

Proceedings of the Council
OF THE
LIEUT.-GOVERNOR OF BENGAL

FOR THE PURPOSE OF
MAKING LAWS AND REGULATIONS.

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FOR THE PURPOSE OF
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*Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal,
assembled for the purpose of making Laws and Regulations under the provisions
of the Indian Councils Acts, 1861 and 1892.*

THE Council met at the Council Chamber on Saturday, the 29th February,
1896.

P r e s e n t :

The Hon'ble SIR ALEXANDER MACKENZIE, K.C.S.I., Lieutenant-Governor of
Bengal, *presiding*.

The Hon'ble SIR CHARLES PAUL, K.C.I.E., Advocate-General.

The Hon'ble H. J. S. COTTON, C.S.I.

The Hon'ble D. R. LYALL, C.S.I.

The Hon'ble C. A. WILKINS.

The Hon'ble J. A. BOURDILLON.

The Hon'ble C. E. BUCKLAND, C.I.E.

The Hon'ble H. H. RISLEY, C.I.E.

The Hon'ble M. FINUCANE.

The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.

The Hon'ble NAWAB SYUD AMEER HOSSEIN, C.I.E.

The Hon'ble SURENDRANATH BANERJEE.

The Hon'ble J. G. WOMACK.

The Hon'ble MAULVI MUHAMMAD YUSUF KHAN BAHADUR.

The Hon'ble A. M. BOSE.

The Hon'ble GURU PROSHAD SEN.

The Hon'ble MAHARAJA BAHADUR SIR RAVANESHWAR PROSHAD SINGH, K.C.I.E.,
OF GIDHAUR.

NEW MEMBERS.

The Hon'ble MR. C. A. WILKINS and the Hon'ble MR. M. FINUCANE took
their seats in Council.

STATEMENT OF THE COURSE OF BUSINESS.

The Hon'ble THE PRESIDENT said :—" It is usual at the commencement of a
Session for the President to give a general sketch of the projects of legislation
likely to come before the Council. I had hoped that I should have found as
few projects of legislation as possible to lay before the Council, but as is

[*The President.*]

always the case in a large province like this, matters crop up which have to be taken into consideration by the legislature, and there are, moreover, legacies which we receive from the preceding administration. There are, however, only two projects of law of what I may call primary importance which are likely to engage the attention of the Council; and these are, first, a Bill to amend the law relating to the partition of estates. This question has been under the consideration of the Government of Bengal for the last four years; there have been repeated references to the Government of India and much discussion has taken place in regard to the principles of the measure. The Bill has again gone before the Government of India and has not yet been finally settled, but I anticipate that we shall shortly receive orders which will enable us to lay it before the Council.

“The second measure of large scope is an amendment of the law relating to excise in Bengal. This Bill will repeal the existing Excise Act and make various amendments in the excise system of the province, based on the law at present in force in Madras and Bombay, especially as regards the manufacture of *tari*. I regret much that this Bill will not come before the Council till we lose the services of the Hon’ble Mr. Lyall, who has had much to do with framing it, and whose advice in connection with it in Council would have been very valuable. But I hope, notwithstanding, that we shall be able to model the Bill into a satisfactory measure before we have done with it. It has not yet received the assent of the Government of India. The principles of it are to some extent still under discussion, but it is pretty certain that it will be brought forward some time in the course of the year, and I therefore thought it right to refer to it.

“There is also on the *tapis* a small Bill amending the law of excise in salt in Bengal. The object of this Bill is to afford greater facilities to trade, and it will also deal, to some extent, with the illicit manufacture of salt in Midnapore and the 24-Parganas, but I do not anticipate that it will be a large measure, and it will probably be some little time before we shall receive the assent of the Government of India to its introduction.

“The other measures are most of them really small. There is one Bill to regulate the procedure for the commutation of predial services in Chota Nagpur. This is purely a local measure, and in discussing it, we shall have the advantage of the assistance of Mr. Grimley, the Commissioner of that Province, who has

[*The President.*]

for a long time been acquainted with its conditions and circumstances. This is not in any sense a contentious measure.

"Then, we have two small Bills to amend the Local Self-Government Act and the District Municipal Act. They are very small measures. The main object is to empower District Boards to devote some portion of their funds, should they see fit to do so, to provide for a veterinary staff and veterinary hospitals within their jurisdictions. When we remember the vast importance to agriculture in Bengal, which attaches to the maintenance in sound health of agricultural stock, I think we shall all feel that the Government of India has done well to ask us to bring our Acts into a line with those of other Provinces in this respect. There will be no attempt to force expenditure under this head upon local bodies, but it is very desirable to empower them to incur such expenditure if they see fit, and it is also very desirable to have an outlet for the veterinary students at present being trained in the Veterinary College close to Calcutta. The opportunity will probably be taken in connection with the District Municipal Act to make at least one small amendment. The section dealing with the franchise is at present unintelligible to me at least, and I believe also to those who have to work it. There has been found some flaws in the drafting of these Acts which it is very desirable to amend. I shall also have to ask you to pass a small measure to amend some drafting errors in the Public Demands Recovery Act. These errors certainly ought not to have occurred, though I am told that these and some other flaws are due to the Council being rather hurried in the final disposal of these Bills. I think I can promise the Council that in future we shall not hurry. It is of the utmost importance that when a Bill comes to its final stage in this Council, opportunity should be given to those who are responsible for it to closely examine its provisions in order to see whether the Bill, as it then stands, is technically and literally correct. I feel the less shame in making this confession, because we have discovered lately that the Supreme Council also has not been able to avoid errors of this description. The Bill to amend the Presidency Small Cause Court Act stands exactly on all fours with the Public Demands Recovery Act Amendment Bill.

