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and answered before. I wish I could think that they would not be made and answered again. Still, as memories are short, shorter perhaps here than elsewhere, and circumstances change, more rapidly perhaps here than elsewhere, it may be well that I should answer them again, framing my answer to fit the present state both of the facts and of the law. I take them in the form in which they were put forward by the Hon'ble SURENDRANATH BANERJEE at the last meeting of Council but one. He said: 'The proceeds of the road-cess have been charged with works which formerly had been carried out either from Imperial or from Provincial Funds.' As a statement of fact that is beyond criticism; it describes precisely what has happened. I may add that it describes what ought to happen, and what must happen if the natural development of the country is not to be artificially retarded. The imputation underlying the statement that Government has by some juggle unfairly shifted a financial burden, is absolutely without foundation. Let me go back 15 years, to 1880, when what is now the Cess Act was under discussion in Council. The Hon'ble Kristo Das Pal then moved that a proviso should be added to the Bill to the effect that no work then charged to Provincial Funds should be made a charge on the District Road Fund. In opposing that motion, which was negatived without a division, the hon'ble Mr. Mackenzie said several things which deserve to be remembered. He pointed out that the motion would restrict the administrative discretion of the Lieutenant-Governor, who was 'not as yet reduced to the position of a much-badgered Chairman' of a Corporation, and that it was inconsistent with the fact that although for various reasons the management of certain sources of revenue is transferred to local bodies, the ultimate responsibility for local taxation rests with the Government, and in the last resort it must determine whether any particular charge is equitable. I commend what was said on these questions of principle to all those who hold with the hon'ble member. For my present purpose it is sufficient to dwell on another point. In the speech I am quoting, Mr. Mackenzie said it was impossible to draw a hard-and-fast line of distinction between district roads and provincial roads. He went on to enumerate the chief roads then recognised as provincial. They were the following:—

1. The Grand Trunk Road to the North-Western Provinces and its branches.
2. The Orissa Trunk Road and its feeders.

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3. The Chota-Nagpur system.
4. The Calcutta and Jessore Road.
5. The Calcutta and Diamond Harbour Road.
6. The Ganges and Darjeeling Road.
7. The South-Eastern Trunk Road, Dacca to Chittagong.
8. Certain Calcutta roads.
9. Certain frontier roads.

· He added: 'There is, so far as I know, no present intention of reducing their number or of transferring them to District Committees; but there is hardly any of the first eight of the series that might not, as regards some part or other of it, form a perfectly fair charge on local funds.' That was 15 years ago, but things have moved so fast, that by the present time the whole or large portions of several of these roads have already been transferred to local bodies, their place having been taken by railways, and as soon as other projected railways are open the remaining roads will go the same way. In each case of transfer, however, a sufficient grant has been made to the District Boards or Road Committees to enable them to maintain the roads to the extent required for local purposes. Now suppose Kristo Das Pal's motion had been carried, what would have been the result?. The Government would have been unable to transfer the control of these roads, nor could it have made any grants for their maintenance. For through communication they would have ceased to be of any use; for local purposes they would still have been of great value. The Government would have been in the hopeless dilemma that it must either keep up great lengths of road running parallel to railways, and not wanted as main lines of communication, or else it must allow those roads to fall to pieces. That it should have maintained them or rather bits of them, as *local roads* is obviously out of the question. It would be absurd and intolerable that Government should keep up an establishment, alongside of the district road establishment, to look after a number of scattered sections of local roads, because its hands were tied by a ridiculous proposal. In a word, the principle 'once a provincial road always a provincial road' which Kristo Das Pal endeavoured to introduce, and which the hon'ble member has recently attempted to revive, would have produced great administrative inconvenience and great waste of public money. It would have been an obstacle to the advance of Local Self-Government, and, what is worse, immeasurably worse, it might even have hindered the development of railways. There is literally nothing to be said for it from any point of view.

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“In connexion with this question of the road cess, a second allegation has been made. It is said that in a certain despatch the Duke of Argyll laid down the principle that ‘the road cess, which was levied on villages, should be primarily devoted to the sanitary improvement of those villages.’ The Hon’ble Member describes this despatch as a memorable document. So it is, though perhaps, hardly for the reason assigned by the Hon’ble Member. I will read the entire passage.

22. “ * * * * I have already pointed out that the purposes to which a tax may be applied cannot be considered as affecting the abstract right of the Government to exact it. But assuming this right, everything as regards the policy and even the justice of the rates now in question, turns upon the manner in which they are to be expended. It is, of course, essential that the Government of India should be itself satisfied that it is breaking no faith in any measure it may take; but next to the necessity of this assurance is the necessity, or at least the great importance, of making the same conclusion plain to the apprehensions of the people. For this purpose it is, above all things, requisite that the benefits to be derived from the rates should be brought home to their doors,—that these benefits should be palpable, direct, immediate.

23. The making and improving of wells, tanks and other works of irrigation affecting comparatively small areas of land, are the operations which probably best comply with these conditions. But roads are a first requisite in the improvement of every country, and although as yet they may not be equally valued by the people, it is the duty of the Government to think for them in this matter, and the benefits they must derive will yearly become more apparent to themselves.” * * * *

“I must say, taking that passage as a whole, I cannot think its purport has been correctly understood by the Hon’ble Member. The writer of the despatch is clearly trying to put himself in the position of the Indian agriculturist as he conceives him. He says therefore in effect—petty irrigation works are best calculated to make the raiyat see that he gets something for his money. ‘But,’ he goes on, ‘roads are a first requisite.’ In fact, what the Duke of Argyll says is that the road cess should be primarily devoted to roads, though it might be politic to spend something on irrigation. About sanitary improvement there is not a word, nor would one expect to find much in a despatch of that date.

“I have shown, Sir, that the Duke of Argyll did not in fact say what the hon’ble member says he did. But even if he had said that, I do not see that it would have made any difference. A famous legal member commented once on the state of chaos that had arisen in a certain non-regulation province from

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the practice of legislating by executive order. An even worse chaos would set in if specific provisions of laws in force at the present day were liable to be modified by casual suggestions thrown out in despatches a quarter of a century old.

“The above remarks dispose of the allegation that the receipts on account of road cess are diverted from their legitimate objects. These receipts have now in most districts become merged in the District Fund under the provisions of the Local Self-Government Act, and no separate account is kept. The following statement, however, shows that the cost of such large drainage schemes as are specially contemplated by this Bill, could not be met from road cess collections. The figures are for 1893-94 :—

Net collections of road cess	...	...	Rs.	37,36,000
				<hr/>
			Rs.	
Expenditure, district roads	..	...	37,02,000	
,, on improvements, including water-supply,			2,17,000	
				<hr/>
		Total	...	39,49,000
				<hr/>
Deficit	.	...	..	2,13,000
				<hr/>

“So far, then, as road cess is concerned, the reply to the hon'ble member's statement is, first, that there has been no unfair transfer of Provincial roads to the control of local bodies; that such transfer is the natural, reasonable and inevitable consequence of the development of railways; and that when such transfers have been made, grants of the necessary funds have also been given; secondly, that the Duke of Argyll did not lay down the principle that village sanitation was a first charge on the road cess; and thirdly, that the cost of any far-reaching and expensive drainage schemes which may be stated under this Bill cannot be met from the proceeds of the cess because the local authorities who administer the cess cannot spare the money.

“I now turn to a second allegation. It is said that when the Public Works Cess Bill was introduced into this Council, the Hon'ble Mr. Reynolds stated that the proceeds of the cess were to be devoted to meeting famine charges and certain other extraordinary public works charges which he specified. It is

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alleged that after meeting those charges there is an annual surplus balance of nearly eleven lakhs, which is now spent on ordinary public works, but which might be applied to meet the cost of drainage schemes under this Bill. Now, this allegation assumes three things—

- (1) that there is a separate account or fund of the public works cess;
- (2) that this fund has a surplus;
- (3) that it is open to the Government to apply this fund to the execution of drainage schemes.

“None of these assumptions are correct. There is no such fund; if there were, it would not show a surplus; if it did, that surplus could not legally or equitably be spent on drainage schemes. Here again, I fear, I must go back to matters of history—of rather ancient history. In the first place, Mr. Reynolds’s speech of 31st March 1877, made when asking leave to introduce the Bill, is not the most authoritative, nor is it the most distinct exposition of the scope of the measure. Sir Ashley Eden described the Bill more fully and more precisely in his speech of the 7th April, when he spoke of it as ‘a measure for raising a further sum of money for the general development of works for the benefit of the whole of the Provinces.’ The Bill was to do two things. It was to assist the famine finance of the Government of India by relieving that Government of the charges for interest on certain specified works. It was also to extend the policy of financial decentralisation and to enable the Provincial Government to accept the responsibility for the maintenance of public works, existing and future, in the same way as it is responsible for other branches of the administration. Mr. Reynolds went very fully into the first object; he touched on the second very lightly. Sir Ashley Eden, in the speech which I have quoted, brought out both points at length, and the preamble and subsequent sections give legal expression to what he said. The preamble runs thus: ‘Whereas it is expedient to empower the Lieutenant-Governor of Bengal to levy a cess on immoveable property and to apply the proceeds of the same to the construction, maintenance and charges of Provincial Public Works.’ The question arose again in 1880, when the Hon’ble Kristo Das Pal moved an amendment to section 10 of what is now the Cess Act, which would have restricted expenditure on Provincial public works to works ‘likely to protect the country against the occurrence of famine,’ and would further have required the publication of an account. This

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amendment raised precisely the same issue that the hon'ble member has raised now. **Kristo Das Pal** said that the proceeds of the cess were 35 lakhs and the interest charges 27 lakhs, and he wanted to know what had become of the balance of eight lakhs, just as the hon'ble member now wants to know what has become of the balance of, nearly 11 lakhs. On the figures then put forward, **Mr. Mackenzie** replied that for the year 1879-80, the net receipts from the cess were estimated at 34½ lakhs, while the payments on account of interest came to 37 lakhs. For the next year, the estimate of receipts was Rs. 32,71,000, and the interest charges Rs. 36,56,000. The balance, therefore, did not exist. On the figures now put forward, though the circumstances have in some respects changed, I have to give substantially the same reply. Taking for convenience sake the figures of the accounts of 1893-94, the results they show are the following—

		Rs.	Rs.
Net collections, Public Works Cess	... ..	...	40,54,000
Net receipts, major canals	.. ..	..	2,17,000
			<hr/>
	Total receipts	...	42,71,000
			<hr/>
Interest on capital outlay, major canals	... ..	...	24,60,000
Maintenance, minor canals	... ..	...	5,63,000
Expenditure on Pro- vincial roads.	} By Public Works Department } By District Boards	10,18,000 3,35,000	} 13,53,000
			<hr/>
			43,76,000
			<hr/>

“I say the circumstances have changed. They have changed in that the railways now pay their way, and the Provincial revenues have no longer to pay the interest on the cost of constructing them. But while the charges for interest on railway capital have disappeared, the expenditure on Provincial roads has increased. This is a legitimate charge on the cess just as much as railways. Both are Provincial public works; both form part of that machinery for distributing the food-supply of the country which constitutes the real protection against famine. A railway without roads is useless. It is like an omnibus without a conductor. The one involves the other: railways imply roads. For a long time past the authorities of the various railways have pressed this matter on the attention of Government, and it has recently been taken

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up systematically on the lines laid down in the Public Works Resolution on feeder roads to the Eastern Bengal Railway system, which was published in the *Calcutta Gazette* about the middle of June last.

“It follows from the fact that one main purpose of the Public Works Cess was to bring about an extension of the principle of Provincial decentralisation, and to enable Bengal, as Sir Ashley Eden put it, ‘to use a little of its own milk,’ which it had been contributing for the benefit of other provinces, that the idea of a separate account ceases to be practicable. The provision to this effect got into the Act of 1877 by a mistake and failure to realise the conditions of the case. It was never acted on, and it was abandoned in the Cess Act of 1880. As Sir Ashley Eden said in speaking on that Act, the fact that the money spent on public works largely exceeded the receipts from the cess was of itself a sufficient account. The receipts for Public Works Cess, like any other receipts, are merged in the Provincial revenues, and go to make up the resources which the Government has to administer. Towards the end of the financial year, when the budget is being prepared, the Government is beset with demands for money. It is by that time in a position to make an estimate of its ways and means, and it has to decide between many conflicting claims. To restrict its action by cutting up its receipts into so many separate sums and laying down that each sum shall be applied only to certain purposes would create infinite confusion, and would render administration impossible. Instead of one balance there would be a dozen, and no one would be able to say at any particular moment how the Government stood or what they were in a position to spend. The true test is to see how the available resources are administered; whether reasonable demands are met; and how conflicting claims are dealt with.” For the present, all the public have to look to is that the Government spends on Provincial public works as much as it gets from the cess, and that is clear enough without a special account.

“I have shown, Sir, that there is no separate account of the Public Works Cess; and that if there were such an account it would not show a surplus. But even if this were not so, even if the receipts from the cess were greater than the expenditure incurred on objects properly chargeable to it, it would still be out of the question that drainage schemes under this Bill should be paid for from the Public Works Cess. Such drainage schemes must necessarily be local

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works in the strictest sense of the word. They will affect only part of a district, perhaps parts of two or three districts, but it is inconceivable that they should be extensive enough to be properly chargeable against receipts which are set apart by statute for the execution of Provincial works. The Bill as it stands, goes as far as it is possible to go in the way of lightening the temporary burden which a drainage scheme may impose upon the people of the locality affected. It provides that Provincial funds and District funds may contribute to the cost of such schemes, but the main payment must be made by the people who are benefited by the scheme. This I submit is in accordance with the natural equity of the case.

