CHAPTER - XII
TENANCY LEGISLATION

Regulation VII (Haptam Law):

In the time of permanent settlement, the Governor-General in Council promised to safeguard the interests of the ryots:

"It is being the duty of the ruling power to protect all classes of people, and more particularly those who from situation are most helpless, the Governor-General in Council will, when he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent talukdars, raiyats and other cultivators of the soil".

In fact, Lord Cornwallis hoped that the zamindars would grant pattas for the leases stipulating therein the rent payable by the ryots and that in a later stage, the Government would intervene to adjust the relations between zamindars and tenants in favour of the latter. But under the exigency of circumstances, this was not materialised.

1. Section VII, Bengal Regulation I of 1793.
On the contrary, the British Government opted to protect the interests of the zamindars. Regulation VII of 1799, known as the Haptam Law, was introduced to give the zamindars wide and arbitrary powers of distraint against defaulting ryots. That law of distraint was the offshoot of English law; it was originally introduced in India by Regulation XVII of 1793, which empowered certain specified zamindars to distrain and sell the crops and products of the earth of every description, the grain, cattle, and all other personal property (whenever found in the house or in the premises of the defaulter or any other person) belonging to their tenants.

Regulation V of 1812 (Panjam Law):

It was generally agreed that it was a mistake to arm the zamindars with such drastic powers without defining the rights of the ryots. Thus, the Regulation V of 1812, known as the Panjam, was passed with a view to mitigating to some extent the harshness of Haptam law for distraint.

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Necessity of tenancy legislation:

But the defects remained unsolved. No enquiry was made to find out the root cause of the trouble, which was that the rights of the ryots had been left undefined. In 1812, the Select Committee, appointed in 1808 by the House of Commons, produced five reports on the affairs of the East India Company, of which the fifth dealt with the revenue administration of Bengal. The said Committee affirmed their desire to preserve the ancient law and constitution of India, but with regards to the rights of the ryots, they came to the conclusion that these would be mutually adjusted between the zamindars and the ryots, as pattas were being granted by the former to the latter on terms that were customary. But the highest officials of the time expressed contrary views. They held that the Bengal Regulations had had the "effect of destroying in part the customary rights of the raiyats". Their views were endorsed by the Court of Directors, who agreed that it was necessary to define the rights of the ryots. In 1822, Government of India proposed to enact rules which would allow the authorities in Bengal to fix fair rent for the cultivators in the permanently-settled estates. The Court of Directors in their reply again urged on the importance of adjusting the rights and interests of the ryots. But these intentions were never materialised.
In 1822, Regulations were passed for making enquiries into the rights and conditions of the tenures of the ryots. But it was applied only to temporarily settled estates. Thus, the Court of Directors' intentions for providing protection to the ryots were defeated. In 1830, a Second Committee was set up by the House of Commons. After instituting enquiry into the nature, object, and results of the Permanent Settlement of Bengal, this Committee observed:

"In the permanently settled districts nothing is settled, and little is known but the Government assessment. They described this lack of information to be the error of assuming that the rights of the parties claiming an interest in the land were sufficiently established by the custom and usages of the country to enable the Courts to protect individual rights".

But they were not in favour of interfering between the zamindars and ryots in order to fix fair rents. Of course, they made an exception in case of estates which had defaulted in payment of revenue, and suggested that:

"instead of selling such estates Government might attach them, and effect a fair and equitable settlement between the zamindars and raiyats, founded on the particular tenures and local usages of each district".

But these recommendations of the Select Committee were never carried into effect and by the middle of the nineteenth century a revulsion of the feeling developed against the working of the Bengal Regulations. Eventually, agrarian discontent appeared, and Government of India was compelled to enact a rent law, that was the Act, X of 1859.

