence and speak a few words. It is clear my hon. friend Srijut Rohini Kumar Chaudhuri thought that when I was here occupying the seat that has been allotted to me by you in this House in case I wished to be present at such a momentous session of both the Houses of the Legislature in exercise of my right as a member of the Legislative Assembly, I would be exercising my vote. And perhaps from that idea my hon. friend raised this point of order. I am glad, Sir, that you have given the right decision on the point. With regard to the question whether the Speaker of the Legislative Assembly should vote in a Joint Sitting, that must be entirely left to his discretion. How that discretion has to be exercised is entirely his lookout. If I do not vote in this Joint Sitting, I shall have my own grounds. If I vote I shall also have my own grounds. You have rightly pointed out that it would be considered sometimes as most undesirable for the Speaker to vote in a Joint Sitting. I fully agree with you there, because I am also of opinion that by casting his vote this way or that way the Speaker will make himself open to the criticism that he has done so in a partisan spirit. He should, therefore, avoid that. There may, however, be solid grounds for him to vote in a Joint Sitting. But before deciding to cast his vote he will have to take into consideration the circumstances of the controversy involved in the Joint Sitting and see if there would be any likelihood of his vote being construed as a partisan vote. My hon. friend Srijut Rohini Kumar Chaudhuri has referred to the section of the Government of India Act which provides that any one who presides at a Joint Session of the Legislature will, in case of equality of votes on the measure for which the Joint Session is held, have only a casting vote. I may, therefore, point out also that when a casting vote is required to be given there are certain principles to be followed and that one of the principles is that the person so presiding may, on certain occasions, if he so chooses, give his casting vote on a consideration of the merits of the measure on which such a vote is required to be given. This supplies an argument in favour of the Speaker for voting in a Joint Sitting of both the Houses of the Legislature, where he is entitled to vote as an ordinary member of the Legislative Assembly, if he is not presiding on the occasion. So, I submit, Sir, if the occasion so requires the Speaker may cast his vote in a Joint Sitting of both the Houses on the merits of the measures itself (*hear, hear*). Of course, what I shall do here to-day, I will not say now. I have explained my position as far as possible for me in a brief way and have given sufficient indications. I hope hon. members will kindly wait to see how I conduct myself at the time of voting.

Khan Bahadur Maulavi KERAMAT ALI: Mr. President, Sir, may I point out that the instance of Mr. Purushattomdas Tandon.....

A voice:—On a point of order, Sir. Has not the ruling been given?

The Hon'ble the PRESIDENT: I am afraid the hon. member is discussing my ruling.

Khan Bahadur Maulavi KERAMAT ALI: No, Sir, I want to point out that there is a difference between Mr. Tandon and Hon'ble Mr. Das.

Babu SATYENDRA MOHON LAHRI: Is the hon member in order, Sir ?

The Hon'ble the PRESIDENT: It does not require any further elucidation.

Khan Bahadur Maulavi KERAMAT ALI: Mr. Tandon, after his election to the Chair, said that he would continue to be a party man, but the Hon'ble Mr. Das after being elected declared that he ceased to be a party man from that day.

Mr. A. K. CHANDA: Sit down, sit down.

The Hon'ble the PRESIDENT: May I know, since when has the hon. member usurped the powers of the Chair ?

Mr. A. K. CHANDA: I beg your pardon, Sir. I was only insisting upon obedience to the ruling of the Chair ?

The Hon'ble the PRESIDENT: The Chair is still here to see to the obedience to its ruling. Hon. members, I am now putting the question. Before I put the question I would again remind the hon. members that what I said about the rules of division would be strictly followed. I would appeal to the hon. members as well as to those in the visitors' galleries not to indulge in any sort of demonstration during the division or even after the division.

The question is that the Assam Agricultural Income-tax Bill, 1939, as passed by the Assam Legislative Assembly, be taken into consideration.

The House divided.

Ayes—65

- | | |
|---|--|
| 1. The Hon'ble Srijut Gopinath Bardoloi. | 18. Babu Bepin Behari Das, M.L.A. |
| 2. The Hon'ble Mr. Fakhruddin Ali Ahmed. | 19. Srijut Bishnu Ram Medhi, M.L.A. |
| 3. The Hon'ble Babu Kamini Kumar Sen. | 20. Babu Dakshina Ranjan Gupta Chaudhury, M.L.A. |
| 4. The Hon'ble Srijut Ramnath Das. | 21. Srijut Debeswar Sarmah, M.L.A. |
| 5. The Hon'ble Babu Akshay Kumar Das. | ✓ 22. Babu Gazanand Agarwalla, M.L.C. |
| 6. The Hon'ble Maulavi Md. Ali Haidar Khan. | 23. Srijut Ghanashyam Das, M.L.A. |
| 7. The Hon'ble Srijut Rupnath Brahma. | 24. Srijut Gauri Kanta Talukdar, M.L.A. |
| 8. The Hon'ble Khan Bahadur Maulavi Mahmud Ali. | 25. Srijut Haladhar Bhuyan, M.L.A. |
| 9. Kumar Ajit Narayan Deb, M.L.A. | 26. Babu Harendra Narayan Chaudhuri, M.L.A. |
| 10. Mr. Arun Kumar Chanda, M.L.A. | ✓ 27. Rai Sahib Hem Chandra Dutt, M.L.C. |
| 11. Mr. Baidyanath Mookerjee, M.L.A. | 28. Srijut Jadav Prasad Chaliha, M.L.A. |
| 12. Rai Sahib Balabaksh Agarwalla Hanchoria, M.L.C. | ✓ 29. Babu Jatindra Chandra Maitra, M.L.C. |
| 13. Babu Balaram Sirkar, M.L.A. | 30. Srijut Jogendra Chandra Nath, M.L.A. |
| 14. Srijut Beliram Das, M.L.A. | 31. Srijut Jogeshchandra Gohain, M.L.A. |
| 15. Srijut Bepin Chandra Medhi, M.L.A. | 32. Srijut Kameswar Das, M.L.A. |
| ✓ 16. Srijut Bhimbor Deori, M.L.C. | 33. Babu Karuna Sindhu Roy, M.L.A. |
| 17. Srijut Bhuban Chandra Gogoi, M.L.A. | 34. Mr. Kedarmal Brahmin, M.L.A. |
| | 35. Srijut Krishna Nath Sarmah, M.L.A. |
| | 36. Srijut Lakshesvar Boroah, M.L.A. |

Ayes—concl'd.

37. Babu Lalit Mohan Kar, M.L.A.
38. Srijut Mahadev Sarma, M.L.A.
39. Srijut Mahi Chandra Bora, M.L.A.
40. Mr. Naba Kumar Dutta, M.L.A.
41. Srijut Omeo Kumar Das, M.L.A.
42. Srijut Paramananda Das, M.L.A.
43. Rai Bahadur Promode Chandra Dutt, M.L.A.
44. Srijut Purandar Sarma, M.L.A.
45. Srijut Purna Chandra Sarma, M.L.A.
46. Babu Rabindra Nath Aditya, M.L.A.
47. Srijut Rajani Kanta Barooah, M.L.A.
48. Srijut Rajendra Nath Barua, M.L.A.
- ✓ 49. Rai Bahadur Rameswar Saharia, M.L.C.
50. Srijut Sankar Chandra Barua, M.L.A.
51. Srijut Santosh Kumar Barua, M.L.A.
- ✓ 52. Mr. Sarat Chandra Bhattacharya, M.L.C.
53. Srijut Sarveswar Barua, M.L.A.
54. Babu Satyendra Mohon Lahiri, M.L.C.
55. Babu Shibendra Chandra Biswas, M.L.A.
56. Srijut Siddhi Nath Sarmah, M.L.A.
- ✓ 57. Rai Sahib Sonadhar Das Senapati, M.L.C.
- ✓ 58. Babu Suresh Chandra Das, M.L.C.
- ✓ 59. Khan Sahib Maulavi Abdur Rahim Chaudhury, M.L.C.
60. Maulavi Muhammad Amiruddin, M.L.A.
61. Khan Bahadur Maulavi Mufizur Rahman, M.L.A.
62. Srijut Dhirsing Deuri, M.L.A.
63. Rev. J. J. M. Nichols-Roy, M.L.A.
64. Srijut Khorsing Terang, M.L.A.
65. Srijut Rabi Chandra Kachari, M.L.A.

