

District Superintendents to be recruited? Let them be recruited partly by promotion from among Inspectors, and partly from among members of the Subordinate Executive Service. This proposition of the Conference received the approval of Sir Ashley Eden in 1882 when he was Lieutenant-Governor of Bengal. At present the real work of inspection and supervision is performed by the Inspectors, and as regards the members of the Subordinate Executive Service, suffice it to say that their education and knowledge of the country qualify them for the office of District Superintendent of Police. As regards Inspectors I am of opinion that higher qualifications should be insisted upon; they must be men of education and of the culture which education imparts. Graduates of the the University after passing a special ~~examination~~ should be allowed to enter the service as Inspectors. The investigation of cases should be conducted by Sub-Inspectors, and not by Head-Constables. In order to possess the requisite qualifications Sub-Inspectors must at least pass the F. A. examination. It is also desirable that Sub-Inspectors should be men of respectability and good family; they like Cæsar's wife must be above suspicion; they should be placed in charge of Police outposts, and their number should be increased by one-half. Sub-Inspectors are entrusted with the prosecution of cases before Deputy Magistrates, but they are ill qualified to do so; they do not possess the necessary legal training to enable them to cope with mukhtears and pleaders. Government should appoint junior pleaders to look after such cases; as a rule these Court Sub-Inspectors are not free from corruption; many extort money at the time of furnishing lists of witnesses and when taking bail bonds and filing affidavits. In our Civil Courts, Munsifs and Subordinate Judges personally receive lists of witnesses, why should not the same be done in the Criminal Courts? And as regards the taking of bail and recognisance bonds the High

Court have laid down that Magistrates and Deputy Magistrates should themselves perform that duty, and the Government would confer a boon on the people, if Magistrates and Deputy Magistrates were obliged to do so. As regards Head-Constables their pay should likewise be increased, and higher qualifications insisted upon. In that case honest and intelligent men who have read up to the Entrance standard would unhesitatingly volunteer to enter the Police service. By increasing the pay of all these police officers and insisting upon higher qualifications, Government would raise the *morale* of the service. When the members of our Subordinate Judicial Service and of the Indian Civil Service were not adequately paid, they were as corrupt as the police ~~generally~~ now are. Then I think the constables require to be better disciplined and should be placed under stricter supervision. They think they are, like Robinson Crusoe, masters of all they survey and there is none to dispute their right. They are not only insolent, but if you dare to check their impertinence you run the risk of being dragged to Court on a charge of obstructing the police in the execution of their duty ! But with care and constant supervision it is not impossible to reform these incorrigible *chota* Rajahs.

I think it will not be out of place to say a word in connection with the Police Commission. We are thankful to the Government for the appointment of a Commission, but we must remember some of objects the Commission had in view :—

- (1) To abolish jury trial.
- (2) To supplant the Indian Deputy Magistrates by European Deputy Magistrates.
- (3) To deprive our Deputy Magistrates of their judicial independence, make them indirectly subordinate to the District Superintendents, and to compel them to inflict more than necessary punishment on persons convicted of offences.

(4) To throw all sorts of obstacles in the way of the unfortunate accused reasons to extricate themselves from the clutches of the executive.

We all know that the system of trial by jury has been working very satisfactorily. If there has been a failure now and then, it has been due not to the system but to the present mode of selecting the jury. If only educated and intelligent persons served on the jury, the Government would have no reason to complain of trials by jury. As regards the supplanting of Indian Deputy Magistrates by Europeans, I make bold to state that educated people in Bengal have ~~more~~ ~~non-~~ confidence in them than in European Deputy Magistrates of the type of Mr. Fordyce. It would be an unmitigated evil, and I hope the Government will abandon altogether such an idea if they ever entertained it; and I strongly deprecate the interference of District Superintendents of Police and District Magistrates with the judicial work of Deputy Magistrates. A large number of reversals on appeal is the result of undue pressure brought to bear on poor helpless Deputy Magistrates to convict persons under trial. I also deeply regret that our just and benevolent Government are anxious to check necessary adjournments which they say give facilities for the escape of criminals. Is it not the duty of the Government to give every facility to defendants to place further evidence before the Court to enable them to establish their innocence and free them from the clutches of the Police? I am sure Sir Charles Elliott would be the last person to make innocent persons the inmates of our jails. I think it is incumbent on His Honor to see that adjournments of cases, which is the only ~~loophole~~ of escape which the law very wisely contemplates, is not taken away simply to make the Police all-powerful at the expense of people who are accused.

Babu Gyanandra Chunder Roy Chowdhry, of Diamond Harbour, seconded the motion. He observed that enough has been said to commend this resolution to the meeting, but one thing has been overlooked, namely the payment of travelling allowances to Police officers in the mofussil, and further the power of investigation by Head-Constables is much to be deprecated. A Head-Constable on Rs. 10 per mensem is placed in charge of a Police station; he has unlimited power to take up any gentleman, however respectable, and bring him handcuffed to the Police station, and such a man is often entrusted with the investigation of murder cases! The place where the crime is alleged to have been committed may be 20 miles off; he perhaps takes with him two constables and enters the village; he knows nothing about the real culprit, but begins to arrest this person and that person in the hope of getting bribes. Until honest and intelligent persons are given employment in the Police there is little chance of detecting crime and bringing the real culprits to justice. These Head-Constables are recruited from writer constables who receive a pay of Rs. 7 or or Rs. 8, a month and no respectable gentleman will enter the service as a writer constable. Only the refuse of the gentleman-class (they may be Banerjees or Chatterjees) will do so: only those who have no character and have nothing to lose will enter as writer-constables. After ten years' service or so, they are made Head-Constables, and afterwards rise to the grades of Sub-Inspectors and Inspectors. But can we expect honesty from these men? Certainly not. Babu Akhoy Chunder Das has very ably said that only graduates should be given the posts of Inspectors and Sub-Inspectors. Respectable graduates would gladly accept a pay of Rs. 50 and upwards, and nothing less than Rs. 50 should be given to Sub-Inspectors. The present pay is Rs. 30, but it is insufficient for a gentleman; and in order to keep him from temptation the pay should

be increased. The next question is—how is this expenditure to be met? It has been shown that if the office of Assistant Superintendent be abolished, ample funds would be available. Their qualifications have been very graphically described, and the sooner these posts are abolished the better for the Police Administration. In order to bring offenders to justice, the Police sometimes resort to the most nefarious practices; sometimes they take up innocent persons simply to gain the favor of the *huzoor* of the district; they have not the moral strength to disobey the orders of the District Superintendent; therefore they must produce some body as the culprit. It is needless to narrate the stories that are too frequently told in this connection. But if honest men are placed in such positions, we should no more hear of such things.

Babu Bhobo Nath Banerjee of South Barrackpur said:—I fully support the resolution, and have nothing to add to the remarks which have been so ably made. But I must say something with regard to the duties of Assistant Superintendents. These young Assistants are placed in charge of Sub-divisions. They ask the Sub-Inspector or the Head-constable or writer-constable to read the diaries, and after hearing what has been read, they make some remarks; generally to the effect that the constables are not neatly dressed or their accoutrements are not rightly worn &c. When an important case is under investigation by a Sub-Inspector, the Assistant Superintendent watches the proceedings and peruses the reports; and when he finds that the enquiry is almost successful he takes up the case, signs a report in form A and takes the credit of bringing the enquiry to a successful termination. That is what they generally do, because they have little or no experience in making investigations, especially as they do not understand the vernacular, nor do they know the procedure to be adopted, and I think Sub-Inspectors and Inspectors are better lawyers. An Inspector or Sub-Inspector sometimes

misquotes a section, and the Assistant through ignorance adopts the mistake ; sometimes they ride through the Sub-division inspecting the outposts and *thanahs*, and all orders passed by the District Superintendent are communicated through the Assistant Superintendent. They are merely the means of communication and exercise no proper supervision. Inspectors and Sub-Inspectors could do as much. Then as to Court Sub-Inspectors, the duty has been imposed upon them of approving and accepting bail-bonds, and that gives them opportunities for taking bribes. If a man is sent up in a non-bailable case and the trying officer fixes the bail at Rs. 100 or Rs. 200, he does not approve the bailbond or see whether the security is sufficient, but that duty is left entirely to the Court Sub-Inspector who seizes the opportunity of keeping the accused in *hajut* until the bail-bond has been executed. But merely raising the pay of the present incumbents will not remove the evil. There should be a selection of the best men taken from amongst the graduates of the University, or from among persons of intelligence and education. Another thing which induces Police officers to take illegal gratification or to oppress the people is that they are not allowed any travelling allowance. A Head-Constable on a pay of Rs. 10 is called upon to investigate a case of theft, say 10 or 15 miles from the station. He has to make his own arrangements, and perhaps the whole of his pay is expended in making enquiries, for several days it may be. It is therefore necessary that his pay should be increased, or if not, something should be allowed for travelling ; and lastly proper selection should be made from amongst men of education.

Mr. A. Chowdhury said :—One of the speakers touched upon a most important point, namely that District Superintendents should prosecute cases and conduct enquiries, and that Assistant Superintendents should also be trained to do

so. As regards the latter, I know one with regard to whom the Lieutenant-Governor said, he has improved in spelling but not in grammar, and it is to these men that the conduct of prosecutions is to be entrusted! Take a case in B form. A case is instituted, but evidence cannot be found, the Magistrate then says "send it up in A form," and directions are sent to the Police to find what evidence they can. If prosecutions are to be entrusted to Assistant Superintendents, there is extreme danger. As regards the interference of District and Assistant Superintendents with the proceedings of the Courts, from the time of Mr. Justice Kemp it has been held that the interference of the Police is extremely dangerous, and justice cannot be done under such conditions. If prosecutions are to be so conducted, promotions to the Police should be made from the Subordinate Executive Service, because there would then be some assurance that no unfair means would be resorted to, with a view to obtain conviction. As regards the Police of the lower grades, there is a case now pending in the High Court in which there was a charge of theft and a Head-Constable was sent to investigate; he could not make head or tail of the case, so he gets hold of one of the most influential men in the village, and the mother, wife, daughter and son of the man were taken to the Police station. The son was called in the presence of his father to strip his mother naked; the son refused to do it, on which he was thrashed; the mother was then stripped by a constable, and the son by another, and the mother was compelled to pass her hand over the person of her son! That sort of thing went on for four days. Therefore I say that responsible persons should be appointed to investigate cases. In one case before Mr. McGuire, a District Magistrate, who was conducting an enquiry in his court, a mukhtear suddenly stepped forward and said, the accused is not the thief, but that person, pointing to an enemy of his who was present in court. The Magistrate

then directed a charge to be drawn up for bad livelihood and the Police was ordered to enquire whether a prosecution could be instituted against the man thus pointed out, under the Criminal Procedure Code. The investigation was carried on for two days; he was a respectable man of about 24 years of age and was sent up for trial for having no ostensible means of livelihood and for being a *budmash*; the farce of a trial was got through, and he was asked to find security, for five or six hundred rupees, and as he could not find security, he was sentenced to rigorous imprisonment for 2 or 3 months! Mr. Justice Pigott, before whom the case came on, said it was difficult to conceive how a responsible person like a District Magistrate could act like that. But that is not enough: such a state of things must be stopped, and the only way to do so is to raise the qualifications of police-men, and to take them from a better class, and also by separating judicial and executive functions which are now combined in the same officer as will be proposed by a Resolution which will come on later in the day.