Act X of 1859:

This rent law defined the rights of occupancy as 12 years' continuous possession of land held by a ryot. It was stipulated that rent must be fair and equitable. The zamindars at the same time were entitled to claim enhancement on the grounds that "there had been an increase in area, that the value of produce had increased, or that the rent of particular holding was below the prevailing rate".

But this rent law was found to be defective. In 1862, it was decided by the High Court that "the right of occupancy entitled a raiyat to the right of occupying his holding in preference to any other tenant so long as he paid a fair and equitable rent". But unfortunately the rent law contained no definition as to what constituted

4. Ibid., p.25.
a fair and equitable rent. Secondly, in order to maintain a claim to occupancy right, the tenant was bound to prove in the law courts that he was in possession of a particular plot of land continuously for 12 years. It should be mentioned that in the absence of village records the ryots were hardly in the position to prove that they were in possession of the plots of land, they held, continuously for a period of 12 years. On the other hand, it had been the zamindar's practice to change the field in possession of the ryots before the completion of 12 years term in order to prevent them from acquiring occupancy rights, or to get them agreed upon executing leases for a period of less than 12 years. Thirdly, the landlords found it difficult to prove that there had been an increase in the value of the produce, because there was no official price lists.

Tenancy Act of 1885:

Thus the rent law of 1859 proved to be defective and unworkable. Agrarian disputes grew apace, especially in erstwhile East Bengal. Amendment of the rent law was the main subject of their agitation. The Government of

5. Ibid.
India conceded to their demand, and in 1885 the Tenancy Act was passed. It rectified the defects of the rent law relating to occupancy ryots. Under this Act, a ryot who had been in possession of any land for 12 years, either himself or through inheritance, would become a settled ryot of the village, with occupancy rights in the land he possessed, and would immediately acquire those rights in any new land which took into cultivation. It was also laid down that such a ryot should not be ejected from his holding for non-payment of rent except in execution of a decree for ejectment passed by the court on that ground.

Extension of the Bengal Act VIII of 1869 to the district of Goalpara:

It is manifest from this short resume that the tenants in Bengal were being favoured by one legislation after another (legislation), when the old ones were proved to be defective and unsuitable to the growing and changed conditions of the people. The Government was further contemplating to make further amendments in the Bengal Tenancy Act of 1885. But there was no specified tenancy

7. Section 25, Ibid.
law for Goalpara. It may be recalled that the rules and regulations, which prevailed in Bengal, remained in force in Goalpara while it formed a part of Bengal. When the district was annexed to Assam in 1826, the district was administered in the spirit of Bengal Laws. But, when Assam was formed a separate administration, technically Goalpara was placed under Assam Laws. And in point of fact, the district was without any rent law. The first Bengal rent law, the Act X of 1859, was enacted at a time when Goalpara was not included in Bengal and was consequently never in force in this district. For the same reason Act VIII of 1869 did not at the time of its enactment apply to the district of Goalpara.

Though for all practical purposes the officials of the Government used the Bengal Act VIII of 1869 as the case law for the district, it is beyond doubt that at no time had Goalpara been governed by the same rent law as was in Bengal. Of course, tenancy legislation for Assam Valley was contemplated. In 1882, the Chief-Commissioner appointed a Committee for the purpose of framing a rent law for the Assam Valley to secure the rights of the sub-tenants. In October, 1882, the Committee drew up a draft of a Tenancy Regulation, which was duly published in the Assam Gazette and was circulated for opinion to all districts and sub-divisional officers of the Assam Valley.
districts. The then Commissioner of the Assam Valley districts criticised the draft law in a note, and a revised draft of a rent law was prepared, and similarly circulated with Mr. Stock's Circular No. 42 dated the 30th July, 1883. The draft was submitted to the Government of India with Assam Secretariat letter No. 1200, dated 1st August, 1883. But the matter was finally dropped.

