Proceedings of the Council

OF THE

LIEUT.-GOVERNOR OF BENGAL

FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

Index to Vol. XXIX.

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OF THE

COUNCIL OF THE LIEUT.-GOVERNOR OF BENGAL

FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS

FOR THE YEAR 1897.

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S M. W.—Reg. No. 6350J—300—14.2.98.

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 2nd January, 1897.

Present:

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. H. RISLEY, C.I.E.
The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.
The Hon'ble NAWAB SYUD AMEER HOSSEIN, C.I.E.
The Hon'ble C. E. BUCKLAND, C.I.E.
The Hon'ble M. FINUCANE.
The Hon'ble C. W. BOLTON.
The Hon'ble W. H. GRIMLEY.
The Hon'ble J. G. H. GLASS, C.I.E.
The Hon'ble C. A. WILKINS.
The Hon'ble MAULVI MUHAMMAD YUSUF KHAN BAHADUR.
The Hon'ble SURENDRANATH BANERJEE.
The Hon'ble A. M. BOSE.
The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR.
The Hon'ble GURU PROSHAD SEN.
The Hon'ble MAHARAJA BAHADUR SIR RAVANESHWAR PROSHAD SINGH, K.C.I.E., of Gidhaur.
The Hon'ble W. B. GLADSTONE.
The Hon'ble A. H. WALLIS.

NEW YEAR GREETING.

The Hon'ble THE PRESIDENT, on taking his seat, wished the Members of Council a very happy and prosperous New Year.

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

MR. LEA'S CASE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Whether the attention of the Government has been called to the case of one Mr. Lea, who was recently charged with having caused the death of a coolie, and, on being convicted of simple hurt, was fined fifty rupees? Is it true that in this case when the Head-Constable went to arrest Mr. Lea he was censured for so doing? Further, is it true that in the Lower Court, the prosecution was left to be conducted by an European Inspector of Police, and that notwithstanding the gravity of the case, the accused being charged with having caused the death of a coolie, the services of the Government Pleader or any other qualified lawyer were not engaged to conduct the prosecution? Whether it is not usual in a case of this nature to employ the Government Pleader or some duly qualified lawyer to conduct the prosecution? If so, will the Government be pleased to state why the practice was not followed in this case?

The Hon'ble MR. BOLTON replied :—

"A report has been received by the Government on the case referred to. In connection with the death of a gate-man on the East Indian Railway line, Mr. Lee, a Railway subordinate, was committed to the Sessions Court at Bhagalpur by the Subdivisional Officer of Pakour on a charge of having voluntarily caused grievous hurt under section 325, Indian Penal Code. He was tried before a Jury consisting of three European and two native gentlemen, the prosecution being conducted by the senior and the junior Government Pleader, and the defence by Counsel, and was found guilty, by the unanimous verdict of the Jury, of an offence under section 334, Indian Penal Code, that is, of voluntarily causing hurt on grave and sudden provocation, for which the maximum term of imprisonment is one month, and the maximum fine Rs. 500.

"No Head-Constable went to arrest Mr. Lee, but fault was found with a Head-Constable for having sent in a final report before the police investigation was completed.

"The European Inspector of Police in charge of the case assisted in the prosecution before the Magistrate in the usual way. It is not the practice in

the Sonthal Parganas to employ the Government Pleader in the lower courts, and in the present instance the services of a lawyer were not necessary.

"It rests with the District Officers to consider whether the Government Pleader should be employed in any criminal case. He is not retained in cases of a simple nature."

THE PREVAILING FAMINE.

The Hon'ble BABU GURU PROSHAD SEN asked—

I. Will the Government be pleased to state what is the amount of cash wage per day now paid to the famine stricken men in places where relief works have already commenced? At what price are rice and other food-grains selling in the local markets in those places?

II. Are there any other kind of works than digging earth in which any class of famine stricken men are being employed? Has the Government taken into consideration whether this is not possible, specially for the relief of such classes who cannot and will not dig earth?

III. Is any kind of gratuitous relief being given to people who cannot work in those places where relief works have been ordered to be opened?

IV. Why does Government look with disfavour on the system of relief adopted by some of the relief centres opened by private individuals, under which the poor people of the locality get for their money (only in small quantities for half or a quarter rupee at a time) a seer or two more in the relief depôts than they would get in the local markets? If any such relief depôts are found on enquiry to be working well, and under respectable volunteer agencies, will the Government be pleased to come in with grants-in-aid to extend the scope of their operation?

V. Has the Government information before it of the severe distress that is now being felt in parts of the Dacca, Backergunge and Krishnagar districts, in the Satkhira subdivision of the district of Khulna, as also in a great portion of the South Gangetic districts of Bihar? Will it please Government to make enquiries and to extend reliefs in those places?

The Hon'ble MR. FINUCANE replied:—

Answer to Question No. I:—

"The principles on which wages are regulated are those laid down in sections 98 to 106 of the Famine Code. The amount of the wage has, so far as known to Government, been given in the reports published in the Gazette. It is not possible to give details of prices and wages on every relief work started throughout the province, but ample information on the subject has been given in the published reports."

Answer to Question No. II:—

"Earthwork is the only kind of work on which famine labourers are now employed. Relief to persons of the respectable classes will be afforded by employing them as overseers of labour gangs and as muharrirs or clerks on the works. Relief to artizans may, when necessary, be afforded in the manner prescribed in sections 142, 143 and 144 of the Famine Code."

Answer to Question No. III:—

"Gratuitous relief is being given as provided for in the Famine Code."

Answer to Question No. IV:—

"Government does not view with disfavour the system of relief referred to in the question if given spontaneously by private persons, but does not view with favour the interference of Government officers in the system, as it tends to undersell private traders, and so to interfere with trade. Government does not propose to give grants-in-aid to the system."

Answer to Question No. V:—

"Government has no information showing that there is any distress in Dacca or Backergunge. There is distress in Satkhira, and in parts of Nadia, and measures have been taken to meet it. There is not distress in a great portion of the South Gangetic districts of Bihar. In parts of the Bhabua sub-division there is some distress, and measures have been taken to relieve it.

"If the Hon'ble Member would read the papers published in the Gazette, and study the Famine Code, he would have all the information he can possibly require as to existing facts and the methods of meeting distress."

[*Mr. Finucane.*]

ESTATE'S PARTITION BILL.

The Hon'ble Mr. Finucane moved that the Bill to amend the law relating to the Partition of Estates be referred to a Select Committee consisting of the Hon'ble Rai Durga Gati Banerjea, Bahadur, the Hon'ble Mr. Bolton, the Hon'ble Mr. Grimley, the Hon'ble Mr Wilkins, the Hon'ble Maulvi Muhammad Yusuf Khan Bahadur, the Hon'ble Babu Guru Proshad Sen, and the Mover. He said:—

"When moving that this Bill be read in Council, I endeavoured to explain its objects and reasons and the principles underlying it, and I hope I need not now repeat what I said on that occasion. It was then explained that the primary object of the Bill was to shorten, simplify, and cheapen the procedure for effecting partitions of estates. I conceive that there can be no difference of opinion as to desirability of attaining that object, and therefore that there can be no question as to the soundness of the cardinal principle of the Bill. At the present stage we are, under the Rules under which the proceedings of the Council are conducted, precluded from entering into a discussion of the details by which it is proposed to give effect to this principle. On some of those details there may be difference of opinion, and especially perhaps on the point whether the provisions of Chapter V, regarding the method of carrying out a survey, which is required under the present law, as well as under the Bill, for the purpose of ascertaining the assets, are the best that can be devised with a view to shorten, and cheapen, and simplify the procedure. Important criticisms have been received on that Chapter, and important changes and improvements will no doubt be made in it by the Select Committee, but this is not the occasion to discuss these changes, nor is it for me to anticipate what the judgment of the Select Committee may be. I may, however, say that Government will offer no objection to some important modifications in the Chapter as drafted.

"A secondary object of the Bill is, it will be remembered, to impose a higher limit than is now imposed on the partibility of revenue. When introducing the Bill, I stated that the limit of Rs. 100 would possibly be found to be too high. Since that time numerous and valuable opinions have been received on the Bill, and they have been circulated among Hon'ble Members. It will have been observed that the great preponderance of opinion of revenue officers is in favour of the view that a limit

of Rs. 100 is not too high, but that the Hon'ble Judges of the High Court, while thinking that a higher limit than that now in force ought to be imposed, still think that the proposed limit of Rs. 100 is too high. The Bihar Planters' Association are of the same opinion.

"Some of the other public bodies and associations are opposed to the introduction of any limit other than that imposed by the law as it stands. These opinions are entitled to great weight, and, in deference to them, no objection will be made to a reduction of the limit proposed in the Bill. What the precise amount of that reduction should be is again a matter of detail on which it is for the Select Committee to suggest a conclusion and for the Council to settle at a subsequent stage of the proceedings."

The Hon'ble BABU SURENDRANATH BANERJEE said :—"I quite accept the view which has been put forward by the Hon'ble Member in charge of the Bill that, on a motion being made to refer a Bill to a Select Committee, we are entitled only to consider the questions of principle involved in the Bill and criticise matters of detail only so far as they involve considerations of principle. The Hon'ble Mover has referred to two matters which involve important questions of principle. One of these is the provision of the the Bill by which it is proposed to raise the qualification subject to which estates may claim partition from the present limit of Re. 1 to Rs. 100. If this part of the Bill is not modified, and considerably modified, the effect of the measure will be to preclude a large number of estates from availing themselves of the beneficent provisions of the Partition Law. In this connection I desire to call attention to the papers before the Council. It is remarkable that the Bihar Planters' Association, which entirely accept the Bill in all its provisions, take exception to this part, and this part only, of the Bill. 'The only section,' writes the Secretary to the Bihar Planters' Association,' 'to which I would draw attention is section 10A of Chapter II. This, I believe, would operate so as to prevent all partitions, except in isolated cases, and it might be advisable to lower the limit of Rs. 100.' I will not take up the time of the Council by referring to many of the opinions which have been received on this point, but there are two or three which are of great importance. We have a weighty expression of opinion from the Secretary to the Chittagong Landholders' Association, from which it appears that if this provision of the Bill is to be accepted, the Partition Act

might as well not exist, so far as the Chittagong Division is concerned. In the second paragraph of his communication he says:—'In this district the revenue roll of the Collectorate consists mainly of numerous petty estates whose revenues do not exceed Rs. 10, not to speak of Rs. 100. The Bill, therefore, in restricting the partibility of estates to the amount of Rs. 100, has practically made the proposed Act a dead-letter in its application to this district.'

"I come next to another important expression of opinion from the East Bengal Landholders' Association. In paragraph 8 the Secretary to that Association says:—'For these and other reasons it is clear that if the minimum limit of Government revenue in a separate estate is raised to over Rs. 100 (as proposed by section 10), partition of estates in many districts will be entirely put a stop to. This will be great hardship on the zamindars for no fault of their own.' Passing on from non-official to official opinion, we find a striking unanimity pointing to the same conclusion The Director of Land Records and Agriculture (Mr. Lyon) says:—'Seeing that the main object of most proprietors in applying for partition now-a-days is not to obtain an adjustment of the revenue demand, but to obtain a separate share of their estate, it would perhaps be better to permit the partition of estates to an almost unlimited extent.' The Board of Revenue, the highest authority on such matters, is in favour of reducing the minimum. I am quite sure these expressions of opinion will be considered with the attention which they deserve, and I shall rejoice if the Select Committee see their way to revert to the existing law in this particular. For my own part I do not see any justification for the minimum limit that is now proposed. No doubt the law as it now stands is a source of considerable trouble and labour to executive officers, but that is nothing compared to the hardship to those who will be affected by the provisions of this Bill, and will be virtually denied the right of partition. Before I conclude, I wish to say one word with reference to the provision in the Bill regarding the necessity for a cadastral survey in certain cases—a matter which involves an important question of principle. Under this Bill, unless an estate can produce full and accurate measurement papers, it will not be in a position to claim partition, except after undergoing the harrassment of a cadastral survey. This will be a difficulty in the way of many estates, and I am glad that this matter also will engage the attention of the Select Committee. I congratulate the Hon'ble Member in charge of the Bill on the statement which he has been able to make, that the Government will be

[*Babu Surendranath Banerjee; Rai Eshan Chundra Mittra Bahadur.*]

prepared to make considerable modifications in the provisions of the Bill by the light of the opinions which have been received, and I hope and trust that when this Bill emerges from the hands of the Select Committee, it will be so recast and modified as to commend itself to the approval of the Council and of the country at large."