“I turn to the representation of the British Indian Association submitted the other day. I am compelled to say that this letter is not up to the traditions of the Association. Considered as a piece of criticism it is a very poor bit of work, a thing of shreds and patches, and what is more you can tell if you choose to take the trouble where the patches come from. In the first paragraph the Committee assume a pathetic attitude. They grieve to find that far from modifying the Bill so as to remove objections, the alterations have made it worse. That sounds dreadful, but it is only a stock sort of phrase, which bears no relation whatever to the facts. One most important change has been made. The power of taking the initiative, of bringing this terrible engine to bear, has been transferred from the Government to a representative body—the District Board. Government cannot move a step of its own motion. And even when a scheme has been accepted by the Board, the power of modifying the scheme, which the Bill as amended by the Committee gave to Government, is restricted by the proviso, that if Government modifies a scheme so as to add to its cost, the District Board shall have a chance of rejecting it.

“Now take paragraph 2. Can anything be more crude than the fashion in which the Association lump together a number of Acts with no attempt at serious argument? I have dealt with the Cess Act and the Local Self-Government Act already. The others may be disposed of in a word. As to the Drainage Act VI of 1880, I reply in the words of my hon'ble friend Babu Surendranath Banerjee that, ‘the proposed legislation has nothing to do with agriculture. The Drainage Act is for the improvement of the soil. What is now proposed is for the benefit of health.’ I cannot put the matter more tersely than that. As for the Embankment Act II of 1882, it is true indeed that section

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7 (4) enables the Collector, subject to executive control, to make any sluice or watercourse, or to alter any public watercourse for the improvement of the public health, and section 54 enables him to recover the entire cost from the zamindars of the estates, leaving them to recover from their subordinate tenure-holders the proportionate sums allotted on them. Can this possibly be the procedure the Association wish to recommend? If so, their taste is remarkable. I wonder what they would say if they were taken at their word. They might chance to find the Collector's little finger thicker than the loins of the District Board. Paragraph 3 may pass for the present. I shall have something to say about it later on. Paragraph 4 is curiously inaccurate, and I must say I cannot understand how any one can make positive statements of this sort without the smallest attempt to verify them. I consider that both the mover of the Bill and I myself have something like a grievance on this subject. At the Belvedere Conference both of us advocated and voted for a system which would have left the decision with the residents of the locality affected, but the majority of the Conference, headed by BABU SURENDRANATH BANERJEE, held that the District Board was a thoroughly representative body, and that it ought to decide whether any particular scheme should be carried out. It was also pressed upon by the Hon'ble SURENDRANATH BANERJEE that compulsion was necessary, and that the people must be saved from themselves. For a reply to the allegation that the people do not want drainage, I refer again to the same high authority whose name, I am confident, will go down to a grateful posterity as the true author of this Bill. At the Conference he produced a map of opinions on the subject specially collected by him, and all of them, with hardly an exception, were loud in favour of drainage. I will not read the passages. Any one can verify my statement for himself.

"Now for paragraph 5. I do not wish to appear too critical, but I cannot help doubting whether snipping bits out of newspapers is quite the best way of composing an official letter, though it may be the easiest. That is the history of the curious statement that, according to the last census, barely half the population were connected with agriculture. In point of fact, the occupation tables of the census show about 78 per cent. of the rural population to be engaged in agriculture. But this really understates the case, for the simple reason that people whose caste occupation is non-agricultural, but who also cultivate, get recorded as non-agriculturists. The settlement reports will show

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how the matter really stands. In Muzaffarpur it will, I think, be found that the entire rural population is more or less interested in land; and a few detailed cases such as which I quoted the other day from Munshi Nundji's report on the Mullarpur settlement in Birbhum are quite convincing. To the latter portion of the paragraph there is a double reply: first, that where you proceed on the principle of local option, the argument of infringement of vested rights simply does not apply; secondly, that if this were not so, the question of the right of the Government to impose a rate was settled once for all in 1870 by the very despatch of the Duke of Argyll which my hon'ble friend described as a memorable document. In fact, the claim of the zamindars amount to this. Because they get off with an absurdly light assessment under one class of taxation, they make the preposterous claim to exemption from all taxation; and in this particular case they demand exemption from a temporary tax which only comes into existence by the will of the representatives of the persons who will pay it.

“In conclusion I will add a few words about the relation of malaria to drainage. Malaria occurs all over the world—not merely in India; its very name, malaria, bad air, is an Italian colloquial word introduced into English medical literature by Dr. McCulloch in 1827, expressing the popular belief that the bad air and noxious exhalations of marshy places cause a certain fever, the symptoms of which are everywhere the same in temperate or tropical countries. As to the cause, many authorities are of opinion that it is due to a special organism, an amoeba discovered by a French doctor working in Algeria. There is a large body of opinion in favour of a specific cause as distinguished from mere alternations of heat and cold; and a waterlogged soil is peculiarly favourable to the production of this cause.

“All this theory, however, is really beside the point. If we were to wait till doctors had found out causes before we took steps to avert consequences, we should wait a very long time. There is ample evidence to show that the unknown cause of malarial fever—whatever it may be—is as a rule associated with stagnant water, with the obstruction of natural drainage. Not with water as such or with marshes as such, but with water which is dead. Where the water is moving and alive—though it may move too slowly for you to see it move—there you have no malaria. Raja Digambar Mitter pointed out this long ago, and Eastern Bengal is a standing illustration of it. There is a famous case of

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the same kind in Europe, the country known as the Spreewald, or jungle of the river Spree, round about Berlin and Potsdam. A queer 'amphibious country' as Carlyle called it. The villages there are all situated on lakes or bils in the middle of jungle. It is all water, creek and khals everywhere; people go to church and children to school in boats. But though you can see no stream, the water is alive, not dead. There is no malaria, there never has been, and the physique of the people is splendid.

"Further west in districts which form part of the same great plain, where the physical conditions are the same, but there is really less jungle and fewer marshes—in the west of Schleswig—Holstein, in Oldenburg, Westphalia, and the north of Hanover—the drainage has been obstructed by the silting up of khals, and there malarial fever is endemic. The khals have silted up by reason of the dykes made to keep out the sea. They have a most elaborate system of embankments, just as we have in Midnapore and elsewhere, and it is admitted that the dykes have blocked the drainage. Much the same state of things prevails in parts of the Rhone valley, in the Charente south of the Loire, on the coast of Holland, and in many parts of Italy. In the lower basin of the Danube and the valley of its tributary, the Theiss, malaria is so bad that about half the population suffers from it regularly, and the Dobrutschka, the actual delta of the Danube, is almost uninhabitable from fever.

"Everywhere the cause is the same—obstruction of drainage; everywhere the fever is exactly what we know here, and, I may add, wherever drainage works have been carried out so as to restore circulation and set the water moving, there the fever has disappeared. You do not want to drain the place dry; all you want to do is to remove the condition of stagnation. This is what has been done in the fen districts of the eastern counties of England, where until quite recently malarial fever was endemic—it was always there. This was a district very much like the Berlin country which I have mentioned, only with this important difference—that the water was stagnant. Every one suffered from malarial fever, just as people do in Bengal, and curiously enough they used the same remedy—they took opium. Within recent memory the district has been drained; the fever has absolutely disappeared; the fens are now as healthy as the Berlin country, which is one of the healthiest in Europe. The water is still there, but it moves and does not stagnate; it is alive instead of being dead; and the district instead of being avoided as deadly is now a favourite

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pleasure resort in summer. People come from all parts of England to sail and fish on the Broads, as the great bils are called, which used to be perfectly fatal in the summer, at the very time when they are now full of tourists. The same sort of thing has been done in Romney marsh in Kent, in the Somersetshire marshes, in France, in Holland, and in Italy; and wherever it has been done the fever has vanished or has been greatly reduced. That is the experience of Europe in respect of malarial fever, which, I repeat, is the same all over the world. I have referred to this foreign experience at length for two reasons: (i) because drainage has been tried and its results can be seen; (ii) because the phenomena in Europe enable you, so to speak, to isolate the cause and bring out the connection of malarial fever with obstructed drainage. The climate there does not of itself tend to produce fever. It takes a special cause to do that, and you can see what the cause is. In this country the question is more complicated, and arrested drainage is only one of the causes. It is this complication, this presence of many possible causes which has obscured the subject in this country. Some people have laid stress on one of these and some on others.

“The great advocate of the drainage theory was Raja Digambar Mitter, attempting to show that the railways and the roads were the sole causes of obstruction. Others brought into prominence the impurity of village sites; others the use of bad water; others again poverty and bad food. Now this last is certainly not a cause *per se*, though it may contribute to disease by weakening people. Also when drainage has been spoken of there has been much confusion of thought. Some people thought subsoil drainage was meant, such as you have in fields in England, so as to dry up the rice fields. Others referred to municipal drainage; others to drainage schemes intended to convert large *bils* into dry land. But if you understand by drainage, what is really meant in this connection—the restoration of the natural drainage channels so that the water shall flow and shall not stagnate—there is really no substantial conflict of opinion.

“In the discussion in the Press last year in connection with Sir Charles Elliott's Dacca speech, several well-known names were quoted against the opinion that malaria is due mainly to obstructed drainage. Dr. Lethbridge was quoted as attributing malaria to poverty, whereas what he really said was that obstructed drainage was the cause. Dr. Greene, quoted on the same side,

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was really strongly in favour of the drainage theory. Colonel Haig and Dr. Saunders held that poverty was a factor in so far as it rendered people less able to resist fever. But neither of them regarded it as a primary cause. It must be added that since 1873 when these gentlemen wrote, the mills have developed enormously in the neighbourhood of Calcutta, and the lower classes there are much better off. As for Dr. Lyons, whom somebody quotes, none of us can trace his writings. He has retired. However this may be—whatever may be the truth on the scientific side of the scientific point, there can be no question as to this—that, up to quite the other day, everyone in Bengal was a disciple of Digambar Mitter. Every one believed that drainage was the remedy, and that Digambar was the prophet of drainage. Within the last year they have all been suddenly converted: apparently they see that they will have to pay for what they expected to get for nothing. It does not lie in their mouth to use the arguments which they have used.”

The HON'BLE BABU GURU PROSHAD SEN said:—“While I fully appreciate the kind consideration, which, on a previous sitting of this Council, led Your Honour to postpone the final passing of this Bill to this day, I am really sorry that at my first introduction to this Hon'ble Council I have to oppose the motion for the passing of this Bill. I am aware that it has engaged the attention of the Council for about two years, has passed through all its stages and embodies the wisdom and experience of able members whose work, it is the height of presumption in me, to criticise. Yet I have to do a duty, however unpleasant it may be to me, and I shall, with Your Honour's leave and indulgence, state my reasons as briefly as I can as my apology for the somewhat unusual course I have to adopt. The Bill, as it stands with the new cess it imposes, call it a rate or what you please, whether imposed temporarily or permanently, virtually affects the Permanent Settlement under which it was declared that the *jama*, which has been assessed upon the land shall be fixed for ever, and no alteration shall be thereafter made; and the zamindars, their heirs and lawful successors, shall be allowed to hold their estates at such assessments for ever.

“These are the declarations that were made at the time of the Permanent Settlement. I shall not touch on the legal subtleties under which, in spite of the pledge thus given, the imposition of cesses are held justifiable, but it is

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clear that it is not alone by increasing the amount of the fixed *jama* that the Permanent Settlement can be broken, but also by imposing a number of cesses or rates. These partake of the character of those *abwabs* which the zamindars were hitherto condemned for imposing on their raiyats. Within the last 20 years an additional burden of taxations on land, being in fact something like 23 per cent. has been added to Government revenue in the shape of Road and Public Works Cesses alone. To our fixed land revenue of three crores and eighty-six lakhs of rupees, we have added eighty-one lakhs of Road and Public Works Cesses. How long will it then take to add cent per cent. Now, whether you add to the Government revenue directly by doubling it, or you double it by the imposition of additional cesses, the result is all the same. Then there is a further view of the case. Within the same period by the imposition of these two cesses alone, not to speak of the other cesses, the zamindars find one thirty-second part of his income from land gone. And as this imposition is on the gross rental, irrespective of the cost of collection and other incidental charges of zamindari management, the percentage or net profit will be nearer to 4 per cent. than 3, or it will be found that one twenty-fifth part of the zamindar's net profit is taken from him as Road and Public Works Cesses. This is again an absolute deduction, whatever increase there may be from time to time in the rents. If we go on adding to the cesses the whole of the zamindar's net profit is sure to go in the course of a few years more. In a book, which created some sensation at the time when it appeared, the way to nationalize or naturalize land as common property, was, just as the water or the air, pointed out to be to impose all public charges on land. Surely the British sense of justice, its respect for vested rights will revolt against such a proceeding and against its result, but nevertheless we may be drawn to that result by imperceptible degrees, and before people would be aware of it.