In 1886, Land Revenue Regulation was passed and it was in force in Goalpara from the 1st of July, 1886. But it was found inapplicable to the permanently settled portion of the district. It is worth noting that when the Tenancy Regulation referred to was drafted in 1883, it was not proposed to extend it to Goalpara, because Act X of 1859 was supposed to be in force in this district. Subsequently, it was decided by the High Court that Act X of 1859 did not apply to Goalpara. On this being brought to the notice by the Commissioner in 1891, Act VIII (B.C.) of 1869 was extended to this district by notification no 205 J. 9th May, 1892.


"In exercise of power conferred by Section 5 of the Scheduled District Act, XIV of 1874, the Chief Commissioner (of Assam), with the previous sanction of the Governor General in Council extends Act(VIII B.C.) of 1869 (an Act to amend the procedure in suits between Landlords and Tenants) to the district of Goalpara under his control"\(^{10}\).
of Goalpara, in his letter no 2207 G., dated the 23rd November, 1895. In February, 1896, Mr. Godfrey, the Commissioner, Assam Valley districts, supported the proposal mooted by the said Deputy Commissioner, and reported that the existing unsatisfactory state of affairs was mainly due to the system of separate collections by the joint proprietors, and he asked the D.C. to induce the joint proprietors to appoint a joint manager and also authorised him to issue a notice to the ryots informing that they could pay their rents to the court, if no joint manager was appointed. The Chief Commissioner, Sir William Ward, approved of the proposal vide Assam Administration letter no 246, Misc. 120 R, dated the 7th April, 1896. In his letter no. 1096 G. dated the 29th April, 1896, the Commissioner, Assam Valley Districts, reported that the zamindars of Mechpara were not unanimous in the matter of the appointment of a joint manager for their estate, and recommended the extension of the Bengal Tenancy Act of 1885 to Goalpara, as under Section 75 illegal exactions could be stopped and under Sections 93-98 the appointment of a joint manager could be compelled in case of mismanagement. But, Sir William Ward was not

prepared to extend the Bengal Tenancy Act to any part of the Province (vide his orders of 5th June, 1896). In this connection, however, the next Chief Commissioner, Sir Henry Cotton, remarked,—

"I am bound to say that I see no reason why the Bengal Tenancy Act should not be extended to the district of Goalpara. Sir William Ward recorded no reason against it, but curtly refused to accept the opinion of the Commissioner and Deputy Commissioner that it should be extended. I cannot help thinking that they supported their proposal by cogent reasons; and it may be added that Goalpara... suffered from its annexation to Assam and labours under an antiquated and belated Revenue Code. The practical inconvenience of applying the Assam law to Goalpara has lately arisen in connection with the status of the Sidli and Bijni Raja. But although my views are different from my predecessor— as far as this district is concerned— I have no present intention of reopening his decision and do not propose to do so unless the question is again raised by local references."\(^{12}\)

There was considerable difficulty in regard to the appointment of a joint manager, as the zamindars in Mechpara were not unanimous. A joint manager was, however, eventually appointed in Feb. 1901. He joined in July, 1901,

\(^{12}\) Revenue A, Feb. 1917, no 33-52, Assam Secretariat Record Room, Dispur.
but after a few months was dismissed by the zamindars. As the managers were dismissed one after another, the Commissioner (Mr. Porteus), in his letter no 23 L.R., dated the 4th Jan. 1902, recommended the extension of the Sections 93-100 of the Bengal Tenancy Act to Goalpara district and remarked,—

"The action of the sharers in dismissing the joint manager appointed only this year causing infinite trouble on the part of the Deputy Commissioner shows that nothing is to be expected from them and that any reform must come from outside land on compulsion"\(^{13}\).

Sir Henry Cotton enquired into the disagreement between the manager and zamindars in Mechpara estate and recorded his orders—

"The Commissioner was informed that the zamindars should be given an opportunity of carrying out their undertaking to appoint a joint manager, and that if they failed to appoint a joint manager and to afford him facilities for bringing the affairs of the estate into orders, the question of extension of Section 93-100 of the Bengal Tenancy Act to Goalpara district should have to be considered"\(^{14}\).