Noes—59

- ✓ 1. Rai Sahib Apurba Kumar Ghosh, M.L.C.
2. Babu Hirendra Chandra Chakravarty, M.L.A.
3. Srijut Jogendra Narayan Mandal, M.L.A.
4. Babu Kalachand Roy, M.L.A.
5. Dr. Mahendra Nath Saikia, M.L.A.
- ✓ 6. Babu Man Mohon Chaudhury, M.L.C.
7. Sriut Rohini Kumar Chaudhuri, M.L.A.
8. Maulavi Abdul Aziz, M.L.A.
9. Maulavi Abdul Bari Chaudhury, M.L.A.
- ✓ 10. Maulavi Abdul Hai, M.L.C.
11. Maulana Abdul Hamid Khan, M.L.A.
12. Khan Bahadur Hazi Abdul Majid Chaudhury, M.L.A.
13. Maulavi Abdul Matin Chaudhury, M.L.A.
14. Maulavi Abdur Rahman, M.L.A.
15. Maulavi Syed Abdur Rouf, M.L.A.
16. Maulavi Md. Abdus Salam, M.L.A.
17. Maulavi Dewan Muhammad Ahab Chaudhury, M.L.A.
18. Maulavi Muhammad Amjad Ali, M.L.A.
- ✓ 19. Maulavi Md. Asad-uddin Chaudhury, M.L.C.
20. Maulavi Ashrafuddin Md. Chaudhury, M.L.A.
21. Maulavi Badaruddin Ahmed, M.L.A.
22. Khan Bahadur Dewan Eklimur Roza Chaudhury, M.L.A.
23. Maulavi Ghyasuddin Ahmed, M.L.A.
- ✓ 24. Khan Bahadur Maulavi Golam Mastafa Chaudury, M.L.C.
- ✓ 25. Khan Bahadur Maulavi Gous Uddin Ahmed Chaudhury, M.L.C.
26. Maulavi Jahamuddin Ahmed, M.L.A.

Noes—*concl'd.*

- | | |
|---|---|
| 27. Khan Bahadur Maulavi Keramat Ali, M.L.A. | 40. Mr. C. W. Morley, M.L.A. |
| 28. Maulavi Muhammad Maqbul Hussain Chaudhury, M.L.A. | 41. Mr. A. H. Ball, M.L.A. |
| 29. Maulavi Matior Rahman Mia, M.L.A. | 42. Mr. F. W. Blennerhassett, M.L.A. |
| 30. Maulavi Mabarak Ali, M.L.A. | 43. Mr. E. B. Sim, M.L.A. |
| 31. Khan Sahib Maulavi Mudabbir Hussain Chaudhury, M.L.A. | 44. Mr. E. S. Kaye, M.L.A. |
| 32. Maulavi Munawwar Ali, M.L.A. | ✓ 45. Mr. H. Emblen, M.L.C. |
| 33. Maulavi Muzarrof Ali Laskar, M.L.A. | 46. Mr. F. W. Hockenhull, M.L.A. |
| 34. Maulavi Namwar Ali Barbhuiya, M.L.A. | 47. Mr. W. J. Gray, M.L.A. |
| 35. Maulavi Naziruddin Ahmed, M.L.A. | 48. Mr. D. B. H. Moore, M.L.A. |
| 36. Maulavi Sheik Osman Ali Sadagar, M.L.A. | ✓ 49. Mr. P. Munday, M.L.C. |
| ✓ 37. Khan Sahib Maulavi Rukunoddin Ahmed, M.L.C. | 50. Mr. N. Dawson, M.L.A. |
| 38. Maulavi Saiyid Sir Muhammad Saadulla, M.L.A. | 51. Miss Mavis Dunn, M.L.A. |
| ✓ 39. Shams-ul Ulama Maulana Abu Nasr Md. Waheed, M.L.A. | 52. Mr. Benjamin Ch. Momin, M.L.A. |
| | 53. Srijut Bhairab Chandra Das, M.L.A. |
| | 54. Srijut Bideshi Pan Tanti, M.L.A. |
| | 55. Srijut Binode Kumar J. Sarwan, M.L.A. |
| | 56. Rev. L. Gatphoh, M.L.A. |
| | 57. Mr. C. Goldsmith, M.L.A. |
| | 58. Mr. Jobang D. Marak, M.L.A. |
| | 59. Mr. P. Parida, M.L.A. |

[After the Division had taken place, the Hon'ble President vacated the Chair for two minutes during which time the Hon'ble Speaker occupied it.]

Srijut ROHINI KUMAR CHAUDHURI: Sir, Srijut Bepin Chandra Medhi, when I was sitting (pointing to the door for going into the Ayes lobby) wanted to pass through that door. Then I shouted and drew his attention. But he went by the other door and gave his vote and came out. Now I understand his plea is that he had recorded his vote before. I do not know why he should go to that lobby again.

The Hon'ble the PRESIDENT: As a matter of fact the hon. member had given his signature, but as there are two gentlemen Bishnu Ram Medhi and Bepin Chandra Medhi, he was not sure whether he had given his signature against his own name or against the name of the other gentleman. It was pointed out to me and in the exercise of the inherent right of the Chair I allowed him to correct it. So I think the vote is all right.

The Hon'ble the PRESIDENT: Order, order. The result of the voting is Ayes 65, Noes 59. (*Loud and thunderous applause.*)

The motion was carried.

Order, order. The question is that clauses 2 to 50 of the Assam Agricultural Income-tax Bill, 1939, stand part of the Bill.

The ayes have it.

Now the question before the House is that the title and the preamble to the Bill stand part of the Bill.

The ayes have it.

The Hon'ble Mr. FAKHRUDDIN ALI AHMED: Mr. President, Sir, I beg to move that the Assam Agricultural Income-tax Bill, 1939, be passed.

The Hon'ble the PRESIDENT : The motion made is that the Assam Agricultural Income-tax Bill, 1939, be passed. Is any hon. member willing to take part in the third reading of the Bill ?

No one replying, the question was put and a division was taken with, the following result :—

AYES—65

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 Mahmud Ali.
9. Kumar Ajit Narayan Dev, M.L.A.
10. Mr. Arun Kumar Chanda, M.L.A.
11. Mr. Baidyanath Mookerjee M.L.A.
12. Rai Sahib Balabaksh Agarwalla Hanchoria, M.L.C.
13. Babu Balaram Sircar, M.L.A.
14. Srijut Beliram Das, M.L.A.
15. Srijut Bepin Chandra Medhi, M.L.A.
16. Srijut Bhimbor Deori, M.L.C.
17. Srijut Bhuban Chandra Gogoi, M.L.A.
18. Babu Bipin Behari Das, M.L.A.
19. Srijut Bishnu Ram Medhi, M.L.A.
20. Babu Dakshinaranjan Gupta Chaudhuri, M.L.A.
21. Srijut Debeswar Sarmah, M.L.A.
22. Babu Gazanand Agarwalla, M.L.C.
23. Srijut Ghanashyam Das, M.L.A.
24. Srijut Gauri Kanta Talukdar, M.L.A.
25. Srijut Haladhar Bhuyan, M.L.A.
26. Babu Harendra Narayan Chaudhuri, M.L.A.
27. Rai Sahib Hem Chandra Dutt, M.L.C.
28. Srijut Jadav Prasad Chaliha, M.L.A.
29. Babu Jatindra Chandra Maitra M.L.C.
30. Srijut Jogendra Chandra Nath, M.L.A.
31. Srijut Jageshchandra Gohain, M.L.A.
32. Srijut Kameswar Das, M.L.A.
33. Babu Karuna Sindhu Roy M.L.A.
34. Mr. Kedarmal Brahmin, M.L.A.
35. Srijut Krishna Nath Sarmah, M.L.A.
36. Srijut Lakshesvar Borooah, M.L.A.
37. Babu Lalit Mohon Kar, M.L.A.
38. Srijut Mahadev Sarma, M.L.A.
39. Srijut Mahi Chandra Bora, M.L.A.
40. Mr. Naba Kumar Dutta, M.L.A.
41. Srijut Omeo Kumar Das, M.L.A.
42. Srijut Paramananda Das, M.L.A.
43. Rai Bahadur Promode Chandra Dutt, M.L.A.
44. Srijut Purandar Sarma, M.L.A.
45. Srijut Purna Chandra Sarma, M.L.A.
46. Babu Rabindra Nath Aditya, M.L.A.
47. Srijut Rajani Kanta Barooah, M.L.A.
48. Srijut Rajendra Nath Barua M.L.A.
49. Rai Bahadur Rameswar, Saharia, M.L.C.
50. Srijut Sankar Chandra Barua, M.L.A.
51. Srijut Santosh Kumar Barua, M.L.A.
52. Mr. Sarat Chandra Bhattacharya, M.L.C.
53. Srijut Sarveswar Barua, M.L.A.
54. Babu Satyendra Mohon Lahiri M.L.C.