The Resolution was then put to the vote and carried unanimously.

Rai Jotindranath Chowdhury of Taki moved the next Resolution which is as follows:—

That the Conference earnestly hopes that the Panchayet Bill now under the consideration of the Government is but the earnest of its intention to deal effectually with the question of Police reform, and this Conference would submit the following suggestions in connection with the Bill:—

(a) That the removal of the minimum limitation of assessable rates is liable to be attended with great hardship.

(b) That the appointment of an officer independent of the Panchayet for the purpose of collecting the rates and realizing them by distraint when necessary is liable to be attended with grave abuse, unless such officer is placed under

the control of the Panchayet and made responsible to them for his actions.

(c) That with a view to increase the efficiency of the Police Chowkidar, the Conference is of opinion that he should be punctually paid, and that he should not be called upon to attend at the Police station, except in the performance of his legitimate duty.

(d) That with a view to attract really proper men to serve as members of the Panchayet, their position should be rendered more respectable and more independent than what is apparently contemplated under the Bill which places them completely under the authority of the Magistrate, who may ratify or not as he thinks best the election of a member of the Panchayet, or may remove him from office, or may or may not act according to any of their recommendations, the Panchayet having little or no independent authority in matters in which they are supposed to have a voice.

(e) That as it is proposed to deprive Chowkidars of their *Chakran* lands, this Conference is of opinion that compensation be paid to them for deprivation of vested rights, in view of the fact that they have been in hereditary possession of such lands and in many cases might have spent money to make improvements.

Rai Jotindra Nath Chowdhury said—

As regards clause (a) of the Resolution that would leave the Act without any principle, and the tendency would always be to assess a man more than half an anna which is now the minimum; and as regards the collection of the rate, if the duty of collection is taken away from the Panchayet, there will be no check over the collecting officer. Then I think there should be some time given to defaulters for the payment of Chowkidari rates. If no time is given, there will be no opportunity for objections to be heard; and it is but fair and just that, a reasonable time should be given for such a purpose.

Further, under section 60 of the Bill a Commission will be appointed to demarkate Chakran lands and the order of the Commissioner of the Division on appeal will be final and conclusive; but it appears to me that a right should be reserved to the parties interested, of instituting a civil suit in spite of the Commissioner's order on appeal. Lastly, I think that the power of discharging a Panchayet should be vested in the Commissioner of the Division and not in the Magistrate as provided. I therefore propose the following modified Resolution which I hope will be acceptable to the meeting:—

That this Conference gratefully recognizes the expansion of the principle of Local Self-Government by the Village Chowkidari Bill now under the consideration of the Government, and hopes that this Bill is but the earnest of its intention to deal effectually with the question of Police reform, and this Conference would submit the following suggestions in connection with the Bill:—

(a) That the appointment of an officer independent of the Panchayet for the purpose of collecting the rates and realizing them by distraint when necessary, is liable to be attended with grave abuse, unless such officer is placed under the control of the Panchayet and made responsible to them for his actions.

(b) That police officers be prohibited under penalty of dismissal from employing Chowkidars on their private concerns or on any duties unconnected with the Police, as was provided by Section 21 Clause 8 of Regulation XX of 1817.

(c) That with a view to attract respectable men to serve as members of the Panchayet, their position should be rendered more independent than what is apparently contemplated under the Bill which places them completely under the authority of the Magistrate who may ratify or not as he thinks best the election of a member of the Panchayet, or

may remove him from office or may or may not act according to any of their recommendations, the Panchayet having little or no independent authority in matters in which they are supposed to have a voice.

(d) That a certain time be given to defaulters for payment of arrears of Chowkidari rates.

(e) That objection to payment of arrears of rates under Section 36 of the Bill be heard and disposed of by the Panchayet, power being reserved to the Magistrate to revise the decision of the Panchayet.

(f) That the power of discharging the Panchayet be vested in the Commissioner of the Division.

(g) That as it is proposed to deprive Chowkidars of their *Chakran* lands, this Conference is of opinion that their permanent interest be secured in the lands, of which they may be so deprived, by way of compensation for deprivation of vested rights, and in view of the fact that they have been in hereditary possession of such lands, and in many cases may have spent money to make improvements therein.

Babu Mohini Mohun Chatterji of Calcutta seconded the motion. He said:—You have heard the additions which are proposed to be made to the Resolution as it has been printed, and if you accept the amended Resolution, I think you will be really assisting the Government in the consideration of the Bill. As regards clause (a) there is nothing in the Act to govern the method of assessing; the houses are to be annually valued, and so much per cent. is to be paid by way of rates. If we have a hard-and-fast rule that there is to be no rate below half an anna, the result may be the reverse of what we expect, and there will be a tendency always to fix the rate above the minimum; therefore the minimum may safely be left out, and I believe it will be sufficient to leave it to the discretion of the

Punchayet. Then clause (b) is I think an innovation in this Bill. When the collections are made by a member of the Punchayet who is fellow-villager of the rate-payers, the liability to abuse will be much less than when a person is brought into the village from outside to perform the odious duty of collecting the rates. The only reason suggested for this alteration is that members of the Punchayet often come into collision with their fellow-villagers in the collection of these rates. As far as our enquiries have gone, and the Indian Association has put itself to some trouble in collecting information regarding Mofussil Punchayets, no disputes have arisen between the Punchayets and the villagers in the collection of the rates. What is now proposed is a sort of double-barrelled gun; the Punchayet is reduced to the position of a jury to assess the rates and has nothing further to do; then the list of those liable to pay and their respective amounts is taken in hand by an officer appointed by the Collector to collect the rates. This procedure, instead of remedying a fancied evil in the present system, introduces a real grievance, and you will all agree with me that if this officer, whether appointed by the Government or not, is made subject to the Punchayet, a great many evils which are apprehended would be obviated. As regards clause (c) if you read the list of duties which a Chowkidar has to perform, you will be convinced that our proposal to revive the provisions of section 21 of Regulation XX of 1817, which has been repealed by the Chowkidari Act, will be advantageous: if some such clause were introduced into the Bengal Police Act it would be an improvement. The next clause (d) of the Resolution deals with the active principle of the Bill; it proposes that the inhabitants of the village shall have the right of electing the members of the Punchayet, but by section 14 it is provided that it shall be lawful for the District Magistrate to remove or discharge any Punchayet; that is

to say the whole of the Panchayet. Such a state of things is not likely to attract respectable men, but the declared intention of the Government is to attract respectable persons to serve on Panchayets. Then the Bill provides that on the assessment list being made out and published, an officer appointed by the Government will proceed to make the collections; and by a subsequent section power is given to the rate-payers to object, but if no time is given to make objections, the provision really comes to nothing, and therefore we ask that a definite time be given for making objections. Then again, for the sake, perhaps, of three annas a rate-payer will have to go to the sudder station to raise his objection; so we propose that the power of revising the assessment be vested in the Panchayet. As regards the question ~~of Chow-~~ kidari chakran lands, suppose the land belongs to the zemindar and is wrongly claimed as chowkidari chakran land, the zemindar can appeal to the Commissioner of the Division, whose decision will be final; but he is to be deprived of his right of seeking to establish his claim in a competent Civil Court. This, I submit, would be a great hardship. This Bill and also the previous Act VI (B. C.) of 1870 provide that wherever the Act extends, chowkidari chakran lands should no longer be in possession of the Chowkidar, because the old hereditary chowkidars have been done away with. The Panchayet assesses the chakran lands at their annual value and makes them over to the zemindar on a rent-charge of half the amount of the assessed value. As far as the zemindar is concerned this is just and reasonable, because lands defined to be chowkidari chakran lands are held by persons who are village watchmen who render other service besides to the zemindar. As the zemindar is to be deprived of those services he is allowed to retain half the assessed annual value of the land, and the chowkidari fund receives the other half. But not a word is said as to the right of the man who

has been holding the land from father to son, perhaps from the time of the Permanent Settlement. Under the rent law if a man holds land for 12 years he has occupancy right, and if it cannot be proved from what time the chowkidar has been holding, it would be presumed that he has held it from the time of the Permanent Settlement, and his rent cannot be enhanced. Therefore, why should a man who happens to have held land making a return by personal service be treated differently from these persons? It is therefore that we propose in clause (e) of the Resolution that compensation should be paid to the chowkidar for the deprivation of his vested rights.

Babu Bhoyrub Chunder Dass of Noakhali said:—It affords ~~no~~ satisfaction to support the Resolution which has been moved and seconded. I object to the appointment of an independent person for the purpose of collecting the rates, as collection by such a person is liable to be attended with abuse, and it is therefore proposed by this Resolution that the collecting officer should be placed under the control of the Panchayet and should be responsible to them for his actions. I should like to suggest dispensing altogether with any such officer, for I apprehend that such an officer will have to be paid, and it would be better to employ one of the Panchayet for this purpose, only strengthening his hands for effectually carrying on the work of collection. Then in regard to the 2nd part of this Resolution it makes it penal on the part of a police officer to make a chowkidar do any personal work. I know from personal knowledge that village chowkidars are made to do all sorts of menial work for policemen at the police stations, and with such a provision much good will be done. Then as to clause (c) it will raise the status of the Panchayet. It is known to every one that at present we get only people from the lowest strata of society to serve on the Panchayet, and they are therefore

not much respected; but if their position were raised, better men could be got to serve.

The Resolution as amended was then put and carried unanimously.

