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heart-felt thanks and our tribute of admiration for the care he takes for the defence of the interests of our Provincial Revenues. If money, they say, is the sinews of war, it is no less true that it is the means alone by which administrative reforms are possible. The Government of Bengal, Sir, are entrusted with the care of the administration of the Government of this vast province in all its details, excepting its protection from outside and its communication inside and outside by Railways, Telegraphs and Post Offices, branches which are in the Imperial Budget called 'Commercial.' Therefore, Sir, in the treatment we receive in this matter, lie the progress and prosperity of the teeming millions of Bengal, comprising nearly a third of the population of this vast Indian Empire

"Their contribution as taxes amount to more than a third of the principal Heads of General Revenues of India, if you were to give them credit for the revenue derived from opium, got out of poppy grown in their soil or more than a fourth, if no such credit were to be given.

"And the Provincial Revenue which my hon'ble friend shows on the Receipt side, and which every one will allow, he has husbanded to the best of his ability in the budget before us, comes up to only three crores and odd (*i.e.*) barely a fourth of what Bengal contributes in a year.

"Sir, our Stamp Revenue alone comes up to 174 lakhs. It keeps on developing by some lakhs even in this year of famine, and it would cover, with its receipts, our expenditure for Administration, for Maintaining Courts, Civil and Criminal, including the High Court, for Police, and for Jails. Thus—

Receipts—Stamps	...	...	174 lakhs.
Courts of law	...	...	8½ "
Jails	...	...	8½ "
Police	...	...	2 "
Total	...	...	193 "
Expenditures—Administration	17½ lakhs.
Courts of law	88½ "
Jails	22 "
Police	61 "
Total	190 "

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“Our Excise Revenue, our Assessed Taxes, our Custom Revenues, our Provincial rates and the receipt on all our minor Heads of Revenue remain unaffected by the great calamity that has overspread the land.

Our Land Revenue collections stand where they always stood unaffected by the vicissitudes of the season, and why, because we have here a Permanent Settlement.

“Again, Sir, of all our Railways the East Bengal State Railways paid best during the year, and why, because our Permanent Settlement renders our land system certain, and secures to our raiyats almost all the advantages of a profitable cultivation.

“But if we pay, we require our people to be educated, we require hundred and one administrative reforms to be introduced, and we want healthy checks introduced in the abnormal growths of some of our Revenue Heads, conspicuously the Excise and the Stamps, which I respectfully submit indicate growing drunkenness and litigiousness amongst my people.

“I shall not repeat what I said on these subjects last year. In 1883-84 when the outstill and distilleries contributed only 48 lakhs, it was declared in the Resolution appointing the Excise Commission that there was a serious increase in drinking, and Government in appointing that Commission declared that no *consideration of Revenue* can be allowed to outweigh the paramount duty of Government to prevent the spread of intemperance, so far as it may be possible to do so. The Excise Commission suggested some changes; these suggestions or at least some of them were adopted, and with their adoption the development of the Excise Revenue received a check.

“These checks have since been removed one by one, and the only recommendation now adhered to is the establishment of some distilleries, and some local option in the matter of selection of sites.

“Simultaneously with the withdrawal of the checks recommended by the Excise Commission, we have increased consumption and increased revenue.

“The outstill and distillery revenue stood at 59 lakhs last year. It is more than 60 lakhs this year.

“I was told last year that the increased Excise Revenue indicates prosperity of our people; that I should have congratulated the country and the Financial Secretary on this result. One has only to await to gather experience. This

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is a year of famine, and the expansion of our Excise Revenue in spite of famine is all the same, and the pet theory of explaining away increased Excise Revenue, by referring it to prosperity as its cause, must now have to be given up. If it indicates anything, it indicates that the habit is being rooted in our people, and that what used to maintain our pauper population without any Poor laws in the land, now go to the liquor-shops. It is a matter which ought to engage the attention of those who are entrusted with the care of our people.

“Then, again, I find, in the latest Excise Report in hand, that a fresh experiment is now being tried at Gaya. The department, throwing aside the recommendation of the Excise Commission, with regard to the fixing of a minimum price for outstill liquor (4 to 6 pice a bottle), is now trying to introduce a system of maximum price for distillery liquor, and that so low as 7 Gorukpuri pice, equal to $4\frac{1}{2}$ pice a bottle.

“I hope the Government will not allow this system of cheapening liquor to go on notwithstanding any report that the result was proving successful at Gaya, for the inevitable result will be to cheapen distillery liquor to a degree to which even the outstill liquors have not ever reached.

“Already in the district of Gaya country spirits brought in more money on the introduction of this rule, than has been the case for many years before this.

“I am afraid I was misunderstood last year with respect to what I said about the abnormal growth of our Stamp Revenue—what I meant to say, and I shall maintain even now, that, judging by the latest figures available, more than four-fifths of the litigation in our Courts are those in which our poor people (90 per cent. agricultural raiyats) are interested, and it were well if in the interest of these poor people Panchaiti (Conciliators’) Courts were established, the panchaits to decide without charging Court-fees. A Bill to this effect could be introduced in Council at any moment, if permission was given.

“At any rate, there ought to be some system of refund of Court-fees introduced in cases where cases are decided *ex-parte*, compromised or withdrawn, and the process-fees reduced in some cases.

“Another little matter, on which I like to say a word, is the subject of Assessed Taxes. Sir Charles Elliott said in his last Resolution on the Income-tax, ‘on the question of popular feeling in regard to the Income-tax there was nothing new to be said. It is necessarily unpopular, but among the classes

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which are enlightened enough to appreciate the financial position and prospects of the country, the tendency is to recognise it as an unpleasant but inevitable necessity. If the minimum income could be raised to Rs. 1,000, the unpopularity of the tax would be almost entirely removed.' His Honour the Lieutenant-Governor has in the present year's Resolution endorsed this view.

"The proceeds of the Income-tax up to minimum of Rs. 1,000 is not much. It is only 10 lakhs out of 49 lakhs to which it has grown, and the growth since its introduction has been about 10 lakhs. This 10 lakhs is paid by 87 thousand assesses out of the present total number of 114 thousand assesses.

"But I feel I am taking up the Council's time for nothing, when the Bengal Government begins the year with a deficit and all the surplus in hand is gone.

"Turning to the Budget figures I find that the receipts amount to 454 lakhs and the estimated expenditure to 485 lakhs for the present year, and if we get on to better times the next year, it will still leave us short of 9 lakhs to produce an equilibrium between our receipts and expenditure, and the only way out of our difficulty will be perhaps to make the utmost of the taxes, the curtailment of which I suggest. This is very disappointing, and I only make these suggestions in the hope that if better times come these subjects should not be lost sight of.

"I am glad, Sir, that, notwithstanding its difficulties, Government has not thought fit to curtail any of our current expenditures under any head: on the contrary, I find a small additional grant under the head Education in the estimate for 1897-98 over the revised estimate for the year 1896-97. The country ought to be thankful to His Honour for this, as formerly under the straitened circumstances of our finance, the expenditure on Education has always been the first to receive the shears. I hope, Sir, the Provincial revenues will come to a point when effect could be given to the recommendations of the Education Commission. It were false economy to curtail our useful expenditures.

"There are only one or two items on the expenditure side on which I like to say a few words.

"The first is head 'Irrigation,' Subject—'Interest on Debt.' The amount is 24 lakhs. This is the amount of charge I have seen for a good many years. It strikes me that with the interest of Government securities at 3 per cent. this amount ought now to be reduced to 18 lakhs.

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"I like to be informed if there be any special condition of this loan, under which the loan cannot be paid off or converted. It is specially necessary to do so, as the Irrigation Works have been a heavy drag on our Provincial revenues, and here in this matter we have been spending money, something over 23 lakhs from year to year, to insure ourselves against famine, without, I am sorry, the corresponding result. Take even a circle of 10 short years, when a famine comes, we would have spent on our irrigation canals 2 crores 30 lakhs before the famine year would be reached, and we would be spending two-thirds of the amount that is now estimated for the relief of whole India for the present year, and more than double of what we shall be required to spend for Bengal.

"Another matter for look-out, when this irrigation sits so heavily on the expenditure side of our budget, is whether the working and maintenance charges cannot be reduced. A good deal has been done in this respect by the Superintending Engineer and his divisional staff, for which they have justly merited His Honour's recognition, but I like to be informed whether, when the expense per mile varies from Major Works to Major Works, and in the different divisions of the same Major Works, whether the charges are not susceptible of further reduction. The collection charges of rates are nothing compared to the maintenance and working charges.

"And here permit me to say a passing word regarding the dire calamity we are at present passing through and which has evoked such sympathy throughout the world. India cannot be too grateful for the large sums of money that have been pouring in from England and all her dependencies for charitable relief to our poor people. That calamity has greatly affected a part of His Honour's territories. In that part of the territories under His Honour, distress and scarcity is almost chronic, and it behoves those who have any information to convey to lay it before Government. To me it appears that the classes of persons who come to be affected at every season of drought and distress in Bihar are the *landless* classes, and amongst these the class of Nonias, who were once prosperous as manufacturers of saltpetre, and the class of Jhollas, who were once prosperous weavers. Add to this the dependants on agricultural prospects, the class serving on wages in agricultural fields. I believe this number is about 3 to 4 millions.

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"I can roughly calculate the Wage Fund in Bihar in prosperous times. The whole, according to my calculation with which I need not trouble the Council, come up to 60 millions of rupees. The result is appalling, for if the whole of the Wages Fund were to be distributed, it would not be more than Rs. 20 a head. In prosperous times an able-bodied man gets for unskilled labour Rs. 3-8 to Rs. 4 a month, a boy able to work Re. 1-8, and a woman Rs. 2. This has been the case as long as the memory of man runneth, and it has not much improved since the time when the *Ayeen Akbari* was compiled, when the pay of an ordinary groom was 170 to 100 daums = Rs. 4-4 to Rs. 2-8, 40 daums making a rupee. That everyone does not get work even at this low rate is apparent from the fact that you get lots of Umedwars to serve you when you have anything to offer.

"This for prosperous times. You can then well conceive why, with the slightest vicissitudes of season, you have to take the relief of these men in hand. Doubtless it is the great populousness of Bihar that accounts for a great deal of this and some of the social habits of the people with which any Government is powerless to combat. Emigration to other and less congested parts of India would go some way to relieve the congestion, but it appears to me that the best way to insure against famine is to help and encourage the growth of manufactures in this country and to rehabilitate our once prosperous manufacturers on wage funds in their own line.

"I have submitted how we spend 23 lakhs from year to year from our Provincial revenues, to keep up our irrigation works, to insure ourselves against famine. The Bengal Government had to spend a large sum of money in the districts of Muzaffarpur and Darbhanga during the distress season 1892-93, without (I like to be corrected if I am wrong) getting anything from the Famine Insurance Fund, and we have to spend 41 lakhs for 1896-97 and 1897-98 out of the Provincial Fund. We are very grateful for the 70 lakhs we are promised for 1897-98 out of the Famine Insurance Fund; but if we have to provide even in part the famine relief expenditure out of our Provincial revenues, which are allotted for fixed and specific charges, I wonder how long the administrative machinery in Bengal can get on. But whatever views may be taken as to the liabilities of the Provincial revenues to meet relief charges, I submit local revenues raised for specific purposes ought not to be diverted to other purposes. But I am afraid I am trenching on forbidden grounds.

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"I find, Sir, we had to contribute 18½ lakhs last year from the Provincial Revenues for famine relief, and we are called on to contribute 22 lakhs this year for the same purpose. The local bodies contributed 4½ lakhs last year, and they are called on to contribute 8 lakhs and odds during the present year. The total amounts to something over 52 lakhs. The estimated cost of relief works in charge of Public Works Department alone is 39 lakhs, and relief works in charge of Civil Department is 21¼ lakhs. These are large sums, and if devised to excavate tanks, wells and remove silts from the beds of rivers and canals, ought to save large parts of Bengal, at least the districts affected, from water-famine in future. Early in November last year I suggested this in one of my questions, and the Hon'ble Mr. Finucane in reply in December said I understood that this is being done. The famine would leave some good behind, if, with the money now to be spent, every village in the districts affected would get its supply of drinkable water in future.

"With reference to the Local Funds I have yet to say a word. I hope, notwithstanding his difficulties, the Hon'ble Financial Secretary shall be able to make an equitable distribution of the charges of collections between the Road Cess and Public Works Cess, and the charge of re-valuations also. The amount on adjustment shall be found to be about 2 lakhs a year, and not 40 or 50 thousand as he estimates.

"Under head Stationery and Printing, the estimate of expenditure is Rs. 11,34,000 against Rs. 11,00,000 of the revised estimate for the year 1896-97. The charges are thus distributed:—Stationery Office at the Presidency, Rs. 1,54,000; Stationery purchased in the country, Rs. 70,000; Government Presses, Rs. 3,66,000; Printing at private presses, Rs. 1,000; Stationery supplied from Central Stores, Rs. 5,42,000; Refunds, Rs. 1,000. The receipt under head Stationery and Printing is Rs. 1,34,000 only. I believe Government printing offices now supply printed forms to District Boards and Municipalities at certain rates; private presses could do this cheaper, and, judging by this, I beg to ask whether it has ever been thought expedient to ask private presses to do the Government printing works, at least of forms, and whether they would not do it at cheaper rates than what it now costs Government.

"As for the stationery, the country supply is Rs. 70,000, and the stationery supplied from Central Stores is Rs. 5,42,000. I like to know what kind of things are supplied from the Central Stores, and whether these could not be

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had in the country. If the Government of Bengal has a free hand in the matter, will my hon'ble friend arrange for getting all his stationery from the country instead of indenting for them from the Central Stores. This will stimulate private enterprises, and I am sure lead to considerable saving under this head.

"I am glad that provision has been made for larger payments under commission to Rural Sub-Registrars and under contingent charges owing to the opening of new offices and the general expansion of the department. This is but doing justice to a department which contributes 8 lakhs to our revenue, of which we share half, and I hope the opportunity shall be taken to introduce some sort of test in the employment of these Rural Sub-Registrars.

"I am sorry not to find my old friend, the Zamindari Dak Cess, which forms a regular impost on land, contributing about 3 lakhs in the Provincial Revenues. I still hold that the reason for its imposition no longer exists, but if the impost is to exist, let at least the control of receipt and expenditure be brought under the direct supervision of Government.

"But what are the savings of a few lakhs here and there compared to our wants?—and they are grave and many. They are not the fancied grievance of grievance-mongers, but well established by commissions of official experts. We want money to give effect to the recommendations of the Education Commission, the Police Commission, the Salaries Commission; we want money to increase the number of Munsiffs, to better their prospects, and we want money for the purpose of Village Sanitation, and no one knows better than His Honour that we can not pay more, and all our reliance is on our getting justice in the matter of Provincial Revenues."

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR said:—"After all that has been said I shall only make a few remarks. From the recent Provincial Contract our province has lost $12\frac{1}{2}$ lakhs of rupees, and as the Government has to make provision for the saving of the lives of many thousands of people, it will perhaps be unreasonable to ask the Government to provide for expenditure which has not been provided for in the budget. I know from the budget that our treasury is empty, and knock, as we may, at the gate of the Treasury, the Financial Secretary will say 'you must wait for a year; this is a very bad year, and when we have a better year perhaps some relief may be given.' I appeal for that class of persons

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for whom my hon'ble friend Babu Surendranath Banerjee has been appealing to-day and has been appealing for the last two or three years; I mean that half-famished class of men, the ministerial officers. From the year 1867 down to the present there have been enquiries and commissions, but nothing substantial has been done to increase their pay. It is not necessary that I should remind your Honour of the labors of the Salaries Commission, but I will call attention to the remarks which were made by the Hon'ble the Financial Secretary on the occasion of the discussion of the last year's Budget. He was pleased to say that the recommendations of the Salaries Commission were not reasonable, but that there was no doubt the cost of living of the ministerial officers of the civil, criminal and revenue courts had increased to the extent of from 13 to 16 per cent., and it was no doubt desirable that some provision should be made for increasing the salaries of these ministerial officers. There is a Process Fees Fund, and from a Financial circular it appears that over and above the actual cost of maintaining the establishment for the service of processes there is a saving of $4\frac{1}{2}$ lakhs. Court-fees are levied to meet the cost of the administration of justice, and I respectfully submit that the proceeds of these fees should not be diverted from expenditure under the head of the administration of justice to any other head. On the last occasion the Financial Secretary sympathised with the condition of this class of officers, but he regretted to say that even if an increase of $12\frac{1}{2}$ per cent. of their salaries was given, the expenditure would amount to 3 or 4 lakhs, and therefore he could not hold out any hope of its being done. But I would remind your Honour of the moral obligation of Government to pay the ministerial officers adequately. But nothing has been given to this very over-worked class of officers since 1867. And it comes to this, that the salaries of various classes of Judicial Officers, Subordinate Judges, Munsifs, and Deputy Magistrates have been increased, and no doubt for weighty considerations some European Officers of the Government have received exchange compensation, and even the menial servants of the Government have received something; but these unfortunate men have not received a pice since 1867. There is, moreover, a class of unpaid apprentices both in the Courts of Judges and of Munsifs; they work for five years in expectation of getting employment, but if they do not get employment within that period they are turned out. A great portion of the work is done by these apprentices, and they absolutely do not

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get a farthing from the Government, and I need not say how they live. When a large sum is realised in the shape of court-fees, fees specially realised to meet the expenditure on account of the administration of justice, I say these men have a right to proper remuneration. I would not have risen to address the Council on this occasion on a point on which so much has been said, but for a case which has come to my personal knowledge. The other day a case was decided in Howrah, in which a poor woman sued her husband and brother to recover Rs. 800 or Rs. 900 on a mortgage bond. The defence was that the bond was a fabrication. The Munsif went through the case for several days successively, and on appeal the Subordinate Judge heard it for some days, and it was found that the real bond was taken out of Court and a false one was substituted in its place. Such things are sometimes heard of in the mufassal, though I admit they are rare, and the most important thing is that neither the Munsif nor the Subordinate Judge could find out who committed the fraud, and no sanction for prosecution could therefore be given. There are in that Court some apprentices and some half-starved amla. It is for the Council to consider who committed the fraud and whether or not in the name of justice such things should be stopped. In matters other than judicial, the back-bone of the mufassal Courts are the underpaid amla; they get but half salaries, and there are lots of temptations before them. I submit this is a matter which should not be left unconsidered, and that the Government should take some steps to prevent such things occurring. To put it from another point of view—is it dignified on the part of a great Government of which your Honour is the responsible head, to overlook the poor condition of these officers? There is a very stringent circular of the Government against indebtedness by Government servants; the unfortunate people cannot borrow, and still they are required to act honestly and fairly. I submit that they are at least entitled to some consideration during this year. If they are given an addition to their pay of even two annas to the rupee, it will be a great boon to them, and it should be met out of savings from process fees. Then there is another point, namely, the question of water-famine. A large sum is to be spent upon people who are suffering from famine for food-grains. The Government ought also to take into consideration the question of water-famine. The people are suffering from want of water. I differ from my hon'ble friend Babu Surendranath Banerjee upon the question of permissive legislation. [The Hon'ble BABU SURENDRANATH BANERJEE said:—"I said that

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the people are not likely to approve of it unless the Supreme Government on its part does what it should."] I say there is room for improvement under this head."