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR said:—"The Bill before the Council is one of the most important Bills that have come before us during the present Session. It is a complex Bill, and contains many details. As far as this Bill professes to cheapen, shorten and simplify the procedure, I hail it with pleasure, but there are certain principles involved in the Bill which will require consideration at the hands of the Council; as, for instance, the provision contained in section 10, which raises a very important question. This section 10 limits the benefits of partition to estates, the annual revenue of which would not, after partition, be less than Rs. 100. It is a restriction, I submit, which is both against the letter and the principle of the proclamation of 1793, the charter of the rights of the proprietors of estates. No doubt that Regulation was passed when land was not valuable, when the population was sparse; and the Legislature of 1807 thought of placing a restriction on the partition of estates, the revenue of which was less than Rs. 500; but three years after this the Legislature in its wisdom thought fit to remove that restriction, and in the preamble of Regulation V of 1810 it is stated that the apprehension, which was entertained at the time, did not exist, and that there was absolutely no necessity for that limitation. After that limitation was removed, there was a subsequent suggestion for legislation, allowing the proprietors a right of redemption of the revenue of estates which, after partition, would bear a revenue less than Rs 20. That was previous to the passing of the present law of partition, but the Government of India did not approve of that suggestion, and the proposal was not entertained. We have, lastly, the existing Act, which rather confers the privilege to zamindars of partitioning estates, if the revenue of the separate estate of the proprietor exceeds Re. 1, and I submit that the law as it was promulgated in the Regulations of the permanent settlement, stands virtually the same at the present day. There was no doubt that in 1807 it was thought necessary to enact a new law laying down a certain restriction, but that law was repealed. I take it that all statutory enactments proceed from the will of the Legislature, and that when enactments are

repealed, they are to be taken as if they had never existed. They may have a certain historical value, but the Regulation of 1807 having been repealed, the law now is the same as it stood in 1793, subject to this condition—which I take to be rather a privilege—that every proprietor of an estate, paying less than Re. 1 revenue to Government, has the right to redeem. Therefore the question arises whether there is any necessity now of introducing the proposed restriction in section 10 after a century.

"I would invite the attention of Hon'ble Members to the fact that land has immensely improved in value since 1793, and that the population is increasing by rapid strides. With the influx of British Capital and the security of property, the value of land has greatly increased, and I submit that there is no necessity of the proposed restriction being laid down. It is said that the realisation of the Government revenue is in danger, but has it been in danger during all these years? No doubt, in certain districts, the number of partition cases is greater than in others. In Lower Bengal there have been very few, but in the Darbhanga and adjacent districts the number has no doubt been great, and this was due to the prevalence of the *bhaoli* system; but I am not aware of any statement which goes to show that the Government has suffered any appreciable loss of revenue. The Government has several remedies for the realisation of its revenue, the chief of which is the Sunset Law, and even if the revenue be not realised under that law, the Government can have recourse to the certificate procedure, and realise its revenue from any other property belonging to the defaulter. Therefore the question is whether there is any necessity for this Bill? If there were any reasonable chance of the Government revenue being in danger, I would be the last person to oppose a measure of this kind being introduced, but there must be something tangible to go upon. It has been said that if this limitation is imposed, there is section 93 of the Bengal Tenancy Act to fall back upon, under which the opening of separate accounts can always be effected, but if the provision in this Bill be passed, I may be permitted to say that section 93 of the Tenancy Act will afford no protection whatever to co-sharers in an estate; for that section contemplates a state of things which does not ordinarily occur. That section provides that when any dispute exists between co-owners of estates, and other contingencies mentioned in the section occur, recourse may be had to the section.

"It contemplates the existence of disputes between the co-owners of estates before the section will apply. There must be apprehension of a riot; there

must be some public inconvenience before section 93 will give any assistance to co-sharers for the appointment of a common manager. That provision of the Tenancy Act is no new law. It is contained in the 22nd article of the Proclamation of 1793, whereby the owners of an estate are authorized to appoint a joint manager. I therefore submit, for the consideration of Hon'ble Members, whether section 93 of the Tenancy Act will afford any assistance to co-sharers if the provision of this Bill, to which I am referring, is passed.

"Then, in the opening of separate accounts the law does not contemplate the demarcation of lands; all that is recorded is the amount of each person's share, as, for instance, that *A* has a 4-anna share, *B* 6-anna, and so on; but their joint liability is in no way affected, and the proprietors or tenants get no advantage from that section. Therefore it is a question for the consideration of the Council whether the opening of separate accounts by the co-sharers of an estate will be of any advantage to themselves or to their tenants. Then it has been said that peasant proprietors are not the same as peasants and pauper landholders. Who are these pauper landholders? Is the Government a pauper landholder? For the Government holds shares in estates, and many big rajahs and zamindars also hold shares in estates, and they are not pauper landholders. I submit that if the time comes when it may be necessary for the protection of the Government revenue to prevent the growth of plurality of estates, it will come to a state of things similar to the case of raiyatwari settlements. Consider the fact that lands are every day rising in value, and that the Sunset Law exists; so that there can be no fear of the Government revenue being endangered in any way. But if the time comes when such a law will be necessary, the state of things existing under raiyatwari settlements will come into operation, and the collection expenses will increase to a certain extent. But so long as the Sunset Law is in force there is no room for any apprehension of expenses of collection being increased.

"Then it has been said that if no limitation is put to the partition of estates, the administration charges will be increased; but it should be remembered that in different parts of this Province we have a system by which the Government revenue is remitted by chalans, and if the number of such chalans is somewhat increased, the expense to Government will only increase to the extent of appointing a few additional clerks; but is that any reason why a solemn compact, entered into a century ago, should

[*Rai Eshan Chundra Mitra Bahadur.*]

be interfered with? I therefore submit, that the collective wisdom of the Council will not consider it advisable to place any restriction upon the partition of estates. The real question seems to me to be whether there is any necessity for this provision of the law. Of course, if there is such a necessity, I would be the last person to advocate that there should be no such restriction; but if there is no necessity, if there is no danger to the public revenue at present, then the law cannot be necessary now. It appears to me that the necessity which is supposed to exist is merely theoretical.

"The advantages of partition to proprietors and tenants are manifold. At the present moment the country is suffering from a famine of water. Suppose a tenant or a co-proprietor wants to dig a tank; if the co-sharers will not give their consent, nothing can be done; but if the plot of land on which he wishes to dig a tank is his own, he can do as he likes. I therefore submit that the division of estates will not only improve the value of land, but will conduce to the advantage and convenience of the proprietors and the tenants. Suppose in an estate there are five co-sharers; the raiyat or tenant will have to go to the five different gomashtas of those co-sharers; he will have to keep separate accounts with each of them. But if a partition has been effected, the raiyat will know who his landlord is, and he will only have to keep one account. I think I am not wrong if I say that most agrarian disturbances arise from disputes between co-proprietors of estates; but if the partition of estates is allowed, these disturbances will cease, at least to a certain extent, so that the advantages of partition are manifold, and it is a question for consideration whether the Legislature should place any restrictions upon the right of partition.

"Then, again, I submit that proprietors and tenants will not be benefited by the provisions of Chapter V of this Bill, and I venture to say that this question of the record-of-rights is not one which is at all beneficial to raiyats. I am speaking from the raiyat's point of view. As pointed out by Mr. Hare in one of his letters, the raiyat has to go to the several shareholders to adjust his rent, and he has to spend some time in haggling, and has to go from one shareholder to another; therefore this particular provision of the Bill will not benefit tenants. Why are tenants therefore to be brought in? The interested parties are the Government and the co-sharers, who ask for partition among themselves. But why should the tenants be brought in? It is said that their rights in the land ought to be recorded; one tenant says, this is my land,

[*Rai Eshan Chundra Mittra Bahadur; Babu Gurú Proshad Sen.*]

a second says, I got it by will, a third, I got it by adverse possession. Are such questions to be decided finally by the Deputy Collector? Section 119 of the Bill provides that the judgment of the Collector is to have the full force of *res judicata*, but the principle of *res judicata* cannot affect a tenant. It is said that the raiyats are to be benefited by this record-of-rights; why then should they not bear a part of the expense; but why should these innocent persons be dragged into the quarrels of their landlords? It may be said that their lands are to be measured, and that it ought to be done in their presence; but that will not prevent other people from claiming those lands, and the decision of the Collector cannot therefore operate as *res judicata*. That is a question of principle which ought to be settled by the Council.

"As regards the question of survey, it is one for the consideration of the Select Committee, but it cannot be denied that by a survey and record-of-rights the expenses will increase immensely; the proceedings will not be cheapened, and the delays will be greater than they are at present in ordinary partition cases. I therefore submit that Chapter V of the Bill ought to be considered very carefully for the procedure as to survey and record-of-right prescribed in that Chapter is too cumbrous to be fit for a special enactment. As to the question of restriction, one of the Collectors has given it as his opinion that even if the minimum revenue was fixed at Rs. 5, a vast number of estates will be disqualified, and another gentleman says that two-thirds of the estates will not come under partition. These are questions for the Select Committee to consider. But I submit that in a Bill like this, the procedure should be as simple as it possibly could be, and the expenses of partition as little as possible, and the proceedings should be completed with the utmost despatch."

THE Hon'ble BABU GURU PROSHAD SEN said:—"So far as the Bill seeks to simplify, cheapen and shorten the procedure for effecting partitions of estates in Bengal, it has my entire sympathy. In that matter in some respects the Bill does not go far enough, but that is a question of details, which will come out all right after the provisions of the Bill have received the due consideration of the Select Committee. On two points only I like to make some observations at the present moment—

1st.—The restrictions to the right of partition of estates (section 10 of the Bill).

[*Babu Guru Proshad Sen.*]

2nd.—The introduction of what is called the procedure of Cadastral Survey in the butwarahs.

"I may premise by stating that many of those things which I intended to say have been ably said by the Hon'ble Eshan Chundra Mittra and the Hon'ble Surendranath Banerjee, and I shall not repeat those objections which they have already urged.

"On the first point it was said by the Hon'ble Mover of the Bill that the principle of restricting the right of partition had already been recognized so long ago as 1807, and again by Act VIII (B. C.) of 1876.

"The Regulation VI of 1807, which restricted the partition of estates, was very short-lived. In the early days of Regulations, on the recommendation of the Board of Revenue, the Regulation was enacted in 1807, and repealed only three years after, on the recommendation of the same Board on its gathering experience.

"The preamble of Regulation VI of 1807 states: 'Whereas under the Provisions contained in Regulations 1 and 25 of 1793, persons holding shares of estates paying revenue to Government are *entitled to a* separation of such shares, and on the completion of the butwarah by the officers of Government, and on the confirmation of the Governor-General in Council, to hold the same as distinct mahals, subject to the just proportion of the public assessment: and whereas considerable loss and inconvenience have been experienced in the collection of the public revenue from the too minute subdivisions of landed property, it was enacted, &c.'

"Two points are clear from this preamble, that the proprietors have under the Permanent Settlement a right to get the estates partitioned without any restrictions whatever, and, second, that it was only on the ground of inconvenience to the collection of revenue the restrictions were imposed and all other sides of the question ignored.

"In those halcyon days there were no long speeches and discussions, and the people affected could not be aware of the changes in our laws till the law was actually put into force.

"The preamble of Regulation 5 of 1810 states:—'The restrictions on the partition of small estates, being found productive of considerable injury to numbers of sharers in small estates, inducing a sacrifice of private rights which

the degree of public inconvenience arising from the minute division of landed property did not appear to justify or require, it is enacted, &c.'

"With this short interval, the right of complete partition of revenue-paying estates has remained unaffected till the year 1876.

"It is true that the thin end of the wedge was then sought to be introduced, but I cannot agree in thinking with the Hon'ble Mover of the Bill that the principle of restriction was accepted, but from the absence of all discussion on the point, it leads me to the inference that the matter was overlooked because of the right of redemption conferred. Hon'ble Kristodas Paul said 'A simplification of the law of partition would be in unison with the improved ideas of the people regarding the possession and management of property. Many were the social advantages of the joint family system in this country, but the modern idea of individualism fostered by Western education and examples was sapping the foundation of that patriarchial state of society. There was now a spirit abroad that each should take care of himself; that each should employ his own talents, energies, and resources to the best advantages; that each should enjoy the fruits of his own capital and labour. We do not feel ourselves called upon to discuss here the moral aspects of the question—Whether the changed family would make man more selfish, and tend to destroy the many amiable virtues which the joint family system undoubtedly engendered and fostered. But it could not be denied that society would greatly gain by the dissemination of a spirit of self-reliance and enterprise, which was a natural sequence of the idea of individualism struggling for mastery over the native mind. The spread of this idea was a broad social fact which no one can gainsay and no one can resist, and it was therefore meet that the Legislature should second it by simplifying the law of partition.'