“It is not for me now to dwell on the advantages that have accrued from the Permanent Settlement, but I have a firm conviction, in which I find the majority of my countrymen share, that that settlement has benefited the people and the State alike, by the increased prosperity which it has brought about in its train and by the expansion which it has given to our other sources of revenue. Bengal counterbalances what it pays less in land revenue by paying more in custom duties and assessed taxes, even if we were not to place to its credit

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the increased revenue which it yields from other sources. Anything, therefore, that tends to impair in any way that settlement, my countrymen humbly pray Your Honour's government to avoid. It does not, however, appear why landlords and cultivating raiyats alone should be taxed, while all classes of the community would benefit by the work. That this as an abstract proposition is not equitable, is admitted on all hands. But it is said that this equitable idea could not be given effect to, because there is no machinery existent to equalize the tax in proportion to the benefit conferred. It passes the comprehension of the public how a mighty Government like ours and this Hon'ble Council, which represents the supreme wisdom and intelligence of the land, would feel itself powerless to give effect to its idea of equity, and would have to adopt with thankfulness the solution suggested by an outsider which, however, is no solution at all. I may say that the idea of apportionment according to the amount of benefit conferred is adopted in the Embankment Act II of 1882. I would be the last man to say that a tax which would reach all classes alike, would be a preferable substitute. Taxation in the country has, under the present condition of things, reached its utmost limit.

“Now, if we eliminate the cess, there is, I respectfully submit, nothing new in the Bill, that is to say, nothing which cannot be provided for by the Local Self-Government Act. Part III, Chapter I, Head (e) of that Act provides for sanitation, and the Cess Act provides for the construction and improvement of drainage. Part III, Chapter I, Head (e) has to be extended to districts where it is not now in force and some rules framed by Your Honour under that Act. And the whole of the present Bill is reached *minus* the cess. In fact, if this view of these Acts be not correct, the District Boards, as their powers stand now, would not be justified at all in spending a pice out of the funds at their disposal for the initial expenses, if a scheme be abandoned as is provided for by section 10 of the present Bill.

“But there is another point which deserves serious consideration. Section 6 of the Cess Act provides that the rates at which the Road and Public Works Cess respectively shall be levied for each year shall not exceed the rate of, half an anna on each rupee of the annual value of lands.

“Now, one of the many things for which the cess which is not to be more than half an anna per rupee is the providing or improving drainage, and the supplemental Local Self-Government Act authorises the District Board to

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provide for sanitation. This, of course, includes sanitary drainage, and for this as for other works, the maximum of cess to be levied, is not to exceed half an anna in a rupee of rent. I submit that the Cess Act has to be amended and the levy of a higher maximum rate rendered legal before any new Act can be passed.

“Turning to the details of the Bill, I find that section 16 has been so drafted as to override private rights. Lands might have been formed and good title acquired therein by adverse possession for 12 years after 1847. They might have then deluviated and reformed in their old site within 12 years before their acquisition under the provision of this Bill, but the owners will have no right to compensation if they have not been in possession for more than 12 years before such acquisition. Then the holders of estates and tenures are to be jointly and severally liable for the payments of the instalments as apportioned by the Collector, and in default their estates or tenures sold. It does not appear why the provisions of the Cess Act for separation of liabilities have not been incorporated in the Bill, and without such incorporation the present Bill, which purports to be complete in itself except where otherwise expressly provided for as in sections 23 and 24 of the Bill the separation of liabilities after the Collector has once determined the rate and apportioned the liabilities, does not seem possible as section 44 of the Cess Act has not been extended to the cess to be levied under the Bill.

“Then the provision for the summary recovery of contribution from the several shareholders after one of them has paid for them all. Section 49 of the Cess Act does not find a place in the Bill. The result will be that the Collector will look to the most solvent of these owners for the payment of the whole amount and the last shall have no remedy against his co-sharers, unless he sues them in the Civil Court.

“‘Agricultural holdings’ refer only to lands cultivated, and the zamindars, though they shall have to pay for all kinds of rents including rents of homestead lands, shall not recover a pice from the owners of residential holdings; yet in Bengal there are owners of homestead lands with pucca buildings thereon, the owners of which are neither holders of estates or tenures in the village nor a cultivating raiyat. I am not sure whether it is really intended to exempt these men from the payment of the cess.

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“We have then, this :—That the holders of estates or tenures shall have to pay their own debts *plus* the debts due from the cultivating raiyats on pain of having their estates or tenures sold at auction.

“In the Survey Settlement and Maintenance of Records Bill it was proposed that, if the raiyats were not to pay to the revenue authority their quota of debts on demand made, the amount would be recovered from the zamindars; but the raiyats would have to pay him the amount with the addition of twenty per cent. on such debt. Your Honour was graciously pleased to withdraw this provision on the consideration that it involves hardship to the landlords on the representation of HIS HIGHNESS THE HON'BLE MAHARAJA BAHADUR OF DARBHANGA. The landlords under the present Bill get no compensation for their trouble and risk, though there is no difference between the two cases.

“Then, while the Government recovers debts due by the landlord *plus* debts due from the cultivating raiyats by a stringent summary procedure, the landlord, after thus being compelled to pay, shall have to wait for the tardy process of civil suits to recover what he has paid.

“But, in fact, the considerate portion of the landlords shall not recover at all for they know that even the smallest addition to the rents goes to produce considerable hardship to the cultivating raiyats, while the hardest amongst the lots shall, under the name of the legal cess, recover more than what they are entitled to.

“I appeal to Your Honour primarily in the interest of these cultivating raiyats not to impose on them an additional burden of taxation, for in spite of Your Honour's best intentions in their behalf, and in spite of such good intentions in almost all our officials who lead our administrative machinery, these raiyats live a very miserable life indeed with no sufficient food for themselves and their children. Mr. Finucane's report on the experimental survey establishes the fact that the extent of the holding of the raiyat under one or more landholders does not exceed three acres. On an average, on the produce of this small holding live five or six individuals (*vide* the same report). The mean produce of an acre under the most favourable circumstances such as irrigation from the Sone Canal does not exceed 21 maunds of paddy per acre. On a calculation, therefore, it will be found that the average family of this class in Bihar have to live on an income which does not exceed 60 rupees a year. They live in a

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wretched hovel worse than cattle sheds; they sleep on bare mats spread on damp ground; they cannot afford to pay for medicines in cases of illness. Perhaps the fault is primarily theirs, it is perhaps their *kismet*, that is not the question here, but I submit with all due respect that it is almost a cruel mockery to tax them in the name of sanitation, when the extra pice should go for the provision of salt, that necessary article of consumption in which they have to stint themselves.

“When the Government has saved raiyats from legal *abwabs* by the stringent provisions of the Bengal Tenancy Act, it does not behove it to impose number of cesses over and above the rent. The burdon is all the same. But then it is said that it is a matter of local option.

“It would be a matter of local option if the resolution which your Honour put to the Belvedere Conference had been carried.

“It was to this effect:—‘That when an application is made to Government on part of the inhabitants of any tract where malarial fever prevails, or when it is notorious, that there is a high rate of mortality due to the want of drainage, provision should be made by law for ascertaining the wishes of the inhabitants or owners of the property concerned, and if the majority support the scheme, the Government shall be empowered to carry out comprehensive schemes of drainage and to raise from the area affected such funds as may be necessary for meeting the cost of such schemes.’

“According to the Bill, initiative will be taken on the application of a District Board. It will be disrespectful in me, coming as I do to Your Honour's Council on the recommendation of the District Boards, to deny their representative character. Yet I know what they are. There is always a strong body of nominated members. In several districts, all members of the Local Boards, which form the constituency for the election of the members of the District Boards, are nominated by Government under the condition of ‘fixed abode’ within the jurisdiction of the Local Board. HIS HIGHNESS THE MAHARAJA OF DARBHANGA, living within a municipality, cannot be elected in any of the Local Boards comprised in his extensive zamindari. The Nawab Bahadur of Dacca cannot be elected for a similar reason. The District Boards are always presided over by an official Chairman. The application again is to be made by one District Board and it can compel others to join it. Local option, therefore, as in the Bill provided, is simply ‘to gild the pill of compulsion’—an expression

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which is not mine, but which I find used in one of the earliest documents leading to the Belvedere Conference.

“ But how are these sanitary measures when necessary to be undertaken, if no body was to pay for them? I submit that the only possible method is to press on the Imperial Government the necessity for these good works, and to ask them to show this Government more consideration in the matter of adjustment of the revenues—Provincial and Imperial.

“ The difficulty at present arises out of what the people irreverently call the Thikadari system, under which the Imperial Government lay their hands on almost everything they can get and they do not leave you sufficient to carry on the routine of administration much less for works of public utility. Your Honour's government has always the sympathy of the people in the way in which it is treated by the Imperial Government in this matter of finance. It would earn the gratitude of the teeming millions under its sway if it were to set about to resist this tendency, instead of trying to meet its difficulties by falling on weaker bodies by in fact throwing its legitimate burdens on local funds, and where that is not possible by imposing additional burdens on lands, because I speak of outside impressions it is so easy to do so.

“ It will be found that Bengal, after paying its legitimate share of the Imperial expenses, will have left enough to look to its own education, to its own medical relief, its famine relief, and host of other administrative duties, instead of encroaching upon these things, as it does now on the District Funds, and the District Funds set free from burdens which ought not to be thereon imposed, shall have enough left to look to sanitation, the primary item of which, I hold in some of the districts, to be the supply of pure drinkable water.

“ At least the object aimed at as preventive of malarial fever is a debatable one. The hon'ble member, who has just spoken, has told us that there are various theories as to the causes of malarious fever. We are simply asked to proceed on the opinions of doctors, and the doctors do differ. There are important sections of the community directly affected by the Bill, who protest against it. The silt obstructions may not be possible to be removed after considerable expenditures have been incurred, such a thing happened at Dacca at the beginning of the formation of the District Boards, as the hon'ble mover of the Bill can inform this Council. A dredger was purchased to take away

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the silt from the mouth of a river, but the silts could not be removed, and the dredger was found to be of no use.

“Then there are silt obstructions, caused by tidal river, which, even if removed, would form again unless the cut was too deep, in which case there would be the apprehension of the whole force of water running into the new course, thus washing away valuable properties. At any rate, I find from the latest Administration Report that, notwithstanding the additional burdens thrown on the District Funds, the District Boards have at their disposal the surplus of twenty-five lakhs of rupees. Now, when the doctors differ, part of this money may be applied in experimental works of the kind, and, if the experiment prove successful, the Bill may be passed into Act. With this 25 lakhs of rupees in hand the urgency for the legislation against the wishes of the people does not appear to be great even as now half of the expenditure ought to come from the general revenues; for if obstructed drainage is the cause of malarial fever in the land, the obstructions in some places are due in great part to the action of our engineer experts. This is the impression of the people with regard to the construction of railway and this is their impression with regard to the irrigation works also. It has been said that general revenues cannot be applied to especial local works which are contemplated under the Bill, but I submit that there is no reason why people in the locality should pay when the obstruction to drainage has been brought about by Government action.

“For all these reasons, I am sorry I cannot vote for the passing of this Bill. At least there appears to be no reason why the postponement for three months, asked for by the Hon'ble MAHARAJA OF DARBHANGA, should not be granted, and the Bill referred back to the Select Committee.”

The Hon'ble MAHARAJA JAGADINDRA NATH ROY OF NATOR said:—“Although I was one of the members of the Select Committee, I am sorry I was not able, owing to my ill health, to help my hon'ble friends in the way of removing some of its most objectionable clauses. I must say that the Bill in its present form is a decided improvement on the Bill as it was originally introduced. Here I feel it my duty to say that the Government is actuated by the best of motives in introducing a scheme like this, and it would have received the unanimous support of the country, if it had contained no provisions for the

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which is not mine, but which I find used in one of the earliest documents leading to the Belvedere Conference.

“ But how are these sanitary measures when necessary to be undertaken, if no body was to pay for them ? I submit that the only possible method is to press on the Imperial Government the necessity for these good works, and to ask them to show this Government more consideration in the matter of adjustment of the revenues—Provincial and Imperial.

“ The difficulty at present arises out of what the people irreverently call the Thikadari system, under which the Imperial Government lay their hands on almost everything they can get and they do not leave you sufficient to carry on the routine of administration much less for works of public utility. Your Honour's government has always the sympathy of the people in the way in which it is treated by the Imperial Government in this matter of finance. It would earn the gratitude of the teeming millions under its sway if it were to set about to resist this tendency, instead of trying to meet its difficulties by falling on weaker bodies by in fact throwing its legitimate burdens on local funds, and where that is not possible by imposing additional burdens on lands, because I speak of outside impressions it is so easy to do so.

“ It will be found that Bengal, after paying its legitimate share of the Imperial expenses, will have left enough to look to its own education, to its own medical relief, its famine relief, and host of other administrative duties, instead of encroaching upon these things, as it does now on the District Funds, and the District Funds set free from burdens which ought not to be thereon imposed, shall have enough left to look to sanitation, the primary item of which, I hold in some of the districts, to be the supply of pure drinkable water.