The Hon'ble MR. FINUCANE said:—"Sir, this seems to be a debate *de omnibus rebus et quibus dem aliis*. The Hon'ble Babu Guru Proshad Sen began by saying that it was of an academic character, but upon no supposition can it be said that the Hon'ble Member has tried by his speech to give it a practical bent. In my remarks, which will be brief, I shall only endeavour to answer the questions which have been put by him and by other Hon'ble Members so far as regards the matters with which I am myself concerned. The Hon'ble Babu Surendranath Banerjee referred in very appreciative terms to the way in which the famine relief administration has been carried on. But he made a mistake. He said the expenditure in Bengal is larger than in other Provinces. The expenditure in the coming year will be larger, but taking the present and the past year, it is not larger than in other Provinces. Questions have been asked about an agricultural class at the Sibpur Engineering College. The position in that respect is this. We have submitted a proposal to the Government of India; sanction has not been definitely received, but the matter has not been lost sight of, and Rs. 10,000 have been provided in the Budget for this purpose. A Conference was held in the course of the year in the office of the Board of Revenue, at which the Hon'ble Mr. Stevens presided, for the purpose of considering the question of improving the system of education in the country generally, so as to make it more practical than it now is, and recommendations have been made. As to the expenditure upon Education, the difference between the amount allotted this year and last year upon Education is very trifling—about Rs. 24,000. The Lieutenant-Governor had intended to provide for a much larger expenditure on primary education,—but on account of the famine we have only been able to keep it as it was last year. The Hon'ble Mr. Bose made some remarks upon the establishment of agricultural banks by Government in Chota Nagpur; that is a large question which has often been considered in different parts of India. The difficulties in the way are exceedingly great, and nothing can, I fear, be done in this direction. [The Hon'ble MR. GUMBLEY said:—"There is an old bank existing in Chota Nagpur, which was got up by the Natives."] But not a Government Bank. Then with regard to Forests. The question of the supply of sleepers for

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Railways has formed the subject of some correspondence. The Chamber of Commerce objected to the Forest Department supplying sleepers for Government Railways. The question was referred to the Government of India, and that Government, agreeing with the Government of Bengal, ruled that the Forest Department is to be conducted in Bengal, as it is in other parts of India, on purely commercial principles, and no hope can be held out that the Government will alter that policy. Then the Hon'ble Maharaja of Gidhaur expressed the hope that agricultural schools will be established in Bihar and the Hon'ble Mr. Das referred to the same point as regards Cuttack. It is the desire of the Government to extend agricultural education and technical education as much as possible, but funds will not admit of more being done at present than is now being done. If the Hon'ble Maharaja will help to establish a school himself in Bihar, the Government will highly approve of his benevolence in this respect. A question has been asked about the expenditure of Rs. 25,000 for a residence for the Chaplain of St. John's Church. The Chaplain receives from the Government Rs. 170 a month for house rent, he asked that a Parsonage be built from the capitalised value of that allowance, and his request has been acceded to, but Government will lose nothing by this transaction. These are all the questions with which the departments under me are concerned."

The Hon'ble MR. BOLTON said :—" I rise only to answer a few of the questions asked in the course of the speeches which have been delivered. The Hon'ble Babu Surendranath Banerjee referred to the Subordinate Judicial Service, and, with reference to the provision of Rs. 45,000 for Munsifs' residences, enquired what number of residences would be constructed and in what places it was intended to provide them? It is proposed to build in the course of the year eight houses at an average cost of about Rs. 5,000, and they will be constructed chiefly in districts of Eastern Bengal.

"The Hon'ble Member also spoke of the necessity of increasing the staff of the Subordinate Judicial Service. A question on this subject was asked last year, when the then Chief Secretary, Mr. Cotton, gave an answer which still applies. He showed that the staff had been increased by thirty between 1890 and 1894. Since then there has not been so large an increase, but the Government is gradually adding to the number of Munsifs where necessity for doing so is shown, and additions will be made from time to time in future. The

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Hon'ble Member also enquired why quarters are to be built for the District Superintendent of Police at Noakhali? There are places in Bengal where it is difficult to find residences for all the officers, and the difficulty tends to increase from year to year. The Government has, therefore, considered it advisable to undertake in some of the worst of these stations the construction of residences for its officers. One of these stations is Noakhali, where many buildings have been demolished, through the disappearance of European residents. Not only there, but also at Darbhanga it has been found necessary to construct quarters for the District Superintendent of Police. This expenditure causes no loss to the Government, because, under the standing rules, officers are required to pay a certain amount of rent, calculated upon a percentage of their salaries, and this rent represents an adequate return upon the capital, amounting to about 4 per cent. The Hon'ble Mr. Wallis drew attention to the Resolution of the Government of India on Jail manufactures recorded in 1882, and quoted the principles laid down in that Resolution. The orders now in force were issued in 1886, and Jail manufactures are being conducted in accordance with them. The manufactures supply, first, the requirements of the Jails themselves, and, secondly, the wants of the other consuming departments of the Government. But in giving employment to all classes of convicts, it is inevitable that certain articles should be manufactured which are not wanted immediately or at all by the Jail or by other departments, and these are disposed of to the Public at the full market prices. These manufactures are very small, and cannot interfere in any appreciable degree with private trade. Another matter which I have to notice is the Hon'ble Babu Guru Proshad Sen's remarks regarding the reduction of the cost of litigation to poor suitors. I have had the advantage of perusing a draft Bill which the Hon'ble Member has prepared on this subject. There are many difficulties in the way of carrying out his plan, and it is for him to move in the matter at any future time if he wishes to do so. The Government is not prepared to take any action in the direction he suggests. The Hon'ble Member also expressed a hope that a test will be introduced for the admission of Rural Sub-Registrars into the Registration Department. There is in fact a test. Candidates are in the first instance nominated by District Officers, and they are subjected to examination. The test is sufficiently effective to secure a good class of officers for these appointments."

[*Mr. Risley.*]

The Hon'ble MR. RISLEY said :—"I shall endeavour to cover the ground over which several Hon'ble Members have gone as shortly as I can. I have to thank the Hon'ble the Maharaja of Gidhaur and other Hon'ble gentlemen for their kindly recognition of the labours of the Financial Department, and I would like in doing so to acknowledge the admirable work done in connection with the preparation of this Budget by the Registrar of the Financial Department of this Government, Babu Surendra Nath Mitter. He has been of the greatest possible service in every way, not only to myself, but to a series of Financial Secretaries, going back to the time when the present Lieutenant-Governor himself held that office.

"Now as to the budget itself. The first thing I have to say about it is that it is essentially an emergency budget. Famine has upset everything, and has involved us in very great expenditure. Last year when we took stock of our resources, we thought everything was going on well, and that we should be able to carry out many useful works, but since then we have lost over 40 lakhs of accumulated balance, and besides that we lose 13 lakhs of normal and recurrent revenue by reason of the readjustment of the Provincial Contract. This is a question of fact, and not a matter of opinion; and having this loss of revenue, the only thing we can do is to make the best of it. If you look at the budget in a general way, you will find that the ordinary heads remain very much the same. There are salaries to be paid and services to be kept up, and at no time is there any great opportunity of effecting large improvements from year to year; but there are three heads under which people look for an extension of benefits, and those three heads are—Education, Irrigation and Public Works. It, however, so happens that these expansive heads of expenditure had to be reduced by reason of famine. The figures in the budget do not represent the proposals of the Government. We had to reduce 2 lakhs under the head of Education, 3 lakhs under Irrigation and 10 lakhs under Public Works. Notwithstanding this, on finding ourselves left with nothing but a choice of evils, we have managed, as the Hon'ble Mr. Finucane has told you, to provide for some extension of education. We have not done all we desired to do, but at any rate we have managed not to cut down the existing scale of expenditure unduly. Under Irrigation, the next important head, the improvement and repair of the great irrigation works have been kept up, and there is reason to hope that the tendency of the Department is to extend the distribu-

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taries over a far larger area than these works at present cover. During this year there will be completed an important work which was commenced last year. We shall spend upon it nearly four lakhs this year, and we hope to complete it. I allude to the canalisation of the Bhangore khal, a very important chain of communication between Calcutta, the eastern districts of Bengal and places on the Brahmaputra and Assam. Owing to some tidal complications, the channel is extremely liable to be silted up, and boats have to go round by the Sunderbuns. There will now be a regular canal with a lock at either end, and the boat traffic over it, when the work is completed, will be very greatly facilitated. I have shown in the Financial statement the chief items of expenditure on original civil works. Some of these have been already referred to and I shall mention others later on.

"I now turn to the remarks which have been made by Hon'ble Members, but their range is so wide that I shall not undertake to reply to all that has been said. First, my friend the Hon'ble Babu Surendranath Banerjee referred to the great strain the plague is putting upon municipal revenues. There is no doubt that is so, and that plague expenditure affects the municipal revenues here in Calcutta, as well as in Dacca. Calcutta needed a great deal of cleaning, and considerable progress has, I am assured, been made; but Dacca is in a most appalling condition of filth, and most likely if the plague came round in this direction, it would settle upon Dacca, and it is reasonable and right that that Municipality should be required to repair the effects of its own disgraceful administration. Dacca has to my knowledge neglected its sanitary requirements for the last five years, and it is only fair that they should be made to pay for that which they have neglected to do. If they are not able to find the money themselves, I shall certainly demur to the proposition that because they have not done what they ought to have done, the Government should now make them a grant. On the contrary, I think the want should be supplied by their being compelled to apply for an emergency loan under the provisions of the Act which has recently been passed. They should borrow in this way whatever may be necessary to make up for their past errors.

"Then with regard to the question of water-supply, the Hon'ble Member referred to the system of permissive taxation legalised under the provisions of the Drainage Bill. As to that, I wish to explain that it was not intended at

[Mr. Risley.]

any time to force any scheme of drainage upon the people. The Bill was meant to provide legal machinery by which people who are dying with fever and want to get their district drained, should apply to the Government for a scheme and offer to be assessed for a term of years to meet the cost of carrying out the scheme. Practically, the same principle applies to the question of water-supply. The financial condition of the District Boards is such that it is out of the question for them to afford any large expenditure upon any general scheme of water-supply; their wants can only be met through some form of local permissive taxation. There is such a scheme now before the Government, and it would have been further proceeded with but for the advent of the famine. I am certain that something of the kind will have to be adopted in the interests of Local Funds, and I gather from the Hon'ble Sir James Westland's speech the other day that this will be one of the conditions on which the Government of India will be prepared to carry out a larger measure of financial decentralisation and make the term of the settlement longer.

"Then my Hon'ble friend compared the contracts of 1877 and 1882, but there was a slight misunderstanding on his part. Take the question of Excise. In 1876-77 the proceeds from Excise were estimated at 63 lakhs. The Government of India said,—'You got 63 lakhs last year; we will make over the Excise Revenue to you, and will put it at an increase of a lakh a year for the five years, so that you will get 68 lakhs in the last year of the contract.' *Prima facie* that was not a good bargain for the Provincial Government. It happened, however, that it was a period of tremendous expansion in the Excise Revenue. The Provincial share of that revenue went up from 68 lakhs to 93 lakhs; and for that reason in 1882, when a different principle was adopted, the Government of India said,—'We will give you half of the increase in the Excise Revenue, and we will take the other half.' Therefore whereas in the settlement of 1877 the share of the Government of India being fixed and only liable to enhancement by one lakh a year, when that revenue increased by, say, six lakhs, the Provincial Government got five lakhs out of the six, and the Government of India took one; but, under the subsequent contract of 1882, the Government of India got three lakhs, and we got three. In order to understand which of these two systems is the more favourable to the Provincial Government, you will have to go into detailed calculations.

[*Mr. Risley.*]

"The question of the Salaries Commission I shall touch upon later on, when I come to refer to what the Hon'ble Member for Hooghly said. My Hon'ble friend Babu Surendranath Banerjee then referred to a point of considerable difficulty. He said a part of the proceeds of the Road Cess had for some years been devoted to the furtherance of education, and that the result of the circular which was issued in March last, to the effect that District Boards must spend upon roads and communications an amount at least equal to the proceeds of Road Cess, was that the cause of education suffered. The circular to which the Hon'ble Member referred was an executive order. Under the law the proceeds of the Road Cess may be spent on any purpose for which the District Board can spend their funds, but it was considered desirable as a matter of policy, not as a question of right or law, that they should spend upon roads and communications an amount equivalent to the proceeds of the Road Cess. No doubt education was likely to suffer by such an order, and also from the fact that the income from pounds and ferries had fallen off. The reason for the income from pounds falling off is this, that within the last five years there has been a disposition to look more closely into the system of farming pounds, and it has been felt that this system, which has been extremely lucrative, does not come within the four corners of the Cattle Trespass Act. This Government has always accepted the farming principle, because it is so successful; but when we began to tie up the farming of pounds by rules, and inspection became more careful, such high bids were not received as before.

"I now come to the remarks made by the Hon'ble Mr. Bose upon the charge made upon District Funds for the collection of the Public Works Cess. Two cesses are collected together by the same establishment, and the question arises, in what proportion are you going to allot the charges? This point was gone into carefully by the Board of Revenue in 1879, and what Mr. Dampier then said was that it is desirable to avoid even the appearance of treating Local Funds with any sort of harshness. I have no doubt that the proportion of one-third and two-thirds is a fair proportion, and nobody would come to any other conclusion. The Hon'ble Member is mistaken in saying that the one-third was incorrectly calculated.* The amount which he mentioned is only the sum paid in Board districts, and does not include the sum paid in Cess Committee districts. The actual third comes to Rs. 46,800—Rs. 44,500 from the former

[*Mr. Risley.*]

districts and Rs. 2,300 from the latter. Here, as a matter of convenience, the sum was fixed at the amount that happened to stand in that year, simply as a matter of account, in order to avoid calculating every year what the one-third really is. When it was brought to notice that that sum worked out now to the disadvantage of District Boards, we recognised as reasonable the contention that it should stand at about Rs. 90,000, and we provided for this as part of the standard scale of expenditure for the Province. The provision has been disallowed, and we are now obliged to meet this demand from Provincial Revenues. I cannot give any undertaking as to the time when we shall be in a position to re-adjust the charge.

"The Hon'ble Mr. Wallis spoke about the General Hospital. I am sure he must know that I am as anxious as he can be to get the work carried out as soon as possible. Last year we took up a piece of land on the side of the hospital which was required to complete the Committee's scheme. This year we have made provision for one lakh, and hope to be able to spend $1\frac{1}{2}$ lakhs on the subsidiary buildings which are a part of the Committee's scheme. These will fit into the existing blocks and will tend to greater comfort and convenience in the hospital. Another Committee is now about to be appointed for the purpose of examining and reporting on the working arrangements of the hospital, the hours of attendance of doctors and nurses, the cooking arrangements, the supply of stores and the whole question of the administration of the hospital; and a set of rules will be drawn up dealing with these matters. I am glad to say that Mr. Arthur the President of the Chamber of Commerce, and Mrs. Ashton, the Honorary Secretary of the Canning Home, have kindly consented to serve on the Committee.

"I shall now proceed to consider the remarks made by the Hon'ble Babu. Guru Proshad Sen, and in doing so I may mention that I found great difficulty in following what he said. Under the head of Stamp Revenue, the Hon'ble Member plunged into a scheme of fancy finance, and constructed an ideal budget on a basis which is entirely unintelligible. Under the head of Excise he repeated what he said last year, with only one addition. I am unable to conceive a less appropriate occasion than the present for criticising the Excise Revenue and complaining that we get more than we ought to get just at the very time when the Government of India have increased the proportion of Excise Revenue from one-fourth to one-half, in order to make some compensa-

[*Mr. Risley.*]

tion to the Province for the loss of a great source of expansive revenue. I have no hesitation in saying that the Hon'ble Member's attitude as regards Stamps and Excise is something very much like disloyalty to the Province. He has taken up the rôle of a financial Jonah, and I can imagine other members feeling that it is high time for the whale to appear on the scene. I cannot repeat here all that I said last year on the subject of the Excise Revenue. There is one point only about the minimum and maximum price of certain drinks to which I shall refer. The Excise Commission had an idea that for outstill liquor you could fix a minimum price, and that it would do good in two ways: that it would counteract the competition for cheapening liquor, and would lead to the manufacture of more wholesome liquor: but I may add that subsequent experience showed that the Excise Commission were totally mistaken. For none of those consequences followed, and the result was that the proposal as to a minimum price was rightly abandoned. Now as to the question of a maximum price, I may explain that in the district of Gaya a condition is inserted in the licenses of distillery retail shops, that khasia or weak liquor, which has the largest sale in the district, should be sold at not more than 7 Gorokhpuri pice ($1\frac{1}{4}$ annas) a bottle. The measure was reported by Mr. Macpherson, the late Collector, to have worked well on the ground that it reduced smuggling by equalizing the retail prices of distillery and outstill liquor, improved the distillery revenue, and placed distillery liquor within the reach of the majority of the drinking population. Mr. Savage, the present Collector, while of opinion that it was the introduction of new vendors and competition among them, rather than the system of maximum prices, that brought about a reduction of prices and increased sales, still suggests that the system should be retained to serve as a useful weapon in future cases of combination among vendors. Mr. Gupta, the Excise Commissioner, is also in favour of fixing a maximum, but the Board discourage it as an interference with free trade and in itself difficult to enforce. Finally it was decided that the whole question should be discussed at length by the Board of Revenue, whose report has not yet been received.

