

**Proceedings**  
**OF THE**  
**BENGAL LEGISLATIVE COUNCIL.**



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*Abstract of the Proceedings of the Bengal Legislative Council assembled under the provisions of the Indian Councils Acts, 1861, 1892 and 1909.*

THE Council met in the Durbar Hall at Belvedere on Tuesday, the 9th January, 1912, at 11 A.M.

**Present:**

The Hon'ble SIR FREDERICK WILLIAM DUKE, K.C.I.E., C.S.I., Lieutenant-Governor of Bengal, *sub. pro tem., presiding.*

The Hon'ble MR. F. A. SLACKE, C.S.I., *Vice-President.*

The Hon'ble RAJA KISORI LAL GOSWAMI.

The Hon'ble MR. R. T. GREER, C.S.I.

The Hon'ble MR. D. J. MACPHERSON, C.I.E.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. C. J. STEVENSON-MOORE, C. V. O.

The Hon'ble MR. J. H. E. GARRETT.

The Hon'ble MR. E. P. CHAPMAN.

The Hon'ble MR. H. WHEELER, C.I.E.

The Hon'ble MR. B. K. FINNIMORE.

The Hon'ble MR. C. A. WHITE.

The Hon'ble MR. J. H. KERR, C.I.E.

The Hon'ble MR. S. L. MADDOX, C.S.I.

The Hon'ble MR. G. W. KÜCHLER, C.I.E.

The Hon'ble MR. L. F. MORSHEAD.

The Hon'ble MR. J. G. CUMMING, C.I.E.

The Hon'ble MR. C. E. A. W. OLDHAM.

The Hon'ble MR. H. MCPHERSON.

The Hon'ble MAHARAJA BAHADUR SIR PRODYOT KUMAR TAGORE, Kt.

The Hon'ble SIR FREDERICK GEORGE DUMAYNE, K.T.

The Hon'ble KUMAR SHEO NANDAN PRASAD SINGH.

The Hon'ble BABU BHUPENDRA NATH BASU.

The Hon'ble RAI SITANATH RAY BAHADUR.

The Hon'ble BABU JANAKI NATH BOSE.

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.S.I., K.C.I.E., I.Q.M., Maharaja-  
dhiraja Bahadur of Burdwan.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDI.

The Hon'ble MAHARAJ-KUMAR GOPAL SARAN NARAYAN SINGH.

The Hon'ble BABU KIRTANAND SINHA.

The Hon'ble RAI RAJENDRA NARAYAN BHANJA DEO.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI.

The Hon'ble MR. J. G. APCAR.

The Hon'ble MR. NORMAN McLEOD.

The Hon'ble MR. F. H. STEWART, C.I.E.

The Hon'ble MR. W. J. BRADSHAW.

The Hon'ble MR. GOLAM HOSSEIN CASSIM ARIFI.

The Hon'ble DR. ABDULLAH-AL-MAMUN SUHRAWARDY.

The Hon'ble MR. SAIYID WASI AHMAD.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN.

The Hon'ble BABU HRISHIKESH LAHA.

The Hon'ble MAULVI SAIYID ZAHIR-UD-DIN.

The Hon'ble RAI SHEO SHANKAR SAHAY BAHADUR.

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR.

The Hon'ble BABU MAHENDRA NATH RAY.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN.

The Hon'ble BABU BRAJ KISHOR PRASAD.

The Hon'ble MR. DIP NARAYAN SINGH

The Hon'ble BABU BAL KRISHNA SAHAY.

## Questions and Answers.

*The Orissa Tenancy Bill, 1911.*[*Babu Bal Krishna Sahay; Mr. Finnimore; Mr. H. McPherson.*]

## OATH OR AFFIRMATION OF ALLEGIANCE.

The Hon'ble Mr. White, the Hon'ble Mr. Kerr, the Hon'ble Mr. H. McPherson, the Hon'ble Sir Frederick Dumayne and the Hon'ble Babu Janaki Nath Bose made the prescribed oath or affirmation of their allegiance to the Crown.

## QUESTIONS AND ANSWERS.

## INCREMENT OF PAY OF CLERKS ATTACHED TO THE OFFICES OF THE SUPERINTENDING AND EXECUTIVE ENGINEERS, PUBLIC WORKS DEPARTMENT.

The Hon'ble BABU BAL KRISHNA SAHAY asked:—

(a) Has the attention of Government been drawn to a paragraph published in the *Bengalee* of Calcutta, dated 29th June, 1911, headed "An appeal to His Honour," regarding the question of increment of pay and prospects of the clerks attached to the offices of the Superintending and Executive Engineers under the Public Works Department?

(b) Will the Government be pleased to state whether there is any proposal under consideration for any increment of pay to those clerks?

The Hon'ble MR. FINNIMORE replied:—

(a) The letter referred to appeared in the *Bengalee* of July 29th, 1911, and not in the issue of June 29th.

It was noticed by Government.

(b) In March last a Committee was appointed to consider the question of the pay and grading of the clerks and draftsmen in the Public Works Department offices in Bengal. The report of that Committee has been received and is now under the consideration of Government.

## THE ORISSA TENANCY BILL, 1911.

The Hon'ble Mr. H. McPherson moved that the Bill to amend and consolidate certain enactments relating to the law of landlord and tenant in the districts of Cuttack, Puri and Balasore, in the Orissa Division, be referred to a Select Committee consisting of the Hon'ble Mr. Slacke, the Hon'ble Mr. Chapman, the Hon'ble Mr. Kerr, the Hon'ble Mr. Maddox, the Hon'ble Mr. Cumming, the Hon'ble Sir Bijay Chand Mahtab, Maharajahadhiraja Bahadur of Burdwan, the Hon'ble Mr. Das, the Hon'ble Raja Rajendra Narayan Bhanja Deo, the Hon'ble Maulvi Saiyid Zahir-ud-din, the Hon'ble Babu Janaki Nath Bose, the Hon'ble Babu Hrishikesh Laha and the Mover, with instructions to report after one month.

He said:—

"With your leave, Sir, I beg to move that the Orissa Tenancy Bill be referred to a Select Committee with instructions to report after one month.

"An account of the history of the Bill and of the purposes which it is designed to serve will be found in the Statement of Objects and Reasons annexed to the Bill, but I should like to take this opportunity of explaining briefly the principal features of this important measure, and the circumstances which attended its birth, to those Members of the Council who are not acquainted with the agrarian conditions of Orissa or are not conversant with tenancy legislation and have not yet had time to make a study of the printed statement. Before applying myself to the task, I would ask Hon'ble Members to extend their indulgence to me, as I am one of the latest recruits to the Council and have had no opportunity of familiarising myself with its procedure, before placing before it a subject of such magnitude and difficulty as a

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complete Code of Tenancy Law must always be. From this point of view, it is to me a cause of congratulation that the Bill is not likely to be a contentious one. There may be differences of opinion regarding the details of its provisions, but, on the whole, the main principles of the Bill are likely to commend themselves to all sections of the community as they are conceived in the common interest of all.

"It was my intention from the first to explain why this measure, which will affect no portion of re-united Bengal but will be limited in its application to an integral portion of the new province of Bihar, Orissa and Chota Nagpur should be placed before the present Council and not deferred till it can be dealt with by the legislature of the new province. The explanation has become all the more necessary in view of the motion for postponement of which notice has been given by the Hon'ble Mr. Das. I can assure Hon'ble Members that, in deciding to take up the Bill in the present session, Government has no desire to rush the Council. There is a very simple and natural explanation. The Orissa Tenancy Bill is the fruit of many long years of consideration devoted to the subject by the present Government of Bengal. We have in our midst many who have taken a prominent part in these deliberations. No one, Sir, is better acquainted with Orissa than you yourself are, for you have spent several years of your life in that Division. A reference to the printed papers circulated with the Bill will show how much it owes to the labours of my Hon'ble friend, Mr. Maddox, who moreover enjoys the exceptional advantage of being the officer by whom the last Revenue Settlement of Orissa was made. We have also with us a foremost zamindar of Bengal, my Hon'ble friend, the Maharajdhiraja Bahadur of Burdwan, who owns, in addition to his Bengal estates, important landed interests in Orissa. It will be a considerable misfortune if the Bill should fail to profit by the help and advice of all these and of others on the Council, acquainted with Orissa, whose destinies may not include a seat in the Legislative Chamber of the Western province. Nor can it be represented that Orissa has been taken unawares and had this legislation thrust upon it with undue haste. The opinions of a very representative Committee were consulted in 1909 before the Bill was drafted. Since it was introduced in July last, it has been freely circulated, and a mass of valuable opinion has been collected from local bodies and officers, all of which will be duly considered in Select Committee. Orissa will also be strongly represented on the Select Committee. To postpone the Bill now will merely be to delay for a year or two the completion of a piece of business which is already ripe for disposal. Under these circumstances, it is the Council's duty, I submit, not to leave this Bill as a legacy of trouble to the builders of the new province, but to apply itself earnestly to the task of shaping the Bill, so that it may well form a parting gift from old Bengal.

"I hope that the Hon'ble Mr. Das, whose absence to-day I much regret, will accept this explanation when he is made acquainted with it. I also hope that he and others, who may have been inclined to think with him, will give us their help and co-operation in working out a new agrarian code for Orissa.

"With these remarks by way of preface I will now endeavour to explain the Bill to the Council as briefly as is consistent with the importance of the subject.

"Fifty years ago there was one uniform rent law, Act X of 1859, for the whole of Bengal, with the sole exception of the Sonthal Parganas. Even there, Act X of 1859 was applied by mistake for ten years till it brought the district to the brink of rebellion, and the situation was only saved by the passing of a special Settlement Regulation in 1872. Act X of 1859 was found to be equally ill-suited to the agrarian conditions of the Chota Nagpur Division, and, save in the Manbhum district, it was superseded there for nearly thirty years by Act I of 1879. It is less than four years since the Council had before it the agrarian law of Chota Nagpur, and conferred upon that Division a complete code, Bengal Act VI of 1908, which a year later was extended to the previously excepted district of Manbhum. Bengal proper, Bihar and Orissa

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remained under the governance of Act X of 1859, till 1885, when the Bengal Tenancy Act was passed, and the two former areas received the benefit of a complete and self-contained agrarian code. Orissa alone remained subject to the obsolete and inadequate provisions of Act X of 1859, but power had been taken in the Bengal Tenancy Act to extend its provisions in whole or part to the Orissa districts, and as soon as the last Revenue Settlement came on the horizon, it was found necessary to supplement Act X of 1859 by the extension to Orissa of various sections of the Bengal Tenancy Act. An account of the various instalments of extension will be found in paragraphs 2 to 5 of Mr. Maddox's Report, dated the 6th April 1909, of which copies have been placed in the hands of Hon'ble Members. At the close of the Revenue Settlement Mr. Maddox proposed the extension, to Orissa, of a large number of additional sections. The Board of Revenue went further and proposed the extension of the whole Act, but there was a difference of opinion regarding the wisdom of this step, and eventually the question was hung up pending settlement of the policy to be followed in the matter of maintenance of records. Save for the subsequent extension of a few scattered sections, the situation has remained stationary since 1901. Much difficulty has been experienced by the local officers in using the present double-barrelled weapon, composed partly of Act X of 1859 and partly of the Bengal Tenancy Act, and there has been much friction in the adjustment of its mechanism, but it is doubtful whether the trouble would have come to a head as early as it did, had it not been for the maintenance question.

"The Bill indeed may be regarded as one of the chief fruits of the Orissa Revision Settlement which is still in progress but is nearing completion. The revision operations were begun in 1906 under the orders of the Government of India, to pave the way for that continuous maintenance of settlement records which has been the policy of Government in other parts of India, and which, it was thought, might be fittingly extended to the temporarily-settled districts of Orissa, and prove an example for the rest of Bengal to imitate. The operations had not been long in progress before they brought to light numerous disputes and disagreements between landlord and tenant, for which it was difficult, if not impossible, to find a remedy in the agrarian law of Orissa as it now stands. I was one of those who in the beginning thought that a partial, if not complete, solution might be found for these difficulties in the extension, to Orissa, of a further instalment of the Bengal Tenancy Act. It was, however, decided by the Local Government that fuller inquiry was necessary, and Mr. Maddox was accordingly deputed to study the whole subject comprehensively on the spot. The result of Mr. Maddox's labours, which extended over a period of six months and included consultation with the local officers, with the officers of the Revision Settlement and with the non-official representatives of numerous local interests, will be found in his letter of 6th April 1909, to which I have already alluded. The report of Mr. Maddox convinced Government, and must convince everyone who gives the subject his study, that no final solution for the difficulties of Orissa can be found in the extension to it of further instalments of the Bengal Tenancy Act, and that, to place the relations between landlord and tenant in that Division on a stable and satisfactory basis, the enactment of a self-contained agrarian code is a *sine qua non*.

"Surprise may be felt that it should not be possible to find salvation for Orissa in a Tenancy Act which was devised after years of deliberation and has proved sufficient for the great congeries of varying races included within the boundaries of Bengal. The reason is that, although power was taken in the Bengal Tenancy Act to extend its provisions to Orissa, the needs of Bihar and of Lower Bengal were alone considered in framing that enactment. The peculiar conditions of Orissa were not taken into account.