"These are words which apply strongly against the restriction now sought to be imposed, for if Hon'ble Kristodas's authority can be cited in this connection, it is not as that of an authority favouring restrictions on divisions, but that of one who supported unlimited divisions.

"Again, there was no question of principle of limit of the right of partition involved in the Bill of 1875-76, as that Bill provided that 'no application for separation should be entertained, the result of which would be to form one or more estates, each liable for an annual amount of land revenue less than 20 rupees, unless the proprietor of such small estates agreed to redeem his

revenue.' It was not therefore limiting the right, but the question of bringing it out of the partition in a better form of a revenue-free estate, by paying a certain sum of money to Government—I believe only 25 years' purchase. Who amongst the proprietors would not prize such a right, and thus be for ever free out of the trepidation of heart engendered by our sunset laws?

"As was well pointed out by the Hon'ble Rai Eshan Chundra Mittra Bahadur so far it was a privilege that was sought to be conferred, and not a deterioration of the right. The Government of India, however, vetoed the Bill on the ground of this redemption clause, and suggested that they would have no objection to the redemption clause if Rs. 20 were reduced to one rupee, and a Bill was brought forward in the form in which it now stands in Act VIII (B.C.) of 1876, and it was passed without opposition. It is not therefore right to say that the principle of limit had been accepted in 1876.

"This limit, without conferring the corresponding right of redeeming the Government revenue, was sought to be imposed in 1884. The limit proposed was to prevent creation of estates paying Government revenue less than Rs. 20.

"The late Hon'ble Hurbans Sahai, whose experience of mufassal, especially of Bihar districts, was great, and the Hon'ble Chandra Madhab Ghosh, who now adorns the High Court Bench, opposed the Bill. Amongst other grounds, the Hon'ble Hurbans Sahai opposed it on the ground that it did take away the right of the landlords under the Permanent Settlement to have the Government revenue partitioned. Said he:—

'Every joint proprietor had an inherent right to have the Government revenue partitioned. At present, a shareholder, however small his share might be, had every right to go to the Collector and ask for a partition of the land and the apportionment of the revenue payable by him, in order that he might not be any longer held responsible for the default of his co-sharers. This was a right which he justly had, and on what ground was he to be deprived of that right? It was not an imaginary right, but a substantial one.'

"These words prevailed. In withdrawing the Bill, the Hon'ble Mr. Dampier, whose knowledge of our revenue laws and administration of our revenues was always held to be of the best, said:—

'While the Bill for the amendment of estates Partition Act has been before this Council, a feeling has been expressed against any limitation which shall have the effect of restricting *the right which proprietors* of small interests in estates now have of obtaining a perfect

partition of their interests, both as to land and as to the general liability for the payment of land revenue. That feeling has found expression not only in this Council, but also outside in the exponents of opinions of some classes of the public, and I found in personal discussions with some of the officers from the districts in which partitions are more common that they also share in the feeling. I submitted the objections to your Honour, and your Honour thought that the relief sought to be given would be met by the provisions of Bengal Tenancy Act.

'It is a pleasant thing to sail with the fair wind of popular opinion instead of being obliged to beat up against it.'

"It will gladden the proprietary body in the country if they were to receive the same announcement from the Hon'ble Mover of the Bill. This announcement was made in a full Council, when our highest authority in question of laws, our learned Advocate-General, was present.

"It is admitted to some extent by the Hon'ble Mover of the Bill in the Objects and Reasons that such a right exists. He says: 'It is true that the Permanent Settlement Regulation I of 1793, which declared the right of property in the soil to be vested in the zamindars, and fixed their revenue in perpetuity, also declared that they were to have the right to dispose of the whole or any portion of these estates in any way they pleased,' and get an appertionment of Government. In this summing up he might have added that these declarations were made subject to some reservations, and the right of partition and apportionment of Government revenue, which was expressly given under the said Regulation, was not subject to any limitation whatever.

"But he seems to think that this limit can be imposed, because (1) every bigha of land is hypotheticated for the revenue; (2) the welfare and protection of the raiyats as well as the proprietors require it.

"The reply is that every bigha in an estate will remain hypotheticated for the payment of Government revenue after the new estates, however small, have been formed.

"Secondly, if it be meant as an argument against the division of bighas into cottahs, why that has to be done in almost all partitions, small or great, and the argument would be applicable to all partitions; and again, when it was declared in some Regulations that every bigha of land was hypotheticated for the protection of Government revenue, it meant 'every bit of land' in an estate, and we are not yet come to that pass when cottahs would form an

estate; if so, section 10 of the present Act would prevent it. As to the next argument—welfare of raiyats and proprietors—the Hon'ble Mover of the Bill states the present rule of division without any limit 'is bad for proprietors, because it tends to foster the creation and growth of an infinite number of petty pauper landlords, who not being themselves able to cultivate the lands of their microscopically small estates (since there are tenants already on the land whom they cannot legally eject) are driven to screw up rents, and quarrel with their tenants and landlord neighbours, and thus bring discredit on their class.' My hon'ble friend forgets that under the operation of both the Hindu and Muhammadan laws an infinite number of petty pauper landlords are always being created, and the same state of things which he so graphically describes will follow the partition by the Civil Courts for which he provides; but unlike other microscopic beings of which we are now in daily dread, petty and pauper proprietorships, when they grow microscopic, under an economic law governing society, have a natural tendency to be extinct.

"Then as to the further result, it is a popular belief—and the belief is considered sound—that the man with the long purse and a good deal of influence can with impunity screw up rents, terrorize over raiyats and neighbours, and not the man who is a pauper. The fault therefore is not in unlimited partitions and creation of petty pauper proprietorships, but, with if the facts in the premises have not been readily assumed, in the lax administration of our laws.

"The further argument why unlimited partition is said to be bad is that 'it involves waste of time and labour from the proprietor's point of view, as the separate management of several petty estates must necessarily cause more trouble and expense than the joint management of petty estates.' The reply is to be found in the Hon'ble Krishtodas' speech, quoted above, on the subject of Individualism *versus* Communism.

"The Hon'ble Mover's argument ought to lead us to Communism not only here but in many other matters; but in this matter, the saving is in the creation of petty estates, where the pauper landlord shall look to his own, without his paying for hired labour. I may also parenthetically state that even the Hindu lawyers, while they provided for joint estates, provided also for partitions at the will of a single proprietor, however infinitisimal his share might be, and in Mitakshara countries even the sons can enforce a partition against the father.

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So far, therefore, in the proprietors' point of view, it is the provision of the Bill, and not the law which it seeks to abrogate, which is clearly bad; at any rate it is not needed for their protection and welfare.

"As for the raiyats, the existing law is held to the bad, because (1) it leads to rack-rent; (2) it compels the raiyat to pay rent at different places, to keep several sets of accounts, and to deal with different landlords; to answer to separate rent suits, and to get his crops distrained by several sets of landlords.

"As to the argument of bringing in rack-rent, I have already said what I had to say on the point. As to the second argument, I have to observe that the separation of estates does not necessarily bring in the separation of the raiyat's holding, if he has one holding, which has been allotted to different separated estates; and there are separated collections of rents even in joint estates established with the consent of the raiyats, and then the raiyats have to pay separately, keep separate accounts, and to be sued separately. Ordinarily the raiyati holdings are liable to be split by the operation of Hindu and Muhammadan laws as revenue-paying estates, as also by transfers, and it is perhaps no disadvantage to them to have their holdings separated, and, after all, the result will be the same after a Civil Court partition.

"Lastly, it is said these petty partitions impose on administration an amount of labour in effecting them and subsequent expense altogether incommensurate with any advantage accruing from them. Now I don't see how the administration shall be relieved of this labour. What is proposed is simply to transfer the Collector's duty to the Civil Courts. The amount of partition work to be done will remain the same: the cost will remain the same. In case of transfer to the Civil Court, the Court fees shall have to be paid in addition.

"Whether the costs incurred are commensurate with the advantages gained is a matter for the parties to consider. Will there be any saving of labour in the Collector's office after the limit has been fixed? Parties even after that will be entitled to have a separation of accounts, and every one who knows the details of our Tauzi Department, with their zamindari accounts and so forth, cannot but be aware of the fact that separated accounts give the Collector's amlas greater work and greater opportunity of dishonest practice than the accounts of complete separated shares, and the Collector has to look to many more things

in cases of sales for default of these separated accounts, than in the sales of entire estates; and the sales in case of separated accounts are oftener set aside for irregularities than sales in case of entire estates. In cases of separate accounts, sold as they are, subject to all incumbrances, the incumbrances not being notified, no one cares to buy shares at their proper value, and there is a loss to the pro-ors, if not ultimately to Government, whereas if the same share was an e estate, an adequate value is always realised. But I hardly think this an ection. Parties pay for the labour of administration, and if they choose to y, there can be no reason why the establishment should not be raised to the equate strength to meet the proper requirements of the case.

"Then it is said that it brings on a greater number of boundary disputes, a eat number ending in riots, more criminal cases, more civil suits, &c., &c., c. But the creation of small properties cannot be absolutely prevented, and ay it is proposed to create them, therefore the apprehension of these, if well-ounded, shall remain all the same; but it can be mathematically proved that the general body of tax-payers gain by multiplicity of civil suits, to which all hese disputes culminate at the end, and therefore there need be no apprehen-on on behalf of the general body of tax-payers.

"Turning to the statistics, we find that if this provision of the Bill be enacted, out 80 to 90 per cent. of the estates will remain as they are, and their pro-etors shall be deprived of the right of partition: and of the rest, supposing n a fractional share-holder of an infinitismal share of an estate paying, say . 5,000 as Government revenue or more, was to be a separate applicant for rtition of a share paying less than Rs. 100 in the course of batwara, the others aying Rs. 1,000 or more as Government revenue would not be entitled to claim partition and the estate will remain as it is. This was a matter very fully rought to the notice of the Council, by the Hon'ble Mr. Ghosh, on the last occasion when the matter was brought before the Council in 1884.

"A distinguished zamindar, whose opinion deserves great weight, thus sums up the objections against this provision of the Bill. He states:—

'This would be a frightfully retrograde measure.

(*a*) It goes against the grain of the policy which has been persistently followed by Government in this respect since 1793. In 1884 the Bengal Council wanted to prevent all partition which would reduce the revenue of a "separate estate" to less than Rs. 20, but the Bill was dropped by reason of the opposition it elicited.

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(*b*) It ignores the well-established principle that "in all cases of joint-ownership each party has a right to demand and enforce partition : in other words, a right to be placed in a position to enjoy his own right separately, and without interruption of interference by the other." 12 W. R. 160.

(*c*) The Cess Act, 1880, the Public Demands Recovery Act, 1880, the Drainage Act, 1880, the Irrigation Act, 1876, and the Embankment Act, 1882, have dled joint owners with liabilities which are widely felt to be extremely unjust and harassing. Their only relief lies in partition. As some mea of compensation to joint owners, facilities should be given them for get their estates partitioned, instead of throwing additional obstacles in th way.

(*d*) It would increase the hardship and stringency of the Revenue Sale Laws, alread very stringent.

(*e*) The present limit of division of the land-revenue has not either reduced the secu rity for the revenue, or increased the difficulties of collecting the revenue.

(*f*) Owing to various causes, joint-ownership exists in most objectionable forms in these provinces. A co-sharer has, in some instances, an undivided share in all the villages comprising an estate, in some a share in only a number o villages, and in others a share in some villages and specific lands in those o in other villages. The Partition Law is the only measure which shou remove this state of things by allotting to a share-holder a number of enti villages or specific tract of land in a village

(*g*) In spite of the low limit at present allowed, the number of estates has not en mously increased by partition. In Sylhet, Chittagong, and several distri in Orissa, the number of small estates is inconveniently large, but it is owing to the operation of the Partition Laws.'

"I submit that Government revenue is not always a criterion of the valu of estates, and if there is to be any limit, the limit ought to be the measure o acres it contains.

"The proviso in section 10 is liable to the objection that section 295 of the Civil Procedure Code prohibits the civil courts from making partition of estates paying revenue to Government, except through the Collector. The last case reported under section 295, the Council will find reported in the August number of the Indian Law Reports, Calcutta Series, for the present year. In 1884, the Hon'ble Mr. Dampier proposed to ask the Supreme Council to repeal this section. No such proposal has been brought forward this time; and it is only laid down that, notwithstanding the provisions of sections 206 and 315, the

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Civil Courts shall complete the partition; but I ask is this Council competent to set at naught a provision of a law which has been enacted by the Supreme Legislative Council; and, if so, will the number of Munsifs be raised and the proper agency provided? We ought to be as much tender to our judges and munsiffs as to our revenue collectors and Deputy Collectors.