Dr. K. G. Sircar of Calcutta moved the 3rd Resolution which was as follows:—

Having regard to the fearful loss of life due to malarious fever and other preventible diseases, as testified to by the Sanitary Commissioner of Bengal, this Conference is of opinion that no further time should be lost in at once taking up this all-important question of sanitation, and that a supply of pure water and an effective drainage system represent the great sanitary needs of the Province. That ~~this~~ Conference, while it is deeply grateful to His Honor the Lieutenant-Governor for the interest which His Honor's Government has evinced in the general question of sanitation, especially in reference to the extension of a supply of pure water, would earnestly appeal to His Honor to take in hand a system of drainage for the whole province, and this Conference is of opinion that it should be dealt with as a provincial question, being carried out by and under the superintendence of Government, the Local Bodies being called upon to contribute according to the measure of their resources and the benefits derived by them, the Government paying money out of Provincial Funds, when Local Bodies are too poor to make the contribution.

Further the Conference being of opinion that the cause of Sanitation is largely dependent upon the growth of sound ideas among the people, appeals to the public bodies in the country to undertake the task of disseminating such ideas by the publication of popular tracts and by such other means as to them may seem advisable,

Dr. Sircar said:—This proposition is so important and so evident that I need say very little to recommend it for your adoption. Everybody knows what havoc is committed in this

country, especially in these Provinces, by two preventible diseases. One of these is cholera, and the other is a terrible disease assuming various forms and known by the name of malaria. As to the prevention of cholera we are not the only people concerned; the whole of Europe is concerned equally with us in the matter. An eminent sanitary authority has remarked:—

“The presence of cholera in an endemic condition in the valley of the Ganges appears to me to lay serious duties upon England. It seems to me that, even admitting she has succeeded in absolutely protecting her own territory, she has duties towards India, towards her other colonies and towards the world. The cradle of cholera is an English possession; England ought to take measures to stifle it in its cradle, and to apply to India, as she has done at home, her excellent theories on Sanitation.”

This question is not merely a local question. It is almost a universal question; whether we move the Government or not does not matter, because all the world is stirring about it. But we are more concerned with this preventible disease. People of other countries are not affected by it, because it is not a communicable disease. It is a local disease; the poison is germinated locally and the people of the locality suffer. But it is a preventible disease. The great motto of all sanitary reformers for the last twenty years has been, and it will always continue to be, that prevention is better than cure. It is the duty of the Government to give its subjects protection from these two diseases; but there are difficulties in the way. The Government may not have sufficient funds, and may not be in a position to undertake works of such gigantic proportion; therefore to introduce a system of provincial sanitation with the necessary funds, this Conference has very wisely come forward to help the Government. It proposes that the public bodies, Municipalities and District Boards, should be called upon, according to their need

and resources, to contribute towards the provincial funds in order to carry out provincial works. Of course where a public body is too poor, the Government is called upon to help it out of the provincial funds. The next difficulty in the way is that the Government often finds the people quite apathetic, as far as sanitation is concerned. In the matter of cremation for instance I find that in Bombay the Municipality would introduce a certain reformed system of cremation for the cremation of poor people, but the Hindu public of Bombay rose against the proposal. We cannot make people healthy by act of Parliament. Education is the only way, because we know many instances where if the people only knew the ill effects of insanitation they would not have done things which were calculated to make them suffer. As to the question of malaria every one knows that if any one of us goes to a malarial district, he carries with him a quantity of pure water; he goes there and tries his best not to touch a drop of impure water from the district. If the people of the district would boil and filter the water before drinking it, or would even simply boil it at a high temperature, the malarial germs would be killed, and they would be protected from contracting malarial diseases. Our old *kabirajes* always recommended boiled water to their patients. When a boy I used to adopt this precaution, and I am now glad to be able to give them credit for having adopted that method. I will give you another instance of the ignorance of the people regarding the laws of sanitation. Dr. Jackson, Professor of Hygiene, when at Burdwan as Sanitary Commissioner, observed that dead bodies were buried only a couple of feet from the edge of a tank. If the people only knew how by the decomposition of those bodies the water became polluted and was rendered unfit for consumption, I dare say they would never have buried bodies so near a tank. It was only ignorance which caused them to do such a thing;

therefore I think, it is wise on the part of this Conference to recommend public bodies to diffuse the knowledge of sanitation by the circulation of simple tracts on the elementary principles of Sanitation amongst the people.

Babu Bhobanath Banerjee of South Barrackpore seconded the Resolution. He said:—Sanitation no doubt is one of the most important questions which should engage the attention of the whole of this province, and our learned President in his opening speech has dwelt upon its great importance. Most of us know that the people are dying in thousands from malaria and other diseases consequent on defective drainage and impure water; but at the same time, though proper drainage and a good supply of pure drinking water will go a great way to afford relief from malarial diseases, they alone are not sufficient to remove the cause of such illness. The time has no doubt come when local bodies should be called upon to contribute as much as lies in their power to promote the cause of sanitation, but at the same time I must say I don't think the measure proposed by the Government is at all feasible, because the Government proposes to advance money at 5 per cent. interest to local bodies without meaning to contribute anything from the provincial funds. The Government has already appointed a Sanitary Board, of which Dr. Gregg, the Sanitary Commissioner, is the Secretary, and Mr. Stowell, the Engineer, and other gentlemen are members. They have proposed a scheme in the district of the 24-Perganas. In that scheme they have divided the district into groups, and in the Barrackpore group they have proposed to acquire the railway surplus lands, to re-dig them and to make something like a *khal* which would cost nearly two lakhs of rupees and would dry up from the heat of the sun. All the municipalities in the group are to contribute towards the cost of this measure, and the Municipality, to which I belong, will have to contribute a large

sum; and all this is intended to provide for the drainage of only one-third of the Municipality. Unless the Government takes upon itself the major portion of this expense for these drainage schemes, it will be impossible for mofussil municipalities to contribute towards them to the extent proposed. For these reasons the Commissioners of the South Barrackpore Municipality did not approve of the scheme.

Babu Sreekanta Sen of Mymensingh said:—The most important question in connection with this Resolution has already been touched upon, namely, the question of funds. If the funds are to be provided mainly from the provincial revenues we all know practically that we shall have to wait for a generation at any rate, before these drainage works can be effectually taken in hand. It will be practically impossible to undertake large works of drainage from local funds alone; their means are small and although their needs are great, they can do little more than keep their roads in repair. In my humble opinion no extensive drainage or water-works can be taken in hand by any of the local bodies, unless their finances are considerably augmented from some other quarter. As to the ravages of malaria I have collected some figures from the report of the Sanitary Commissioner with the Government of India. During the quinquennial period 1882-86 the death-rate from fever was 14·84 per mille, then in 1887 it rose to 16·44, in 1888 it again rose to 16·53, and in 1889 it came up to 16·72; so that the death-rate from fever has been rapidly increasing, and we have it on the authority of the Government Resolution of 1889-90 that they attribute malarial fever primarily to defective drainage. It is therein said that it is only where the surface drainage is obstructed and the water sinks into and saturates the soil that a locality becomes malarious, and there can be no doubt that the want of drainage to carry off the surplus water is the cause

of malaria. And according to some other authorities defective drainage has also something to do with the prevalence of cholera. It is therefore of the utmost importance that the people of this country should be prepared to pay something according to their means by way of interest when it is necessary to contract heavy loans for the improvement of drainage, and under these circumstances I think the Government Resolution is a reasonable one, namely that whenever any important scheme is to be taken in hand, instead of appealing to the Government for a contribution—because we know that to be practically impossible—we should raise a loan at a moderate rate of interest from the Government. It will be something like the grant-in-aid system, and particular classes of the charitably-disposed public are likely also to make contributions. Magnificent donations have from time to time been made by zemindars and other persons for works of sanitation; and when such funds are forthcoming the Government will no doubt contribute their quota towards the work. This point has also been touched upon in the Resolution under the head of grants-in-aid. For these reasons it appears to me that in view of this Government Resolution, our proposals are very appropriate, and that in making them we tread upon sure ground.

Babu Shama Churn Banerji of Diamond Harbour said:—I have considered this important subject very carefully, but the question has now been raised as to funds. Having regard to the fact that the Government is not very willing to provide funds, I think the steps proposed to be taken by this Conference for providing funds are very important, not only in the interests of sanitation but also for other reasons. Had there been an efficient drainage system the country would not have suffered in the way it has done from year to year. With regard to the dissemination of the principles

of sanitation amongst the people of Bengal, the question is—how is that object to be attained? The Government resolved some years ago to introduce sanitary education amongst the people in the primary and middle class schools, but it would be difficult not only for the boys but even for the *gooroo*s of primary schools to understand Dr. Cunningham's pamphlets on sanitation. As this subject has been taken up by the Conference, we should point out that these sanitary primers are not fit for primary students; they are rather works for the edification of our Municipal Commissioners and District Boards. I would therefore suggest that if sanitary education is to be provided for the people, it must be by other works such as those by Babu Jodunath Mookerji, and the subject ought to be introduced as a compulsory subject in our High English schools, and it is by such a course alone that our object can be attained. The seconder of the Resolution has remarked that whilst he is deeply grateful to the Government for taking up the subject of sanitation, it is impracticable for the South Barrackpore Municipality to contribute Rs. 40,000 to open out channels which would only suffice for one-third of the Municipality. In the Municipality from which I come the Chairman consulted me about a letter received from Dr. Gregg on the subject of the sanitation of the Municipality, but though two years have passed, they have not yet come to any conclusion, simply from want of funds. The supply of pure water and a system of efficient drainage are of great importance. Our forefathers had great regard for pure water; there are *slokahs* which show the great regard the ancient Hindus had for it, and the reason why they worshiped rivers was because they are the source for the supply of pure water. In these days, the calls of nature are performed on the banks of tanks and rivers without any concern; but in the olden times the people

were prohibited from doing so. Dr. Gregg points out that there are *slokas* on this subject.