"In the fiscal and agrarian history of Bengal, Orissa occupies a unique place, having features essentially different from those which distinguish the rest of the province. It did not come within the pale of British administration till its conquest from the Mahrattas in 1803, that is, forty years after the Diwani grant which brought Bengal and Bihar within



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the boundaries of the Empire. During these forty years and for ten years earlier it had been the prey of Mahratta misrule. For the previous century and a half it was a separate province of the Mogul Empire. Long before the Moguls came, it had evolved its own revenue system under the sway of its indigenous Hindu Rajas. The changes which were grafted on the old Hindu system, first by the Moguls and then by the Mahrattas, produced conditions which were without parallel in Bengal. When Orissa was first taken over by British administrators it was their intention to extend to Orissa the indulgence of a permanent settlement, as soon as the province had recovered from the effects of Mahratta misrule; but when the time was ripe to carry out this intention, the Court of Directors had begun to realize that permanent settlement was a policy of doubtful expediency, and the settlement that was finally concluded in 1837 was therefore made for a term of thirty years only. On account of the great calamity of the Orissa famine in 1866, the settlement was extended for a further period of thirty years and continued in force till it was revised less than 15 years ago by Mr. Maddox. Such is briefly the history of the one greatest and most essential difference between Orissa and the rest of Bengal. Bihar and Bengal proper are permanently-settled. Orissa is temporarily-settled. We are not here to-day to discuss the wisdom of the policy which dictated the difference. What we have to recognise is that the difference exists, and that it has profoundly affected the agrarian conditions of Orissa. Temporary settlement necessarily involves closer contact between the administration and the agricultural population than is possible, or at least essential, in a permanently-settled area, and, in the case of Orissa, this is strikingly illustrated by one incident which distinguishes it from the rest of Bengal. I refer to the fact that, since British administration in Orissa began, the trial of rent suits has been retained in the hands of its revenue staff and has not been made over to the ordinary Civil Courts as has been done in the permanently-settled portions of Bengal. It is the existence of this very distinction that has always proved an insurmountable impediment to the extension of the Bengal Tenancy Act *en bloc* to Orissa, for that important portion of the Act which deals with judicial procedure is based on the assumption that rent suits are tried by the Civil Courts, and it has therefore always been impossible, without legislation, to extend to Orissa the procedure portions of the Act.

VIII of 1886.

"It is proposed in the present Bill to adhere to the system whereby rent suits in Orissa are tried by the Revenue Courts. A full discussion of the subject will be found in paragraphs 14 and 15 of Mr. Maddox's Report of 1909. The arguments for retention may briefly be summarized as follows. The people of Orissa are accustomed to, and well satisfied with, the present system. The trial of their rent suits is attended with less expense and less delay than ordinarily occur in the Civil Courts. As Orissa is fully provided with a settlement record, the issues in rent suits are exceedingly simple and do not require for their trial any profound knowledge of civil law. Revenue officers have also the advantage that they are more familiar with the form and contents of settlement records than Civil Courts usually are. It is, moreover, essential to the administration of a temporarily settled district that the Collector would be kept in intimate touch with landlords and tenants of all classes and degrees. This advantage is secured by the present system, for the District officer is the head of the Revenue staff which hears rent suits. I am far from saying that temporarily-settled districts are alone in their need for intimate contact between the people and their administrators, but whereas in the one case it is desirable, in the other it is essential. These arguments appear to Government to be conclusive.

VIII of 1886.

"Save in this important particular the judicial procedure sections of the Bengal Tenancy Act have been adopted in the Bill. They will simplify the disposal of rent suits and remove the many difficulties and anomalies that have been produced by the joint application of Act X of 1859 and portions of the Bengal Tenancy Act.

VIII of 1886.

"Closely allied to the subject of rent suits is the law of distraint. Distraint is allowed in Bengal only through the medium of the Civil Court.

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In Orissa landlords have always exercised the right of private distraint under Act X of 1859. The system has worked all these years without any serious or general abuse. It has been retained in the Bill as it facilitates the collection of rent, and it is recognised that temporarily-settled zamindars need more assistance for rent recovery than their permanently-settled brethren of Bengal who have a much larger margin of profit.

"The temporary character of its land-revenue settlement accounts for another important feature of the Bill, namely, the special place assigned in it to the class described as sub-proprietors. The Revenue officers of Orissa, who made its settlements, found, subordinate to its zamindars, a large class possessed of quasi-proprietary rights. They have always dealt in a semi-direct fashion with this important class which includes *sikhai zamindars*, *padhans*, *mukadams*, *sarbarakhars* and others. A full description of these proprietary tenure-holders will be found at pages 186 to 195 of Mr. Maddox's Orissa Settlement Report. Government has always recognised their independent right to the settlement of land-revenue for their tenures and to *malikana* on refusal to engage. They are thus something much superior to the ordinary tenure-holder of the Bengal Tenancy Act. Special provisions for VIII of 1886. the definition and protection of their rights have been included in the present Bill

"There is another very large and important class of Orissa land-holders called *bujiafidars*, who own about one-sixth of the total cultivated area. The *bujiafidars* are the owners of the invalid revenue-free tenures which were resumed in the earlier settlements. They owe their numbers and their present position partly to the special provisions of the Cuttack Land Revenue Regulation 1805 (XII of 1805), which created them, and partly to their peculiar treatment in the Revenue Settlements of Orissa. Their interests also are of a semi-proprietary nature, and it is a genuine grievance with them that, under the influence of Bengal ideas, their status has been gradually obscured, and they run the risk of being treated as ordinary tenants of the zamindars. The Bill contains special provisions for the preservation of their rights.

"There is yet another important feature of the Bill for which the justification rests in the temporary nature of Orissa's land revenue settlement. I refer to the measures that have been proposed for the definition of the privileged or private lands of proprietors and sub-proprietors. In the revenue history and tenancy legislation of Bengal, a sharp distinction has always been drawn between the demesne lands of proprietors which are cultivated by their own labour or at their own expense, and the ordinary stock of village land which is cultivated by the raiyats and is necessary for their subsistence. Within certain limits, which are defined in section 116 of the Bengal Tenancy Act, the proprietor may do what he pleases with his private land. He may cultivate it himself or through his VIII of 1886. servants or hired labourers, or he may let it out on a rack-rent of cash or kind for defined terms. Over the rest of the village area the raiyats have a right of cultivation on the payment of a fair and equitable rent, not an economic rent or a rack-rent, but such a rent as is compatible with a fair measure of agricultural prosperity. Lands belonging to the latter category may, by surrender or purchase, pass into the hands of proprietors and may be retained by them for their own cultivation; but if they are let out to village raiyats they revert to the ordinary raiyati stock; occupancy-rights begin to accrue over them, and the rent, even if an economic or competition rent at the outset, ceases in time to be so, for it comes under the limitations provided in the Tenancy Act. In Bengal proper and Bihar the area of landlord's privileged land is comparatively inconsiderable, and this is as it should be, for the effect of the permanent settlement has been to secure to zamindars the bulk of the raiyati assets of the province. Whereas at the time of the permanent settlement Government took 90 per cent. of the assets and left the zamindars only 10 per cent., these proportions have now been generally reversed, and the proprietary body absorbs more nearly 90 per cent. than 10 per cent. of the now existing assets.

"In Orissa, on the other hand, the zamindars were allowed about 30 per cent. of the assets in the first temporary settlements, and their share was

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increased in the latest to an average of about 45 per cent. They have a much smaller margin of profit than the Bengal land-owner—Government expects from them a punctual discharge of their dues—and for these reasons they have been deemed entitled to more considerate treatment in the matter of their privileged lands. At the last Settlement, the lands in their cultivating possession were divided into two categories. The first, called *nij-jote* or privileged, embraced the lands which had come down to them as demesne lands from the previous Settlement, and such other lands as by the custom of the country had a right to be placed on the same footing. The second, called *nij-chas* or non-privileged, included all lands which did not fall under the first category, such as lands which had been abandoned by raiyats in the great Orissa famine of 1866, or had been acquired by purchase from raiyats. As there is no provision in the Bengal Tenancy Act securing the privilege of private lands for tenure-holders, through its influence the distinction between *nij-jote* and *nij-chas* was not drawn in the case of lands held by the proprietary tenure-holders of Orissa now defined as sub-proprietors. All their lands were classed as *nij-chas*. The total area in the immediate possession of proprietors and sub-proprietors has increased from 88,700 acres in the 1837 Settlement to 172,500 acres in the last Revenue Settlement, and 177,500 acres in the Revision Settlement. These figures show that, whatever may have been the provisions of the law on the subject, the proprietors and sub-proprietors of Orissa have been able to maintain direct control over an increasing share of the cultivated area, whether it be classed as *nij-jote* or *nij-chas*. The distinction, however, is a perennial source of dispute and the cause of bitterness between landlord and tenant. The proprietary classes cannot themselves cultivate all the land that is recorded as theirs, and their arrangements for its cultivation through raiyats are hampered by the provisions of the present law on the subject. Government has decided to be generous to the landlords and to make over to them as *nij-jote* or privileged all that portion of the *nij-chas* of the last Revenue Settlement which they still retain in their possession, as evidenced by the records of the Revision Settlement, and this concession is proposed to be extended to sub-proprietors as well as to proprietors. From figures compiled by the Settlement Officer of Orissa, I conclude that the proposed concession will mean the transfer of about one lakh of acres from the non-privileged to the privileged area. The privileged area will then be about one-twelfth of the total cultivated area of the temporarily-settled estates. Over this large area the landlords will have complete freedom of cultivation and contract. No future addition to the privileged stock will be possible, and the rest of the cultivated area which may now be in the possession of raiyats or may come into their possession will be available for their enjoyment on payment of a fair and equitable rent. The concession will, of course, be limited to temporarily-settled estates and will form no precedent for permanently-settled Bengal.

"It may be asked whether this generous concession to the landowners of Orissa is not too generous, whether it is not generosity displayed at the expense of the peasantry of the Division. I do not think that it will materially affect the welfare of the raiyats. In practice they get little out of the *nij-chas* or non-privileged lands, because the provisions of the law are ignored. We shall merely be giving legal sanction to the continuance of existing usages which, as the law stands, are illegal. The chief value of the change, in fact, will be that it will remove a fertile cause of dispute and strife.

"The Bill proposes to give some return to the raiyats for this concession, by two of its provisions. The first is contained in clause 241 which corresponds to section 178 of the Bengal Tenancy Act and bars contracts in violation or diminution of the rights secured to raiyats by other provisions of the law. The second is contained in clause 143 of Chapter XII which is modelled on section 64, sub-section (3) of the Chota Nagpur Tenancy Act 1908, and saves the raiyat from ejectment when he has been in occupation of newly-reclaimed land, with or without his landlord's consent, for more than two years.

"In my opinion, this return cannot be described as great, because, whatever may have been the law, in practice the Orissa raiyat has suffered little in the



[Mr. H. MacPherson.]

past from contracts in bar or diminution of his ordinary rights (I have heard of none such prior to 1906), and he has always enjoyed the privilege of retaining, at a fair assessment, lands that he has reclaimed. It is desirable, however, that these two matters should be placed on a clear and stable footing for the future.

"There is another incident in their relations with their landlords to which the raiyats attach much greater importance, and in respect of which they would consider it a real boon to have their position defined more clearly than it is at present. I refer to the right of transfer. The Bill leaves transfers of raiyati holdings to be regulated by local custom or usage under clause 246. Now the general custom in Orissa is for transfers to be recognised by landlords on receipt from the transferees of a sum equal to one-fourth of the consideration money stated in the deed of transfer, and this general custom applies equally to transfers of entire holdings and transfers of part holdings. There is, however, no rule of law on the subject, and there are exceptional landlords of a grasping disposition who take advantage of this to demand much more than 25 per cent. as the price of their consent. The right of veto in these cases acts as a heavy tax on the raiyats, as it diminishes very materially the price they can obtain for their holdings, when forced to sell. That the usage of transfer has become universal in Orissa is proved by the figures that have been compiled in the Revision Settlement. During the past ten or twelve years 140,000 acres of raiyati land, or 10 per cent. of the whole, have changed hands for an aggregate consideration of 77 lakhs of rupees and when to this is added the sum paid to landlords by transferees, the total value of the transferred land approaches closely to the figure of one hundred lakhs. The statistics compiled by officers of settlement show that two-thirds of the transferred area consisted of part holdings. Indeed, the average area covered by single transaction is only 80, or four-fifths of an acre. The statistics further prove that only 30 per cent. of the transferred area, or 3 per cent. of the total raiyati area of Orissa, has passed into the hands of money lenders and landlords during the past decade. The great bulk of the transactions has occurred between the raiyats themselves, and there is little reason to fear that recognition of the right of transfer will encourage general improvidence amongst the peasantry of Orissa.

"Although no specific provision for the recognition of this right has been made in the Bill, I am authorised to state that Government has an open mind on the subject and is prepared to give it further consideration. My own recommendation is that the right of transfer on payment of a sum equal to one-fourth of the consideration money should be recognised in the Act, subject to a right of personal objection on the part of the landlord, of which the Collector will be arbiter. A reasonable objection would be that the transferee is a habitual defaulter, or a professional money-lender. The Council is invited to consider this proposal. I may add that the proposal was favourably considered by a majority of the Committee which discussed the question with Mr. Maddox in March 1909, that according to the experience of the Revision Settlement officers, one-fourth of the consideration money was the price paid for consent in the vast majority of cases, and that there is a general consensus of opinion in favour of fixing this limit.

"I will next refer briefly to four important subjects on which the Bill contains provisions that are not to be found in the Bengal Tenancy Act, or differ from the provisions of that Act. They are, first, produce rents, second, communal lands, third, common managers, and fourth, maintenance of land records.

"Produce-rents are dealt with in clauses 41 and 71 of the Bill. Clause 41 which regulates the commutation of produce-rents to a cash basis follows the corresponding section 40 of the Bengal Tenancy Act, but contains concessions in favour of landlords to whom commutation would be a considerable hardship, such for example as widows and minors who cannot themselves cultivate or arrange for cultivation, and who depend for their livelihood on receiving their share of the actual produce. There is also a concession in favour of religious and charitable endowments.

[Mr. H. McPherson.]