"Both the Hon'ble Babu Guru Proshad Sen and Rai Eshan Chundra Mittra, Bahadur remarked upon the question of process-fees. I believe there are no charges more readily paid than charges connected with litigation. Litigation in this country occupies quite an exceptional position. It takes the place of

[*Mr. Risley.*]

Monte Carlo, the Stock Exchange, and the race course all combined, and I would object to any attempt to surrender one pice of the proceeds of process-fees and court-fees.

“Under the head of Income-tax, no doubt, Sir Charles Elliott suggested that the minimum assessable income should be raised, but this was merely a pious opinion, and any proposal of that kind would require the consent of the Government of India. It raises a large question of Imperial Finance, which would be most carefully considered and most jealously guarded.

“The next point which was referred to is Irrigation. My hon’ble friend Babu Guru Proshad Sen objects to the charge of Rs. 24,65,000 for interest on irrigation works. That is a charge on the Provincial Revenues, and it is quite legitimate that the interest upon the capital expended for the construction of canals for irrigation should be borne out of those revenues.

“Incidentally, in connection with a general dissertation on the condition of the people, my hon’ble friend Babu Guru Proshad Sen wandered into a commentary on the condition of the Nunias and Jolahas. Considering that the name of the latter is a typical word for a fool, and that vernacular literature is full of stories to their disadvantage, I doubt whether they can ever have been as prosperous as my friend makes out. However that may be, Manchester cloth has no doubt affected the condition of the Jolaha as Liverpool salt has that of the Nunia. But if you compare the ~~loss~~ to these classes with the enormous gain to the general body of the population, no one will hesitate to say where the balance of advantage lies.

“There is a small point about the profits from printing. Both this Government and other Governments have introduced a number of forms which are a weariness to most people who come into contact with them. But they are a necessity, and you should print them as cheaply as possible. Some years ago a Committee was formed to enquire into this question, and we started an establishment for printing these forms at the Presidency Jail Press. That scheme saved a lakh of rupees in the first year, and has gone on flourishing ever since. I am certain no private press would do the work as cheaply, and I hold that it is quite legitimate that this work should be done in the jail.

“As to the supply of stationery, it is well known to everybody who looks at the reports of the Stationery Department that an enormous amount of

[Mr. Risley.]

country-made stationery is used. Within the last ten years, certainly the last five years, the effort has been everywhere to substitute country stationery for the stationery formerly procured from England, and at the present moment there is not an item of the most insignificant description which can possibly be obtained in this country that is imported from England.

“Lastly, as to the salaries of ministerial officers. I need hardly add anything to what I said on this subject last year. It is a class for whom it is impossible not to have a great deal of sympathy, and in considering our contract we included in our standard scale of expenditure a sufficient sum to enable the salaries of the ministerial officers to be raised to the extent I stated last year, but the Government of India were unable to admit the charge. The Hon'ble Rai Eshan Chundra Mittra, Bahadur said a good deal about unpaid apprentices and told us a pathetic story about the loss of a document. Well, I believe that if you raise the pay of the *amlah* and increase their number, the custom of taking apprentices is so ingrained in this country that they will only have apprentices in larger numbers. I do not think you can get rid of unpaid apprentices, and it is not my experience of Bengal that the practice of stealing inconvenient documents is wholly confined to the poorer classes.”

The Council adjourned *sine die*.

Calcutta ;	}	F. G. WIGLEY,
The 20th May, 1897.		Offg. Assistant Secretary to the Govt. of Bengal, Legislative Department.



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 24th July, 1897.

P r e s e n t :

The Hon'ble C. C. STEVENS, C.S.I., Offg. Lieutenant-Governor of Bengal,
presiding.

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

The Hon'ble M. FINUCANE.

The Hon'ble C. W. BOLTON, C.S.I.

The Hon'ble W. H. GRIMLEY.

The Hon'ble J. G. H. GLASS, C.I.E.

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

The Hon'ble J. PRATT.

The Hon'ble G. TOYNBEE.

The Hon'ble GURU PROSHAD SEN.

The Hon'ble A. H. WALLIS.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

The Hon'ble M. C. TURNER.

The Hon'ble NORENDRA NATH SEN.

The Hon'ble SALIGRAM SINGH.

The Hon'ble KALI CHARAN BANERJEE.

NEW MEMBERS.

The Hon'ble Messrs. Toynbee and Turner, and the Hon'ble Babus Norendra Nath Sen, Saligram Singh and Kali Charan Banerjee, took their seats in Council.

STATEMENT OF THE COURSE OF BUSINESS.

The Hon'ble THE PRESIDENT said:—"Gentlemen—I have to thank you for your presence here this morning. Since the Council last met, there have been changes in its composition, and more are imminent. We have lost the

[*The President.*]

services of Mr. A. M. Bose, who represented the Calcutta University, and Babu Eshan Chandra Mittra, representing the Municipalities of the Burdwan Division; while on Monday next, Babu Guru Proshad Sen, representing the District Boards of the Dacca Division, will vacate his seat. To each and all of these gentlemen I offer, on behalf of the Province which they have served, the acknowledgment of Government for the valuable assistance which they have given during their terms of office. The Hon'ble Babu Surendranath Banerjee left us only to return speedily, and I may take this opportunity of saying that the Hon'ble the Maharaja of Darbhanga has been so good as to place his valuable services once more at the disposal of the Province. My gratitude to these gentlemen, therefore, partakes of the nature of a lively sense of favours to come. We have to welcome new colleagues in the place of those who are now leaving us. I hope they will permit me to say that their past histories and reputation afford us a guarantee that they will prove themselves most useful Members of this Council. They will find that the work which they have undertaken will make considerable demands on their time and attention. Their labours are not to be measured by the time spent in meetings in this Chamber. Attendance on Select Committees, and the perusal and examination of papers connected with projects of law, are not the less laborious because they are not conspicuous in the sight of the public.

"Your labours this Session will not, I think, be severe, though they will be of some importance. The Partition Bill has received further criticisms, and these will be laid before the Select Committee. The points are for the most part matters of detail, and are not likely to detain the Select Committee long. It is hoped that the Bill will be passed in the course of this Session. The Select Committee will also proceed with the Chota Nagpur Tenancy Bill; this Bill, as has been explained fully by the Hon'ble Member in charge, is of a local character, and is intended to meet local wants. You will probably be greatly guided by the opinions of those who are familiar with the local conditions. It is not improbable that we shall be able to pass this Bill also. I shall not ask you to consider at present the Bengal Tenancy Bill. Some criticisms on it have been received, and Government will be glad to receive any further expressions of opinion on its provisions, with which they may be favoured; so that on Sir Alexander Mackenzie's return, his Government may be in a position to consider it in the full light of public opinion."

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

ESTATES PARTITION BILL.

The Hon'ble Mr. Finucane moved that the Hon'ble Sahibzada Mahomed Bakhtyar Shah be added to the Select Committee on the Bill to amend the law relating to the Partition of Estates, and that the Hon'ble Mr. Pratt and the Hon'ble Babu Saligram Singh be also added in place of Mr. Wilkins and Rai Eshan Chandra Mittra, Bahadur, respectively.

The Motion was put and agreed to.

CHOTA NAGPUR TENANCY BILL.

The Hon'ble Mr. Grimley moved that the Hon'ble Mr. Pratt, the Hon'ble Maharaja Bahadur of Gidhaur and the Hon'ble Babu Saligram Singh be added to the Select Committee on the Chota Nagpur Tenancy Bill in place of Mr. Wilkins, Mr. A. M. Bose and Rai Eshan Chandra Mittra, Bahadur, respectively.

The Motion was put and agreed to.

The Council adjourned to a date to be notified hereafter.

CALCUTTA ;
The 3rd August 1897.

}

F. G. WIGLEY,
Offg. Asstt. Secy. to the Govt. of Bengal,
Legislative Department.

[The next meeting was held on the 7th August, 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 7th August, 1897.

Present:

The Hon'ble C. C. STEVENS, C.S.I., Offg. Lieutenant-Governor of Bengal,
presiding.

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

The Hon'ble M. FINUCANE.

The Hon'ble C. W. BOLTON, C.S.I.

The Hon'ble W. H. GRIMLEY.

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

The Hon'ble J. PRATT.

The Hon'ble G. TOYNBEE.

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

The Hon'ble A. H. WALLIS.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

The Hon'ble M. C. TURNER.

The Hon'ble NORENDRA NATH SEN.

The Hon'ble SALIGRAM SINGH.

The Hon'ble KALI CHARAN BANERJEE.

The Hon'ble SURENDRANATH BANERJEE.

NEW MEMBER.

The Hon'ble BABU SURENDRANATH BANERJEE took his seat in Council.

POLLUTION OF THE RIVER WATER.

The Hon'ble BABU SURENDRANATH BANERJEE asked:—

I have the honour to call attention to the reply given by the Hon'ble Mr. Risley in this Council on the 11th July, 1897, regarding the pollution of the

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

river Hooghly by the discharge into it of the sewage of mills on both banks of the river, and to enquire what progress has been made with a view to prevent the further pollution of the river?

Has the attention of the Government been called to the pollution of the river caused by the new mill which has been started at Tittaghar? Is it the case, as stated in one of the newspapers, that the waste jute and kerosine oil discharged into the river by this mill near Charnock pollute the river water to such an extent as to render it unfit for drink? If so, will the Government be pleased to take the necessary steps with a view to the prevention of the nuisance?

The Hon'ble MR. BOLTON replied :—

“In reply to the first part of the question asked by the Hon'ble Member, I have to say that in accordance with the answer given by the Hon'ble Mr. Risley in this Council on the 11th July, 1896, the general question of the pollution of the river Hooghly and the *khals* and small streams running into it, by the discharge of sewage, trade refuse and other noxious matter from the various mills and factories situated in the neighbourhood, was referred to the Sanitary Board for their opinion. The Board, while expressing their opinion that the papers submitted to them did not supply any grounds for differing from the conclusions arrived at by Government previously, as stated in Government Resolution No. 524M, dated the 8th February, 1895, suggested that the Sanitary Commissioner should be consulted, and a special medical officer deputed to make a thorough enquiry in the matter. The Sanitary Commissioner was then requested to depute for this purpose a Deputy Sanitary Commissioner with definite instructions for his guidance; but in consequence of the unavoidable transfer of the Deputy Sanitary Commissioner to plague duty, and the deficiency in the staff of medical officers, it has not been possible as yet to complete the enquiry. The matter has not, however, escaped attention, and is still under the consideration of the Sanitary Commissioner.

“The reply to the second part of the Hon'ble Member's question is, that the Government has no information as to the alleged pollution of the river from a new mill started at Tittaghar, but the Sanitary Commissioner will be asked to enquire into this matter in connection with the general question.”

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

OMISSION OF LEGAL PRACTITIONERS FROM JURY LIST.

The Hon'ble BABU SURENDRANATH BANERJEE asked:—

Will the Government be pleased to state whether, as stated in the *Hitabadi* newspaper of the 2nd ultimo, a circular letter has been issued directing District Officers to strike out the names of all legal practitioners from the list of Jurors? Having regard to the fact that the success of the jury system in Bengal is largely dependent upon the association in the practical working of the system of men of intelligence and culture, will the Government be pleased to reconsider its orders in this respect?

The Hon'ble MR. BOLTON replied:—

"In reply to the Hon'ble Member's question I have to say that instructions were issued to the local officers to give effect to the order exempting legal practitioners from service as Jurors or Assessors. The Government has no intention of withdrawing the order."

CONDITION OF RAILWAY PLATFORMS.

The Hon'ble BABU SURENDRANATH BANERJEE asked:—

(a) I have the honour to call the attention of the Government to the reply given in this Council on the 3rd April last to a question asked by Rai Eshan Chandra Mittra Bahadur regarding the condition of the platforms at Sheoraphuli, Bhadeswar and Khana Junction. Is the Government aware that no action has been taken in the matter by the Railway authorities, and that the platforms are still in the condition in which they were before to the serious inconvenience of passengers, especially of Hindu ladies?

(b) Will the Government be pleased to state if it has received any communication from the Railway authorities which the Government was expecting at the time when it gave the reply? And, if so, will the Government lay it on the table?

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

(c) Will the Government take the necessary steps to the speedy removal of the grievance referred to in this question ?

The Hon'ble MR. BOLTON replied :—

“The reply received from the Agent of the East Indian Railway to the communication addressed to him by this Government is laid on the table. It seems to the Lieutenant-Governor that the Agent has given good reasons for raising the platform only at the Seoraphuli Station.”

No. 3968, dated Calcutta, the 13th April, 1897.

From—COLONEL R. GARDINER, R.E., Agent, East Indian Railway Company,

To—The Secretary to the Government of Bengal, Public Works (Railway) Dept.

I HAVE the honour to acknowledge your No. 604R of 5th instant, and to state that the question of raising the passenger platforms at Bhadreswar, Sheoraphuli and Khana Junction is still under consideration, and I am unable as yet to give a definite reply.

2. The point raised is one with very wide bearings. Admit that it is a matter of sufficient public importance for Government to intervene and order high level platforms at these stations, and the same convenience will be demanded elsewhere.

3. The height of platforms at stations between Howrah and Khana Junction vary between one foot and three feet above rail level. The older stations have all comparatively high level platforms, varying between 2 feet 6 inches and 3 feet : where stations have been interpolated, low level platforms have as a rule been supplied. It is of course a convenience to have the floor of the carriage and the platform on the same level, but this is a convenience seldom given either in this Country or in Europe. On the Continent of Europe platforms are, as a rule, only a few inches above rail level. At Sheoraphuli the platforms actually vary between 1 foot 8 inches and 1 foot 6 inches; at Bhadreswar between 1 foot 1 inch and 1 foot 3 inches; at Khana Junction between 1 foot and 1 foot 5 inches above rail level. The Government of India latest standard dimensions lay down that low level platforms (that is at minor stations)

are, as a minimum, to be flush with rails; as a maximum 1 foot 2 inches above the same. High level platforms (at important stations) to be as a minimum 2 feet 6 inches above rail with a maximum of 2 feet 9 inches.

4. To raise all the passenger platforms between Howrah and Khana Junction to full height would probably involve an average expenditure on platform alone of some Rs. 2,000 per station, with further consequential expenditure in connection with buildings and approaches, that I am not at present prepared to estimate. It would certainly involve an outlay of close on half a lakh of rupees for what is seemingly rather a sentimental objection. The actual inconvenience amounts to little more than what every one has to encounter in stepping into an ordinary horse carriage or going up and down stairs in a house not conveniently situated entirely on ground level, and the inconvenience, whatever it amounts to, is only experienced on the comparatively rare occasions on which a railway journey is undertaken.

5. As stated in the opening paragraph of this letter, I am having further enquiries made on the subject; but with the large expenditure that is still necessary in connection with the line, I am not disposed to recommend embarking on the heavy expenditure that raising our platforms generally would involve without greater evidence of the requirement than we have yet been given. Very special cases might be given exceptional treatment, but it is essential that it should be made very plain that they are to be rare exceptions.

No. 5170, dated Calcutta, the 22nd April, 1897.

From—COLONEL R. GARDINER, R.E., Agent, East Indian Railway Company,

To—The Secretary to the Government of Bengal, Public Works (Railway) Dept.

In continuation of this office No. 3968 of the 13th April, 1897, I have the honour to attach a copy of a statement showing the average daily passenger bookings at certain of the more important stations between Howrah and Khana Junction and the height of the passenger platforms thereat. From a consideration of these figures, I am of opinion that Seoraphuli has a claim to high level platforms, and I will recommend the same to the Board for sanction.

[Mr. Finucane ; the President.]

Neither Bhadreswar nor Khana Junction have at present a traffic that justifies any special action on their behalf.

STATION.	Average number of passengers booked daily.	HEIGHT OF PLATFORM ABOVE RAIL.	
		Up.	Down.
1	2	3	4
		Ft. IN.	Ft. IN.
Bally	776	3 0	1 9
Serampore	1,038	2 5	2 3
Sheoraphuli	1,087	1 6	1 3
Baidyabati	143	3 1	2 10
Bhadreswar	286	1 1	1 3
Chandernagore	563	2 7	1 11
Hooghly	928	2 7	2 3
Trisbigha	96	2 0	1 6
Magra	503	2 11	2 11
Pundooah	307	2 10	2 0
Boinchee	220	2 3	2 3
Burdwan	956	2 5	3 0
Khana Junction	286	1 5	1 0

ESTATES PARTITION BILL.

The Hon'ble Mr. FINUCANE presented the Final Report of the Select Committee on the Bill to amend the law relating to the Partition of Estates.

The Hon'ble The PRESIDENT said:—"It appears to me that in the List of Business the items have been, unfortunately, put in the wrong order, as item 4 should stand as item 2. But before I call upon the Hon'ble Mr. Finucane to move that the Report of the Select Committee on this Bill be taken into consideration, I have to say that I think the third item as it stands on the List, which is a proposal made by the Hon'ble Babu Surendranath Banerjee, is not in order. My reason is, that Rule 39 of the Rules for the Conduct of Business of this Council provides a procedure of its own. That Rule runs as follows:—

'The Report shall be taken into consideration by the Council as soon as conveniently may be, but any Member may object to its being so taken into consideration when he has

[*The President ; Babu Surendranath Banerjee ; Mr. Finucane.*]

not been furnished for a week with a copy of the Report; and such objection shall prevail, unless the President, in exercise of his discretion, allows the Report to be taken into consideration.'

"It seems to me that this being the procedure as given under that Rule, it is not open for any Member to bring a matter of this kind before the Council by way of a motion. I mention this now in order to give the Hon'ble Member an opportunity, which I think the Rules afford him, of making the objection immediately after I call upon the Hon'ble Mr. Finucane."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I bow to Your Honour's opinion."