"The last point, on which I beg leave to say a few words at this moment, is the introduction of cadastral survey in the butwaras. The arguments against it have been very ably and clearly urged by the Hon'ble Eshan Chundra Mitra. The primary object of the Bill, I understand to be to save delays in these butwaras by simplifying the procedure. The apportionment of Government revenue, the primary object of a completed butwara, is a matter only between Government and the proprietors. The raiyats are no way interested. The determination of assets is merely a secondary matter, only necessary to arrive at a correct apportionment. This was the law hitherto; to bring in the raiyats at a butwara will complicate the procedure, and, I believe, will be very prejudicial to the interests of the raiyatwari body. They shall in fact be forced to join in a proceeding in which they are not at all interested, and by which these rights are not touched. It will waste their time and substance and lead to their ruin.

"The introduction of the Cadastral Survey, instead of expediting, will merely cause delay; for the raibundi will not be settled at all till all the raiyats or their landlords have fought out the question of their rights up to the High Court, in cases in which they think that the entry in the record of rights have not been properly made, and, what is more, those of the landlords who are not for partition, and in every case there is such a one to be found, will fight out the battle in the names of some tenants or others to the High Court, either to delay proceedings or to coerce his co-sharers to his terms. This is an evil which appears to have been overlooked.

"I hope the point of limit will be left open till the Bill has been considered by the Select Committee in all its details."

The Hon'ble Mr. Finucane said:—"Before replying to the objections taken against the Bill, I desire to acknowledge the spirit of reason and moderation displayed by the Hon'ble Members who have spoken in this debate. Anticipating that the imposition of any limit on partitions would be objected to on

the score of its being a violation of the terms of the Permanent Settlement, I have myself carefully looked into the authorities on the subject, and consulted the Hon'ble the Advocate-General, whose opinion will, I hope, be accepted by Hon'ble Members as one which, if not conclusive in a matter of this kind, is at least entitled to the greatest respect. Sir Charles Paul has authorised me to say that, in his opinion, the imposition of a limit would not involve any infringement of the terms of the Permanent Settlement. Then we have the opinion of the Hon'ble Judges of the High Court, who, it will be admitted, are always anxious to support all classes of the community in asserting and maintaining their civil rights.

"The High Court have not said a word as to the imposition of a limit being an infringement of the Permanent Settlement, but, on the contrary, say that it is desirable to impose a limit, though they think that of Rs. 100 too high.

"The Hon'ble Members, who oppose the imposition of any limit, rely on Article VIII, section 9, Article IX, section 10, of Regulation I of 1793. Now I would ask the attention of Hon'ble Members to the wording of these sections. Section 9, Article VIII, says in order that no doubt may be entertained whether proprietors are entitled, under the existing regulations, to dispose of their estates without the previous sanction of Government the Governor-General notifies to the zamindars, independent talukdars and other actual proprietors of the land that they are privileged to transfer to whomsoever they may think proper, by sale, gift or otherwise, their proprietary rights in the whole or any portion of their respective estates without applying to Government for its sanction to the transfer. All such transfers were to be held to be valid, provided they were conformable to Hindu or Muhammadan law, according to the religious persuasion of the parties, and that they were not repugnant to any Regulations at the time in force passed by the British Administration, or that they might afterwards enact. The next section 10, Article IX, says that it is essential that a Notification shall be made of the principles on which the fixed assessment charged upon any such estates will be apportioned in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one or two or more lots, or of its being joint-property, and of a division of it being made among the proprietors. It will be observed, the section goes on to say, that as Government

might sustain a considerable loss of revenue by disproportionate allotments of the apportionment of it if left to the proprietors, the latter were *required* to notify to the Collector all such transfers by sale, gift or otherwise, or divisions made among the proprietors in order that the fixed *jama* assessed on the whole might be apportioned or the several parts of it, and that the names of the proprietors of each share might be entered on the public registers, and that separate engagements might be taken from them. If the parties to such transfers or divisions failed to notify them to the Collector, the whole of the original estate was to be held liable for the discharge of the whole revenue as if no such transfers or divisions had taken place.

"Now the points to which I would invite attention in these articles are these:—

"*1st.*—That the right conferred by these sections was the right to transfer the whole or any portion of the estate. That right admittedly is not touched by this Bill.

"*2nd.*—That as a condition precedent to the full exercise of that right, Government imposed on the proprietors the obligation to notify transfers and divisions when made by the proprietors themselves, and that obligation was, in the words of the section itself, imposed in order to guard Government against sustaining a loss of revenue. How then can it be said that the imposition of an obligation of this kind by Government on the zamindars, for the purpose of securing its own revenue, is tantamount to the conferring of a right on the zamindars to notify such transfers and divisions, or of a right on such notification being made to obtain a partition of the revenue, whether Government thinks the partition necessary in order to guard itself against loss or not? If Government no longer thinks it necessary to insist on the obligation to report such transfers and divisions, and no longer thinks the apportionment of the revenue necessary or even desirable, surely it is at liberty to withdraw the obligation and decline to make the partition of revenue which it formerly thought, but no longer thinks, necessary, in order to guard itself against loss, without being open to the charge of infringing on any of the rights conferred by the Permanent Settlement. That the partition of revenue was not a right conferred, but an obligation imposed, is further made clear by section 13, Regulation I of 1801, which enacted that if transfers were made without being reported and without being separately assessed, they were, as far as

the rights of Government were concerned, to be considered altogether invalid. The preamble to the Regulation VI of 1807 is quoted by my hon'ble friend Babu Guru Proshad Sen, as proving that co-sharers are entitled to a partition of revenue, but all that preamble says they are entitled to is a separation of their shares, which right is not affected by this Bill, that preamble specifically says that they are entitled to hold the separate shares as separate mahals only after a butwarrah or partition of revenue had been made by officers of Government, and as the Regulation itself imposed a limit on such butwarrahs, the preamble would be self contradictory if it meant that proprietors were *entitled* to partitions of revenue in every case and then proceeded to take away their rights in this respect.

"*3rd.*—The third point which I would submit for consideration in connection with the section of Regulation I of 1793, relied upon by the Hon'ble Members who have spoken on this subject, is this: admitting, for the sake of argument (and I only admit it for the sake of argument), that Article IX of the Permanent Settlement Regulation did give the proprietors the right to claim a partition of revenue in the cases mentioned in that Article, these partitions can only be claimed in two classes of cases, namely:—

(1) Where the whole or only portion of the estate has been transferred by sale, gift or otherwise; and

(2) Where all the proprietors have made a partition among themselves.

"Legislation subsequent to the Permanent Settlement permitted, and the present Bill permits, of partition in the far larger and more important class of cases where there has been no sale and no division among the proprietors themselves, but where any one of the co-sharers, for any reason whatever, chooses to apply for partition.

"If hon'ble gentlemen, who oppose the imposition of any limit, take their stand on the Permanent Settlement and on their own interpretation of it, then it may be asked, are they prepared to go back to and abide by the provisions of that Settlement on which they rely? If they are, then the effect would be to put far more severe restrictions on partitions than are imposed by anything we contemplate under this Bill.

"But whatever interpretation may be put on section 10 of Regulation I of 1793, it cannot be denied that, as a fact, Government did impose a limit, and a very large limit too, on partitions by Regulation VI of 1807, which enacted

that no partition was to be allowed which would have the effect of creating an estate with a revenue of less than Rs. 500.

"Nobody thought at that time of questioning the right of Government to impose such a limit. That Regulation of 1807 did not repeal sections 9 and 10 of Regulation I of 1793, for the simple reason that it did not affect the rights of the zamindars, but only their obligations to notify transfers by sale and divisions made among themselves, and to obtain a partition of them, in order to render the transfer valid as regards Government. It had the practical effect of making such notifications useless in cases where the *sadar jama* of the part of property transferred, or of any share of the estate divided, was less than Rs. 500. If Regulation VI of 1807, by imposing a limit on partitions, had been thought to be an infringement of, or to be inconsistent with, section 10 of the Permanent Settlement Regulation, obviously that section would have been then repealed; but it was not repealed, because it was held then, as we hold now, that the imposition of a limit involves no infringement on, or violation of, the terms of that Settlement.

"I have dwelt on this somewhat academic discussion of this part of the case at perhaps unnecessary length, because we desire to avoid even the semblance of anything which can, with any show of reason, be construed into a violation of that compact. If I have satisfied Hon'ble Members that no such violation is intended, and no infringement of the Permanent Settlement involved in our proposals, the time occupied on the discussion will not have been spent in vain.

"Assuming now that it is proved that Government can impose a limit on partitions of revenue without violating the Permanent Settlement Regulation, I next turn to the more practical question, is it expedient, politic and just that Government should do so? In introducing the Bill I gave three reasons for the proposal to put a restriction on partitions of revenue: first, that the multiplication of petty estates had gone on in certain districts to such an extent that it was believed, if allowed to continue, to become likely to be dangerous to the security of the revenue, and that it would add so seriously to the cost of the administration in permanently-settled districts (which has to be paid by the general tax-payer) as to be likely to bring discredit on the Permanent Settlement itself by adding an intolerable burden on the tax-payer of India generally.

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"A second reason given for imposing restrictions on the multiplication of petty estates was that the creation of such separate petty estates was bad for the proprietors themselves; and a third was, it was bad for their tenants.

"Now, as to the first of these reasons, as I have already said, the great majority of Revenue Officers of the entire Province, and nearly all the officers of districts in which partitions are most common, agree in thinking that a limit ought to be imposed on partitions of revenue, and that the unrestricted divisibility of the public demand constitutes a serious danger to the security of revenue. I will only quote on this point a few opinions.

"Mr. Hare, who is one of our most experienced and ablest Collectors, and is District Officer of Muzaffarpur, where the evils of the present system are most prominent, says:—

'It must be remembered that with the infinite subdivision of mahals will come an increasing difficulty of recognising them and of recovering revenue from them if they are sold for land revenue. There is a danger that if estates are indefinitely reduced, they will become unrecognisable, and their sale will become more difficult to the detriment of Government and the proprietors.'

"Mr. Toynbee, who was Commissioner of Bhagalpur when he wrote, says:—

'The present standard of limitation (Re. 1) causes an intolerable sum total of burden and expenditure on the Administration, and of litigation, oppression, and injustice on the cultivating classes.'

"Mr. Savage, Collector of Gaya, writes:—

'Under the procedure which has been in vogue up to the present time, Government has been a loser, though not to any great extent, in consequence of the disappearance of lands formed by partition into small estates.'

"The Collector of Shahabad says:—

'The ever-increasing number of petty estates by partition causes the entertainment of an enormous staff of clerks in the Revenue, Tauzi and Road Cess Departments to deal with accounts, and a huge cost falls on the general body of the rate-payers. The mistakes and frauds which occur in the Tauzi Department, an unfortunate instance of which recently occurred in this Collectorate [where there is defalcation of some lakhs in the treasury accounts], are in a very great measure due to this complication of numerous accounts.'

"The Mymensingh Landholders' Association says:—

'It is expected that the increase in partition of estates will increase the work of the Collectorate, but this is inevitable. . . . . The increase in establishment will be more than

compensated by the increase in road and public works cesses which the apprehended increase of rent by landlords after partition will bring into the public treasury.'

"This is to say, according to the Association, we ought to incur extra expense in order to obtain the increase of the road and public works cesses resulting from the extra-legal enhancement of rent that they tacitly admit is brought about by partitions.

"In Monghyr, as the papers circulated with the Bill show, the collection of certain cesses which are realisable as land revenue has become impossible, because, owing to the pettiness of the estates, the demand was in some cases one pie, that is to say, less than any coin current in the country.

"I need not go on multiplying quotations and instances. It is self-evident if we permit the multiplication of petty estates to go on in Muzaffarpur and other districts of Bihar especially, that the difficulty and expense of realising the revenue must be indefinitely increased, and that *tahsildari* establishments will soon have to be employed in the interior of districts, in order to obviate the inconvenience and confusion that must arise from having tens of thousands of proprietors congregated at district head-quarters in one place in one or two days when the kists fall due, to make payments of revenue under the sunset law.

"One of the great advantages of the Permanent Settlement is that under it the revenue is held to be absolutely secure, that it is realised without difficulty and at a comparatively trifling expense. But if estates are to become as small as ordinary tenants' holdings, if the cost of realising the revenue and of the administration generally is thereby to be increased, and the revenue itself is rendered insecure, the Permanent Settlement will then have all the disadvantages attendant on *raiyatwari* temporary settlements without any of the advantages from the general tax-payer's point of view resulting from such settlements.