"Clause 71 contains two novel provisions, namely, that produce-rent shall be limited to one-half of the gross produce of the year, and that a suit for the recovery of produce-rent must be brought within the agricultural year following that in which it becomes due. Both of these provisions were regarded as fair and equitable by the Orissa landlords who were consulted in the Committee of 1909, and I am confident that they will commend themselves to the approval of this Council. The one-half limit is in accordance with the almost universal practice of Orissa, where under the *dhalibhag* system the grain and straw are equally divided at harvest between landlord and tenant. Nor can there be any reasonable objection to the provision limiting the period of recovery. The ordinary period of limitation in a rent suit is three years, and no great hardship arises if the rent be a cash rent, and in the fourth year the landlord sues a raiyat for the rent of the three preceding years, for the cash rent rarely represents more than one-sixth of the average annual produce and is often much less. The case is far different with a produce-rent. It can only spell ruin to a raiyat if he is sued in the fourth year for arrears of rent amounting as a rule to one and-a-half times the produce of the year of suit.

"There is next the question of communal lands, by which I mean the roads and pathways, the pasture lands, the water reservoirs used for drinking and irrigation, the burning grounds and burial grounds, and all other lands over which village communities exercise common rights of user. These were recognised in the last Revenue Settlement with the consent of the proprietors, and they have been fully defined and recorded in the course of the Revision Settlement. Provisions for their protection from encroachment are contained in clauses 103A to 103F, which have been separately circulated after due approval by the Supreme Government. They provide for the summary ejectment of trespassers and encroachers. All sections of the population, landlords and tenants alike, are interested in the preservation of these lands, for they are most essential to the welfare of agricultural communities. It is not right that their defence should be left to the public spirit of private individuals. That form of public spirit is sadly lacking in Orissa, or for that matter, throughout Bengal. In Orissa the subject has always received special attention, and these provisions in the Bill are the outcome of mature deliberation.

"On the third subject of common managers I have little to explain except that the controlling jurisdiction is proposed to be transferred from the District Judge to the Collector, and that the opportunity has been taken of amending the law on a number of minor points that have given rise to difficulty. The proposed transfer of jurisdiction was approved by a large majority of the Committee of 1909, as it is a matter of common knowledge that the extended sections of the Bengal Tenancy Act which deal with common managers have not worked well in the past. The Collector, as head revenue authority of the district, is brought more closely into touch with details of estate management and agricultural conditions than the head judicial authority, and is in a better position than he to exercise efficient control over common managers. No one realises this more forcibly than the District Judge himself, as will appear from the letter in which he has submitted his opinions on the Bill.

"My last subject is the maintenance of settlement records, for which provision has been made in Chapter XII of the Bill. It has been for many years the wish of the Supreme Government to introduce into Bengal the policy of maintenance of records which is followed in many other provinces of India. The object of the policy is to improve the administration by bringing it into closer touch with the people, and it has been pointed out that this closeness of touch is a special desideratum in Bengal, where, at least till recent times, there has been no intermediary agency between the rulers and the ruled except the police. The maintenance staff, it is said, would supply the much-felt want of a revenue agency on which the District officer could rely for direct communication with the people. It will be admitted that, could this object be achieved at a moderate cost and without undue harassment of the people, it is an object to be striven for. For the past three years the settlement staff has been experimenting with maintenance

[Mr. H. McPherson.]

in Orissa, but it has been maintenance without legislation, the results are not conclusive, and the question is still under the consideration of Government. Government will be pleased to have the benefit of opinions on the value of the policy, but our present duty as a Council is rather to consider the details of the provisions included in Chapter XII than to pass any general resolution in favour of or against the extension of the policy of maintenance to Orissa. The Chapter, it will be observed, is permissive, and it will rest with the Local Government to say to what areas, if any, its provisions should be applied.

"I have now dealt with all the more important features of the Bill, but so far have not discussed it with special reference to the permanently-settled estates included within the scope of its application. These estates, though few in number, are not inconsiderable in extent, and two of the largest, namely, Kujanj and Kanika, are represented on the Council to-day by their own proprietors. For the information of those who are not acquainted with the history of Orissa, I may explain the origin of these estates. At the date of the first British occupation, Orissa consisted of three distinct zones. There was the wild impenetrable hill country on the West and North-West, which was owned by feudatory Chiefs and was never effectively subdued by the Moguls or Mahrattas. The Chiefs paid a small tribute and rendered nominal allegiance, but had absolute power within their estates. This region was exempted by Regulations XII and XIII of 1805 from the operation of the ordinary Revenue and Police Regulations. It forms the Tributary Mahals or Garhjats of the present day, and lies beyond the pale of Orissa agrarian law. There was a second zone of seaward estates on the East and South-East, consisting mostly of marsh and woodland and owned by noble families who were, many of them, related to the last Hindu kings of Orissa. These paid quit-rents, called *peshkush*, to the Mahrattas. The British Government, in 1805, continued the old *peshkush* revenue in perpetuity. There are 12 such estates with an area of 1,760 square miles. They have always been subject to the ordinary laws and regulations of Bengal and are governed by the same agrarian laws as the rest of Orissa, and they have accordingly been included within the scope of the present Bill.

"Between the feudatory estates and the permanently-settled estates lies the core of Orissa, the *Mogulbandi* as it is called, which was fully subject to the sway of the Moguls and Mahrattas and has developed into the temporarily-settled tracts of the present day.

"It may be suggested that the permanently-settled zone is more akin to Bengal proper than to the *Mogulbandi* of Orissa, and that a Bill of which the essential features of difference from the Bengal Tenancy Act are based on, and justified by, the temporary character of Orissa's Revenue Settlement, cannot be suited to the permanently-settled portions of Orissa. On examination, however, it will appear that there is no foundation for this objection. The Bill does not impose any fresh disabilities on landlords. On the contrary, it grants them concessions. In so far as these are limited to temporarily-settled estates, the proprietors of permanently-settled areas have no reason to complain. Insofar as they are general, the permanently-settled proprietor profits by them. Nor does the Bill propose to confer any rights or privileges on raiyats that are not either already enjoyed by the Bengal raiyat or fully justified by the general circumstances of Orissa. It is difficult then to conceive what exception can reasonably be taken to the application of the Bill within the permanently-settled area. If there be any special difficulties that have been overlooked, they may be considered by the Select Committee.

"I have not yet had time to look into the memorial on the subject of *Killa Kujang*, of which copies have been placed before us this morning by the Hon'ble Maharajahdhiraja Bahadur of Burdwan, but I have given some description of these *Kilajats* estates, and I can assure the Hon'ble Member that the points raised in his memorial will be considered by Government and the Select Committee.

"I have now explained the Bill to the Council, and I hope I have succeeded in making good my confidence that the Bill is not a contentious measure and that it will commend itself to the Council, as it has already,

[*Sir Bijay Chand Mahtab Maharajadhiraja Bahadur of Burdwan.*]

in its main outlines, commended itself to the approval of the landlords and tenants of Orissa. The time, it may be hoped, has long since passed away when the interests of landlords and tenants were considered to be mutually antagonistic, when what was conceded to the one, was thought to be filched from the other, when tenancy legislation was a tug-of-war in which the landlord pulled for himself and it was left to some officer of Government to pull for the raiyat. A new spirit, one would fain believe, has arisen amongst the landowners of Bengal, which recognises that the prosperity of the landlord is intimately bound up with the prosperity of the tenant, that the cultivator has rights as well as the rent-receiver, that both landlord and tenant have duties as well as rights, and that a policy of give and take, of live and let live, is essential to the general welfare of agricultural communities. It is in reliance upon this new spirit that Government has enlarged the bounds and powers of its Legislative Councils. It is to it that I appeal for a fair and sympathetic treatment of the first agrarian measure that has come before the reformed Council of Bengal."

The Hon'ble SIR BIJAY CHAND MAHTAB, Maharajadhiraja Bahadur, of Burdwan, said :—

"A new agrarian code for Orissa is undoubtedly to be welcomed in these parts of the present province of Bengal. I also welcome the Hon'ble Mr. McPherson's suggestion that we should go on with the Bill in this Council, for the reason that in the present Council we not only have gentlemen representing the interests of Orissa, but also others who have interests in Orissa as well as in Bengal, and I think that their views would be helpful both to the Government and to the members of the Select Committee. The Hon'ble Mr. McPherson is to be congratulated on the lucid way in which he has explained the objects and reasons for this measure. I thought he was going to stop after mentioning about the temporarily-settled areas of Orissa, but he wound up by mentioning the permanently-settled estates of Orissa in which, of course, (being the proprietor of *Killa Kujang* estate,) I am interested, like my Hon'ble friend, the Raja of Kanika, and he has assured us that the privileges of the *Killajat* or *peshkush* estates will be carefully considered in the meetings of the Select Committee. I need not therefore take up the time of the Council for any length of time here to-day. However, I think I should mention here that this Bill makes a great departure regarding the principle of communal lands, and that when the claims of the *Killajat* estates are being considered, it ought to be borne in mind that though gradually the Government has by notification extended several sections of the Bengal Tenancy Act to these estates, a portion of these sections has been practically a dead letter because of the difference of the status of the *Killajat* estates with that of the *sanad* or *Mogulbundi* estates, and therefore the same principle of communal lands cannot possibly apply to these estates. Then, again, regarding the principle of introducing into the Orissa Tenancy Bill wholesale sections of the Bengal Tenancy Act, the Hon'ble Mr. McPherson has himself admitted that because it was thought that if this principle was followed, we could not have a good agrarian code for Orissa, special care will have to be taken where these sections of the Bengal Tenancy Act are now being introduced. In this connection, I should like to mention the fact that perhaps the Bengal Government is at a disadvantage because the Government of India wish Chapter XII to be included. Although that Chapter is permissive in the Orissa Tenancy Act, the Government has not been able to make out a good case for the inclusion of this Chapter. I certainly think that Chapters XI, XII and XIII should, in the first place, not only not apply to the permanently settled-estates—, but also not apply to the temporarily-settled estates. It will have to be carefully considered whether it would be expedient to apply these particular Chapters to these areas. Regarding *khas* lands, it is only of late that the Government has begun to make a distinction between *nij-jote* and *nij-chas* lands. I shall reserve my views on the subject for the present. With these few remarks I support the proposal regarding the formation of a Select Committee."

The motion was then put and agreed to.



[*Raja Rajendra Narayan Bhanja Deo.*]

The Hon'ble Raja Rajendra Narayan Bhanja Deo, in the absence of the Hon'ble Mr. Das, moved that all further proceedings in connection with the Bill to amend certain enactments relating to the law of landlord and tenant in the districts of Cuttack, Puri and Balasore, in the Orissa Division, in this Council, be stayed.

He said:—

"This motion stands in the name of the Hon'ble Mr. Das. Owing to ill-health he has asked me to move it. With your Honour's permission I beg to do this.

"I thank the Hon'ble Mr. McPherson for the trouble he has taken over this Bill. After Orissa was brought under British administration, no attention was paid to the peculiar conditions of social life or of rights in land. I am using the word 'land' in the most extensive sense, so as to include in it all right and interest in land, whether it be that of the zamindar or raiyat or proprietors of different kinds. The Bengal Government based their legislative measures on their experience and knowledge acquired in Bengal. The necessary result of this was a disturbance of rights and customs relating to lands existing in Orissa at the time when legislative enactments, meant for Bengal, were introduced or extended to Orissa. The present Bill is a proof of the disregard and want of attention which the people of Orissa have received from this Government in the past. Orissa was brought under the British Government in 1803. The circumstances under which the East India Company took possession were very peculiar. The priests of the most sacred temple in India, the temple of Jagannath, invited the British army to take possession of the province. On its way to the Central Provinces the British army received friendly assistance from the Rajas of Orissa. There are now several tributary Chiefs in Orissa. The people of Orissa have a history of their own and had a feudal system. It is no credit to any Government, after having ruled over such a province for more than a century, to discover that the province required a Tenancy Bill specially suited for the state of things and conditions of life in it. Every time the Bengal Legislative Council had before it any law which was meant to apply to Orissa, the Council had no Uriya among its Hon'ble Members. Sometimes Orissa has been selected as the experimental ground for legislation in contemplation. I could enumerate several acts of injustice to the people of Orissa. So, it is no wonder that the people of Orissa feel, as a race, that justice was not done to them by the Bengal Government, considering the treatment the British nation received from them in the early days of British occupation. Whether this feeling of the people is justifiable or not, it is neither necessary nor profitable to discuss here, but the feeling exists. An attempt to pass this Bill in this Council, after His Imperial Majesty's announcement at Delhi that Orissa should be placed under a separate Government, would intensify the feelings of the people against the Council, and, besides, this step would be looked upon as the last and perhaps the worst attempt of the Bengal Government to deprive Orissa of any opportunities of improvement.

"My regard for the reputation of your Honour and for the Hon'ble Members of this Council is my first reason for proposing that this Bill should not be referred to a Select Committee, and that nothing further should be done in regard to it. This Government will have no connection with the administration of Orissa a few weeks hence. The Act will be administered by a Government which has not yet been constituted. This Council has no means of knowing the opinion of the heads of that Government on the provisions of this Bill, nor the opinions of the Executive and Legislative Councils. This is really a legislation devoid of any responsibility, looked at from our point of view, and as an unauthorised assumption of duty, looked from the new Government's point of view. I do not understand why the Council should be so anxious to rush this Bill. Is it because this Council has more time than work in hand, or that the people of Orissa wish that this piece of legislation should be carried through in this Council? I am not aware that any

[*Maulvi Saiyid Muhammad Fakhr-ud-din ; Babu Janaki Nath Bose.*]

respectable body of men in Orissa are anxious to see this Bill passed before the new Government takes the administration of Orissa in hand. The Hon'ble Mr. McPherson has given two reasons why this Bill should be passed by this Council. The first is that, there are in this Council officials with special knowledge of Orissa, and the other is, that there are also in this Council Bengal zamindars who have interests in Orissa. Regarding the officials, who have a special knowledge of Orissa: is not this reason enough why they should go to the new province and carry out there the wishes of His Imperial Majesty in creating a new Government? But if the services of these officers are not available for the work of administration in the new province, we have on record, in the Bill before us, the letters and reports of what all these officers with special knowledge have to say, and if they have anything more to add, they might put in supplementary notes for the benefit of the Legislative Council of the Lieutenant-Governor of the new province.