The Hon'ble MR. FINUCANE also moved that the Report be taken into consideration, and that the clauses of the Bill be considered in the form recommended by the Select Committee. He said:—

"Sir, when this Bill was introduced in Council sixteen months ago, I endeavoured to explain its objects and reasons. I stated that it had been under discussion for more than five years, and that there was no desire on the part of Government to rush it through Council.

"The Bill then introduced was published in the Gazette and widely circulated for opinions among Government Officers and Public Associations. Numerous and valuable criticisms were received on it which were considered with great care by the Select Committee. . . .

"That Committee made some important changes in the Bill as originally introduced and presented a preliminary report in January last with the Bill as modified by them.

"The Select Committee which contained Experts on the subject, both official and non-official, unanimously agreed to the provisions of the Bill as amended except on one point, namely, the amount of the proposed limit to the partibility of Government revenue.

"Their report and the Bill as amended have since been published and circulated for criticism.

"The opinions received have been considered by the Select Committee, with the result that some slight verbal modifications have been made in certain sections and that the limit of Rs. 100 proposed in the original Bill and of Rs. 20

[Mr. Finucane.]

proposed in the Bill as at first amended by the Select Committee has been still further reduced.

“The proposal of the Select Committee now is that partition of an estate shall not be allowed—

- (a) if the annual amount of land revenue for which the separate estate of any of the proprietors would, after partition, be liable would not exceed Rs. 10, or
- (b) if after separation of the applicant's interest the annual amount of the land revenue for which the separate estate of the remaining proprietor or proprietors would be liable, would not exceed Rs. 5.

“The Bill as now amended has received the unanimous approval of the Select Committee, and it is hoped will be also unanimously accepted by the Council.

“The Bill is one of details for Experts to settle, (with which details the Council generally will probably not care to be troubled) except on two points, namely, (1) the provisions of Chapter VI relating to a survey and a record of existing rents and assets, and (2) the provisions of section 11 relating to restrictions on partibility of revenue. Chapter VI as it now stands has been accepted by all the Officials and Associations consulted without a dissentient voice. The restriction now proposed on partibility of revenue is, it will, I think, be conceded, the lowest that is compatible with the principle of imposing any restriction at all which principle was affirmed when the Bill was referred to the Select Committee.

“In deference to the views of the Landholders' Associations, the limit originally proposed has been very much reduced, and as that now suggested has been accepted by the representatives of the zamindari interests in the Select Committee, it is hoped the Council will have no difficulty in accepting it also. If this be so, the Bill in its present shape will, it is hoped, be unanimously approved.

“I observe that the Hon'ble Surendranath Banerjee and the Hon'ble Norendra Nath Sen think that the consideration of the clauses of the Bill should be postponed. If these Hon'ble Members have any specific amendments to propose or any improvements to suggest, I am willing to admit that time should be

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

given for the consideration and discussion of their amendments. But if Hon'ble Members have no amendments to propose, I would submit that it is not reasonable to ask this Council to assemble again merely because it is possible that at some future time amendments may suggest themselves to Hon'ble Members which they are not prepared to bring forward now.

"Many of the official and non-official Members may be put to much inconvenience by having to attend meetings of Council. Some of the former have important duties on tour in the Mufassal from which they may have to be recalled to attend meetings of Council, and some of the latter may have to come from long distances to Calcutta. If there is any real necessity for their doing so, the inconvenience they may be put to is, as a matter of course, a minor consideration; but if there is not any necessity for putting them to inconvenience, and Hon'ble Members do not intend to propose any specific amendments in the Bill, I hope they will see their way to allowing it to be passed unanimously at the present meeting."

The Hon'ble Babu SURENDRANATH BANERJEE said:—"I wish I could accept the invitation of the Hon'ble Member in charge of the Bill, but as far as I am personally concerned, I must say that I have not had sufficient time to go through the Bill, and when I have stated the facts before the Council, I think the Council will be of opinion that I have not had sufficient opportunity for studying a Bill of this importance and magnitude. Rule 39 to which I refer, and with which I am concerned, distinctly contemplates that Hon'ble Members should have the opportunity of studying the Report of the Select Committee for at least a week. With the permission of Your Honour I will read the words of Rule 39, which run as follows:—

'The Report shall be taken into consideration by the Council as soon as conveniently may be, but any Member may object to its being so taken into consideration when he has not been furnished for a week with a copy of the Report, and such objection shall prevail, unless the President, in exercise of his discretion, allows the Report to be taken into consideration.'

"I only received a copy of this Report on Monday last; and I think my hon'ble friend to the left (Babu Kali Charan Banerjee) received his either on Sunday or Monday. At any rate, it was not put into my hands till Monday; and though other Members may have had time to consider this

[*Babu Surendranath Banerjee ; the President.*]

Report, and were in a position to consider it carefully, I certainly have not had a week's time to study it before the meeting of the Council. I must say that, so far as my experience goes, it has been the practice, I was going to say the invariable practice, of this Council, for Reports of Select Committees to be laid upon the table for at least a week, except in the cases of non-contentious Bills. I do not think that it can be urged that this is a non-contentious Bill. This Bill has given rise to considerable discussion. The papers before us disclose the fact that even amongst the highest Officers of Government, there is considerable difference of opinion in regard to the provisions of this Bill. I do not see what necessity there is for departing from what is the invariable practice of the Council, namely, to give Hon'ble Members sufficient time for the consideration of the Report of the Select Committee, especially when we admit, in connexion with the Bill before us, that it affects a large and important section of the community and has given rise to considerable differences of opinion. I do not think that the Hon'ble Member in charge of the Bill will find himself in a position to get over this difficulty. I myself would have liked to have consulted the various District Boards and other gentlemen interested in this Bill. Many of them have no doubt given their opinions, but it is one thing for the Government to collect opinions, and quite a different thing for elected Members to approach their constituents for this purpose. I fail to see what possible harm can accrue to the Government, if the consideration of this Bill is postponed for a week or a fortnight. The Bill may be taken up at the end of the month or even later on. If you hurry this Bill through Council, I have not the smallest hesitation in saying that the action of the Government will be open to a great deal of misconstruction, and considerable hardship will be inflicted upon those classes whose good-will it is the interest of the Government to secure in connexion with this Bill. As elected Members in intimate touch with the people, it is our duty to raise this warning-note, and I hope the Government will see its way to allow of an adjournment of the matter in order that the Bill and the Report may be dealt with at a future meeting of the Council."

The Hon'ble The PRESIDENT said:—"I regret I am not able to accept the objection of the Hon'ble Member who has just spoken. The Bill, as the Council have heard from the Hon'ble Member in charge of it (Mr. Finucane), has been

[The President; Babu Norendra Nath Sen.]

before the Council for sixteen months, and I think I am not wrong when I say that during the whole of those sixteen months, with a small exception, the Hon'ble Member who objects has been a Member of this Council. It appears to me, therefore, that he has had ample opportunities of consulting his constituents, and the amendments made by the Select Committee are very few, and for the most part unimportant. They are such that a very small amount of consideration would be required to estimate their propriety, in addition to the consideration which the Hon'ble Member has no doubt given to the Bill during the course of those sixteen months. The one important change is a change in section 11 of the Bill with reference to the limit. In that instance the explanation given by the Hon'ble Member in charge of the Bill has given to the Council the history of the change, and he has explained that as it now stands, a large concession has been made to the landholding interest. This section was accepted by the representatives of that interest who sat in Select Committee, and in fact, it does not differ very much from a suggestion which was made by one of those representatives. For these reasons it does not appear to me to be necessary to adjourn this matter, as although the Hon'ble Member has not had these papers in his hands for a complete week, the deficiency is comparatively small. For these reasons, I decide that the Report of the Select Committee be taken into consideration."

The Hon'ble BABU NORENDRA NATH SEN said:—"After what has fallen from Your Honour, I think it is hopeless for me to expect any concession from Your Honour. However, in making this motion, let me not be misunderstood. It is far from my intention to be obstructive in the least. The importance of the Bill as affecting large classes, having anything to do with the joint ownership of land both as owners and tenants, cannot be exaggerated, and when I say this much, I think I say enough against the Bill being rushed through the Council. When over and above this, I frankly put forward my views as a new Member that I cannot conscientiously give a vote upon this Bill unless sufficient time is allowed me to study all the papers bearing on the subject, and when I appeal to Your Honour, who has been always so distinguished for fair-mindedness, to adjourn the debate upon this Bill, I am sure I do not appeal in vain, but, on the contrary, enlist Your Honour's sympathy on behalf of my motion. I contend that it is simply fair, at least to the new Members, that they should be given time enough to go through the enormous mass of papers,

[*Babu Norendra Nath Sen ; Mr. Finucane ; Mr. Bolton.*]

containing the literature on the subject, especially when such literature happens to be of a debatable character. I have no desire at present to go into the merits of the Bill, but when the time comes, I may have a great deal to say, especially in connexion with section 11 of the present Bill, as the proposed limit of Rs. 10 is even much higher than that contained in the Assam Regulation 1 of 1896. I may also have much to say in connexion with some other sections of the Bill which I may call the procedure sections. It may be necessary, on the part of some of us, to send in timely notices of amendments after a careful consideration of the papers relating to the Bill. I think it is due to the large body of men who may be affected by the Bill, that the Bill, as amended by the Select Committee, together with their final report, should be published in the official Gazette before the Bill is passed into law, so that they may have an opportunity of making themselves acquainted with its provisions, and the recommendations of the Select Committee, as embodied in their final report, and of expressing their opinion on the Bill, if necessary. Besides, I fail to see what necessity there is for hurrying this Bill through the Council. The Bill as at present framed, will be more a source of administrative convenience than anything else. What I have said will, I trust, be sufficient to convince Your Honour of the reasonableness of my motion. I therefore move 'that the consideration of the Final Report of the Select Committee on this Bill be postponed for two weeks, and in the meantime, that the Bill, as amended, be published in the Gazette.'

The Hon'ble MR. FINUCANE said:—"If there is a feeling in the Council that the consideration of the clauses of the Bill be put off, Government will have no objection, but if the general feeling of the Council is that we should now pass the Bill, then I shall make the motion which stands in my name that the Bill be passed into law."

The Hon'ble MR. BOLTON said:—"My own view is that the motion for an adjournment should be agreed to, but the condition should be made that the postponement shall not extend beyond this Session, and that the Bill must be discussed and passed this Session."

The Hon'ble MR. FINUCANE said:—"I have no objection to that, but I think the proposal for the re-publication of the Bill is perfectly useless."

[*Babu Norendra Nath Sen ; Mr. Finucane ; Mr. Bolton ;
the President ; Mr. Grimley.*]

The Hon'ble BABU NORENDRA NATH SEN said:—"I withdraw that part of my motion if the postponement I ask for is granted."

The Hon'ble MR. FINUCANE said:—"I suppose that if Hon'ble Members have any amendments, they will give early notice of them."

The Hon'ble MR. BOLTON said:—"The proper course for the Hon'ble Members will be for both to send in their amendments. Many of these may be eliminated after personal consultation with the Hon'ble Member in charge of the Bill, and when we come to the actual debate, the number may be reduced to two or three, a great deal of time being thus saved to the Council."

The Hon'ble The PRESIDENT said:—"Do I understand that the Hon'ble Member is prepared to abandon the second part of his motion, that is to say, that the Bill be re-published?"

The Hon'ble BABU NORENDRA NATH SEN said:—"Yes, I do."

The Hon'ble MR. GRIMLEY said:—"I should like to say that I am in favour of the proposal to postpone the consideration of the Bill. Although it has been considered by the Select Committee most carefully, section by section, still having regard to the importance of the questions at issue it is desirable that Hon'ble Members, who have not taken any part in previous discussions, should be allowed time to give the Bill the attention which it deserves. Their request is reasonable. I think we should lose nothing by allowing them a little time to consider the Bill. The postponement however should only be for a short period, say, for a week or fortnight."

The Hon'ble MR. FINUCANE said:—"It may be postponed to a date to be fixed later, but which will be before the termination of this Session."

The Hon'ble MR. BOLTON said:—"It may be postponed to the next meeting of the Council, without fixing any date to-day."

The Hon'ble The PRESIDENT said:—"The amendment of the Hon'ble Member now runs as follows:—"That the consideration of the Final Report of the Select Committee be postponed." As it appears from the speech of the Hon'ble

[*The President : Babu Norendra Nath Sen.*]

Member that he has some substantial objection to raise to the Bill, I shall not oppose his proposition. At the same time, of course, I am unable to modify or withdraw any of the remarks which I have just made, but I hope that on the next meeting of the Council we shall be able to pass the Bill unanimously."

The Hon'ble BABU NORENDRA NATH SEN moved that the consideration of the Final Report of the Select Committee be postponed.

The Motion was put and agreed to.

The Council adjourned to a date to be notified hereafter.

CALCUTTA;

The 4th September, 1897. }

F. G. WIGLEY,

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

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 21st August, 1897.

P r e s e n t :

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

The Hon'ble M. FINUCANE.

The Hon'ble C. W. BOLTON, C.S.I.

The Hon'ble W. H. GRIMLEY.

The Hon'ble J. PRATT.

The Hon'ble G. TOYNBEE.

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

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

The Hon'ble M. C. TURNER.

The Hon'ble NORENDRA NATH SEN.

The Hon'ble KALI CHARAN BANERJEE.

The Hon'ble SURENDRANATH BANERJEE.

CHOTA NAGPUR TENANCY BILL.

The Hon'ble Mr. GRIMLEY in presenting the Report of the Select Committee on 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 Chota Nagpur, said:—

“It is not necessary to make any lengthy remarks, for when I last had the honour of addressing this Council on the subject, I entered upon a full description of the circumstances which led up to the proposed measure. I gave an account of a long series of disputes between the aboriginal cultivators of the soil and their alien landlords—disputes culminating in a serious agitation which menaced the peace of the country, and gave much trouble to the district authorities. There were faults on both sides: the zamindars for their part demanding more than they were entitled to get, and the raiyats in their turn refusing to pay their legitimate dues, and in some instances claiming to hold land at a quit-rent direct from Government, without the

[Mr. Grimley.]

intervention of any zamindar, and seeking to put back the clock of time several centuries and revert to an age when landlords and rents were unknown. The disputes to some extent were traceable to the peculiar system prevailing in Chota Nagpur, under which rents are payable in money, in kind, and in service. The payments in kind are contributions of the produce of the land and stock, tithes of all sorts, pots of milk, vessels of ghee, measures of dhan and rice, cotton, sheep, goats, buffaloes, and here and there a fighting cock in those parts of the country where cock-fighting is a favourite pastime. These contributions are usually termed *rakumáts* and are recognised by the Courts as rent. When the landlords and tenants are on friendly terms, the quantity is determined by the good-will of both: but when there is any tension disputes arise, and the Courts find a difficulty in arriving at a satisfactory settlement. The services to be rendered by the raiyat consist in tilling the lands of the landlord, building his house, and occasionally carrying his luggage. The customary service is three days' digging, three days' ploughing, three days' sowing, three days' cutting, with one or two days for threshing and storing grain. On the last occasion, when the agitation took a pronounced form, it was decided by the Government of Bengal, in consultation with the Commissioner, and with the concurrence of the Government of India, that the best way of preventing disturbances in future would be to give Government the power of intervening and of compelling both landlord and tenant to accept commutation of the *rakumáts* and services into a money rental. Under the present law, commutation can be made if the parties come forward of their own accord and apply for it. The present Bill goes further than this, and allows Government to insist upon commutation whenever it thinks it expedient to do so. It is not intended that this power shall be exercised in every case of dispute, but only when the peace of the district is threatened.

“In addition to the disputes relating to conditions of service, there were other disturbing causes which had reference to the assessment of rent on excess lands, the enhancement of rent, the system of depositing rent in Court, and other vexed questions, and it was considered that the settlement of these matters would be facilitated by the extension of the Bengal Tenancy Act, with certain modifications, to Chota Nagpur, in place of the existing Act, I (B.C.) of 1879, which, in the opinion of many persons, has not been a success. In these respects the Bengal Tenancy Act was thought to be better adapted to the requirements of Chota Nagpur than the existing law, and it was especially deemed an

[Mr. Grimley.]

advantage that the former Act would bring with it a collection of rulings and precepts which would be an invaluable guide to the Courts in deciding cases. It was proposed to omit sections 50 and 71, the former, because the country was not sufficiently advanced to give the raiyats the presumption which it creates in favour of a fixed rent, and the latter, which makes *always* illegal, because it is opposed to the custom of the country, which allows certain cesses to be realised as rents.

“At the present time, however, as the Council is aware, there is a Bill under consideration for the amendment of the Bengal Tenancy Act in some important respects, and in view of this fact, the Select Committee are of opinion that this would be an inappropriate time to extend that Act to Chota Nagpur. I accept this as a reasonable suggestion, and do not therefore propose to press for the introduction of the Act into Chota Nagpur at present. Act I (B.C.) of 1879 will therefore remain, and section 2 of the Bill, which provided for its repeal, has been omitted from the amended Bill.

“Chapter II of the former Bill was a reproduction with a slight modification of sections 19 and 20 of the present Act, which it was necessary to retain, as they prescribe the incidents as regards liability to enhancement of certain tenures peculiar to Chota Nagpur. But as that Act is not to be repealed, there is no necessity for repeating the provisions in question in the present Bill. Chapter II has therefore been omitted.

“Chapter IV, relating to the registration and resumption of intermediate tenures, has also been omitted for the reasons mentioned in the Report of the Select Committee. When I last addressed this Council, I explained at some length the object of this Chapter: but as the subject is extremely technical and somewhat intricate, I do not propose to go over the whole ground again. It is sufficient to say that the object was, first, to secure the summary process of resumption which the zamindar possesses under Act I (B.C.) of 1879 of tenures held conditionally on the survival of male heirs of the original grantee; secondly, to enable him to accept the registration of a transferee without imperilling that right; and thirdly, to provide him with the means of realizing rents from such transferees. With the withdrawal of this Chapter the zamindar will be still left with the same means of resumption as he has under section 34 of the existing Act, but he will continue to labour under his present difficulty in the matter of the recovery of rent. The question of the best means of affording

[Mr. Grimley.]

relief will still remain to be solved when the extension of the Bengal Tenancy Act is again considered.