\(^{13}\) Ibid.
\(^{14}\) Letter no 4, Re-373 R, dated the 11th Feb. 1902; Revenue B, 1902, no 168-186, Assam Secretariat Record Room, Dispur.
In his letter dated the 29th October, 1902, the Deputy Commissioner (Mr. Cuming) reported that the zamindars of Mechpara failed to appoint a common manager and he remarked.—

"the truth is that they have not the slightest intention of appointing a common manager and they merely pretended trying to do so to throw dust in the eyes of Government. Again I would point out that unless the manager is appointed by the Government and the zamindars have no powers to dismiss him, a common manager will be a farce."

In his memorandum no 2874 L.R. dated the 23rd November, 1902, the commissioner again recommended the extension of Sections 93-100 of the Bengal Tenancy Act to Goalpara district. The Commissioner (Sir Bampfydle Fuller) was found reluctant to extend any part of that Act to Assam, as it might prejudice the action on the part of Government in future in regard to the provision of a tenancy law for the Province. The question of the extension of the Sections 93-100 of the Bengal Tenancy Act, 1885, was revived again in 1905. It emanated from a petition of one of the sharers of the Mechpara estate dated the 29th July, 1905, and the Deputy Commissioner (Mr. F.W. Strong) proposed the

introduction of these sections to Goalpara district, as
the friction between the zamindars prevented from appointing a joint manager. The Chief Commissioner instructed
the zamindars to appoint a joint manager, and a common
manager was accordingly nominated by 11 annas sharers,
but was not accepted by the other sharers. Consequently,
the Chief Commissioner (Mr. Malitus) recommended again
the extension of Sections 93-100 of the Bengal Tenancy
Act to this district. But the Lieutenant Governor was
not in favour of introducing fragmentary legislation,
because it might be subjected to objection; he was inclined
to the view that if the tenancy law of the district was
to be changed, the change could be made by introducing
the Bengal Tenancy Act itself. Thus in 1906, the late
Eastern Bengal and Assam Board were requested to ask the
Commissioner to consider the expediency of the whole Bengal
Tenancy Act to the district of Goalpara. In accordance with
the instructions contained in Eastern Bengal and Assam
Government letter no 5787 C., dated the 12th July, 1906,
an enquiry was made by the then Commissioner Hon’ble
Mr. Monahan, and detailed report was submitted to the
Board on May, 1907. He brought very clearly the inapplica-
bility of the Bengal Tenancy Act to this district. In

16. Ibid.
paragraph 31 of his report, Mr. Monahan stated that—

"while it is very desirable that the present tenancy law of the Goalpara district should be replaced by a more complete enactment, the Bengal Tenancy Act of 1885 is for several reasons unsuitable to this district; It would seem that the Act is also not very well suited to the Nagpur district, nor possibly, to other districts of the province where jotedari or other similar systems of tenure prevail, and it may be found out on examination that a revised tenancy law for the whole province of Eastern Bengal and Assam is desirable." 17.

The Board of Revenue, Eastern Bengal and Assam forwarded that report to the Government with the notes drawn up by Messrs. Savage, Malitus, and Beatson Bell. Like Monahan, Malitus did not consider the said Bengal Tenancy Act to be suitable for Goalpara, as the provisions of the Act were not at all suitable for the tracts where jotedari system prevailed. While Beatson Bell, was not in favour of its introduction, Savage advised the introduction of the said Act in a modified form. It is

17. Monahan's report no 1503 R.& F submitted to the Secy. to the Board of Revenue, Eastern Bengal and Assam, on 30th May 1907.
mentionable that Malitus suggested a sort of Regulation to take the place of the Act VIII of 1869. After long discussion by several Officers, the subject was brought before the Commissioners' Conference held in Shillong on the month of October 1909, but was not specially considered\textsuperscript{18}. The question was ultimately dropped by Sir Lancelot Hare in December that year vide His Honour's Orders of 30th December, 1909\textsuperscript{19}.

