

[*Babu Surendranath Banerjee ; Maulvi Serajul Islam ; Mr. Dutt ;
Sir Charles Paul.*]

He said:—"As the Government has already intimated its acceptance of this amendment, it is not necessary for me to say anything in support of it."

The Motion was put and agreed to.

The Hon'ble MAULVI SERAJUL ISLAM, KHAN BAHADUR, by leave of the Council, withdrew the motion of which he had given notice, that in subsection (2) of section 23, for the words "to enforce such certificate and realise the amount recoverable thereunder" the words "in respect to such certificate" be substituted.

The Hon'ble MR. R. C. DUTT moved that the following proviso be added at the end of section 23:—

'Provided that if the amount of which a certificate is made under the provisions of sections five, seven, or nine, or any portion of such amount be not realized within three years from the date of the certificate, the certificate will cease to be in force in respect of such unrealized amount.'

He said:—"I admit that this amendment is not very happily worded. I shall therefore ask permission to withdraw it and to give notice of a fresh amendment empowering the District Collector to strike off all certificates which are absolutely hopeless and under which it is not possible to realise any money."

The Hon'ble SIR CHARLES PAUL said:—"I think there is no necessity for this amendment. The Lieutenant-Governor and the Board of Revenue can always give orders for the cancellation of certificates which are unrealizable."

The Hon'ble MR. R. C. DUTT in reply said:—"The practice is to keep these very old certificates in the Wards' department alive after we are convinced that their enforcement is practically hopeless. This practice only impedes work. I want power to strike off these certificates, even if proceedings in execution have been taken within three years. The difficulty lies in the fact that managers of Wards' estates will not consent to withdraw them. There are outstanding certificates in Burdwan of eight and ten years' standing, and when the estates are made over to their owners, these certificates remain and owners will not consent to withdraw them."

The Motion was, by leave, withdrawn.

[*Mr. Ghose; Mr. Buckland; Mr. Wilkins.*]

The Hon'ble MR. GHOSE moved that in section 33, the words between the words "Provided that" and the words "be sent" be omitted, and that the words "whenever the debtor is not personally served the notice shall" be inserted. He said:—

"Practical experience has shown that peons very often do not go anywhere near the place of service, and make absolutely false reports of service. Hon'ble members will, I am sure, agree with me that greater confidence is reposed by the public on postal service than on service by peons. I do not see that there is any question of principle involved in this amendment which should induce the Government to oppose it. If by throwing a little additional work on the Post Office, we can make service more satisfactory, I think the object in view will be secured."

The Hon'ble MR. BUCKLAND said:—"I made some remarks upon this section in my opening statement, and I do not see any reason to alter what I then said, that in framing this section the Select Committee adopted the very last improvement of the Imperial Legislature, and, until we have some reason to believe that it does not work well, we are very loth to go any further. I think it will be very objectionable to make it compulsory to issue these notices by post; we have therefore made it permissive."

The Hon'ble MR. WILKINS said:—"I may point out that the mode of service of notice in section 33 is very similar to that for many years observed for service under the Civil Procedure Code, under which, in the case of persons of consideration, the Court may substitute for a summons a letter which may be sent by post or by messenger. This section goes a good deal beyond even the Code, for it empowers the Certificate Officer to send notice by post in any case, and not only when the person to be served with notice is a person of rank. If the order to send a notice by registered letter is made compulsory in every case in which personal service cannot be had, the judgment-debtor has only to refuse to sign the receipt, and then there will be no service at all; and even if the receipt is signed, there must be evidence to show that the judgment-debtor and not somebody else signed his name. There will be no evidence readily available to prove this, and the proviso to section 33 is intended to be made use of only under circumstances similar to those given in section 91 of the Code or

[*Mr. Wilkins ; the President.*]

in other exceptional cases which may arise ; and to such cases it should, in my opinion, be restricted."

The Hon'ble THE PRESIDENT said:—"I think that on the part of the Government I must agree with the view which has been expressed by the hon'ble member in charge of the Bill, that the most recent Act passed by the highest authority should for the present guide our proceedings, and that hereafter, if any defect is found in this mode of service, it will be time to alter it."

The Motion was put and negatived.

The Council adjourned to Saturday, the 9th instant.

CALCUTTA ;
The 8th April, 1895.

}

GORDON LEITH,
*Assistant Secretary to the Govt. of Bengal,
Legislative Department.*

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

The Council met at the Council Chamber on Saturday, the 9th March, 1895.

Present:

- The HON'BLE SIR CHARLES ALFRED ELLIOTT, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The HON'BLE SIR CHARLES PAUL, K.C.I.E., *Advocate-General*.
The HON'BLE H. J. S. COTTON, C.S.I.
The HON'BLE SIR JOHN LAMBERT, K.C.I.E.
The HON'BLE D. R. LYALL, C.S.I.
The HON'BLE J. A. BOURDILLON.
The HON'BLE MAULVI ABDUL JUBBAR KHAN BAHADUR.
The HON'BLE F. R. S. COLLIER.
The HON'BLE C. E. BUCKLAND.
The HON'BLE C. A. WILKINS.
The HON'BLE ROMESH CHUNDER DUFT, C.I.E.
The HON'BLE SURENDRANATH BANERJEE.
The HON'BLE L. GHOSE.
The HON'BLE MAHARAJA SIR LUCHMESSUR SINGH BAHADUR, K.C.I.E., OF DARBHANGA.
The HON'BLE MAULVI SERAJUL ISLAM KHAN BAHADUR.
The HON'BLE W. C. BONNERJEE.
The HON'BLE J. G. WOMACK.
The HON'BLE MAULVI MUHAMMAD YUSUF KHAN BAHADUR.

THE PUBLIC SERVICE COMMISSION.

The Hon'ble BABU SURENDRANATH BANERJEE asked:—

Will the Government be pleased to state why effect has not yet been given to the recommendation of the Public Service Commission, which has

[*Babu Surendranath Banerjee ; Mr. Cotton ; Maulvi Serajul Islam.*]

received the sanction of the Secretary of State, to the effect that the post of one of the Under-Secretaries to Government should be given to a member of the Provincial Service? Will the Government now appoint a member of the Provincial Service to the post of an Under-Secretary to Government?

The Hon'ble MR. COTTON replied:—

“The decision of the Government of India and of the Secretary of State referred to by the Hon'ble Member is not to the effect that the post of one of the Under-Secretaries to Government should be given to a member of the Provincial Service. The orders go no further than to say that members of the Provincial Service are eligible for such a post.

“In making appointments of this nature the efficiency of the public service ought to be the first consideration. The proper performance of the duties of an Under-Secretary requires exceptional qualifications, and the Lieutenant-Governor has not been able to satisfy himself that any member of the Provincial Service is as well fitted to perform those duties as any of the officers he has hitherto appointed when one of these posts has fallen vacant.”

TRANSFER OF THE CHITTAGONG DIVISION.

The Hon'ble MAULVI SERAJUL ISLAM, KHAN BAIADUR, asked:—

Whether Government will be pleased to lay on the table the papers, if any, in connection with the proposed transfer of the Chittagong Division from the jurisdiction of the Lieutenant-Governor of Bengal to that of the Chief Commissioner of Assam, and to state on what grounds such transfer has been recommended by the Government of Bengal?

The Hon'ble MR. COTTON replied:—

“There are no papers which can be placed on the table regarding the proposed transfer of the Chittagong Division from Bengal to Assam. The question has been under consideration, but is not likely to assume a practical shape until the railway from Chittagong to Assam is open to traffic.”

[*Maulvi Scrajul Islam; Mr. Cotton; Mr. Dutt.*]

THE BEGUMGANJ MUNSIFI.

The Hon'ble MAULVI SERAJUL ISLAM, KHAN BAHADUR, asked:—

Whether Government is aware of the great inconvenience and harassment which the people are put to in consequence of the transfer of the Munsifi at Begumganj, which had been in existence there for about 90 years, to the head-quarters of Noakhali, and whether it has been brought to the notice of Government that the people of the Begumganj chauki are prepared to pay for the erection of a pukka building for the *cutchery* house, if necessary; and whether in view of such hardship Government would be pleased to reconsider its decision with regard to the location of the said *cutchery*?

The Hon'ble MR. COTTON replied:—

“Begumganj is very close to the head-quarters of the Noakhali district, and when the Munsifi there was burned down the other day, it was decided by the Lieutenant-Governor, with the concurrence of the High Court, who were consulted in the matter, to transfer the Munsif's Court to the head-quarters of the district. His Honour is aware that petitions opposing this transfer have been sent in, signed by some of the people residing at Begumganj, but he does not believe that the inconvenience to them can be considerable, and he is satisfied that the policy of concentrating Munsifis as far as possible at the head-quarters of districts and subdivisions is desirable and beneficial to the administration of justice.”

THE PUBLIC DEMANDS RECOVERY ACT, 1880, AMENDMENT BILL.

The Hon'ble MR. R. C. DUTT moved that, for the proviso to sub-section (2) of section 13 of the Bill to amend the law relating to the recovery of Public Demands, the following be substituted:—

‘Provided that, if in the opinion of the Certificate Officer, the petition involves a *bona fide* claim of right, he shall refer the petition to the District Collector for orders, and the District Collector, if he is satisfied that a *bona fide* claim of right is involved, shall make an order cancelling the certificate.’

He said:—“ I have taken the liberty of making one or two verbal alterations in order to adopt the usual legal phraseology. My object was fully explained

[*Mr. Dutt ; Mr. Buckland ; Maulvi Serajul Islam.*]

at the last meeting of the Council, and I need only briefly state now that the proviso to the section as it stands in the Bill is somewhat indefinite, and I want to make it clear that we do not intend to depart from the principle on which we have proceeded so long, namely, that a certificate shall issue only in cases where there is no question of right or title. There is a Board's rule which lays down this principle, and I have drafted the amendment so as to make it clear that this principle shall be adhered to."