"It is certainly more reasonable that men who have to administer the law should legislate, rather than that the legislation should be done by men who have no share or responsibility in the administration. Regarding the Bengal zamindars who have interests in Orissa, I will say that their interests will not suffer in the least, and that they will have their representative also in the other Council. With these few words, I beg to move that all further proceedings in this matter be stayed."

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN said :—

"I crave your Honour's permission to support this motion. I am very glad that the Hon'ble Mr. McPherson had anticipated this motion, and has already given some replies. but it seems to be anomalous that we should legislate for a province which will be administered by another Government, as we have already come to know that Orissa will form part of a separate Government, and, as there will be an Executive Council as well as a Legislative Council, Orissa might be more adequately represented on the new Council of Bihar. I think therefore that this legislation should be postponed for the consideration of the new Council of Bihar.

"With these few words, Sir, I support the motion."

The Hon'ble BABU JANAKI NATH BOSE said :—

"I crave your Honour's permission to oppose this motion. I oppose this motion, Sir, on several grounds. One of these is this: there is a general feeling amongst the intelligent people of Orissa that this Bill should be dealt with by this Council. I have consulted several gentlemen who take a lively interest in this measure, in fact, members of public Associations in Cuttack and other gentlemen connected with the administration of the law in that province, and most of them, I think, were of the opinion that this Council should deal with the Bill, not only in Select Committee, but should pass the Bill after proper deliberation. I do not know, Sir, whence my Hon'ble friend, the Raja of Kanika, has gathered his information, that the people of Orissa are opposed to have this Bill dealt with by the present Council. I can say, very safely, that the ordinary public does not take much interest in the work of legislation. It is the intelligent, educated portion of the community that really takes any interest in the measures which are before the Legislative Council. Now the Orissa Association of Cuttack is of long standing and is composed of many educated, intelligent and respectable people of that district, and I can very safely and emphatically assure the Council that the Orissa Association as a body does want to have this Bill passed by this Council. Then, Sir, the Hon'ble Mr. Das is not here, and I do not know exactly the reasons which induced him to propose this motion, but then he ought to have seen that there are very special reasons why this Council should pass this Bill. I can endorse the words of my friend, the Hon'ble Mr. McPherson, to this fact that we have this special advantage on this Council that your Honour, the President of this Council, is quite familiar with the rent law of Orissa, and your Honour is in a position

[*Rai Baikuntha Nath Sen Bahadur.*]

to give the result of your experience and knowledge of the rent law of Orissa as well as the defects of the administration of the law in that province. Then, your Honour will also see that Mr. Maddox can be looked upon as an authority on the land law of Orissa. He spent about eight years in the Settlement Department of that province. Not only that: three years back he was specially deputed by this Government to take the opinion of representative people as regards the provisions of a self-contained rent law for Orissa; and I may say, Sir, he did the work of collection of opinion in a very diligent and intelligent way. I suppose if this Bill goes before another Council we shall lose the advantage of the ripe experience of Mr. Maddox. I know he is very busy and has other important duties to attend to, but, when this Bill is before the Committee, he will no doubt help the Committee with the result of his knowledge and experience. Your Honour will kindly pardon me for saying that the Hon'ble Mover of this Bill has had to do a great deal with the settlement work of Orissa, and he has, as the Director of Land Records, taken a keen interest in the rent law of that province. The Hon'ble Mr. Das is in the Council and will be on the Select Committee, and I beg to submit that we shall also have the advantage of his knowledge and of his wide experience. The two most important land-holders of Orissa are also on this Council. I refer to the Hon'ble Maharajadhiraja Bahadur of Burdwan and the Hon'ble Raja of Kanika. They will also help the Council with their views regarding their part of the case. It will be a misfortune, I say, if this Bill is to be put aside to be taken up at a convenient time in the future, and many intelligent people connected with the administration of law in this province will look upon this postponement as a misfortune. My Hon'ble friend the Raja of Kanika says that the Hon'ble Mr. McPherson refers to the presence of the Bengal zamindars as being a good reason for this Council dealing with this Bill. It is a well-known fact—I do not make it a racial question at all, but it is undeniable—that some of the noblemen of this province of Bengal proper are large landed proprietors in Orissa, and as this is to be a law defining the interests of both landlords and tenants, it is desirable and practicable to have the views of important Bengal land-holders, who have the interest and welfare of Orissa at heart, before the Council also. It is also well known to most of us <sup>X of 1859.</sup> that, as the old Act of 1859 has been intruded upon by the extension of some portions of the Bengal Tenancy Act, the land law of Orissa is just at this <sup>VIII of 1885</sup> moment in a very uncertain state. It is also very desirable that there should be a self-contained Rent Act for the province. After years of deliberation we are now in a position to deal with such a Bill, and my Hon'ble friend the Raja of Kanika wants to have this stopped. I should say this was a very unwise step, and there was no reason whatever for its justification.

“With these words, I beg to oppose the motion which has been put by the Hon'ble Raja of Kanika.”

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR said :—

“I wish to make a few observations which would also involve a personal explanation. Before I was in possession of the collection of opinions in the shape of a big volume which has been furnished to us a day before this meeting of the Council, and before I had any talk with the Maharaja of Burdwan and the Hon'ble Babu Hrishikesh Laha, I had a talk outside this Council with the Hon'ble Mr. Das and the Hon'ble Raja of Kanika. Hearing, from them that they did not wish the Bill to be proceeded with further in this Council, I was inclined then to support their views, and to support them in asking for keeping the Bill in abeyance till the formation of the new Council, but, Sir, though I have not had time enough to go through the whole of the pages of this big volume, after having heard a very elaborate and able speech with which the Bill has been referred by the Hon'ble Mover of the Bill to the Select Committee, I must say that I am obliged to change my opinion. It would be inexpedient and injudicious to postpone the further consideration of this Bill. In this Council, we have now got able officers of Government who have studied the subject carefully, and the speech of the Hon'ble Mover of this Bill shows what scope it has in view and what range it covers. This involves very important

*The Calcutta Port (Amendment) Bill, 1912*[*The President; Raja Rajendra Narayan Bhanja Deo; Mr. Slacke.*]

questions, and as has also been referred to by the Hon'ble Maharajadhiraja of Bardwan that it would involve some questions of rights by treaties and engagements by the East India Company and the then owners of estates, confirmed by Regulations of the British Government. They require mature deliberation which can hardly be expected in a new Council. Here we have got officers who have devoted years and years to a study of these questions, and there is no knowing when this Bill can be taken up by the new Council. There may be a delay of a year or even two years. I therefore beg to oppose this motion of the Hon'ble Raja of Kanika, and in fact it seems to me that, after the adoption of the motion for a reference of the Bill to a Select Committee, this motion seems to me to be rather out of order."

The PRESIDENT said :—

"I must ask the Hon'ble Mover to consider whether he really wishes to press the question. I would put it to him rather in this way :

"That if, when the Select Committee has presented its Report, he still thinks that the Bill is not satisfactory, and does not meet his point of view, it will be quite open to him, then, to get a postponement or take any other steps that he thinks proper to avoid the passing of the Bill by this Council.

"It hardly seems reasonable to object to its being considered by a Select Committee which has such special advantages. I think he said that the interests of Orissa have not been well looked after before. It is very doubtful whether in the new Council he will ever get together a Select Committee which contains so many representatives of Orissa and at the same time so many officers of Government who have special experience of Orissa. It may be years before such a Select Committee can be brought together in the new province. I would ask him whether he really wishes to press his motion."

The Hon'ble RAJA RAJENDRA NARAYAN BHANJA DEO said :—

"I beg to withdraw this motion with the option of moving it again when the Report of the Select Committee has been presented."

The motion was subsequently, by leave of the President, withdrawn.

**THE CALCUTTA PORT (AMENDMENT) BILL, 1912.**

The Hon'ble Mr. Slacke moved for leave to introduce a Bill further to amend the Calcutta Port Act, 1890.

He said :—

"Experience has shown that in certain matters some of the sections of the existing Act are in conflict. To remove this and also to assimilate the powers of the Vice-Chairman with reference to expenditure debitable to the revenue account with those he possesses as regards the capital account, and to simplify the existing procedure with reference to carrying out repairs and maintenance, are the chief objects of this Bill which, I think, is a non-contentious measure."

The motion was put and agreed to.

The Hon'ble Mr. Slacke introduced the Bill, and moved that it be read in Council.

The motion was put and agreed to, and the Secretary accordingly read the title of the Bill.

The Council was then adjourned to Friday, the 23rd February, 1912, at 11 A.M.

A. W. WATSON,

*Off. Secretary to the Bengal Legislative Council.*

CALCUTTA,

*The 16th January, 1912.*



*Abstract of the Proceedings of the Bengal Legislative Council assembled under the provisions of the Indian Councils Acts, 1861, 1892 and 1909.*

THE Council met in the Durbar Hall at Belvedere on Monday, the 26th February, 1912, at 10 A.M.

Present:

The Hon'ble MR F. A. SLACK, C.S.I., *Vice-President, presiding*

The Hon'ble RAJA KISORI LAL GOSWAMI.

The Hon'ble MR. R. T. GRIFR, C.S.I.

The Hon'ble MR D J MACPHERSON, C.I.E.

The Hon'ble MR. E. W. COLLIN.

The Hon'ble MR. C. J. STEVENSON-MOORE, C.V.O.

The Hon'ble MR. J. H. L. GARRETT.

The Hon'ble MR. E. P. CHAPMAN.

The Hon'ble MR. B. K. FINNIMORE

The Hon'ble MR. C. A. WHITE.

The Hon'ble MR. J. H. KERR, C.I.E.

The Hon'ble MR. H. L. STEPHENSON.

The Hon'ble MR. G. W. KUCHLER, C.I.E.

The Hon'ble SIR FREDERICK LOCH HALLIDAY, Kt., M.V.O., C.I.E.

The Hon'ble MR. J. G. CUMMING, C.I.E.

The Hon'ble MR. C. E. A. W. OLDHAM.

The Hon'ble MR. H. MCPHERSON.

The Hon'ble MAHARAJA BAHADUR SIR PRODYOT KUMAR TAGORI, Kt.

The Hon'ble SIR FREDERICK GEORGE DUMAYNE, Kt.

The Hon'ble RAI SITANATH RAY BAHADUR.

The Hon'ble Lt.-COL. G. GRANT GORDON, C.I.L.

The Hon'ble BAPU JANAKI NATH BOSE.

The Hon'ble SIE BHAY CHAND MAHTAB, K.C.S.I., K.C.I.E., I.O.M., Maharaja  
dhiraja Bahadur of Burdwan.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDI.

The Hon'ble MAHARAJ-KUMAR GOPAL SARAN NARAYAN SINGH.

The Hon'ble BABU KIRTANAND SINHA.

The Hon'ble RAJA RAJENDRA NARAYAN BHANJA DEO.

The Hon'ble BABU DEBA PRASAD SARBADHIKARI.

The Hon'ble MR. NORMAN MCLEOD.

The Hon'ble MR. F. H. STEWART, C.I.E.

The Hon'ble MR. W. J. BRADSHAW.

The Hon'ble MR. GOLAM HOSEIN CASSIM ARIFI.

The Hon'ble MR. SAIYID WASI AHMAD.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN.

The Hon'ble BABU HRISHIKESH LAHA.

The Hon'ble MR. K. B. DUTT.

The Hon'ble MAULVI SAIYID ZAHIR-UD-DIN.

The Hon'ble MR. D. J. REID.

The Hon'ble RAI SHEO SHANKAR SAHAY BAHADUR.

The Hon'ble MR. M. S. DAS.

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR.

The Hon'ble BABU MAHENDRA NATH RAY.

The Hon'ble KEAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN.

The Hon'ble BABU BRAJ KISHOR PRASAD.

The Hon'ble MR. DIP NARAYAN SINGH.

The Hon'ble BABU BAL KRISHNA SAHAY.

#### OATH OR AFFIRMATION OF ALLEGIANCE.

The Hon'ble Mr. Stephenson and the Hon'ble Mr. Reid made the prescribed oath or affirmation of their allegiance to the Crown.

[*Babu Bal Krishna Sahay ; Mr. Stevenson-Moore ; Mr. Chapman.*]

### QUESTIONS AND ANSWERS.

DEDICATION OF FEMALE CHILDREN TO THE TEMPLE OF JAGANNATH IN PURI

The Hon'ble BABU BAL KRISHNA SAHAY asked:—

I. (a) Has the attention of the Government been drawn to the open letters published in a Calcutta paper named *Satya Sanatan Dharma* on the 14th November, 1910, and again on the 6th April, 1911, addressed to the Government of Bengal and to the Imperial Government, respectively, bringing to light the custom of dedicating female children to the temple of Jagannath in Puri (Orissa), who, when grown up, lead immoral lives as long as they live, and requesting the Government to abolish the said custom?

(b) Is the Government in a position to say whether the allegations made in the said paper are correct?

(c) Will it please the Government to state whether any communication on this subject has been received by it from the Secretary of State for India?

(d) Is the Government aware that the aforesaid complaint of the *Satya Sanatan Dharma* has been supported by nearly the entire Indian Press, not only by those in favour of reform, but also by such orthodox Hindu papers as the *Hindustan* and *Hita Varta* of Calcutta?

(e) Will the Government be pleased to state whether the Government propose to take any action in the matter with the object of stopping this immoral custom?

The Hon'ble MR. STEVENSON-MOORE replied:—

(a) The answer is in the affirmative.

(b) Government has ascertained that about 100 dancing girls are attached to the Jagannath Temple at Puri and are dedicated to its service. The allegations referred to are believed not to be applicable to any other temple in the Province.

(c) The answer is in the affirmative.

(d) Government is aware that these allegations have been made by other newspapers.

(e) Government would view with favour and lend its support to any organized attempt made by Hindu society at large to eradicate the evils which have grown up round the system at Puri, but it considers that any such movement should emanate from the people themselves, and it does not propose to initiate reforms on its own motion in a matter so closely connected with religious observance.