Mr. Beglar of Chokdah said :—The subject of this Resolution and that of the 5th Resolution regarding embankments are intimately connected and should be considered together, and if it meet with the sense of the meeting, he would be prepared to move an amendment which would practically embody the two Resolutions. The necessity of adopting some such amendment has been shown from what has fallen from the previous speakers, and the intimate connection between embankments and drainage has also been referred to by our President. Drainage channels should not only act as means to carry off surplus water from the fields, but also in case of the breach of an embankment. In all the deltaic districts the beds of rivers are below the level of the country and the banks of rivers are the highest parts of the land, and the *khals* form the natural drainage of the districts. The question of drainage is one which no single district can take up. It can only be taken up by a special commission composed of men of local experience; not a sort of commission to formulate a system of drainage for a particular area. The thing must be taken up as a whole by men of much broader views than the men usually appointed; and by men also with local experience who will point out the wants of the various municipalities and districts, the way in which they can be met and the amount which they are to contribute. The first thing therefore is to have a commission who will take up the question in its broadest aspects, who will give us some definite basis to go upon in making our suggestions. I will give you an instance of what I mean. There are the two immense rivers the Bhagirutty and the Jellinghee, and between them is a little river which is unconnected with the Ganges. I have some experience of this district. This little river is the uniform

drainage line of the entire district between those two rivers, and any system of drainage must take cognizance of this fact. To drain Barrackpore or Nyehatti by itself is nonsense. It will be an incomplete system. This fact has been recognised in the drainage of Berhampore. If we have a sufficient number of these cross-embankments, in process of time the Government can carry out its policy of abandoning the main lines of embankments altogether. These cross-embankments will be very much more effectual, because they will stop the floods and carry the water into the river before the country is flooded. Considering these and various other matters I propose that the two Resolutions should be considered together and dealt with as a whole, and accordingly move that the following Resolution be substituted for them;—"That having regard to the fearful loss of life due to malarial fever and other preventible diseases, as testified to by the Sanitary Commissioner in certain portions of Bengal, and in view of the fact of such portions of the Province being also the portions where embankments are necessary to prevent inundations, the accidental breach or deliberate neglect and abandonment of which resulting in extensive inundations add to the loss of life and to the sum of preventible diseases of a malarial type and demand special drainage arrangements, this Conference while thanking His Honour the Lieutenant-Governor for the interest already evinced by his Government in this question, respectfully urges on the Government of Bengal the desirability of appointing a special Commission to consider the special question of drainage and embankments in all its aspects, and to draw up a report on which practical action may be based: and this Conference further respectfully urges on the Bengal Government the desirability of including in the Commission not only the Engineering and Sanitary experts in its service, but also a certain number of

representatives from this Conference, and permanently of one or more members of local bodies where investigations may at any time be going on.

"Further the Conference being of opinion that the cause of Sanitation is completely dependent upon the growth of sound ideas among the people appeals to the public bodies in the country to undertake the task of disseminating correct ideas on the subject by the publication of popular tracts, and by such other means as to them may seem advisable."

Babu Koylash Chunder Sen seconded the amendment, moved by Mr. Beglar. In doing so he said:—This is a question which affects the whole province, and the part from which I come is also affected by malarious fever and cholera, and I gladly support the amendment which justifies the treatment of the question of drainage and embankments as analogous questions. If these subjects are taken up piece-meal, their importance will be lost sight of; therefore both these matters should be dealt with in one Resolution. If the retention of the embankments is insisted upon, it might to a certain extent lead to the stoppage of the drainage of the country in certain parts. I would refer the Conference to an able pamphlet by the late Rajah Digumber Mitter on the subject of malarial fever and cholera which were caused by the introduction of rail-roads that impeded the natural drainage of the country. There are many *khals* and water-channels which intersect the country and open out numerous passages for the ingress and egress of water. Krishnāgur at the time of Sir William Jones was considered a sanitarium; now it is a malaria-affected district, and the two villages of Santipore and Oolla which have been affected by the stoppage of drainage are now nearly depopulated. Mr. Beglar is quite right in saying that these questions cannot be considered piece-meal, as certain rivers form the drainage not only

of one district but of various districts; the improvement of the system of drainage and embankments must be taken together—as for instance in Berhampore and Rajshahye; Furreedpore and Pubna. The two questions are therefore analogous and should be considered together, and it must be admitted that Mr. Beglar has thrown great light on the subject.

Babu Surendranath Banerjea said:—I fear I must oppose this amendment and the proposal for the appointment of a commission of enquiry. We have had no end of Commissions for this purpose and no end of Resolutions of the Government. Rajah Digumber Mitter was a member of one of these Commissions, and wrote a most elaborate pamphlet on the subject which has now been accepted as embodying the authoritative opinion of the scientific world in the matter. A commission is for the purpose of enquiry. Is it necessary to make any enquiry with reference to the question of malarious fever—or what measures have to be adopted for mitigating its ravages? We are all agreed that defective drainage is the cause, and that the improvement of the system of drainage is the remedy. What is a Commission to do? The Government will jump at such a proposal, because the Government would be only too glad to postpone sanitary reforms owing to its want of means. Besides, if this is an amendment, it ought to come as an amendment to the question of embankments. Did any one hear of this question of embankments before the breaches which took place 3 or 4 years ago? The question of malarious fever in Bengal is as old as the hills. Since 1857 or 1858 it has thrust itself into prominent notice—it has thrust itself upon our attention independently of the embankment question. It may be that in some places and in some districts the two questions have some connection, but the question of drainage generally speaking has nothing to do with the embankment

question. It may be that in half a dozen or a dozen districts the two bear some relation to one another. Nearly the whole of Bengal suffers from malarious fever; but the whole of Bengal is not exposed to the perils arising from breaches in the embankments; therefore they should not be treated as one question. Besides, we have a Sanitary Commissioner, a Sanitary Board and a Sanitary Engineer. Where then is the necessity of appointing a commission to investigate and to inquire into a matter which has been enquired into by experts who are agreed in their suggestions as to the remedy? Therefore I hope Mr. Beglar will see fit to withdraw his amendment. I deeply share his anxiety on this question of malarial fever, and it is therefore that I ask him to withdraw his amendment, and I ask it because the material, the moral and the intellectual prosperity of the people of the country depends on the early solution of this question.

Mr. Beglar's amendment was put to the vote and negatived, and the original motion was then agreed to.

Mr. A. Chowdhry moved the 4th Resolution which stood thus:—"That for the satisfactory and efficient administration of Criminal Justice in these Provinces, this Conference is of opinion that the true remedy lies in the extension to the mofussil of the system which prevails in the administration of the Presidency towns was and which has been attended with such admirable results." He said:—This subject has been discussed a great many times both in the Congress and in these Conferences, and it is not necessary to say much in support of it. I will only point out that in the mofussil the person who prosecutes has got to investigate both law and the facts, but that is not the case in the presidency towns.

Babu Hem Chandra Rai of Calcutta, in seconding the Resolution, said:—Mr. President and Brother-delegates, it is with

unfeigned satisfaction that I notice that you have taken up the question of the administration of criminal justice in this country for your consideration, for really it has arrived at such a pass that it is no longer possible for those who have the good of their country at heart to view it with indifference, or to overlook its flagrant defects. It is certainly a gratifying departure from your ordinary routine,—from a reference to the published Report of your proceedings in 1888, I do not find any notice of this question at all. In 1889, I was present all through the sittings of the Conference, and in the absence of a printed Report I am constrained to rely on my recollection, and I do not remember to have been a party at all to the consideration of this subject, at least not in the shape in which it will now be presented to you. Last year the Delegates to the Conference met for a single day only, after three days' hard work at the Congress, and I do not think they had time to turn their attention to this topic at all. I hail therefore this earnest desire on your part to shake off your past apathy in the matter and take such steps as would ensure a more satisfactory out-turn of criminal work in our Courts.

Sir, of late the administration of Criminal Justice has been going from bad to worse. The Local Government have taken it into their head that there are more acquittals than are desirable, and that there is a greater leniency on the part of our Subordinate Magistrates than before; and they have couched their views in a Resolution, in which they have scarcely concealed their inward desire to see persons accused dealt with greater severity. The fiat has gone forth, and the District Magistrates have taken their cue from it, and have begun to coerce the Subordinate Magistracy into convicting accused persons against the plain dictates of justice. What with this unwholesome official pressure, what with the persistent Anglo-Indian clamour against

the supposed weakness of the Native Magistracy, aided partly by the weakness of the highest tribunal in the land, to which we cannot, as before, look up always with hopeful confidence, the situation of our Deputy Magistrates has become anything but enviable. I do not find fault with them, poor fellows! If they have the hardihood to let off an accused, sent up by the Police, the District Superintendent is sure to report the case to the District Magistrate and his invectives are hurled against the poor Deputy. Gentlemen, by all means let us have appeals and revisions, and the more we have appellate benches the better, but we certainly object to this sneaking habit on the part of our district officers of tampering with the independence of the Subordinate Magistracy by private communications, embodying the disapproval of the executive heads of districts of purely judicial findings. Perhaps the most essential requisite for a judge is thorough independence, and no judges can be thoroughly independent, if he has to work with such a halter round his neck. Cases are not unfrequently referred by district officers at the head of the Police to Subordinate Magistrates with almost plain directions to decide them in a particular way, and do you think that after such a strong expression of opinion on the part of his official superior, a Deputy Magistrate, in absolute dependence as he is upon him for his future elevation, can have the high judicial probity to arrive at findings, justified by legal materials, and approved by the dictates of his conscience? Three noticeable features characterise the administration of criminal justice in this province:—

- i. An anxiety on the part of our magistracy to convict, particularly in cases sent up by the Police.
- ii. A tendency to undue severity in the punishments awarded.

iii. Unjust interference on the part of the executive heads of districts with the judicial findings of their subordinates.

Probably, in no other country under Her Britannic Majesty does one functionary comprise in himself revenue, executive and judicial offices; probably in no other country does one single individual exercise the duties of the investigating officer, the prosecutor and the judge. As the head of the revenue establishment, the Sub-divisional Magistrate takes cognisance of a breach,—it may be,—of a revenue law, and reports it to himself as the Sub-divisional Magistrate; as the head of the police he directs an inquiry, and lastly he tries the offender, sent up under his direction! We therefore earnestly pray that the two functions may be completely separated, that the adoption of the suggestion which even Lord Dufferin was pleased to characterise as a “counsel of perfection” may no longer be deferred, even though it may lead to an extra-expenditure. And, Gentlemen, this idea is not at all foreign to the Indian administration. You have the system in vogue in the Presidency towns, side by side with the wretched arrangement in the Mofussil—in the Presidency towns the Magistrates are purely judicial officers, and are not tainted by executive capacities; and it is to me a wonder that this anomaly should prevail of having the healthier system in places where the presence of a vigilant public, an ever-watchful Press, and a very strong Bar would have repressed the foibles of the other system, and the latter should flourish at remote stations, where you have no such wholesome checks upon it!

I have the honour therefore to second this Resolution, moved by Mr. A. Chowdhry.

Babu Bhabanath Banerji of South Barrackpur in supporting the Resolution, said:—The system of summary trials should be abolished. A magistrate trying a case summarily

can inflict a punishment of 3 months' imprisonment and a fine of Rs. 200 without recording a single word; he simply hears the evidence. It is quite optional with the Magistrate to keep any record at all, and if an appeal is preferred, the appellate court finds nothing but a blank sheet of paper, and on that it is asked to come to a finding as to whether the conviction is right or wrong. If any thing will tend to the improvement of the administration of criminal justice it will be the abolition of summary trials under Section 216 of the Criminal Procedure Code, and I therefore propose an amendment to that effect.