The Hon'ble Mr. BUCKLAND said:—"The Government are prepared to accept this amendment in the form in which it has been altered by the hon'ble member. Perhaps I ought to add a few words of explanation, and at the same time point out that the amendment is now slightly different from the proviso as it was originally drafted. The Government have been much influenced by the fact that the Board have for some time past issued and acted upon a Circular which involves the same principle as the amendment. The result will now be that if we have the concurrent opinion of the Certificate Officer and the District Collector that the petition involves a claim of right, then the certificate shall be struck off. The Government is of opinion that no harm will be done by this proviso, and in fact it makes more definite a ruling than that which we endeavoured to provide for by the proviso to section 13, clause (2). The original idea of referring the parties in these cases to the Civil Court came from the Board of Revenue, and the Select Committee adopted it in a different form of words. The original suggestion was that, if complicated or difficult cases arise, they should be referred to the Civil Court. Now, if this amendment is accepted by the Council, and if difficult and complicated cases arise which do not involve a claim of right, such cases will still have to be decided by the revenue authorities, but such complicated and difficult cases are so very few that they may be disregarded for all practical purposes. Therefore the Government are prepared to accept this amendment in the form of language adopted by the hon'ble member now."

The Hon'ble MAULVI SERAJUL ISLAM, KHAN BAHADUR, said:—"In regard to the amendment, I submit that it is in perfect order, and is a workable amendment such as it is desirable to have in the Statute Book."

The Motion was put and agreed to.

[*Maulvi Serajul Islam ; Sir Charles Paul ; Mr. Buckland.*]

The Hon'ble MAULVI SERAJUL ISLAM, KHAN BAHADUR, said:—"With Your Honour's permission, I beg to move an amendment of a formal character. I may remind the Council that at the last sitting I had the honour of moving an amendment in connection with section 2 of the Bill. What I then urged was, that the omission of certain words from section 2 of the Act created a difficulty as regards the right of appeal by a person whose property has been sold under the Act, and that a doubt was raised in consequence of a ruling in the case of *Sadoo Sawaree* (?) I further pointed out that under a Resolution of the Board of Revenue, Messrs. Cockerell and Reynolds presiding, in connection with section 16 of the Act, they concluded from the position of the section that it did not give a right of appeal to a person whose property is sold. Therefore I moved at that time that some words should be added to one of the sections of this Bill to remove the difficulty, but at the suggestion of the learned Advocate-General I withdrew the motion. But now an addition has been made with regard to sales to make the procedure of Chapter XIX of the Code of Civil Procedure applicable to sales under this Act. That Chapter, however, does not deal with appeals; so that at present there is no right of appeal provided by any section except section 19. If the words in section 19 be construed as giving an appeal in all cases, there will be no difficulty; but as there has been a ruling that the Legislature did not intend to give a right of appeal in case of sales, I now beg to move that the position of sections 19 and 20 be changed, and that they be placed at the end of the Bill."

The Hon'ble SIR CHARLES PAUL said:—"I at first thought that the section was far from being doubtful, but I have since been considering the matter, and I think the hon'ble member is right, and that it will be desirable to put those two sections at the end of the Bill."

The Hon'ble MR. BUCKLAND said:—"In deference to the advice of the learned Advocate-General, I have no objection to offer to the arrangement of the sections now proposed. The motion has been sprung upon us at the last moment, and I am not prepared to contest it myself."

The Motion was put and agreed to.

[*Mr. Buckland ; the President.*]

The Hon'ble MR. BUCKLAND moved that the Bill, as settled in Council, be passed. He said:—

“After the full consideration given to this Bill, section by section, and after the lengthy debates which took place at the last meeting of the Council, I think I may claim that this little measure has been fully and thoroughly threshed out, and I should be doing wrong in taking up the further time of the Council by recapitulating what we have already done.”

The Motion was put and agreed to.

THE LAND RECORDS MAINTENANCE BILL.

The Hon'ble THE PRESIDENT said:—“Before calling upon the Hon'ble MR. BUCKLAND to bring forward the next motion which stands in his name, I may mention that notice of an amendment has been given by the Hon'ble BABU SURENDRANATH BANERJEE, which I think is out of order. His proposal is, that the motion to refer the Bill to provide for the maintenance of the Records of Rights in Bengal to a Select Committee be postponed until the Bill has been redrafted. I have already pointed out to the hon'ble member, and now mention for the information of the Council, that there is no way of redrafting the Bill except by referring it to a Select Committee. Whatever suggestions hon'ble members may make now will be brought to the notice of the Select Committee, and they will have the power of redrafting the Bill and making any amendments in it they may desire. I understand the Hon'ble BABU SURENDRANATH BANERJEE accepts my interpretation, and is prepared not to make the motion, but to bring forward for the consideration of the Select Committee whatever proposals he has to make.”

The Hon'ble MR. BUCKLAND said:—“In rising to speak to the motion which stands in my name, I shall only remind the Council that a similar motion was before the Council a fortnight ago, and I hope that during the fortnight which has elapsed since the consideration of this Bill was postponed they have had time to consider the numerous reports we have received. We have received valuable suggestions from the Hon'ble Judges of the High Court and independent Associations, also some very useful and very helpful, and some perhaps

[*Mr. Buckland.*]

somewhat impracticable, but on the whole the reports contain a very valuable amount of criticism, which, speaking on behalf of myself and the members of the Government concerned, we cordially welcome. We also have had to consider these reports, and to provisionally make up our minds as to which are worthy of consideration, and which of them can be accepted and which we must decline to accept. But the general conclusion to which we have arrived is, that many of these points will be better discussed in Select Committee. In some cases the criticisms are directed merely to mistakes in drafting, and in others they have merely called attention to little slips and obvious omissions. There are, of course, other debatable points on which it is open to the many gentlemen reporting to hold as many different opinions. Many of the criticisms are directed to show that the Bill as it has been drafted is not a perfect one; that we are quite willing to admit, as we never expected that it would be so regarded. It has always been put forward as a tentative measure in which we expect the co-operation of the Council and the assistance of the classes which will be affected by it.

“The object of the Bill is to take a great step in advance in the registration of tenant rights, and this is not an easy matter to carry out; it is the first time that such an attempt has been formally made in this Council, or, as far as I know, by any Legislature. Many of the principal Acts which are now to be found in the Statute Book have had to go through several editions before they have arrived at anything like maturity. There have been several editions of the Registration Act, and it is perhaps not even yet perfect, there have also been several editions of the Codes of Civil and Criminal Procedure, and the Penal Code has been constantly amended. Therefore we cannot take to ourselves any reproach if this measure which we have now launched is not perfect at all points, and we admit candidly that it is not perfect. But we hope with your co-operation to make it as workable as such an Act can be made, by foreseeing as far as possible objections which can be taken, and doing all we can to anticipate difficulties which are likely to arise in working the measure.

“When I introduced the Bill in Council on the 19th January last, I made some general remarks with regard to the principles of the Bill, somewhat amplifying the Statement of Objects and Reasons which was then presented. I will with your permission to some extent recapitulate what the main principles of the Bill are. Its fundamental principle is that it aims at enabling a record of

[*Mr. Buckland.*]

changes in tenant rights to be maintained automatically, and this it is proposed to do by the establishment of a number of registration offices, and by making it easy for tenants to appear and to register under this Act their transfers and successions, at the same time imposing upon them certain disabilities by way of stimulus to them to encourage them to come forward and register their mutations of tenant rights. The method which it is proposed to adopt to effect this object is somewhat similar to that contained in the Land Registration Act, which records transfers of proprietary rights in what is known as Register D, and from that register Register A of revenue-paying estates and Register B of revenue-free estates are written up from time to time. The *modus operandi*, if the Bill is passed in its present form, or some similar form as we expect it to be, is to fuse together the systems of registering deeds and of recording transfers of proprietary rights. We propose to adopt the main procedure of the Registration Act of 1877, and to use it so as to get mutations of tenant rights registered under this Bill. The idea is that, where it is compulsory to register a deed now, the registration of mutations should also take place. We also propose that where it is not compulsory now to register a deed, a notice of a transfer or a succession should be filed and registered; and it is further proposed that this notice should be made in a form which should contain all particulars necessary to show what transfer or succession has taken place, and that this notice of mutation should take the place of a deed which would otherwise be registered under the Registration Act. It is not intended in any way to make any revenue out of this Act, but it will be necessary to require certain little charges in the shape of fees to be paid in order to defray the cost of the establishments involved. The question of fees I will allude to at a later stage of my remarks.

“These are the main points of the first part of the Bill. When I introduced the Bill on the 19th January, I mentioned that the opportunity had been taken to provide an alternative procedure for the apportionment of the cost of settlement and survey—an alternative procedure to that contained in section 114 of the Bengal Tenancy Act. That principle has been adopted, as I will afterwards explain, on the recommendation of SIR ANTONY MACDONNELL, who was acting as Lieutenant-Governor in 1893. The idea is to provide for the apportionment of the cost of survey and settlement among the parties interested, and to impose upon the zamindar the duty of collecting the share due from the raiyats unless it is collected by the Settlement Officer in the first instance.

[*Mr. Buckland.*]

“These are the main principles of the Bill; and with the permission of the Council, I will now go more particularly into the various sections, alluding as may appear desirable to some of the reports and opinions which we have received. On section 2, the Interpretation clause, we have received various suggestions to the effect that more words and expressions should be defined than we have defined in the Bill. It is suggested, for instance, that we should introduce definitions of the words ‘proprietor,’ ‘tenant,’ ‘holding,’ ‘village,’ ‘raiyat,’ ‘non-occupancy raiyat’ and ‘holder of estate.’ These are very proper and useful suggestions, which will receive due consideration. It is also suggested that we should alter the explanation to be given of the term ‘record of rights’ so as to include what is known practically as a record of rights, though it may not consist of the documents known as *khewat* and *khatian*.