55. Babu Shibendra Chandra Biswas, M.L.A.
56. Srijut Siddhi Nath Sarma, M.L.A.
57. Rai Sahib Sonadhar Das Senapati, M.L.C.
58. Babu Suresh Chandra Das, M.L.C.
59. Khan Sahib Maulavi Abdur Rahim Chaudhury, M.L.C.

60. Maulavi Muhammad Amiruddin, M.L.A.
61. Khan Bahadur Maulavi Mufizur Rahman, M.L.A.
62. Srijut Dhirsingh Deuri, M.L.A.
63. Rev. J. J. M. Nichols-Roy, M.L.A.
64. Srijut Khorsing Terang, M.L.A.
65. Srijut Rabi Chandra Kachari, M.L.A.

NOES—57.

1. Rai Sahib Apurba Kumar Ghosh, M.L.C.
2. Babu Hirendra Chandra Chakravarty, M.L.A.
3. Srijut Jogendra Narayan Mandal, M.L.A.
4. Babu Kalachand Roy, M.L.A.
5. Dr. Mahendra Nath Saikia, M.L.A.
6. Babu Man Mohon Chaudhury, M.L.C.
7. Srijut Rohini Kumar Chaudhuri, M.L.A.
8. Maulavi Abdul Aziz, M.L.A.
9. Maulavi Abdul Bari Chaudhury, M.L.A.
10. Maulavi Abdul Hai, M.L.C.
11. Maulana Abdul Hamid Khan, M.L.A.
12. Maulavi Abdul Matin Chaudhury, M.L.A.
13. Khan Sahib Maulavi Abdur Rahim Chaudhury, M.L.C.
14. Maulavi Abdur Rahman, M.L.A.
15. Maulavi Syed Abdur Rouf, M.L.A.
16. Maulavi Md. Abdus Salam, M.L.A.
17. Maulavi Dewan Muhammad Ahabab Chaudhury, M.L.A.
18. Maulavi Muhammad Amjad Ali, M.L.A.
19. Maulavi Md. Asad-uddin Chaurdhuy, M.L.C.
20. Maulavi Ashrafuddin Md. Chaudhury, M.L.A.
21. Maulavi Badaruddin Ahmed, M.L.A.
22. Maulavi Ghyasuddin Ahmed, M.L.A.
23. Khan Bahadur Maulavi Golam Mastafa Chaudhury, M.L.C.

24. Khan Bahadur Maulavi Gous Uddin Ahmed Chaudhury, M.L.C.
25. Maulavi Jahanuddin Ahmed, M.L.A.
26. Maulavi Muhammad Maqbul Hussain Choudhury, M.L.A.
27. Maulavi Matior Rahman Mia, M.L.A.
28. Maulavi Mabarak Ali, M.L.A.
29. Khan Sahib Maulavi Mudabbir Hussain Chaudhuri, M.L.A.
30. Maulavi Munawwar Ali, M.L.A.
31. Maulavi Muzarrof Ali Laskar, M.L.A.
32. Maulavi Namwar Ali Barbhuiya, M.L.A.
33. Maulavi Naziruddin Ahmed, M.L.A.
34. Maulavi Sheikh Osman Ali Sadagar, M.L.A.
35. Khan Sahib Maulavi Rukunod-din Ahmed, M.L.C.
36. Maulavi Saiyid Sir Muhammad Saadulla, M.L.A.
37. Shams-ul-Ulama Maulana Abu Nasr Md. Waheed, M.L.A.
38. Mr. C. W. Morely, M.L.A.
39. Mr. A. H. Ball, M.L.A.
40. Mr. F. W. Blennerhassett, M.L.A.
41. Mr. E. B. Sim, M.L.A.
42. Mr. E. S. Kaye, M.L.A.
43. Mr. H. Emblen, M.L.C.
44. Mr. F. W. Hockenhull, M.L.A.
45. Mr. W. J. Gray, M.L.A.
46. Mr. D. B. H. Moore, M.L.A.
47. Mr. P. Munday, M.L.C.
48. Mr. N. Dawson, M.L.A.
49. Miss Mavis Dunn, M.L.A.

- | | |
|---|--|
| 50. Mr. Benjamin Ch. Momin,
M.L.A. | 53. Srijut Binode Kumar J. Sar-
wan, M.L.A. |
| 51. Srijut Bhairab Chandra Das,
M.L.A. | 54. Rev. L. Gatphoh, M.L.A. |
| 52. Srijut Bideshi Pan Tanti, M.L.A. | 55. Mr. C. Goldsmith, M.L.A. |
| | 56. Mr. Jobang D. Marak, M.L.A. |
| | 57. Mr. P. Parida, M.L.A. |

Srijut PURNA CHANDRA SARMA: On a point of order, Sir. While the division bell was ringing on Khan Bahadur Keramat Ali entered the hall by that door. According to the division rules no member should be allowed to enter the hall by that door and vote.

Khan Bahadur Maulavi KERAMAT ALI: I admit that the statement made by Mr. Sarma is correct. I am sorry I could not come in time.

The Hon'ble the PRESIDENT: I will remember the point of order raised at the time I go through the division lists.

(When the counting of votes was finished)

The Hon'ble the PRESIDENT: I am not exactly announcing now. On a calculation of the votes recorded in the 'Noes' lobby, I find that there are 57 votes. A point has been raised whether hon. Khan Bahadur Keramat Ali's vote should be here. I hold that the vote should be expunged and I make the number '56' instead of '57'.

The result of the division is—

Ayes 65

Noes 56

The motion was carried. The Assam Agricultural Income-tax Bill, 1939 was passed.

The Hon'ble the PRESIDENT: Hon. members, before we part I feel it my duty to express my thankfulness to the hon. members of both the Houses, assembled here, for the co-operation they have extended to the Chair throughout. As usual I am extremely thankful to the hon. members of the Upper Chamber, and I am in a position to say, I always receive co-operation from them in my chamber. But I am a new man in the other chamber and I am more thankful to the hon. members of the august Assembly for the co-operation they have extended to the Chair throughout our proceedings. They have been extremely kind and nice to me, I am also thankful to the Hon'ble the Premier and the Treasury Benches, and I am also thankful to the hon. the Leader of the Opposition and the hon. Mr. Hockenhull the Leader of the European group for the courtesy they have extended to me all through.

Much as I wanted (I should speak it out and I do not think it will be a breach of confidence to do so) much as I wanted the Hon'ble Speaker to take the Chair for some time, he was not in a mood to do so. Of course he came in only for a minute or two just to relieve me. I would have been happier if he had been in the Chair longer.

As a matter of fact I consider this to be a great occasion for me to make acquaintance with many hon. members of the Assam Legislative Assembly. I have taken the opportunity of making my acquaintance with them at a place which ought to be and is known for its great good fellowship.

With these words, hon. members, I again thank you very heartily for the co-operation you have extended to me, and I now declare that the session of the joint sitting of both the Houses stands dissolved.

Babu SURESH CHANDRA DAS: Mr. President, Sir. Before we disperse, I would like to ask your permission to take this opportunity to mention with pride that you have discharged the onerous duties imposed upon you as a President on this unique occasion with credit to yourself and impartiality and justice to the hon. members present in this Joint sitting of both the Houses of the Assam Legislature.

We therefore offer our sincere congratulations to you.

The Hon'ble Srijut GOPINATH BARDOLOI: Sir, when a reference has been made I feel I will be failing in my duty.....

The Hon'ble the PRESIDENT : Order, order. I have announced the dissolution, but the Hon'ble Premier wants to make a few remarks. Hon. members will kindly give him a hearing.

The Hon'ble Srijut GOPINATH BARDOLOI: Sir, I was just going to speak in response to the very kind words that the Hon'ble President has been pleased to say. So far as the Government party in this House is concerned we are indeed proud of the manner in which the Hon'ble the President has been pleased to conduct the proceedings of this House with the impartiality that he has displayed throughout in the rulings he had occasion to give. I can very justly say that for a momentous occasion like this he has conducted himself with as great dignity and with as great honour as it was possible.

Maulavi Saiyid Sir MUHAMMAD SAADULLA: As the Leader of the Opposition I whole heartedly endorse what the Hon'ble Leader of the House has said just now.

The House then rose.

SHILLONG:

H. C. STORK,

The 18th September 1939.

Secretary, Legislative Council, Assam.