UNSUITABILITY OF THE INDIAN SUCCESSION ACT TO THE ABORIGINAL TRIBES OF CHOTA NAGPUR.

The Hon'ble BABU BAL KRISHNA SAHAY asked:—

II. Is the Government aware that the provisions of the Indian Succession Act are quite unsuited to the conditions of the Mundas, Urans and other aboriginal tribes of Chota Nagpur who, in the matter of succession and inheritance, follow their own peculiar customs?

The Hon'ble MR. CHAPMAN replied:—

It has been ascertained that the aboriginal tribes in Chota Nagpur are governed by peculiar customary rules of succession and inheritance. As Chota Nagpur is about to be dissociated from the Province of Bengal, this Government consider that the question of the unsuitability of the provisions of the Indian Succession Act, in the case of these tribes, may be properly left to the new Government to deal with."

[*Babu Braj Kishor Prasad; Mr. Chapman.*]

LOCATION OF AN ADDITIONAL JUDGE OR A SUBORDINATE JUDGE AT MOTIHARI.

The Hon'ble BABU BRAJ KISHOR PRASAD asked:—

III. (a) Will the Government now be pleased to supply the figures asked for in my question No. XII (a) put in this Council on the 15th August, 1911, on the subject of the location of an Additional Judge or a Subordinate Judge at Motihari in the Champaran district?

(b) Will the Government be pleased to state whether it has received the reports of the District Judge and the Subordinate Judge of Muzaffarpur, the District Magistrate and Collector of Motihari and the Sub divisional Magistrate of Bettiah, as also the opinions of the leading men of the town and district of Motihari and of the Manager of the Bettiah Raj on the subject of the memorial submitted by the people of Motihari praying for the location of an Additional Judge or a Subordinate Judge at that station?

(c) If so, will the Government be pleased to state whether the consensus or the said opinions is in favour of the location of an Additional Judge or a Subordinate Judge at Motihari?

(d) Will the Government be pleased to state whether it intends to locate an Additional Judge or a Subordinate Judge at Motihari; or what action, if any, it intends to take on the said memorial and on the reports of the officials referred to in clause (b) of the question?

The Hon'ble MR. CHAPMAN replied:—

(a) The figures asked for are contained in the statement which is placed on the table.

(b) (c) (d) The District Judge and the High Court have been consulted in regard to the prayer contained in the Memorial for the location of an Additional or Subordinate Judge's Court at Motihari. The District Judge has replied, and the High Court's opinion is awaited. The Government is not disposed to take any action until the High Court's opinion is received.

STATEMENT REFERRED TO BY THE HON'BLE MR. CHAPMAN IN HIS ANSWER TO QUESTION No. III ASKED BY THE HON'BLE BABU BRAJ KISHOR PRASAD AT THE COUNCIL MEETING OF THE 26TH FEBRUARY 1912.

*Statement showing the Civil work done in the district of Champaran.*

YEAR.	Civil suits (including miscellaneous cases) of value exceeding Rs. 1,000.	Civil suits of value exceeding Rs. 100 which could be tried by a Court of Small Causes	Civil appeals
1895 ...	49	266	189
1896 ...	63	377	182
1897 ...	89	276	180
1898 ...	78	224	691
1899 ...	87	224	140*
1900 ...	66	275	160
1901 ...	98	261	221
1902 ...	125	255	160
1903 ...	71	231	97
1904 ...	94	261	143
1905 ...	83	250	144
1906 ...	185	414	293
1907 ...	231	430	130
1908 ...	192	409	110
1909 ...	231	330	138
1910 ...	223	295	132

[*Babu Braj Kishor Prasad ; Mr. Stevenson-Moore ; Mr. Chapman.*]

**DIVISION OF THE PROVINCIAL JUDICIAL AND EXECUTIVE SERVICES BETWEEN THE PROVINCES OF BENGAL AND BIHAR.**

The Hon'ble BABU BRAJ KISHOR PRASAD asked :—

IV.—(a) Will the Government be pleased to state whether the Provincial Judicial and Executive Services are going to be divided between the Provinces of Bengal and Bihar?

(b) If so, from what date will the said division take effect?

(c) Will the Government be pleased to specify, grade by grade, the number of Subordinate Judges, Munsifs and Deputy Magistrates which it is intended to assign to the Province of Bihar?

(d) Will the Government be pleased to state whether, in making the division of the services, it intends to retain in Bihar such Bengali (Judicial and Executive) Officer as have experience of Bihar districts?

(e) Is the Government in a position to state how many Biharis are likely to be appointed as Subordinate Judges in the new Province of Bihar at the time of the division of the *cadre*?

The Hon'ble MR. STEVENSON-MOORE replied :—

(a), (b) and (c) The question of the division of the Provincial Judicial Service between the Provinces of Bengal and Bihar is under consideration. The Executive Service will be divided between both the Provinces, but no particulars regarding the date from which the division will take place, or the grades to be assigned to either Province, have yet been finally decided.

(d) The principle suggested is being followed so far as it is consistent with the other considerations which arise.

(e) Government is not at present in a position to state how many Biharis are likely to be appointed as Subordinate Judges in the new Province of Bihar.

**ABOLITION OF THE 4TH GRADE OF THE PROVINCIAL JUDICIAL SERVICE.**

The Hon'ble BABU BRAJ KISHOR PRASAD asked :—

V.—In view of the fact that the Government has abolished the eighth grade (on Rs. 200) of the Provincial Executive Service, will the Government be pleased to state whether it intends to take any action with a view to a similar abolition of the fourth grade of the Provincial Judicial Service, which carries the same pay?

The Hon'ble MR. CHAPMAN replied :—

Government have already had a proposal before them for raising the pay of the lowest grade of Munsifs. The consideration of the question has been postponed, pending the reconstitution of the Province.

**THE NEW SECRETARIAT AND BIHAR'S CLAIM.**

The Hon'ble BABU BRAJ KISHOR PRASAD asked :—

VI. (a) Has the attention of the Government been drawn to an article headed "The New Secretariat and Bihar's claim" which appeared in the issue of *Young Bihar* of the 29th January, 1912?

(b) Will the Government be pleased to state whether the statement, made in some of the Calcutta papers, that it is proposed to staff the Secretariat for the new Province of Bihar solely with officers taken from Calcutta, is correct?

(c) Will the Government be pleased to state whether, when making appointments to the new Secretariat and other offices in the new Province of Bihar, it intends to consider the claims of the people of Bihar, Orissa and Chota-Nagpur?

[*Mr. Stevenson-Moore; Babu Braj Kishor Prasad; Mr. Stephenson.*]

(d) Will the Government be pleased to state whether it intends to notify the number of such appointments and to invite applications therefor?

(e) Will the Government be pleased to state when the said appointments will be made and who will make them?

The Hon'ble MR. STEVENSON-MOORE replied :—

(a) The answer is in the affirmative.

(b) to (e) The scale of Secretariat and other office establishments for each of the new Provinces and the Assam Administration has not yet been fixed, and, until this is done, the selection of the *personnel* to fill the several posts cannot be undertaken. When the selection is being made, it will be necessary to pay due consideration to the claims of those clerks who are already in the employment of Government. The method of selecting outside applicants to fill available vacancies in the Secretariat and other office establishments of the new Province of Bihar and Orissa will rest with the Government of that Province, when constituted, and is not a matter within the competence of the Bengal Government.

#### APPOINTMENT OF A SUB-OVERSEER IN THE DALTONGANJ MUNICIPALITY.

The Hon'ble BABU BRAJ KISHOR PRASAD asked :—

VII. (a) Has the attention of the Government been drawn to the letter of a Daltonganj Correspondent, which appeared in the *Bihar Advocate* and *Kayastha Messenger* of the 1st and 8th January, 1912, regarding the appointment of a Sub-Overseer in the Daltonganj Municipality?

(b) Is it a fact that the claims of many trained Biharis, who had passed the requisite examinations of the Bihar School of Engineering, were overlooked by the Municipal Authorities in favour of an outsider who had undergone no such training and had none of the necessary qualifications?

(c) If the answer to the last question is in the affirmative, will the Government be pleased to state whether it intends to take any action with a view to putting a stop to occurrences of this nature?

The Hon'ble MR. STEPHENSON replied :—

The appointment of Municipal servants is regulated by statute. Under section 46 of the Municipal Act, the Municipal Commissioners can decide upon the scale of establishment necessary, and, subject to this scale, the Chairman has powers to appoint such persons as he may think fit, but an appointment to an office, the salary of which is Rs. 50 a month, requires the sanction of the Commissioners at a meeting. These powers are limited by section 61 which requires the sanction of the Commissioner when the salary of an office is Rs. 100 a month and that of the Local Government when the salary is Rs. 200. No qualifications have been prescribed for the post of Municipal Sub-Overseer, and Government is unwilling to interfere with the discretion of the Municipality by inquiring into the circumstances of this particular appointment.

#### SUB-REGISTRARS AND THE SALARIED SYSTEM.

The Hon'ble BABU BRAJ KISHOR PRASAD asked :—

VIII. (a) Will the Government be pleased to state whether it is a fact that, on or about the 21st March, 1910, several Sub-Registrars, who had served in that capacity before the introduction of the salaried system, submitted separate memorials to Government praying that the period of their services before the introduction of that system might be counted towards pension on the grounds advanced in their memorials?

(b) Will the Government be pleased to state whether it has considered the subject of the said memorials and, if so, what action has been taken thereon?



[*Mr. Kerr; Babu Braj Kishor Prasad; Mr. Stevenson-Moore; Rai Baikuntha Nath Sen Bahadur; Mr. Chapman; Mr. Golam Hossein Cassim Ariff.*]

The Hon'ble MR. KERR replied:—

(a) The answer is in the affirmative.

(b) Government has considered the memorials. The orders that service before the introduction of the salaried system should not count for pension were passed by the Government of India, and this Government, in view of the other advantages gained by the Sub-Registrars from the introduction of the salaried system, did not feel justified in asking for a reconsideration of the matter. Orders have, however, been issued that the ordinary rules relating to retirement should be applied with discretion in the case of Sub-Registrars, whose work is mainly of a routine character and does not demand so much mental and physical energy as is required in most other services. It has been directed that consideration should be shown in the case of a Sub-Registrar who has exceeded the age of 55 years, but who is still fit for work, and who may qualify for pension with a reasonable amount of extension of service.

#### COTTON-GAMBLING IN CALCUTTA.

The Hon'ble BABU BRAJ KISHOR PRASAD asked:—

IX. (a) Has the attention of the Government been drawn to a series of articles on the subject of the growing practise of "Cotton gambling" in Calcutta, which appeared in the weekly edition of the *Bharatmitra* of the 28th October, 1911, and in the daily edition of the same paper of the 5th December, 1911, 4th January, 1912, and 16th January, 1912, respectively?

(b) If so, will the Government be pleased to state whether it has taken, or intends to take, any action in the matter with a view to putting a stop to this evil?

The Hon'ble MR. STEVENSON-MOORE replied:—

(a) The reply is in the affirmative.

(b) A proposal to legislate with a view to suppress Cotton-gambling is now under the consideration of Government.

#### INCREASE OF PAY TO OFFICERS OF THE LAST GRADE OF THE PROVINCIAL JUDICIAL SERVICE

The Hon'ble RAI BAIKUNTHA NATH SEN BAHADUR asked:—

X (a) Will the Government be pleased to state whether, now that the eighth grade of the Provincial Executive Service has been abolished and the officers of that grade have been amalgamated with the officers of the seventh grade, and accorded a salary of Rs. 250 per mensem, it intends to raise the pay of the officers of the last grade of the Provincial Judicial Service to Rs. 250 per month?

(b) If so, will the Government be further pleased to state when it intends to do this?

The Hon'ble MR. CHAPMAN replied:—

(a) & (b) The Hon'ble Member is referred to the reply given to the Hon'ble Babu Braj Kishor Prasad's question upon the same subject.

#### COTTON-GAMBLING IN CALCUTTA.

The Hon'ble MR. GOLAM HOSSEIN CASSIM ARIFF asked:—

XI. (a) Has the attention of the Government been drawn to the recent establishment of a large number of shops in the town of Calcutta and its suburbs where gambling is carried on publicly, under a system known as the "Cotton figure", and to the fact that these shops are frequented by, amongst others, women and school children?

[*Mr. Stevenson-Moore; Khan Bahadur Maulvi Sarfaraz Husain Khan; Mr. Stephenson; Mr. Kerr; Mr. K. B. Dutt.*]

(b) Has the attention of the Government been drawn to the fact that the Commissioner of Police has expressed his inability, under the present law, to close these shops or to stop gambling therein?

The Hon'ble Mr. STEVENSON-MOORE replied :—

(a) & (b) The answers to both questions are in the affirmative.

#### IMPROVEMENT OF THE PAY AND PROSPECTS OF CIVIL ASSISTANT SURGEONS IN BENGAL.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN asked :—

XII. (a) Will the Government be pleased to state whether it has received any communication on the subject of the proposals submitted by it to the Government of India with reference to the petition submitted, in 1907, by the Civil Assistant Surgeons in Bengal, praying that their pay and prospects in the service might be improved?

(b) If so, will the Government be pleased to lay the communication on the table?

(c) Will the Government be pleased to state how many Civil Assistant Surgeons hold the appointment of Civil Surgeon within the territories under the jurisdiction of the Lieutenant-Governor of Bengal?

The Hon'ble Mr. STEPHENSON replied :—

A communication was received from the Government of India in October last, but a further reference to that Government was necessary. As the matter is still a subject of correspondence with the Government of India, the papers cannot be laid on the table.

There are at present three Civil Assistant Surgeons in permanent charge of Civil Surgeoncies in this Province.

#### SURVEY AND SETTLEMENT OPERATIONS IN BIHAR.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN asked :—

XIII. (a) Will the Government be pleased to state whether it has received the report called for from the Director, of Land Records, in regard to the representation submitted by the Bihar Landholders' Association, Bankipore, on the 5th April, 1911, relating to the grievances of the people of Bihar against Survey and Settlement operations in that Province?