"The Permanent Settlement would thus become an intolerable burden on the tax-payers of other parts of India, and be open to attacks to which it has not hitherto been exposed.

"I would ask Hon'ble Members who oppose the imposition of a limit on the partibility of revenue, to look at the matter from this point of view, and I would hope that if they do, they will see that this measure is a really conservative one, calculated in the long run to benefit the proprietors and secure the revenue from danger at the same time."

"The second argument advanced in favour of the imposition of a limit on the subdivision of revenue was that the creation of petty estates or mahals is bad for the proprietors themselves. The overwhelmning weight of official opinion is in favour of this view, but it cannot be denied that the Landowners' Association are generally opposed to any restrictions on partitions such as are proposed.

"It is said by them and some others that whatever the evils attendant on the creation of petty proprietors may be, they are not got rid of by refusing partition of revenue. These proprietors, it is said, exist whether we recognise them as owners of separate estates or not; but surely it is one thing to have a number of proprietors jointly owning and managing a comparatively large estate as one entity, with their tenants liable to pay rent to all the co-sharers in common at one place, and another to have the co-sharers owning a number of smaller petty estates separately, managing them separately, and with the tenants liable to pay rent at several places to each of them individually. But it is said, if the infinite subdivisions of estates is bad for proprietors, why do they not themselves admit the evil and apply for a remedy? Further, my hon'ble friends say tenants are better off on small than on large estates. My answer is that proprietors admit the evil, but seek not the remedy provided in the Bill, but a law of Entail.

"On these points I may be permitted to quote the leading newspaper which represents the views of the most important proprietary Association in India, namely, the British Indian Association. The Editor of that paper, in a leading article, wrote on the 9th of May last as follows:—

'The large proprietor having a large surplus in hand year after year devotes a portion of it to founding schools and hospitals and to other objects of public utility, while at the same time keeping up the traditions of his house. Whereas the proprietor of a small estate would find it difficult to make both ends meet and would be absolutely powerless to help his tenants in times of need. Indeed, it is quite self-evident that the tenants on a large estate are sure to be better off than those on a small estate.

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'The Permanent Settlement has created a body of large landed proprietors in this Province. The law of partition has broken up many of these large estates into very small ones, but thank God! we still have a few large landed proprietors left amongst us. Now it is the resources of these large proprietors which have chiefly brought the waste lands into cultivation and which have covered the land with irrigation canals. It is a matter of common

experience that the raiyats on large estates are generally better cared for than those on small estates, and every one who has any experience of Bengal raiyats will bear us out when we say that among the tenantry of large estates there is often noticeable a strong feeling of personal attachment to the proprietor which is almost conspicuous by its absence among the tenants of small estates. Of course a great deal depends upon the personal character of the zamindar, but as a rule the large proprietor usually has both the means and the will to be generous to his tenants. Looked at from this point of view, the law of partition can scarcely be regarded as an unalloyed blessing. It has certainly led to the ruin of many eminent and wealthy houses by minute subdivision of property. This result cannot be too much deplored, and as a remedy for this evil, we have been crying ourselves hoarse for the past quarter of a century for a law of entail.'

"I cannot give a more complete answer to these questions than is given in the extract just quoted by the proprietors' own newspaper organ.

"The third argument advanced in favour of imposing restrictions on partition is that these proceedings are made use of for the purpose of illegally and improperly enhancing raiyats' rents, and that they imposed on the raiyats behind their backs, and without their consent, liabilities to pay rent to different persons in different places without their being even told what their new liabilities are, how much they will have to pay to each of their new landlords, or where or to whom they will have to pay it. This is obviously so inconsistent with the most elementary principles of justice that it is difficult to see how any one can support the present system in this respect. That partition proceedings are made use of for the purpose of bringing about illegal and inequitable enhancements of rent was proved conclusively by the evidence circulated with the Bill, and has not in fact been denied by anybody. On the contrary, the volume and weight of that evidence, which I need not now refer to in detail, has been largely added to by the reports received. A reference to these reports, which have been circulated, will show how cogent and overwhelmning the evidence on this point is. But it is said by hon'ble gentlemen the raiyats are not bound by anything entered in the partition papers; that they ought not to have been so foolish as to agree to submit to arbitrary enhancements; and therefore that there is no need to alter the law on this account.

"I would submit in reply that as practical men, we must legislate not for what *ought to be*, but for what *is*. If we find a crying evil in existence, we are bound to endeavour to apply a remedy to it even though there ought to be

no such evil in existence. This is all we propose to do, and our remedy involves no sort of injustice or hardship to the proprietors concerned.

"Here, again, it is said the raiyats have not themselves complained of the abuses attendant on the present system. Why then interfere? It is true that the raiyats do not make known their grievances by public meetings and petitions. They suffer injustice in silence, but the grievances are there all the same, and there is irrefragible evidence of their existence in the papers that have been circulated.

"I hold in my hand a petition of one Kailash Chandra Deb and 88 other raiyats of mauza Jattra Siddhi in Mymensingh, praying that a survey be made and a record-of-rights prepared of estate No. 4735 in that district, on the ground that a partition has recently been made by the Collector; that their lands have fallen on different *pattis* or shares; that various disputes have arisen with the landlords in consequence of the partition concerning the boundaries, possession and rent of their lands. In order to prevent a breach of the peace and to determine the amount of the rent payable in the *sheresta* of the different maliks, they ask that a survey be made and record-of-rights be prepared, and they agree to deposit the necessary expenses. Their application was acceded to, and the necessary notification has been, or soon will be, published in the Gazette. This is a sample of the way in which the raiyats make known their difficulties and of the inconvenience and trouble to which they are sometimes subjected by these proceedings, and this, be it observed, has occurred not in Bihar, but in the Dacca Division. Is it right that they should be subjected to these things by proceedings which, according to some Hon'ble Members, in no way affect them?

"My hon'ble friend Rai Eshan Chundra Mittra Bahadur asks what necessity there is for increasing the limit or bringing the raiyats into the proceedings at all. I have shown the necessity. The Hon'ble Member also says section 93 of the Tenancy Act gives no protection to a co-sharer landlord, because it comes into operation only when there are disputes, but he forgets that it also can be had recourse to in cases of injury to private rights. He has also overlooked the fact that this Bill does not debar any co-sharer from obtaining a partition of the land and separate possession of his share of the land, but only from obtaining a separate apportionment of his share of the revenue. Then the Hon'ble Member says the parties pay the cost of partition, why should they not be allowed to have

as much subdivision of revenue as they please. It is true they pay the cost of the partition proceedings, but they do not pay the permanent increase in the cost of administration entailed by subdivision of revenue and of estates. My hon'ble friend, Babu Guru Proshad Sen, says that, as long as separation of accounts is allowed, the refusal to allow partition of revenue will not materially lighten the Collector's work. This is no doubt true to a certain extent, but then that is not an argument against this Bill, but against the system of separation of accounts which is not under consideration. The Hon'ble Member has drawn attention to a technical difficulty in connection with section 295 of the Civil Procedure Code. That difficulty has been considered and will be met.

"I have now touched as briefly as I could on the arguments advanced against the principles of the Bill. To answer every objection in detail would entail my trespassing at intolerable length on the time of the Council, but I hope enough has been said to show that the principles of the Bill are not so bad as to justify a refusal to refer it to the Select Committee.

"I agree with Mr. Dampier who has been quoted by my hon'ble friend that it is a pleasant thing to sail with the fair wind of popular opinion, but I hope that the breeze of popular favour will be with, and not against, us on the present occasion."

The Hon'ble THE PRESIDENT said:—"I do not think it necessary that I should review the debate at any length. It has been an extremely interesting discussion, and as the Hon'ble Mr. Finucane has observed, it has been characterised by moderation and has been well conducted, and I also think the Hon'ble Mr. Finucane's reply to the objections which have been raised has been full and complete. I have no doubt whatever myself of the right of the Government to impose a limit upon the partition of estates. The generation in which the permanent settlement was passed may fairly be supposed to have had a very good idea of what its intention and scope were, and we find that in that generation a limit was proposed which is far beyond anything which has ever been suggested since. Even in the Bill, which became the present law, the principle of a limit stands in the forefront, though, no doubt, the limit there imposed is a small one. The question of redemption does not in the least affect that principle. Redemption is a matter entirely for the Executive Government, and the Government of India very properly objected to its being provided by an enactment of this Council. Personally I myself have not the least objection to

revert to the provisions of the permanent settlement, and to enact that no partition shall be effected unless the whole of the proprietors concur in applying for it, or unless there have been an absolute transfer or sale of either the whole or some portion of the estate. But I have no doubt that Hon'ble Members who have spoken in opposition to the principle of our Bill will be the first to object to a limitation of that description. I have authorised the Hon'ble Mr. Finucane to tell you that the Government considers the limitation proposed in the Bill, which, as far as I am concerned, is an inherited measure, to be far too high. I specially object to the very high limit, because there is such a wide divorcement between the assets of estates in Bengal and the Government revenue. If we are to take a limitation of Rs. 100, we shall prevent many estates from being divided, and the shareholders from enjoying the benefits of partition, where there would be no risk to the Government revenue and no risk of any mischief to the tenants. I believe that the limitation of Rs. 20 previously proposed in this Council is a very practical working limit which I for one will be perfectly willing to stand by.

"I am not convinced that section 95 need make such elaborate provisions for measurement and a record of rights as it now does. What you want is to ascertain the true assets of an estate; then to see that the assets are properly distributed, and that those who will be affected by the distribution are made aware of their liabilities. I have no doubt that in Select Committee very material modifications will be made in this Chapter of the Bill, but I trust that the main object of the Bill, to simplify and cheapen the procedure, will be maintained.

"I have failed to follow the Hon'ble Rai Eshan Chunder Mittra Bahadur in his remarks about *res judicata*. I can find nothing which makes proceedings in Partition *res judicata*. I do not think it was ever intended to enact that the Deputy Collector should have power absolutely to settle all civil rights. That must be carefully left to the decision of the Civil Courts. The Chapter will in any case have to be recast to coincide with the amendments which we propose to make in Chapter X of the Tenancy Act.

"I do not think there is any other point upon which I need comment. I shall only express the hope that the Select Committee will carefully consider the very valuable opinions which have been received both from officials and from non-official bodies, and that when the Bill comes from their hands, it will be improved, and turn out to be a generally satisfactory measure."

The Motion was put and agreed to.

[*Mr. Finucane; Mr. Grimley.*]

MURRAY TRUST BILL.

The Hon'ble MR. FINNUCANE also introduced the Bill to enlarge the scope of the Charitable Trust created by the Will of the late Mrs. Sally Murray, and moved that it be read in Council.

The Motion was put and agreed to.

The Bill was read accordingly.

CHUTIA NAGPUR TENANCY BILL.

The Hon'ble Mr. Grimley moved for leave to introduce a Bill to regulate the enhancement of rents, the commutation of predial conditions or services, and the registration and resumption of intermediate tenures in parts of Chutia Nagpur. He said:—

"In asking leave to introduce a Bill for the commutation of predial services in Chota Nagpur, it seems desirable that I should explain the necessity for the measure. For some years past there have been agrarian disputes in Chota Nagpur, more especially in the Lohardaga district, between landlords and tenants, regarding rights to land and the conditions attaching thereto, which have from time to time caused much anxiety to the district authorities and seriously interfered with the good government of the country. One of the chief causes of these disputes is the peculiar system of *bethbegari*, or labour rents, by which the tenant is bound to perform a certain amount of work for his landlord, such as tilling lands, building houses and carrying luggage on a journey without receiving wages; another is the numerous list of *rakumats* or cesses, uncertain in their incidence, which are payable sometimes in money, sometimes in kind, in addition to the regular rental. The last occasion on which there was any serious agitation was from 1887 to 1889, when the raiyats complained of the exaction by the zamindars of service and *rakumats* in excess of what was customary and proper, and began in some instances to put forward unreasonable claims to hold their lands irrespective of the zamindar, subject only to a quit-rent to be paid to Government. The present Bill is the outcome of the measures taken for repressing that agitation, and of the discussions which followed between the Commissioner of Chota Nagpur and

[*Mr. Grimley.*]

this Government and the Government of India. The existing law [Act I (B.C.) of 1879] permits the landlord or tenant to apply for commutation of conditions or services to which the tenant is liable, but the provision is seldom used, the landlord preferring to take what service he can enforce by the rule of might, and the tenant sometimes refusing to render any service at all. In the Bill the provisions regarding voluntary commutation are retained, but power is taken to Government to direct that a record of conditions or services shall be prepared, and a commutation of them into money rents made by a Revenue Officer, whenever such a course may seem expedient, or, in other words, when found necessary for the preservation of the peace of the country. The Bill also provides for the registration of tenures and for the resumption of such tenures as are held conditionally on the survival of male heirs of the original grantee. Simultaneously with the passing of this Bill it is proposed to extend the Bengal Tenancy Act with certain modifications to the districts of Chota Nagpur, as it will be likely to effect a distinct improvement in the settlement of questions at issue between landlord and tenant.