“In section 3 of the Bill it is proposed that all Registrars and Sub-Registrars under the Registration Act shall be Registrars of Mutations under this Bill. It has been suggested that Registrars of Mutations for the purposes of this Bill should be persons who should not also be Sub-Registrars under the Registration Act. That suggestion has not commended itself to the Government. The idea is, that all Sub-Registrars under the Registration Act should have this extra duty of registering mutations imposed upon them, and not that Registrars should be appointed for a limited purpose only.

“Section 4 has appeared to many gentlemen and Associations to provide a procedure for doing very much the same work as that which is already done under the Land Registration Act. That is no doubt to some extent true. The object of the section is to provide facilities for the better use and application of the Land Registration Act. It has been thought that persons having proprietary interests would be more willing to go a few miles off to a Sub-Registrar under this Bill, and there give notice of a change of proprietary right, than if they had always to go to head-quarters. The idea has been that when a proprietor acquiring a right, or a manager coming into his charge, has got a notice of this sort to give, he might give it at the local office, and that the notice should there be taken charge of and the registration effected for him. It is perhaps a question, not whether this duplicate procedure, is necessary, but whether it is desirable. It is known to the Council that the Land Registration Act has not been as much used as it might have been. Numbers of proprietary rights have escaped registration which it would be very desirable to include. In fact the object of this section is to afford facilities for the registration of

[*Mr. Buckland.*]

proprietary rights. The attitude of Government towards this section of the Bill is that its adoption or rejection may well be open to argument, and that it may be fairly considered on its merits. At the same time many objections have been taken to the fact that under this section of the Bill only four months are allowed to a person who has to give notice, whereas under the Land Registration Act six months are allowed. That is perhaps also open to argument, but Government are inclined to think that the term proposed under this Bill should be limited to four months rather than extended to six months.

“I come now to section 5, which proposes to limit the use of section 43 of the Land Registration Act. Section 43 allows the Lieutenant-Governor to exempt by executive order the owners of small estates from the performance of the obligations required under the Act. By this section of the Bill it is proposed to provide that such exemption shall only be granted on the registration of mutation being effected in the Sub-Registrar's office. This, however, may as easily be done under section 43 by the issue of an order that no such exemption shall be made; therefore the Government do not attach much importance to this section (5).

“By section 6 we provide for periodical statements to be filed in Sub-Registrars' offices. It has called down much criticism, and sometimes erroneous criticism. It has sometimes been said that the road cess returns are sufficient, and therefore no more periodical statements should be required under this section. I am afraid that some of the Associations who have reported on this Bill had very indefinite notions of what they were writing about; but with regard to this section, I may say that, while it is desirable to take this power under the Bill, it may be open to question whether it should be used. At present it is under consideration whether this power should be used so long as the Patwari Regulation, XII of 1817, remains in force. If it should happen that that Regulation should be repealed and the zamindar has no longer a patwari to provide for, it is considered that it will be reasonable to call upon him for an annual list of changes in the record of rights, and that this list of changes submitted by the zamindar should be compared with the registration of mutations, and any omissions corrected. This section as it stands by itself has been challenged by a Commissioner who reported upon it, and it has been suggested that some further provision ought to be made for a penalty in the case of an erroneous statement. That is a point which is well worthy of consideration by the Select Committee.

[*Mr. Buckland.*]

The present object is for Government to take power to call for these statements if necessary.

“Section 7 is perhaps one of the most important sections of the Bill. It provides for transfers of, and successions to tenures and rights lower than tenures being reported to the Sub-Registrar. The intention is, as I said just now, that, where a registered deed is not compulsory, notice of transfer should be filed and take the place of a deed. In this section it has been attempted to provide that the notice shall contain the information that so and so has transferred his right in certain parcels of land specified by certain numbers, and that somebody else has purchased them, and that both the transferor and transferee apply for their registration. We do not provide in the Bill for the compulsory appearance of both the parties at the same time. When these parties appear and acknowledge the mutation, if no objection is made, on notice being given, it is intended that the mutation shall be registered. But if either party denies the transfer, then the idea is that the Sub-Registrar will refuse to register it and refer the parties to the Civil Court, and at the same time the transferee should be warned of the legal disabilities to which he is subject until he gets the mutation registered. It is not proposed to give the Sub-Registrar any judicial or quasi-judicial power to enquire into objections. It is also intended to provide that in the case of successions the party succeeding should announce to the Sub-Registrar the death of the person from whom he inherits, and should apply that he and his co-sharers (if any) should be registered in the place of the deceased. Provision is made in this connection that the notice shall be affixed in a conspicuous place in the village, calling upon any objector to appear within a certain time to prefer objections. I wish particularly to lay stress upon this point that it is not intended to give the Sub Registrar any judicial powers. It has been said that they are not altogether qualified for such duties as it is proposed to impose upon them. The answer to that is that the duties which it is proposed to give to them to do are not more onerous or difficult than those with which they are already charged, provided always that they are not given any judicial powers. It is thought that the time which is given to an objector to appear, namely, fifteen days, will be sufficient, considering the small extent of circle to which a Sub-Registrar would be appointed. It is intended that provision should be made for reference to the original record to see whether the transferor has his name recorded all right in that or in the Register of Mutations. The idea is that a continuous record of successions and transfers should be kept

[*Mr. Buckland.*]

up, starting from the original record of rights; so that, if these mutation registers are properly kept, it will be possible for any one on inspection to see who has held this particular parcel of land from the time when the survey and settlement which is now in progress were made.

“Section 8 provides for a notification of the fact of transfer being made to the landlord. As I have said, the Sub-Registrar is to register transfers of tenant right under section 7: he is to do so if they are acknowledged to be accomplished facts. The legal question whether a right to transfer exists is not affected by this provision of the Bill. It is thought fair to provide for intimation to be given to the zamindar of such transfer having been made so as to enable him to declare whether he accepts the transfer or not. If he does not accept the transfer, it will be competent to him to take any steps he thinks proper to contest its validity, or he may ignore it and refuse to receive any rent from the transferee. It has been suggested that this provision will stimulate litigation and set class against class. The object of the provision is that the landlords should know what transfers are taking place, and should have due notice thereof. If they are not prepared to accept this provision, then Government will not oppose the omission of this section.

“Section 9 relates to the presumptive force of mutations in rent suits. It has been suggested that this presumption should apply more widely than to rent suits only; for instance, that it should apply to any judicial proceeding for possession. This is a question which is fairly open to argument, and deserves full consideration. Towards the middle of the section some words have crept in regarding registration under the Registration Act, which it would be desirable to omit, and to substitute the expression ‘registered under this Act.’ It is also suggested that it should be enacted that the presumption should only apply to undisputed transfers. That is a point also for consideration.

“I hardly need refer to section 10 regarding the specifications to be required in the notices of mutation, or to section 11, which gives power, formally, to the Sub-Registrars to keep any number of Registers, provided that two of them are Registers of Mutations.

“We have received hardly any criticism on section 12. Therefore I may pass on to section 13, which proposes to lay down that all Courts shall forward memoranda of decisions affecting landed property to the Sub-Registrars to enter in their mutation registers. But the High Court have called attention to the fact that a very similar provision to this was contained in Act XVI of 1864,

[*Mr. Buckland.*]

but after some years the practice was abandoned. I have looked up the history of the matter, and find the provision in section 45 of Act XVI of 1864, one of the early Registration Acts. It was a provision that all Civil Courts shall send memoranda of decrees affecting immoveable property to the registry office for registration. The same principle was reproduced in sections 41-43 of Act XX of 1866, another Registration Act; but when that Act came again before the Legislative Council and was formally passed as Act VIII of 1871, Mr. Frank Cockerell, who was in charge of the Bill, gave good reasons for giving up the particular procedure of these sections. It was found in both the Revenue and the Civil Courts to be impracticable, and it was eventually left to the persons affected by decrees to make their own applications to the Registrar for the registration of their new rights. The Government are much obliged for the criticism which has called their attention to this point; and as it was found unworkable some years ago, it is not proposed to revive it. The intention, therefore, is to allow section 13 to be cut out of the Bill.

“Section 14 applies to fees to be paid under the Bill. As I said just now, fees of some sort must be provided for to admit of the cost of establishment in the working of the measure, and it is impossible to say beforehand what fees should be exacted. Therefore it is proposed that this section should be amended by giving power to the Lieutenant-Governor to prepare a table of the fees payable for registration of mutation, for granting copies, and for any other object for which a fee should be required. It is proposed to revise this section and to give Government power to alter the table of fees as may be shown to be necessary from time to time. In sub-section (3) there is a little slip in drafting, where it is provided that the Register shall be open for inspection at all reasonable hours without the payment of a fee. This would repeal a provision of the Registration Act, and therefore it is proposed to enact that inspection of the Register shall not take place without a fee.

“Section 15, sub-section (1), contains a provision for a disability to attach to a proprietor who has failed to register a mutation. The fate of this sub-section very much depends on the fate of section 4, which refers to the mutation of proprietary rights. If section 4 is struck out in Select Committee, then probably it will be thought necessary also that section 15, sub-section (1), should be altered so far as it relates to proprietary rights. But if it is kept in, it has been suggested that it should not be compulsory on the proprietor to file

[*Mr. Buckland.*]

certified copies of the entry in the register in all cases of rent suits. It has been suggested that this filing of extracts from the records of rights and Register of Mutations should only be required if the tenant denies that the landlord has registered or when the Court requires it. There would be a considerable reduction of the direct disability on the landlord by this sub-section. But sub-section (2) stands on rather a different footing. This is the only disability we have been able to devise to bring some stimulus to bear on the tenant to give notice of mutation of his tenant right. The meaning of this sub-section is that, if a landlord sues a tenant to enhance his rent, it should not be open to the tenant to plead that he has a particular status or a privileged right unless he has complied with the provisions of section 7 of this Bill and given notice of transfer of his tenant right. If the intention of the section is not clear, it will be open to the Select Committee to alter it in such a way as may be desirable.