Mr. A. Chowdhry rose to a point of order. The amendment now proposed is entirely foreign to the Resolution before the meeting which involves a principle of substantive law; whereas the amendment contemplates a matter of procedure, whether particular classes of cases are to be tried in a particular manner.

The President stated that as the amendment has not been seconded it cannot be put to the meeting.

Babu Prannath Pandit of Calcutta said:—It has been observed by the mover of the Resolution that this question has not been discussed before. But in fact it is a very old plank in the platform, and one reason why it has not been discussed here is because it has been considered by the National Congress. It does not therefore indicate any indifference on the part of the people of this province, and I am glad it will not go forth that the members of this Conference are at all indifferent to the question of summary trials, and the only reason why we do not drag it in here is that it is out of order. Now as to the question before the meeting—the separation of judicial from executive functions,—it is in the first place very desirable that a criminal judge should have his mind free for the trial of the case before him. We often find that a Deputy Magis-

trate has revenue and executive work to do which takes precedence in his mind; he has more inclination and interest in getting through that work, and cannot give the amount of time and attention to his judicial work which it demands. Then the next disadvantage of the present system is the disadvantage arising from bias. It is very necessary that a judge should bring to his judicial work a calm and impartial mind. In 9 cases out of 10, the Magistrate is in consultation with or advising the police in the case, and to a certain extent occupies the position of both prosecutor and judge. But bearing in mind that the vast mass of the criminal litigation of the country is disposed of by Deputy Magistrates, who are neither Sub-divisional officers nor District Magistrates, the difficulty is that outside pressure is brought to bear upon them to influence the course of the trial and the result of the decision. Of late, although the matter is never absent from the executive mind, a great amount of pressure has been put upon Deputy Magistrates not to allow postponements in cases. Even if they think a postponement is necessary for the ends of justice, there is held *in terrorem* over them the absolute order that you shall not postpone beyond so many times. It is common to human nature to take our troubles as we can, and the result is that in 99 cases out of 100 postponements are refused. Of course the parties suffer; the witnesses may not be in attendance; time is wanted to produce a certain witness, but there is the Draconian law. Then there is the matter of convictions. The superior authorities—not the judicial authorities of the High Court—but the Commissioner and the Magistrate and the Judge think that Deputy Magistrates are too lenient, and it is now the rule for District Magistrates to look into all cases of acquittals and to record their opinion thereon. A record by an official superior that there has been a wrong acquittal tends to bias the mind of the Magistrate in sub-

sequent cases. His superior tells him that on this kind of evidence you ought to convict, and his mind is unconsciously influenced to act on that evidence and to give way to the judgment of his superior to avoid a wiggling. The last question is the question of punishment. There has grown up a custom for the executive officers of the province to revise sentences, and there are numerous cases in which you will find a Deputy Magistrate of great experience, perhaps a dozen years senior to the authority who sits in judgment over him, receives a reprimand for a fancied light punishment—a system which is likely to affect the whole administration of criminal justice; and this is insensibly raising the standard of punishments, and your Deputy Magistrates are being unconsciously led up to that higher standard which they would not accept if left to their own judgment. I think all this will be removed if the system which prevails in this town is adopted that the criminal judge has no connection with the police or the executive officers of the Government.

The motion was put to the vote and carried unanimously.

Babu Jogesh Chunder Sen of Dinagepur moved the next Resolution which ran as follows :—That this Conference is of opinion that the present policy of Government in relation to embankments is inconsistent with the policy it has hitherto invariably followed, is opposed to its own oft-repeated declarations and enactments in the past, and is liable to be attended with disastrous results to the agricultural interests and the material prosperity of the people.

He said :—the present policy of the Government in relation to embankments is to abandon certain embankments which have all along been maintained by the Government as public works and to discourage the restoration of embankments. This is a departure from the policy in relation embankments now for more than 90 years in force. At the time of the

Permanent Settlement the reparation and construction of embankments were taken into account. At that time the Government fostered the construction of new embankments and the maintenance of old ones, some of which existed from the time of the Mahomedan period. Under Regulation II. of 1793 two classes of embankments were considered, one maintained at the public expense, and the other by zemindars and others. The Government has all along maintained the old embankments and constructed new ones where necessary. Then Regulation VI. of 1806 was passed as the former Regulation was found defective and fresh legislation was found necessary. In that year an embankment committee was formed which continued up to 1829 when the duties of the committee were transferred to an officer appointed by the Government. There was nothing further done between 1829 and 1855 when Act XXXII. of that year was passed, and it provided that all embankments then or thereafter maintained by the Government officers at the expense of either the Government or private individuals should continue to be maintained, but it was not ascertained what embankments were so maintained. In 1873 a fresh Act was passed (VI. of 1873) which contained a schedule (D) in which it was laid down what were the public embankments which were to be maintained at the cost of the Government. Then in 1882 the Bengal Embankments Act was passed which is now the law in force, and the provisions of this law unmistakeably show distinctly that at that time the Government held that embankments were required for the protection of the land. Then in 1888-89 when the rivers Roopnarain, Damooda and other rivers overflowed their banks and great damage was caused, a great agitation followed and the Government of Sir Stuart Bayley concluded that those embankments were detrimental to the adjacent land, which would be improved if they were

not maintained, and the opinion of the Government seemed to be that there was no necessity for the maintenance of any embankment, and that if breaches occurred in the embankments it would benefit all the adjacent lands; and although up to that time there were no definite departmental orders on the subject, the principle was insisted upon. The grounds of the policy of abandonment seemed to be that when rivers silt up and sand is deposited in the channel, the bed of the river becomes higher and higher and the embankments require to be raised higher still, and the country on both sides gradually becomes lower; and if these embankments did not exist the silt carried by the current would be deposited on the surrounding country and would make the country higher and more fertile, and if any injury is done to the crops there will be the prospect of getting a second crop. In answer to this theory I say that if there is a breach in the embankment, the silt carried by the current is deposited only at a short distance from the breach, and places at a considerable distance will remain submerged, and will be covered with coarse sand which will make them unfit for cultivation. As regards the sowing of a second crop it is mere speculation. But apart from the question of expediency the Government is legally bound to maintain these embankments. It is true that there is a clause in the Regulation of 1793 that the Government may at any time abandon any embankment which it may think necessary to abandon, but it will be a breach of obligation for the Government to abandon these embankments, because the Government contracted with the zemindars at the time of the Permanent Settlement for the maintenance of the embankments. The Government realises a cess for *poolbundee*; and on the assurance that these embankments will be maintained, the zemindars have invested capital and have improved their lands. But if the embankments are not maintained

many a zemindār will be ruined, and many parts of the country will be rendered uninhabitable.

Babu Mothur Nath Moitra of Faridpur seconded the Resolution. He said:—The question before the meeting is so large and has so many bearings that I wish a better man with greater knowledge and more experience had been entrusted with the duty of seconding this Resolution. I think that great injustice has been done, in not mentioning in connection with this Resolution, the name of Babu Boikanto Nath Sen who has written an able Note on the subject and whose absence to-day is very much to be regretted. There is very little to add to his able note. Those who live in this city or in other big towns have no idea of the disastrous results of floods. The annual recurrence of floods in Faridpur and the adjoining districts entail great hardship upon the people, not to speak of loss of life and property. Imagine for a moment the deplorable condition of life in Faridpur where almost all the houses are submerged and the gardens are all under water, and the people are reduced to the state of aquatic animals; and this state of things continues for nearly two months. Agriculture suffers, and we have the painful experience of seeing the rice-fields presenting a scene of desolation at a time when there should be reaping. You must also have read of the disastrous results in other parts of the country, where the embankments are very useful in preventing the country from being submerged annually. The Government has repeatedly declared that these embankments are so many protective works. There are three Regulations on the subject. Regulations 2 and 32 of 1793 and 6 of 1806, and the last Act which has been passed is Act 2 of 1882 which is the present law. The principle of these embankments is that their construction and maintenance are necessary for the protection of the country. But

the present policy of the Government represents a departure from its past policy. It is true there has been no positive declaration of the present policy of the Government, but the purport of some of the utterances of the Government is to withdraw from the maintenance and construction of embankments, on the ground of increasing the fertility of the soil. Several pleas have been put forward by the Government for its present policy, one of which is that by allowing a river to overflow its banks, it will increase the fertility of the soil. But that is a matter of mere speculation, and it is not known how long this fertile condition of the soil will continue. I think that the proposed policy is based rather on grounds of economy, and if embankments are neglected the agricultural prospects of the country must be seriously affected.

Babu Mohini Mohun Chatterji, of Calcutta, was opposed to the Resolution before the meeting. In days of old, King Canute could not bind the waves, no more is the Government of this country able to control the natural laws which govern the flow and overflow of rivers. It is the best scientific opinion of the day that embankments are the very things which cause these floods, as they tend to raise the bed of the river.

Babu Shama Churn Banerji, of Diamond Harbour, said :— With reference to the remark that embankments instead of being protective works are the cause of floods, in 1864 there was a terrible calamity in Diamond Harbour and the Government then felt that protective works are necessary to save the country from inundations, and I don't know what had led the Government to come to a different conclusion after so many years, and I can see no reason for this change of policy. I think that as protective works, embankments should be maintained and constructed wherever they are necessary.

Babu Bepin Chunder Pal of Sylhet said:—I am opposed to this Resolution. The case for the Resolution is contained in the Minute of Babu Boikanto Nath Sen. I have not had time to go carefully through that Minute, but I have listened carefully to the arguments which have been adduced in favor of the Resolution. From a legal point of view it is no doubt a great advantage to quote authority for 100 years in your favour. From 1793 to 1891 is a long stretch, and the conditions of the country have changed, and scientific opinion also has changed with regard to this question, and I think we shall not be doing our duty if we approach the Government with a Resolution of this kind based absolutely on sentimental grounds. We all know that a few years ago inundations caused immense loss of life in certain parts of Bengal, and a feeling of sympathy and commiseration with the sufferings and loss of the people of Moorshedabad and other places lies at the root of our Resolution. In Sylhet there were no embankments a few years back, but latterly we are having roads which do the duty of embankments in some parts of the country, and the result is periodical inundations; loss of life we have not had, but loss of crops we have had periodically, and such is the result of having *bunds* where there were no *bunds* before. Babu Boikanto Nath Sen in his pamphlet makes certain quotations which show that embankments instead of preventing inundations rather help inundations, and if at any moment there is a breach in the embankment after a long lapse of time, the loss to life and property is infinitely greater. It would be improper to infer that the Government has come to this Resolution without any proper enquiry. There is a large mass of literature on the subject in the Government library; reports written by experts and others, and it will not be proper for us without further investigation to address the Government on a question of this kind. On these grounds I move as

an amendment; "That the consideration of this question be postponed to the next Conference and that in the meantime professional opinion be taken on the subject."