"I have no desire to trespass on the time of this Council, but as some Hon'ble Members may not be familiar with the conditions of life and lands holding in Chota Nagpur, I propose to take a retrospect of the origin and history of the long series of disputes which culminated in the agitation which gave rise to the present Bill. Excluding the Native States, Chota Nagpur covers an area of 27,000 square miles, and consists of the districts of Lohardaga, Hazaribagh, Manbhum, Singhbhum and Palamau. The Bill affects all these districts except Manbhum, while the Bengal Tenancy Act will be generally applicable. Chota Nagpur is far behind the rest of Bengal in point of civilisation, and, though brought a little nearer in recent times, has always occupied an isolated position.

"Its most striking features are its pleasant climate, the extensive plateaux rising in terraces one above another, the ranges of hills intermingled with plains and valleys, the vast forests, and what is more to our present purpose, the peculiar nature of the land tenures, the primitive inhabitants with their superstitions, their belief in demons and witch-craft, and their curious history and traditions. The country is undulating and in some parts extremely fertile, though requiring the expenditure of much labour to bring it into cultivation.

[*Mr. Grimley.*]

"Among the aboriginal races who have made a home in these remote plateaux are the Mundas and Uraons, both commonly described as Kols, though belonging to a different stock and speaking a different language; for, strictly speaking, the Uraons are of Dravidian origin, while the Mundas are Kolarians, to use the term invented by Sir George Campbell. Both, however, have the same kind of festivals and the same form of public worship, though they do not inter-marry, and at one time they had also the same form of government. From the traditions handed down, it appears that some eight or ten centuries ago, being driven out of Bihar, they sought refuge in the central table-land of Chota Nagpur, then known as the 'Jharkhand' or forest tract, which was well adapted for defence, the approaches to it being precipitious paths, narrow defiles, or the beds of rivers that have their source on the plateaux. This central portion is chiefly what is now known as the district of Lohardaga and parts of Hazaribagh, and is Chota Nagpur Proper, as distinct from the rest of the Division.

"When the Mundaries first found an asylum there, it was covered with beautiful *sal* forests, but in process of time they cleared the jungle and securely established themselves as the first settlers, and under a system of village communes lived in a state of primitive contentment and simplicity, without being subject to any Raja or landlord of any description, and mostly freed from the unpleasant obligation of paying rents. Each village was presided over by a headman or Munda, and a collection of 12 villages, called a *parha*, by a Manki, who was chosen from among the village Mundas. These Chiefs had no superior proprietary rights in the soil to the rest of the villagers; but in common with other persons in authority, to whom the administration of the village affairs was entrusted, received service lands as remuneration. These colonists, when they first came, seem to have acted on Manu's principle: 'the cultivated land is the property of him who cut away the wood or who cleared and tilled it,' and therefore they all claimed equal rights in the soil, but made provision for the support of the heads of the villages and the Manki. The service lands allotted to the Munda and Manki were called Mundai and Mardana, respectively. These Mankis or Parha Chiefs in course of time developed into titular Rajas. Owing to causes which I shall explain on another occasion, this system has been broken up in many parts of the province; but in the Kolhan of Singhbhum and certain five parganas of the Lohardaga district,

the village commune still obtains in a modified form. Some lands were also assigned for the support of the priest called pahansi, and others termed bhut-khetta, or devil's acre, were set apart for the propitiation of the local deities, who require a large share of attention. Every village has its sacred grove, wherein the tutelary deity is supposed to sojourn, and being particularly responsible for the crops, he is especially honoured at the great agricultural feasts. They are, indeed, rich in sylvan gods, naiads and dryads, who are regarded as presiding over pools, rivers, rocks and mountains, and there is hardly a family that cannot boast of a ghost or ancestral shade in proof of its high antiquity. These shades serve a useful purpose as, when any misfortune or calamitous visitation arises, they are made to bear the blame. There was an official in every village—a Baiga—whose duty it was, in Psalmist's phrase, 'to keep the village' and to propitiate the invisible spirits in order to ward off blights, droughts, diseases, and other calamities. The office remains to the present day not only in Chota Nagpur Proper, but in the Native States, and on any visitation of pestilence or famine, he has an uncommonly bad time of it, worse than that of the Calcutta Health Officer, and sometimes an iron scourge is kept in the rustic temple at the entrance of the village with which he is supposed to castigate himself when things are at the worst. He sometimes omits this part of his duty, and tries to shift the blame on to other shoulders. I have, indeed, known him by the aid of a Special Committee of Diviners to be successful in fixing the responsibility on to a witch who was scourged instead with lamentable results.

"But to return to the main subject. At some period in their history the Kols came under subjection to the Nagbansi family, the Raja of Chota Nagpur, whom they agreed to serve and support. It is not quite clear how the Nagbansi family came on the scene, and it is too long a story to examine closely the different theories that have been set up to account for this. According to one tradition the progenitor of the race was sprung from the union of a snake with the daughter of a Benares Brahmin, and was selected by the people to become their Raja because of his supernatural or miraculous origin. Another theory is that he was a superior Manki who, by his intelligence, tact and prowess, had raised himself above the rest, and that when the Kols, like the children of Israel, desired a King to rule over them, the lot fell upon the chief of the Nagbansi family. Whichever of these theories may be correct, it is clear that they accepted him

as their Raja, and gave him lands from every village for his maintenance. The people in each village were divided into two classes—the more privileged called 'Bhuinhars,' breakers of the soil, held their lands rent-free and had to render honorary service, such as attendance at darbars and marriages, and, like Norval, following to the field their warlike lord. The inferior class supplied food and raiment; but this obligation was eventually commuted to a money payment, and the cultivated lands they held were termed rajas or rent-paying, in contradistinction to the Bhuinhari tenures which were held rent-free. The Raja was also allowed to hold in each village a certain amount of land termed 'majhihas,' or the headman's share, which was held for his benefit or that of the person who looked after his interest, and the persons who cultivated it received assignments of land in return for their services, called *bethkheta*, which they were allowed to hold rent-free. Thus a system grew up hardly distinguishable from the feudal system in Europe in the middle ages, and under it the raiyats were fairly well content and happy, and in this condition of Arcadian simplicity, I propose to leave them until our next meeting, when I will explain the causes of their transition, amid much tribulation, to the state which gave rise to the Bill which I now ask leave to introduce."

The Motion was put and agreed to.

The Council adjourned to Saturday, the 16th January, 1897.

CALCUTTA;
The 30th January, 1897.

F. G. WIGLEY,
Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Dept.

Reg. No. 891G—300—2-2-97.

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 16th January, 1897.

Present:

The Hon'ble W. H. GRIMLEY, *presiding.*
The Hon'ble H. H. RISLEY, C.I.E.
The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.
The Hon'ble NAWAB SYUD AMEER HOSSEIN, C.I.E.
The Hon'ble C. E. BUCKLAND, C.I.E.
The Hon'ble M. FINUCANE.
The Hon'ble C. W. BOLTON.
The Hon'ble C. A. WILKINS.
The Hon'ble SURENDRANATH BANERJEE.
The Hon'ble A. M. BOSE.
The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR.
The Hon'ble GURU PROSHAD SEN.
The Hon'ble MAHARAJA BAHADUR SIR RAVANESHWAR PROSHAD SINGH, K.C.I.E., of Gidhaur.
The Hon'ble M. S. DAS.
The Hon'ble A. H. WALLIS.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

NEW MEMBER.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH took his seat in Council.

THE PRESIDENT'S OPENING STATEMENT.

THE Hon'ble THE PRESIDENT, in taking his seat, said:—"I regret to have to inform the Council that His Honour the Lieutenant-Governor is unable to attend to-day owing to indisposition, and as the Hon'ble the Advocate-General is absent from Calcutta, it devolves upon me as the Official Member next in rank to preside on this occasion."

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

TRAFFIC IN GIRLS IN DACCA AND NARAINGUNGE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Has the attention of the Government been drawn to a complaint made by the *East* newspaper regarding the traffic in girls who are often minors, carried on at Dacca and Naraingunge? Whether it is true that in one case a girl named Sashi Mukhi, aged about 8 or 9 years, was brought down from Garifa near Hooghly, and the girl even in that tender age was compelled to carry on her nefarious calling, against which she protested; and whether in another case in which the victim was a girl named Basanta, aged about 12 or 13 years, criminal proceedings having been instituted, the Deputy Magistrate who tried the case remarked:—

"On account of the public notoriety of the town of Dacca as regards the traffic of minor girls and the attempt of the Sub-Inspector, Giraja Kanta Pal, to suppress it, that this case has no doubt arisen."

And again:—

"The evidence collected here is of Benodine, another girl who is no doubt being maintained for purposes of prostitution. She is aged about 12 years."

Having regard to the facts disclosed above, will the Government be pleased to take requisite steps for the suppression of this traffic in girls.

The Hon'ble MR. BOLTON replied:—

"From reports which have been received from the local officers, it appears that the two cases mentioned by the Hon'ble Member occurred two and two-and-a-half years ago, respectively. The girl Sashi Mukhi was, it is true, brought down from Garifa for immoral purposes. Her age appears to have been about 11 years. The extracts from the judgment of the Deputy Magistrate in the second case have been correctly quoted by the Hon'ble Member.

"During a period of two years, August, 1894 to September, 1896, six cases, three in the town of Dacca and three in Narainganj, were brought to trial under sections 372 and 373 of the Indian Penal Code. Convictions were obtained in five cases, but on appeal the order of the Lower Court was confirmed in only one case, and was modified in another, and set aside in two cases. Satisfactory evidence is not generally procurable in these cases, and it is difficult for the Police to deal successfully with them. The local officers report that the evil

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

has shown no tendency to increase in recent years, and the Lieutenant-Governor does not consider that any special measures on the part of the Government are needed. Any cases reported will be carefully investigated as hitherto, and guilty parties will be prosecuted whenever evidence is obtained."

REDUCTION OF EXPENDITURE ON EDUCATION.

The Hon'ble Babu Surendranath Banerjee asked—

(*a*) Whether the attention of the Government has been drawn to a letter, No. 819L. S.-G., dated Calcutta the 16th November, 1896, written by Mr. Westmacott, Commissioner of the Presidency Division, addressed to the Magistrate and Chairman of the District Board, Nadia, asking him to reduce the educational expenditure by Rs. 3,179, and to spend this amount upon medical relief and other minor charges for the current year (these charges being hitherto met from other sources of the Board's income), and to give notice to the Secretaries of the middle English and middle vernacular schools that their grants would be stopped from April next?

(*b*) Whether the attention of the Government has been drawn to a subsequent letter of the same Commissioner, addressed to the same officer, asking the Nadia District Board to increase the primary education grant from next year to Rs. 20,000 and reduce the secondary school grant, with a view to meet the cost for dispensaries and other medical charges out of the proceeds of pounds and ferries, and to give a similar notice to the Secretaries of the secondary schools within the district of Nadia?

(*c*) Does the Government approve of this proposed reduction of secondary school grants and the consequent abolition and ruin of several secondary schools founded by the people and maintained by Government and the people for nearly a quarter of a century or more? Will the Government be pleased to direct the withdrawal of these orders passed by Mr. Westmacott, and which, if enforced, would prove disastrous to the interests of education in the Nadia district?

(*d*) Is the Government aware that Mr. Macaulay, the then Chief Secretary, in his letter No. 1451, Municipal Department, dated the 5th May, 1888, popularly called "The Model Educational Budget," fixed the educational expenditure

of the Board, and asked the Board to spend at least Rs. 10,008 upon secondary and about Rs. 13,000 upon primary education, and placed in the hands of the Board the proceeds of all pounds and some ferries with a view to meet the educational expenditure, taking all minor educational charges into his consideration?

(*e*) Is the Government further aware that Mr. Cotton, the then Secretary to the Government of Bengal in the Municipal Department, in his letter No. L $\frac{B}{9}$ 2, dated Calcutta, December, 1888, in order to show the equilibrium between the receipts and charges of the Board for educational purposes, did not consider medical charge as a charge to be met from the income from pounds and ferries, but laid down that the charge for secondary and primary education and some other minor charges should be met from those proceeds, the receipts being Rs. 33,186 and the charges for education and pounds and some other minor matters being Rs. 33,163, leaving a balance of Rs. 23 only?