"Then, there will be a small measure to amend the Calcutta Municipal Consolidation Act, undertaken at the request of the Municipality, to meet the case of Insurance and other Companies carrying on their business through agents in Calcutta, who, by a recent decision, are considered by the High Court to be

[*The President.*]

excluded from the purview of the schedule in the Act. I do not anticipate that any other amendments will be incorporated in the Bill, which will probably be a non-contentious measure.

“These are all the measures which we have at all elaborated up to the present date, but I think it right to mention that I shall very probably lay before you, if the Government of India agree, a measure for the amendment of the Tenancy Act. Chapter X of that Act was intended to provide a settlement procedure which would be applicable both to private and to Government estates, but experience has shown that while it may be possible to work that Chapter in dealing with small settlements, when you come to large operations, such as the Government is at present carrying on in Orissa and elsewhere, it is almost impossible to apply that procedure without an enormous amount of delay and expense. Settlement Officers find themselves hampered on every side, by having to treat each raiyat's settlement as a separate judicial case. That is not the procedure by which settlements are conducted in other parts of India. We have, in conference with a number of revenue officers in the Settlement Department, come to the conclusion that if such settlements, as that now being carried on in Orissa, are to be carried through within a reasonable time and with a minimum amount of trouble and expense both to the zamindars and the raiyats, it is absolutely necessary that some amendment should be made. My own wish will be to confine the measure within as reasonable limits as possible. It is very dangerous to touch a large measure like the Bengal Tenancy Act, as in attempting to do so we may start a fresh rent agitation in Bengal, and I am not ambitious to do so. I hope we shall be able to suggest, after consultation with the Government of India, such a reasonable measure as will enable us to do our business without doing any harm to any private interests. If it appears that it is possible to suggest such a reasonable amendment of certain other portions of the Tenancy Act, as will make the Act workable where it is not workable at present, I shall take the orders of the Government of India on those points. But at present the one thing clear to my mind is that, for the purposes of settlement, we must have a workable procedure, and I should wish to employ that procedure not only for the benefit of Government estates, where the revenues of the Government are under revision, but for the benefit of private landlords as well. That is the principle of the present Act, and it is the principle I propose to carry out in the

[*The President ; Mr. Bose.*]

project of legislation which is under contemplation, the only difference being that we shall endeavour to make the Act workable.

“ These are all the measures with which we are likely to trouble you in the course of the year. I cannot say precisely when we shall be able to introduce the larger measures; possibly we shall not be able to do anything with them before the rains, but we hope to be able to introduce the smaller measures in the course of a week or two. All I need further say is that I feel sure that in dealing with them the Bengal Council will vindicate its old reputation, when I knew it last, of being a thoroughly businesslike body. We do not come here to air our rhetoric or to hear long speeches, but we meet together to discuss, like business men, important measures in a businesslike way. I shall give the utmost consideration to the views which may be urged by Hon'ble Members, and I shall take care that they are not rushed in any way in any matter of importance which requires calm deliberation. It is extremely desirable that our work should be well done, and thoroughly done, and that it should not require tinkering shortly after.”

RECOMMENDATIONS BY BENGAL PROVINCIAL COMMITTEE OF EDUCATION COMMISSION.

The Hon'ble MR. A. M. BOSE asked—

(a) Will the Government be pleased to state if any steps have been taken to carry out the following recommendations which were unanimously adopted in the year 1882 by the Bengal Provincial Committee of the Education Commission, which comprised amongst its members Sir Alfred Croft, Sir David Barbour, and others:—

- (1) That some “Graduate Scholarships” should be established with a view to their being awarded on the result of the B.A. Examination, these not being tenable together with any private scholarship, where such existed.
- (2) That the establishment of an Educational Library and Museum at the Central Office in Calcutta would be of considerable utility, as showing what has been and is being done in the production of books and other means and appliances in the work of education

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in different countries; and that such institutions might be subsequently extended to the head-quarters of each Division.

- (3) That a teachership examination should be instituted for the improvement of teachers in English schools, and that this would probably lead in time to the establishment of definite courses of instruction in the theory and practice of teaching.

(b) Should these recommendations not have been carried out? Will the Government be pleased to take them now into its favourable consideration, and adopt steps to give practical effect to them?

The Hon'ble MR. BUCKLAND replied:—

Answer to Question No. I (a) (1):—

“ Since the date of the Education Commission's Report, two Mohsin graduate scholarships of the value of Rs. 25 a month, tenable for one year, and three Madrassa graduate scholarships of Rs. 20 a month each, tenable for one and-a-half years, have been created; the cost of the former being paid from the income of the Mohsin Endowment Fund, and that of the latter from Provincial Revenues. In the face of other and more pressing claims upon the public purse, there appears to the Government to be no special need for establishing more scholarships of this class, in addition to those which have been founded by private endowments for the benefit of graduate students of the Presidency College.”

Answer to Question No. I (a) (2):—

“ It is believed that an Educational Library and Museum of reference, containing (1) a complete set of works on the history and the theory and practice of education, (2) the school-books and other educational publications brought out in England and America from year to year, (3) school appliances of any kind and of the latest construction and pattern, would be of some and might, if they would make proper use of it, be of considerable advantage to those engaged in education. Such a library and museum would, however, require a large amount of space for its proper accommodation. There is not, as the question suggests, any room for this purpose at the Central Office of Education; and to build such a museum elsewhere would involve large outlay. A Curator

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and some small establishment would be necessary, and a not inconsiderable annual grant would be required for the purchase of new books and school appliances. Altogether the Lieutenant-Governor, while recognising the utility of the project, is unable to assign a foremost place to the proposal for carrying it out."

Answer to Question No. I (a) (3):—

"The Lieutenant-Governor has very recently sanctioned a proposal of the Director of Public Instruction for making provision for the instruction of English teachers in training schools, for the examination of those who have not passed through a training school, and for the award of certificates of different grades to English teachers of both these classes. The sum of Rs. 20,000 has been entered in the Budget for 1896-97 for this purpose."