"Regarding the main provisions of the Bill relating to the commutation and record of predial conditions and services I have but little to say, for section 4 is a reproduction with a slight modification of sections 25 and 26 of Act I (B.C.) of 1879, and relates to voluntary commutation at the instance of either the tenant or landlord. The alteration is in the proviso, which prescribes that, in the case of conditions or services other than *rakumáts*, the rent payable on commutation shall not exceed one-fourth of the rent already paid by the tenant. This is necessary in order to prevent the commutation pressing harshly on poor raiyats. Section 5 enables the Government to order the preparation of a record of predial conditions or services, with or without commutation, whenever it may deem it expedient to make such an order. As I have said before, this provision is intended to meet cases in which such an order is calculated to prevent a serious breach of the peace. Section 6 prescribes the particulars which the record is to contain, which, it will be observed, is a simple record of facts, and does not involve any enquiry into right, title, or status. Section 7 relates to the publication of the record and section 8 to appeals. The provisions regarding appeals follow as nearly as possible those laid down in Act I (B.C.) of 1879. Sections 11 and 12 provide for the defraying of the costs of commutation proceedings and follow section 114 of the Tenancy Act, with the difference that the revenue officer is authorised to require a deposit in advance from the person applying for commutation. The remaining sections of the Bill refer to the power vested in the Local Government for making rules and to the procedure to be observed for making and publishing the rules. The Bill as now prepared is of a simple and non-contentious character, and I trust it will be passed at the next meeting of this Council."

The Council adjourned to Saturday, the 28th instant.

CALCUTTA;
The 4th September, 1897. }

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

*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 28th August,
1897.

P r e s e n t :

The Hon'ble C. C. STEVENS, C.S.I., Offg. Lieutenant-Governor of Bengal,
presiding.

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

The Hon'ble M. FINUCANE.

The Hon'ble C. W. BOLTON, C.S.I.

The Hon'ble W. H. GRIMLEY.

The Hon'ble J. G. H. GLASS, C.I.F.

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

The Hon'ble J. PRATT.

The Hon'ble G. TOYNBEE.

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

The Hon'ble A. H. WALLIS.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

The Hon'ble M. C. TURNER.

The Hon'ble NORENDRA NATH SEN.

The Hon'ble SALIGRAM SINGH.

The Hon'ble KALI CHARAN BANERJEE.

The Hon'ble SURENDRANATH BANERJEE.

ALLEGED ASSAULT ON BABU GIRISH CHUNDER MOOKERJEE.

The Hon'ble BABU SURENDRANATH BANERJEE said :—

I have the honour to call the attention of the Government to the statement

A police *zulum* of an unprecedented character was perpetrated at Machua Bazar Street this morning. At about 9-30 o'clock, when Babu Girish Chunder Mookerjee, M.A., Head-Assistant to the Registrar of the Calcutta University, was about to leave for his office, he was arrested by a *posse* of constables, headed by Inspector Marklew, of Sukea Street thana, assaulted on the public road, and walked off to the thana. The head and front of Girish Babu's offence was that he had asked two police constables, who were beating a supposed thief and abusing him in the filthiest language on a piece of his land close to that part of his house especially intended for the ladies. Girish Babu objected to the violent language used by the constables within the hearing of the ladies, and told them to leave the place. One of the constables went and informed the Inspector of the local thana, and he immediately, with about a dozen constables and head-constables, came to Girish Babu's house, arrested him, and assaulted and took him to the thana in the manner I have mentioned above. He was charged with obstructing police officers in the discharge of their duties. He was afterwards released on bail.

AT THE POLICE COURT.

Later on the same day, Mr. Manuel, with several junior Pleaders, appeared before Mr. Bonnaud, Officiating Northern Division Presidency Magistrate, and applied on behalf of Babu Girish Chunder Mukherjee for a summons against Inspector Marklew of the Sukea Street thana and two of his subordinate Police Officers, for having trespassed into his client's house in Machua Bazar Street, and for having abused and assaulted him, dragged him along the streets to the local thana, although at the time no charge was made against him, and although the complainant's brother, Babu Gopal Chunder Mukherjee, Deputy Collector of Calcutta, desired to know what offence (if any) his brother had committed. It appears that early on Saturday a broken box, which was connected with a charge of theft, was found on an open piece of ground adjoining the complainant's house, and that some Indian Police Officers had taken two men to that piece of ground and were unmercifully beating them, on which the complainant, from an upper window, remonstrated with them. Thereupon, the complainant was called downstairs. On his coming downstairs, the subordinate officers at once laid their hands on him and was dragging him to the thana, when Inspector Marklew came up with a *posse* of policemen, abused the complainant, and hit him a blow in the mouth, cutting his under-lip, and gave orders to drag him to the thana, and, although the Inspector was asked several times by the complainant and his brother and several other respectable neighbours to state what offence he had committed, the Inspector declined to give any reason. As far as the complainant was aware, he was arrested without any justification whatever. In the scuffle he was so flurried that he dropped his spectacles, so that when a document was handed to him and he signed it he did not know a word of its contents. After recording some evidence His Worship granted summonses against Inspector Marklew and his subordinates

noted in the margin, taken from a recent issue of the *Amrita Bazar Patrika*, which purports to describe a case of gross and unprovoked assault committed by Mr. Marklew, Inspector of the Sukea Street thana, upon Babu Girish Chunder Mookerjee, M.A., Head-Assistant in the Office of the Registrar of the Calcutta University.

Is it the case, as alleged, that the Inspector assaulted Babu Girish Chunder Mookerjee, cutting his under-lip, and gave orders to drag him to the thana, and that, although the Inspector was asked several

times by the complainant what offence he had committed, the Inspector declined to give any answer? If so, will the Government be pleased to state what notice has been taken by the superior authorities of the conduct of the Inspector in the matter? Does the Government consider the Inspector a fit and proper person to remain in responsible charge of a station?

The Hon'ble MR. BOLTON replied :—

"The Lieutenant-Governor's attention was attracted by the case mentioned by the Hon'ble Member, and enquiry has been made. The Commissioner of Police reports that the Inspector did not assault Babu Girish Chandra Mukherji. It appears that two thieves were taken by some police officers to an open plot of

Alleged Assault by Inspector Lyons.

[Mr. Bolton ; Babu Surendranath Banerjee.]

land adjoining that person's house and belonging to him, for the purpose of pointing out stolen property hidden there. Babu Girish Chandra Mukherji objected to the noise which was made, and told the police to leave, pushing or assaulting one of them. He was thereupon arrested by another officer for assault on the police, but broke away. Information was conveyed to Inspector Marklew, who came and re-arrested the Babu at his door, after enquiring whether it was he who had assaulted the police officer and receiving the answer that he had committed no assault, but had got away from the custody of the police. The Inspector did not exceed his powers under the law, but the Lieutenant-Governor is not satisfied that his action was throughout judicious. He is an officer of fourteen years' service, who is reported by the Commissioner of Police to bear an excellent character and to be quite fit for the charge of a station. The case instituted by the police, as well as the complaint filed against them by Babu Girish Chandra Mukherji, has been amicably settled."

ALLEGED ASSAULT BY INSPECTOR LYONS.

The Hon'ble Babu SURENDRANATH BANERJEE said :—

I beg to ask if the attention of the Government has been called to the

allegations set forth in the margin, and which are quoted from one of the newspapers.

Another officer of the same (Calcutta Police) force, Mr Lyons, has, we observe, been fined by Mr. Wheeler, Joint-Magistrate of Alipore, for assaulting a young Eurasian while in police custody. This case has a history of its own well worth reproduction. One night in March last, Mr Lyons, then in charge of the Ekbalpur thana, received information that some people were having a row in a house close by, occupied by an East Indian family, and he at once started with a couple of dozen constables, as if he was going to put down a riot. Arrived at the house, he found that those whom he wanted had gone away, and an inoffensive young man, Jack Blackford, was the sole occupant of the premises. Against him there was no information before him, and it was abundantly clear that he was not one of the party which was indulging in liquor, and yet Lyons had him arrested, and to cap all, struck him with his fist, causing him to bleed, simply because he had the impudence to complain of the ill-treatment he had received from the constables in whose custody he was. The arrest and the assault, according to the Sessions Judge, before whom the matter went on revision "were perfectly unjustifiable"; but how did the Magistrate dispose of Blackford's complaint when he went to Court? Maulvi Abdul Kader, who first took judicial cognisance of the matter, declined to issue a process upon the European Inspector, but wanted a police report first. In vain did Blackford protest against Superintendent Forsyth—the *alter ego* of the Inspector—having anything to do with his complaint; but the Magistrate, whose sole aim was to stand well with the Police and be a *persona grata* with the Commissioner of Police, was inexorable. Mr Forsyth's report, as was anticipated, was adverse to the complainant, and then the Magistrate held an elaborate inquiry, during which Mr. Forsyth represented the accused with the result that the complaint was dismissed under section 203, Criminal Procedure Code. Mr. Lyons was deemed too big a swell to be summoned as an accused and placed on the dock. Discomfited before the Magistrate, poor Blackford had to approach the Sessions Judge, who, fortunately for him, at once saw the injustice of the Magistrate's order, and directed processes to issue against the Inspector. The Judge would not trust the Maulvi with the re-trial of the case, and it was, therefore, made over to Mr. Wheeler, who found, in spite of Mr. Forsyth's evidence to the contrary, that Blackford's version of the assault was substantially correct. For full five months this man had to run from Court to Court to seek that justice which came tardily in the end.

hands of the constables in whose custody he was?

(a) Is it the case that Mr. Lyons, Inspector of the Ekbalpur thana, was fined five rupees by Mr. Wheeler, Joint-Magistrate of Alipore, for committing an assault upon one Jack Blackford while he was in police custody, causing him to bleed, for no other offence than that he had complained to the Inspector of violent treatment at the

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

(b) Is it the case that the Deputy Magistrate before whom Blackford complained called for a report from his immediate superior officer, Mr. Forsyth, the Superintendent, and that upon such report and after such enquiry as the Deputy Magistrate made, he declined to issue process ?

(c) Is it the case that the District Judge before whom an appeal was made against the orders of the Deputy Magistrate characterized the assault committed upon Blackford as "perfectly unjustifiable," and directed process to issue against the Police Inspector, and the case having been made over by the Judge to a Magistrate other than the Deputy-Magistrate who had heard the complaint, viz., Mr. Wheeler, the Joint-Magistrate of Alipore, the said Joint-Magistrate fined the Inspector five rupees, notwithstanding the evidence of Mr. Forsyth, the Superintendent, to the contrary ?

(d) Will the Government be pleased to state what notice has been taken of the conduct of the Inspector who was convicted by a Judicial Court of assault committed upon a person in his custody ?

The Hon'ble MR. BOLTON replied :—

"The Lieutenant-Governor has perused papers relating to the case referred to. It is true that the Inspector was fined by the Joint-Magistrate, as stated, that the Deputy Magistrate had previously refused to issue process against him, and that the Judge ordered the hearing of the complaint, believing from the evidence before him that an assault had been committed by the Inspector. On full consideration of the circumstances of the case, the Lieutenant-Governor sees no necessity for any interference on the part of the Government in this matter."

ESTATES PARTITION BILL.

The Hon'ble MR. FINUCANE moved that the Report of the Select Committee on the Bill to amend the law relating to the Partition of Estates be taken into consideration, and that the clauses of the Bill be considered in the form recommended by the Select Committee. He said :—

"I have nothing to add to what I have said on previous occasions."

The Motions were put and agreed to.

[*Babu Norendra Nath Sen; Mr. Finucane.*]

The Hon'ble BABU NORENDRA NATH SEN moved that section 7 be struck out. He said:—

“Section 7 provides as follows:—

Where the lands of an estate have been divided by private arrangement formally made and agreed to by all the proprietors and each proprietor has, in pursuance of such arrangement, taken possession of separate lands to be held in severalty as representing his interest in the estate, no partition of the estate shall be made under this Act except (a) on the joint application of all the proprietors, or (b) in pursuance of a decree or order of a Civil Court.’

“I need not read clause 2 of the section because it does not concern me. This section 7 is a reproduction of section 12 of the existing Act with a couple of amendments added, but it was omitted from the Bill as originally introduced into the Council. Of course the section, as it stands, is a harmless one when all the proprietors of an estate apply jointly for partition, a contingency which, however, is very rare. What generally happens is that a private partition is sought to be set aside by one or more of the proprietors, and then it is left to the Collector to determine whether the alleged partition did actually take place or not. All that I urge is that the determination of all questions like these should be left entirely to the Civil Courts, who alone are fitted to adjudicate them. The Collector is not the proper person to decide them, since he has neither the power nor the machinery for doing so. He cannot take evidence under the Evidence Act, and yet under section 12 of the present Act not a few private partitions have been upset altogether, the plea of mere possession, however long, having been summarily rejected. That section has done more harm than good, for it has given rise to many conflicting rulings by the Board of Revenue, as would appear from the Board's ‘Butwara Manual;’ for the words ‘formally made and agreed to’ introduce a wholly vague element into the meaning of the section, and instead of improving matters rather make them worse. The phrase is indefinite and capable of any construction that may be put upon it. I therefore move that section 7 of the Bill be omitted altogether.”

The Hon'ble MR. FINUCANE said:—“I must oppose this amendment. As the Hon'ble Member has pointed out, section 7 reproduces section 12 of the existing Act. Section 7 recognises the right of proprietors to make a private arrangement among themselves by which they can each take possession of separate lands to be held in severalty as representing their separate interests, and debars

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

the upsetting of such an arrangement, except on the joint application of all the proprietors or in pursuance of an order of a Civil Court. This right of proprietors to make a private partition, which is not to be ignored, except on the application of all of them, was conferred by Article IX of the Permanent Settlement Regulation, I of 1793, and I cannot conceive why the Hon'ble Member should wish by striking out section 7 to deprive proprietors of a privilege which they have always enjoyed. It is true that section 7 was omitted from the earlier editions of the Bill, because the corresponding section 12 of the Act was thought to be of very limited application, and was said to have been used as a subterfuge for delaying partition proceedings. The Select Committee did not, however, consider that these were sufficient reasons for withdrawing a right which had always been allowed. By sub-section (2) the Committee have guarded against the danger of the section being used to delay the proceedings. The Hon'ble Member says the Collector is not the proper person to decide questions of right or title; but as far as I can see, the Collector has nothing to do with the settlement of questions of right under this section. As to the objection which the Hon'ble Member has taken to the words 'formally agreed to by all the proprietors,' I would remark that this phrase was carefully considered by the Select Committee. It is in accordance with the decisions of the Board of Revenue quoted in the Partition Manual, and is only intended to secure that the private arrangement shall be properly and formally made. The word 'formally' was put in to show that it must be a thorough *bonâ fide* private arrangement, though not necessarily to be registered or put into writing. For these reasons I oppose this motion."

The Motion was put and negatived.

The Hon'ble BABU SURENDRANATH BANERJEE moved that in section 7, sub-section (1), the following words be inserted after the word 'proprietors' in lines 4 and 5, namely:—

'existing at the time when the arrangement was made.'

He said:—"I desire to call attention to the words of section 7, and will read the section with my amendment interpolated. The section would then run thus:—

'Where the lands of an estate have been divided by private arrangement formally made and agreed to by all the proprietors existing at the time when the arrangement was made, and each proprietor has in pursuance of such arrangement, taken possession.'

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

"The amendment is a very small one, and does not involve any question of principle whatever. The word 'proprietor' is used in sub-section (1) of section 7. We have the word 'proprietor' also in clause (a) of sub-section (1), where it means 'present proprietor.' We have thus the word used in two different senses in two different places in the same section. The present proprietor may not be the proprietor existing at the time when the arrangement was made, although he may be the representative of such proprietor. The object of the amendment is to obviate all doubt and inconvenience which may arise from such a state of things."

The Hon'ble Mr. FINUCANE said :—"I am sorry I cannot accept this amendment, which is one which the Select Committee considered. We considered the words 'existing at the time when the arrangement was made' to be perfectly superfluous. An arrangement made by all the proprietors must mean by the proprietors existing at the time, because proprietors who were not then existing could not have made an arrangement; and persons who become proprietors after the making of the arrangement were not proprietors at the time the arrangement was made. The words proposed to be introduced are therefore superfluous as a matter of drafting."

The Hon'ble BABU SURENDRANATH BANERJEE said :—"Having got this expression of opinion from the Hon'ble Member in charge of the Bill, that the word 'proprietors' means proprietors existing at the time the arrangement was made, I beg leave to withdraw my amendment."

The Motion was, by leave, withdrawn.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that in section 7, sub-section (2), the figures "29" be substituted for the figures "28."

The Hon'ble Mr. FINUCANE said :—"I accept this amendment. It is a mere clerical amendment which the Secretary discovered independently."

The Motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that the following proviso be added to section 7, sub-section (2), namely :—

'Provided that it shall always be in the discretion of the Collector in case of hardship to entertain an objection even after an order under section 29 has been passed, subject to such conditions as regards costs as he may prescribe.'

[*Babu Surendranath Banerjee.*]

He said :—"As this proviso is a proviso to be added to sub-section (2) of section 7, it will be necessary to call the attention of the Council to that sub-section. It says:—

‘No objection to the partition of an estate under this Act on the ground that the lands have been divided by private arrangement shall be admitted unless it is presented before the Collector records a proceeding under section 29 declaring the estate to be under partition.’