2-73D

APPENDIX

(See page, 71 *supra*)THE ASSAM AGRICULTURAL INCOME-
TAX BILL, 1939[As passed by the Joint Sitting of the Assam Legislative
Council and Assam Legislative Assembly].*An Act to provide for the imposition of a tax on agricul-
tural income*WHEREAS it is expedient to impose a tax on
agricultural income arising from lands situated
in the Province of Assam ;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

- Short title. 1. (1) This Act may be called the Assam Agri-
cultural Income-Tax Act, 1939.
- (2) It shall take effect from the 1st of April,
1939.
- Definitions. 2. In this Act, unless there is anything
repugnant in the subject or context—
- (a) "agricultural income" means—
- (1) Any rent or revenue derived from
land which is used for agricultural
purposes, and is either assessed to
land revenue in Assam or subject
to a local rate assessed and collect-
ed by officers of the Crown as
such.
- (2) Any income derived from such land
by—
- (i) agriculture, or
- (ii) the performance by a cultivator
or receiver of rent-in-kind of any
process ordinarily employed by
a cultivator or receiver of rent-
in-kind to render the produce
raised or received by him fit to
be taken to market, or
- (iii) the sale by a cultivator or receiver
of rent-in-kind of the produce
raised or received by him, in
respect of which no process has

been performed other than a process of the nature described in sub-clause (ii) ;

Explanation :—Agricultural income derived from such land by the cultivation of tea means that portion of the income derived from the cultivation, manufacture and sale of tea as is defined to be agricultural income for the purposes of the enactments relating to Indian Income-tax.

(b) "agricultural income-tax" means the tax payable under this Act ;

(c) "Agricultural Income-tax Officer" means a person appointed to be an Assam Agricultural Income-tax Officer under sub-section (2) of section 18 ;

(d) "previous agricultural year" means the twelve months ending the 31st of March preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have so been made up ;

Provided that, if this option has once been exercised by the assessee, it shall not again be exercised so as to vary the meaning of the expression "agricultural year" as then applicable to such assessee except with the consent of the Agricultural Income-tax Officer and upon such conditions as he may think fit.

(e) "assessee" means a person by whom agricultural income-tax is payable ;

(f) "Assistant Commissioner of Agricultural Income-tax" means a person appointed to be an Assam Assistant Commissioner of Agricultural Income-tax under sub-section (2) of section 18 ;

(g) "Board" means the Assam Board of Agricultural Income-tax appointed under sub-section (2) of section 18 ;

(h) "Commissioner of Agricultural Income-tax" means a person appointed to be an Assam Commissioner of Agricultural Income-tax under sub-section (2) of section 18 ;

- (i) "Company" means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament, or of Royal Charter, or Letters Patent, or of an Act of the Legislature of a British possession, and includes any foreign association carrying on business in British India, whether incorporated or not, and whether its principal place of business is situated in British India or not, which the Board may, by general or special order, declare to be a Company for the purposes of this Act ;
- (j) "financial year" means the year beginning on the first day of April and ending on the thirty-first day of March next following ;
- (k) "firm" has the same meaning as in the Indian Partnership Act, 1932 ; IX of 1932.
- (l) "landlord" has the same meaning as
 Assam (Temporarily-settled Dis-
 tricts) Tenancy Act, 1935 ;
 Sylhet Tenancy Act, 1936 ;
 Goalpara Tenancy Act, 1929 ;
 Assam Act III of 1935.
 Assam Act XI of 1936.
 Assam Act I of 1929.
- (m) "person" means any individual, or association of individuals, owning or holding property for himself or for any other or others or partly for his own benefit and partly for that of any other or others, either as owner, trustee, receiver, common manager, administrator or executor or in any capacity recognised by law, and includes an undivided or joint Hindu Family, firm or company ;
- (n) "prescribed" means prescribed by Rules made under this Act ;
- (o) "principal officer" used with reference to any company or association means :—
- (i) the secretary, treasurer, manager or agent of the company or association, or
- (ii) any person connected with the company or association upon whom the Agricultural Income-tax Officer has served a notice

of his intention of treating him as principal officer thereof ; and

(p) "total agricultural income" means the aggregate of amounts of agricultural income of the different classes specified in sections 7 and 8 as determined respectively in the manner laid down in the said sections.

CHAPTER II

CHARGE OF AGRICULTURAL INCOME-TAX.

Charge of agricultural income-tax.

3. Agricultural income-tax at the rate or rates specified in the annual Assam Finance Acts subject to the provisions of section 6 shall be charged for each financial year in accordance with, and subject to, the provisions of this Act on the total agricultural income of the previous year of every individual, Hindu undivided or joint family, company, firm and other association of individuals.

Exemptions.

4. Except as provided elsewhere in this Act agricultural income-tax shall not be assessed on, and be payable by, an assessee in respect of—

- (i) Any income which he receives as a member of a Hindu joint or undivided family where the agricultural income of such family has been assessed to agricultural income-tax under this Act,
- (ii) Any sum which he receives by way of dividend as a share-holder in any company where the agricultural income of the company has been assessed to agricultural income-tax under this Act,
- (iii) Such an amount of the agricultural income of any firm which has been assessed to agricultural income-tax under this Act as is proportionate to his share in the firm at the time of such assessment and is received by him,
- (iv) Any sum which he receives as his share of the agricultural income of an association of individuals other than a Hindu joint or undivided family, company or firm where such agricultural income has been assessed to agricultural income-tax under this Act,

- (v) Any sum which he receives after the tax in respect thereof has been assessed under sections 9 to 14 and realised.

Application of the Act. 5. Save as hereinafter provided, this Act shall apply to all agricultural income derived from land situated in the Province of Assam.

Limit of taxable income. 6. Agricultural income-tax shall be payable by persons whose total agricultural income of the previous agricultural year exceeds Rs.3,000 at such rates as may be laid down from year to year in the annual Assam Finance Acts :

Provided that such rates shall not be greater than the Central Government income-tax rates from time to time and that they shall not be subject to, or include, any surcharge.

Explanation.—Income-tax for the purposes of this Act does not include super-tax.

Determination of agricultural income. 7. The agricultural income mentioned in sub-clause (1) of clause (a) of section 2 shall be deemed to be the sum realised in the previous agricultural year on account of agricultural income mentioned in the said sub-clause (1), after making the following deductions :—

(a) the sum actually paid in the previous agricultural year as revenue to the Crown or as rent to a superior landlord in respect of the land from which such agricultural income is derived ;

(b) the sum actually paid in the previous agricultural year in respect of such land as any local rate collected under any enactment in force in Assam ;

(c) a sum equal to 15 per cent. of the total amount of the rent which accrued due in the previous agricultural year, in respect of the charges for collecting the same ;

(d) any rate paid under the Village Chowkidari Act, 1870, in respect of any building used by the assessee as an office for the collection of the rents due in respect of the land from which such agricultural income is derived ;

(e) any expenses incurred on the maintenance of any irrigation or protective work constructed for the benefit of the land from which such agricultural income is derived ;

Bengal Act
VI of 1870.

- (f) In respect of the current repairs to any capital asset used in connection with the collection of rents due in respect of the land from which agricultural income is derived, the amount paid on account thereof ;
- (g) interest actually paid on any amount borrowed and actually spent on any capital expenditure incurred after the first April 1937 for the benefit of the land from which such agricultural income is derived ;
- (h) depreciation in respect of any capital asset purchased or constructed after first April 1937 for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land at such rates as may be prescribed by the Central Government for computing profits or gains of any business for the purpose of assessment of income-tax thereon and in default of such prescription prescribed by rules under section 50
- (i) any interest actually paid on any mortgage or any other kind of debt or any interest actually paid on any other capital charge incurred for the purpose of acquiring the property from which such agricultural income is derived ;
- (j) when the property from which such agricultural income is derived is subject to a mortgage created before the 1st day of January 1939, the amount of any interest actually paid on such mortgage ;
- (k) any *malikana* or similar levy actually paid by the assessee in respect of the land from which such agricultural income is derived ;
- (l) any sum actually paid as interest in respect of loans taken under the Agriculturists' Loans Act, 1884 and the Land Improvement Loans Act, 1883 ; Act XII of 1884.
Act XIX of 1883.
- (m) such other deduction on account of depreciation or any other cause as may be prescribed by rules under section 50.

Determina-
tion of agri-
cultural in-
come men-
tioned in
clause (a) (2)
of section 2.

8. (1) The agricultural income mentioned in sub-clause (2) of clause (a) of section 2 shall be assessed on the net amount of such income determined in the prescribed manner.