The question again emanated in 1912 from the address presented to the Chief Commissioner at Gauhati by Assam Association, and it had been decided that tenancy legislation of some sort was a necessity of the near future for the permanently settled areas in the districts of Goalpara and Sylhet. It has already been referred to in the preceding Chapter that the ryots in Mechpara had started a movement on their demand for a better tenancy law. Certain tenants in Gauripur estate also petitioned for the extension of the Bengal Tenancy law. In point of fact, the zamindars advocated for the wholesale introduction of the Bengal Tenancy law, because this law provided their counterparts in Bengal with some benefits.

\textsuperscript{18} Commissioners Conference (1909), Proceedings and connected papers, Eastern Bengal and Assam, Revenue A, Feb. 1913, no 6-9, File No. 11 TR of 1913, Assam Secretariat Record Room, Dispur.

\textsuperscript{19} Ibid.
The Chief Commissioner, however, decided to take into confidence the public opinion on the matter. He, therefore, went on a tour of Goalpara. During his tour in Goalpara district representations were made to him both by the zamindars and ryots stating that the Rent Act VIII of 1869, that was in force in the permanently-settled portion of the district, was out of date, and that should be replaced by a more up to date enactment. In his discussion with the zamindars it was elicited that the zamindars were of the opinion that the Bengal Tenancy Act, as amended up to date, might with advantage be adopted. Special reference was made to the provisions in that Act regarding the records-of-rights, settlement of rent, and appointment of a common manager in case of dispute amongst the co-sharers. (The zamindars assembled in a meeting held on 24th June, 1912, urged on the introduction of the Bengal Tenancy Act with necessary amendments, but the zamindar of Karaibari disented). On behalf of the representatives of the ryots it was, amongst other things, contended that they should have the right to transfer their holdings, the right to cut down trees grown on their holdings, and that they should not be liable to summary ejectment to rent suits.
The Chief Commissioner, both in his replies to addresses and in conference with the zamindars and representatives of the ryots, expressed his desire to consider the question of the amendment of the law, but observed that he did not think that it was advisable to introduce the Bengal Tenancy Act without reference to the local conditions prevailing in the areas concerned. In fact, the Chief Commissioner had since examined the discussions which had occurred from time to time in respect of revision of the tenancy law in Goalpara. He observed that though there had been a considerable divergence of opinions amongst the officials as to the nature of the rent law which should be adopted in particular, it had been held generally that the provisions of the Bengal Tenancy Act were not, in many respect, suitable to the areas in which jotedary system prevailed. Yet, there had been a general concurrence of opinions that the rent law that was in force in Goalpara was deficient. On 20th Sept. 1912, the Chief Commissioner recorded his note as follows:

"As regards Goalpara, I have already formed a preliminary opinion that it is too early to attempt records of rights in that district. The district is still in the making and it would, I think, be a pity to disturb it at present. I would be glad if ..... we could at later date provide a better tenancy law than it at present has." 20.

20. Revenue A, Feb. 1913, File No. 11 T R of 1913, No.5-9, Assam Secretariat Record Room, Dispur.
It is evident from the foregoing paragraphs that the demand for revision of the tenancy law in Goalpara was yet to be conceded, and the tenants, particularly the under-tenants and adhiars, were subjected to zamindary oppressions. The grievances alleged were of great significance. In Mechpara, the great disabilities under which the tenants laboured owing to their four separate collecting agencies were noteworthy. The ryots complained not only against joint management, but also against enhancement of rates of rent, besides illegal exactions. The complaints from this estate had been constant and became more insistent lately. The situation demanded immediate action of the Government. On 28th August, 1915, the Chief Commissioner in his note observed:

"The situation is entirely different from what it was the case of introducing sections 93-100 was considered by the late Government of Eastern Bengal and Assam. We have advanced a long way since then .... We are much clearer in our minds to what we are going to do. The question of introducing sections 93-100 is no longer mixed up with that of introducing the Tenancy Act bodily..... We have lately decided that we can introduce sections of the Bengal Tenancy Act, provided that they are of isolated character, and will not lead to complications. -----

Then as regard the necessity it is not the case, as in the time of Mr. Monahan, that there is no immediate necessity for action.
There is every need for action, as the estate is being frittered away owing to want of proper management. Then again, there is reason to entertain doubts that sections 93-100 will not be useful..... These sections have proved of utility in Bengal, and we may at least reasonably hope that they will prove useful in Goalpara.  

Accordingly, B.C. Allen, A.E., put up to the Commissioner, Assam Valley Districts, a draft with sections 93-100 with modifications as to suit the peculiar circumstances of Goalpara:

"In exercise of the powers conferred by Sections 5 and 5(A) of the Scheduled District Act of 1874 (XIV of 1874) and with the previous sanction of the Governor-General in Council, the Chief Commissioner of Assam is pleased to extend Sections 93, 94, 95, 96, 97, 98, 99 and 100 of the Bengal Tenancy Act, 1885 (VIII of 1885) to pargana Ghurla, Jamira, Makrampur and Aurangabad, Mechpara, Kalumalupara, Taria, Gola-Alamgong, Noabad Futuri, Habraghat and Khuntaghat, Farbotjoar, Chapar and Karaibari in the district of Goalpara in Assam in the restricted and modified form..... subject to further modifications".  

22. Ibid.
On 14th June, 1916, after due process, Sections
93-100 of the Bengal Tenancy Act (VIII of 1885) were
extended to the permanently settled portions of Goalpara
district which provided for the appointment of a common
manager.23

Extension of the Sections 93-100 of the Bengal
Tenancy Act, referred to, to the areas of permanently
settled portion in the district allayed the situation
temporarily. The total lack of occupancy rights for the
tenants in these areas was the main cause of their sufferings.
For, the rent law that was in force in Goalpara vested
occupancy rights in the Jotedar only, Chukanidar being
regarded as mere tenant-at-will. The tenants under the
Chukanidars, Adhils as they were called, were more in
the position of farm servants than tenant. Thus the ryots,
as referred to in the preceding chapter, had been agitating
for the amendment of the rent law since the beginning of the
current century. As a matter of fact, the question of
tenancy legislation had become a cause of concern to the
Government. The question of desirability of initiating a
tenancy legislation was, thus, discussed in a conference
of the officials held at Government House on June 6th,
1916, in which it was decided to place Mr. A.J. Laine,

23. Assam Legislative Council's Proceedings, 23rd October,
1916.
Deputy Commissioner of Goalpara district on special duty to hold enquiries and submit proposal for legislation. It should be mentioned here that the Chief Commissioner Sir Archdale Earle, wanted the proposed legislation to be provisional, final being based on a survey and records-of-rights. The enquiry held by Mr. J. Laine made it clear that the situation arose in the permanently settled areas of this district demanded a fresh rent law. He was of the opinion that the Act VIII of 1869, the rent law of the district, must be abandoned, because it did not meet the situation that arose in this district. Thus, he prepared the skeleton framework of a new rent law, and submitted the same along with his report (1917).

But the Chief Secretary, himself expressed reluctance to the bill on the ground that it was not a provisional measure as was suggested by the Conference of 1916, but a final scheme on tenancy legislation. The zamindars of Goalpara, too, expressed their opposition to the measure:

"We are, however, of opinion that in the existing condition in the permanently settled estates in Goalpara a wholesale recasting of the present Act VIII of 1869 and reconstituting a new Tenancy


Act altogether in its place after the model of the Tenancy Act of any other province in India would not only be highly prejudicial both in the interests of the zamindars and tenants, but might in the end usher in a state of things which, we presume, the object of the proposed legislation is to avert. We have carefully considered the question and we are unanimously of opinion that for the present only such sections of the Act VIII of 1869 should be repealed or amended or otherwise altered where dispute arise now or likely to arise under existing conditions.26.