Babu Mohini Mohun Chatterji seconded the amendment.

Babu Surendranath Banerji said :—There was a precisely similar proposal made at the last Conference when a note on the subject was asked for from Babu Boikanto Nath Sen; and now that we have got the Note the same proposal is revived! And if we go on postponing the question in this way, the Conference will never come to any conclusion upon this question of vital importance. We are not immaculate; we are liable to mistakes; but we must not act as if the earth was about to yawn underneath our feet. Here is a careful and able document drawn up by a gentleman of great experience and well-acquainted with the subject, and it does seem to me that we have sufficient grounds for our Resolution, and they seem to me strong grounds to go upon. It is not a lawyer's case that is put forward, and it does not rest on sentimental grounds. From a lawyer's point of view alone the Government would be justified in abandoning the embankments, if it could be made out that it was for the interests of the people to do so. Then it may be urged that originally the embankments were for the good of the country, but that in the altered state of things they do more harm than good. But embankments having been constructed it is impossible now to abandon them altogether. Babu Boikanto Nath Sen says on this point;—"Whatever might have been the case if nature had been left alone previous to the construction of protective embankments, it certainly is too late to make the experiment now, especially when the injury and distress would extend over a very large area and affect a very large number of Her Majesty's subjects." The fact of the case is that low lands have come to be protected by these embankments, and

unless they are maintained, extensive tracts of country would be submerged. The position no doubt is very different as regards the *construction* of embankments, but embankments having been constructed, it is impossible to withdraw from their maintenance now. That is the position which Babu Boikanto Nath Sen has taken up, and that being so, we ought not to postpone the consideration of this question again; we shall be guilty of serious dereliction of duty if we do so.

Mr. Beglar said :—This proposition as it stands simply states a fact, and what is the use of simply stating a fact and having nothing more to say about the matter. It is a statement of fact which there is no possibility of denying. It is admitted; the Government itself admits it. If we can put forward something more definite it might be of use. You may disapprove of the policy of the Government, but you cannot fight against the laws of nature; you cannot possibly go on raising the beds of rivers here and there. Because we have committed an error once, it does not follow that we must go on persisting in that mistake. On these grounds I move the following amendment;—"That this Conference is of opinion that the present policy of the Government in relation to embankments is inconsistent with the policy it has hitherto invariably followed in maintaining and constructing embankments, and it urges on the Government the desirability of taking measures for obtaining the opinions of experts as to the best method of alleviating the condition of the country."

Mr. J. Ghosal said :—I wish to mention one fact to the meeting. The reason for the policy of the Government in proposing to abandon embankments is not what has now been put forward. The reason which is now assigned is an after-thought. Only 5 or 6 years ago the reason given by the Government for abandoning these embankments was the want of funds. They said that a large sum of money,

from 4 to 8 lakhs was required year after year, for the maintenance of embankments, and that under the provincial contracts the Government was not able to spare such a large sum for the purpose. The Engineers have failed to maintain the embankments within a reasonable sum. The British Indian Association had to send up a petition against the policy now put forward; but when the Government found they were not able to maintain that position, then they put forward other reasons.

Babu Mohini Mohun Chatterji seconded the amendment. After some further discussion the following amended Resolution was unanimously carried:—"That this Conference is of opinion that the present policy of Government in relation to embankments is inconsistent with the policy it has hitherto invariably followed, is opposed to its own oft-repeated declarations and enactments in the past, and is liable to be attended with disastrous results to the agricultural interests and the material prosperity of the people, and the Conference would therefore respectfully urge on the Government the desirability of taking such measures as it may be advised to take for the safety and well-being of the people living under the protection of these embankments."

Pandit Rakhal Chunder Tewary of Diamond Harbour moved the 6th Resolution which stood as follows:—"That in view of the hardship and injustice involved by some of the provisions of the Land Acquisition Act this Conference is of opinion that the Act be amended in the following respects;—

That the appointment of assessors be optional with the parties.

That all cases be made appealable.

That no court-fees be levied on such appeals.

Babu Koylas Chunder Sen of Dacca seconded the Resolution. In doing so he said;—"I have some painful experiences of the operation of this Act which I shall place before you.

The assessor appointed by the Government in Land Acquisition cases is invariably a Government servant, the Deputy Collector or the Sherishtadar of his Court, who generally shows the greatest anxiety to agree entirely with the opinion of the Collector or Deputy Collector in fixing the value of the land to be acquired. Under Section 19 of the Act a qualified assessor is to be nominated; but the qualified assessor nominated by the Collector is invariably a Deputy Collector who is no better than a galley slave of the Collector of the District. There was a case in which I was personally interested and in which three bigahs of land and a house were acquired, and a Deputy Collector was deputed to fix the valuation. Each bigah was formerly sold for Rs. 1000, but the Collector fixed the valuation at Rs. 100 per bigah. A Deputy Collector was nominated as assessor to aid the Sub-Judge in deciding the case, and it is strange that the assessor entirely agreed with the Collector, as if he was the purchaser and not the assessor on whom devolved the task of giving an independent opinion. I consider this to be a disgraceful proceeding. Mr. Beverley in his notes has very justly observed that the Board in requiring the appointment of Government servants as assessors has been guilty of causing flagrant injustice to the parties whose property is acquired. What I propose is that the provision for the appointment of assessors be made optional with the claimant. If the party does not choose to select an assessor, the Government should not have the power of appointing one on their side, and in that case both parties would be placed on the same footing and depend on the decision of the judge. It is quite clear that the system of the appointment of assessors being made compulsory has led to much injury to parties. As regards the acquisition of land for the Kidderpore docks, in one case I know that land of the same quality as owned

by Pandit Rakhai Chunder Tewary in Mayapore and Chetla was assessed at Rs. 22,000 whereas only Rs. 4,000 was given to him. There could not have been a more flagrant case of injustice. He left no stone unturned to obtain redress; he appealed to the Government of Bengal and to the Government of India to have this noxious provision of the law repealed, but he failed, and it is time that a public body like this should take up the question. I therefore hope that this Resolution will commend itself to the meeting. Then I would have the decision of the judge made appealable both on law points as well as on the facts, as in cases tried by a Sessions Judge with the aid of assessors. Why should not cases tried under the provisions of the Land Acquisition Act be made appealable both on the facts as well as on the law, so that the most valuable interests of the people might be protected? On these grounds I hope this Resolution will be carried unanimously.

The motion was put and carried unanimously.

Maharaj-Kumar Benoy Krishna moved :—"That copies of the foregoing Resolutions be submitted to the Government for its favorable consideration." "If," he said, "the Government sees its way to consider carefully all the Resolutions which have been passed by this Conference after anxious consideration and discussion, our task will be accomplished."

Rai Krishna Chunder Roy Bahadur of Manickgunge seconded the Resolution which was put and carried unanimously.

Pundit Prannath Saraswati moved the next Resolution which was as follows :—"That the following gentlemen do form the Standing Committee of the Provincial Conference, with power to add to their number, with Mr. J. Ghosal and Babu Surendranath Banerjee as Secretaries, and Babu Mohini

Shun Chatterji as Assistant Secretary, and that the next Conference be held during the Dussera Vacation;—(Here follow names).

Babu Tincowri Ghose of Uluberia seconded the Resolution which was carried unanimously.

Babu Surendranath Banerjea moved that a hearty vote of thanks be accorded to Babu Norendra Nath Sen for presiding at the meeting of the Conference. He said:—You have listened to the admirable speech which our Chairman addressed to you in opening to-day's proceedings—a speech which must have deeply moved us, and which must have reminded us of our obligations to the millions of our fellow-countrymen, stricken down year after year by malarious fever and cholera, and floods; and I hope the key-note which he has struck will be echoed throughout the Province, and that this Conference will not give up its efforts, until it has secured the health and happiness of the people of this Province. The motion was carried by acclamation.

With a vote of thanks to the British Indian Association for the use of its rooms, the Conference broke up.

APPENDIX.

Note on the Bengal Embankments.

I. During the Mahomedan period, the construction and maintenance of Embankments were common, as they were necessary for the physical features of the country.

II. At the time of the permanent settlement in Bengal, the Government evinced a desire to provide for the construction and maintenance of Embankments, *Vide* Regulation II. of 1793, preamble, "In the British territories in Bengal the greater part of the materials required for the numerous and valuable manufactures and most of the other principle articles of export, are the produce of the lands: it follows that the commerce, and consequently the wealth of the country, must increase in proportion to the extension of its agriculture. But it is not for commercial purposes alone that the encouragement of agriculture is essential to the welfare of these provinces. The Hindoos, who form the body of the people, are compelled, by the dictates of religion, to depend solely upon the produce of the lands for subsistence; and the generality of such of the lower orders of the natives as are not of that persuasion, are, from habit or necessity, in a similar predicament. The extensive failure or destruction of the crops that occasionally arises from drought or inundation, is in consequence invariably followed by famine, the ravages of which are felt chiefly by the cultivators of the soil and the manufacturers, from whose labours the country derives both its subsistence and wealth. Experience having evinced that adequate supplies of grain are not obtainable from abroad in seasons of scarcity, the country must necessarily continue subject

to these calamities, until the proprietors and cultivators of the lands shall have the means of increasing the number of the reservoirs, ~~embankments~~, and other artificial works, by which, to a great degree, the untimely cessation of the periodical rains may be provided against, and the lands protected from inundation; and as a necessary consequence, the stock of grain in the country at large shall always be sufficient to supply those occasional but less extensive deficiencies in the annual produce, which may be expected to occur, notwithstanding the adoption of the above precautions to obviate them. To effect these improvements in agriculture, which must necessarily be followed by the increase of every article of produce, has accordingly been one of the primary objects to which the attention of the British Administration has been directed, in its arrangements for the internal Government of these provinces. As being the two fundamental measures essential to the attainment of it, the property in the soil has been declared to be vested in the landholders, and the revenue payable to Government from each estate has been fixed for ever. These measures have at once rendered it the interest of the proprietors to improve their estates, and given them the means of raising the funds necessary for that purpose. The property in the soil was never before formally declared to be vested in the landholders, nor were they allowed to transfer such rights as they did possess, or raise money upon the credit of their tenures, without the previous sanction of Government. With respect to public demand upon each estate, it was liable to annual or frequent variation at the discretion of Government. The amount of it was fixed upon an estimate formed by the public officers of the aggregate of the rents payable by the ryots or tenants for each bigah of land in cultivation, of which, after deducting the expenses of collection, ten-elevenths were usually considered as the right of the public, and the remainder the share of the landholder. Refusal to pay the sum required of him was followed by his removal from the management of his lands, and the public dues were either let in farm or collected by an officer of Government, and the above mentioned share of the landholder, or such sum as special custom or the orders of Government might have fixed, was paid to him by the