“In section 16 we have provided a general penalty for failure to register mutations. Objections of course have been taken to this. Some people say it is superfluous; others that the fine is arbitrary and too heavy; and it has also been suggested that a sliding scale of fines based on the area or value of the holding should be substituted, and that provision should be made for rewards to be given to informers; also that a penalty should only be inflicted when the parties have voluntarily or negligently omitted to comply with the provisions of section 7 of the Bill. These are questions of detail which may fairly be discussed in Select Committee. It has also been thought, if Government are prepared to accept it, that provision should be made to enable those to register who have omitted to register within four months; and that an opportunity should be given to repair the omission by payment of some small charge. This was foreseen in the Land Registration Act, and it may be considered fair to allow a *locus penitentie* to a person who has omitted to register his tenant right under this Act.

“I come now to Part II, which deals with the recovery of costs of the Survey and Settlement and the preparation of a Record of rights. It has been pointed out that more names ought to be added to the list of persons from whom a portion of the costs ought to be recovered; that the owners and occupiers of rent-free holdings should be added to the list of those from whom the cost of survey-settlement can be levied; also that a zamindar who has let his land out in *patni* should not be held liable. These suggestions well deserve the attention of the Select Committee, and will no doubt receive it at their hands.

[*Mr. Buckland.*]

“I will not pause now over section 18, which refers to the levy of a cess for the recovery of the cost. The more important suggestions we have received refer to section 19, which deals with the question of the levy of a survey-settlement cess. It has been suggested, for instance, that the proportions in which the cess should be levied from the different persons interested in the survey and settlement should be stereotyped in the Bill; and that the proportions which have been adopted by the Secretary of State in regard to the Bihar survey should be made generally applicable to all future surveys and settlements. This is hardly a reasonable suggestion, and the Government are not prepared to adopt it. Circumstances may vary between one settlement and another, and it is therefore thought right to leave the proportion of cost to be determined from time to time by high authority. This question of proportion will no doubt be subjected to full discussion in each case, and it is thought better to leave it open for that reason. The Council will observe that in this section there is a list of proprietors and tenants and owners and occupiers of rent-free tenures and holdings who may be called upon to pay this cess. It has been suggested that the list of persons who are to pay this cess should be identical with the list of persons upon whom the rate per acre is imposed. That is a matter of drafting, and can easily be arranged. Then, the distribution of the cess will be found to be referred to in the last four lines of the section. We have had for the last few years a number of important settlements to deal with, and it has been found practically that in no two cases have the cost of settlement proceedings been distributed in quite the same way. It has been found necessary to charge the different grades of persons interested in the proceedings more or less according as they applied for survey-settlement, and according as through their neglect or misconduct such settlement proceedings were really necessary, or according as they were more or less benefited by its operations. It is therefore thought right that the distribution of the cess should be made under rules to be framed from time to time by the Board of Revenue with the sanction of the Local Government. That would leave it open for the various circumstances of each case to be fully considered. With regard to section 20, it has been brought to notice that the amount leviable should not be payable only once annually with the instalment of revenue due on the 28th of March, but at other times of the year with other instalments of land revenue. That is a question on which the convenience of the payers may be fairly consulted. The 28th of March is hardly a good

[*Mr. Buckland.*]

date to fix upon because there are estates, I believe, which do not pay revenue on that date; but this is a point which, like many others I have mentioned, may fairly be considered in Select Committee.

"In section 21 the proposal that the cess should be paid by the landlord on behalf of the tenants is one which, as might have been expected, has called forth many and various criticisms. The proposal that the cost of the survey and settlement should be levied in this way emanated, as I have stated in the early portion of my remarks, from SIR ANTONY MACDONNELL in his long Minute of 20th September, 1893. I alluded to it briefly when introducing this Bill on the 19th January last, and I should like to refresh the memory of hon'ble members of Council by reading an extract from that Minute. He then wrote:—

'The method of recovering the cost of a Cadastral Survey and Record of Rights prescribed in section 114 of the Tenancy Act has been found by practice to be in some cases defective. It is suitable in the case of small estates; it is less suitable when large areas are concerned. In the latter cases it involves very intricate calculations, especially where subinfeudation has gone to any considerable length: it must cause some, though transitory, inconvenience to the poorer classes of people by making the debt payable in a single instalment; and by necessitating the employment of a collecting agency of tahsildars, peons, &c., it not only adds something in the shape of fees to the original burden, but opens the door to the irregularities which the memorialists connect with the employment of low-paid and ill-supervised agency. To the preceding objections against the existing arrangements from the landlords' and raiyats' side might be added the additional objection from the side of the Government (which advances the cost of the operations), that when the expenses are divided among and have to be collected from several millions of people, there is risk of short collections, unauthorized exactions on the part of process-servers or collecting peons, and the certainty of intricate accounts and protracted proceedings. All these conditions point to the desirability of devising some means whereby the costs of the Cadastral Survey and Record of Rights may be recovered in such instalments as will not be felt by any party, and under such conditions that there will be no addition to the original apportionment and no opportunity for exactions on the part of a collecting agency.'

"As I explained on a former occasion, the idea of adopting the Road Cess Procedure for the apportionment of the rate has been abandoned, because it would be difficult to conform to the proportion which the Secretary of State has decided upon, namely, $\frac{1}{4}$ th from the Government, $\frac{1}{8}$ ths from the landlord, and $\frac{1}{8}$ ths from the tenants. The plan which we propose to adopt is set out in this Bill, namely, that tenants should be called upon to pay at the time

[*Mr. Buckland*]

the *khatians* are distributed to them, and that if they do not pay, the zamindar should be called upon to collect what is due from non-paying tenants, and pay it over to the Government, and that the zamindar should receive an additional 20 per cent. to cover their collection expenses. These provisions have been challenged on the part of the zamindars, who, of course, go back to the time of the Permanent Settlement, but I do not think anybody who has read the Proceedings connected with the passing of the Road Cess Act of 1871 can for a moment attach validity to any argument which is based on any condition of the Permanent Settlement. But other criticisms have been offered to the effect that we are calling upon the landlord to collect our bad debts for us, and not allowing him 20 per cent. for collecting what may be called good debts. I for one am not prepared to say that it will not be very hard on a tenant if Government were to refuse to receive a payment which he is willing to make, and to say that the zamindar will a month later collect from him Rs. 6, instead of the Rs. 5 which he is willing to pay. I am not at all prepared to accept that proposal. There are certain suggestions which Government are willing to entertain favourably; for instance, the proposal that these dues should be recoverable from landlords not by sale of their estates, but by the Certificate Procedure, of which we have heard so much lately.

“It has also been suggested, and Government are prepared to entertain the suggestion, that there should be a provision allowing the zamindar to make a requisition to the Collector, and that outstanding debts from non-paying tenants should be recovered on behalf of the zamindar by the Certificate Procedure. That of course will be a very great extension of the use of the Certificate Procedure, but it is one which is very fairly open to consideration, and it is one which Government is prepared to receive favourably. It will of course be necessary for Government, through its Settlement Officer, to give to the landlord a list of all the payments they expect the landlord to make on their behalf from non-paying tenants. That provision has not yet been introduced in the Bill, but there is no reason why it should not be.

“The whole question with regard to the recovery of these costs is,—what is the most convenient way by which they can be recovered? I am quite prepared to show the Council the reason why, when the Road Cess Act was passed in 1871, the duty of collecting was imposed upon the zamindar. The main point is that it is a matter of expediency. They have their establishments, and it is considered that on the whole the work will be more easily done by the zamindar

[Mr. Buckland.]

than by the Government having a separate establishment going about the country for this purpose. The Council is perhaps not aware of the enormous number of *khatians* which will have to be made. In a district of three thousand square miles there may be as many as 12 lakhs of *khatians* to be made, on the assumption that there are $2\frac{1}{2}$ plots to an acre and 4 plots to each *khatian*. To collect for 12 lakhs of *khatians* is rather a large undertaking. It has been suggested by the Commissioner of the Patna Division that if proper steps are taken at the time of the distribution of the *khatians*, there will not be any great amount of outstanding dues for recovery subsequent to the settlement proceedings. The Commissioner writes in a communication which is in the hands of the Council :—

‘The subsequent certificate proceedings will, as a rule, be of a very simple character, for we shall have in the *khatians* a reliable description of the defaulter’s immoveable property, and there should be no difficulty in summarily realizing the amounts due by attachment of their holdings. It must be remembered that the dues will individually be very small—only a few annas per acre, and I have no doubt that the raiyats will pay up at once when they see that we mean business..... where a collecting officer can present himself with a bill in one hand and a warrant in the other, it will only be in cases of downright insolvency where he will fail to realise.’

“That points to the adoption of the plan of Government collecting at once by the Certificate Procedure from the raiyats at the time of the distribution of the *khatians*. I am in a position to state that Government does not attach very great importance to the section as it is now drafted; and that it is willing to accept any modification of it by means of the Certificate Procedure or otherwise, which would admit of these costs being recovered with the least possible annoyance and oppression of the people.

“The remaining sections of the Bill will not detain us very long. A slight alteration will be requisite in sub-section (2) of section 22, which provides that every order passed by an officer engaged in the registration of mutations in any district shall be appealable to the Collector of the district. It has been suggested that the appeal should be confined to orders affecting any entry in the register, but that is a detail which can be considered.