"The object of my amendment is to empower the Collector to entertain objections even after an order has been made under section 29. Whether an objection is to be entertained by the Collector or not will depend entirely on the discretion of that officer, and I think the Council will deem the Collector to be a sufficiently responsible officer to be entrusted with this discretion, and to be sufficiently qualified to exercise that discretion in a manner that may be consistent with justice. It is a notorious fact, and we have recognized it in various enactments which have been passed by this Council, that notices in this country are often very unsatisfactorily served. My amendment will provide a remedy. If a proprietor has not received a notice and has not been able to make his objection, then it will be in the discretion of the Collector to receive his objection even after a proceeding has been recorded under section 29. I am supported by the high authority of the Board of Revenue in this matter, and I call attention to page 4 of the last letter of the Board of Revenue. They say ‘Mr. N. K. Bose, the Collector of Rajshahi, suggests that in view of the unsatisfactory nature of the service of notices in this country, the limit of time for an objection may be extended up to one month.’ Mr. Forbes (Commissioner of the Chota Nagpur Division) observes that the time limit seems unnecessarily despotic, and proposes the addition of a proviso permitting extension of time, for special reasons, by the Commissioner, subject to such conditions as regards costs as he may prescribe. There is some force in these objections, as the arrangements for the service of notices are not always infallible, but there can be no doubt that the existence of a private partition is occasionally asserted on uncertain grounds at a very late stage in the proceedings merely for the sake of delay and obstruction. To obviate this, it is desirable that a limit of time should be fixed as provided in the Bill, but to meet cases of hardship some exception might be permitted, either by adopting the suggestion of Mr. Forbes, or by giving the Collector authority to receive the objection, subject to such

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conditions as regards costs as he may prescribe, at any subsequent time before he records an order under section 49 of the Bill.

“My amendment simply embodies the suggestion of the Board, and I hope it will be accepted.”

The Hon'ble MR. FINUCANE said:—“I cannot accept this amendment. It was proposed by Mr. Forbes in his report upon this Bill. It was considered by the Select Committee, and they thought that it ought not to be accepted. As the sub section stands objections can be presented at any time before the Collector records a proceeding under section 29, that proceeding being a declaration that the estate is under partition. If the Hon'ble Member will refer to section 29, he will find that before a proceeding can be recorded under that section, a notification must be published under section 21 calling upon all the proprietors of the estate under partition and upon all the proprietors of the neighbouring estates to file their objections. That notification must allow thirty days at least from the date of the publication of it for filing objections, and therefore there is ample time for everybody interested to make his objections before the Collector records a proceeding under section 29. The objection to the amendment which the Hon'ble Member proposes is that it would be open to persons interested to try to cause delay by coming forward at all stages and at any time during partition proceedings, and alleging that they had not received due notice, and the effect would be not only to delay the proceedings but to add to the expense of them. One of the objects of the Bill is to shorten the procedure and to cheapen the cost of obtaining partition. It seemed to the Select Committee that the time given is amply sufficient, and therefore I cannot accept the amendment.”

The Motion was put and negatived.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that the following proviso be added to section 8, namely :—

‘Provided that the interest of a Hindu widow in the estate of her deceased husband shall not be deemed to be a life-estate under the terms of this section.’

He said:—“I beg to call the attention of the Council to section 8, which provides as follows :—

‘Notwithstanding anything hereinbefore contained, no person having a proprietary interest in an estate for the term of his life only shall be entitled to claim partition under this Act.’

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

“My amendment seeks to give effect to what is the Case Law on the subject. It has been more than once held that the interest which a Hindu widow possesses in the estate of her deceased husband is something more than a life-interest, and that she is fully entitled to partition. Therefore, instead of allowing this right to rest on the decision of the Courts, I propose to embody it as a part of the substantive law. I know that that is the view of the High Court, and I have before me rulings of the High Court on the point. But I venture to suggest that having regard to the fact that we are now legislating on the subject, it is desirable that we should embody the rulings of the Court in the law of the land. I believe the principle is conceded, and there is no difference of opinion between the Hon'ble Member in charge of the Bill and myself. It is only a question as to how we should proceed. If, however, the Council is of opinion that it is not expedient to introduce this amendment, I have no serious objection to offer.”

The Hon'ble MR. FINUCANE said:—“The High Court decided in the case of *Mahadob Koor versus Hari Narain* and others, that the interest of a Hindu widow succeeding as heir to her husband's estate is more than a life-interest; therefore she would not be debarred, as the section stands, from claiming partition. But the amendment of the Hon'ble Member might possibly frustrate his object, for he says that for the purposes of this section the interest of a Hindu widow is not a life-interest, which might be taken to mean that it is less than a life-interest. However that may be, I oppose the amendment on the ground that it is superfluous.”

The Hon'ble BABU SURENDRANATH BANERJEE said:—“I don't accept the view put forward by the Hon'ble Member in charge of the Bill. I do not accept the interpretation which he has put upon my amendment. Section 8 creates a disability. I want to remove this disability from the status of a Hindu widow; therefore, instead of lowering her condition, I think my amendment will improve it. At the same time, having heard what has fallen from the Hon'ble Member, I desire to withdraw this amendment.”

The Motion was, by leave, withdrawn.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that for clauses (a), (b) and (c) of section 11 the following be substituted, namely:—

‘if the separate estate of any of the proprietors would be liable for an annual amount of land-revenue not exceeding one rupee, until the proprietor of such separate estate agrees to

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redeem the amount of the revenue for which his estate would be liable by payment of such sum as the Lieutenant-Governor may fix with reference to the circumstances of such estate.'

He said:—"This is the most important amendment which I have the honour to place before the Council, and it affects the section which may be regarded as the keystone of the Bill. The object of the Bill, to the explanation of which the Hon'ble Member in charge devoted a considerable portion of his speech when introducing the Bill, is to raise the limit of partition from Re. 1 to Rs. 10. The object of my amendment is to keep the law as it is. I claim that it is incumbent on the Hon'ble Member to make out a case for the change which he proposes. He is in favour of a modification of the law: I wish to keep things as they are. Therefore the burden of proof is not on me, but on him. It is maintained on behalf of the proposa's of the Government that they will benefit the zamindars; that they will benefit the raiyats, and will afford relief to the executive officers of the Government, who are overburdened with the work of opening separate accounts. We have a unanimity of opinion emanating from zamindars on this subject. The British Indian Association represent the interests of the zamindars, and the Association may be regarded as the accredited exponent of the zamindars' feelings and sentiments in this part of Bengal, and they have made a strong protest against the proposal for raising the limit of partition from Re. 1 to Rs. 10. Again, Babu Guru Prosad Sen, who was for some time a Member of this Council, and is the Secretary to the Behar Landholders' Association, protested against it. The Indian Association, with which I have the honour to be connected and which looks at the matter from the point of view of the raiyat, also strongly protests against it. Therefore, while the Government is solicitous of conferring a boon on zamindars and raiyats, zamindars and raiyats, strangely enough, seem to be insensible of the benefit which it is proposed to bestow on them. Nor is this all. Not a single English journal in this country which has referred to this matter is in favour of the change which is proposed. I will read to the Council an extract from the *Englishman* bearing on my amendment, and it is remarkable that the *Englishman* and myself should be found in agreement. The *Englishman* says:—'Apart, however, from the question of procedure, the Bill introduces one radical change in restricting the limits within which estates may be divided.

* * * What is the reason of the proposed restriction of partition? Under the existing law co-sharers in estates are encouraged to separate their interests

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and to form properties which they can efficiently manage, and for which they can be held responsible. If the Government revenue is not more than a rupee, the owners of the estate are allowed to reduce it, and they then have a well-ordered property which has discharged its functions to the State, and which is a source of strength to the country. It seems clear to any one but a Government official that it must be better for the country to have a number of single estates than to have a few large estates held by the numerous co-sharers whose quarrels and disputes are a constant cause of trouble to the country, and prevent all chance of improvements or the other advantages which follow good management of landed property.'

"I find that this opinion is also shared by certain managers of Wards' Estates. Mr. Buskin, the Manager of the Hutwa Raj, says that 'the existing limit of one rupee should be allowed to stand.' But it is not only the opinion of zamindars and raiyats and of the non-official European community that is arrayed against this provision of the Bill. There is a considerable body of official opinion in opposition to this section, and I desire to refer to it. And the first opinion that I shall quote will be the opinion of an honoured and honorable colleague of ours. I refer to Mr. Toynbee, who as Commissioner of the Dacca Division expressed himself in favour of retaining the present limit of partition. I do not know if the Hon'ble Member still adheres to that opinion, but I hope his translation to a seat in this Council has not led to any serious modification of his views. Mr. Toynbee said, writing on the 15th May, 1897,—'Personally I am in favour of leaving section 11 of Act VIII (B.C.) of 1876 as it is, or of extending its limit to, say, Rs. 5 or Rs. 10, the latter for choice. It is the *smallest* shareholders who most require the protection of the partition law, and yet it is proposed to practically take it away from them, in order to simplify the tauzi accounts.' This is the deliberate opinion of Mr. Toynbee given so late as the 15th of May last. But Mr. Toynbee does not stand alone; he is supported by a formidable body of opinion entitled to the highest weight and consideration at the hands of this Council. There is the opinion of Mr. N. K. Bose, who for sometime was Secretary to the Board of Revenue, and therefore must be taken to be an expert in a matter of this kind. He says, as Magistrate and Collector of Rajshahi, that he would prefer the section as it stands in the present law. Then we have Colonel Evans Gordon who says:—

'The native members, who may be taken to represent the general views of the landlords in this province, object to the fixing of any limit at all. Government thinks that the

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imposition of a limit is necessary to prevent a large addition to the number of estates, and the consequent increase in the work of the Tauzi Department. It is also considered that partition into very small estates may endanger the safety of the revenue. As regards the increase of work of the Tauzi Department, it can also be caused by the opening of separate accounts under sections 10 and 11, Act XI of 1859, and section 70 of Act VII of 1876; and so long as these facilities for opening separate accounts remain, the imposition of a limit in the butwara law is not likely to lead to any considerable relief to the Tauzi Department. As regards the insecurity of Government revenue, the Hon'ble Guru Prasad Sen says that most landlords will be glad to redeem their estates, by paying forty times the annual revenue, and this, I believe, to be a fact. If the estates are redeemed, there can be no objection also on the score of likelihood of increase of work. The question whether it will be sound policy to allow the petty proprietors to redeem their estates, by paying forty times the Government revenue, is a different one. It is certain that the amount of revenue that can be redeemed this way will be very small compared with the total land-revenue for the province, and we can safely presume that a good portion out of it will not, as a matter of fact, be redeemed.'

"Then we have Mr. Battavyal, Collector of Bogra, who says the same thing. He observes that:—

'So long as the right to have separate accounts opened for any amount of land-revenue, however small, remains unrestricted, there will be very little gain, from an administrative point of view, by the proposed limitation. Each separate account for Road and Public Works Cess purposes counts as an estate. And in the tauzi ledger, the complications introduced by separate accounts are, in fact, greater than those created by the formation of new estates by partition. In fact, for purposes of account, a new estate is much simpler than a separate account. I am, therefore, of opinion that the proposed limitation may be abandoned.'

"I need not trouble the Council with further quotations. Here we have the opinions of high and responsible officers of Government, which are directly opposed to the position which the Government has assumed in this Bill. As far as relief to the executive officers of the Government is concerned, it seems to me that that is not a consideration which ought to weigh very much with this Council. The executive officers of Government are distinguished for their splendid devotion to the onerous duties which they are called upon to perform, and I am certain this Council is not going to legislate in a manner which is calculated to cause serious public inconvenience, in order merely to afford relief to the executive officers of the Government. If you enact into law this section in the Bill, you will deprive 35 per cent. of the petty estates of the right of partition. The zamindars do not want it; the raiyats do not want it; the executive officers of the Government are not likely to gain any

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considerable advantage from it ; therefore it seems to me that the Government undertakes a serious responsibility by proposing the repeal of this section of the law. I venture to make an appeal to the Government—I would venture to appeal to you, Sir, not to allow the Government, over which you preside, amid the heart-felt satisfaction of all classes of the community, to incur this grave responsibility."

The Hon'ble MR. FINUCANE said:—"I must oppose this amendment. It seems to me that the course which the Hon'ble Member has taken with reference to this amendment is calculated to impede public business and to cause a serious waste of the time of this Council. Under rule 33 of the rules of business the principle of a Bill and the general provisions of it may be discussed when the Bill is referred to a Select Committee, or when any of the motions mentioned in rule 31 are made by the Member in charge, or on the occasion of any subsequent discussion with reference to any of those motions. That stage of a Bill is the stage at which the general principle of it ought to be discussed, as on the occasion of the second reading of a Bill in the House of Commons ; for it would be obviously most inconvenient and futile if when members are opposed to the principle of a Bill, the Bill should be referred to a Select Committee to consider it clause by clause, thus wasting the time of the members of the Select Committee for several weeks to no purpose, if at a subsequent stage the whole principle of the Bill and consequently the Bill itself is liable to be rejected. When I introduced this Bill I laid great stress on the fact that one of the two main principles of it was the imposition of a limit on partibility of the revenue other than that imposed by the present law. The Hon'ble Babu Surendranath Banerjee took part in that discussion, and so also did other members. They stated their reasons at great length against the imposition of an increased limit, and I endeavoured to answer them at considerable length, and I invited them to put the question then to the test of a vote, but they declined to do so. Now the Hon'ble Member seriously asks the Council to reject the whole principle of the Bill after considering it for sixteen months, and after previously accepting the principle and unanimously referring the Bill to a Select Committee. I will not oppose this motion on the ground of its being out of order, but I submit that the course adopted by my hon'ble friend is one which is productive of serious inconvenience. If it were to be frequently followed, the question may arise

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whether it would not be well to amend the rules, and make it clear that the principle of a Bill should be discussed when it is referred to a Select Committee, and only then. The Hon'ble Member at that stage said:—‘The Hon'ble Member referred to two matters of principle, one of which was to raise the limit of partition from 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;’ and so on. Again he said this—‘I congratulate the Hon'ble Member on the statement which he has made that the Government will be open to make a considerable modification in 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 in general.’ We have made very considerable modifications. We have gone to extreme lengths in modifying provisions to which the Hon'ble Member and others objected, but the Hon'ble Member is not satisfied, and he asks us now to reject the whole principle of the Bill. Why did not he ask the Council to reject the Bill at the time that it was referred to the Select Committee? Why should he have wasted our time by referring the Bill to a Select Committee, and now ask us to do what he had an opportunity of doing then, but did not do?

“I have listened carefully to the arguments which the Hon'ble Member has now brought forward, and by which he hopes to induce the Council to contradict the conclusion to which it came in referring the Bill to a Select Committee. I can find nothing in what the Hon'ble Member has now said which was not advanced before by the Hon'ble Member and by Babu Guru Proshad Sen and other members of the Council who were opposed to the principle of the Bill, and nothing which I did not answer sufficiently and at length on that occasion. The force of the arguments which are now again brought forward gains nothing by repetition, nor will repetition add to the force of the arguments I brought forward in reply. The Hon'ble Member has advanced nothing that is new. He has quoted the opinions of some Government officers. The opinions of Government officers were quoted at that time, and the number who expressed opinions in favour of the Hon'ble Member's view could be counted upon one's fingers' ends. The Hon'ble Member said he would not quote any further from official opinions, but the fact was that he had few, if any further

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official opinions to quote on his side. Excepting those of some six or seven members of the Civil Service, the opinions of Revenue Officers are unanimously in favour of the principle of the Bill. The Hon'ble Member also referred to the opinion of the High Court, but the High Court are in favour of an increased limit, and an overwhelming majority of the officers of the Government are in favour of not only the moderate limit now proposed, but even of a much higher limit. The Hon'ble Member mentioned the name of Mr. Toynbee, but I dare say Mr. Toynbee has seen reason to modify his opinion. Mr. Toynbee, however, is here, and can speak for himself. The other officers whose opinions have been quoted have not had much experience of the working of the partition law. Then the Hon'ble Member says the *Englishman* is in favour of the provisions of the existing law on this subject. I do not know what interest the *Englishman* is supposed to represent in this matter. If the *Englishman* represents any body of persons in this matter, it may be supposed to represent the interests of the indigo planters, but the Planters' Association is entirely in favour of this provision of the Bill. Then the Hon'ble Member said the zamindars are entirely against it. Perhaps the Hon'ble Member will admit that the Maharaja of Gidhour, who is a member of this Council and is a very important zamindar, may be entitled to hold an opinion on this subject. I have just received a letter from him which he has asked me to read to the Council. He says—

‘I think the section of the Bill as amended by the Select Committee ought to be allowed to stand. A further sub-division of an estate than the limit proposed will not be at all advantageous to anybody, and may lead to administrative difficulty, as far as the collection of the Government revenue is concerned. Small fractional shares sometimes present very little inducement to people to purchase and sometimes may not be sold at all. Sub-divisions *ad infinitum* may thus endanger the revenue. Thus again the excessive sub-division of an estate is very far from desirable, considered from the standpoint, either of the landlord or of the tenant. But such division cannot be avoided and partition may sometimes afford relief. In such a case the party has got his remedy in Civil Court; for all these reasons I would like to support the recommendation of the Select Committee.’

‘Then there is my hon'ble friend Saligram Singh, he is also in favour of the limit now proposed, and he may be taken to represent the views and interests of the important body of zamindars of Bihar—a division in which nine-tenths of the whole number of partitions are effected. The High Court, the Indigo Planters' Association, the Government of India, the Government of Bengal, the vast majority of Revenue Officers, the Hon'ble Members of this Council who

[*Mr. Finucane ; Sir Charles Paul.*]

represent the zamindars' interests, are all in favour of an increased limit, and yet the Hon'ble Member says that everybody whose opinion is of any importance is in favour of his amendment. I think it unnecessary to occupy the time of the Council in repeating what I said when I introduced the Bill and when it was referred to the Select Committee, and will therefore conclude by saying that I oppose this amendment."

The Hon'ble SIR CHARLES PAUL said:—"I must say a few words on this subject. The Hon'ble Member who has moved this amendment seems to think that the only persons interested in this matter are the zamindars, and that he will overcome all opposition to his amendment simply by stating that the zamindars are opposed to this provision in the Bill. But he forgets that the Government are equally, if not more, interested than anybody else in this matter. If the Government had not by an old Regulation provided that estates may by partition be separated in regard to the payment of revenue, they might have said we shall have no partition whatever. They, however, conceded that benefit to the zamindars. Now, the question is one purely of convenience whether it will be convenient or inconvenient to have small estates paying Government revenue to the amount of one rupee each partitioned. I apprehend that the persons best able to judge on the question of convenience or inconvenience are the Government who have to collect the revenue. Looking at it from this point of view, I see nothing in the opposition which has been made to the Bill. Looking at it from the other point of view, it may be contended that estates should be allowed to be divided down to a limit of eight annas. Why have a limit of one rupee, if the proposition is that all estates, however small, might be turned into separate estates? But the very first time this limit of one rupee was suggested, it opened out the question whether it was the right limit or whether the limit should be raised a little higher. That, I submit, is a question of convenience, and there is little in the objection which has been raised to the provision contained in the Bill. The objection, however, is very ingenious in its character. The Government proposed a limit of Rs. 100, and has actually come down to Rs. 10, and yet there are persons who are not satisfied. I look upon this as an ungenerous opposition to the views of the Government, and I trust that the Hon'ble Member, who is well known for his generosity and the liberality of his views, will not ask the Government to go further."