It should be mentioned that Mr. Laine's report had fully established the paramount urgency of the rent law. But because of the zamindar's opposition the contemplated legislation was postponed.

Extension of certain Sections of the
Bengal Tenancy Act, 1885:

In 1919, Sir Nicholas Beatson Bell, the Chief Commissioner of Assam, held that:

"as the proposed bill was found highly contentious and as neither the zamindars nor the raiyats of Goalpara were adequately represented on the unreformed council, the bill be better debated in the enlarged council which are foreshadowed".

The Reform Council came into existence in 1920, but the tenancy bill drafted by Mr. A.J. Laine, was not passed on the plea that a survey of the records-of-rights was necessary to it. In point of fact, the bill was dropped in the face of bitter opposition from the landlord lobby. It appears from the latter discussion in the Reformed Council that the Government did not like to antagonise the zamindars and the landlords. Of course there was a talk of extending the Bengal Tenancy Act of 1885 to the permanently settled portion of the district of Goalpara. As a matter of fact extension of this tenancy law to Goalpara district was favoured by the zamindars of Goalpara, but the idea was eventually dropped. However, the Chief Commissioner was impressed with the need of taking some steps to protect the tenants and to facilitate the preparation of the records-of-rights on which permanent legislation should be based. But enactment of a complete Goalpara tenancy legislation on the basis of records-of-rights was a matter of long course. Thus enormous harm might be done to the ryots during this period of time. Hence, the Chief Commissioner proposed to extend to the permanently-settled

28. Memorial of the zamindars of Goalpara to the Chief Commissioner of Assam (1918).
portion of Goalpara certain sections of the Bengal Tenancy Act under the Scheduled District Act with the object of:

1) providing machinery for the preparation of records-of-rights;

ii) giving the ryots protection in the matters of enhancement of rent and restriction on occupancy right.

He proposed then to prepare a records-of-rights in some of the most troubled parts of the district, which would supplement Mr. Laine's report and supply full knowledge on which legislation could be based. Thus, in accordance with the sanction of the Government of India, certain sections of the Bengal Tenancy Act were extended to the permanently settled portions of Goalpara by notification of 1389 R, dated the 16th April, 1920. The Government of India sanctioned the extension of only those provisions of the said Act which dealt with the preparation of records-of-rights considering that the provisions protecting the raiyats should be enacted if at all by legislation in the local council.

Extension of Sections 150, 151 and 152 of the Bengal Tenancy Act:

But according to the Government version, lack of funds prevented the authority from making a beginning of a survey and settlement operation and the preparation of a records-or-rights. In the meantime Government proposed to introduce a bill, referred to earlier, to make arrears of rent recoverable as arrears of land revenue in the Goalpara district. But, in view of the adverse public opinion, the provisions of the proposed bill were abandoned and that in their place the provisions of sections 150, 151, and 152, of the Bengal Tenancy Act, with certain modifications, were extended to the district of Goalpara vide proceedings of a meeting of the Assam Government held on 14th October, 1922. Under section 150, when a defendant admitted that money was due from him to the plaintiff on account of rent, but pleaded that the amount claimed was in excess of the amount due, the court refused to take cognizance of the plea unless the defendant paid into court the amount so admitted to be due; under Section 151, when a defendant was liable to pay money into court, under Sections 149 or 150, if

30. Supra, Chapter XI.
the Court thought that there were sufficient reasons for so ordering, it might take cognizance of defendant's plea on his paying into court such reasonable portion of the money as the court directed; under section 152, when a defendant paid money into court; under either of the said sections, the court should give the defendant a receipt, and the receipt so given should operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person as the case might be.\textsuperscript{32}