“With regard to appeals, some of the Associations who have reported upon the Bill have made valuable suggestions. Some of them object to the Commissioner’s order being final; others suggest that an appeal should lie to

[*Mr. Buckland.*]

the Board of Revenue. No final conclusion has been arrived at by Government on this point, and it is a matter with which the Select Committee can properly deal.

“With regard to section 24, as to the power of making rules, it is certainly necessary that the power to do so should be retained in the hands of the Lieutenant-Governor—certainly as to the rules for regulating the fees to be paid. The clauses of this section speak for themselves. It must be open to Government to provide for the appointment, control, discipline and payment of all Registrars’ and Sub-Registrars’ establishments; and the Government must also have the power of prescribing the method and periods for making entries of mutations in the record of rights, and so on. These are matters which the Government must keep in their own hands, but it will be open to the Board of Revenue to make any suggestions they may think fit. There will be no necessity for the retention of sub-section (c), regarding rules for the distribution of the cess, if it is to be also provided for in the previous section (19). Nor will it be necessary to retain sub-section (2) if power is taken in section 14, as has been suggested, for Government to prescribe the fees to be levied, and to alter them from time to time as may be necessary.

“I must apologise for taking up the time of the Council at such length over this important measure, but I have done so in order to make clear to hon’ble members what matters Government will agree to omit from the Bill, what matters they are prepared to leave to the Select Committee, and how far in a general way they are prepared to go in making concessions to the criticisms which have been advanced. The necessity for the maintenance of a record of rights in some form or other has been asserted throughout the correspondence ever since the time the Secretary of State, in his Despatch of the 24th December, 1891, gave his sanction to the Bihar survey-settlement operations. The particular form which the maintenance of the records of rights should take has been the subject of discussion for some years past since it was first mooted, more particularly in the letter which the Government wrote in June, 1892. The main principles on which it is now proposed to take action have, I think, been sufficiently elucidated by the several opportunities I have had of making explanations in this Council, and by the Statement of Objects and Reasons before the Council. It therefore remains for me only to ask the co operation of the Council to enable Government to pass a workable and

[*Mr. Buckland; Maharaja of Darbhanga.*]

practical measure, entailing as little harassment and trouble to the parties concerned as may be compatible with the maintenance of the records in some way or other. We hope that in Select Committee any further defects which may present themselves will be found out and rectified, and that, by the time the Bill comes back from the Select Committee, it will be accepted by this Council as a workable and practical measure for the object for which it is intended.

“With these remarks I beg to move the further consideration of the motion that the Bill to provide for the maintenance of the Records of Rights in Bengal and for the recovery of the cost of Cadastral Surveys and Settlements be referred to a Select Committee consisting of the Hon'ble MR. LYALL, the Hon'ble MR. WILKINS, the Hon'ble THE MAHARAJA OF DARBHANGA, the Hon'ble MAULVI SERAJUL ISLAM, the Hon'ble MR. DUTT and the MOVER.”

✓ The Hon'ble MAHARAJA SIR LUCHMESSUR SINGH BAHADUR OF DARBHANGA said:—“I desire to offer a few remarks upon the Bill which this Council is about to refer to the consideration of a Select Committee. In so doing I trust I may be allowed to say, in order to guard against any possible misconception as to my attitude upon the question, that I have not in any way withdrawn from, nor in any degree modified, the position taken up by me in the past with regard to the justice or desirability of either making or maintaining a Record of Rights in Bihar. I still hold, as I have always held, that any such scheme should only be undertaken with the cordial co-operation and the assent of those on whose behalf it is proposed; and that in face of the opposition manifested by all classes of the community in Bihar, the action of Government is inexpedient and, if I may say so with all due respect, altogether arbitrary. But I am compelled to bow to the inevitable, and to recognise the fact that, notwithstanding the strenuous objections and remonstrances of those affected, Her Majesty's Secretary of State has given his sanction to the proposal which has been embodied in the Bill now before us. Bearing in mind these preliminary observations, which I have thought it my duty to make on behalf of myself and of those whose interests I am privileged to represent, I come to a consideration of the Bill itself. I do not propose to enter into a lengthy criticism of Part I of the Bill. The system of registration which it provides is the best, inasmuch as it is the least burdensome of the schemes that have been in the contemplation of Government; and I am grateful to Your Honour for so far yielding, if I may so express it, to the wishes of myself and those who think with me.

[*Maharaja of Darbhanga.*]

I cannot, however, conceal from myself that the proposal to utilise the services of the Rural Sub-Registrars for the maintenance of the Record of Rights has met with strong objection in influential quarters. But with due deference to the opinions of MR. FORBES and MR. D. J. MACPHERSON, I venture to think they have somewhat exaggerated the difficulties of the situation. Granting that the existing Sub-Registrars do not as a class give that satisfaction to which the Government as well as the Public are entitled, the true remedy, in my opinion, is to be found, as my friend Kumar Gopendra Krishna, the Inspector-General of Registration, remarks in considerably modifying the existing rules relating to the appointment of these officers. In any event, I am prepared to face these evils, if they can be said to exist. It is my deliberate opinion that the scheme propounded in the first part of the Bill is the most feasible under the circumstances; and it possesses, moreover, the merit of imposing no additional cost upon the taxpayer. The landlords and tenants of Bihar are deeply sensible of the consideration Your Honour has shown to them in this connection, and for your unceasing and unwearied advocacy of a proposal, which, whatever its defects, has this to recommend it that it relies in no small degree for its success upon the loyal co-operation of the people concerned: I trust I shall not be deemed presumptuous if I take it upon myself to give expression to their sentiments.

“There are, however, a couple of omissions in the earlier portion of the Bill to which I feel I should call attention. The first is, the omission of any procedure to be followed by the Registrars of Mutations in cases that may come before them under the Act. I submit that it is necessary, in the interests of those who will fall under the operation of the Bill, that some form of procedure should be clearly and carefully laid down by legislative enactment, and in the same Bill which confers new powers upon these officers. I trust it may be found possible for the Select Committee to add sections dealing with this important matter. While I am upon the point of procedure, I hope it will not be considered irrelevant if I give publicity to a criticism of the Bengal Chamber of Commerce, which appears to me to be well worthy of consideration. They say:—

‘The Committee note that in sections 4, 6, 7, 8, 14, 19 and 24 power is given to the Board of Revenue to make rules and to do certain other matters. The Committee would protest against this transfer of what is clearly a duty of the Local Government to the

[*Maharaja of Darbhanga.*]

Board of Revenue, and, similarly, they further object to an appeal to the Board of Revenue being denied by section 23, whilst an appeal from the decision of a Collector is only allowed to the Commissioner. The Board of Revenue sits as a Land Court, and where this is so, work should not be taken from it and given to a local officer like the Commissioner : and in this connection, the Committee may remark that they view with much alarm the attempt made from time to time to transfer judicial functions to executive officers and to make the decisions of such officers final. They consider the policy of such transfers inexcusable, uncalled for and wrong, and holding this view, they object to power being taken from the Local Government, properly belonging to that authority, and given to the Board of Revenue; whilst authority is taken away from the Board of Revenue and given with finality to the Commissioner.'

"I do not desire to dwell further upon this question at the present stage; but I cannot quit it without expressing a hope that in this connection also the Council may see its way by judicious excisions and amendments, to removing these very reasonable objections on the part of the Chamber of Commerce. I would urge further that the rules made under the Act should, before being put into force, be published in the Gazette for a period of at least three months, and that they should in every case be subject to the approval of the High Court.

"The second omission to which I have to direct attention is referred to by the Secretary to the Bihar Indigo Planters' Association in terms so concise and complete that I will venture to adopt them as my own. 'The draft Bill,' writes MR. MACNAGHTEN, 'makes no alteration in the status of the village patwari. Indeed, the name of that official is not once mentioned in it. It should be clearly laid down, if such is intended, that the patwari, as a Government servant, has ceased to exist. The deputation that waited on His Honour the Lieutenant-Governor at Sonapore received the distinct assurance from him that on the completion of the survey and record, the patwari would cease to be a servant of Government; and in his letter to the Board of Revenue, dated the 31st of June, 1892, the intention to abolish the patwari is affirmed. In the words of SIR CHARLES ELLIOTT:—The patwaris have altogether failed to give satisfaction: they have long since ceased to fulfil the functions of a patwari under Regulation XII of 1817, and the present system of dual control has been universally condemned. And again:—It is mainly from this point of view that SIR CHARLES ELLIOTT is of opinion that the first step is to clear the ground by the repeal of Regulation XII of 1817, and the abolition of patwaris as a class of Government servants in Bihar. Section 6 imposes a heavy burden on zamindars and tenure-holders. Under the Road Cess Act, *jamabandi* papers are

[*Maharaja of Darbhanga.*]

signed by the landlord or tenure-holder, while the real responsibility should rest on the patwari, who is not a private servant. If under section 6 the whole responsibility is to rest upon the landlord, he should have entire control of the patwari.' The Tirhut Landholders' Association and the Indian Property Association express themselves in similar terms: and these important bodies are considerably strengthened in the position they take up by the observations of the Secretary of State in his Despatch of the 5th of July last. In that Despatch, he remarks, with reference to the alternative schemes for the maintenance of the Record of Rights which were put forward by Your Honour and SIR ANTHONY MACDONNELL:—

'There are two features common to both schemes. The first is that the patwaris, as established by Regulation XII of 1817, should be abolished and the Regulation repealed, on the ground that the patwaris have failed to perform for the villages, for the raiyats, or for the district administration, the services contemplated by the Regulation, while their dual relation to the Collector and to the Zamindar interferes with their usefulness to the landlords whom they served. As at present advised, I see no objection to the proposed repeal'

"At the close of the Despatch there is a further reference to the subject: when it is expressly ordered that 'provision should be made for repealing the Patwari Regulations in the Bill for the maintenance of the Record of Rights which Your Honour was authorised to introduce into this Council.'