Answer to Question No. I (b):—

"The previous answers show what has been done to carry out the recommendations referred to, and Government is not prepared to take further steps at the present moment."

INTERFERENCE WITH PROCEEDINGS OF SUBORDINATE MAGISTRATES.

The Hon'ble Mr. A. M. Bose asked—

(a) Has the attention of the Government been drawn to the correspondence which passed between Mr. Parbati Charan Roy, a senior Deputy Magistrate of distinguished merit now retired, and the District Magistrate of 24-Parganas, which has been recently published in the November number of *India* and quoted in several Indian papers? Does the Government consider such interference on the part of District Magistrates with the proceedings of Deputy Magistrates in their purely judicial capacity, either before or after the passing of judgment, as desirable or conducive to the preservation of any feeling of self-respect or of judicial independence on the part of the latter officers?

(b) Will the Government be pleased to lay before the Council the express direction by Government, referred to in the letter of the District Magistrate, and to state whether such or any similar direction is still in force?

(c) Has the attention of the Government been drawn to several other instances of interference, or attempts at interference, on the part of the executive authorities with the proceedings of subordinate Magistrates, mentioned by Mr. Monomohan Ghose from personal knowledge, in the interview with him published in the number of *India* for last December (*vide* pages 362, 363)?

(d) Having regard to the serious character of such interference and its consequences as affecting the administration of criminal justice throughout the Province, will the Government be graciously pleased to direct that in future any cases of punishment which is really inadequate may be dealt with by reference to the High Court in accordance with the provision of law made expressly in that behalf by the Legislature, and not in the indirect way as shown in the correspondence referred to?

The Hon'ble MR. COTTON replied :—

“(a) The attention of the Lieutenant-Governor has been drawn by the Hon'ble Member's question to the correspondence between Mr. Parbati Charan Roy, formerly Deputy Magistrate and Deputy Collector, and the District Magistrate of the 24-Parganas, which is published in the November number of *India*. In the absence (on leave) of the District Magistrate referred to from this country, the Lieutenant-Governor has not been able to call upon him for any explanation, or to ascertain the circumstances under which his letters were written. The correspondence appears to have taken place some years ago, but if the Magistrate's letters were written as they are reported, the Lieutenant-Governor cannot but consider that they are open to serious objection.

“(b) The express direction by Government, referred to by the Magistrate, is not quoted, but His Honour apprehends that allusion was made to the following remarks recorded in the published Resolution on the Annual Police Report for 1890 :—

‘12. *False cases.*—* * * The Lieutenant-Governor has examined the records of a great number of these cases, and has found that they entail a great deal of useless and unremunerative work on the Deputy Magistrates. He considers that prosecutions should only be instituted where cases are deliberately and malignantly false, but that when such cases are proved, severe punishment should be inflicted. The recent amendment of section 250, Criminal Procedure Code, which allows compensation up to Rs. 50 to be given in all

[*Mr. Cotton ; Mr. Bose.*]

cases where frivolous or vexatious charges are made, should meet all the more venial cases.'

"The Lieutenant-Governor does not propose to modify these orders, which do not justify the inference which appears to have been drawn from them by the District Magistrate.

"(c) The attention of the Lieutenant-Governor has been drawn by the Hon'ble Member's question to the account of the interview with Mr. Monomohan Ghose, which is published in the December number of *India*, and His Honour has read the statements referred to, but he is unable to verify them, as no names, dates or places are given.

"(d) The Lieutenant-Governor does not approve of any executive interference with the independent administration of justice, and he agrees with the Hon'ble Member that, if there is reason to believe that a sentence which is really and seriously inadequate has been passed, it should be dealt with by the High Court under the provisions laid down in the Code of Criminal Procedure for the purpose. He understands that in fact this is the practice generally followed. At the same time it is certainly the duty of the District Magistrate to keep himself acquainted with the proceedings of his subordinates of all grades, to call their attention to irregularities and delays in the disposal of their case-work and to give his subordinates the benefit of his advice. This does not of course warrant his dictating to any subordinate what his finding should be in any particular case."

TRANSFER OF CHITTAGONG DIVISION TO ASSAM.

The Hon'ble Mr. A. M. Bose asked—

Will the Government be pleased to state if there is any truth in the reports which have appeared in the newspapers, in regard to the separation of the districts of Tippera, Noakhali, and Chittagong from Bengal, with a view to their incorporation in the Province of Assam ; and if so, the reasons which have influenced the Government to recommend such separation ?

Is the Government aware of the feeling of alarm and grave anxiety which has been roused by such reports in the districts concerned ; and would it be pleased, in the interests of a large section of the population of this Province,

[*Mr. Boss; Babu Guru Proshad Sen; Mr. Cotton.*]

to allow time before the proposal for separation is carried out, for representations to be received from the people of these districts and for their proper consideration?

The Hon'ble BABU GURU PROSHAD SEN asked—

(a) Is the Government aware that a report that the Chittagong Division is to be transferred to Assam is at present causing a good deal of anxiety to the people of that Division? Will the Government be pleased to state whether there is any truth in the report?

(b) If the transfer be really contemplated, will the Government be pleased to order the publication of all the correspondence on the subject, and if it cannot do so without the permission of the Government of India, obtain such permission for the purpose?

(c) As the transfer is calculated to affect injuriously some of the rights of the people of that Division, specially one in relation to this Council, will it please the Government to move that nothing be done in the matter till the people affected have an opportunity of representing their views on the question of such transfer?