(2) Rules prescribing the manner of determining the net amounts of agricultural income for the purpose of this clause shall provide that the following deductions shall be made from the gross amounts of such income, namely :—

- (a) the sum actually paid in the previous agricultural year as revenue to the Crown or as rent to a superior landlord in respect of the land from which such agricultural income is derived ;
- (b) the sum actually paid in the previous agricultural year in respect of such land as any local rate collected under any enactment in force in Assam ;
- (c) any rate paid under the Village Chowkidari Act, 1870, in respect of any building used for the purposes of the cultivation of the land from which such agricultural income is derived ; Bengal Act VI of 1870.
- (d) the expenses of cultivating the crop from which such agricultural income is derived and of transporting such crop to market, including the maintenance of agricultural implements and cattle required for the purpose of such cultivation and for transporting the crop to market ;
- (e) any tax, or rate paid under any enactment in force in Assam on the cultivation or sale of the crop from which such agricultural income is derived ;
- (f) (i) any expenses incurred on the maintenance of any irrigation or protective works constructed for the benefit of the land from which such agricultural income is derived ;
- (ii) any expenses incurred on the maintenance of any capital asset, if such maintenance is deemed to be required for the purpose of deriving such agricultural income from such land ;
- (iii) interest actually paid on any amount borrowed and actually spent on any capital expenditure incurred for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land ;

- (iv) (a) Depreciation of any asset required for the benefit of the land from which such agricultural income is derived or for the purpose of deriving such agricultural income from such land, subject to the provisions of this Act in the manner allowed and at the rates prescribed for the purposes of Indian Income-tax or in default of such prescription as prescribed by rules under section 50 of this Act ;
- (b) In respect of any such machinery or plant which in consequence of its having become obsolete has been sold or discarded the difference between the written down value as defined for the purposes of Indian Income-tax and the amount for which the machinery or plant is actually sold or its scrap value ;
- (v) Any sum paid in order to effect an insurance against loss or damage of crop or property from which agricultural income is derived; provided that notwithstanding anything contained in this Act in the case of an assessee in whose case deduction on the account is made in assessment any amount received by him from the insurance company in any year shall be deemed to be for the purpose of this Act agricultural income after deducting the share or portion thereof assessed to the Indian Income-tax ;
- (vi) any interest paid on any mortgage or other capital charge incurred for the purpose of acquiring the property from which such agricultural income is derived or for the purposes of cultivation of the property ;
- (vii) Any expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of earning or deriving the agricultural income ;
- (g) such other deductions as may be prescribed by rules made under section 50 of this Act :

Provided always that no deduction shall be made under this clause, if it has already been made under section 7 of this Act or in the assessment under the Indian Income-tax Act ;

Provided further that in cases of agricultural income from cultivation and manufacture of tea the agricultural income for the purposes of this Act shall be deemed to be that portion of the income from cultivation, manufacture and sale which is agricultural income within the meaning of the Indian Income-tax Act and shall be ascertained by computing the income from the cultivation, manufacture and sale of tea as computed for Indian Income-tax from which shall be deducted any allowances by this Act authorised in so far as the same shall not have been allowed in the computation for the Indian Income-tax Act. XI of 1922.

Exemption of charitable or religious trust.

9. (1) Any agricultural income derived from property held under a trust or other legal obligation wholly or partly for religious or charitable purposes shall, to the extent it is applied or finally set apart for the aforesaid purposes, not be liable to income-tax under this Act.

(2) In this section, purposes of a charitable nature include relief of the poor, education, medical relief, and advancement of any other object of general public utility.

Exclusion of agricultural income of certain wakfs

10. All agricultural income of Muslim Trusts referred to in section 3 of the Musalman Wakf Validating Act, 1913, created before the commencement of this Act, shall be excluded from the operation of this Act: Act VI of 1913.

Provided that the share of a beneficiary under a trust under the aforesaid Act, of the description commonly known as Wakf-alal-aulad shall not be exempted and the basis of the taxation shall be the share of each beneficiary:

Provided further that if a beneficiary's income is assessable under the above mentioned proviso the Agricultural Income-tax Officer may require the Mutawali to deduct the amount of the tax from the payment to be made to the beneficiary and pay the same to the Agricultural Income-tax Officer. On such requisition the Mutawali shall be liable to pay the same.

Assessment of a Hindu undivided or joint family.

11. The total agricultural income of a Hindu undivided or joint family shall be treated as the income of one individual and assessed as such:

Provided that if a Hindu undivided or joint family consists of brothers only, or of a brother or

brothers and the son or sons of a brother or brothers, the total agricultural income of the family shall be assessed—

- (a) at the rate applicable to the share of a brother if such share exceeds Rs.5,000 ;
- (b) at 4 pies in the rupee, if the share of a brother is Rs.5,000 or less.

Explanation.—For the purposes of this section,—

- (1) the expression “share of a brother” in the case of a joint family governed by Mitakshara law means the portion of the total agricultural income of a Hindu undivided or joint family which would have been allotted to a brother, if a partition of the property of such family had been effected according to the ordinary rules of Hindu Law applicable to such family, on the day before the assessment is made ; and

- (2) “son” includes a son’s son.

Assessment of tax on land held for the benefit of several persons.

12. (1) Save as provided in sections 10, 13 and 14 if a person holds land from which agricultural income is derived partly for his own benefit and partly for the benefit of beneficiaries or wholly for the benefit of a beneficiary or beneficiaries, agricultural income-tax shall be assessed on the total agricultural income derived from such land at the rate which would be applicable if such person had held the land exclusively for his own benefit and agricultural income-tax so payable shall be assessed on the person holding such land, and he shall be liable to pay the same.

(2) Any person holding such land shall be entitled before paying to any beneficiary the amount of agricultural income which such beneficiary is entitled to receive from the agricultural income derived from such land, to deduct the amount, of agricultural income-tax at the rate at which the agricultural income is or will be assessed under sub-section (1).

Explanation.—In this section “beneficiary” means a person entitled to a portion of the agricultural income derived from the land.

Assessment of tax on common manager, receiver, etc.

13. Where any person holds land, from which agricultural income is derived, as a common manager appointed under any law for the time being in force or under any agreement or as receiver, administrator or the like on behalf of

persons jointly interested in such land or in the agricultural income derived therefrom, the aggregate of sums payable as agricultural income-tax by each person on the agricultural income derived from such land and received or receivable by him shall be assessed on such common manager, receiver, administrator or the like and he shall be deemed to be the assessee in respect of the agricultural income-tax so payable by each such person and shall be liable to pay the same.

Court of
Wards, etc.

14. In the case of agricultural income taxable under this Act, which is received by the Court of Wards, the Administrator General, or Official Trustee the tax shall be levied upon and be recoverable from such Court of Wards, Administrator General or Official Trustee in the like manner and to the same amount as it would be leviable upon and recoverable from any person on whose behalf such agricultural income is received, and all the provisions of this Act shall apply accordingly.

Exemptions
in case of life
insurances.

15. (1) (a) Agricultural income-tax shall not be payable by an assessee in respect of any sum paid by him out of his total agricultural income to effect an insurance on his own life or on the life of his wife or his child or children, or in respect of a contract for a deferred annuity on his own life or on the life of his wife, or as a contribution to any provident fund to which the Provident Funds Act, 1925, applies ;

XIX of 1925.

Provided that agricultural income-tax shall be payable on the remainder of the total agricultural income of such assessee at the rate which would have been applicable if such deduction had not been made.

(b) Nothing in this sub-section shall be deemed to entitle an assessee, who is assessed to income-tax under the Indian Income-tax Act, as amended up-to-date, to claim a deduction in respect of any sum paid by him, as mentioned in clause (a), if such sum was exempted under section 15 of the said Act.

XI of 1922.

(2) Where the assessee is a Hindu undivided or joint family there shall be exempted under sub-section (1) any sum paid to effect an insurance on the life of any male member of the family.

(3) The aggregate of any sums exempted under this section shall not exceed one-sixth of the total agricultural income of the assessee.

Carrying forward of loss of profits or gains.

16. Where any assessee sustains a loss of profits or gains in any year being a previous year not earlier than the previous year for the assessment for the year ending on the 31st day of March, 1940, the loss shall be carried forward to the following year and set off against the profits or gains if any of the assessee from agricultural income for that year and if it cannot be wholly so set off the amount of loss not so set off shall be carried forward to the following year and so on but no loss shall be carried forward for more than six years.

Certificate in respect of payment of agricultural income-tax by Companies.

17. The Principal officer of every company shall, at the time of distribution of dividends, furnish to every person receiving a dividend a certificate to the effect that the company has paid or will pay agricultural income-tax on the profits which are being distributed, and specifying such other particular as may be prescribed.