"I have not ventured, Sir, to impose this series of quotations upon the good nature of Your Honour and of this Council without a purpose. Your Honour's declarations on the question of the abolition of the patwari are so explicit, the sanction accorded by the Secretary of State to the proposal is so express and so unambiguous, that I cannot refrain from giving expression to my respectful astonishment at the fact that it finds no place in the Bill we are now considering. I would urge that effect should be given to the pledges of Government upon this point, approved and authorised as they are by Her Majesty in Council, and that the necessary provisions should be added before the Bill is passed into law, or that a separate Bill may be introduced and carried through simultaneously with the present measure. Not only will there exist after the passing of this measure no necessity for the dual services of the patwaris, but I will not conceal from Your Honour that a great measure of the support which the present proposal has received has been based upon the confident belief that the pledges given by Government upon this point will be

[*Maharaja of Darbhanga.*]

fully and unhesitatingly redeemed. The omission from the Bill of all mention of the future status of the patwari has been productive of much disappointment and dissatisfaction: and I venture to express the earnest hope that the Government will carry out the promise to which they have committed themselves, by the adoption of one of the two courses I have indicated.

“There is one more point with which I wish to deal before I leave Part I of the Bill, and that is with reference to section 16. The penal provisions of this section have been most unfavourably commented upon by the Associations who have been consulted. It is pointed out, and, as it seems to me, with irresistible force, that section 15 provides an ample penalty for persons who fail to register. They are debarred from asserting certain rights in Court. If a person fails within the specified time to sue for or to recover the rent of any land which is the subject of mutation (and he can only succeed on production of a certified copy of the entry in the Record of Rights and of the entry in the Registers of Mutations) his right to institute the suit abates. As the Chamber of Commerce remark, ‘the section is of a distinctly minatory character.’ Sufficient precautions are taken under its provisions to secure the proper observance of the Act; and, that being so, I confess to finding some difficulty in understanding why the second penalty of a severe fine should be provided in section 16. The method by which the fine is to be realised is, in my humble opinion, also open to very serious objection. A system of daily fines, even though the amount may seem insignificant, will spell ruin and starvation to the Bihar raiyat, while it must not be forgotten that the fine proposed is an arbitrary one of Rs. 50, and no regard whatever is paid to the value of the tenure. Under the circumstances, the penalty appears to me to be not only uncalled for (for the loss of the right to recover in a Court is surely in itself a sufficient punishment), but altogether out of all proportion to the offence. The remarks of Mr. FORBES upon the point are so pertinent and so forcible that I will quote them here:—‘I am much opposed,’ he says, ‘to any system of daily fines in the case of tenants. Any one who has had any experience of the working of the provision in the case of proprietors in cess revaluation, partition and other proceedings, will understand the inadvisability of extending the system further. As regards landlords, the punitive provisions of section 65 of the Land Registration Act of 1876 are sufficient. As regards tenants, I would prescribe fines on a sliding scale based on the area or annual value

[*Maharaja of Darbhanga.*]

of the holding. There might be an initial fine, followed up by a further fine (or fines) for neglect to supply the omission within a reasonable period (or successive periods) to be allowed for the purpose.' I will only myself add to this eminently reasonable suggestion the observation that the British Indian Association, the Bengal Chamber of Commerce, and the Bihar Landholders' Association have independently arrived at the same conclusion as MR. FORBES; and I would respectfully suggest to the Council the advisability of adopting a recommendation which finds favour in such influential and authoritative quarters.

"There is one other amendment in connection with section 16 that I desire to press upon the attention of the Council, although I trust it may be found possible to omit the section altogether, for the reasons to which I have already referred. But if this should be found impossible, the section should be redrafted, not only in accordance with MR. FORBES' excellent suggestion, but also as nearly as possible upon the lines of the corresponding section 65 in the Land Registration Act. That Act, as the Indian Property Association point out, also renders persons who omit to apply for registration liable to fines, but unlike the present Bill, it safeguards such persons by imposing upon the Collector the burden of showing that such omission was voluntary or negligent. There should be some similar safeguard inserted in section 16, and I would represent to the Council that the words 'voluntarily or negligently' should accordingly be added, as a measure of bare justice to those who will fall under the operation of the Bill.

"I now address myself to the second portion of the Bill, that which relates to the recovery of the cost of the Survey: and I regret to say that I am totally unable to accord my support to the method proposed. The principle under which Cesses are levied is, in my humble opinion, a distinct violation of the conditions of the Permanent Settlement. I take my stand upon the provisions of Regulation VIII of 1793, which prohibits in the clearest and most express terms the levying by any actual proprietor of land of any new *abwab* or *maktut* upon the raiyats under any pretence whatever. A cess such as the Survey-Settlement Cess, which is contemplated by the present Bill, is, I venture to assert, nothing more or less than a legalised form of an *abwab*. What does it matter to the raiyat that his money is appropriated to the use of the Government instead of finding its way into the landlord's treasury? The fact that it

[*Maharaja of Darbhanga.*]

is levied by Government and not by the Zamindar does not in any way absolve it from the charge of constituting a direct breach of the covenant of 1793. I am rejoiced to find that I am supported in this view by an array of names which include some of the most distinguished administrators and legal luminaries of this country during the present century. In the year 1877, when the Public Works Cess Bill was before this Council, SIR ERSKINE PERRY, then a Member of the Council of India, wrote:—‘I object to the Despatch of the Secretary of State (in which sanction was given to the introduction of the Bill), because, even in its modified form, it seems to decide, and I believe does decide, that there is nothing in the language or promises of Government in 1793 to preclude the present Government from levying local taxes in Bengal for local objects. I have come reluctantly to this conclusion after many struggles and attempts to draw fine distinctions in support of a different view, that the language and act of LORD CORNWALLIS and of the members of Government of his day were so distinct, solemn and unambiguous that it would be a direct violation of British faith to impose special taxes in the manner proposed.’ These are trenchant and weighty words, and they are endorsed by men such as SIR FREDERICK HALLIDAY, MR. HENRY THOBY PRINSEP, MR. R. D. MANGLES, SIR FREDERICK CURRIE and SIR H. C. MONTGOMERY. The last named writes:—‘A Government should not, in my opinion, voluntarily place itself in a position which lays it open to the charge of breach of faith. It should rather avoid any measure which would be so held in the estimation of its subjects specially interested. Sound policy would seem to point out this as the course to be pursued, that carrying the landholders and their dependants with us must be more efficacious than meeting their opposition at every turn, and fostering in their mind the idea, however well or ill-founded, that their rulers are breaking faith with them under the specious plea of doing what they assert to be for their ultimate good.’

“How unavailing and unheeded were their dignified and statesmanlike protests may be gauged by the mere recitals of the various burdens which are to-day pressing the landed interest. Irrespective of the land-tax, the holders of land have to pay most of the local taxes raised in Bengal—the Zamindari Dāk Cess, the Embankment Cess, the Municipal Taxes, the Chaukidari Tax, the Rural Police Cess, the Road Cess, the Public Works Cess and the Irrigation Cess. I do not speak of the Survey Settlement which it is now proposed to

[*Maharaja of Darbhanga.*]

add to this crushing list, nor of the bulk of the indirect taxes which are also contributed by the class most interested in land. I venture to put it forward with all respect that, even if we cast aside every other consideration, it is not consonant with the principles of equity and justice to thus burden a single class with the task of supplying the funds required for general administration and improvement. I will for a moment accept the answer to my contention which will probably be made, and allow that the present cess is not confined to the zamindars alone, but is levied also from the raiyats, who will equally share in the benefits to be conferred by the survey. The case on the side of the raiyats against the imposition of the cess is no less strong. It cannot, I apprehend, be admitted that it would be legal for a landlord to collect from his tenantry the expenses of a survey that he himself takes in hand, even if it is undertaken for the benefit of the tenantry. And the Government can claim to stand on no better footing. The smallest concession that the Government can make in this respect is to invite the opinions of the raiyats before authorizing the Cadastral Survey of a village or an estate. They cannot, in common fairness, be made liable for the cost of the survey unless and until the majority, or at all events a large proportion of them, consent to its being undertaken. But if the raiyats are silent, and the zamindar hostile, the inference becomes irresistible that the survey is solely required, if required at all, for administrative purposes, and as such its cost should be entirely borne by the Government. I would go even further. In my opinion no survey should be undertaken in a village except at the request of the zamindar or the raiyats, unless the presence of exceptional or prolonged agrarian disturbance calls for the interference of the Settlement Officer.