The Hon'ble MR. COTTON replied:—

“It will be convenient that I should answer the questions from both Hon'ble Members on this subject together. The proposal to transfer the Chittagong Division to Assam was put forward in a Conference which met in Calcutta in January, 1892, to examine certain questions relating to the country of the Lushai and Chin tribes. It was suggested that if the South Lushai Hills, with their avenues of access through the Chittagong district, were transferred to Assam, as was strongly recommended, it would be convenient that the whole Chittagong Division should be also transferred, and it was pointed out that an additional argument in favour of the transfer was that the projected Assam-Chittagong Railway would then be entirely in the Assam jurisdiction. The Government of India decided that the Chittagong district ought to be transferred to Assam with the South Lushai Hills as soon as the settlement operations in progress had been brought to an end. As these operations are approaching completion, and as the Chittagong Railway now connects Chittagong directly with Assam, the question of the transfer of the Chittagong Division to Assam

[*Mr. Cotton ; Mr. Bose.*]

has lately been referred to this Government. The Lieutenant-Governor is quite aware that the transfer of territory from one administration to another cannot be a matter of indifference to the people of the tract affected, and no such transfer will be made without affording them the opportunity of expressing their sentiments in regard to it.

“The papers on the subject of the proposed transfer cannot be published at present, but the substance of them, so far as they bear on this point, is contained in this reply to the Hon’ble Members’ questions. The High Court, the Board of Revenue, and the Commissioner of the Chittagong Division have now been officially consulted on the proposal.”

PUNISHMENT OF WHIPPING ON CERTAIN OFFENDERS.

The Hon’ble Mr. A. M. Bose asked—

(a) Has the attention of the Government been drawn to a Circular alleged to have been issued by the Commissioner of the Patna Division and published in the *Behar Times* of the 27th December last, on the subject of inflicting the punishment of whipping on offenders? Is the document genuine? If so, does the Government approve that instructions should be issued by executive authorities interfering with the discretion, vested in them by law, of Judicial Officers deciding on the evidence taken before them, and forbidding them to award sentence of imprisonment on offenders of 21 years or under, where an alternative sentence of whipping may be awarded, without special reference to the District Magistrate?

(b) Has the Commissioner, or the District Magistrate, any authority to practically deprive a Judicial Officer of the power of inflicting such punishment as to him may seem meet under the circumstances of each particular case tried by him?

(c) Will the Government be pleased to state under what provision of the Code of Criminal Procedure, or any other law in force, such instruction or prohibition, as is referred to in the Circular, may be issued?

(d) Is the reference to the District Magistrate, contemplated in the last sentence of the Circular, to be made privately or by a proceeding on the record? What law or procedure is to regulate the hearing before the District Magistrate

[*Mr. Bose ; Mr. Cotton.*]

when such a reference has been made; or is there to be no such hearing? Is the opinion of the District Magistrate to be binding on the officer making the reference; or is the latter to be left free to exercise his own judgment; or is the opinion of the District Magistrate itself to constitute *the judgment* in the case?

The Hon'ble Mr. Cotton replied:—

“The Lieutenant-Governor has placed himself in communication with the Commissioner of Patna, and has ascertained that the Circular referred to is a genuine one. The object of the Circular, which is to discourage the imprisonment of juvenile offenders in cases in which whipping is a more appropriate punishment, is a laudable one, but the Lieutenant-Governor cannot approve of the character of the instructions issued. In the first place it is clear from the provisions of section 392 of the Criminal Procedure Code that the expression ‘juvenile offender’ is intended to apply to an offender under sixteen years of age, whereas the Commissioner’s Circular applies to offenders of twenty-one years of age and under. Moreover, although under the Code of Criminal Procedure the District Magistrate has full authority to call for and examine the records of any cases on the file of his subordinates, it is not contemplated that he should dictate the punishment to be inflicted in any particular case. The Lieutenant-Governor considers that the Commissioner’s Circular is likely to be misunderstood by the Magistrates whom it affects, and he has therefore directed that it should be withdrawn.

“The Lieutenant-Governor has also pointed out that general Circulars of this nature affecting the procedure of Subordinate Magistrates should not be issued by Commissioners without the sanction and approval of Government.”

THE BETEL-NUT CONTEMPT CASE.

The Hon'ble Mr. A. M. Bose asked—

(a) Has the attention of the Government been drawn to a case recently decided by the Calcutta High Court from the Patna Division and reported in the *Amrita Bazar Patrika* of the 20th December last, under the heading “The

[*Mr. Bose ; Mr. Cotton.*]

Betel-Nut Contempt Case," in which the Hon'ble Judges expressed their strong disapproval of the sentence of whipping passed in that case on a boy of 14, occupying a good position in society, even if the facts had been correctly found by the Joint-Magistrate, which they were not, in the opinion of the High Court ?

(b) Is it the practice to carry out a sentence of whipping at once when whipping is awarded in lieu of any other punishment ?

(c) Is this so in such cases even where there is a right of appeal to the accused (as for instance when the trying officer is a Magistrate of the second class), the effect of the appeal being thus only to ascertain the correctness or otherwise of a sentence already irrevocably carried out ?

The Hon'ble MR. COTTON replied:—

"(a) The attention of Government has been drawn to the case referred to.

"(b) It is laid down in a Circular issued by the Bengal Government on the 25th January, 1876, that 'in all cases in which whipping is the sole punishment awarded, all judicial officers should make arrangements for having it carried out at once at the Magistrate's office in communication with the Civil Surgeon or the native doctor of the station.' Those orders are still in force and regulate the practice now followed.

"Under sections 413 and 414 of the Criminal Procedure Code there is no appeal in a case in which a sentence of whipping only is passed by a Magistrate of the first class. An appeal does lie against a sentence of whipping passed by a Magistrate of the second class, who has been duly empowered to inflict whipping, but there is no provision in the law under which a person so sentenced can be detained in custody until the appeal has been decided. It has been ruled by the High Court that in such cases the sentence should be carried out without delay, and that the effect of the appeal in such cases will merely be to ascertain the correctness of a sentence already carried out. This is a matter in respect of which the Lieutenant-Governor would be glad to see the law amended."