CHAPTER III

INCOME-TAX AUTHORITIES

Income-tax Authorities.

18. (1) There shall be the following classes of Income-tax authorities for the purposes of this Act, namely :—

- (a) The Assam Board of Agricultural Income-tax,
- (b) The Assam Commissioner of Agricultural Income-tax,
- (c) The Assam Assistant Commissioner of Agricultural Income-tax, appellate and inspecting,
- (d) Assam Agricultural Income-tax Officers.

(2) The authorities specified in sub-section (1) shall be appointed by the Governor and shall exercise and perform in the prescribed areas the prescribed powers and duties, and their conditions of service, and their relations to each other shall be such as may be prescribed.

(3) The Governor of Assam may, by notification in the Official Gazette, empower officials, whether they be or be not directly recruited to the Assam Agricultural Income-tax service, to perform such functions in respect of such classes of persons or such classes of income and for such areas as may be specified in the notification.

(4) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Assam Board of Agricultural Income-tax:

Provided that no such order, direction or instruction shall be given so as to interfere with the discretion of any appellate authority in the exercise of his appellate functions.

CHAPTER IV

ASSESSMENT, DEDUCTIONS AND EXEMPTIONS.

Return of
income.

19.(1) The Agricultural Income-tax Officer shall, on or before the first day of May or for the year commencing 1st April, 1939 any later day notified by Government in each year, give notice by publication in the press and otherwise in the manner prescribed by rules, requiring every person whose agricultural income exceeds the limit of taxable income prescribed in section 6 to furnish, within such period not being less than thirty days as may be specified in the notice, a return, in the prescribed form and verified in the prescribed manner, setting forth (along with such other particulars as may be required by the notice) his total agricultural income during the previous year:

Provided that the Agricultural Income-tax Officer may in his discretion extend the date for the delivery of the return in the case of any person or class of persons ;

(2) In the case of any person whose total agricultural income is, in the opinion of the Agricultural Income-tax Officer, of such amount as to render such person liable to payment of agricultural income-tax for any financial year, the Agricultural Income-tax Officer may serve in that financial year a notice in the prescribed form upon him requiring him to furnish, within the prescribed period, a return in the prescribed form and verified in the prescribed manner setting forth his total agricultural income during the previous year.

(3) If any person has not furnished a return within the time allowed by or under sub-section (1), or sub-section (2) or, having furnished a return under either of those sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made, and any return so made shall be deemed to be made in due time under this section.

Assessment. 20. (1) If the Agricultural Income-tax Officer is satisfied that a return made under section 19 is correct and complete, he shall assess the total agricultural income of the assessee, and shall determine the sum payable by him on the basis of such return.

(2) If the Agricultural Income-tax Officer has reason to believe that a return made under section 19 is incorrect or incomplete, he shall serve on the person who made the return a notice requiring him, on the date to be specified therein, either to attend at the office of the Agricultural Income-tax Officer or to produce or to cause to be there produced any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice under sub-section (2) or as soon afterwards as may be, the Agricultural Income-tax Officer after hearing such evidence as such person may produce and such other evidence as the Agricultural Income-tax Officer may require on specified points, shall, by an order in writing, assess the total agricultural income of the assessee and determine the sum payable by him on such assessment :

Provided that the Agricultural Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

(4) If the principal officer of any company or other person fails to make a return under sub-section (1) or sub-section (2) of section 19, as the case may be or, having made the return, fails to comply with all the terms of the notice issued under sub-section (2) of this section, or to produce any evidence required under sub-section (3) of this section, the Agricultural Income-tax Officer shall make the assessment to the best of his judgment, and determine the sum payable by the assessee on the basis of such assessment :

Provided that before making such assessment the Agricultural Income-tax Officer may allow the assessee such further time as he thinks fit to make the return or comply with the terms of the notice or to produce the evidence.

Cancellation of assessment in certain cases and fresh assessment thereof. 21. Where an assessee, or in case of a company the principal officer thereof, within one month from the service of a notice of demand issued as hereinafter provided satisfies the Agricultural Income-Tax Officer that he was prevented by sufficient cause from making the return

required by section 19 or that he did not receive the notice issued under sub-section (2) of section 19 or sub-section (2) of section 20 or that he had not a reasonable opportunity to comply or was prevented by sufficient cause from complying with the terms of the last mentioned notices the Agricultural Income-Tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 20.

Penalty for concealment of income.

22. (1) If the Agricultural Income-tax Officer, or the Assistant Commissioner of Agricultural Income-tax, or the Commissioner of Agricultural Income-tax, in the course of any proceeding under this Act, is satisfied that an assessee,—

(a) has without reasonable cause failed to furnish the return of his total income which he was required to furnish under sub-section (1) or sub-section (2) of section 19 or has without reasonable cause failed to furnish it within the time allowed and in the manner required in the provisions made under the abovementioned sub-sections, or

(b) has concealed the particulars of his income or has deliberately furnished inaccurate particulars of such income and has thereby returned it below its real amount,

he may direct that the assessee shall pay by way of penalty, in the case referred to in clause (a), in addition to the amount of agricultural income-tax payable by him, a sum not exceeding that amount, and in the case referred to in clause (b) in addition to any tax paid by him, a sum not exceeding the amount of agricultural income-tax, which would have been avoided if the income so returned by him had been accepted as the correct income :

Provided that—

(a) no penalty for failure to furnish the return of his total agricultural income shall be imposed on an assessee whose total agricultural income is less than rupees five thousand unless he has been served with a notice under sub-section (2) of section 19 ;

(b) where a person has failed to comply with a notice under sub-section (2) of section 19 or under section 30 and proves that he has no income liable to tax, no penalty shall be imposed under this sub-section ;

(c) no penalty shall be imposed under this sub-section upon any person assessable as the agent of any person not resident in Assam for failure to furnish the return required under section 19 unless a notice under sub-section (2) of that section has been served on him ;

(d) no order under this section shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard :

Provided further that no prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(2) If the Commissioner of Agricultural Income-tax or the Assistant Commissioner of Agricultural Income-tax makes an order under sub-section (1), he shall forthwith send a copy of the same to the Agricultural Income-tax Officer in whose jurisdiction the assessee concerned resides.

Notice of demand. 23. When the Agricultural Income-tax Officer has determined a sum to be payable by an assessee under section 20, or when an order has been passed under section 22 for the payment of penalty, the Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

Appeal against assessment under this Act. 24.(1) Any assessee objecting to the amount of income or the amount of tax as determined under section 20 or denying his liability to be assessed under this Act or objecting to any order passed against him under section 21 or 22 made by the Agricultural Income-tax Officer, may appeal to the Assistant Commissioner of Agricultural Income-tax against the assessment or against such order :

Provided that no appeal shall lie in respect of an assessment made under sub-section (4) of section 20.

(2) Every appeal under this section shall ordinarily be presented within thirty days of receipt of the notice of demand relating to the assessment or penalty objected to, or of the order under section 21, as the case may be, but the authority before whom the appeal is filed may admit an appeal after the expiration of the prescribed period, if he is satisfied that the appellant had sufficient cause for not presenting it within the prescribed period.

(3) Every appeal under this section shall be presented in the prescribed form and shall be verified in the prescribed manner.

(4) The appellate authority shall fix a day and place for hearing of the appeal, and may from time to time adjourn the hearing and make such further enquiry as he thinks fit.

(5) In disposing of an appeal, the Assistant Commissioner of Agricultural Income-tax may in the case of an order of assessment :—

(a) confirm, reduce, enhance or annul the assessment ;

(b) set aside the assessment and direct the Agricultural Income-tax Officer to make a fresh assessment after such further enquiry as may be directed; or, in the case of an order under section 21 or 22 confirm, cancel or vary such order :

Provided that no enhancement of an assessment shall be made under this section, unless the appellant has had a reasonable opportunity of showing cause against such enhancement.

Appeal
against order
of refusal of
refund.

25. The provisions of the foregoing section shall, so far as may be, apply to any order of refusal of any refund admissible under the rules prescribed under section 50.

Appeal
against order
of an Assistant
Commissioner of
Agricultural
Income-tax.

26. (1) Any assessee objecting to an order passed by an Assistant Commissioner of Agricultural Income-tax under section 22 or to an order enhancing his assessment under sub-section (5)(a) of section 24, may appeal to the Commissioner of Agricultural Income-tax within thirty days of the date, on which he was served with the notice of such order.