“ At least the object aimed at as preventive of malarial fever is a debatable one. The hon'ble member, who has just spoken, has told us that there are various theories as to the causes of malarious fever. We are simply asked to proceed on the opinions of doctors, and the doctors do differ. There are important sections of the community directly affected by the Bill, who protest against it. The silt obstructions may not be possible to be removed after considerable expenditures have been incurred, such a thing happened at Dacca at the beginning of the formation of the District Boards, as the hon'ble mover of the Bill can inform this Council. A dredger was purchased to take away

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[*Maharaja Jagadindra Nath Roy of Nator ; Mr. Dutt.*]

imposition of any tax at all—if the Government had come forward with the Provincial and District Board Funds for the construction and the maintenance of the drainage works. Because, as my hon'ble friend who represents the Dacca Division has said, it is impossible that any such schemes can be carried out under this Bill, as the people of this country cannot afford to pay for uncertain sanitation. It is true that some of the medical gentlemen who have been consulted, as experts, have given it as their opinion that improved drainage is calculated to do immense good, but there are others yet, I know, who entertain grave doubts as to the success of the scheme.

“Then again, at the time of the Permanent Settlement, the landholding classes of this country were distinctly assured by Lord Cornwallis that no further tax would be laid upon the land in future. With Your Honour's permission I will read an extract from His Lordship's despatch to the Court of Directors, in which the following passage occurs:—

“If at any future period the public exigencies should require an increase to your resources, you must look for it in the increase of the general wealth and commerce of the country and not in the augmentation of the tax on the land.”

“The rate which was proposed in this Bill is regarded by the landholding classes as another increase to the tax upon the land. The first was the Road Cess, then came the Public Works Cess, and now a Drainage Cess is proposed. The zamindar class do not know where such sources of taxation will end, and they very justly regard all these cesses as so many encroachments upon the Permanent Settlement. As for myself, I am not in favour of any sort of taxation, but if taxation is at all necessary, why should the landholding classes be singled out for taxation, when the benefits to be derived from drainage will not be confined to them alone?

“Under all these circumstances, I feel it my duty to offer my respectful protest against the passing of this Bill, unless the Council is prepared to refer it back to the Select Committee for further consideration.”

The Hon'ble MR. R. C. DUTT said:—“I do not intend at this hour to detain the Council with any lengthy remarks, but I have had the honour of being associated with the Hon'ble MR. LYALL in both the Select Committees which sat on this Bill, and I feel that I am to some extent responsible for the shape which the Bill has taken. I wish, therefore, to say a very few words with reference to the remarks of the last two speakers.

[*Mr. Dutt.*]

“Something has been said about the proposed rate being a new cess in violation of the Permanent Settlement. I wish to point out in reply that the proposed rate is not a permanent cess, that it is not proposed to impose it on the whole of the province or on the whole of any district, and that it is not intended to levy it beyond a limited number of years in any part of the country. It is a rate which will be imposed at the instance of local bodies, within limited areas, and for work of a definite kind, and when the work has been paid for, the rate will cease. It may rather be called a voluntary contribution on the part of the people as represented by the District Boards; it is a misnomer to call it a permanent cess. I do not wish to go into the question of its being an encroachment upon the Permanent Settlement, because it has already been fully answered by the hon'ble member, the Secretary in the Financial Department.

“Then it has been said that the rate will be inequitable, because it will not fall on the classes which will be benefited. To that proposition also I beg to depur. As has already been pointed out, the classes which are interested in land numerically come to something like 80 per cent. of the total population, and if we exclude the population of towns, it comes to about 90 per cent. Of the remaining 10 per cent., a good portion are unfit to pay any tax at all, so that we practically impose a rate on the whole population which will be benefited by schemes undertaken under this Bill. The Select Committee failed to find any more perfect scheme of taxation for the purposes of this Bill, and our critics have not ventured to indicate any such tax. Although not theoretically perfect, I consider that what we have proposed is a practically equitable rate which will fall on the people who will derive benefit from the schemes we contemplate.

“Something has also been said about the re-adjustment of Provincial and Local funds, and it has been suggested that, as the Public Works Cess was imposed for the special kind of works which we now intend to execute, they ought to be paid for out of the Public Works Cess, and not by the imposition of a new rate. To this argument the hon'ble member in charge of the Financial Department has already given a complete reply. But, assuming that the Public Works Cess was imposed, not for the construction and maintenance of ordinary Public Works, but for special works which are calculated to save the people from famine and other calamities, then, what should be our attitude with regard to this Bill? This Bill is a statutory declaration of the intention of the Government to contribute from the Provincial revenues to special works of this nature.

[*Mr. Dutt.*]

We have had, from time to time, contributions from the Provincial revenues for the improvement of particular localities, but this is the first act of this Council which will lay it down in so many words that the Government of Bengal intend to devote a part of their revenues, with which the Public Works fund has been amalgamated, to special works of this nature. It is a very difficult task to embody such an intention in a Bill, but the framers of this Bill went out of their way to declare it, and the Government permitted them to declare it, in the body of the Bill; and therefore our attitude towards this Bill should be, I think, not one of opposition, but one of cordial welcome.

“Then, some remarks have been made to the effect that the proceeds of this rate will probably be frittered away in making experiments, the results of which cannot be foreseen. I think the remarks of the Hon'ble MR. LYALL sufficiently prove that the schemes which we contemplate are not doubtful experiments, but works the utility of which has been fully proved. The hon'ble member has referred to a number of cases, and I ask permission to add one or two more from the Burdwan Division, with which I am myself acquainted. The two streams, known as the Kana Nadi and the Kana Damudar, were in former times the spill channels of the Damudar, but have now become stagnant. I find it on record that after the construction of the Damudar left embankment, which shut out from these two khals the supply of water they had hitherto received from the Damudar, they became little better than a succession of stagnant and fetid pools. Then followed a series of the most terrible epidemics of fever which Bengal has even known.

‘As soon as it was recognised that the condition of these channels might be responsible at least in some measure for this terrible scourge, Government sought to remedy it. Obstructions which would retard the free flow of water in the channels were removed from their beds, the silted up heads were re-excavated; and, finally, water was admitted to the Kana Nadi in 1873 and two succeeding years. This was followed by an immediate and marked amelioration in the health of the inhabitants. In 1876 and 1877 the supply of water was stopped, and the health of the places along these river banks again deteriorated. In 1878 water was once more admitted, and subsequently works of a more permanent nature, having always as their object the improvement of the sanitary condition of the channel, were pushed forward, and were practically completed in December 1887 when Sir Ashley Eden opened the canal which henceforward was to bear his name. The completion of these works marked the commencement of a new era of prosperity in the Burdwan and Hooghly districts. A supply of fresh water was now ensured to the renovated water courses. The once dreaded fury began gradually to disappear and the health of the inhabitants to rapidly improve.’

[*Mr. Dutt.*]

“This I find from a note drawn up in the Bengal Secretariat from reports submitted long before the present Bill was conceived. Since the opening up of these two channels, the people in the Burdwan and Hooghly districts have become fully alive to the importance of converting dead channels into living streams, and applications have been made from time to time, not unsuccessfully, for having other staghant channels opened out. Only two years ago, when I was in Burdwan, a respectable and public-spirited resident of a village, in comparatively humble circumstances, prayed for the opening out of a stream which formerly connected these two rivers, and he came forward with a contribution of Rs. 1,500 to have the stream cleared out. I put the matter before the zamindars who owned the land, and most of them offered to give up the land free of cost. The rest of the cost of construction was provided by the Government, and that little work is now, I believe, an accomplished fact. This is an instance which proves that the people of tracts most affected by malaria are alive to the importance of such works, that they ask for them, and that they are willing to contribute for them. Subsequently to this, another scheme was taken in hand, as I stated a fortnight ago, and as the Hon'ble Mr. LYALL has mentioned to-day, in the Hooghly district; and the District Board asked for a contribution from the Government for the improvement of the Kausiki khal. The Government offered to pay half the expense, and I believe the work is in a fair way of being constructed. Last of all, I may mention that through the kindness of the hon'ble member, the Commissioner of Burdwan, I have information that another scheme has been proposed, and will probably be taken in hand, possibly soon after this Bill is passed. It relates to a number of villages in Purbasthali thana in the Burdwan district which suffered exceptionally from malaria in 1893-94. When I visited these parts in the cold weather of 1893-94, I found that nearly all the villages were suffering very severely from a bad type of malaria, and there was hardly a single house in which some of the members were not suffering, or had not recently suffered. I placed the matter before the District Board for consideration, and the Sanitary Committee of that Board have passed the following resolution:—‘In the opinion of this Committee a limited number of unhealthy villages, say 50 adjoining one another, in the unhealthy thana of Purbasthali should be selected and thoroughly drained by the Board at once. This action would probably result in a marked improvement of health on the part of the inhabitants, and with this example the Board would be in a position to enlarge its sphere of

[*Mr. Dutt.*]

action another year, and would probably be able to obtain a good deal of free or partly free labour from the people themselves when they see the benefit.' That is a very practical resolution. The Board want to begin work on a small scale, and if it succeeds, they will extend the sphere of their operation. All these cases show that the people appreciate the conversion of dead channels into living streams, and that they are coming forward not only with their applications, but also with their contributions.

"I have before me a protest from the People's Association of Faridpur to the effect that this Bill is unnecessary. I hope it will be a long time before the people of Faridpur will find works contemplated by this Bill to be necessary: for they do not suffer from the curse which afflicts both sides of the Bhagirathi. But the cases which I have cited sufficiently indicate that such works are needed in the affected districts, and that the people of these districts appreciate such works, and are applying for their construction.

"I do not think it necessary to quote many opinions upon this subject, but Dr. Coates was quoted on the other side to show that malarial fever is mainly due to poverty. I have Dr. Coates's opinion before me, and the opinion does not support that contention. There are also the opinions of other doctors, and I have in my hand the opinion of an eminent physician, Dr. McConnell, who regards bad drainage as the main cause of the type of malaria which prevails in most parts of Bengal. He says—'*Drainage* has been of the greatest benefit when carried out in malarial districts, and has converted unhealthy swamps into healthy arable land. Ague may be said to prevail in inverse ratio to the successful drainage of any district.'

"I do not think it necessary to multiply opinions, because I believe there is a consensus of opinion that obstructed drainage is the cause of the type of malarial fever which prevails in these parts. And as the people appreciate the works which have been done, and are asking for the opening out of old channels, and have even come forward with contributions for the purpose, the Government have wisely decided that legislation in this matter should not be further postponed. And I consider it also a wise decision to place, not only the initiation of, but the final decision upon these schemes in the hands of District Boards. My hon'ble friend, BABU GURU PROSHAD SEN, has made some remarks about District Boards on which I do not wish to make any comment. But I have myself seen the work of District Boards in many districts, and I think it

[*Mr. Dutt ; Mr. Bose.*]

fair to state that these Boards represent, intelligently and ably, the views and wishes of the best educated sections of the people, and materially help us in the work of administration. The Government have decided wisely in vesting District Boards with power under this Bill, and I have every confidence, the trust which has been placed in them has not been misplaced."

The Hon'ble Mr. A. M. Bose said:—"While entirely agreeing with my hon'ble friend who has just sat down as to the benefits likely to result from the carrying out of drainage schemes, I very much regret that I am compelled to oppose the motion for the passing of the Bill at the present sitting of the Council. I quite admit that opposing the Bill at this stage is a task not lightly to be undertaken, that there ought to be grave reasons to justify the adoption of such a course, but I would beg respectfully to point out that there are in the present case such grave reasons. My first reason is that, having regard to the effect of the financial clauses of the Bill which are the principal clauses, the most operative sections of the proposed measure, there has not been a case made out for the imposition of a rate or cess, or tax, call it by whatever name it may please the hon'ble member in charge of the Bill to call it. And this objection goes to the very root of the matter. I have read with care the proceedings of the Belvedere Conference; I have gone through the speech of the hon'ble member in charge of the Bill when introducing it, and when subsequently he moved to refer it to a Select Committee, and of other members of the Council; but I do not find anywhere an attempt made to prove the necessity for fresh legislation of the kind here proposed. I submit that it is due to the members of this Council and to the public that a statement of a definite character should be laid before them, pointing out what are the important drainage schemes that are required in the interests of sanitation, giving an approximate or rough idea as to the cost likely to be incurred, and then showing that the financial resources of District Boards, with such help as may be available from Provincial funds, are not in any way sufficient to meet such requirements. It would be a singular thing for a Chancellor of the Exchequer to ask for the imposition of a fresh tax, be it for a temporary purpose or for a long period, unless he at the same time produced a statement of facts and figures showing what the requirements are likely to be, what the advantages are likely to be, and that the existing sources of revenue

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can by no means meet such requirements. In the present case that has not been done; therefore as I said, the very basis of this proposal of taxation or rate, or cess, has not been made out.