(*f*) Does the Government approve of the principle as laid down in the above two letters? Does the Government approve of the action of Mr. Westmacott in throwing an additional burden of medical charges upon the proceeds of pounds and ferries, and in asking the Board to reduce its educational expenditure and the grants for secondary education?

The Hon'ble MR. RISLEY replied:—

"A representation was received from the Nadia Branch of the Indian Association, protesting against the action of the Nadia District Board in reducing their expenditure on secondary education in order to provide for distress medical relief during the current year. In accordance with standing orders this was returned to the Association for submission through the District Board and has not yet reached Government. The Lieutenant-Governor approves of the principle that the claims of primary education to support from public funds should generally take precedence over those of secondary education, but no hard-and-fast rule can be laid down as to the application of this principle to individual cases. When the facts of the present case are reported, the Lieutenant-Governor will consider whether the orders passed by the Commissioner involve a serious loss of efficiency or conflict with any understanding implied in the transfer of charges to District Boards, which was carried out in 1888. By Mr. Macaulay's letter of the 5th May, 1888, the improvable

income of the pounds and certain ferries was made over to the District Board of Nadia to meet expenditure on education, pound, ferries and medical purposes. No mention was made of medical charges in Mr. Cotton's letter of 4th January, 1889, because no medical expenditure was then incurred by the Board."

DIVERSITY OF WEIGHTS AND MEASURES.

The Hon'ble MAHARAJA BAHADUR SIR RAVANESHWAR PROSHAD SINGH OF GIDHAUR asked—

Is the Government aware that a great diversity of weights and measures prevails in the districts of Bihar as well as of Bengal to the great inconvenience of the public? If so, is the Government prepared to take steps to secure the uniformity of weights and measures in the country?

The Hon'ble MR. RISLEY replied:—

"The Lieutenant-Governor is aware of the great diversity of the weights and measures used in the mufassal districts of Bihar and Bengal. The difficulty, however, of introducing uniform standards and enforcing their use is extreme, and it is for this reason that no action under Act XXXI of 1871, the Indian Weights and Measures of Capacity Act, has hitherto been taken by the Government of India. The Lieutenant-Governor is not prepared to move the Government of India to put the Act in force."

DELAY IN THE DELIVERY OF JUDGMENTS BY SUBORDINATE MAGISTRATES.

The Hon'ble MAHARAJA BAHADUR SIR RAVANESHWAR PROSHAD SINGH OF GIDHAUR asked—

Is the Government aware that a great inconvenience is very often caused to the public by the Subordinate Magistrates reserving judgments for long periods, litigants being made to attend the Courts from day to day, and that such inconvenience may be avoided if the Government would, by a rule, fix a time by which judgments should be delivered after the hearing of the case?

The Hon'ble MR. BOLTON replied:—

"Complaints have not been made to the Government of inconvenience caused to parties by undue delay in the delivery of judgments by subordinate Magistrates; but the Lieutenant-Governor considers it desirable that the attention of the Magistrates should be drawn to this matter, and a Circular will accordingly be issued, with the view of ensuring that judgment shall be delivered in criminal cases without unnecessary delay."

MURRAY TRUST BILL.

The Hon'ble Mr. Finucane moved that the Bill to enlarge the scope of the Charitable Trust created by the Will of the late Mrs. Sally Murray be referred to a Select Committee consisting of the Hon'ble Sir Charles Paul, the Hon'ble Nawab Syud Ameer Hossein, the Hon'ble Mr. Wilkins, the Hon'ble Mr. Wallis and the Mover.

The Motion was put and agreed to.

PUBLIC DEMANDS RECOVERY ACT, 1895, AMENDMENT BILL.

The Hon'ble Mr. Finucane also moved that the Hon'ble Rai Eshan Chundra Mittra Bahadur be added to the Select Committee on the Bill to amend the Public Demands Recovery Act, 1895.

The Motion was put and agreed to.

ESTATE'S PARTITION BILL.

The Hon'ble Mr. Finucane also moved that the Hon'ble Rai Eshan Chundra Mittra Bahadur be added to the Select Committee on the Bill to amend the law relating to the Partition of Estates.

The Motion was put and agreed to.

[*Mr. Grimley.*]

CHUTIA NAGPUR TENANCY BILL.

The Hon'ble Mr. Grimley introduced the Bill to regulate the enhancement of rents, the commutation of predial conditions or services, and the registration and resumption of intermediate tenures, in parts of Chutia Nagpur, and moved that it be read in Council. He said:—

"It will be in the recollection of the Council that when I last had the honour of addressing them on the subject of the Chutia Nagpur Bill, I left the Kols in a condition of pastoral freedom and independence. But this pleasing state of things only lasted for a time, for gradually the Raja's family came under the influence of Brahminism, and, as their power increased, they began to look down on the Kols, to treat them with degradation, to deprive them of their rights, and eventually reduced them almost to a state of serfdom. Their descent may be traced through the following stages: encroachment on their rights by the Raja, who distributed whole parganas and villages among Kunwars, Thakurs, Lallas and other members of his family as maintenance grants; their revolt and final subjugation with loss of lands and diminution of rights through the instrumentality of foreign mercenaries who were retained in the Raja's employ and received jagirs of land in return for their services; the introduction of Brahmins into the country to carry out innovations desired by the Raja, and later on of a lower order of persons, Musalman and Sikh horse-dealers, shawl and silk merchants, and other adventurers, to whose influence, owing to pecuniary difficulties, the Nagbansi Chiefs became subservient, and to whom they granted farms of land for goods supplied or loans advanced. The oppression of these middlemen gradually broke down the authority of the village Chiefs in many parts of the country and ended in their disestablishment, and eventually drove the Kols into rebellion in 1831, the upshot of which was unfavourable to them and was accompanied by a great disturbance of peasant proprietary rights. Many of the Kols were compelled to leave their country, but after a time they returned to claim their lands. The jagirdars, however, objected to their re-entry, and disputes and contests were renewed and continued for many years.

"Meanwhile the Christian Mission was established in Chota Nagpur in 1845. The Missionaries took the Kols by the hand, and their teachings fostered a spirit of independence among them, developed their crude traditions regarding

their rights in olden days, when each person was in a manner the proprietor of the soil which he cultivated, and encouraged aspirations which were not likely ever to be realised. The result was a great accession to the ranks of nominal Christians. In the Mutiny the Christian Kols suffered persecution, and conflicts arose, which had to be put down by a military force. This was followed by operations intended to secure the measurement and registration of tenures and matters quieted down for a time, and the disputes were not revived until 1867, when a monster petition was presented to Government by Native Christians complaining of systematic oppression on the part of their landlords. The disputes related to encroachments on both sides, to the absorption by zamindars of bhuinhari and bethketa lands into the rajhas or majhihas lands, and to the exaction of services in excess of the customary modes. This led to the passing of the Chota Nagpur Tenures Act, II (B.C.) of 1869, and the appointment of the Bhuinhari Commissioners to define and record tenures and to register all rights, privileges, immunities, and habilities affecting the holders. The Act also provided for the restoration of land, of which the owners might have been dispossessed within the twenty years preceding the date of the passing of the Act. These operations, though unquestionably beneficial as far as they went to all concerned, fell short of securing perfect harmony and peace, owing to the exclusion from the enquiry of rajhas lands and of certain descriptions of tenures called korkar and khuntkati, in which the holders claimed rights of occupancy; and, in the second place, neither it, nor the rent law which was passed some ten years later, rendered the commutation of predial services into money payments compulsory.

"Finding no claims would be heard by the Special Commissioners, unless the same had reference to bhuinhari lands, the rajhas lands were claimed by the tenants in a wholesale way as bhuinhari, and the result was much disappointment and an increase of bitterness and strife between them and their landlords. The customary service, which the landlord was entitled to receive in respect of the cultivation of his manjhihas or khas lands, was three days' ploughing, three days' digging, three days' sowing, and three days' cutting, with one or two days for threshing and storing grain; the raiyats had also to bring grass and bamboos for thatching his house, and when on a journey to carry his banghees; this constituted the recognized *bethbegari*, which was to be commuted under the law where practicable; but, as already remarked, the law did not

provide for the compulsory commutation of these services, and the complaint now is that they are levied in respect of lands not subject to them and from persons who are not liable to render them, and that the zamindar is no longer content with the customary rate, but takes as much as he is able to enforce. This is a burning question, one of the chief grievances of the Kols, and the problem to be solved is how to deliver them from the burden of *bethbegari*, without inflicting injustice on the land-holding classes. The Kols are by nature singularly tenacious of purpose, and under the spirit of independence, inculcated by the teachings of Christianity, have been most persistent in asserting their claims. They are well versed in the old traditions of their race, and seem to have dwelt so much on the story of their past wrongs that they have worked themselves into the belief in the possibility of reverting to the old order of things, and of going back to the time when their forefathers lived in a state of primitive simplicity under a village commune; for, in 1887, we find them seriously asserting a claim to hold the land as proprietor, without the intervention of Rajas, zamindars, or middle-men of any kind.

"There are three Christian Committees working side by side in Chota Nagpur, namely, the Anglican, German Lutheran, and Roman Catholic Missions, and the history of the agitation that has been going on among the Kols intermittently since 1867, when the Memorial from some 14,000 Native Christians was presented to Government, affords ground for the belief that many persons conceived the idea that, by embracing Christianity, they would be entitled to the support not only of their spiritual pastors, but also of Europeans generally in the settlement of their grievances and vindication of their rights. It was matter too for observation that those who became Christians escaped the obligation of making contributions for the propitiation of the local dieties. Between 1867 and 1885 various petitions were made to Government by the Kols, setting forth claims in respect of the tenure of land more or less extravagant and unreasonable. The most important was a Memorial from the Missionaries of the German Lutheran Church, stating the grievances under which the Christian Kols were labouring in connection with the operations under the Chota Nagpur Tenures Act. These Memorials were considered by Government, and eventually the matter was laid before the Secretary of State, who in 1882 issued orders declaring that the results of the proceedings under that Act should be considered final. The agitators, however, did not choose to

remain quiet, but still went on memorialising, being encouraged in their action by certain legal advisers, who found it to their interest to excite the people to raise subscriptions for the prosecutions of their claims. A few years ago a party calling themselves the 'Children of Israel,' and headed by 'John the Baptist,' banded together and set up a 'Raj' at a place which was a former seat of the Raja of Chota Nagpur. This absurd movement gave some trouble to the district authorities, but was promptly and firmly checked.

'"The action taken by a prominent leader of the agitation at one time would have been intensely ludicrous but for its serious aspect. He wrote to the Deputy Commissioner informing him that he and others intended going to England to lay the Kol grievances before the Queen, and he solemnly desired that officer to issue a parwana to Her Majesty to supply tents and *rasad* for his party during their stay in England. Having brought down events to 1887, I propose to resume the story on a future occasion, but will now merely introduce the Bill which has been prepared with the object of settling these disputes which I have described and ask that it may be read in Council."

The Motion was put and agreed to.

The Bill was read accordingly.

The Council adjourned to Saturday, the 6th February, 1897.

CALCUTTA;
The 30th January, 1897.

F. G. WIGLEY,
Offg. Asst. Secretary to the Govt. of Bengal,
Legislative Department.

[By subsequent order of the President, the Meeting of the Council was postponed to Saturday, the 13th February, 1897.]

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 13th February, 1897.

Present:

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 of Bengal.
The Hon'ble H. H. RISLEY, C.I.E.
The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.
The Hon'ble NAWAB SYUD AMEER HOSSEIN, C.I.E.
The Hon'ble C. E. BUCKLAND, C.I.E.
The Hon'ble M. FINUCANE.
The Hon'ble C. W. BOLTON.
The Hon'ble W. H. GRIMLEY.
The Hon'ble J. G. H. GLASS, C.I.E.
The Hon'ble C. A. WILKINS.
The Hon'ble SURENDRANATH BANERJEE.
The Hon'ble A. M. BOSE.
The Hon'ble RAI ESHAN CHUNDRA MITTRA, BAHADUR.
The Hon'ble GURU PROSHAD SEN.
The Hon'ble M. S. DAS.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

FORCIBLE REMOVAL OF SMALL-POX PATIENTS TO HOSPITAL.

The Hon'ble BABU GURU PROSHAD SEN asked—

Has the attention of Government been drawn to an article in the *Statesman* newspaper, published in its issue of the 17th January, regarding certain cases of forcible removal of patients suffering from small-pox in the town of Howrah from their houses to the General Hospital, by order of the authorities, notwithstanding that the relatives offered to isolate them in their own houses and to arrange for their treatment?