[*Mr. Bose; Mr. Cotton.*]

SENTENCES OF WHIPPING BY JOINT-MAGISTRATES OF SIRAJ- GANJ AND ALIPORE.

The Hon'ble MR. A. M. BOSE asked—

(a) Will the Government be pleased to inquire into the correctness of the allegation made in the *Sanjibani* of the 23rd November last, that a sentence of whipping was awarded by the Joint-Magistrate of Sirajganj, which sentence could not be carried out, as there was no one available or willing to inflict it? Is the Government prepared to incur the expenditure for providing the needful establishment, where this is now wanting, for the purpose of inflicting sentence of whipping?

(b) Will the Government be pleased to inquire into the correctness of the allegations made in the *Hatabadi* of the 20th December last, to the effect that a whipping of 20 stripes was inflicted on an accused by the order of the Joint-Magistrate of Alipore after that officer had passed a judgment awarding a sentence of 10 stripes only?

The Hon'ble MR. COTTON replied :—

“(a) Enquiry has been made into the facts of the case referred to, and it has been ascertained that a sentence of whipping passed by the Joint-Magistrate of Sirajganj (or, more correctly, passed by the second class Magistrate there and confirmed by the Joint-Magistrate) could not be carried out because no one was found able and willing to inflict the punishment. Under the orders of Government, whipping is to be inflicted by the chuprassis attached to the Court. It so happened that at the time the sentence referred to was passed one of the chuprassis attached to the Court had just retired and the other was in bad health and no substitute had been provided for him. The circumstances of this exceptional case do not, in the opinion of the Lieutenant-Governor, call for the entertainment of a special establishment for the purpose of inflicting sentences of whipping.

“(b) The facts as stated in the question are substantially correct. The Joint-Magistrate reports that in the first instance the punishment was inflicted in such a superficial and perfunctory manner as in his opinion to fail to give effect to the order of the Court, and he therefore directed that ten more

[*Mr. Cotton ; Mr. Bose ; Mr. Buckland.*]

stripes should be inflicted. 'This procedure on his part was altogether improper and illegal, and the conduct of the Joint-Magistrate has been severely censured by Government.'

COMBINATION OF JUDICIAL AND EXECUTIVE FUNCTIONS IN CHOTA NAGPUR.

The Hon'ble MR. A. M. BOSE asked—

(a) Is it the fact that in the Division of Chota Nagpur or in some of its districts, Deputy Commissioners are appointed by Government as Managers of encumbered estates under the provisions of the Chota Nagpur Encumbered Estates Act, and that appeals in suits brought on behalf of such estates for the recovery of rents not exceeding one hundred rupees in amount are also heard by the same officers sitting in their capacity as Deputy Commissioners?

(b) Will the Government be pleased to endeavour to remove the inconvenience or want of full confidence in the administration of justice caused by this combination of judicial and executive functions in the same officer by appointing as Managers under the Act gentlemen other than Deputy Commissioners, or otherwise?

(c) Has the attention of the Government been drawn to the letter of Babu Manindra Krishna Dutt, pleader of Ranchi, which appeared in the *Indian Mirror* of the 8th January last on this subject?

The Hon'ble MR. BUCKLAND replied:—

"(a) The districts comprised in the Chota Nagpur Division are—(1) Manbhum, (2) Singhbhum, (3) Hazaribagh, (4) Lohardaga, and (5) Palamau, and the number of estates in each district, managed under the Encumbered Estates Act, VI of 1876, as shown in the Report of the Board of Revenue on the Administration of Wards' and Attached Estates for the year 1894-95, is as follows:—Manbhum 7, Singhbhum 3, Hazaribagh 12, Lohardaga 30, Palamau 6—total 58.

"In each of these districts, except Palamau and Singhbhum, there is a General Manager specially appointed for encumbered estates, who is also entrusted

[*Mr. Buckland.*]

with the management of Wards' estates; but for large estates, like Pachete in Manbhum, Dhalbhum in Singhbhum, and Dhanwar in Hazaribagh, a Special Manager is appointed. The Deputy Commissioner exercises a general control over the Manager in his district, but is not appointed as the Manager, except in the case of the Barabhum estate in Manbhum and certain estates in the Palamau district, of which the Deputy Commissioner is nominally the Manager, with a Sub-Manager really doing the work of Manager employed under him.

“There are two different laws in the Chota Nagpur Division for suits between landlord and tenant, viz., *firstly*, Act I (B.C.) of 1879, which is in force in Hazaribagh, Lohardaga, Palamau, and Singhbhum; and, *secondly*, Act X of 1859, as amended by Act VI (B.C.) of 1862, in force in Manbhum.

“Rent suits under Act I (B.C.) of 1879 are cognizable by the Deputy Commissioner (section 37) and, under his orders, by Deputy Collectors (section 133). By section 137 of this Act there is no appeal from the decision of the Deputy Commissioner in cases where the amount sued for does not exceed Rs. 100, unless the decision involves some question of right or title. In other cases (section 144) appeals against the Deputy Commissioner's decisions lie to the Judicial Commissioner or, if the value of the suit exceeds Rs. 5,000, to the High Court. Under section 139 cases tried by Deputy Collectors are appealable to the Deputy Commissioner. Sections 23, 153 and 155 of Act X of 1859 contain similar provisions for the cognizance of suits and appeals in Manbhum.