[*Babu Surendranath Banerjee; Babu Norendra Nath Sen.*]

THE HON'BLE BABU SURENDRANATH BANERJEE in reply said:—"I protest against the remark of the hon'ble and learned Advocate-General that my attitude in respect of this matter is an ungenerous attitude. We have come here to discharge a duty—I had almost said a sacred duty—which we owe to our constituents. We are here to give expression to what we believe in our heart of hearts to be public opinion, and if in doing so, we expose ourselves to unwarrantable charges, such as have been brought against us, we shall not be deterred from the discharge of our duty to those who have returned us to this Council. With reference to the observations which have fallen from the Hon'ble Member in charge of the Bill, I may say that if I have placed him in a somewhat inconvenient position by starting a question which had been considered before, he has likewise placed me in a somewhat inconvenient position by confronting me with the opinions I had expressed on a previous occasion. I do not depart from what I said before. I stick to my guns. I hoped on that occasion that this Bill would emerge from the Select Committee modified by the light of public opinion. My amendment follows the lines of public opinion; the Bill does not. My hon'ble friend says:—Whom does the *Englishman* represent? I am not in a position to answer that question, but I will ask in return—Is there any public journal which has supported the views of the Government? [Mr. Finucane:—'Yes, for example, the *Daily News*.'] That is the only paper which has supported the views of the Government. Opposed to that we have the *Englishman*, the *Hindu Patriot* and other journals. I suppose they represent somebody, if the *Englishman* does not. I don't imagine there is the smallest chance of my amendment being accepted, but I desire to state once again that by raising the limit of partition to Rs. 10, the Government is undertaking a responsibility which will be attended with disastrous results to the interests of a large number of poor proprietors in whose behalf we beg leave to raise our voices here."

The Motion was put and negatived.

THE HON'BLE BABU NORENDRANATH SEN moved that for clauses (a), (b) and (c) of section 11, the following be substituted, namely:—

'If the result of such partition would be to form a separate estate, liable for an annual amount of land-revenue less than five rupees.'

He said:—"Section 11 is the most important of all sections in this Bill and calls for serious consideration. Practically the limit provided by section 11 of

[*Babu Norendra Nath Sen.*]

the Bill is Rs. 15, below which no partition is to be allowed. If this limit is not lowered, the consequence will be that about, I will not say 34 per cent.; but I will say about 64 per cent.—I speak under correction—of the estates on the revenue roll will be excluded from partition: not a very small number certainly. The Butwarra Law is as old as the permanent settlement, and the first law on the subject which was introduced contemplated no limit in amount as to partitions, and I contend that the right to claim partition is inherent in joint owners. It is true that Regulation VI of 1807 imposed a limit to the partition of estates with a revenue demand of less than Rs. 500; but that Regulation was repealed only three years after, it having been found to be unsatisfactory in its operation. Any restriction on partition of estates is unknown in any other part of India except Assam, where even the minimum limit is Rs. 5. If there is no limit in temporarily-assessed tracts where partition should be rather discouraged than otherwise, how much more important must it be to allow sub-division of estates in the case of permanently-settled lands. After the repeal of Regulation VI of 1807 no attempt was made in the direction of restricting the partition of estates until 1876, when the present Act was passed by which such restriction was confined only to estates with a *sadar jumma* of Re. 1, and even in that case power was given to redeem the revenue by payment of a lump sum. This power is now taken away altogether. With the abrogation of this power I think there is greater reason why the limit put by section 11 of the Bill should be reduced still more. The policy of the British Government, as far as I understand it, has always been to improve the Butwarra Law. That was the object in enacting Regulation XIX of 1814, which reduced to one regulation, with certain additions and alterations, a number of regulations respecting the partition of estates paying revenue to Government. The same object influenced the Legislature in passing the present Act VIII (B.C.) of 1876, which was intended to simplify the partition procedure. And now the avowed object of the present Bill is to simplify, cheapen and shorten the partition procedure. If it is intended to confer a boon on the proprietors of estates by passing this Bill into law, why must we take away a much valued power which has been hitherto enjoyed by such proprietors. •My motion is a more modest one than that of my hon'ble friend Babu Surendranath Banerjee. I ask you to reduce the limit to Rs. 5, the same limit which is observed in the Assam Regulation I

[*Babu Norendra Nath Sen.*]

of 1886. If the limit is Rs. 5 even in such a backward province as Assam, I do not see why the limit in a forward province like Lower Bengal should be higher. Already much protection is afforded to petty co-sharers of an estate by allowing them to have separate accounts under sections 10 and 11 of Act XI of 1859, (the Sunset Law); but, as we know, in spite of the opening of such separate accounts, the entire estate may be sold under that law if the sale of the defaulting co-sharer does not fetch the entire amount of revenue due. Such being the case, why not make the protection complete by allowing such petty co-sharers to separate their interests with separate liabilities? That will stop the sale of the entire estate, and will be quite consistent with the benevolent spirit of the legislation which has been hitherto followed. For the sake of consistency, as well as for the maintenance of a continuity of policy, it would be well, Sir, if you could see your way to making some compromise by adopting my motion and assimilating the law at least of benighted Assam to that of advanced Bengal. Here in this very chamber, when the present Act was passed, the Hon'ble Mr. H. J. Reynolds distinctly said that 'in the opinion of the Government of Bengal it is not desirable that a partition which would result in the formation of an estate with a revenue of less than Rs. 20, should be prohibited,' or 'that such prohibition should be enforced by law.' 'There might be inconveniences,' he added, 'connected with the multiplication of petty estates, but it had always been conceded that landed proprietors had a right to have their estates divided if they chose to demand partition, and the Government did not consider that that right should be abrogated or denied to them. Accordingly in the Bill it was proposed * * * to allow partition to be carried out down to the limit of one rupee with power to the landholder to redeem in case the land revenue, after partition should be less than one rupee. * * * * * It was, of course, an open question whether the inconveniences which would result from excessive multiplication of small estates ought not to outweigh all other considerations. But he trusted the Council would accept the view taken by the Government, that this right was one which the Government was to a certain degree pledged to allow to landholders; that it was a right they had always exercised, and a right which ought not to be taken away.'

"After this distinct declaration by Mr. Reynolds, all that I submit is that Your Honour should feel considerable hesitation in passing this Bill into law without

[*Babu Norendra Nath Sen ; Mr. Finucane.*]

altering in a large degree section 11 of this Bill. As to the so-called administrative inconveniences arising from too minute sub-division of estates, I do not think the complaint is worth much when separate accounts are allowed to be opened under the Sunset Law, and when only the opening of an additional column in such accounts for insertion of the *tauzi* numbers of the estate will obviate all difficulties."

The Hon'ble MR. FINUCANE said:—"I am afraid I cannot accept this amendment. The proposal of the Hon'ble Member is, as he has said, very much more moderate than that of the Hon'ble Babu Surendranath Banerjee. It in fact differs very little from the Bill as it stands. His proposal is that no estate should be admitted to partition if the effect of the partition would be to create a new estate with a separate revenue of less than Rs. 5. In the Bill as it stands Rs. 5 is the absolute limit below which a new estate cannot be formed. The only difference is, we propose that partition shall be refused if the applicant's share after partition would be liable for a revenue not exceeding Rs. 10. According to our proposal, no estate with a revenue less than Rs. 15 can be partitioned, but according to the Hon'ble Member the limit would be Rs. 10. The difference is slight; but slight as it is, I cannot accept it. The Hon'ble Member has with much force adduced arguments which might tell in favour of the proposal of the Hon'ble Babu Surendranath Banerjee to impose no limit whatever. But I have listened carefully for any argument in favour of the proposal raised by the amendment now before the Council. Before I enter into that question I may state that the Hon'ble Mr. Reynolds subsequently withdrew the opinion quoted by the Hon'ble Member, for when he expressed that opinion, he was apparently unaware of the existence of the law which imposed a limit of Rs. 500, and he subsequently admitted that he was entirely wrong in stating that zamindars always had a right to unlimited partition." "The permanent settlement imposed infinitely more severe restrictions on partitions than we propose. According to the permanent settlement, the only time when a partition could be applied for is when a portion of the estate is alienated by sale or gift, or a portion of it is ordered to be sold by a decree of court, or when all the parties have made a partition and apply for a separation of their interests. A subsequent amendment of the law made such separation practicable on any of the co-sharers applying for partition.

[Mr. Finucane.]

"To come back to the question of the particular limit of Rs. 15 or Rs. 10, the Hon'ble Member mentioned two facts not mentioned before. One is that the limit of partitions in Assam is Rs. 5, and the other is that limits on partitions are not imposed in other provinces. But there is no analogy between Assam and Bengal. In Assam the settlement is for the most part *raiyatwari*, and where, as in the Sylhet District, there are permanently-settled estates in Assam, these estates consist of small areas of the size of an ordinary raiyat's holding. In Bengal, as the Council is aware, the case is altogether different. Estates are large, and revenue has to be paid under the Sunset Law in the Collector's office at the headquarters of the district. One of the objects of this Bill is to obviate the necessity of creating a large establishment in the mufassal at the expense of the general tax-payer for the collection of Government revenue in Bengal similar to the mufassal establishments that are required for the purpose in *raiyatwari* tracts. I pointed out when the Bill was referred to the Select Committee that if estates were to become as small in Bengal as ordinary raiyat's holdings (as is the case in Assam), and if the cost of realising revenue were thereby to be increased (as it must be, if unlimited partitions are allowed to go on), the permanent settlement would have all the disadvantages of *raiyatwari* settlements with none of their advantages from the tax-payers' point of view, and that the permanent settlement would thus become an intolerable burden to the tax-payers of other parts of India.

"The Hon'ble Member has referred to the large proportion that the number of estates that will be excluded from partition under the proposed limit bears to the total number of estates in Bengal, but he has overlooked the fact that, if the number of estates that will be excluded from partition be large, it is because these estates have already been subjected to partition over and over again, till they have dwindled down to the size of ordinary raiyati holdings. As regards them, further partition is obviously undesirable. He has also omitted to notice the fact that though the number of such estates is large, yet in importance and area they form, in the aggregate, but a very small fraction of all the estates in Bengal.

"Taking the average revenue of estates that will be excluded from partition at Rs. 10, which is higher than the truth, and their total number, 76,000, which is also above the true figure, the total revenue of these estates will be seven lakhs of rupees, the total revenue of permanently-settled and temporarily-

[*Mr. Finucane ; Babu Kali Charan Banerjee.*]

settled estates in Bengal being 350 lakhs. Now the relative amounts of their revenue represent roughly the relative value and importance of estates as to area and rent. As the revenue of estates that will be excluded from partition under this Bill forms only one-fiftieth part of the entire revenue, it will be seen that the estates excluded from partition form really only two per cent., at the outside, of the entire area of the Province, and as I have before said, this two per cent. consists of estates which have already been partitioned over over again.

“Then the Hon’ble Member has mentioned another point, namely, that it is only in Bengal that a limit has been proposed, and that such a provision is hard upon zamindars and raiyats. I do not know what the authority of the Hon’ble Member may be for this statement; but as far as I can find from an examination of the law, the statement is incorrect. In Madras the limit of partition is now what it was here at the time of the permanent settlement and shortly after. It is only on the application of all the proprietors, or when a portion of the property has been alienated or sold, that proprietors can apply for partition at all. In Bombay, according to section 114 of the Land Revenue Regulation, *talookdarce* and *koti* estates cannot be partitioned unless one-half of the proprietors apply and the revenue paid by them exceeds half the entire revenue of the estate. In the Punjab no partition is allowed except with the express consent of the Financial Commissioner, who may impose any conditions he pleases before giving his consent. Therefore I think it will be admitted that the facts adduced by the Hon’ble Member in favour of the particular limit which he proposes do not support his proposal. I may be wrong about the state of the law in other places, but the point is immaterial. Each province must legislate for its own requirements. I think I have shown that it is desirable to impose a limit on partitions and that we have gone to the extreme lengths in reducing the limit originally proposed. I therefore oppose the amendment.”

The Hon’ble BABU KALI CHARAN BANERJEE said:—“There was an observation made by the Hon’ble Member in charge of the Bill, which goes very far to support the amendment that has been moved. The Hon’ble Member was pleased to admit that the difference between section 11 as it stands in the Bill and as it is proposed to be amended by my hon’ble friend, is very slight. That admission, I submit, should have its due weight in our consideration

[*Babu Kali Charan Banerjee.*]

of the amendment before us. The Bill has climbed down as we have seen, from Rs. 100 to Rs. 20 and again from Rs. 20 to Rs. 10, and the question is, whether there is any serious reason why the Bill should not climb down, yet again from Rs. 10 to Rs. 5. As far as the view of the Hon'ble Member in charge of the Bill is concerned, we have it on his own authority that the difference between Rs. 10 and Rs. 5 is very slight. Let us go a little deeper, and inquire into the principle on which this process of climbing down has gone on, for there must be a principle underlying what has been described as the principle of the Bill. The principle of the Bill is that it is desirable to raise the limit of partition. But there must be a principle on which this principle should be given effect to. What is that principle? As far as the debate on the question at this meeting has gone, the only principle to which reference has been made is the convenience of the Government, and we have been told that it is ungenerous to ask for a further concession, when the Government has already been generous enough to climb down from Rs. 100 to Rs. 10. But surely in asking for a further reduction of the limit from Rs. 10 to Rs. 5, we do not lay ourselves open to anything like the charge of being ungenerous, for it is never ungenerous to ask of the party justly credited with generosity to be a little more generous. We have not been told what material difference it would make, as far as the convenience of the Government was concerned, if the amendment were to be adopted; on the contrary, as I have said, the Hon'ble Member in charge of the Bill admits that the difference between the limits is very slight, and so we may take it that there will be very little difference on the score of convenience between them. Indeed the Bill itself allows the creation of estates paying an annual revenue of a little over Rs. 5. When the creation of such estates is recognised by the Bill, it may be taken to be nothing so disastrous to the convenience of the Government as to stand in the way of the amendment being adopted. As far as I can understand, an arbitrary limit has been introduced into the Bill, and one arbitrary limit is probably as good as another, when it is admitted that the difference between the two is very slight. On this ground I would submit, having regard to the observation of the Hon'ble Member in charge of the Bill that the difference between the motion and the amendment is very slight, that the convenience of the Government should not be unduly pressed so as to disallow the amendment."

The Motion was put and negatived.

[*Babu Norendra Nath Sen; Mr. Finucane.*]

The Hon'ble BABU NORENDRA NATH SEN also moved that in section* 30, sub-section (3), the word 'records' be substituted for the word 'papers.'

He said:—"The amendment which I now propose is merely a verbal one. I submit that the proper word to be used in this sub-section is 'records' and not 'papers.' The applicability of the word 'papers' to application here referred to does not sound well. 'Papers' may be relevant to an application or a case. So if the word 'applicable' is retained, I would suggest the substitution of the word 'records' for 'papers.'"

The Hon'ble MR. FINUCANE said:—"The Select Committee considered this question, and it was thought by them that the word 'papers' is more suitable than 'records.' In sections 48 and 49 certain measurement 'papers' are referred to, and are distinguished from 'records' of assets mentioned in other sections, and as it is intended that the whole of the *nutthee* should be admissible, it was held that the word 'papers' is most suitable. It is a mere matter of drafting, and experts consider the word 'papers' is better than records. I therefore oppose the amendment."

The Motion was put and negatived.

The Hon'ble BABU NORENDRA NATH SEN also moved that Chapter VI (sections 44 to 50) be struck out.

He said:—"In moving that the whole Chapter be struck out, I may be considered as making a large order. The Chapter provides for the preparation of a record of rights in the course of a partition. I move that it be omitted on the ground that it will not conduce to the good either of landlords or tenants. While the record of rights will not be binding upon either of them, the preparation of such record will unnecessarily lead to delay and harassment and expense, and it will also create bad blood between landlords and tenants, ending in protracted litigation. It will thwart the very object of the Bill, which is to simplify, cheapen and shorten the partition procedure. The chapter does not appear to me at all an improvement upon the existing Act. The High Court—than which there is no greater authority—recommends the omission of this Chapter, as would appear from its letter to the Secretary to the Government of Bengal in the Revenue Department of the 10th July, 1896."

[*Mr. Finucane.*]

The Hon'ble MR. FINUCANE said:—"I flattered myself that everybody who had any practical knowledge of partitions had accepted this Chapter of the Bill, and I am surprised to find that it was left to the Hon'ble Mover of the amendment to discover that the Chapter is not only unnecessary but objectionable. The present law provides that the Deputy Collector may make a survey in certain cases in connection with partition proceedings, and also lays down the procedure for making that survey. This Chapter does the same thing. The Hon'ble Member would eliminate the Chapter and would substitute nothing whatever; he would therefore make it impossible to effect a partition. In partition proceedings one of the most essential things is to ascertain the amount of the assets, which cannot be done without a survey. The Hon'ble Member a fortnight ago asked for time to make himself acquainted with the provisions of the Bill, but I am sorry to see from the remarks which he has made that he has not been able to take full advantage of that time. He has quoted from a letter of the High Court commenting on the original proposal to make a record of rights in connection with partition proceedings. But we have abandoned that proposal, and the words 'record of rights' do not occur in the Chapter as it now stands. We have modified the Chapter, and it only remains now as a chapter providing for a survey and record of the rents and assets of the estate. The Hon'ble Member's remarks are, therefore, absolutely irrelevant to the Chapter as it now stands. The amendment is an impossible one, and I therefore oppose it."

The Motion was put and negatived.