[*Babu Guru Proshad Sen; Mr. Risley.*]

Will it please Government to rule that in such cases, forcible removal, specially of females and children, is not necessary; and even if in any case the isolation being impracticable in their own houses, the removal of the patients to isolation hospitals comes to be necessary, the relations, if they are willing to attend on the patients, and to remain isolated, shall be allowed to do so?

The Hon'ble MR. RISLEY replied:—

"The facts referred to in the first part of the question are, it is believed, now under judicial enquiry. The Lieutenant-Governor is not prepared to lay down any general rules on the subject of the isolation of persons suffering from small-pox. It is for the responsible medical officer to decide in each case whether the removal of a patient to hospital is desirable in the interests of the public, and to use his influence to bring about such removal, while it is for the Superintendent of the hospital to determine whether relatives can be allowed to attend on such patients. Where the outbreak is severe and the hospital is crowded, such an arrangement would obviously be impossible."

SALE OF ESTATES FOR ARREARS OF REVENUE.

The Hon'ble BABU GURU PROSHAD SEN asked—

To ensure the sale of the estates for arrears of Government revenue at adequate prices, will the Government be pleased to order that all sales for arrears of Government revenue take place on certain fixed days in each quarter, say 15th March for all arrears unpaid on the 12th January, and all arrears of previous *kists*, the sales for which could not be arranged at an earlier quarter sale day; 30th May for all arrears unpaid on the 28th March and previous *kists* when necessary; 15th August for all arrears unpaid on the 7th June, and 30th November for arrears unpaid on the 28th September or on any other date which the Board of Revenue may fix either for all districts, or district by district, in consultation with the local authorities, instead of, as now, leaving the dates to be fixed by the Collector, or his ministerial officer, according to the convenience of the office? Is the Government aware that such a rule in the case of sales for execution of decrees of Civil Courts brings in Court a large number of intending purchasers on the fixed sale days, and results in the properties being sold at their adequate prices?

[*Mr. Finucane.*]

The Hon'ble MR. FINUCANE replied:—

"A proposal similar to that now made by the Hon'ble Member was submitted to the Board of Revenue by the Bihar Landholders' Association, and was fully considered by them. The Board, for the reasons stated in their letter No. 703A, dated the 14th March, 1896, a copy of which is laid upon the table, were unable to accept the proposal. The Government agree with the Board."

No. 703A, dated Calcutta, the 14th May, 1896.

From—F. A. SLACK, Esq., Offg. Secretary to the Board of Revenue, L. P.,
To—The Secretary, Bihar Landholders' Association.

THE HON'BLE C. C STEVENS, C S.I.

IN continuation of the Board's letter No. 1244A, dated the 6th of September, 1895, regarding the dates for holding sales under the Revenue Sale Law and the Certificate Procedure, I am now directed to communicate the following observations with reference to your letter of the 23rd of August, 1895, in which it is suggested (1) that the rule of having sales on a certain day in a month may be advantageously adopted with regard to sales under the Certificate Act, and that the 15th of each month be fixed as the date, the hour being one later or earlier than that fixed for the Civil Court sales, where such happen on the 15th; and (2) that revenue sales should take place on a certain date in each quarter to be known by the people beforehand, and that certain dates proposed by the Association may be fixed for such sales.

2. With regard to the first point, I am to say—

(*a*) that the matter had already attracted the notice of the Board by whom was issued clause VI of rule 1, Section IV, page 26, of the Certificate Procedure Manual of 1895, a copy of which is herewith enclosed;

(*b*) that the Board have reason to believe that these instructions are followed in most districts, and that the attention of the Divisional Commissioners will again be drawn to the subject with a view of introducing the procedure where such has not already been done; and

(*c*) that, bearing in mind the variations in the requirements of the different districts, the date or dates on which such sales should be held monthly is a matter which must be left to the discretion of the Collector concerned to settle.

3. Referring to the second point, concerning the dates of sales for arrears of revenue, I am to state that, in order to go through the whole of the necessary procedure, much more time is requisite than the Association appear to think, and that, in order to provide for all chances of illness among, and delay on the part of, the establishment, a long term would have to be fixed, which would be inconvenient. If this were not done, there would be great risk of occasional, possibly frequent, failures on the part of the Collector's establishment to have the requisite arrangements completed by the day appointed for the sale. This would render postponements of three months necessary, and the public interests would thereby suffer Further, it would not be convenient that sales of estates under section 14 of Act XI of 1859, for the defaults of shares, should be put off for so long as three months, as they would probably have to be if certain days were fixed, on which alone sales could take place. I am also to add that experience shows both that the attendance at revenue sales is good, and that the dates are well known beforehand. The Board therefore do not find themselves in a position to concur with the Association's proposal.

No. 704A.

COPY forwarded to all Commissioners for information, and for communication to the District Officers under them, for their information and guidance.

By order of the Board of Revenue, L.P.,

F. A. SLACK,

Offg. Secretary.

CALCUTTA;
The 14th May, 1896.

ROAD-CESS PAPERS.

The Hon'ble BABU GURU PROSHAD SEN asked—

With the same object in view, will the Government be pleased, by an executive order, to rule that road-cess papers, showing the annual value of estates advertised for sale, form a part of the sale Records, and a return from Registration office, showing the incumbrances on the shares of estates to be sold, in cases of sales of shares under section 13 of the Revenue Sale Law, it being made one of the conditions of sales that they are nowise to be affected by the incorrectness of these returns?

The Hon'ble MR. FINUCANE replied:—

"In the opinion of Government it is not desirable to make the rule suggested. Any person intending to buy has ample time beforehand to make his own enquiries, and if the validity of the sale is not to be affected by the incorrectness of the returns alluded to, then such returns would be of no practical value."

REDEMPTION OF ESTATES.

The Hon'ble BABU GURU PROSHAD SEN asked—

Will the Government be pleased to state what is the number of estates that had to be redeemed under section 10 of the Estates Partition Act [Act VIII (B.C.) of 1876]? What amount has been received by Government on account of these redemptions? Whether this amount has not been kept separate from the ordinary revenue; whether it has been invested; and whether the yearly income from the investment is not more than the annual land revenue which Government has lost?

The Hon'ble MR. FINUCANE replied:—

"It would seem that the section referred to by the Hon'ble Member is 11 and not 10. In the Annual Land Revenue Administration Report of the Board of Revenue, a publication that can be bought by the public, the number of estates redeemed up to date, the Government revenue on the same, and the price realized, are given. The figures up to the end of 1895-96 are given on page 13 of the Land Revenue Administration Report for that year, and are as follows:—

Number of estates	...	...	...	2,620
Government revenue	...	...	...	Rs. 1,312
Price realized	...	...	...	„ 37,329

"The amount realised is not kept separate from the ordinary revenue and is not invested."

[*Babu Guru Proshad Sen; Mr. Bolton; Babu Surendranath Banerjee.*]

MOTI LAL'S CASE.

The Hon'ble BABU GURU PROSHAD SEN asked—

Has the attention of Government been drawn to an article in the *Amrita Bazar Patrika* newspaper, headed "The case of Moti Lal," published in the issue of that newspaper dated the 9th January, 1897? Will the Government be pleased to order an enquiry into the truth or otherwise of the statements contained in a memorial of Moti Lal, said to have been submitted by him to Government, about the conduct and proceedings of Mr. Lyall, the Subdivisional Officer of Siwan, in connection with this case?

The Hon'ble MR. BOLTON replied:—

"The attention of the Government has been drawn to the article referred to, and an enquiry has been made. The allegations made against the Subdivisional Officer in the Memorial submitted to Government by Moti Lal appear to be for the most part without foundation, but as charges are still pending against the Memorialist for fraud in connection with stamps, the Lieutenant-Governor will not for the present pass orders on his petition."

ALLEGATIONS AGAINST THE COMMISSIONER OF BURDWAN.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

(*a*) Whether the attention of the Government has been called to the letter quoted in the margin which has been reproduced in several newspapers, and whether having regard to the allegations made therein, the Government will be pleased to make an enquiry and state the facts of the case? If the Government has already enquired into the case and passed orders, will the Government be pleased to communicate to the Council the result of the enquiry and the orders passed?

To—His Honour the Lieutenant-Governor of Bengal.

May it please Your Honour,—I beg most respectfully to tender resignation, under section 27A (1) of the Municipal Act, of my post of Chairman of the Kalna Municipality on account of the unnecessarily harsh and insulting manner with which the Commissioner of the Burdwan Division, Mr. C. E. Buckland, C.I.E., was pleased to treat me during his inspection of the Municipality on the 6th January, 1897.

I have the honour to be, Your Honour's most obedient servant, Suriya Narayan Sarbadhikari, Chairman of the Kalna Municipality.

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

(*b*) Is it the case that the Municipal Commissioners of Kalna, at a meeting held on the 12th January last, recorded a Resolution expressing their deep regret at the resignation of their Chairman, Babu Suriya Narayan Sarbadhikari, "especially," to quote the words of the Resolution, "as the resignation is due only to the harsh and insulting treatment received at the hands of the Divisional Commissioner during his inspection of the Municipal Office," and that at that meeting they further recorded a Resolution that the "Commissioners as a body felt it a deep humiliation at the improper treatment of their Chairman by the Divisional Commissioner"? Has the Government received a copy of this Resolution which by the terms of the Resolution of the Commissioners was to have been forwarded to the Local Government through the proper channel? If so, will the Government be pleased to state what action has been taken upon it?

The Hon'ble Mr. Risley replied:—

"The papers of the case are laid upon the table. The Commissioner of Burdwan absolutely denies having treated the Chairman of the Kalna Municipality in an 'unnecessarily harsh and insulting manner,' and the Magistrate of Burdwan, who was present during the inspection, did not observe anything which could be so construed. In his letter of the 2nd February, Mr. Buckland expresses his regret that his criticisms on the municipal administration should have been regarded by the Chairman as unduly severe, and gives an assurance that nothing personal was intended. It was clearly the Commissioner's duty to point out any shortcomings in the municipal administration. This being so, the Lieutenant-Governor will await a further communication from the Chairman before accepting his resignation"

No. 105M, dated Chinsura, the 2nd February, 1897.

From—C. E. Buckland, Esq., C.I.E., Offg. Commissioner of the Burdwan Division,
To—The Secretary to the Government of Bengal, Municipal Department.

I have the honour to forward, for the orders of Government, a copy of a letter, No. 449M, dated 25th—26th January, 1897, from the Magistrate of Burdwan, enclosing a communication from the Chairman of the Kalna Municipality, resigning his appointment as Chairman.

2. I absolutely deny that I treated the Chairman in an "unnecessarily harsh and insulting manner." It was my duty, in the course of my inspection, to point out plainly that the collections were bad and that the arrear balances were high; also that the arrangements made by the Municipality for preserving the purity of the water-supply of the town were altogether insufficient. A copy of my inspection note, dated the 6th January, 1897, is enclosed. I regret that my criticisms on the municipal administration in these matters should have been regarded as they have been by the Chairman, and I am willing to assure him that nothing personal was intended. He gave me at the time no reason whatever to suppose that his feelings were wounded, either at the office or in our walk through the town.

3. It will be observed that the Magistrate of Burdwan, who was with me on the occasion, saw nothing in my remarks to justify the construction put upon them by the Chairman.

4. I beg to recommend that the Chairman's resignation be accepted.

No. 419M, dated Burdwan, the 25th—26th January, 1897.

From—W. DUNBAR BLYTH, Esq., Magistrate of Burdwan,

To—The Commissioner of the Burdwan Division.

I HAVE the honour to forward a copy of letter No. 186 of the 13th instant, from the Chairman of the Kalna Municipality, together with a copy of the minutes of a meeting of the Commissioners held on the 12th idem, together with the resignation (in original) submitted by Babu Surya Narayan Sarvadhikari of his appointment as Chairman of that Municipality.

2 I heard you finding faults with the arrears in collections, and also with the absence of arrangements for preserving from pollution those tanks which had been nominally set aside for the supply of drinking water for the town, but I did not observe anything which could be construed into treating the Chairman "in a harsh and insulting manner."

Inspection Report on the Kalna Municipality.

VISITED the Kalna Municipality. Babu Surya Narayan Sarvadhikari Chairman. He is also a medical practitioner. The drainage scheme of part of the town has been once submitted to the Sanitary Engineer, and returned by him for an opinion as to the area to be drained: it will now be resubmitted very shortly: no estimate has yet been prepared. I am afraid that the Municipality is bent on too ambitious a scheme. The municipal income is