“I confess there is considerable difficulty in understanding the genesis of this measure. As far as I have been able to follow the proceedings of the Belvedere Conference, three of the resolutions passed at that Conference apply to matters municipal, and one of them only to the question of rural drainage which came up almost incidentally, and had not been even so much as referred to in the Hon’ble Mr. RISLEY’S note which led to the holding of the Conference, nor was anything said there to show the inadequacy of the present state of things. On the other hand, I attach very great weight to the expression of opinion by a gentleman whose opinion is entitled to the utmost consideration, namely, the then Chief Engineer and Secretary to Government in the Public Works Department, Mr. McNeile, which will be found at page 6 of the Appendix to the proceedings of the Belvedere Conference. I shall first draw the attention of the Council to one matter to make the reference clear. At the present time and under the existing law, there are provisions for sanitary drainage. I need not refer to the provisions of the Bengal Drainage Act, because it may be said that these are intended for the drainage and improvement of land, though, in passing, I may point out that the drainage of marshy areas will have great effect upon sanitation as well. There is in fact an intimate connection between measures calculated to drain land or to open out water communications, and measures of drainage calculated directly to effect sanitation. But without referring to that Act, I may point out that, under section 109 of the Road Cess Act, there is distinct power to spend a portion of the district fund for the purpose of improving drainage; and further in section 79 of the Local Self-Government Act, the same thing is repeated. It is there enacted that ‘it shall be lawful for a District Board to take measures for, or to contribute towards * * the construction and maintenance of any means and appliances for providing or improving drainage.’ Then there are in the same Act certain provisions under head (E), having special reference to sanitation under which money may be expended, and which make it the *duty* of District Boards, so far as may be possible, to provide for the proper sanitation of their districts. Therefore there can be no question whatever that there are provisions in the existing law by means of which agricultural drainage as well as sanitary drainage may be

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carried out. And having regard to this, I place before the Council this expression of opinion from Mr. McNeile to which I have referred. He said with reference to proposed legislation:—

‘My own idea is that it will be possible to do a great deal more under the present Drainage Act.’ And he goes on to say—‘If I am right in thinking we can do what is required under the existing Drainage Act, then it is worth consideration whether it would not be better to pass a special Act now for the particular water-supply scheme which has started this proposal to legislate, and not a general one.’

“It is, Sir, a common-place of legislation, one of its recognized axioms, that it must be shown that all that could be done under the powers already given by the Legislature has been done before fresh powers are given or asked for. As I have said, that has not been done. The burden of proof lies, and lies heavily, upon the promoters of this Bill to show the necessity for fresh legislation, and not only has that burden not been discharged, but not even an *attempt* has been made to discharge it. This appears to me to be a singular and a fatal omission so far as this measure, at any rate its taxation clauses, are concerned. I have already referred to Mr. McNeile’s opinion. I must respectfully express my surprise that the instances mentioned by the Hon’ble Mr. R. C. DUTT of drainage schemes which have been successfully carried out by District Boards liberally helped by the Government were cited by him as arguments in favour of this Bill. It appears to me that instead of being arguments in favour of the Bill, they are reasons which go against the necessity for any such Bill. These and other instances which have been quoted, and many others which may be quoted, of improvements in sanitation by means of drainage, show that the District Boards, aided where there is need by Government, are in a position to carry out such schemes. Therefore, until facts and figures are adduced which conclusively prove the necessity for this Bill, I submit with the utmost confidence that there is not that foundation laid which is requisite in all cases of fresh legislation. The general and indefinite proposition that more schemes of drainage can be carried out if there were more funds is not, I need hardly point out, by itself a justification for additional taxation.

“I proceed now to my next point. I have hitherto addressed myself to an examination of the necessity for fresh taxation or rating. Assuming for the sake of argument that this necessity has been made out, let us examine the

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principle of the rate which it is proposed to impose. That principle is one that is admittedly not a perfect one. It is not necessary for me to argue that point, because it has been very generally conceded; nor do I propose to go over the ground which has been trod on the last occasion that the Bill was under discussion. But I will, with the permission of the Council, read one passage bearing on this question of class taxation.

“John Stuart Mill, speaking of tax on rents, says :—

‘A peculiar tax on the income of any class, not balanced by taxes on other classes, is a violation of justice and amounts to a partial confiscation.’

“In the present case it has been admitted that this taxation, although its object is to benefit all classes of the community, has been imposed on a particular class only, viz., on those connected with land. I have no right to claim the character of a representative of the zamindars; but as a representative, as far as I am, of a larger and, I trust I may without offence say, even a more important class than the zamindars, namely the raiyats, I venture to address a few observations on this point. I admit that the necessity of improving the health of the raiyats is a most important consideration, but it must be shown that this cannot be done by the materials or means of taxation now available, before his poverty is again taxed or the scanty means for eking out a miserable existence is further encroached upon. But it has been said that no practicable means can be devised for imposing a rate on all classes of the affected area. The question has been argued on a previous occasion. I will therefore only say that suggestions were then placed before the Council which might be considered as furnishing the basis of workable schemes. We have Mill’s high authority for stating that taxation of this character is partial confiscation and a violation of justice.) I mean no idle compliment to the members of the Select Committee when I say that I do believe that if this Bill were referred back to them, with additions to their number if need be, they would be capable of finding a means which would combine even-handed justice and fairness to all classes with practical utility.

“I may also refer to certain opinions from an eminent authority bearing directly upon this point. I do not quote the opinions of the representatives of various native associations and committees, not because they are not entitled to weight—I think great weight attaches to their almost unanimous testimony on the subject—but because it will probably be thought that official experience has

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a special value. Bearing that in mind, I may mention that various District Officers—the Magistrates of Nadia, Bankura, Mymensingh, Malda, Noakhali, and other places—have pointed out the injustice of a tax exclusively on land. I will not detain the Council by reading their opinions. I will read just one expression of opinion on that point and no more; and it is an opinion which I am sure the Council will receive with great consideration. Mr. Westmacott, Commissioner of the Presidency Division, writing on the 23rd March 1895 on the Bill as amended by the Select Committee, says:—‘To throw the whole cost, or even a large proportion of it, upon the landed interests appears to me most inequitable, and such provision appears to me the most objectionable part of the Bill. I note that the Select Committee have considered suggestions for distributing the cost over the whole population, but have failed to discover any more practical method of doing so than that contained in the Bill. If this is so, I consider that the Bill should be dropped, as the proposed incidence of taxation appears to me unjust. I am most strongly of opinion that taxation should not fall upon the land, but on the population, and I deny emphatically that such population is chiefly agricultural. If benefited at all by sanitary drainage, the agricultural population will not be benefited to nearly so great an extent as the non-agricultural classes, and I cannot consider it just that they should bear the whole cost of it. I have considered such cases as occur to me of obstructed drainage which requires improvement, and they all suggest the view which I have expressed, and if any other cases are suggested to me, it will surprise me if I do not find the same facts as to the classes of the population to be benefited.’

“One remark more before I pass on from this point. I wish to point out the dangerous character of the precedent which is now being created. It is not only for the purposes of the present Bill, but having regard to the effect it will have on the course of future legislation, that I place this consideration before the Council. If at the present time in connection with the present measure when it is admitted that those who will be benefited are the whole population—if in such a case, because there is no machinery for carrying out a scheme of general taxation, the zamindars and raiyats alone are to be taxed—then at some future time when the question of taxation for carrying out some other measure of general benefit is being considered, *e.g.*, the question of an education cess, the same thing will be said which is now being said, and with

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greater effect. It will be argued that a tax on the landed interest will be realised with the greatest ease, because the machinery is at hand, that that interest represents the bulk of the population in rural areas, and there will then further exist the precedent created by the present measure. I ask the Council to pause and consider well before establishing this precedent.

“My third reason for opposing the passing of this Bill is this, that there is no statutory obligation laid upon the District Board to make any contribution towards the cost of drainage schemes carried out under its provisions. Section 11 relates to this point, and it provides that the District Board after approving of the preliminary scheme shall deduct from the aggregate amount estimated under section 6 the sums, *if any*, which have been promised as private subscriptions, or contributed by the District Board or provisionally promised by the Local Government. Therefore it leaves it entirely optional with the District Board whether they are to contribute anything in furtherance of the scheme or not. I would point out that there is a special danger which will follow from a provision of this character. District Boards have power now to carry out schemes of sanitary drainage, and they have in many cases exercised that power as we have heard. After this Bill comes into operation, how are the two classes of drainage schemes to be distinguished, namely, the cases which may come under section 79 of the Local Self-Government Act under which District Boards must bear the cost, and the other class of cases in which schemes will be carried out under this Bill when their contributions will be entirely optional? Will there not be a natural tendency on the part of the District Boards—I suppose, however perfect they may be, they will have some share of ordinary human nature in them—to throw the whole cost of drainage schemes on the local area under the clauses of this Bill, rather than proceed under the provisions of the Local Self-Government Act. There will be too great a temptation to adopt this course, especially bearing in mind the fact that the initiation of drainage schemes, and subject to the sanction of the Local Government, the final adoption of them will rest with these District Boards. A provision imposing on the Boards an obligation to contribute towards drainage schemes, besides being just in itself, would insure on their part a greater sense of responsibility in sanctioning and carrying out schemes because they would themselves be bound to pay a certain share of the cost. At the same time there will be this further advantage, that the people of the locality will more heartily co-operate, knowing

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that they will be assisted by contributions from the District Board and from the Local Government. In the absence of that obligation they will not know, when a scheme is initiated, whether they are likely to get any help from these sources. In the papers which have been circulated there are various suggestions in regard to this matter; one, for instance, that one-third ought to be laid down as the least amount of contribution from the District Board and a similar contribution from the Local Government, the rest to be obtained from local sources.

“With regard to the financial position of the District Boards, I find that the balance in their hands on the last day of the year 1893-94 was Rs. 17,38,474, and further there was on that date an outstanding balance to be realized—this is with regard to both the Road Cess and the Public Works Cess—of Rs. 14,82,876. Therefore it cannot be said that the District Boards are not in a solvent or flourishing condition, or that they are in a condition in any way approaching insolvency; and it may be added there is in some quarters a feeling that the funds in the hands of District Boards are not always used as they should be. As only one illustration of this I may mention that in a representation submitted to the Council, very pointed reference is made to the fact that large contributions in furtherance of water-works within municipal, *i.e.* non-Board, areas were made by District Boards. I refer to the Arrah and Bhagalpur water-works. On all these grounds I submit that there ought to be an obligation laid by statute on District Boards to contribute towards the cost of schemes under this Bill.”

[The Hon'ble THE PRESIDENT, rising to order, said:—“The hon'ble member is referring now to details which it is not the time for the Council to discuss at present, and which the hon'ble member had ample opportunity to consider when the Report of the Select Committee was under consideration. I did not check the hon'ble member from Dacca, although he went largely into a criticism of details, because he had had no such opportunity. Now the Council is discussing the question whether the Bill should be passed, and the only arguments that should now be brought forward are arguments, affecting the general principles on which the Bill is based. This is not the time to discuss amendments which were never moved.”]

The Hon'ble MR. A. M. BOSE, continuing, said:—“Having had the honour of only recently joining the Council, the papers connected with the Bill

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came to me too late to enable me to give notice of any amendment when the clauses came up for settlement by the Council; and I may be permitted respectfully to add that quite apart from this, the only way to show that a Bill ought not to pass is by examining its main provisions and pointing out their defects, which is what I am now endeavouring to do. A further reason appears from the statement which has been made by the hon'ble member, the Secretary in the Financial Department, as to the expenditure under the Public Works Cess. When the Public Works Cess Act was passed, the proceeds of the cess were intended not only for the payment of interest and working charges upon certain extraordinary public works—extraordinary in more senses than one—but also for the construction of new public works. That being so—a reference has been made to a declaration of Sir Ashley Eden on that point, and I have before me the declaration of Mr. Reynolds when introducing the Bill to the same effect—I submit that well-considered drainage schemes are as important as any other class of public works which are now undertaken from public funds, and ought to receive the utmost consideration from the Government. The obligation ought to be laid by express provision on them to help such schemes. As Mr. Skrine says:—

‘It is the paramount duty of Government to secure the health of its subjects; and I think that in every scheme a certain portion of the cost should be met from provincial resources;’

and I may add that in Mr. McNeile's opinion—and there is no higher authority on the subject—drainage and water-supply are even more important than roads on which, as we have heard from the Financial Secretary, more than 13 lakhs of Rupees are spent annually from the provincial revenues.

“In the observations which fell from the Hon'ble MR. R. C. DUTT and from other speakers, a statement was made to the effect that this is really a measure in which the principle of local option is recognized, and much stress was laid on the point. My hon'ble friend in fact went so far as to say that payments under this Bill may be looked upon as voluntary contributions by the people, and therefore the Bill ought to be gladly accepted. I submit that that description of this measure cannot be justified. Section 3 relates to this matter and defines the constitution of the Drainage Commissioners. Under the operation of section 3, though there is a minimum fixed for the number of Commissioners to be elected by the District Board, there is no such minimum as to the number of Commis-

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sioners to be appointed from the representatives of the local landed interest ; so that out of, say, 15 members of the Drainage Commission, while at least 8 *must* be elected by the District Board, it may happen that as many as 12 or 13 will be elected by it, and only 2 or 3 appointed* from among the local representatives of the landed interest. There is absolutely nothing in the law to prevent this being done. I submit that those representatives ought to be secured a substantial position in the Commission before the Bill can be justly described as a measure of local option. But it may be said that after all, the initiation of the scheme is in the hands of the District Board, and the majority of the members of the Drainage Commission will also be elected from among the members of the Board. This raises the important question how far these latter can be said to represent the rate-payers of the district, and still more of the local area, in matters of this kind. I wish to point out that the provisions of the Bill are not calculated to secure local option. I know that I have the sympathy of the hon'ble member in charge of the Bill and of the hon'ble member the Secretary in the Financial Department in this view; for at the Belvedere Conference they wanted the initiation of drainage schemes to rest in the hands of the inhabitants of the locality concerned, and not with the District Board. As to the representative character of District Boards about which there has been some difference of opinion in this Council, without using any arguments of my own, let me place before the Council the following figures which I take from the Government Resolution on the working of these Boards for the year 1893-94, and which will speak for themselves. Out of 794 members of District Boards, only 309 were elected members, or about 38 per cent. But that is not all. Even these 38 per cent. were not elected by the people or the rate-payers themselves, but by the members of Local Boards; and therefore it becomes important to see what is the constitution of these Local Boards. There were in 1893-94 1,222 members of Local Boards, out of which 435, or about 35 per cent., were elected. The facts therefore indisputably stand thus. The majority of members in the District Boards are nominated and *ex-officio*, and even the minority, a little over a third, are elected *not* by the rate-payers, but by a body of whom about two-thirds are nominated by Government. (The elective character of the average District Board may thus with mathematical accuracy be described by a ratio which is compounded of these two ratios, or by about one-eighth; and in this I do not take into account

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the influence of the Magistrate-Chairman, whose little finger, as we have been very candidly informed to-day by the Hon'ble MR. RISLEY, is thicker than the loins of the whole District Board. Therefore whatever the present Bill secures, it certainly does not secure local option, nor will it realise the dream of voluntary contributions pouring in from the afflicted inhabitants of an affected area. And what adds to the regret is that the present Bill goes in this respect behind the existing Drainage Act of 1880, and the Drainage Act of 1871 which it repealed, both of which secured the majority in the Drainage Commission to landholders in the affected area.