(b) If so, will the Government be pleased to lay the report on the table?

The Hon'ble Mr. KERR replied :—

(a) The answer is in the affirmative.

(b) The report was received from the Board of Revenue on the 8th February, 1912, and is still under the consideration of Government and so cannot be laid on the table.

#### ALLEGED PROPOSED PARTITION OF THE DISTRICT OF MIDNAPORE.

The Hon'ble Mr. K. B. DUTT asked :—

XIV. (a) Will the Government be pleased to state whether it has any proposal now under consideration for the partition of the district of Midnapore?

(b) Is the Government aware that there was such a proposal in 1907, but that the Government of India declined to take any action upon it?

(c) Is the Government aware that a memorial was submitted to the Government of India in 1907 by the people of Midnapore protesting against the partition of the district of Midnapore?



[*Mr. Stevenson-Moore; Mr. K. B. Dutt; Mr. Chapman; Babu Mahendra Nath Ray; Mr. Stephenson.*]

(d) Is the Government aware that the Government of India informed the memorialists, through the Government of Bengal, in a letter dated the 17th of April, "that the people will be given a full opportunity of expressing their opinion before any such step is taken," meaning thereby "any step towards the partition of" the district of Midnapore?

No year has been stated.  
A. W. WATSON—  
16-2-1912.

(e) Will the Government be pleased to state what opportunity, if any, has been given to the people and the public, or to any representative body, to express their opinion regarding the rumoured partition of the district of Midnapore?

(f) Is the Government aware that there is a strong feeling in Midnapore regarding the proposed partition of the district?

(g) Will the Government be pleased to state whether it has considered the question of the expenditure which will be entailed upon the provincial revenues if the proposed partition is effected?

(h) Will the Government be pleased to state what is likely to be the recurring and non-recurring expenditure if the partition of the district is effected and a new district is created?

(i) Will the Government be pleased to defer the consideration of the question of the proposed partition of the district of Midnapore till the new Governorship in Council is constituted?

The Hon'ble MR. STEVENSON-MOORE replied:—

The answer to the first question asked by the Hon'ble Member is that proposals for the partition of the district of Midnapore are not now under consideration and will not be taken into consideration by the present Government. In these circumstances the Hon'ble Member will perhaps agree that the remaining questions call for no reply.

#### LOCATION OF A SUBORDINATE JUDGE AT HOWRAH.

The Hon'ble MR. K. B. DUTT asked:—

XV. Will the Government be pleased to state what steps, if any, have been taken for the location of a Subordinate Judge at Howrah?

The Hon'ble MR. CHAPMAN replied:—

\* The question of the location of a Subordinate Judge's Court at Howrah is under the consideration of Government, in consultation with the High Court.

#### GOVERNMENT CONTRIBUTION TOWARDS THE EXTENSION OF THE HOWRAH WATER-WORKS.

The Hon'ble BABU MAHENDRA NATH RAY asked:—

XVI. Will the Government be pleased to refer to Bengal Government letter No. 712M. (Municipal Department), dated the 4th April, 1911, addressed to the Commissioner of the Burdwan Division, intimating that the Lieutenant-Governor in Council was pleased to promise a contribution of 5 lakhs of rupees from Provincial Revenues towards the costs for the extension of the Howrah water-works, and to state whether the contribution was burdened with any condition?

The Hon'ble MR. STEPHENSON replied:—

The promise of the contribution of rupees 5 lakhs from Provincial Revenue towards the cost of the extension of the Howrah water-works was made upon a full consideration of all the bearings of the rough project then before Government. This consideration included the probability of a supply of filtered water being made available to the Uttarpara Municipality. The promise was of course contingent upon the detailed plans being in substantial conformity with the rough project.

*Financial Statement.*

[*Babu Mahendra Nath Ray; Mr. Stephenson; Mr. Greer.*]

**SUPPLY OF FILTERED WATER TO THE UTTERPARAH MUNICIPALITY.**

The Hon'ble BABU MAHENDRA NATH RAY asked :—

XVII. Has the attention of the Government been drawn to a memorandum No. 963M., dated the 18th October, 1911, addressed by the Commissioner of Burdwan to the Magistrate of Howrah, forwarding copy of a communication from the Sanitary Board in regard to the supply of filtered water to the Utterparah Municipality?

The Hon'ble MR. STEPHENSON replied :—

No copy of the Memorandum by the Commissioner of Burdwan referred to has been forwarded to Government.

**DISCONTINUANCE OF THE PRACTICE OF TAKING SPECIAL NOTICE OF THE ADMINISTRATION OF THE HOWRAH MUNICIPALITY IN THE ANNUAL RESOLUTION ON THE WORKING OF MUNICIPALITIES IN BENGAL.**

The Hon'ble BABU MAHENDRA NATH RAY asked :—

XVIII. Will the Government be pleased to refer to paragraph 38 of the Government Resolution on the working of Municipalities in Bengal, during the year 1905-1906, and to state for what reason the practice of taking special notice of the administration of the Howrah Municipality in the Annual Resolutions has since been discontinued?

The Hon'ble MR. STEPHENSON replied :—

"A short separate review of the administration of the Howrah Municipality was made for the first time in the Resolution on the working of Municipalities for the year 1902-03 and was discontinued in the Resolution for the year 1907-08. There has been no special reason for the discontinuance since that year, but the necessity for a separate review of the Howrah Municipality depends principally upon the nature of the working during the year."

**FINANCIAL STATEMENT.**

The Hon'ble MR. GREER said :—

"It has been thought desirable that the Members of Council should be made acquainted at the earliest opportunity with the procedure contemplated in connection with the Budget for 1912-13.

"In the ordinary course the draft Financial Statement would by now have been examined by the Finance Committee whose recommendations would have been considered by the Local Government, prior to the submission of the second edition of the estimates to the Government of India. The Revised Financial Statement would then have been introduced and explained by the different Members in charge early in March, and Resolutions would have been moved and discussed. Finally the budget debate would have been held, about the end of the month.

"It has probably already struck the Members of this Council that the announcements made by His Imperial Majesty at Delhi, which affect the existing constitution of this Province must have a considerable effect upon this normal procedure. The Finance Committee were consulted originally in the preparation of the estimates for this Province but the estimates for the ensuing year are now being framed separately for that portion of the present Province which will continue in Bengal on the one hand, and for Bihar, Chōta-Nagpur and Orissa on the other, with the consequence that there will be no Financial Statement with which this Council, with its present membership

*The Bengal Mining Settlements Bill, 1911.*[*Mr. Greer; Raja Kisori Lal Goswami.*]

is legitimately concerned. The non-official members from the Burdwan and Presidency Divisions and those officials who will continue in Bengal have no authority to criticise the future Budget of Bihar and Orissa; the estimates for the Burdwan and Presidency Divisions will only be a fragment of the Budget for Bengal, and even in that fragment the non-official and official representatives who are about to sever their connection with Bengal are not interested. The position is peculiar, but it is unavoidable, and in these exceptional circumstances it is hoped that it will be recognised as fair and reasonable that the ordinary budget procedure during the current Session must be waived. This is from no desire to burke discussion but merely as the natural consequence of the unusual conditions existing. The Budget of each of the new Provinces for the next year must simply consist of what the Government of India allot under the various heads. In the absence of a Council capable of dealing with the Budget of each Province, this is the only course. The President therefore has been pleased to exercise his power of suspending such of the Rules as would have rendered the above procedure obligatory, and no Financial Statement or Budget will accordingly be brought before the present Council."

## THE CALCUTTA PORT (AMENDMENT) BILL, 1912.

The Hon'ble Mr. Greer moved that the Bill further to amend the Calcutta Port Act, 1890, be referred to a Select Committee consisting of the Hon'ble Mr. Slacke, the Hon'ble Mr. Finnimore, the Hon'ble Mr. White, the Hon'ble Sir Frederick George Dumayne, the Hon'ble Rai Sita Nath Ray Bahadur, the Hon'ble Mr. Norman McLeod, the Hon'ble Babu Hrishikesh Laha and the mover, with instructions to report within a fortnight.

The Motion was put and agreed to.

## THE BENGAL MINING SETTLEMENTS BILL, 1911.

The Hon'ble Raja Kisori Lal Goswami moved that the Hon'ble Mr. J. H. Kerr be added to the Select Committee on the Bill to provide for the sanitation of mining settlements in Bengal.

The Motion was put and agreed to.

The Council was then adjourned to Wednesday, the 6th March, 1912, at 11 A.M.

A. W. WATSON,

*Offg. Secretary to the Bengal Legislative Council.*

CALCUTTA;

*The 27th February, 1912.*

*Abstract of the Proceedings of the Bengal Legislative Council, commenced under  
the provisions of the Indian Councils Acts. 1861, 1892 and 1909.*

THE Council met in the Durbar Hall at Belvedere on Wednesday, the 6th March, 1912, at 11 A.M.

**Present:**

The Hon'ble SIR FREDERICK WILLIAM DUKE, K.C.I.E., C.S.I., Lieutenant Governor of Bengal, *sub. pro tem.*, *presiding.*

The Hon'ble RAJA KISORI LAL GOSWAMI.

The Hon'ble MR. R. T. GREER, C.S.I.

The Hon'ble MR. D. J. MACPHERSON, C.I.E.

The Hon'ble MR. C. J. STEVENSON-MOORE, C.V.O.

The Hon'ble MR. E. P. CHAPMAN.

The Hon'ble MR. B. K. FINNIMORE.

The Hon'ble MR. C. A. WHITE.

The Hon'ble MR. J. H. KERR, C.I.E.

The Hon'ble MR. H. L. STEPHENSON.

The Hon'ble MR. S. L. MADDOX, C.S.I.

The Hon'ble MR. B. C. MITRA.

The Hon'ble MR. G. W. KENNEDY, C.I.E.

The Hon'ble MR. L. F. MORSHEAD

The Hon'ble SIR FREDERICK LOCH HALLIDAY, Kt., M.V.O., C.I.E.

The Hon'ble MR. J. G. CUMMING, C.I.E.

The Hon'ble Mr. C. E. A. W. OLDSAN

The Hon'ble Mr. H. McPHERSON.

The Hon'ble MAHARAJA BAHADUR SIR PRODYOT KUMAR TAGORE, KT.

The Hon'ble SIR FREDERICK GEORGE DUMAYNE, KT.

The Hon'ble BABU BHUPENDRA NATH BASU.

The Hon'ble BABU JANAKI NATH BOSE.

The Hon'ble SIR BIJAY CHAND MAHTAB, K.C.S.I., K.C.I.E., I.O.M., Maharaj  
dhiraja Bahadur of Burdwan.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDI.

The Hon'ble MAHARAJ-KUMAR GOPAL SARAN NARAYAN SINGH.

The Hon'ble RAJA RAJENDRA NARAYAN BHANJA DEO.

The Hon'ble Mr. J. G. APCAR.

The Hon'ble Mr. NORMAN McLEOD.

The Hon'ble Mr. F. H. STEWART, C.I.E.

The Hon'ble Mr. W. J. BRADSHAW.

The Hon'ble Mr. GOLAM ROSSEIN QASSIM ARIFF.

The Hon'ble DR. ABDULLAH AL MAMUN SUHRAWARDY.

The Hon'ble Mr. SAIYID WASI AHMAD.

The Hon'ble MAULVI SAIYID MUHAMMAD FAKHR-UD-DIN.

The Hon'ble BABU HRISHIKESH LAHA.

The Hon'ble Mr. K. B. DUTT.

The Hon'ble MAULVI SAIYID ZAHIR-UD-DIN.

The Hon'ble RAI SHEO SHANKAR SARAY BHABHUR.

The Hon'ble Mr. MADHU SUDAN DAS, C.I.E.

The Hon'ble BABU MAHENDRA NATH RAY.

The Hon'ble KHAN BAHADUR MAULVI SARFARAZ HUSAIN KHAN.

1912.]

[Babu Bhupendra Nath Basu; Mr. Stevenson-Moore.]

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## QUESTIONS AND ANSWERS.

### ALLEGED ARREST OF BABU BEPIN CHANDRA PAL.

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

L. (a) Has the attention of the Government been drawn to an incident reported in the *Bengalee* of the 14th instant, concerning the arrest of Babu Bepin Chunder Pal on a charge of theft of a woollen sheet preferred by a man alleged to be an informer in the Criminal Investigation Department?

(b) Will the Government be pleased to state whether it is true that Babu Bepin Chunder Pal was arrested by the Sub-Inspector of the Sookea Street Thana on the charge above mentioned and brought out into the street in consequence, and that he was released on his explaining that the complainant had voluntarily left the sheet behind, and that he (Babu Bepin Chunder Pal) had caused it to be sent to Rai Benode Bihari Gupta Bahadur, an officer of the Criminal Investigation Department?

(c) Will the Government be pleased to inquire into the circumstances and publish the result of the inquiry?

The Hon'ble Mr. STEVENSON-MOORE replied :—

(a) "The answer is in the affirmative."

(b) It is not true that Babu Bepin Chandra Pal was arrested or that he was released on his explaining, *firstly*, that the complainant had voluntarily left his *alwan* behind, and *secondly*, that he (Babu Bepin Chandra Pal) had caused it to be sent to the Criminal Investigation Department.

(c) Government has caused an inquiry to be made and the police report of the facts is placed on the table."