(2) Every appeal under this section shall be presented in the prescribed form and shall be verified in the prescribed manner.

(3) In disposing of the appeal the Commissioner of Agricultural Income-tax shall, after giving the appellant an opportunity of being heard, pass such orders thereon as he thinks fit.

Powers of review.

27. (1) The Commissioner of Agricultural Income-tax may of his own motion or on petition call for the records of any proceedings under this Act which have been taken by any authority subordinate to him.

(2) On receipt of the record the Commissioner of Agricultural Income-tax may make such inquiry, or cause such inquiry to be made, and subject to the provisions of this Act, may pass such orders thereon, as he thinks fit:

Provided that he shall not pass any order prejudicial to the assessee without hearing him or giving him a reasonable opportunity of being heard.

(3) Any order passed by the Commissioner of Agricultural Income-tax under sub-section (2) shall be final, subject to any reference that may be made to the High Court under section 28.

Reference of case by Commissioner of Agricultural Income-tax to High Court.

28. (1) If, in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under Chapter VII, a question of law arises, the Board may, either of its own motion or on reference from any Agricultural Income-tax authority subordinate to it, draw up a statement of the case and refer it with its own opinion to the High Court.

(2) Within sixty days of the date on which he is served with notice of an order under section 24 or of an order under section 27 enhancing an assessment or otherwise prejudicial to him, the assessee in respect of whom the order or decision was passed may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed, require the Board to refer to the High Court any question of law arising out of such order or decision, and the Board shall, within sixty days of the receipt of such application, draw up a statement of the case, and refer it with its own opinion thereon to the High Court:

Provided that a reference shall lie from an order under section 27 only on a question of law arising out of that order itself, and not on a question of law arising out of a previous order under section 24 revised by the order under section 27:

Provided further that, if, in exercise of his power of revision under section 27, the revisional authority decides the question, or if the Board rejects the application on the ground that it is time-barred or otherwise incompetent, or if, in exercise of its power under sub-section (3), the

Board refuses to state the case, the assessee may, within thirty days from the date on which he receives notice of the order passed by the revisional authority or by the Board, as the case may be, withdraw his application, and if he does so, the fee paid shall be refunded.

(3) If on any application being made under sub-section (2), the Board refuses to state the case on the ground that no question of law arises, the assessee may apply, within six months of the date on which he is served with the notice of the refusal, to the High Court, and the High Court, if it is not satisfied with the correctness of the decision of the Board, may require the Board to state the case and to refer it, and, on receipt of any such requisition, the Board shall state and refer the case accordingly.

(4) If, on any application being made under sub-section (2), the Board rejects it on the ground that it is time-barred, the assessee may within sixty days from the date on which he is served with the order of the Board, apply to the High Court, and the High Court, if it is not satisfied with the correctness of the decision of the Board, may require the Board to treat the application as made within the time allowed under sub-section (2).

(5) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Board to make such additions thereto or such alterations therein as the Court may direct in that behalf.

(6) The High Court upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Board a copy of such judgment, under the seal of the Court and signature of the Registrar, and the Board shall dispose of the case accordingly, or, if the case arose on a reference from any Agricultural Income-tax authority subordinate to it shall forward a copy of such judgment to such authority who shall dispose of the case conformably to such judgment.

(7) Where a reference is made to the High Court on the application of an assessee, the costs shall be in the discretion of the Court.

(8) Notwithstanding that a reference has been made under this section to the High Court, agricultural income-tax shall be payable in accordance with the assessment made in the case:

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Board may allow.

(9) Section 5 of the Indian Limitation Act, 1908, shall apply to an application to the High Court by an assessee under sub-section (3) or sub-section (4).

IX of 1908.

Appeal 29. (i) An appeal shall lie to His Majesty against any in Council from any judgment of the High Court judgment delivered in a reference made under the foregoing of the High section in any case which the High Court certifies to be a fit one for appeal to His Majesty in Court. Council.

(ii) The provisions of the Code of Civil Procedure relating to the appeals to His Majesty in Council shall so far as may be apply in the case of appeals under this section in like manner as they apply in cases of appeals from decrees of High Court :

Provided that nothing in this sub-section will be deemed to affect the provisions of sub-section (6) or sub-section (8) of the foregoing section :

Provided further that the High Court may on a petition made for the execution of the order of His Majesty in Council in respect of any costs awarded thereby transmit the order for execution to any Courts subordinate to the High Court.

(iii) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of His Majesty in Council in the manner provided in sub-sections (6) and (8) of the foregoing section in the case of a judgment of the High Court.

Income es- 30. If for any reason any agricultural income-
caping assess- chargeable to agricultural income-tax has escaped
**ment. assessment for any financial year, or has been
ment. assessed at too low a rate, the Agricultural
Income-tax Officer may, at any time within three
years of the end of that financial year, serve on
the person liable to pay agricultural income-
tax on such agricultural income or, in the case of
a company on the principal officer thereof, a
notice containing all or any of the requirements
which may be included in a notice under sub-
section (2) of section 19, and may proceed to
assess or reassess such income, and the provisions
of this Act shall, so far as may be, apply accord-
ingly as if the notice were a notice issued under
that sub-section :**

Provided that the tax shall be charged at the rate at which it would have been charged if

such income had not escaped assessment or full assessment, as the case may be :

Provided further that 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 where the assessment made or to be made is an assessment made or to be made on a person deemed to be the agent of a non-resident person, this sub-section shall have effect as if for the period of three years a period of one year were substituted.

Rectification
of mistakes.

31.(1) The authority which passed an order on appeal or review may, at any time within three years from the date of such order, and the Agricultural Income-tax Officer may at any time within three years from the date of any assessment order passed by him, of his own motion, rectify any mistake apparent from the record of the appeal or assessment, as the case may be, and shall within the like period rectify any such mistake as has been brought to his notice by an assessee :

Provided that no such rectification shall be made having the effect of enhancing the assessment, unless the appellate authority or the Agricultural Income-tax Officer, as the case may be, has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard;

(2) Where any such rectification has the effect of reducing the assessment, the Agricultural Income-tax Officer shall make any refund which may be due to such assessee.

(3) Where any such rectification has the effect of enhancing the assessment, the Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 19, and the provisions of this Act shall apply accordingly.

Tax to be
collected to
the nearest
anna.

32. In the determination of the amount of agricultural income-tax or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.

Power to take
evidence
on oath.

33. (1) The Commissioner of Agricultural Income-tax, the Assistant Commissioner of Agricultural Income-tax and the Agricultural

Income-tax Officer shall, for the purpose of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, V of 1908. when trying a suit in respect of the following matters, namely :—

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents; and
- (c) issuing commissions for the examination of witnesses;

and any such proceeding before such Commissioner, Assistant Commissioner or Income-tax Officer under this Chapter shall be deemed to be a "Judicial proceeding" within the meaning of sections 193 and 228 of the Indian Penal Code. XLV of 1860.

(2) If any person assessed to agricultural income-tax in respect of agricultural income mentioned in sub-clause (1) of clause (a) of section 2 produces before the Agricultural Income-tax Officer for the purpose of calculating his agricultural income any rent roll or other similar papers showing the amount of rent received by him, he shall not be entitled to recover or to institute a suit to recover rent due to him for any tenure or holding included in such return at a rate higher than the rate mentioned in such return as payable for such tenure or holding, unless the rent shown in such return has, since the date of the return, been lawfully enhanced.

(3) Any person who has produced a rent roll referred to in sub-section (2) may, within one year of producing such roll, apply to the Agricultural Income-tax Officer to make any correction therein, and the Agricultural Income-tax Officer may, if he is satisfied that such correction should be made, pass an order correcting such rent roll.

(4) Where the Agricultural Income-tax Officer passes any order under sub-section (3), he may assess under section 30 any income escaping assessment by reason of the original incorrectness of any entry corrected.

Power to
call for infor-
mation.

34. The Assistant Commissioner of Agricultural Income-tax or the Agricultural Income-tax Officer may, for the purposes of this Act :—

- (1) require any firm or Hindu undivided or joint family to furnish him with a return of the names of members of the firm or of the names of the manager or the brothers or sons of brothers of

the family, as the case may be, and of their addresses ;

- (2) require any person whom he has reason to believe to be a trustee, guardian or agent to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent and of their addresses.

CHAPTER V

RECOVERY OF TAX AND PENALTIES.

Tax when payable.

35. (1) Any amount specified as payable in a notice of demand under section 23 or an order under section 24, 26 or 27 shall be paid within the time, at the place, and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order.