“But objectionable as is the levying of the proposed cess upon general grounds, I venture to say that the method in which it is to be levied is still more objectionable. And, first, I would point out that to all intents and purposes the cess which is to be levied is a permanent one. There is nothing in the Bill to indicate its temporary character, although it is distinctly stated in paragraph 3 of the Statement of Objects and Reasons that the object of this portion of the Bill is to facilitate the recovery of the cost of a Survey Settlement by a temporary cess. On the contrary, section 18 leaves the cess as a permanent cess. There is thus a conflict between the Bill and the Statement of Objects and Reasons, and it is a conflict which should be terminated by the

[*Maharaja of Darbhanga.*]

explicit declaration in section 18 that the cess which it imposes is to be a temporary one. Then, as to the proportion of the cost which is to be borne by the various parties interested, it was distinctly laid down by the Secretary of State in his Despatch of the 5th July, 1894, that the cost should be borne in certain ascertained and well-defined shares. He said:—‘I agree in LORD CROSS’ view that, in the circumstances of the North Bihar Survey, the State should bear a smaller share of the cost than it did in the Benares district. But I do not think the State share ought to be less than one quarter of the total cost of making the Survey and Record of Rights. The large rentals and profits enjoyed by the zamindars do not make the raiyats of North Bihar more able to sustain their share of the cost; and the additional one-eighth (two annas) devolving on the State under my present instructions should be given in reduction of the raiyats’ share of the expenditure. The cost of the survey will then fall one-quarter on the State, five-sixteenths on the raiyats, and seven-sixteenths on the zamindars.’ I submit these instructions are quite clear, and I confess I can discern no adequate reason why the proportions, as definitely fixed in Bihar by the Secretary of State, are not embodied in the Bill. As matters now stand, it is provided in section 19 that the distribution of the cess shall be made under certain rules to be framed by the Board of Revenue, but the proportion is not stated. The reason for its omission is by no means obvious, and I would recommend that the proportions, as sanctioned by the Secretary of State, should be repeated in the section. It should be definitely stated, as the Bengal Chamber of Commerce suggest, that, following the precedent set in Bihar under the orders of the Secretary of State, the amount to be paid by the Government on the levying of each temporary cess shall be four annas, that to be paid by the landlord seven annas, and that by the tenure-holder five annas. The amounts could be the maximum amounts, and the same procedure should be adopted as in the case of the other cesses, notably the Road Cess, levied upon the inhabitants of these provinces. And in this connection the Indian Property Association make the very reasonable suggestion, which I desire to endorse, that the number of annual instalments in which holders of estates shall be entitled to pay the amount leviable from them should be expressly specific in the Act, and that such number should not be less than five. It is in my opinion absolutely essential that these four points, to which I have referred, should find a place in the Bill before it is passed into law. As I have said, I find it difficult to comprehend why the explicit instructions of the Secretary of State are not

[Maharaja of Darbhanga.]

carried into effect, or why this cess, which is declared to stand on the same footing as other cesses, should be subject to none of those very necessary restrictions and limitations under which all other cesses are levied.

“I now come to section 21 of the Bill. My own views upon this portion of the Bill are already known to hon'ble members, and I do not desire to weary them with any repetition. But the remarks of Mr. FORBES upon the point are so weighty and so suggestive, that I take the liberty of placing them before the Council *in extenso*. The argument, as I regard it, is unassailable, and I trust this Council will be found at a later stage to share my opinion that section 21 should find no place in the Bill. MR. FORBES says:—

‘I find it impossible to give my support to the proposal to throw the duty of collecting the arrears of the cess from defaulting tenure-holders and raiyats upon the landlords, and I trust that the Government, after further consideration, will abandon this part of the scheme. In the case of the Road and Public Works Cess there was this to be said in favour of such a system, viz, that those cesses formed an annually recurring demand for all time which could practically be incorporated by the landlord in his annual rent demand. It was foreseen that landlords and tenants would have time, in the course of recurring years, to fall in with the system, and this has been the case. The landlord's establishment has become accustomed to collect the aggregate demands, and the tenants to pay it, and the rent-stream, after the agitation caused by the first influx of its new tributary, flows smoothly along its former channel. But in the present instance the case is very different. The demand is an exceptional one, lasting for only a short period, and I have no doubt but that both parties, landlords and tenants, will mutually suffer by being forced into the position of tax-collectors and assessees. On the part of the landlords, I would submit that the recovery from them, as an arrear of land revenue, of debts due to Government by the raiyats, but for the collection of which the landlords are obliged to have recourse to the Civil Courts, cannot be regarded as fair or reasonable. Even for the recovery of the amount of Road and Public Works Cess which a landlord has paid in excess of his share from the co-sharer for whom he has paid it, he is allowed to have recourse to the certificate procedure, and thus practically to make the Collector recover his debt for him. In that case the person sued is usually a well-to-do person, from whom the amount of the decree and the costs of litigation can generally be recovered. But this is not so likely to be the case when the defaulters sued are the cultivators. I cannot think it right that while Government makes use for itself of the summary proceeding allowed by law against the middleman, it should not permit him to do so too. It is true that the landlord is allowed to recover from the raiyat 20 per cent. over and above the actual debt; but even if this covers his money losses, it will certainly not make up for the trouble to which the attendant litigation will put him, and for the strained relations that will necessarily result

[Maharaja of Darbhanga.]

between himself and his defaulting tenants. From the point of view of the raiyats the proposal has still less to recommend it. Where the landlord is unscrupulous, he will probably try to seize the opportunity of making a permanent addition to his demand; and even a good landlord, though he might be inclined to be lenient with his tenants in the matter of rent, will certainly not be so where the arrear is a debt to Government which the raiyat ought to have paid himself. It would certainly be a matter of much regret if an epidemic of litigation between landlords and tenants be the result of a Survey and Record of Rights. It seems possible that Government, in proposing this measure, has over-estimated the trouble to which it will be put in collecting the arrears. I see no reason why, with proper arrangements and foresight, the difficulty should be excessive. If the cost of the survey can be determined with sufficient accuracy for each tenant's accounts to be ready in time, and it be made an order on the Settlement Officers not to give out the *khatians* without payment of the amounts due, and if each Settlement Officer be allowed the services of one or more tahsildars to assist him in making the collections, I see no reason why the bulk of the dues should not be realized at once without recourse to law proceedings. For the recovery of the amounts outstanding we must look for lists of the defaulters, their debts and addresses, to the Settlement Officer. The subsequent certificate proceedings will, as a rule, be of a very simple character, for we shall have in the *khatians* a reliable description of the defaulters' immovable property, and there should be no difficulty in summarily realizing the amounts due by attachment of their holdings. It must be remembered that the dues will individually be very small, only a few annas per acre, and I have no doubt that the raiyats will pay up at once when they see that we mean business. If at the same time the Settlement and Assistant Settlement Officer's hands are strengthened by their being given the powers of a Collector under the Certificate Act, the collections should proceed very rapidly. An instance of the success of a similar scheme is supplied by the case of the Sone Canals. There a collecting establishment, under a Deputy and two Junior Deputy Collectors exercising powers under the Certificate Act, realized over 9½ lakhs on account of water-rates in 1892-93, and about 8½ lakhs in 1893-94, from some 342,000 assesseses. The efficiency with which the work of collection was performed can be judged by the fact that at the end of 1892-93 the outstanding balance on account of the preceding year (1891-92) amounted to only Rs. 7,358 while the outstanding balance for 1892-93 at the end of 1893-94 was only Rs. 3,960 against a demand for each year of something like 10 lakhs of rupees. Where a collecting officer can present himself with a bill in one hand and a warrant in the other, it will only be in cases of downright insolvency where he will fail to realize. We should not either forget that even if we oblige the zamindars to make our collections for us, we shall still have to supply them with all the necessary information to enable them to sue the defaulters, so that we shall, after all, be able to shift only part of the work on to them. But that part, there can be little doubt, will, in their hands, cause a much greater sum total of vexatious harassment than if we undertake it ourselves.'

[*Maharaja of Darbhanga.*]

“With reference to these remarks, I observe that Mr. FORBES has urged that the Government should permit the zamindar to avail himself of the certificate procedure for the recovery of arrears of cess. I was unfortunately unable to be present at the last meeting of this Council, but I understand that Your Honour announced at that meeting that it was proposed to adopt the suggestion of Mr. FORBES and to authorize the zamindar to collect these arrears by means of the certificate procedure. I desire to express my obligation to Your Honour for the concession. The injustice is patent of compelling the zamindars to collect the dues of the raiyats, and making their property liable to summary sale in case of default, without at the same time giving them summary powers for the realization of the arrears of the raiyats. But candour compels me to add that the concession deprives the proposed scheme of even that small measure of justification which it formerly possessed. Why should the Government hand on to the zamindar the task of proceeding under the certificate procedure? Is there any reason why the Government should not itself make use of the certificate procedure for the recovery of these arrears of cess, which are after all its own debts? It is surely most unjust upon the zamindar that the whole of the odium of employing his summary procedure should be transferred to his shoulders. The unwillingness of the Government to discharge its duties can only be ascribed to a knowledge of the unpopularity which the proposed cess will awaken and the consequent difficulty in realization. The Central National Muhammadan Association have described the situation very tersely and clearly. ‘It is certain,’ writes Nawab Syed Amir Hossein, ‘that well-to-do tenants will pay direct to the Government and thus save themselves 20 per cent. The zamindars will then be left saddled with liability for those tenants who are in embarrassed circumstances and unable to pay the Government. The offer of 20 per cent. to the zamindars under such circumstances seems to be rather illusory.’ I venture to submit it is not too strong a criticism to offer, to say that the Government are attempting to realise, through the zamindars, debts which they cannot realise from the tenants. Wherein is the justification for such a policy? In my humble opinion, it is the bounden duty of the Government to itself undertake the collection of the cess from the raiyats. How can the zamindar hope to succeed when the Government, with all its resources, is apprehensive of failure? The present proposal to punish the zamindar for the sins of his raiyats was not in any way contemplated by the

[*Maharaja of Darbhanga.*]