*Police Report referred to by the Hon'ble Mr. Stevenson-Moore in answer to Question No. 1, asked by the Hon'ble Babu Bhupendra Nath Basu at the Council Meeting of the 6th March, 1912.*

On the 30th December last, Babu Bepin Chandra Pal left his house at Kalighat by tram at about 9-30 A.M. He was followed by a watcher who proceeded in the trailer car and accompanied Bepin Babu as far as Dr. Sundari Mohan Das' house, at No. 76-77, Sukeas Street. The watcher remained outside in the street. At about 1-30 P.M. Babu Bepin Chandra Pal came out of Dr. Das' house and stood on the footpath on Cornwallis Street. The watcher remained at some little distance. Babu Bepin Chandra Pal suddenly turned round and walking fast to where the watcher was standing, caught hold of him by his *alwan* and demanded his name. The watcher inquired for what purpose his name was wanted. Babu Bepin Chandra Pal is then reported to have pulled the watcher by the ear and dragged him by his *alwan* towards Dr. Das' house, at the same time calling to the durwan of the house to come and seize the watcher. Fearing that he would be assaulted inside the house, the watcher escaped, leaving his *alwan* in Bepin Babu's hand. Bepin Babu shouted to a sweetmeat shop-keeper, who was standing by, to capture the watcher. The sweetmeat vendor proceeded in pursuit of the watcher, but was almost immediately called back by Babu Bepin Chandra and his durwan. The watcher proceeded to the Sukeas Street Thana where he reported the occurrence to Sub-Inspector H. C. Laheri who is in charge of the station. Sub-Inspector Laheri, on receipt of this news, accompanied the watcher to the house of Dr. Das taking with him a Head Constable and two constables. On arriving at the house he called out to the durwan but received no response. Shortly afterwards he saw a servant leaving the house with a bundle and a letter. This was evidently the watcher's wrapper which was returned that same afternoon by Babu Bepin Chandra Pal to the late Rai Bahadur Gupta with a letter, which runs as follows :—

*Saturday, 30-12-1911.*

MY DEAR BINODE BABU.

\* It was reported to me that a man was shadowing me and making inquiries after me at Dr. Das' house. He was pointed out to me this afternoon by Dr. Das' durwan and



I went up to him to ask him about his name and business, and wanted him to come to Dr. Das' door to be confronted by the durwan. He took fright at this and ran away leaving his wrapper behind. I send this to you and bring it to your notice.

Yours sincerely,  
(Sd) BEPIN CH. PAL.

Sub-Inspector H. C. Laheri, after repeated calls, eventually obtained a response from Babu Bepin Chandra Pal who came to the door of the house and inquired what the matter was. On being informed of the complaint which had been made against him, Bepin Babu stated that he was annoyed at the Police coming to make an inquiry in such a trivial matter when he was in a friend's house, as this was likely to be taken exception to by his friend. The Sub-Inspector invited Babu Bepin Chandra to leave the house in order that the inquiry might be conducted elsewhere. Babu Bepin Chandra Pal then came out on the street and on seeing the Police there inquired if he was to be arrested. He complained that the officer who was shadowing him had behaved in an objectionable manner, as he had been making inquiries about him from the servants in Dr. Das' house. He admitted having caught hold of the watcher by his wrapper and having dragged him towards the house in order to take his name and address and get him identified by the durwan and the servants, and also admitted having ordered the sweetmeat vendor to pursue the watcher. On this Sub-Inspector Laheri, who was present at Bombay on the occasion of Babu Bepin Chandra Pal's recent conviction in the Chief Presidency Magistrate's Court at Bombay, reminded the latter of this incident and remarked that he would not have expected this conduct from him after what he had said in tears in the Court on that occasion. On this Babu Bepin Chandra asked the Sub-Inspector to let this matter drop, turn away the spectators who had collected on the spot and to come inside the house. Dr. Sundari Mohan Das himself then arrived on the scene and in the presence of Bepin Pal, apologised for the latter's conduct. Dr. Das and Babu Bepin Pal then both asked the Sub-Inspector to forget the incident and not to give any publicity to it. The Sub-Inspector then left the spot and took no further action in the matter, beyond recording the facts in his thana case register.

It is not true that Bepin Pal was arrested by the Sub-Inspector in connection with this case or that he was released on explaining that the complainant had voluntarily left his *alwan* behind.

GRIEVANCES OF CIVIL ASSISTANT SURGEONS IN THE EMPLOYMENT  
OF GOVERNMENT.

The Hon'ble MR. K. B. DUTT asked :—

II. (a) Has the attention of the Government been drawn to the articles that appeared in the *Amrita Bazar Patrika* of the 18th, 20th and 27th January last, regarding the grievances of Civil Assistant Surgeons in the employ of Government?

(b) Will the Government be pleased to state whether the allegations in the said articles as to the difference in the standard of qualifications required for a Civil and Military Assistant Surgeon, respectively, are substantially true?

(c) Will the Government be pleased to state what rates of pay are drawn by, and what posts are open to, Civil Assistant Surgeons and Military Assistant Surgeons, respectively?

(d) Will the Government be pleased to lay on the table a statement showing the number of Civil Surgeonships that have been allotted to the Subordinate Medical Service Department, and the proportion in which these appointments have been distributed between Civil and Military Assistant Surgeons?

(e) Will the Government be pleased to state what action, if any, it intends to take in regard to the representation of grievances submitted to it by the Civil Assistant Surgeons some five years ago?

(f) Will the Government be pleased to state what rates of pay it intends to give to Civil Assistant Surgeons?

[Mr. Stephenson.]

The Hon'ble MR. STEPHENSON replied:—

(a) "The answer is in the affirmative.

(b) A statement is laid on the table showing the qualifications required from candidates for each service and the length and nature of the course and the method of examination in each case.

(c) A statement showing the rates of pay drawn by Military and Civil Assistant Surgeons is laid on the table. Government assists the Military authorities by maintaining in civil employment a war reserve of Military Assistant Surgeons and with that view 23 appointments are set aside to be filled by Military Assistant Surgeons. The Assistant Surgeons holding these appointments receive only the pay of their grade. Both Civil and Military Assistant Surgeons are eligible for Civil Surgeoncies.

(d) In the Province, as it stands at present, 13 Civil Surgeoncies are listed for Assistant Surgeons. The full number cannot be worked up to until the uncovenanted medical officers at present in the service have retired. Of these 13 appointments, 6 are intended for Military Assistant Surgeons and 7 for Civil Assistant Surgeons.

(e) A revised scale of pay will be introduced with effect from 1st April. Orders on the other suggestions made in the memorial have already been passed.

(f) The new scale of pay is set forth in the Resolution published in to-day's Gazette of which a copy is laid on the table."

STATEMENT REFERRED TO BY THE HON'BLE MR. STEPHENSON IN HIS ANSWER TO QUESTION NO. II (b) ASKED BY THE HON'BLE MR. K. B. DUTT AT THE COUNCIL MEETING OF THE 8TH MARCH, 1912.

	Military Assistant Surgeons.	Civil Assistant Surgeons.
(1) Preliminary qualifications.	<p>Candidates for admission into the Indian Subordinate Medical Department, before they are admitted for training in the Medical College, are required to pass an entrance examination in the following subjects:—</p> <p>(a) <i>English</i>.—Composition. (Marks are added to, or subtracted from, the total for spelling, handwriting, and punctuation.)</p> <p>(b) <i>History and Geography</i>.—The outlines of English and Indian History, and the elements of Physical and General Geography.</p> <p>(c) <i>Mathematics</i>.—  <i>Arithmetic</i>.—The four simple rules; Vulgar and Decimal fractions, Reduction; Practice; Proportion; Simple Interest; Extraction of square root; the Metric system.  <i>Algebra</i>.—The four simple rules; Proportion; simple Equations; simultaneous Equations, and simple Problems.  <i>Geometry</i> of points, lines, angles, and simple figures as covered by the first book of Euclid.</p> <p>(d) <i>Vernacular</i>.—Hindustani, colloquial.</p>	Matriculation pass certificate of the Calcutta University.
(2) Course of study.	<p>In the case of the Military Assistant Surgeons, the course of study extends over four years as follows:—</p> <p><i>First year</i>.—Anatomy (including Osteology and Dissection); Surgical Applied Anatomy; Physiology; Materia Medica; Chemistry, Outdoor Medical and Surgical Practice; Compounding and Dispensary Practice.</p>	<p>The Civil Assistant Surgeons are required to pass the M.B. or L.M.S. Examination of the Calcutta University. Under the new University Regulations, the L.M.S. Examination has been abolished, and the students are now required to pass only the M.B. Examination. The course of study extends over six years as follows:—</p>

[Mr. Stephenson.]

	Military Assistant Surgeons.	Civil Assistant Surgeons.
	<p><i>Second year.</i>—Anatomy and Dissections; Surgical Applied Anatomy; Physiology and Histology; Materia Medica; Pharmacy and Compounding; Chemistry and Practical Chemistry; Hospital Practice.</p> <p><i>Third year.</i>—Medicine (systematic and clinical); Surgery (systematic and clinical); Ophthalmology; Post-mortems; Hospital Practice, medical and surgical; Dentistry and Dental Practice; Midwifery (lectures, practical demonstrations, attendance on labour cases), out-patients only.</p> <p><i>Fourth year.</i>—Medicine, Surgery, and Operative Surgery; Gynecology and diseases of children (lectures, and wards and out-patients); Pathology (lectures and practical work in laboratory); Hygiene (including vaccination); Medical, Surgical, Ophthalmic, and Obstetric Hospital practice; Medical Jurisprudence.</p>	<p><i>First year.</i>—Physics, Chemistry, Botany, Zoology, and practical classes in all these subjects.</p> <p><i>Second year.</i>—Anatomy, Physiology, Materia Medica, Practical Pharmacy, and Dissections.</p> <p><i>Third year.</i>—Anatomy, Physiology, Materia Medica, Organic Chemistry, Dissections and Practical classes in Physiology and Organic Chemistry.</p> <p><i>Fourth year.</i>—Medicine, Surgery, Midwifery, Pathology, Medical Jurisprudence, Dental Surgery, Hospital Practice (12 months.)</p> <p><i>Fifth year.</i>—Medicine, Surgery, Midwifery, Hygiene, Ophthalmic Surgery, Operative Surgery, Mental Disease, Practical Pathology and Bacteriology, Hospital Practice (12 months.)</p> <p><i>Sixth year.</i>—Hospital Practice (12 months) For details of the syllabus, please see Chapter XLIV of the new University Regulations.</p>
(3) Nature of the examination.	<p>At the conclusion of each year's course the military pupils are examined under the direction of the Principal of the College in the subjects of study, and their progress therein is reported to the Director General, Indian Medical Service, who may, if he considers it expedient, remand an unsuccessful student to his studies for a definite period or issue orders for his removal from the College.</p> <p>At the conclusion of the Oral and Clinical examination in the subjects in the 4th year in which their practical knowledge is tested, the Principal of the College will report to the Director-General, Indian Medical Service, on their fitness for admission into the Indian Subordinate Medical Department. Those declared fit are then examined by written papers issued by the Director-General, Indian Medical Service, this examination being common to all the colleges and comprising the following subjects:—Medicine, Surgery, Midwifery, Pathology, Hygiene, and Materia Medica.</p>	<p><i>At the end of the 1st year class.</i>—Honour examination of the college for scholarships and medals of the college. Preliminary Scientific M.B. examination of the Calcutta University.</p> <p><i>At the end of the 2nd year class.</i>—College Test examination for promotion to the 3rd year class and for award of college scholarships.</p> <p><i>At the end of the 3rd year class.</i>—Honour examination of the college for scholarships and medals of the college. First M.B. examination of the Calcutta University.</p> <p><i>At the end of the 4th year class.</i>—College Test examination for promotion to the 5th year class.</p> <p><i>At the end of the 5th year class.</i>—Honour examination of the college.</p> <p><i>At the end of the 6th year class.</i>—Second M.B. examination of the Calcutta University.</p>
(4) Requirements for promotion from grade to grade.	<p>Subject to good conduct and efficiency, and in the case of 3rd class Military Assistant Surgeons, the passing of an examination as detailed below, a service of five years in the 4th class and of seven in the 3rd and 2nd class, respectively, shall entitle an Assistant Surgeon for promotion to the next higher class.</p> <p>Third class Military Assistant Surgeons before being eligible for promotion are required to pass an examination in Surgery and Surgical Applied Anatomy, Medicine, Materia Medica, Hygiene, Midwifery, Diseases of children, and acquaintance with regulations which govern military hospitals at any time before the 12th year of service.</p> <p>The promotions of 1st class Assistant Surgeons to Senior Assistant Surgeon, with the honorary rank of Lieutenant, and of the latter to Senior Assistant Surgeon, with the honorary rank of Captain, are made by selection for ability and merit.</p>	<p>In the case of the Civil Assistant Surgeons, promotion from 3rd to 2nd grade and from 2nd to 1st grade depends upon passing an examination after seven years' service in each grade. The subjects of the examination are as follows:—</p> <p>Medicine, Midwifery, Surgery and Medical Jurisprudence.</p> <p>Promotions from 1st grade to the senior grade are made by selection for ability and merit.</p>

*The Calcutta Port (Amendment) Bill, 1912.*[*Mr. K. B. Dutt ; Mr. Stephenson ; Mr. Greer.*]

STATEMENT REFERRED TO BY THE HON'BLE MR. STEPHENSON IN HIS ANSWER TO QUESTION NO. II (c) ASKED BY THE HON'BLE MR. K. B. DUTT AT THE COUNCIL MEETING OF THE 6TH MARCH, 1912.

*Existing scales of pay drawn by Civil and Military Assistant Surgeons.*

Civil Assistant Surgeons.	Per mensem. Rs.	Military Assistant Surgeons.	Per mensem. Rs.
3rd grade below 7 years ...	10	4th Class ...	85
2nd „ after 7 „ ...	150	3rd „ ...	110
1st „ „ 14 „ ...	200	2nd „ ...	150
Senior grade ...	300	1st „ ...	200
Civil Surgeon ...	350-30-500	Senior grade with the rank of Lieutenant ..	300
		Senior grade with the rank of Captain ...	400

A Military Assistant Surgeon above the rank of 3rd class, in independent medical charge of a Civil station, receives pay at the following monthly rates :—

	Per mensem. Rs.
Under 5 years in charge ...	350
From 5 and under 10 years ...	450
„ 10 „ 15 „ ...	550
Over 15 years ...	700

## CHAIR OF ANATOMY IN THE MEDICAL COLLEGE.

The Hon'ble MR. K. B. DUTT asked :—

III. Will the Government be pleased to state what action, if any, has been taken with a view to giving effect to the proposal foreshadowed by it in the course of the Budget discussions of 1909-10, that the chair of Anatomy in the Medical College would be bestowed upon a properly qualified private practitioner outside the I. M. S. *care*.