farmer or from the public treasury. When the extension of cultivation was productive only of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate, and monied men had no encouragement to embark their capital in the purchase or improvement of land, whilst not only the profit, but the security of the capital itself, was so precarious. The same causes, therefore, which prevented the improvement of land, depreciated its value. Further measures, however, are essential to the attainment of the important object above stated. All questions between Government and the landholders respecting the assessment and collection of the public revenue, and disputed claims between the latter and their ryots, or other persons concerned in the collection of their rents, have hitherto been cognizable in the Courts of Maal Adawlut or Revenue Courts. The Collectors of the Revenue preside in these Courts as Judges, and an appeal lies from their decision to the Board of Revenue, and from the decrees of that Board to the Governor-General in Council in the department of revenue. The proprietors can never consider the privileges which have been conferred upon them as secure, whilst the revenue officers are vested with these judicial powers. Exclusive of the objections arising to these courts from their irregular, summary, and often ex-parte proceedings, and from the Collectors being obliged to suspend the exercise of their judicial functions whenever they interfere with the financial duties, it is obvious that, if the Regulations for assessing and collecting the public revenue are infringed, the revenue officers themselves must be the aggressors, and that individuals who have been wronged by them in one capacity can never hope to obtain redress from them in another. Their financial occupations equally disqualify them for administering the laws between the proprietors of land and their tenants. Other security, therefore, must be given to landed property and to the rights attached to it, before the desired improvements in agriculture can be expected to be effected. Government must divest itself of the power of infringing, in its executive capacity, the rights and privileges which, as exercising the legislative authority, it has conferred on the land-holders. The

revenue officers must be deprived of their judicial powers. All financial claims of the public, when disputed under the regulations, must be subjected to the cognizance of Courts of Judicature, superintended by the judges who, from their official situations and the nature of their trusts, shall not only be wholly uninterested in the result of their decisions, but bound to decide impartially between the public and the proprietors of land, and also between the latter and their tenants. The Collectors of the revenue must not only be divested of the power of deciding upon their own acts, but rendered amenable for them to the Courts of Judicature, and collect the public dues subject to a personal prosecution for every exaction exceeding the amount which they are authorised to demand on behalf of the public, and for every deviation from the Regulations prescribed for the collection of it. No power will then exist in the country by which the rights vested in the landholders by the Regulations can be infringed, or the value of landed property affected. Land must, in consequence, become the most desirable of all property, and the industry of the people will be directed to those improvements in agriculture, which are as essential to their own welfare as to the prosperity of the state."

III. In arranging the terms for the permanent settlement Poolbundee charges were taken into account and the Government secured for itself a neat clear lump sum, as Government Revenue not liable to be reduced for any charges incurred on account of Poolbundee.

IV. Two classes of embankments were contemplated by the Government at the time of the permanent settlement, as is shown by the preamble of Regulation XXXIII. of 1793, *viz.* :—

1. Embankments which were constructed and are maintained by Government, as public-works.
2. Embankments which were not considered as public-works, but which are to be maintained by individual zemindars at their own expense.

The preamble runs to this effect :—

"It being necessary that provision should be made for the annual repair of certain embankments in different parts of the country, which have been considered as public works and have been kept in

repair at the expense of Government, in consequence of their great extent, and the damage to which the districts and places for the protection of which they have been constructed would be liable from inundation, in the event of their not receiving the necessary annual repairs; and there being the strongest grounds for believing that, if the embankments, reservoirs and water courses in the estates of individuals, *which are not considered as public works*, were enlarged or put into a proper state of repair, and new works of the same nature made where necessary and practicable, a sufficient portion of the crops might be preserved in seasons of drought or inundation for the subsistence of the body of the people, and consequently the recurrence of the miseries which this country has so often suffered from famine be prevented; and the Governor-General in Council being therefore solicitous to encourage proprietors, farmers, and cultivators of land, to undertake these important improvements in their estates and lands, he passed certain Regulations applicable to the above considerations, on the 11th of February and 21st October 1791, which are hereby re-enacted with modifications."

3. The Regulation contemplated not only the maintenance of old Embankments but also the construction of new ones.

4. Regulation XXXIII. of 1793 was defective in some particulars and legislative interference was found necessary for the protection and improvement of the Embankments and Regulation VI. of 1806 was enacted. The preamble runs thus:—

"Whereas it is provided by sections II. and III. Regulation XXXIII. 1793, that the Embankments which are maintained at the expense of Government shall be repaired under the superintendence of the Collectors, subject to the control of the Board of Revenue: and whereas it has been judged expedient that this duty shall in future be performed under the directions of these officers who, from local situations, possess the best means of forming a judgment of the repairs required, and of the manner in which such repairs may be made by the persons entrusted with the executive part of the duty: and whereas it is advisable that fixed and general rules should be established for preparing the annual estimates of the expense required for the repair of the said Embankments, and for the audit of

the accounts of the actual disbursements: and whereas it is essential that further provisions should be made for the *more effectual repair of the Embankments*, which the Zemindars and talookdars are bound, under the conditions of the permanent settlement of the land revenue, to maintain at their own expense; the following rules have been enacted by the Governor-General in Council which are to be immediately enforced throughout all the provinces subject to the immediate government of the presidency of Fort William."

An Embankment Committee was created which was to have a control over the public and private Embankments.

V. This state of things continued till the year 1829 when the Embankment Committee was abolished and their duties were transferred to some officers whom the Governor-General in Council might appoint for the purpose.

VI. Nothing passed between 1829 and 1855, but in 1855 an Act was passed. Act XXXII. of that year which provided broadly speaking amongst other things that an Embankment now or hereafter maintained by Government officers at the expense of either public or private individuals was a public Embankment. A superintendent was appointed with plenary powers. Up to this year, however, it was not ascertained or declared which were public Embankments.

VII. Then comes Act VI of 1873 of the Bengal Council, which amongst other things defines what Embankments are to be considered as public embankments and to be maintained by Government. Schedule D of the Act enumerates all the Embankments which have to be maintained by Government. There are 95 such Embankments in all extending over a length of about 1184 miles in 1886-1887, but the length has been reduced to 1127 miles since 1887-1888. Schedule E shows the Embankments in Purganah Futtehsinha and Rukanpore in the District of Murshidabad, for which Government makes an Annual Contribution to the Zemindars of the two purgasas for the maintenance of some Embankments.

There are other Embankments which have to be maintained by the Zemindars at their own expense, and which are styled Tuccavee Embankments and the length of which is about 478 miles.

VIII. Then in 1882 was passed "The Bengal Embankment Act," which is the law now in force.

IX. Act II. of 1882 called "The Embankment Act of 1882" provides in Section 4 that "Every public Embankment and every public water-course, and all land, earth, pathways, gates, bermes, and hedges belonging to, or forming part of, or standing on, any such Embankment or water-course, and every embanked tow-path maintained by Government, shall vest in the Government. The Embankments mentioned in schedule D annexed to Bengal Act VI. of 1873, and every Embankment and water-course which may be included in such schedule under section 43 of this Act, and every embanked towpath as aforesaid, shall be held on behalf of the Government; and all other public Embankments and water-courses shall be held by Government on behalf of the persons interested in the lands to be *protected* or *benefitted* by such Embankments or water courses, subject to the provisions of Section 87; and all moneys received on account of such lands shall be credited to the cost of the construction and maintenance of such Embankments and water-courses respectively." The provisions unmistakably show, that down to the year 1882 the Government hold that Embankments were for the protection and benefit of lands. The Act provides in detail for the maintenance of existing Embankments and also for alterations in the line of Embankments and the construction of new ones.

X. The D schedule embankments and the Tuccavee embankments have been maintained at considerable expense and the following is an account of the cost incurred in 3 years.

1886-1887.

Expenditure on Govt. embankments Rupees 653405.

Tuccavee embankments, 129796.

The cost of maintaining the D schedule embankments

Length 1127 miles Rs. 298623.

1887-1888.

Expenditure of Government embankments, Rs.

Expenditure on Tuccavee embankments, Rs.

The cost of maintaining the D schedule embankments

Length 1127 miles, Rs. 254129.

1888-1889.

Expenditure on Government embankments Rs. 6,53,405.

Expenditure on Tuccavee embankments Rs. 1,29,796.

The cost of maintaining the D schedule embankments

Length 1127 miles, Rs. 298,623.

XI. In 1888-89 great damage was caused in several districts of Bengal by the floods from the Roopnarian, Bhagirathi, Ajay, Darakesvar, and some other rivers; and the sympathy and public interest which were excited by the distress and the injury caused by the floods, gave the Government of Sir Steuart Bayley an opportunity to discuss in a formal Resolution the question of the embankments from different points of view. It would appear that in 1885 when a question was raised for the restoration of the Ianculi embankment on the right bank of Damooda where a breach was caused by the floods, the Government for the first time considered the restoration of the embankment as useless and inexpedient.

In 1888 the Government, under the advice of its constituted advisers, enunciated principles which discourage the restoration of embankments, in which breaches occur, and which clearly indicate a departure from the policy hitherto followed, in accordance with the legislative enactments extending over a period of above 90 years. Although as far as is known at present no definite conclusions have been arrived at on the subject by the Government and no specific departmental instructions have been publicly issued, yet the views of the Government expressed in language indicating a new method of treatment of the embankments, have so far reflected on the Government officials that recently money and means are not being adequately employed for the preservation and restoration of embankments. The subjoined copy of a notice issued by the Collector of Murshidabad, indicates what will be the future policy of Government in dealing with the D Schedule embankments.

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GOVERNMENT OF BENGAL.
PUBLIC-WORKS DEPARTMENT.
IRRIGATION.

Notification No.

Whereas on enquiry made by the Collector of Murshidabad it appears that it is expedient in the public interests to abandon a length of 32 miles 1 furlong 86 yards of the embankment known as No. 94 in schedule D of Act VI. of 1873 namely the portion lying between a point 187 yards beyond the 52nd mile stone in the village of Jaunpur and a point 2 furlong 57 yards beyond the 84th mile stone in the village of Bhagowangola District Murshidabad and to construct in its place a retired line of about 5 miles in length between the aforesaid points. The Lieutenant-Governor under the provisions of Sec. 43 of Act II. B.C. of 1882 is pleased to direct that the said 32 miles 1 furlong 82 yards shall no longer be included in Schedule D.