“Enhancement proceedings are not dealt with under section 37, but under the procedure laid down in sections 21 to 24 of Act I (B.C.) of 1879. The person wishing to enhance the rent applies to the Deputy Commissioner to assess the rent, and the proceedings are conducted by a Deputy Collector exercising the powers of a Deputy Commissioner, and an appeal lies from the Deputy Collector's order fixing the rent to the Deputy Commissioner, and from the Deputy Commissioner's order to the Commissioner in every case, irrespective of the amount. The Deputy Commissioner is therefore not the final authority in enhancement cases.

“(b) Government are not aware of any inconvenience or want of full confidence in the administration of justice in Chota Nagpur. The arrangements described apply not only to encumbered estates' suits, but also to suits of Wards' and other estates, and not only in the Chota Nagpur Division, but in the

[*Mr. Buckland ; Mr. Bose ; Mr. Cotton.*]

Scheduled Districts generally. The political and economic conditions in these backward districts do not admit of a complete separation of judicial from executive functions in revenue matters.

“(c) The letter referred to had not previously been brought to the notice of Government.”

MR. NORMAN WARDE-JONES' CASE.

The Hon'ble MR. A. M. BOSE asked—

Will the Government be pleased to state if the enquiry into the case of Mr. Norman Warde-Jones, late Subdivisional Officer of Gobindpur, has been concluded, and with what result; and if not, when the enquiry which has been going on now for some time is likely to be finished?

The Hon'ble MR. COTTON replied:—

“A report from the Commissioner of the Division on the whole case and Mr. Warde-Jones' own explanation have been received. They are now under the consideration of Government.”

PROVINCIAL EDUCATIONAL SERVICE SCHEME.

The Hon'ble MR. A. M. BOSE asked—

Will the Government kindly inform the Council when the new scheme of Provincial Educational Service, which is awaited with great interest, is likely to be carried out and its details communicated to the public?

The Hon'ble MR. BUCKLAND replied:—

The scheme for the reorganization of the Provincial Educational Service was submitted some months ago to the Government of India, and it is understood that the whole question is now before the Secretary of State, whose orders must be awaited.”

ELECTION OF REPRESENTATIVES TO BENGAL COUNCIL.

The Hon'ble MR. A. M. BOSE asked—

Having regard to the fact that there were ties in the election of representatives to the Bengal Council from both the groups of District Boards which were invited for the purpose during the last year, and to the further

18 *Election of Representatives to Bengal Council; Certain* [29TH FEBRUARY,
Remarks by Commissioner of Orissa Division; Prosecution of Anu Poromanik
by Subdivisional Officer of Sirajganj.

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fact that in one of these two cases the election wholly failed owing to this cause, will the Government be pleased to take steps with a view to prevent the happening of such a contingency in the future by any needful modification of, or addition to, the existing regulations bearing on the subject?

The Hon'ble MR. COTTON replied :—

“The Government will take the necessary steps in this direction.”

CERTAIN REMARKS BY COMMISSIONER OF ORISSA
DIVISION.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Whether the attention of the Government has been called to the remarks of Mr. Cooke, the Commissioner of the Orissa Division, in his recent Report of the Administration of that Division, published in the *Calcutta Gazette* of the 23rd October last, in which he says that “Institutions like the Gorakhsani Sabha, the Landlord's Association, and the Sanaton Dharmarakshini Sabha were started, more or less, under foreign influence. The people soon tired of what was found to be a somewhat silly form of recreation, and they died of inanition”? Does the Government approve of these remarks in which the formation of *Sanaton Dharmarakshini Sabhas*, which are an object of deep veneration to Hindus throughout these Provinces, is described as “a silly recreation”? If not, will the Government be pleased to direct that these remarks be as publicly withdrawn as they have been publicly made?

The Hon'ble MR. COTTON replied :—

“The Government regret that Mr. Cooke should have used the language referred to, and it was an oversight that it was not excised before publication of his report.”

PROSECUTION OF ANU POROMANIK BY SUBDIVISIONAL
OFFICER OF SIRAJGANJ.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Has the attention of the Government been called to the proceedings of Mr. Carey, Subdivisional Officer of Sirajganj, in connection with a man named Anu Poromanik, as reported in the *Sanjibani* and other newspapers? Is

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

it the case that Anu was prosecuted by the Subdivisional Magistrate, as complainant, because he ran with his *kodali* raised towards the Magistrate, who, in going over his field on horse back, happened to trample upon his ripe *maskalye*, and that he was tried by a Deputy Magistrate, who was subordinate to the Subdivisional Magistrate, who sentenced Anu to rigorous imprisonment for two months, that on appeal the District Judge of Pabna, in reversing the sentence, remarked that "the prosecution was ill-advised, that Anu had committed no offence whatever, and that he was well within his rights in protecting his property against the Magistrate, and that, even if any offence had been committed, the Judge was of opinion that the punishment was excessive"? Is it true that Anu suffered imprisonment for twenty-two days under this illegal sentence? Does the Government approve of these proceedings? If not, will the Government pass such orders as the justice of the case may demand?

The Hon'ble MR. COTTON replied:—

"The Lieutenant-Governor has called for a report on the facts of the case referred to in the Hon'ble Member's question, and has ascertained that Anu Poromanik was prosecuted not merely for running towards the Joint-Magistrate with his spade raised, but for calling out, while doing so, to others to unite with him to attack Mr. Carey. The other facts of the case are correctly stated in the Hon'ble Member's question. The case came under the notice of Mr. Nolan, the Commissioner of the Division, and Mr. Nolan in an official letter, dated the 17th June, 1895, to the address of the Magistrate of Pabna, expressed his disapproval of the Joint-Magistrate's conduct and his concurrence with the Judge in holding that the prosecution was ill-advised. The Lieutenant-Governor considers that Mr. Nolan dealt appropriately with the case, and that no further orders from Government are now required. Mr. Carey is a very young officer, who will doubtless profit by Mr. Nolan's reprimand."