The Hon'ble MR. STEPHENSON replied :—

“It has been decided to appoint Dewan Hera Lal Basu Bahadur to the professorship of Anatomy in the Medical College.”

## THE CALCUTTA PORT (AMENDMENT) BILL, 1912.

The Hon'ble Mr. Greer in the absence of the Hon'ble Mr. Slacke, presented the Report of the Select Committee on the Bill further to amend the Calcutta Port Act, 1890.

The Hon'ble Mr. Greer also moved that the Report of the Select Committee be taken into consideration.

The motion was put and agreed to.

The Hon'ble Mr. Greer also moved that the Bill be passed.

[ Mr. H. McPherson. ]

He said :

" It seems unnecessary to delay the Council with any explanation of the terms of this Bill as they are fully set forth in the Statement of Objects and Reasons which has already been published. No amendment has been proposed, the Bill being exceedingly simple. It merely extends the powers of the Vice-Chairman in a reasonable manner and more clearly defines the powers of the Commissioners in dealing with expenditure."

The motion was put and agreed to.

#### THE ORISSA TENANCY BILL, 1911.

The Hon'ble Mr. H. McPherson presented the Report of the Select Committee on the Bill to amend and consolidate certain enactments relating to the Law of Landlord and Tenant in the districts of Cuttack, Puri and Balasore, in the Orissa Division

He said :—

" With your permission, Sir, I present the Report of the Select Committee on the Bill to amend and consolidate certain enactments relating to the Law of Landlord and Tenant in the districts of Cuttack, Puri and Balasore in the Orissa Division. The report is accompanied by a copy of the Bill as amended in Select Committee and by the Minutes of Dissent recorded by certain Members of the Committee.

" Although it might have been regarded as more satisfactory, if the Committee had presented a unanimous report, I hope that the Council will not be alarmed by the number or length of the Minutes of Dissent. They are a very common feature of reports on Tenancy Bills. The points of contact and adjustment between landlord and tenant in a complete Tenancy Code are so numerous that it would be surprising if the representatives of the many varying interests concerned came to a unanimous finding on all subjects of discussion. Complete unanimity might, in fact, be regarded with suspicion, as indicating that the examination of the Code had been hasty and superficial. There is no room for this suspicion in the present case. The Committee have held twelve sittings spread over a period of six weeks, and occupying an aggregate time of nearly forty hours. The clauses of the Bill were examined one by one, all the criticisms and suggestions of the local officers and local bodies were duly weighed, the discussions were conducted in a spirit of fairness which did credit to all who took part in them, and the various amendments which have been made in the Bill will, it is hoped, be considered to be improvements.

" It is not my purpose to occupy the time of the Council by going over the principles of the Bill once more, or by explaining the alterations that have been made in Select Committee, or by discussing in detail the Notes of Dissent that are appended to the report. It is sufficient for the present to say that the general principles of the Bill, which were fully explained in my speech of January the 9th, remain untouched, that most of the alterations which are set forth in the present report have been accepted unanimously by the Committee, and that the notes of dissent are concerned with not more than seven points which are of any real importance. These are—(1) the application of the Bill to the *kullajat* estates, (2) the regulation of transfers of holdings, (3) the definition of proprietors' private lands, (4) the protection of communal lands, (5) the treatment of produce-rents, (6) the question of reclamation, and (7) the subject of maintenance of records. Amendments will doubtless be filed in respect of all these matters before the Bill comes on for consideration a fortnight hence, and the Council will then have full opportunity of considering the provisions of the Bill which deal with them. It would be premature to anticipate discussion at the present juncture, and it would also be out of order. What I wish to emphasise to-day, is that the mere existence of Notes of Dissent is in itself no argument for the motion which stands in the name of the Hon'ble Mr. Das. We expected them in the ordinary course of business, and we are prepared to discuss them when the proper time arrives."



[The President.]

The PRESIDENT said :—

“ Before we proceed to the next business, and before I call on the Hon’ble Mr. Das to propose the motion which stands in his name, I feel obliged to call the attention of the Council to a point which I think is of some importance with reference to our procedure. In a leading article in the *Amrita Bazar Patrika* of the 5th March, which I have here before me, reference is made to the Hon’ble Mr. Das’ motion, and from the article it appears that the Hon’ble Member’s Note of Dissent, which has only this morning been laid upon the table as an integral part of the Report of the Select Committee, was thus communicated to the Editor of the paper before being laid before this Council. Now the proceedings of Select Committees have always, by the usage of this Council, been treated as confidential, and it is an innovation—and, in my view, an objectionable innovation—that anything which has formed part of them (whether a discussion during their session or a Minute of Dissent prepared after the close of their deliberations), should be communicated to the Press before the formal Report of the Committee is made public. We have never had any detailed rules laid down as to the procedure for Select Committees or the submission to Council of Notes of Dissent, but the custom that all Select Committee proceedings should be treated as confidential until such time as the Report of the Committee itself is laid before the Council has, so far as I am aware, never been infringed. I should be sorry if it should become necessary for us to alter our practice in this respect and to prescribe definite rules on matters of detail regarding the procedure of Select Committees; it would be much better that the uniform practice of the Council should be maintained. In the the present instance, the objection to the communication of the Hon’ble Member’s Note of Dissent to the Press is enhanced by the fact that the Note of Dissent which he so communicated cannot,—as I shall now proceed to explain—be the same as that which has been incorporated with the proceedings of the Select Committee. For, in addition to what appears in the Note of Dissent laid before the Council this morning, the Hon’ble Member had included in his Minute a lengthy criticism of the constitution of the Select Committee and of the procedure followed by it, and I have been obliged to rule that this portion of the Minute can form no proper part of a Note of Dissent, and is out of order, and to direct that it should not be printed as part of the Committee’s Report. So far as the Hon’ble Member criticised the constitution of the Select Committee, it appeared to me that he was entirely out of order in doing so, because the time for the discussion of the constitution of the Select Committee was when the Select Committee was appointed. When that stage had once been passed, the matter was not one for comment, so far as the Select Committee itself was concerned, though such constitution might perhaps furnish a reasonable ground for argument later on when the Bill is discussed in Council in detail. Certainly it should form no part of a Minute of Dissent upon the conclusions of the Select Committee. In the same way, but on rather different grounds, discussions of the procedure followed in Select Committee ought to find no part in a Note of Dissent which ought—as the name given to it implies—to be limited entirely to the conclusions arrived at by the Select Committee. The reason for that is,—as I have pointed out—that the proceedings of Select Committees are—according to the invariable practice of the Council—regarded as entirely confidential until their report is published. I do not wish to enlarge further on the point, but Hon’ble Members will at once appreciate the fact that, if the proceedings in Select Committee are not to be treated as confidential, then they must be conducted in an entirely different manner from that which is allowed at present; that is to say, everything that takes place will have formally to be put on record, and every Member must be given an opportunity of taking any objection that he thinks proper to what has been so put on record. It is thus more than probable that, in a controversial matter, very prolonged discussions might take place, and in fact that the whole procedure of working by Select Committees would be altered and rendered much more cumbersome and less effective than it is at present. I do not wish to be misunderstood. I have no wish whatever to limit the right of free speech in this Council, but that is



[Mr. Das.]

quite a different matter from a resort to personalities and other irrelevant matter in a Minute of Dissent. When any Hon'ble Member has any objection to the way in which the Select Committee has been formed or in which its business has been conducted, it is perfectly open to him to bring the whole matter before the Council for discussion when the Select Committee's Report is taken into consideration; but it is neither fair nor in accordance with the uniform practice of this Council for a Member to include matters of this kind in a Note of Dissent to which other Members, whose status, suitability or conduct may have been reflected upon therein, cannot, in the very nature of the case, have any opportunity of answering.

"I have thought it necessary to make this explanation, so that the somewhat unusual course which I have adopted in ruling that a portion of the Hon'ble Mr. Das' Note of Dissent is out of order may not be misunderstood."

✓ The Hon'ble Mr. Das moved that the Bill to amend and consolidate certain enactments relating to the Law of Landlord and Tenant in the districts of Cuttack, Puri and Balasore in the Orissa Division, and the Report of the Select Committee thereon, be not considered in this Council.

He said:—

"Your Honour, I beg to be permitted to say a word in regard to the remarks which have fallen from Your Honour just now. I did not know that it was against the practice of this Council to make any remarks on the constitution of the Select Committee, or that the proceedings of these Committees were of a confidential nature. As far as I remember, though it is not possible for me to quote chapter and verse, there have been, as Your Honour remarked, instances where the constitution of the Select Committee was discussed in Council when the Bill and its provisions were being discussed. I do not like to say anything more on the subject beyond that I should be the last person to disregard a practice of an august body like this Council, if there was anything to make me believe or bring to my knowledge that such was the established practice. I cannot lay my hand now, but I have been very long in this Council, and I remember instances where notes of dissent had appeared in the public papers before they were brought into the Council, but I am sorry if I have violated this practice, and I beg to be excused for it, but it was not done with any intention to go against an established practice.

"The Hon'ble Member in charge of the Bill in introducing the Select Committee's Report said that it was not possible to avoid differences of opinion in a law which defines the relations between landlord and tenant. Land law includes in it the interest of every one who owns interest in land or lives on it. So consequently there must be points of contact and points of difference. I do not intend now to discuss in detail the provision of the law or rather the provisions of the Bill as to how far they secure or injure the interests of those who have interest in the land. I take for granted that Government intends to do a certain thing, but we know that Government has not at its command the time which is necessary for patient and careful deliberations and discussion on difficult points of law involved in a case like this. Therefore all that I intend to do on the present occasion is simply to show that the Bill in a most remarkable manner, and in the most important cases, fails to accomplish the object for which it is intended.

"The Bengal Tenancy Act was passed in 1885. It did not *proprio vigore* apply to Orissa, but power was given to the Lieutenant-Governor of Bengal to extend the whole or a portion of the Act to Orissa. The Act was framed to meet the condition of Bengal and Bihar at the time.

"If I were to attempt to show why the Bengal Tenancy Act could not apply, I should be trying the Council's patience. I shall therefore content myself drawing the attention of Hon'ble Members to the statement of the Hon'ble Mr. McPherson made in his speech when referring the Bill to a Select Committee—

'Surprise may be felt that it should not be possible to find salvation for Orissa in a Tenancy Act which was devised after years of deliberation and has proved sufficient for the

[Mr. Das.]

Great congeries of varying races included within the boundaries of Bengal. The reason is that, although power was taken in the Bengal Tenancy Act to extend its provisions to Orissa, the needs of Bihar and of Lower Bengal were alone considered in framing that enactment. The peculiar conditions of Orissa were not taken into account.\*

In the fiscal and agrarian history of Bengal, Orissa occupies a unique place, having features essentially different from those which distinguish the rest of the province.\*

"Here I have the good luck to agree with the Hon'ble Mr. McPherson. Hon'ble Members will please mark the words 'features essentially different.' I should add that Orissa is mostly temporarily settled. Bengal and Bihar enjoy the boon of permanent settlement.

"In 1891 portions of the Act were extended to Orissa for making the Revenue Settlement of Orissa. The Acts and Regulations under which the previous Revenue Settlement had been made were considered unsuited.

"Chapter X of the Bengal Tenancy Act was first introduced for the purpose of revenue settlement. The main object the Government of India had in view in directing that the revenue settlement should be made under Chapter X of the Act was to secure an enhanced revenue; the other object was a classification of the tenancies according to the provisions of the Bengal Tenancy Act. The reason for this was that the classification was superior to that embodied in Act X of 1859 and if the record-of-rights were made during the revenue settlement on the basis of the laws in force in Orissa, the subsequent introduction of the Bengal Tenancy Act would be impossible. What was the result of this? The settlement operations began. If the Assistant Settlement Officer happened to be a Bengalee, who was familiar with the rights and interests which the Bengal Tenancy Act deals with, he found on the spot new rights which found no place in the Act. If the Assistant Settlement Officer happened to be an Uriya to whom the local rights in lands were familiar, he received no light from the Act. The Settlement Officer himself was no wiser. He moved the Government to extend some other portion of the Act, as occasions presented difficulties in the working of Chapter X of the Act. All groped in darkness. The Supreme Government supremely ignorant of the local conditions were the legally constituted guide. It was a case of blind leading those struggling in darkness. Sections after sections of the Bengal Tenancy Act were introduced as difficulties arose during the progress of the settlement operations. Experience of the degree of darkness which surrounded the responsible duties of the Settlement Officer led him to try new openings for additional light, but the additional light showed some more dark spot. Portions of the Act were extended from time to time to remove difficulties, but every new extension started unforeseen difficulties in another quarter. This process was carried on till the Government came to the conclusion that Orissa wanted a special Code adapted to its peculiar circumstances.

"The Settlement Officer did his work heroically just as the village barber performs all surgical operations with his rude nail-cutter.

"A child went with his parent to Bombay en route to England. He had heard that his journey to Bilat would be over the sea. When he saw the sea at Bombay, he said to his father, Papa dekho bura Bilatee panee. He had learnt the expression Bilatee panee in Calcutta, as that is the word used of aerated water. The child thought he saw a sea of aerated waters. This is what the Settlement Officers did.

"It is not necessary for my present purpose to give an exhaustive list of all instances of erroneous classification of rights in land. I shall just mention two instances.

"In the Bill, Hon'ble Members will find the word *bajiaftidar* defined in sub-clause (2) of clause 3 of the Bill. A *bajiaftidar* is a person whose claim to hold land revenue free was adjudicated under the old Regulation. Revenue was assessed on the lands in his possession. He did not pay rent to the zamindar, but he paid the Government revenue through the zamindar. So he was a

\* The italics are the Hon'ble Mr. Das'.