“ There is only one other point to which I wish to refer. It is a matter of regret that there is no provision in the Bill giving power to District Boards with the sanction of the Local Government to require contributions from railways, or in a minor measure it may be even from those who are responsible for roads and canals which are shewn to cause obstructed drainage. There is a considerable body of opinion as to the responsibility of railways in causing obstruction to drainage and thereby injuring public health. I will only read the opinion of the present Chief Engineer and Secretary in the Public Works Department, Mr. Odling. He says:—‘I think the railway is a sinner in obstructing the drainage of the country. I fully agree that the railways are sinners’ (page 9, Proceedings of the Belvedere Conference), and there are other opinions which fully bear that out. Therefore this also is a matter of importance in connection with the motion for the postponement of the passing of this Bill; because if there are obstructions to drainage of a serious character caused by railways, and in a minor degree by canals and roads, there ought to be a power of dealing with matters of that description. Section 11 of the Railway Act of 1890, which may be referred to, is not sufficient for the purpose, and does not confer powers which ought to be taken with the sanction of the Government of India in this connection. I submit that this is another ground why the Bill should be further considered. I will not detain the Council further. Having regard to the fact that no case has been made out for the imposition of an additional rate or the enactment of a new law, that the principle of that rate is unfair and establishes an undesirable precedent for future taxation, that no obligation is laid on District Boards or Local Government to help local areas in the carrying out of drainage schemes, that confusion is introduced in the application by the Boards of their varying and even conflicting powers under the

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existing law and under the present Bill in regard to such schemes in the future, that the principle of local option is not recognised and a retrograde step taken in that connection, that no provision is made in regard to railways and other sources of obstructed drainage, I venture respectfully, but confidently, to hope that a case has been made out for further and serious consideration of the measure, and that the Council will not give its assent to the passing of the Bill."

The Hon'ble MAULVI MUHAMMAD YUSUF said:—"At this late hour I do not propose to detain the Council by lengthy observations on the subject of the Bill. Much of what has been submitted to the Council this day belongs legitimately to a prior stage of the Bill, and it is not therefore necessary for me to indicate my views on every one of the arguments addressed to the Council. There are two propositions before the Council; the first proposition consists of the proposal, which has emanated from such a high authority as His Highness the MAHARAJA OF DARBHANGA, to postpone the further consideration of the Bill for three months. As regards this proposition, I have nothing to say. If, after due regard to the whole of the circumstances in connection with the subject, Your Honour will be pleased to allow time, that will be an act of courtesy and favour which will be duly appreciated.

"The other proposition before the Council is the motion of the hon'ble member in charge of the Bill, that the Bill should be passed into law. As regards this proposition, I have to say a word in explanation of the vote I intend to give. There are only two aspects of this measure; the sanitary aspect and the financial aspect. When I took my seat in this Council a few months ago, the measure had made considerable progress; in fact the Bill had already been before the Select Committee for a long time. The Bill was the outcome of what is known as the Belvedere Conference. At that Conference most of what was said was said in favour of the advantages likely to result from the measure: two of the hon'ble members now present took part in that Conference, and their utterances in support of the sanitary measure were forcible and exhaustive to a degree; their anxiety and enthusiasm were such that no delay was to be endured, and the project they said should be put into execution the day after: the enthusiasm continued when the Bill was introduced in the Council. The Hon'ble BABU SURENDRANATH BANERJEE said in the Council, if the measure was a fad, he was a faddist; but he was in every good company, for he was supported by expert opinion of the

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greatest authority. It appears to me therefore that as far as the sanitary aspect of the Bill is concerned, there is a consensus of opinion in its favour, and I have not the slightest hesitation in affirming and adopting that opinion.

“As regards the shape which has been given to the Bill by the Select Committee, the result has been placed before the Council by the hon'ble member in charge of the Bill. The Select Committee has improved the Bill in various particulars, consistently with public opinion: in fact, the measure as it is now presented, is pre-eminently the people's measure, and not the Government measure. If there is any objection in a particular case, the District Board has simply not to take it up at all.

“Then as regards the financial aspect of the Bill. It appears to me that this aspect must have been considered in all its bearings at the Belvedere Conference. It required no large amount of political sagacity and wisdom to know, when the Bill was first conceived, that money would be required to carry out its object, and that that money must come from the area in which the Act was to be introduced, and not from any source lying outside the area. The utmost that could be expected from the Government was that it would provide for the least objectionable mode for raising money; that the mode recommended in the Bill was one of the possible modes should have occurred to those who supported the measure at the Conference. And it did occur to them, and still they asked for the measure, which was deemed to be so urgent that they did not say they would have it only under certain circumstances and would not have it under other circumstances.

“The form given in the Bill to the financial question is the best that human wisdom could devise, and it was admitted no other form was feasible. It follows, therefore, that the necessity for the measure was conceded to be so great that the financial shape of the Bill is not to be taken as in itself sufficient to put aside or to defeat the Bill. In fact the death knell of all opposition was sounded at the Belvedere Conference, which gave birth to the measure, and the initial velocity given was so great that it is not now possible to withstand the force.

“But notwithstanding the high authority of those gentlemen under the auspices of whose great name the measure was affirmed at the Conference, and notwithstanding the strong presumption which arises from the measure being stamped with their names, that there could be no serious objection to the Bill,

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still if I could honestly and conscientiously believe that the Bill violated some fundamental principle and is radically defective, I should consider it my duty to join in the protest, and to withhold my support from the Bill. But I am convinced that the Bill does not violate such principle and is not so defective. As regards the cry of the Permanent Settlement being broken by the provisions of the Bill, I do not think there is much force in the argument. The President had, at the instance of the Hon'ble R. C. Durr, consented to certain changes in the phraseology of certain sections, the apparent effect of which might have been to treat and make the rate as part of the revenue or road cess. Under the old section 18, the rate was to be added to the Road cess; under the new section 21, as finally settled by the Select Committee, the rate is to be collected with the Road cess. So that the Select Committee has done its best to maintain the Permanent Settlement in tact and to see that there is no shadow of infringement of that settlement. And quite apart from the phraseology employed in the Bill, it appears to me that there is no infringement of the contract of the Permanent Settlement in this Bill. Without entering into a disquisition of the principles involved in the Permanent Settlement, I say that there would be violation of that settlement if for the same consideration a higher return were to be demanded by the Government; but if the consideration is additional and not illusory, then, as at present advised, there is no breach of the Permanent Settlement. The financial clauses of this Bill do not in any way infringe the conditions of the Permanent Settlement, because its provisions are not framed with the object of increasing the revenue, but with the object of collecting funds to meet the cost of necessary works of sanitation for the benefit of the subject, and no question has been raised that it is the duty of the Government to undertake such works and provide for the costs from the revenues. It is for these reasons that I give my vote in favour of the motion for the passing of the Bill."

The Hon'ble RAI ESHAN CHUNDER MITTRA BAHADUR said:—"I shall not on this occasion give a silent vote. I was one of those who were invited to the Belvedere Conference. I then thought, and I still say, that legislation is necessary for the purpose of improving the condition of villages in rural tracts. This Bill has gone through several stages in Select Committee, and whatever may be the opinion of that section of the community which entertains extreme views, I say that the majority of the people are grateful to Your Honour and to

[*Rai Eshan Chunder Mittra Bahadur.*]

the hon'ble members who sat in Committee for the concessions made in favour of public opinion. The Bill gives local option to District Boards, it provides that the Commissioners to be appointed under the Bill should have effective control over the scheme; the Bill further makes provision for the joint action of Municipalities and District Boards under certain conditions. These are all salutary provisions which have made the Bill attractive. But it is the financial clauses of the Bill which really are to be looked into, and which I submit have created apprehension and dissatisfaction in the minds of zamindars, tenure-holders and raiyats; financial considerations are in fact everything in a matter like this. Your Honour has received petitions from the British Indian Association and from other Associations on this point. They complain that the Bill makes an attack upon the terms of the Permanent Settlement, and they further contend that there is no necessity for this Bill. As regards the question of necessity I differ from them, I consider that there is necessity for action on the part of the Government; but as regards a breach of the terms of the Permanent Settlement, I do not wish to enter into the question as it has been urged in the papers before the Council, and has been argued by my hon'ble friend, BABU GURU PROSHAD SEN. But whatever may be the view which the Council may adopt, whether it is too late in the day to consider the matter, or whether the zamindars are in a position to complain or not, and even if the Council think that the zamindars are wrong in their contention, I submit that the Bill contains provisions which may be taken to be an invasion of the vested rights in private property; in a country where we find scarcity, if not famine, occurring almost every ten years, where the agricultural classes are maintained solely by the produce of the soil, where the soil itself is not improving, it is a question whether it will be politic, wise and fair to impose another burden upon the landholding classes. Information has reached us from the last Census returns that the agricultural population consists of a little more than half the whole population, and under these circumstances it is of the utmost importance for Your Honour and the hon'ble members of this Council to consider whether a cess, or whatever it may be called, should be imposed upon the landholding classes who I submit are already suffering from severe load of taxation.

“I do not wish to detain the Council after the exhaustive speeches we have heard, but I submit that a Bill like this ought to have a wider sphere of operation; that while it is improper to contend that the whole cost of these schemes should be borne by the Government, I submit it would not be right

[*Rai Eshan Chunder Mitra Bahadur ; Babu Surendranath Banerjee.*]

to say that the greater portion of the cost of construction should be paid by any particular classes—I mean the landholding classes. As I have said, I think it necessary that there should be some sort of local rate to carry out the object of this Bill, but such local rate should not be of the nature of the Road Cess, and if it has been found difficult to find out the means of imposing such a rate, that I submit is a very good reason for referring the Bill back to the Select Committee.”

The Hon'ble BABU SURENDRANATH BANERJEE said:—“ I have a few observations to make upon the motion before the Council. I did not intend to offer any remarks at all on this occasion, but the criticisms of my hon'ble friend the Financial Secretary to Government, call for a protest and a remonstrance from me. It is a very happy sign indeed that an official member in the position of the hon'ble the Financial Secretary should from his place in Council endeavour to defend a measure of the Government against public criticism. It is an expression of homage to public opinion. Might I be permitted to hope that this feeling may be carried a stage further, by the acceptance by this Council of the proposal of my hon'ble friend THE MAHARAJA OF DARBHANGA, so that an opportunity might be given to some of the new members of this Council to consider a measure of this gravity and importance.