CALCUTTA POLICE FORCE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Will the Government place on the table a complete Gradation List of Superintendents (European and Native) and Inspectors (European and Native) of the first four grades, belonging to the Calcutta Police Force, showing the dates of their first admission to the Force and the dates of their subsequent promotions?

The Hon'ble MR. COTTON replied:—

"The Statement called for by the Hon'ble Member is laid on the table."

STATEMENT OF SUPERINTENDENTS IN THE CALCUTTA POLICE.

NAME.	Date of first appointment.	SUB-INSPECTOR.		INSPECTOR.						Superintendent.	REMARKS.
		2nd Class.	1st Class.	6th Class.	5th Class.	4th Class.	3rd Class.	2nd Class.	1st Class.		
2	3	4	5	6	7	8	9	10	11	12	13
R. Hill ...	.....	.....	.. ..	.....	.....	.....	15th April, 1864.	3rd February, 1866.	1st October, 1868.	7th January, 1876.	* Reduced.
Enath Pal ..	24th August, 1876.	.....	.....	.....	24th August, 1876.	1st April, 1877.	1st July, 1877.	17th June, 1878.	1st June, 1880.	1st March, 1883.	Original appointment in the Government Railway, 1st July.
Hogg ..	10th September, 1870.	.....	.....	9th December, 1871.	2nd April, 1874.	22nd March, 1876.	11th September, 1876.	1st January, 1877.	.....	24th September, 1879.	
S. Johnson.	13th November, 1873.	.....	.....	1st November, 1877.	10th December, 1878.	3rd June, 1880.	1st August, 1880.	8th May, 1882.	.....	14th April, 1883.	* Reduced.
St. Millard	1st September, 1883.	.....	.....	.....	.....	.....	.....	.....	1st September, 1883.	22nd February, 1888.	Original appointment in the Police, 3rd 1873.
Robertson	1st January, 1874.	.....	.....	.....	1st January, 1874.	1st July, 1877.	1st December, 1878.	17th February, 1881.	7th August, 1883.	15th January, 1890.	* Reduced.
F. Merriam.	1st August, 1880.	.....	.....	6th February, 1874.*	1st August, 1880.	7th August, 1883.	14th March, 1885.	14th May, 1886.	14th March, 1887.	22nd July, 1890.	
Davis ..	3rd November, 1876.	.....	.....	14th December, 1878.	3rd June, 1880.	8th May, 1882.	1st June, 1883.	4th February, 1884.	20th March, 1891.	11th August, 1892.	
Jendran Nathatterjee.	19th June, 1878.	.....	19th June, 1878.	16th October, 1879.	16th March, 1880.	26th January, 1883.	17th November, 1883.	15th August, 1886.	8th April, 1890.	1st May, 1884.	* Reverted.
							26th June, 1884.*	.....	20th November, 1890.*	31st October, 1890.	Officiating.
									2nd March, 1894.*	2nd September, 1884.	Ditto.
									16th November, 1894.*	30th December, 1895.	Ditto.
										1st May, 1895.	Ditto.

STATEMENT OF INSPECTORS OF THE FIRST FOUR GRADES IN THE CALCUTTA POLICE.

NAME.	Date of first appointment.	SUB-INSPECTOR.		INSPECTOR.						Superintendent.	REMARKS.
		2nd Class.	1st Class.	6th Class.	5th Class.	4th Class.	3rd Class.	2nd Class.	1st Class.		
2	3	4	5	6	7	8	9	10	11	12	13
Histo Charn Banerjee.	28th April, 1877.	.....	.....	28th April, 1877.	3rd May, 1878.	3rd June, 1880.	11th June, 1881.	1st May, 1886.	1st April, 1888.	27th September, 1888.	Officiating.
Jendran Nathatterjee.	25th October, 1884.	.....	.....	.....	25th October, 1884.	18th April, 1887.	21st November, 1887.	14th May, 1888.	26th October, 1883.*	.....	* Reverted.
Forayth ..	13th November, 1872.	.....	.....	23rd July, 1877.	1st January, 1881.	8th September, 1886.	1st November, 1887.	1st April, 1889.	1st August, 1891.	15th July, 1894.	Original appointment in the Police, 2nd 1884.
J. Heffernan	24th October, 1869.	.....	.....	6th June, 1876.	16th October, 1879.	13th August, 1886.	1st November, 1889.	31st July, 1890.	22nd August, 1894.*	31st October, 1894.	Officiating.
C. Aldridge	1st February, 1888.	.....	.....	1st February, 1888.	1st May, 1889.	31st July, 1890.	17th February, 1891.	25th March, 1892.	20th April, 1894.*	22nd April, 1895.	* Reverted.
G. Haultain	27th January, 1886.	.....	.....	16th October, 1889.	1st March, 1890.	29th January, 1891.	25th March, 1892.	11th August, 1893.	1st October, 1895.	.....	Ditto.