(2) If the demand is not paid on or before the date fixed under sub-section (1) then the assessee shall be deemed to be in default :

Provided that when an assessee has presented an appeal under section 24, the Agricultural Income-tax Officer may, in his discretion, treat the assessee as not being in default as long as such appeal is undisposed of, and if in any such case the Agricultural Income-tax Officer considers that the assessee should be held to be in default, he shall refer the matter to the authority to whom the appeal was presented for orders, and shall treat the assessee as not being in default until the said authority passes orders to the contrary.

Mode and time of recovery.

36. (1) When an assessee is in default in making a payment of agricultural income-tax, the Agricultural Income-tax Officer may, in his discretion, direct that, in addition to the amount of arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty.

(2) For the purpose of sub-section (1) the Agricultural Income-tax Officer may direct the recovery of any sum less than the amount of arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of arrears payable.

(3) When an assessee is in default, the Agricultural Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from the assessee

and the Collector on receipt of such certificate shall proceed to recover from such assessee the amount specified therein as a public demand payable to the Collector.

(4) (a) When agricultural income-tax is payable by a trustee, or, is under section 10 payable by a *mutawali* of a Musalman Wakf referred to in section 3 of the Musalman Wakf Validating Act, 1913, and such trustee or *mutawali* is in default, the Agricultural Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from the assessee, and the Collector on receipt of such certificate shall proceed to recover from such trustee or *mutawali* the amount specified therein as a public demand : VI of 1913.

Provided that, notwithstanding anything to the contrary contained in section 14 of the Bengal Public Demands Recovery Act, 1913, any land held by such trustee or *mutawali* as such shall not be attached or sold in execution of such certificate but such arrears may be realised from the income of the trust or *Wakf* estate by the appointment of a receiver of any property of the trust or *Wakf*. Bengal Act III of 1913.

(b) The provisions of Order XL of the Code of Civil Procedure, 1908, shall apply to a proceeding under this sub-section, and the Certificate Officer shall be deemed to be a Civil Court within the meaning of the said Order XL. V of 1908.

(5) No proceeding for the recovery of any sum payable under this Act shall be commenced after the expiration of three years after the date on which the original demand fixed under section 23 falls due, or after the expiration of three years after the date on which any appeal relating to such sum has been disposed of, whichever date is later.

Recovery of penalties. 37. Any sum imposed by way of penalty under the provisions of section 22 or section 36 shall be recoverable in the manner provided in this Chapter for the recovery of an arrear of tax.

Right, title and interest of members of Hindu undivided or joint family or of other persons on whose behalf property is held to pass to the purchaser when property is sold for realisation of arrears of tax. 38. Notwithstanding anything contained in sections 20 and 21 of the Bengal Public Demands Recovery Act, 1913 :— Bengal Act III of 1913.

(a) Where any property of a Hindu undivided or joint family is sold under the said Act for the realisation of arrears of agricultural income-tax, the right, title and interest of all members of such family in the property shall pass to the purchaser ;

(b) Save as provided in sub-section (4) of section 36 where any person has been assessed to agricultural income-tax on the agricultural income

derived from land held by him wholly or partly for the benefit of other persons and the tax payable by him is in arrears, the land so held by him may be attached and sold for the realisation of such arrears, and on such sale, the right, title and interest of such persons in the said land shall pass to the purchaser.

CHAPTER VI

REFUNDS.

Refunds. 39. Refunds shall be admissible under this Act. The circumstances and the manner in which refunds shall be allowed shall be prescribed by rules under section 50.

CHAPTER VII

OFFENCES AND PENALTIES.

False statement in verification mentioned in section 19 or section 24 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code. XLV of 1860.

Failure to furnish return or to supply information. 41. If any person fails, without reasonable cause or excuse, to furnish in due time any of the returns mentioned in section 19 or section 34, he shall be punishable with fine which may extend to five rupees for every day during which the default continues.

Prosecution to be at the instance of the Assistant Commissioner. 42. (1) A person shall not be proceeded against for an offence under section 40 or 41 except at the instance of the Assistant Commissioner of Agricultural Income-tax.

(2) Before instituting proceedings against any person under sub-section (1) the Assistant Commissioner of Agricultural Income-tax shall call upon such person to show cause why proceedings should not be instituted against him.

(3) The Assistant Commissioner of Agricultural Income-tax may stay any such proceedings or compound any such offence.

CHAPTER VIII

MISCELLANEOUS.

Place of assessment. 43. (1) An assessee shall, subject to any orders passed under sub-section (2), be assessed by the Agricultural Income-tax Officer of the area in which is situated the land from which the greater

part of the agricultural income in respect of which he is assessed is derived.

(2) (a) An assessee may, on receipt of the first notice served on him under sub-section (2) of section 19, apply to the Agricultural Income-tax Officer by whom such notice is served to be assessed at his usual place of residence or at the place where the accounts relating to his agricultural income are kept, if either of such places is situated in the Province of Assam, and such Agricultural Income-tax Officer may pass an order that the assessee shall be assessed at the place specified in the application, the said place being situated in the Province of Assam, or refer the matter to the Assistant Commissioner of Agricultural Income-tax, whose decision shall be final :

(b) Where an order is passed under clause (a) of sub-section (2), the assessee shall not be entitled to make any further application to change his place of assessment :

Provided that the Agricultural Income-tax Officer may allow the assessee to be assessed at any other place upon such conditions as he thinks fit.

(3) Notwithstanding anything contained in this section, every Agricultural Income-tax Officer shall have all the powers conferred by or under this Act on the Agricultural Income-tax Officer in respect of any agricultural income derived from land situated within the area to which he is appointed.

Bar of suits
in Civil
Courts.

44. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any officer of the Crown for anything in good faith done or intended to be done under this Act.

Computa-
tion of per-
iod of limi-
tation.

45. In computing the period of limitation prescribed for any appeal under this Act, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

Appearance
by author-
ised repre-
sentative.

46. Any assessee, who is entitled or required to attend before any income-tax authority in connection with any proceeding under this Act, may attend either in person or by any person duly authorised by him in writing in this behalf.

Receipts to
be given.

47. A receipt shall be given for any money paid or recovered under this Act.

Indemnity.

48. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of any income belonging to another person

is hereby indemnified for the deduction, retention or payment thereof.

Powers of income-tax authorities to call for papers or documents.

49. Nothing in this Act shall be deemed to authorise any of the income-tax authorities mentioned in section 18 to call for any papers or documents for the purpose of ascertaining agricultural income or for any other purpose under this Act, except the papers noted below—

- (1) papers showing the amount of rent which accrued due in the previous year ;
- (2) papers showing the actual receipt of agricultural income by an assessee in the previous year ;
- (3) ledgers, account books and vouchers showing the actual expenditure incurred for which a deduction or exemption is claimed under this Act :

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.

Powers to make rules.

50. (1) The Provincial Government may, subject to previous publication, make rules for carrying out the purposes of this Act, and such rules may be made for the whole of the Province or such part or parts thereof as may be specified.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the manner in which the nett income from land referred to in sub-section (1) of section 8 shall be calculated ;
- (b) prescribe the powers and duties of the income-tax authorities appointed under sub-section (2) of section 18, the area in which such powers shall be exercised and performed, the relation of such authorities to each other and the conditions of service of such authorities ;
- (c) prescribe the date before which the returns shall be submitted under sub-section (1) of section 19, the form of such returns and the manner in which they shall be verified ;
- (d) prescribe the period within which returns referred to in sub-section (2) of section 19 shall be submitted, the form of such returns and the manner in which they shall be verified ;

- (e) prescribe the form of the notice of demand mentioned in section 23 ;
- (f) prescribe the form in which appeals under sections 24 and 26 shall be presented and the manner in which they shall be verified ;
- (g) prescribe the fee mentioned in sub-section (2) of section 28 ;
- (h) prescribe the form of the notice of demand mentioned in sub-section (3) of section 31 ;
- (i) prescribe the method by which the assessment of agricultural income as determined under section 7 or section 8 shall be made in the case of an assessee who does not reside in the Province of Assam, or of an assessee who ordinarily resides in the Province of Assam and is temporarily absent therefrom ;
- (j) prescribe the manner in which the tax shall be payable where the assessment is made on the agricultural income of a Hindu undivided or joint family and a partition of the property of such family has been effected after the date of such assessment ;
- (k) prescribe the manner in which the tax payable by an assessee who has died since the date of the assessment made on him shall be payable ;
- (l) provide for the circumstances in which refunds of the tax paid under this Act shall be made and prescribe the manner in which such refunds shall be made ; and
- (m) provide for any other matter which by this Act has to be or may be prescribed