I do not myself in the smallest degree recede from the position I have taken up in regard to this Bill since its introduction into this Council. I still believe that obstructed drainage is the cause of malarial fever, and that malarial fever is a prolific cause of death in these provinces. I have had personal experience of the truth of this statement. Some years ago I went to a village in the Hooghly district which is associated in my mind with the dearest recollections; at one time it was a prosperous and a happy village; now it is a wild scene of desolation; the houses are in ruins; malarious fever has done its work of death. So far, therefore, as this Bill seeks to grapple with this question of obstructed drainage and malarial fever, it is entitled to my unstinted sympathy and support. But it is neither politic nor fair to impose a rate or tax upon any section of the community for the purposes of this Bill. I contend that the Bill is partly a measure of local option. You give the District Boards power to initiate schemes of drainage. You cannot compel or coerce them. It is a matter left entirely to their discretion. Now is it conceivable that any District Board

[*Babu Surendranath Banerjee.*]

having any pretensions to a representative character would, of its own accord, initiate a drainage scheme which would involve the imposition of a new cess upon the people subject to its jurisdiction? Unless a District Board has ceased to be representative in its character, it would not of its own free will and motion do anything which would lead to the imposition of a rate of this kind. Therefore, to require the imposition of a cess at the instance of the District Board, is to declare that this Bill shall be a dead letter. Relieve the Bill of the necessity of imposing a fresh tax, and you will make it a Bill that will be largely availed of by the District Boards. The hon'ble the Financial Secretary has contended that the surplus of the Road Cess fund is not available for sanitary purposes. Is there anything to prevent the Government from directing that works of sanitation should be a first charge on the Road Cess fund? The Government makes rules under the Local Self-Government Act. Is there anything in the Act to prevent the Government from making it obligatory on District and Local Boards that the first charge on the Road Cess fund should be the sanitation of local areas? Roads are good things; but sanitation is better. Roads are a luxury; sanitation is a necessity. People must first live, before they can make use of the roads which a beneficent local authority may provide for them. My hon'ble friend the Financial Secretary admits that roads which used to be maintained out of Provincial funds, have in many instances, been made over to Local Bodies, but my hon'ble friend contends that they have been paid for in every case. I know of at least one road which used to be a provincial road. The local Municipality has now been called upon to maintain it. I am not aware that the Government has made any contribution towards its maintenance. Therefore that is a statement which I believe is not strictly correct, if it is to be accepted as being of general application. My hon'ble friend has pointed out that there is a balance of 14 lakhs of rupees in connection with the Public Works Cess. Who are the contributors to this Cess? The landed interest—zamindars and raiyats; and 14 lakhs of their contributions are devoted to purposes connected with the well-being of the general community. Is this fair and equitable? You do a double injustice to the landed interest by devoting a portion of the proceeds of the Public Works Cess to works which benefit the whole community, and then by again levying a cess upon the landed interest for sanitary works which will also benefit the whole community. When I brought forward an amendment calculated to remedy this injustice, I was told that the object

[*Babu Surendranath Banerjee; Mr. Lyall.*]

I had in view was laudable, that the principle of the amendment was unobjectionable, but that it could not be accepted because it appeared to the Government to be unworkable. If that be the view of the Government, it follows that the cess proposed in the Bill is unfair, and I decline to be a party to a measure which does not deal out even-handed justice to all parties, and I hope the Council will decline to be a party to it. I feel quite sure that if you have this cess embodied in this Bill, District Boards will not give effect to this measure. Therefore it seems to me that it is a matter of vital importance that we should carry the public with us, and then only can we hope to see a Bill based on the principle of local option adopted by our local bodies, and rendered operative for good. I hope and trust the Council will see its way to accept the proposal of the Hon'ble THE MAHARAJA OF DARBHANGA, namely, that the further consideration of this Bill be postponed for three months. No works connected with drainage can possibly be undertaken until after the rains. The Government, in the Public Works Department, will lose nothing by this short delay; and, in the interim, there will be time for further deliberation, public opinion will be conciliated, and the sympathy of the public enlisted on behalf of a measure, for the success of which public sympathy is indispensably necessary."

The Hon'ble Mr. LYALL said:—"I have a few remarks to make in answer to some of the observations which have been addressed to the Council by hon'ble members. In the first place I strongly echo what has been said by the Hon'ble MAULVI MUHAMMAD YUSUF, that most of what has been said to-day ought to have been said when the Bill was introduced, and not at the present stage of the Bill. There is, however, this excuse for those hon'ble members who have just taken their seats in Council that they had no other opportunity of expressing their views.

"Before dealing with the remarks of hon'ble members in detail, I wish to say a few words with reference to the motion of the Hon'ble THE MAHARAJA OF DARBHANGA. I have already referred to what has been said to-day in Council, and I may add that I have read the enormous amount of correspondence which has taken place in connection with this Bill, but there is not a single argument which has been urged to-day which has not been urged in that correspondence. Why then should we postpone the passing of a Bill, or refer it back to the Select Committee, when it has been some three years before the public, reckoning

[*Mr. Lyall.*]

from the time of the Belvedere Conference, and before this Council for 18 months, and when no new thing can be said about it? I must therefore oppose the motion of the Hon'ble THE MAHARAJA OF DARBHANGA.

“Coming to the detailed criticisms of the Hon'ble BABU GURU PROSHAD SEN, I would first point out that he has, until quite the end of his speech, referred to the rate which will be imposed as if it was a tax which would extend all over the country, and would affect every zamindar and raiyat in the Province, and as if it was to be levied permanently. I need hardly say that it will be levied only in a few areas with the consent of those who will pay, and that the extreme incidence will be 30 years.

“In dealing with the incidence of Road and Public Works Cesses, the Hon'ble Member has spoken as if the whole cess were paid by the zamindars, while as a fact half is paid by the raiyats.

“The Hon'ble Member next said that everything contained in this Act is already covered by existing legislation, and the same point was urged by the Hon'ble Mr. A. M. Bose. It is quite true that to a certain extent, section 109 of the Road Cess Act and section 79 of the Local Self-Government Act do apply to such schemes, but there are many schemes which District Boards are obliged to reject for want of funds. We now allow the inhabitants of a local area, who desire the execution of such a scheme, to say to the District Boards—‘Very well, if you have no funds, we will pay for it, so give us our scheme.’ It is in this respect that this Act makes provision for what could not be done before.

“The next point is as to the maximum rate of the cess. That point was very fully discussed in the Select Committee, and we did not fix any maximum limit, because we considered that it was very possible that where the amount was small, the people would prefer to pay it straight off, instead of in the course of a number of years.

“The Hon'ble Member next dealt with the question of the poverty of the raiyats. My hon'ble friend is the representative of the District Boards of the Dacca Division, for which Boards he has apparently very little respect, but the statistics which he quoted refer entirely to the Patna Division; the famine he referred to occurred in that Division, and statistics regarding the average acreage of a raiyat's holding are also taken from that division. That acreage which he quotes as affording a bare livelihood in India is the exact quantity,

[*Mr. Lyall.*]

3 acres, which is held to be the ideal holding of the English labourer, and the native raiyat has already got the cow. As a fact, however, there is little or no chance of this Act ever being worked in the Patna Division, and the raiyats of this division represented by the Hon'ble Member are well able to pay this or any other rate.

“Another point to which the Hon'ble Member referred is the existence of a large balance which he referred to as 25 lakhs, but which the Hon'ble Mr. A. M. Bose called 17 lakhs standing at the credit of the District Boards, but I ask the Council to remember that there are 38 District Boards in the Province, and that it is utterly impossible for any public body like the District Boards or Municipalities to do without a working balance. Even the Lieutenant-Governor is tied down by the Government of India to keep a working balance in the Provincial revenues, and the balances at the credit of the several District Boards are no more than necessary working balances.

“The hon'ble member stated that at times the District Boards voted money improperly, and he instanced a matter in which I had some personal concern. I remember well the circumstances to which the hon'ble member referred. When Sir George Campbell visited Dacca, the question of getting a dredger to raise silt from the river bed was under the consideration of the District Board. Sir George highly approved of the proposal, and promised to make a grant of half the money. As a necessary consequence of this grant from the public funds, the dredger was ordered through the India Office; the specifications were never sent to the Municipal Board. And it was not until the dredger was nearly ready that the Board saw the plans. It then appeared that no locomotive power had been provided. The Board pointed this out, and at the last moment very weak locomotive power was added. When the dredger arrived it was found that the engine supplied was quite incapable of moving the dredger in the rivers of East Bengal. The result was that the article was useless to Dacca and the Government finally took it over, and to the best of my belief it is still working.

“The next point to which the Hon'ble Member referred was the joint action of District Boards for a common object. He would allow no Board to put pressure upon another Board, so that any Board would be able to hamper the action of other Boards by refusing to carry out a continuous scheme. I venture to think that the proposal of the Hon'ble Member would be a step in the

[*Mr. Lyall.*]

wrong direction, and on the contrary I think this is one of the best provisions of the Bill.

“I do not think I need reply to what fell from the Hon'ble MR. A. M. BOSE as to the submission of detailed estimates of schemes under this Act. I think the Council will agree with me that his suggestions are quite impracticable. The other criticisms in the opening part of the speech of the Hon'ble Member might properly be replied to by the Hon'ble BABU SURENDRANATH BANERJEE, who is far more the author of this Bill than I am.

“Another point to which the Hon'ble MR. A. M. BOSE referred was that only 38 per cent. of the members of District Boards are elected, and of those who elect them, only 35 per cent. are themselves elected. I am not myself a thorough believer in the virtues of election, and I think we have a very good example of the results of the elective system in the Municipality here in Calcutta. Here, as in other similar bodies—and I think the nominated members keep the bodies of which they are members from making a good many mistakes—I think the time has not yet come when we can trust to an entirely elected body.

“As regards the observations which fell from my hon'ble friend, BABU SURENDRANATH BANERJEE, I have a better opinion of District Boards than he has. I think they will put forward many schemes which will not cost much money, and which will do a great deal of good.

“With regard to the question of taxation generally, I have to say a very few words in connection with the remarks of my hon'ble friend. The question was fully and thoroughly discussed at the Belvedere Conference, and it was well understood that the carrying out of this Bill would entail taxation. Raja Peary Mohun Mukerjee brought the matter very fully before us, inasmuch as his main objection to the proposal was that it would involve taxation. Every member present at that Conference had it fully before him that taxation must come in some way or other. We have tried our best in Select Committee to evolve a perfectly fair method of taxation, and I for one do not think a better proposal could be devised. The Hon'ble BABU ESTHAN CHUNDER MITTER simply says it can be done, but he gave us no method of doing it. Not one of the proposals which have been considered and rejected have any possibility of being worked successfully.”

[*The President.*]

The Hon'ble THE PRESIDENT said:—"The debate to which we have listened has been of a very discussive character, and as I had occasion more than once to remark, has included subjects which one could hardly have expected to be touched upon in the closing debate on the passing of the Bill; but there was a special reason in the case of one and possibly of two hon'ble members, because of the newness of those members. I cannot but congratulate the Council in having had the advantage of hearing their views, and it cannot be said that every opportunity has not been given to those who were dissatisfied with the Bill to represent their opinions and bring forward their arguments with the utmost possible freedom and with abundant time given to them for preparation.

"The debate to-day has turned chiefly on the financial clauses of the Bill, and I think there is still considerable misapprehension on the subject in spite of the extent to which it has already been discussed. Our old friend the Permanent Settlement has been trotted out again. I cannot conceive how any reasonable person can suppose that the imposition of a cess under this Act has the slightest connection with any invasion of the Permanent Settlement. If there is a proposal to drain any obstructed channel, and if the zamindars and owners and occupiers of land which lie within the obstructed tract strongly object to any steps being taken to relieve the obstruction, I think they would have sufficient influence with the District Board to prevent any scheme being carried through. It has been said, and I was sorry to hear it, especially from the hon'ble member who has been nominated on the election of the District Boards of Dacca, that the District Board is not a representative body, and they have been belittled by one who has been sent here to represent them. I do not agree with what that hon'ble member has said, and I do not think he correctly represents the independence and freedom of the District Boards with respect to matters which come before them, whether they are supported by the Government nominees or not. We have the opposite view stated by the Hon'ble BABU SURENDRANATH BANERJEE that he was convinced that no District Board would propose any scheme which would involve the imposition of a cess. However that may be, I think it may be accepted that a District Board would not sanction the imposition of a cess against the resolute and strong opposition of the persons who would be called upon to pay that cess. If then a scheme has been carried through the District Board it must have been with the consent of the landowners, and when the works have been carried out, who

[*The President.*]

would have to pay for them? As the hon'ble member in charge of the Bill has said, if the District Board can pay for them out of money in its hands, or if the Government can make up a sum which, added to the amount which the District Board can give, would pay for the work, then there will be no occasion for the imposition of a cess. The Hon'ble BABU GURU PROSHAD SEN is in my opinion under a misapprehension in supposing that whereas drainage schemes are now being or can be carried out under the provisions of the Local Self-Government Act, because under this Act the District Boards will be able to impose a cess, therefore they will determine to bring the proposed work under the provisions of this Act and not under the Local Self-Government Act. I rather think the correct argument is that they will not impose a cess unless they find it absolutely necessary. Suppose it is necessary to impose a cess for a scheme of drainage, who should pay for it except those who benefit by it? These are principally the zamindars and holders and occupiers of the land, and can it be said that because there is a Permanent Settlement of the Land Revenue the zamindars should derive the benefit from such work and somebody else should pay for it? It was an impossible position to take up that the Permanent Settlement entitled them to have their lands drained and the obstructions they have made, or allowed to be made, cleared out of these drainage channels at the cost of others. The idea that the landed interest, who amounted to about 90 per cent. of the rural population should enjoy the benefits which would result from improved drainage, and that somebody else should provide the money was so absurd that it could not be entertained. It had been given up long ago in the two classes of cases of this kind which already exist. We have had frequent references to two Acts which are in existence, the Embankment Act and the Agricultural Drainage Act, which it is argued should take the place of this Act. The hon'ble member, the Secretary in the Financial Department has dealt with the suggestion as it affects the Embankment Act, and he might also have referred to the Agricultural Drainage Act under which the cost is equally borne by the landed interest. The hon'ble members who referred to these Acts forgot to notice that in both these Acts the whole of the cost is thrown on the landlord, and he does not get the power of passing on the half of it to the raiyats. Under the Embankment Act, he can pass it on to the tenure-holder, but not to the raiyat; under the Agricultural Drainage Act, he cannot pass it on to either, and can only recover from

[*The President.*]

the raiyats by raising their rents; so that the two Acts which the Government are asked to consider lay on the shoulders of the landlord, a burden far greater than the burden we propose to impose upon him by this Bill. The little finger of these gentlemen will be heavier on the zamindars than the whole weight of the Government Bill.