NAME.	Date of first appointment.	SUB-INSPECTOR.		INSPECTOR.							Superintendent.	REMARKS.
		2nd Class.	1st Class.	6th Class.	5th Class.	4th Class.	3rd Class.	2nd Class.	1st Class.			
2	3	4	5	6	7	8	9	10	11	12	13	
F. W. Marklew.	25th March, 1884.	.....	.....	31st March, 1885.	6th February, 1886.	17th July, 1889.	31st July, 1890.	26th March, 1891.	.....	.....	.....	Original ment in the Police, 1871.
Shutosh Ghosh	8th May, 1890.	.....	.....	8th May, 1890.	1st June, 1883.	1st November, 1887.	8th April, 1890.	29th January, 1891.	.....	.....	.....	* Reduced.
F. A. Meyers	20th March, 1872.	.....	.....	6th July, 1872.	16th October, 1873.	23rd September, 1874.	28th January, 1879.	14th April, 1883.	10th January, 1887.	.....	.....	* Reduced.
Teasabuddin...	2nd June, 1875.	.....	.....	2nd February, 1887.	1st April, 1888.	8th April, 1890.	1st April, 1892.	1st July, 1893.	.....	.....	.....	* Reduced.
F. Bowen	14th June, 1886.	.....	.....	28th February, 1887.	1st November, 1887.	11th August, 1892.	21st December, 1892.	10th July, 1893.	.....	15th February, 1895.	.....	Officiating.
R. Elliot	6th September, 1884.	.....	.....	6th September, 1884.	1st February, 1886.	20th August, 1890.	14th September, 1893.	30th August, 1895.	.....	.....	.....	* Reduced.
M. B. Ellis	5th March, 1891.	.....	.....	5th March, 1891.	20th March, 1891.	28th October, 1893.	1st March, 1894.	18th January, 1895.	.....	.....	.....	Original ment in the Police, 1887.
T. Bell	24th April, 1895.	.....	.....	.....	.....	.....	24th April, 1895.	8th November, 1895.	.....	.....	.....	Original ment in the Police, 1894.
J. Carroll	15th March, 1877.	.....	.....	20th May, 1883.	14th March, 1886.	16th July, 1888.	26th March, 1891.	.....	.....	.....	.....	.....
T. Smith	9th November, 1887.	.....	.....	31st March, 1891.	11th August, 1892.	30th December, 1893.	30th August, 1894.	.....	.....	.....	.....	.....
V. Oakley	14th January, 1890.	.....	.....	14th January, 1890.	3rd June, 1890.	15th September, 1896.	10th September, 1891.	.....	.....	.....	.....	Original ment in the Police, 1875.
.....	.....	.....	.....	12th October, 1882.*	26th January, 1883.	30th July, 1890.	.....	.....	.....	.....	.....	* Reduced.
J. Creagan	1st July, 1887.	.....	.....	17th July, 1889.	31st July, 1890.	28th December, 1893.	15th August, 1894.	.....	.....	.....	.....	.....
J. Ballantyne	5th September, 1889.	.....	.....	5th September, 1889.	8th April, 1890.	1st April, 1892.	.....	.....	.....	.....	.....	.....
Ararat Kumar Ghose.	27th February, 1890.	.....	.....	27th February, 1890.	29th August, 1890.	21st January, 1895.	.....	.....	.....	.....	.....	Original ment in the Police, 18th August.
Murphydas Bose	15th March, 1880.	23rd October, 1886.	30th March, 1889.	17th July, 1889.	27th February, 1890.	30th September, 1891.	.....	.....	.....	.....	.....	.....
J. Peterson	1st September, 1871.	.....	.....	12th April, 1877.	15th September, 1886.	29th January, 1891.	.....	.....	.....	.....	.....	.....
J. W. Major	16th September, 1890.	.....	.....	12th July, 1892.	1st April, 1893.	1st March, 1894.	.....	.....	.....	.....	.....	.....
W. Blackind	5th October, 1891.	.....	.....	5th October, 1891.	26th October, 1893.	2nd September, 1894.	.....	.....	.....	.....	.....	Original ment in the Police, 15th June, 1894.
F. Belletty	23rd August, 1878.	.....	.....	23rd August, 1878.	1st February, 1880.	1st May, 1894.	1st February, 1886.	14th May, 1888.	.....	.....	.....	* Reduced.
.....	.....	.....	.....	26th March, 1891.*	31st July, 1891.	1st May, 1895.	.....	.....	.....	.....	.....	* Ditto.
J. Fitzgerald	1st July, 1887.	.....	.....	29th August, 1890.	20th January, 1891.	.....	.....	.....	.....	.....	.....	.....
Discoill	16th November, 1874.	.....	.....	21st March, 1876.	11th September, 1876.	1st January, 1881.	.....	.....	.....	.....	.....	Officiating 4th class.
.....	.....	.....	.....	24th December, 1891.	16th January, 1894.	.....	.....	.....	.....	.....	.....	.....
Islam Mohinuddin.	19th July, 1892.	.....	.....	20th February, 1893.	18th January, 1895.	.....	.....	.....	.....	.....	.....	Original ment in the Police, 1st January, 1895.

CALCUTTA;

The 20th December, 1895.

J. LAMBERT,

Commissioner of Police.

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

RANGPUR HOSPITAL IMPROVEMENT FUND.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Whether the attention of the Government has been called to the proceedings of the Magistrate of Rangpur, who, it is alleged, addressed the following communication to a gentleman, who had refused to accept a letter he had written for subscription to the Rangpur Hospital Improvement Fund:—

“To

BABU

WHEREAS it is understood from the report of a peon that you have refused to accept the letter for subscription of the Rangpur Hospital Improvement Fund, you are hereby informed by this notice that you will present yourself in my *kutcherry* at 9 A.M., on the 15th August next, and show cause why you should not be criminally prosecuted.

Sd. J. H. LEA,

Magistrate, Rangpur.”

Dated the 12th August, 1895.

Whether such a Circular was issued; if so, does the Government approve of it? If not, will the Government be pleased to mark its sense of disapproval of such a proceeding?

The Hon'ble MR. COTTON replied:—

“The attention of Government was drawn to the subject-matter of the Hon'ble Member's question by an article which appeared in the *Amrita Bazar Patrika* of the 5th September, 1895, and it was ascertained on enquiry that the facts are substantially as stated. The censure of Government was communicated in October last, under Sir Charles Elliott's orders, to the Magistrate concerned. Mr. Lea was under the erroneous impression that refusal to accept delivery of an official cover constituted an offence under the Indian Penal Code. The Circular asking for subscription had issued from the District Board Office.”