জোনপুর হইতে ভগবানগোলা পর্য্যন্ত পুল পরিত্যাগ
বিষয়ে নোটিস ।

নোটিস ।

কাছারি কলেজরি-জেলা মুরশিদাবাদ ।

এ বিষয়ে কাছারি ও কোন আপত্ত্য থাকিলে আগামী ২৫ শে অক্টোবর
ভারিবে জেলা মুরশিদাবাদের ত্রীযুক্ত কলেজরি সাহেবের নিকট দর্শাইবেন ।
ইতি ১৭ ই সেপ্টেম্বর ১৮৯১ ।

Sd. L. M. S.

Sd. G. E. MANISTY,
Collector.

Seal
Of the Collector's
Office.
Zillah Murshidabad.

XII. The position taken by Government for the inauguration of a principle of non-interference with nature in connection with floods may be summarised in a very few quotations; "What would be the result were nature left to herself as regards these floods, and what is apparently the result when she is interfered with." * * *

"All the rivers in this part of Bengal are more or less heavily laden with silt and sand whilst in flood, and in the ordinary course of nature they would, by over-flowing in shallow gently-moving streams at numerous points along their course as the flood topped the natural banks, deposit this mixed finer sand and silt over the country, and thus gradually and beneficially raise it; whilst they would be at the same time *very* gradually raising their own beds by the deposit, more or less evenly, along their courses of the coarser sand which they carried forward in their own channels. But when by parallel embankments a river is prevented from overflowing, the effect is to force it to carry all the silt and sand down its own channels: this state of things tends to the silt being carried further forward by the higher velocity maintained [in the channel, on account of the greater volume of water carried within it; but eventually the silt has to be deposited in the channel itself as soon as the velocity is checked," and the result is rapid deterioration of the channel and "this necessitates a further raising and strengthening of the embankments confining the floods, whilst the river-bed, and with it the floodlevel, continues to rise. And thus the fight is maintained until eventually not only the flood-level but the bed of the river itself, is above the level of the country protected by the embankments. It is not difficult to understand, when this stage is reached, how terrible must be the result should a breach occur during a high flood in these greatly raised embankments, and the water flow over the country not in a gently-flowing shallow stream of perhaps two or three feet depth, depositing fertilising silt everywhere, but in a devastating flood, several feet in depth, overwhelming what has now become, in comparison with the river, a low-lying country, causing loss of life by its suddenness and violence destroying crops by its depth and erosive action, and injuring land by depositing over large areas a stratum of unculturable sand, unculturable at any

rate until other more moderate floods have in their turn covered the sand with deposit of silt."

"It is not denied that the existing floods cause some damage, nor is it argued that such a spill as is under consideration ever occurs without in such cases serious flooding and loss of crop, but the floods are not wholly detrimental. The flow of water is in some years and in some places such as to drown or even wash away portions of the crops; but if this occurs early in the year, a second crop is successfully grown, and in any case a large quantity of fertilising silt is spread over miles of country beyond the special tracts in which devastating floods are now complained of, and a gradual and a very important and beneficial raising of the level of the country is in progress."

XIII. It has to be considered whether apart from the legal aspect of the subject, which I propose to consider later on, whether the position can be maintained. To allow nature now to reassert herself, without impediment, would be to permit the spill water to flow from a high level with a very large velocity, which would be proportionate to the still very large volume of water. The embankments now a days have reached a certain height and the beds of the rivers have also been considerably silted up and to permit the embankments to be overtopped or breached would inevitably lead to the aforesaid disastrous consequences. Whatever might have been the case if nature had been left alone previous to the construction of protective embankments, it certainly is too late to make the experiment now, especially when the injury and distress would extend over a very large area and affect a very large number of Her Majesty's subjects. Then again the expectation of increased fertility of the inundated tracts by a fluvial deposit over them is scarcely likely to be realised, when the water flows into the tracts, protected by an embankment, either by effecting a breach in it or by overtopping it, the clay, fine sand or the coarse sand contained in it is deposited within a comparatively speaking short distance from the site of diversion and the longer the water flows the more it becomes denuded of silt and consequently the tracts of land at distances from the site of diversion simply become submerged and remain so for a few

months without gaining any thing in the way of fertility. Local experience of the past floods justify me in asserting this.

Besides in some cases it has been observed that good fertile land on emergence after submersion owing to the floods, is covered with a thick layer of pure sand rendering the land utterly unfit for cultivation for years.

Then the theory of the raising of the low lands by the inundation, however correct on principle, is of no practical good, for the effect is so inappreciable, that the maximum result of this cannot stand in comparison with the minimum of the distress and injury and loss which are sure to follow an inundation. The people inhabiting in and occupying the tracts so inundated are sure to be ruined and they are certain to leave those places and go away elsewhere and the vast tracts of land will remain fallow and waste. The effect and result of the raising of the low lands might be appreciated after fifty or sixty years.

The expectation of a second sowing after early inundation is simply speculative since this has scarcely been verified by facts.

XIV. The aforesaid observations I consider to be sufficient to show that the grounds on which the expediency of maintaining the existing embankments or renewing them when necessary are questioned, are simply speculative and not founded upon valid grounds.

XV. But apart from the question of expediency the subject involves a question of law and in my humble opinion the Government is under a legal and valid obligation to maintain the existing embankments and to construct new ones, either on the old site or on a retarded line when required for the purposes of protection and the zemindars have a subsisting and valid right enforceable at law.

XVI. It is true section 43 of Act II. of 1882 authorises the Lieutenant-Governor of Bengal to abandon any embankments included in schedule D of Act VI. of 1873 and to substitute new ones. But it should be borne in mind that he can do so only on the ground of public interest which is therefore a condition precedent for the exercise of the discretion. It must be clearly established in the first

instance that public interests require that certain embankments included in schedule D aforesaid should be abandoned as "un- necessary." Now the grounds upon which the want of necessity is based are indicated in the Resolutions mentioned above and they are to say the least of a questionable nature. According to the principles enunciated the present departure from the recognised law is a tentative measure, and is an experiment at the sacrifice of the interests of thousands of Her Majesty's subjects.

XVII. Even if it be conceded for the sake of argument that under Section 43 of Act II. of 1882, the Government is entitled to abandon certain embankments included in schedule D of Act VI. of 1873 on the ground of public interests, yet it must be understood that Government is not exempted from liability to compensate the proprietors of Estates which are exposed to inundation by the abandonment of any particular line of embankments, for the loss they would be subjected to. The Government is legally bound to maintain the embankments included in schedule D aforesaid, if not on any other ground, simply on the ground, that the Government Revenue has been assessed on taking into account including the costs required for maintaining the embankments required for the protection of the estates.

XVIII. In accordance with the terms of the permanent settlement, in some cases the Government makes an annual contribution to some zemindars and the Government receiving contributions from others for the purpose of maintaining some embankments included in schedule D. The proprietors of Purgunas Futtehsinha and Rukanpore receiving from the Government an annual contribution and the Government receives from the Burdwan Raj a sum of Rupees 53742 annually for maintaining some embankments in the estates included in the Burdwan Raj. Under the circumstances stated it will be a breach of faith—breach of pledge on the part of Government to abandon the embankments and the Government will undoubtedly be liable, in law, to grant abatement in its demand of Revenue and compensate for the loss.

XIX. As to loss, it is sure to be very heavy, for since the permanent settlement a variety of interests has been created, and capital

has been invested by various persons who would be affected by the abandonment and compensation would be successfully claimed by all persons to be affected. It ought, therefore, to be a matter of serious consideration to Government whether the economy aimed at, by curtailing the expenditure on the maintenance of embankments, would prove in the long run, to be a wise policy fit for being adopted.

BERHAMPORE, }
The 5th October, 1891. }

BOIKUNT NATH SEN.

APPENDIX. **PROVINCIAL CONFERENCE OF 1891.**

No.	Names of delegates.	Profession.	District or Sub-division for which elected.
1	Babu Tara Prasanna Banerjea	Agent, Maharaja, Burdwan	Ghatal, Midnapore.
2	„ Dina Nath Sen, B.L.	Pleader	Chinsurah, Hugli.
3	„ Akhoy Chandra Das, B.L.	Pleader	Howrah.
4	„ Mahendra Nath Roy, M.A.B.L.	Pleader, High Court	Howrah.
5	„ Jay Kali Chakraburti	Pleader	Uluberia, Howrah.
6	„ Manmatha Nath Banerji	Land-holder	Howrah.
7	„ Jadu Nath Banerji	Pleader	Howrah.
8	„ Tincory Ghosh	Pleader, and Chairman L. B.	Uluberia, Howrah.
9	„ Kali Charan Banerji M.A.B.L.	Vakeel	Indian Association, Calcutta.
10	„ Surendranath Banerjea B.A.	Editor, Bengalee	Do.

No.	Names of delegates.	Profession.	District of Sub-Division for which elected.
11	J. D. M. Beglar, Esq.	Civil Engineer	Chagdah, Nuddea District.
12	Babu Srinath Mozumdar	Landholder	Do.
13	Babu Mohini Mohun Chatterji M.A.B.L.	Attorney-at-law	Indian Association, Calcutta.
14	Maharaja-Kumar Binay Krishna Bahadur	Zemindar	Do.
15	A. Chówdhury, Esq., B.A.	Barrister-at-law	} Indian Association, Calcutta & Rajshahye.
16	Ray Jatindra Nath Chowdhury M.A.B.L.	Zemindar	Taki & Baranagore, 24-Pergs.
17	Babu Satya Prasad Sarbadhicary.	Medical Practitioner	Indian Association, Calcutta.
18	" Dev Prasad Sarbadhicary, M.A.B.L.	Attorney-at-law	Do.
19	Ray Raj Kumar Sarbadhicary Bahadur	Editor, Hindu Patriot	} British Indian Association, Calcutta.
20	Dr. K. G. Sarkar	Medical Practitioner	Indian Association, Calcutta.
21	Babu Jogendra Narayan Mitter	Landholder	Chagdah.
22	" Narendra Nath Sen	Editor, Indian Mirror	Indian Association, Calcutta.
23	" Kali Nath Mitter	Attorney-at-law	Do.
24	Juanendro Chandra Roy Chowdhury	Pleader	Diamond Harbour, 24-Pergs.
25	Fundit Rakhal Chandra Tewary	Pleader and Hony. Magistrate	Do.