“I have thus dealt with the proposition that land-owners should not be taxed at all. I will now pass on to the second objection that land-owners and agriculturists should not be the only classes to be taxed, as they will not be the only classes that will be benefited—that the taxation proposed by the Government will be of the nature of class-taxation. Here again, we have perhaps been a little too modest, and have allowed ourselves to be trampled upon unnecessarily. It is necessary to point out that the class upon which we are imposing a cess is practically the whole population, and that the class who will escape it are a very infinitesimal portion, hardly more than 5 per cent. We say that it is impossible to devise means by which to impose a cess upon those who are not agriculturists, in order that they may pay their share of the cost, without going through an amount of labour, creating an amount of machinery for assessment, for giving notice, for hearing objections, for hearing appeals, and for collecting the cess, and incurring an amount of expenditure which no statesman would think of incurring.

“We have an instance before us to-day of the amount of error which exists on this subject. The British Indian Association have had the rashness to assert that the Census returns show that the agriculturists upon whom this rate would fall form barely half of the population. The gentleman who wrote that letter could not have consulted the Census returns, but must have been content to take his figures from some other source. I think I have recently seen that statement in a newspaper article, and it may have been taken from that source without taking the trouble of verifying the reference. My hon'ble friend, the Secretary in the Financial Department, has exposed the incorrectness of such an assertion, and he gave the exact figures of the Census returns which put the agriculturists proper and the rural labourers taken together at 78 per cent., and he also gave other references which justified the assertion generally accepted in all economic writings on Indian subjects, that the agricultural population cannot be taken at less than 90 per cent. of the whole. The Hon'ble BABU ESHAN CHUNDER MITTRA evidently failed to hear what the

[*The President.*]

Hon'ble MR. RISLEY had said, and is still in the vale of ignorance, for he repeated the statement of the British Indian Association that the agricultural population is barely half of the whole population. This is an instance which shows how hard error dies, and how easily a misstatement, once set afloat, is taken up and repeated without criticism or examination. It is important to impress upon the Associations and other public bodies who address the Council, that if they want honestly and intelligently to assist us in our deliberations, they must learn to verify their facts and assertions and know what they are talking about. If these matters were properly understood, the Council would not have so much of its time wasted.

“I turn next to some financial suggestions which belong to this part of the subject. We have heard to-day some instances of the extraordinary financial ignorance which used to prevail, but which has been largely dispelled by the knowledge gained in the discussions on the Budget. For instance, we are told that the District Boards have such large balances that they could meet any schemes for drainage out of those balances. The gentlemen who made these assertions did not know accurately what the amount of these balances was, but the true figure was 14 lakhs of rupees. They did not consider that District Boards must have working balances in hand, and that for 38 Boards the average balance was under Rs. 40,000, which would not go far towards a large drainage scheme. Nor were they aware that in too many cases the whole of the balance has been forestalled, the District Boards having incurred liabilities which, if presented at the end of March, would have swallowed up the whole of their balances. Another thing we have been told, is, that the Government of Bengal should appeal to the Government of India for money to carry out schemes of drainage instead of imposing a rate. Where was the Government of India to find the money? People talked as if the Government went about with money in their pockets ready to give it away as people give charity to beggars. If the Local Government gave money for these drainage schemes when it had not a surplus, it would have to take it away from some other equally important source of expenditure. If the Government of India gave the money, they would have to rob some other Government. Why should the Government of the North-Western Provinces, for instance, be taxed to improve the sanitary drainage of Bengal? I think one beneficial result, which will accrue when members get into the habit of discussing public measures, is

[*The President.*]

that in the course of time the Council will be saved from a repetition of arguments of this kind.

“The Hon'ble BABU SURENDRANATH BANERJEE has suggested that I should direct that sanitation should be the first charge upon the road cess. I must say I cannot agree with the hon'ble member, for this simple reason that the road cess is the road cess; it is not a sanitation cess. It is imposed for the purpose of making roads, repairing roads, and extending roads, and it would be an improper and dishonest diversion of those funds if we deliberately starved the roads for purposes of drainage. What we do hope is that the proceeds of the road cess will be sufficient for roads and leave a balance over. Some districts found it easy to make all necessary provisions for roads, and yet have a surplus. Backergunge, for instance, a district with more water-ways than roads was able to give a sum of Rs. 10,000 to the District funds. My hon'ble friend, MR. ROMESH CHUNDER DUTT, has told us how much the District Board of Burdwan has been able to do towards these sanitary measures. In this respect the despatch of the Duke of Argyll, from which hon'ble members have largely quoted, lays down instructions on this point in a very stringent form—

‘Roads,’ he said, ‘are a first requisite in the improvement of every country, and although as yet they may not be equally valued by the people, it is the duty of the Government to think for them in this matter, and the benefits they must derive will become yearly more apparent to themselves.’

“I hope the hon'ble member will think for them. While I have the despatch in my hand, I should like to draw attention to a passage at the end of paragraph 24 which bears a good deal on the discussion which has taken place to-day. It is there said ‘If there are some great improvements in their condition which we cannot afford to undertake, we must not be precluded from throwing the cost of such improvements upon those growing resources of which we heartily desire to see the people in enjoyment, but which are due in a great measure to the Government we provide.’

“We are exactly carrying out those principles.”

“With regard to the connection between drainage and malaria, we had a very useful statement from my hon'ble friend, the Financial Secretary,

[*The President.*]

and I am glad that he has drawn attention to the letter of Dr. Harvey. I regret to find, that a copy of it was not circulated to all hon'ble members, although it was laid before the Select Committee. It is a letter of the greatest importance and will go a great way to form public opinion on this subject, and I therefore propose to have it published in the Government Gazette.

“In addition to what was said by Dr. Harvey, and what had been stated by the Hon'ble MR. RISLEY to-day, I would draw attention to an article which appeared in the *Pioneer* of this morning, which treats of malaria as a thing as to which experts have now hardly any doubt that it is due to a bacillus which is to be found in the blood. There are no doubt some who still suspend their judgment, or consider the evidence weak, but the general tendency of science in the present day is in the direction of believing that this disease (malarial fever) is due to a poisonous bacillus of this kind, and that by effective drainage you can take an important step in the direction of destroying it.

“Now with regard to the proposal of the Hon'ble THE MAHARAJA OF DARBHANGA to postpone the passing of the Bill, I agree with the hon'ble member in charge of the Bill that no reason has been shown for taking such a course. Few Bills have received fuller and longer consideration than this, and the effect of postponing its passing will be, either that I must leave it to my successor which would not be fair to him, or that a special Session of Council must be held early in December at a time when otherwise it would not be necessary to summon you. The effect of such delay would be to produce the precise effect which the hon'ble member thought it would not produce, viz., to prevent anything being done under the Act in the next cold weather, for if passed by the Council in December, it could hardly expect to receive the sanction of the Governor-General in Council before January or February, and by that time it would be too late for any practical work to be done in the cold season. This would be no argument against delay if it were shown that on general grounds delay is required for the fuller discussion of new arguments and objections, but no such cause as this really exists or is even alleged to exist. Nothing has been brought forward which is new, or which

[*The President.*]

requires further consideration; we have all made up our minds, and the only result will be that we shall be bombarded with more papers from local bodies, such as those we have been lately receiving. From one point of view it is hardly courteous that communications addressed to this Council should not be noticed, but from another point of view many of them are of a description which makes it a waste of time to consider them. For instance, there is a communication from a Murshidabad Association, in which they say:—‘We have learned with considerable consternation that it is intended to impose a tax,’ and they say this after the Bill has been for a year and a half before the Council! Why, this question was specially discussed at the Provincial Conference which met at Murshidabad only the other day, and they (unlike the British Indian Association, who saw no merit in the alterations in the Bill) expressed their satisfaction at the amendments which had been introduced. There were there assembled delegates collected from the whole of Bengal, and yet the Murshidabad Association never heard a word about it. There can be no doubt that for people of this kind to take a share in discussing public measures introduced by the Government will afford them a much-needed education. Then there is the Rajshahi Association who take exception to the financial clauses of the Bill, and ask attention to what they had previously written on the subject. Would it surprise the Council to hear that in the previous letter received from the Rajshahi Association nothing is said about the financial clauses of the Bill, except on the point that the cess should be so distributed as to include other than the agricultural classes. It is quite clear that these are mere puppets, and that the strings which make them act are drawn elsewhere. And it is the expectation of receiving such papers and such arguments as these, which is put forward to discourage the Council from passing a Bill which has been under consideration for a year and a half, during which time every point had been minutely examined and amply discussed. On the contrary, it appears to me that they afford a good reason why the Bill should be passed now, and thus save us from the receipt of further communications of the kind to which I have referred.

“In putting the motion of the Hon’ble THE MAHARAJA OF DARBHANGA, I can only say that it is directly opposed to the wishes of the Government. I am anxious that the Bill should be passed to-day, and I trust the majority of the Council will vote on my side.”

[*The President ; Maharaja Sir Luchmessur Singh Bahadur of Darbhanga.*]

The motion that the further consideration of the Bill be postponed for three months was put and the Council divided:—

Ayes 7.

The Hon'ble Babu Guru Proshad Sen.
 „ Hon'ble Rai Eshan Chunder Mittra Bahadur.
 „ Hon'ble Mr. A. M. Bose.
 „ Hon'ble Mr. Smyth.
 „ Hon'ble Maharaja Jagadindra Nath Roy of Nator.
 „ Hon'ble Maharaja Sir Luchmessur Singh Bahadur of Darbhanga.
 „ Hon'ble Babu Surendranath Banerjee.

Noes 10.

The Hon'ble Nawab Syud Ameer Hossein.
 „ Hon'ble Maulvi Muhammaç Yusuf Khan Bahadur.
 „ Hon'ble Rai Durga Gati Banerjee Bahadur.
 „ Hon'ble Mr. Dutt.
 „ Hon'ble Mr. Risley.
 „ Hon'ble Mr. Buckland.
 „ Hon'ble Mr. Bourdillon.
 „ Hon'ble Mr. Lyall.
 „ Hon'ble Mr. Cotton.
 „ Hon'ble Sir Griffith Evans.

So the motion was lost.

The motion that the Bill be now passed having been put,

The Hon'ble MAHARAJA SIR LUCHMESSUR SINGH BAHADUR OF DARBHANGA, said:—“I wish to say a few words on the financial clauses of the Bill. I say it is intended to tax only two classes of the community, while the works proposed to be carried out under the Bill will benefit other classes as well. It has been said that the majority of the inhabitants of this province consists of landlords and tenants, that is to say about 80 per cent. of the whole population. Is that any reason why the other 20 per cent. should be exempted from the taxation to be imposed under this Bill? I say that the very fact of taxing the landholding classes for the construction of works which will benefit other portions of the community as well is a direct infringement of the Permanent Settlement. No doubt there are people who consider that the levy of a cess on land is not an infringement on the Permanent Settlement, but legal opinion on this point is divided. Such eminent lawyers as Sir Barnes Peacock and Sir Erskine Perry have recorded their opinion that the imposition of such a cess is an infringement of the Permanent Settlement. There can be no doubt of the fact that among the landed classes there is a very strong opinion that the levy of the proposed cess will be a direct infringement of a direct promise made on behalf of the Government at the time of Lord Cornwallis, and this in itself is, I think, a sufficient reason for not inflicting any more taxation of this sort on the land. It may be that our contention is wrong; it may be that

Maharaja Sir Luchmessur Singh Bahadur of Darbhanga.

we are in the right. But there can be no two questions that there is a very strong feeling not only among us, but among other classes, that the Government has broken faith with us. Is it politic for the Government to do so? It may be that we are biassed in this matter, but I say, as was said by the Hon'ble BABU SURENDRANATH BANERJEE the other day, that if we err we err in good company. Sir Frederick Halliday, Mr. Ross Donnelly Mangles, and Sir Thoby Prinsep, are all of the same opinion, and can it be said that these gentlemen were biassed in our favour? It is for these reasons that I wish to enter my most strong protest against any taxation which is inflicted upon the agricultural classes alone, but the benefits from which will be derived by the whole community. It has been said that one of the chief reasons for not taxing other classes as well is the difficulty of devising a tax which is workable. It may be a very difficult thing to assess other classes under this Bill, but because that difficulty exists, is it right that the agricultural and the landed classes should be made to pay for benefits which will accrue to other classes as well? It may be that there is no other way out of the difficulty, but one way is plain, namely, that the Government can, if it chooses, pay the expenses of these drainage works from the Imperial Exchequer."

The motion that the Bill as settled by the Council be passed was then put and the Council divided:

Ayes 10.

The Hon'ble Nawab Syud Ameer Hossein.
 „ Hon'ble Maulvi Muhammad Yusuf Khan Bahadur.
 „ Hon'ble Rai Durga Gati Banerjee Bahadur.
 „ Hon'ble Mr. Dutt.
 „ Hon'ble Mr. Risley.
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 „ Hon'ble Maharaja Sir Luchmessur Singh Bahadur of Darbhanga
 „ Hon'ble Babu Surendranath Banerjee.

So the motion was carried and the Bill passed.

The Council adjourned *sine die*.

C. E. GREY,

*Offg. Assistant Secretary to the Govt. of Bengal,
 Legislative Department.*