The Hon'ble MR. FINUCANE moved that the words 'publish a notification' be substituted for the words 'issue a notice' in section 47, sub-section (1).

He said:—"This is a mere verbal amendment. A notice is addressed to a particular individual, and a notification to all and everyone whom it may concern. In this particular section a general notification is meant, and not a notice to particular persons."

The Motion was put and agreed to.

The Hon'ble MR. FINUCANE also moved that the word 'notification' be substituted for the word 'notice' in section 47, sub-section (2).

He said:—"This amendment is necessary for the same reason."

The Motion was put and agreed to.

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

The Hon'ble MR. FINUCANE also moved that in section 50 the words and figures 'When the documents referred to in section 48 have been published, or any documents referred to in section 49 have been accepted, the Deputy Collector shall record an order stating that such documents have been adopted for the purposes of the partition,' be substituted for the words and figures 'After the publication of the survey papers and record of existing rents and assets under section 48, the Deputy Collector shall record an order stating that the said record of rents and assets has been adopted for the purposes of the partition.'

He said :—" This again is merely a verbal amendment, which is necessary in order to make the section more clear and complete than as it now stands."

The Motion was put and agreed to.

The Hon'ble MR. FINUCANE also moved that the following be substituted for clause (b) of section 50, namely :—

'serve a notice on all the proprietors requiring them to be present on the day so fixed, such date being not less than thirty or more than sixty days after the date of the notice'

The Hon'ble MR. GRIMLEY said :—" I should like to retain clause (b), and to add after it the clause which is now suggested. Section 50 embodies what is contained in section 63 of the present Act, which requires not only the publication of a notification to all the proprietors collectively calling upon them to come forward on a certain day fixed for the determination of the general arrangement, but also the issue of a notice to each individual proprietor. Now that the general arrangement is done away with, it is just as much necessary that full publicity should be given to the proceedings as before, and I would therefore provide both for a general notification and a notice to each individual proprietor."

The Hon'ble MR. FINUCANE said :—" I have no objection to this proposal for the issue of a public notification and a notice to the individual proprietors as well."

The Motion was accordingly amended in the following form, and carried :—

That the following be added to clause (b) of section 50, namely—

'at the same time serve a notice on each of the proprietors to the same effect, and

[*Mr. Finucane ; Babu Norendra Nath Sen.*]

The Hon'ble MR. FINUCANE also moved that the word 'collectively' in clause (c) of section 50 be struck out. He said :—"The word is inappropriate there."

The Motion was put and agreed to.

The Hon'ble BABU NORENDRA NATH SEN moved that in section 60 the words 'unless he shows sufficient cause for such failure,' be inserted after the word 'shall.'

He said :—"I hope to have the sympathy of everybody who has had any experience of the working of our law courts. Your Honour knows how sometimes decrees are obtained without service of process upon defendants. When you debar a party altogether from the right of taking any objection hereafter to partition proceedings on his failure to attend upon a given day, it is quite fair and reasonable that the words I propose should be inserted after the word 'shall.' It may be said that these words do not occur in the present Act, but I submit that that is no reason why the words I propose should not be inserted when the Act is being amended; for on such an occasion it is important that the opportunity should be taken to remedy any defect we may find in it."

The Hon'ble MR. FINUCANE said :—"The wording of this section is in accordance with the existing law. The matter, however, seems to me to be of no importance. I have no objection to yield to the wish of the Hon'ble Member on this point."

The Motion was put and agreed to.

The Hon'ble BABU NORENDRA NATH SEN also moved that in section 99 the words 'or has created any other encumbrance thereon' be inserted after the words 'or on lease,' and the words 'tenure, lease or encumbrance' be substituted for the words 'tenure or lease.'

He said :—"Section 99 runs as follows :—

'If any proprietor of an estate held in common tenancy and brought under partition in accordance with this Act, has given his share or a portion thereof in *patti* or other tenure or

[*Babu Norendra Nath Sen ; Babu Surendranath Banerjee ; Mr. Finucane.*]

on lease, such tenure or lease shall hold good as regards the lands finally allotted to the share of such proprietor, and only to such lands.'

"It is very necessary that the additional words I suggest should be inserted. I see that one public body, the Bhagalpur Landholders' Association, have suggested the use of the word 'mortgage.' My motion is quite in accord with the ruling of the Privy Council in *Byjenath Lall vs. Ramooddeen Chowdhry* (1874) L. R. I. A. 166; 21 W. R. 233, in which it was held that persons who take any security from one co-sharer, do so subject to the rights of the others to enforce a partition, and that a mortgagee who takes such a security in the share of one co-sharer, who has no privity of contract with the other co-sharers, would have no recourse against the lands allotted to such co-sharers, but must pursue his remedy against the lands allotted to the mortgagor."

The Motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE moved that in section 117 the words 'the Collector' be inserted before the words 'the Commissioner.' He said:—"Section 117 runs as follows:—

'The Commissioner and the Board respectively may pass such orders as they think fit in respect of the payment of the costs of any appeal which is made to them respectively under this Act.'

"Why not the Collector? I think the Collector ought to have the same power."

The Hon'ble MR. FINUCANE said:—"I accept this amendment. The wording of the section is according to the present Act, but there is no objection to the amendment."

The Motion was put and agreed to.

The Hon'ble Mr. Finucane moved that the Bill, as settled in Council, be passed.

The Motion was put and agreed to.

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

CHOTA NAGPUR TENANCY BILL.

The Hon'ble MR. GRIMLEY moved that the Report of the Select Committee on 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 Chota Nagpur, be taken into consideration, and that the clauses of the Bill be considered in the form recommended by the Select Committee.

He said:—"I have on several occasions explained the necessity for this measure, and as I have previously described the provisions of the Bill, it is not necessary for me to take up the time of the Council in going over the same ground again. I have only to observe that notice of the motions on the agenda was not given within the prescribed time, but I waive my right to make any objection on that ground."

The Motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have to make my acknowledgments to the Hon'ble Member in Charge of the Bill for permitting me to move my amendments, although the limit of time prescribed by the rules for sending in notice of amendments had expired. My first amendment runs thus:—

That for the words 'an appeal from any order of a Revenue-officer under this Chapter' in section 8, sub-section (1), the following be substituted, namely:—

'The decision of every Revenue-officer in every proceeding under this Chapter shall have the force of a decree, and an appeal from such decision.'

"I think it would be more convenient if I were to read the section as it is proposed to be modified by the first and the two subsequent amendments, which, at the suggestion of the Hon'ble Member in charge of the Bill, I will take together. It will then run:—

'The decision of every Revenue-officer in every proceeding under this Chapter shall have the force of a decree, and an appeal from such decision shall lie to the Deputy Commissioner, or, if the Revenue-officer is himself the Deputy Commissioner, then to the Judicial Commissioner of the Division.'

[*Babu Surendranath Banerjee.*]

‘When an appeal has been disposed of by the Deputy Commissioner under sub-section (1), an appeal from his order shall lie to the Judicial Commissioner.

‘The provisions of the Code of Civil Procedure relating to appeals shall, as nearly as may be, apply to all appeals under sub-section (1) or sub-section (2).

‘Where the Judicial Commissioner concurs with the Deputy Commissioner, the order shall be final, but in other cases an appeal shall lie to the High Court from the order of the Judicial Commissioner.’

“I object to the word ‘order’ in the second line. An appeal against ‘an order’ can only lie under the provisions of Chapter 43 of the Code of Civil Procedure. Chapters 41 and 42 provide for appeals against decrees, and not against ‘orders,’ but you put into requisition the provisions of Chapters 41 and 42; the provisions of Chapter 43 are not applicable; and therefore the word to be used is ‘decree’ and not ‘order.’ Further, I would call the attention of the Council to section 107 of the Bengal Tenancy Act which says:—‘In all proceedings for the settlement of rents under this Chapter and in all proceedings under the last foregoing section, the Revenue-officer shall, subject to rules made by the Local Government under this Act, adopt the procedure laid down in the Code of Civil Procedure for the trial of suits, and his decision in every such proceeding shall have the force of a decree.’ I desire to substitute the concluding words of this section for the words in the opening lines of sub-section (1) of section 8. This and the subsequent amendments involve a principle of a very important character. The Bill provides for the settlement of rent disputes by the Executive Officers of the Government. I desire to relieve the Executive Officers of Government of this responsibility, and vest it in Judicial Officers. Difficult and complicated considerations of right, status, &c., will come up for disposal, and it would be an advantage if trained Judges were invested with the responsibility of dealing with them. Then there is another point to be considered. The Commissioner of the Division who has to hear appeals will in certain cases be personally interested, as for instance in connection with cases relating to estates under the Court of Wards and encumbered estates; so that in regard to this class of cases he will constitute himself both plaintiff and Judge. That would be in violation of one of the most fundamental principles of justice, and ought not to receive the sanction of this Council. In this connection I would call the attention of the Council to some observations

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

made at a public meeting held at Ranchi to consider this Bill. The public meeting says:—

‘The power to hear appeals should be vested in the *District Judge* or *Judicial Commissioner* instead of in the *Divisional Commissioner*. In the *Bengal Tenancy Act* there is no provision for an appeal to the *Commissioner* in such matters, and there seems to be no special reason why there should be a departure from the ordinary procedure. The fact of the *Divisional Commissioner* going out on tour for some months in the year, and most of his time being taken up by executive and office work, will cause hardship and inconvenience to suitors. Moreover, the *Commissioner* exercises general supervision and control over the management of the wards’ and encumbered estates. No important proceeding is instituted on behalf of these estates without his previous sanction. In many proceedings under section 7 the manager of the wards’ and encumbered estates will have to figure as the applicant or the opposite party. It is obviously undesirable that the *Commissioner* should have any appellate powers in such cases.’

“The principle here laid down as a matter of course applies to the Board of Revenue also, and therefore the appeal from the Judicial Commissioner ought to be to the High Court

“These are my reasons for suggesting these amendments.”

The Hon’ble MR. GRIMLEY said:—“The first three amendments are interdependent, the second follows from the first, and the third from the second, and the object of all three is to convert what should be properly treated as executive or revenue proceedings into judicial proceedings.

“Under the existing law, Act I of 1879—a distinction is maintained between revenue proceedings and suits, appeals in the former being heard by Revenue officers, and in the latter by Judicial officers. Assessment cases, commutation cases, registration and resumption proceedings are treated as revenue matters, and an appeal lies to the Commissioner under section 135, while the Commissioner and the Board of Revenue can exercise powers of revision under section 136. I may also point out that under section 40 of the Bengal Tenancy Act commutation questions are treated as revenue proceedings, and are appealable in the same way. The proposed amendments, therefore, introduce a principle, which is quite contrary not only to the existing law prevailing in Chota Nagpur, but is also not in harmony with the Bengal Tenancy Act prevailing in other parts of Bengal. As regards the proposal to introduce the High Court into the proceedings, I may say at once that this is untenable. The High Court

[*Mr. Grimley; Babu Surendranath Banerjee; the President.*]

derives its jurisdiction from an Act of Parliament and Letters Patent, and section 42 of the Indian Councils' Act prevents a local Council from making laws which would affect an Act of Parliament. The third amendment, which proposes to confer jurisdiction on the High Court is, therefore, *ultra vires* of this Council. There is, however, another and weightier reason why the High Court should be kept out of the proceedings. The landholder and raiyats of Chota Nagpur are far too poor to indulge in the luxury of an appeal to the High Court, and the cost of such an appeal would be prohibitive in the majority of cases. Besides the decision of commutation cases involves a knowledge of local customs, and a habit of interpreting them which Revenue-officers on the spot are more likely to possess than a distant tribunal like the High Court. With this explanation, the Hon'ble Member may, perhaps, see fit to withdraw his first three amendments. As regards the fourth, I have no particular objection to it."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Having regard to the difficulties which have been pointed out by the Hon'ble Member in charge of the Bill, I desire to withdraw this amendment, as well as the two following amendments, which stand thus:—

That the words 'Judicial Commissioner' be substituted for the words 'Commissioner of the Division' and 'Commissioner' wherever they occur in section 8.

Also that the words 'High Court' be substituted for the words 'Board of Revenue' in section 8, sub-section (4)."

The Hon'ble Babu SURENDRANATH BANERJEE also moved that section 8 sub-section (5), be altered to run as follows:—

'(5) Every appeal under this section must be presented within three months from the date of the order appealed against.'

The Hon'ble MR. GRIMLEY said:—"I am prepared to accept this amendment."

The Hon'ble THE PRESIDENT said:—"With regard to this amendment I should prefer that it should be considered by the Council. Personally I shall object to increase the term for subsequent appeals. It is exceedingly desirable

[*The President ; Babu Surendranath Banerjee ; Mr. Finucane.*]

that cases of this kind should be settled and settled finally as quickly as possible, especially when the case arises from proceedings instituted under the sanction of the Government for commutation, whether both parties desire it or not. There are cases in which breaches of the peace are to be apprehended, and it is especially desirable that in such instances the whole matter should be settled without avoidable delay. For this reason, among others, I should myself have been prepared to oppose the three amendments which have just been withdrawn. This Bill provides for a period of three months for first appeals and one month for subsequent appeals, which I think is amply sufficient. I should prefer therefore to take the vote of the Council on the amendment now before them. I have now explained to the Council my reason for taking this course, and if the Hon'ble Member wishes to speak in support of the amendment, it is open to him to do so."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I desire to press this amendment, especially having regard to the statement which has been made by the Hon'ble Member in charge of the Bill. Mr. Forbes, the Commissioner of the Division, says that communications between the different parts of the country are difficult, the distances are great, and the head-quarters of the Board of Revenue are in Calcutta; and where there are such difficulties, three months are allowed for an appeal to be made to the Commissioner at the head-quarters of the Division. Surely under the circumstances to allow only one month when the appeal has to be made to the Board of Revenue in Calcutta is manifestly insufficient."

The Hon'ble MR. FINUCANE said:—"In the original Bill, as far as I remember, the limitation of time in regard to appeals, both original appeals to the Deputy Commissioner and second appeals to the Commissioner of the Division, was one month in every case. We considered the matter in Select Committee, and came to the conclusion that in cases of appeal from the Revenue Officer to the Deputy Commissioner three months ought to be given, because people in the mufassal are slow to learn what orders have been passed in the Court of first instance. But when they go before the Deputy Commissioner or the Commissioner of the Division with appeals, they have Mukhtars or pleaders to represent them, and know precisely what order has been passed. Therefore, once they come to know what the order is, if they intend to appeal, the sooner

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

they make their application the better, and there is no risk of injustice in such cases. I am therefore inclined to differ from the Hon'ble Member in charge of the Bill, and think that the Council ought to accept the conclusion to which the Select Committee came."

The Motion being put, the Council divided:—

Ayes—6.

The Hon'ble Babu Surendranath Banerjee.
The Hon'ble Babu Kali Charan Banerjee.
The Hon'ble Babu Saligram Singh.
The Hon'ble Babu Norendra Nath Sen.
The Hon'ble Mr. Turner.
The Hon'ble Mr. Grimley.

Noes—10.

The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
The Hon'ble Mr. Wallis.
The Hon'ble Nawab Syed Ameer Hossein.
The Hon'ble Mr. Toynbee.
The Hon'ble Mr. Pratt.
The Hon'ble Rai Durga Gati Banerjee Bahadur.
The Hon'ble Mr. Glass.
The Hon'ble Mr. Bolton.
The Hon'ble Mr. Finucane.
The Hon'ble Sir Charles Paul.

So the Motion was lost.

The Hon'ble MR. GRIMLEY moved that the Bill as amended be passed.

The Hon'ble THE PRESIDENT said:—"At this late hour I will only detain the Council for a minute or two. The circumstances under which I have to deal with this Bill are a little peculiar. Some of the Hon'ble members of the Council will perhaps be aware that I myself held the appointment of Commissioner of the Chota Nagpur Division from 1885 to 1889, when I was succeeded by Mr. Grimley. And in the Statement of Objects and Reasons appended to the Bill it is mentioned that there were troubles there between 1887 and 1889, and it was remarked that there was considerable correspondence between the Commissioner and the higher authorities on the subject of those troubles. I myself was the Commissioner in question. The relations between the Kols of Lohardaga and the zamindars had been far from satisfactory for some little time, but matters were not brought to a head. But in 1887, I think it was, when I was returning from a long cold weather tour, I found on approaching my head-quarters a considerable state of alarm had sprung up; that the Kols in certain parts had begun to defy the authority of the courts, that they paid no

[The President.]

attention to process, and gave other indications of being in a state in which they might soon commit mischief. Measures were quickly and quietly taken, which had the effect of overawing them and of restoring a sort of superficial peace, and I am glad to say that no serious crime of any kind was committed in the meantime. But, of course, that was not a satisfactory solution of the difficulty, and it was necessary to look for means whereby a more healthy condition of affairs may be established. I found that one of the most important of the difficulties from which we were suffering was this very one which is now before us. I found that zamindars were making excessive demands and the Kols were inclined either to give too little, or in some cases to give nothing at all. They had advisers, and those advisers were accustomed to a state of things in which money rents alone were paid, and they could not understand the liability of these men to pay rent in kind and in services. Under the law as it now stands the right of the landlord to receive rents in kind or in services may be commuted on the application of either party, but not otherwise. Our great difficulty was that, although the trouble existed, and although excessive claims on the one part and the resolve to resist just claims on the other existed and caused irritation, it was not in the power of the executive officers to do anything which would enable them to go to the root of the matter since neither party would seek commutation. I pressed, therefore, for an alteration in the law to enable the administration to step in and for sufficient reason to direct that such commutation, the amount of which was the cause of the trouble, should be made. The present Bill is the outcome of that correspondence, and it appears to me fairly to meet the wants of the local officers. If there is any fault in it, to me, personally, it seems to be almost too cautious. However, it is not perhaps open to me to make that objection, as it is a Bill which arose simply out of my own individual experience, but I commend the Bill to the Council as one likely to conduce very greatly to the peace and well-being of the aboriginal inhabitants as well as to the real interest of the zamindars."

The Motion was put and agreed to.

The Council adjourned *sine die*.

CALCUTTA;

The 25th October, 1897.

F. G. WIGLEY,

} Offg. Assistant Secretary to the Government of Bengal,
Legislative Department.