\textbf{Necessity of tenancy legislation on Goalpara district:}

The only reform of the rent law in the permanently settled estate was the extension to the district of Goalpara of the said sections of the Bengal Tenancy Act. But the Bengal Act of 1885 was considered to be a bad law; it has hardly benefitted the poor man at all; it has resulted in an enormous mass of litigations, and the amount of case law consequent on the uncertainty of the provision indicate what an engine of oppression it can become\textsuperscript{33}. Thus there was only one thing which would settle the agrarian trouble in Goalpara, and that was the framing of a regular tenancy law for the district.

\textsuperscript{32} The Bengal Tenancy Act, 1885.
\textsuperscript{33} Revenue A, December, 1926, Op cit.
In 1922, a resolution regarding the amendment of tenancy law in Goalpara was introduced by Maulavi Abdul Mazid ziaossharms, but was opposed by the Government on consideration that the first step to the legislation should be the preparation of a records-of-rights. Mr. Webster never shared the opinion that tenancy legislation should be deferred until a record-of-rights had been prepared. He was not inclined to be dogmatic as to the necessity of a preliminary survey and records-of-rights. It was then considered that the preparation of a record-of-rights for Goalpara would be premature as the district was "yet in the making". It was, however, agreed that it was possible to introduce tenancy legislation in Goalpara without further survey of the land and preparation of a further record-of-rights.

The Government of Assam finally proposed to draft a Tenancy Bill for Goalpara. The draft was the work of a committee appointed by the Legislative Council in its July Session, 1925:

34. Ibid.
35. Revenue A, December, 1927, no 64-75, Assam Secretariat Record Room, Dispur.
This House recommends to the Government of Assam that immediate steps be taken by the Government to amend or recast the Act VIII of 1869, Tenancy Law in force in the district of Goalpara and Sylhet or otherwise to reinsert new provisions in the Act on the lines of Bengal Tenancy Act (VIII of 1885) and that a Committee of the following gentlemen be appointed (with powers to co-opt) to make recommendations to the Government with a view to amend, recast the Act or otherwise insert new provisions in it on the lines of the Bengal Tenancy Act:

Hon'ble Rai Promod Chandra Datta Bahadur
Maulavi Abdul Hamid, M.L.C.
Srijut Bipin Chandra Ghose, M.L.C.
Babu Basanta Kumar Das, M.L.C.
Mr. B.N. Rou, I.C.S.
Mr. A.J. Laine, I.C.S.
Babu Biraj Mohan Datta, M.L.C.
Maulabi Dewan Abdul Rahim Choudhury, M.L.C.
The Mover (the resolution was moved by Maulavi Abdul Mazid Ziaiashams)36.

In pursuance of this Committee's work in 1926, A.J. Laine was once more appointed Special Officer on duty to draft a bill on Goalpara Tenancy. The Bill which was introduced on 18th July, was put on the agenda of 21st July, 1927 for discussion. The motion placed in the House was that

Goalpara Tenancy Bill, 1927, be circulated for the purpose of eliciting public opinion thereon. It is mentionable that one representative of the House Makunda Narayan wanted to postpone the Bill. However, the bill was voted for circulation.

In the face of persistent opposition from the zamindars and Jotedars, the bill emerged through the Select Committee and was placed on the platform of the Council on 4th March, 1929. The Bill granted occupancy right to tenants for land under their cultivation for a period of 12 years or more. An attempt to get this provision deleted was rejected. Another mentionable provision of the bill was that in no case the rent be enhanced by more than three annas at one time. The bill was declared passed by the Council on March, 1929.

37. Memorandum of Goalpara Zamindars to Governor of Assam, Sept, 1927, Revenue A, December 1927. Ibid., Representation of the meeting of Jotedars for postponement of the legislation held on 7th Jan., 1927, at Salmara.