Secretary of State, and I will add that I find it difficult to believe it would have met with his approval. The principle by which it is sought to make one man responsible for the default of another is an essentially vicious one. It must not be forgotten, as the British Indian Association very justly remark, that 'in the case of the Zamindari Dāk Cess and the Road Cess, a provision was made in the law for the recovery of the cesses from raiyats through the landholders, simply because in both cases a large and influential body of landholders, as represented by the British Indian Association, agreed to realise the cesses from the raiyats and pay them to Government.' In the present case, however, they have agreed to do nothing of the kind. Experience has shown them that, even where a liberal allowance is made for cost of collection, the loss they have to suffer by non-realization on various grounds is very considerable. The Bengal Chamber of Commerce support the suggestion that if the section is retained (although it is not easy to see in what way it is possible to defend it), interest at a certain fixed rate per annum should be allowed on the arrears of cess in addition to the 20 per cent. already provided, the object being, if possible, to make the tenant perceive that it is to his interest to pay the landlord the amount of the cess, and to avoid trouble to himself and to his landlord. The Central National Muhammadan Association urge that, if the section is to be retained, all tenants should be bound to pay to the zamindar, so that the zamindars may be safeguarded against serious loss through default on the part of their tenants. This is the principle upon which the Road Cess is levied; and if we admit the justice of levying the present cess, the suggestion has everything to recommend it. But I find myself unable to make this admission. The zamindars do not demand this survey. It has been sanctioned in the teeth of their opposition. They are now not only called upon to pay their share of the costs of a measure which they regard as both unnecessary and unjust, but also to recoup the Government for the unrealisable shares of the raiyats. They are unable to perceive the equity or justice of such a proposal. The Government revenue on their property was fixed at 90 per cent. of their revenues at the time of the Permanent Settlement. This was clearly pointed out by SIR FREDERICK CURRIE in 1877, in his Minute of Dissent to the Public Works Cess Bill. It cannot surely be urged that the Government of 1793 erred on the side of leniency in their assessment. In this respect the Bengal Land Settlement is very different to the settlements in the other provinces, where the talukdars

[*Maharaja of Darbhanga ; Maulvi Muhammad Yusuf.*]

and zamindars receive a much higher percentage. It is notorious that many of the original landholders were reduced to beggary within the first twenty-five years of the settlement, by their inability to comply with the Government demands. Those estates whose good fortune enabled them to survive are now, it is true, in a better position than they were in 1793. But does that constitute a valid reason for mulcting them of the increase which they owe to their management and to the careful husbanding of their resources?

“I desire, in conclusion, to draw attention to the special hardships which the collection of the Survey Cess will occasion in districts such as Purnea, where the annual rent of a raiyat is often less than the average estimated cost per acre of the survey. A rule should be laid down that the cost of the survey should in no case exceed ten per cent. of the annual rent per acre of the raiyat's holding. I submit it is essential that the Government, which is conferring the unmixed benefit of a survey upon landlords and tenants, should at the same time acquaint those classes with the exact price they are to pay for the benefit that is being conferred upon them. It may not improbably be discovered hereafter that the cost is far beyond the means of the raiyats for whose protection the survey is being undertaken, but it will then be too late to remedy the evil.

“I do not desire, Sir, to detain the Council any further. I have already placed before hon'ble members the criticisms I had to offer with regard to the sections in Part III of the Bill. The main portion of the Bill to which I am compelled to take serious exception is the second Part.” ✓

The Hon'ble MAULVI MUHAMMAD YUSUF, KHAN BAHADUR, said :—“I must, in the first place, offer my best thanks to His Honour the President for having, a fortnight ago, acceded to my request to adjourn the debate for two weeks to enable me and the other members to consider the many important questions connected with the principle and details involved in this Bill in the light of the various opinions submitted to the Council by local officers, public bodies and the public press. I have made the best use of the time consistently with my other avocations, and I have tried to inform myself on the subject in the best way possible, and the result is that I have been able to form some conclusions on the merits of the Bill, which I shall place before the Council in as brief a space as possible. But I must say, with reference to most of the observations which I shall submit to the Council, that those observations have no pretensions

[*Maulvi Muhammad Yusuf.*]

to anything like matured conclusions, even on my own behalf, and that they are not to be taken as final and conclusive views on a subject of such grave importance: on the other hand they represent the first impressions produced in my mind, and must be taken to be subject to any modification that might be suggested during the course of the debate, and which might appear to me to be more reasonable: and at all events they are subject to the views which might be expressed from the Chair and to the very lucid summing up which every question receives from the speech of the President at the close of the debate. I may further state that the observations which I am about to make are not dictated by any spirit of hostility towards the Bill; on the other hand, they are animated by a spirit of friendly criticism for the time, having for their object the desire to shape the Bill in such a way that the same should be least open to unfriendly criticism and be most calculated to work well in practice.

“In regard to the question whether the Bill should be introduced at all in the Council, I submit it is wholly unnecessary for me to express an opinion. Whether the Bill is expedient or not, and whether the principle which underlies the Bill should have a trial given to it or not, are questions on which everybody is aware that there exists a diversity of opinion. Whatever my own individual opinion might be, it is unnecessary for me to state in detail, but it is quite certain that the opinions of the friends and supporters of the measure, and those of the hostile party, are so pronounced and decisive in favour of their respective views, that nothing short of an actual trial will be held to be conclusive on the question. The enemies of the Bill, by way of hindrance to the Bill, say point blank it is doomed to be a failure. But whatever misgiving might arise in my mind, my doubts are not sufficiently strong to enable me to say positively that the Bill should not have a trial. For a long series of years the stream of thought has been running in one channel, and a large body of intelligent and responsible gentlemen, who, by their superior intelligence and mature experience, are entitled to be heard with the respect due to their position, have been unfaltering in their conviction that some such scheme as the Bill under consideration presents is necessary for safe government, and that the measure is likely to be beneficial to the raiyats, if not beneficial in the same degree to the Zamindar and to the Government likewise. SIR STEUART BAYLEY in 1885, dealing with Chapter X of the

[*Maulvi Muhammad Yusuf.*]

Bengal Tenancy Act, expressed himself in Council as follows (see Reports of the Proceedings of the Legislative Council of India for 1885, page 67):—

‘I have dealt with this Chapter at some length, because I think it is one of the most important in the Bill. The zamindars naturally object to it, because its operation tends, by the process of registering the rights of the raiyat, to lessen their own power of dealing with him at their pleasure, while the Bengal Government seems to look upon it as the one oasis which stands out, in the sterile wilderness of the Bill, rich with potentialities of rest and refreshment to the weary raiyat

‘I am not sure myself that the raiyats will welcome the light of day in regard to their holdings more than the zamindars will welcome it in regard to their rents, but I am sure that the operation of this Chapter, if wisely and discreetly carried out, will ultimately tend to give greater stability to all rights in the land, to reduce litigation hereafter, to give the Government the benefit of that real knowledge of facts in regard to the relation of landlord and tenant which they now have to pick up piecemeal through the records of the courts and the registration offices, and deficiency of which they so much lament, and that it will prove, as we are informed the similar record has proved in the permanently-settled districts of the North-Western Provinces, *the saving of the raiyat.*

“It is unnecessary to multiply instances of opinion more or less pronounced in favour of the Bill. By the working of the Bill when passed into law such opinion will either be displaced or receive corroboration. But I may say that I shall scarcely be true to myself or true to the Council or true to the traditions of the profession to which I belong, were I to say that this Bill will only result in unmitigated evil and unmitigated mischief. I cannot shut my eyes to the fact that even at the present moment litigation comes up to the High Court regarding the ownership of *jotes* and holdings in which some very crude and imperfect materials relating to the survey of 1842 are appealed to by parties in support of their claims of identity or in refutation of such claims advanced by the adversary; but the survey *chattas* of 1842, having been made from a totally different point of view, and their purpose and object being wholly different, they involve the Court in no little embarrassment, and the conclusions based on them are as often wrong as they may be right, the result being wholly unsatisfactory.

“Therefore, having regard to the past history of the measure, and judging by the light of the very strong opinions expressed in its favour, I say, in 1895 let the measure have a fair trial; in fact I feel there is no escape from it. But I also say that to a very large extent the success of this measure will depend

[*Maulvi Muhammad Yusuf.*]

in the first place on a proper wording of the Bill, and, in the second place, on the spirit in which its practical working is to be carried out and the cordiality which it receives from the hands of the parties concerned. The Government will have to watch its workings, and although there could be no objection to such deficiencies being supplied from time to time as might be laid open and brought to the surface by practical experiment, still future interference should not be accompanied with undue haste, so as to throw out of groove everything connected with the machinery of the measure and mar its usefulness. I make this observation because outside the Council an impression prevails that as soon as an Act of the Legislature has commenced to be appreciated and has begun to work satisfactorily, the Legislature steps in to unhinge the whole of the measure. To illustrate this, I will, with due deference, give some instances in which the very Bill which is before the Council, as I presume to think, unnecessarily interferes with some of the matters which relate to the Land Registration Act which has just commenced to be understood by the people, and the result to my mind is a clear conflict between this Bill and the Land Registration Act, so that if the conflicting provisions are allowed to stand, people will be perplexed and hampered in their action relating to the Land Registration Act. Take, for instance, section 4 of this Bill. That section is in terms permissive, but read along with section 15, it becomes compulsory, because penalty attaches to omission of action or default. The time fixed by section 4 is four months; the time fixed by section 42 of the Land Registration Act is six months. Within the extra two months there is a penalty under the Bill, while no penalty is incurred under the Land Registration Act. Then again the conflict between the two Acts cannot possibly be avoided, even if the time under the Bill be extended to six months, provided the penal consequences under section 15 be allowed to remain in fact, and provided also that section 4 be allowed to remain optional as it is; because, suppose there is an omission to apply under section 4 of the Bill but no omission to apply under the Land Registration Act, the consequence then would be that a penalty would be incurred under the Bill; while no penalty would be incurred under the Land Registration Act. The zamindar would therefore be disentitled from suing under the Bill, but he would be entitled to sue under the Act. Then again, suppose you make section 4 of the Bill also compulsory, the result would be this that there is no saving clause under the Bill, although under sections 67 and 77 of the Land Registration Act, the party

[*Maulvi Muhammad Yusuf.*]

can apply at any time. Furthermore, the Collector is bound to carry out the orders of a competent authority, and therefore if the proprietor has omitted to apply within six months he can still proceed under section 67, or he can go to the Civil Court upon a cause of action, such that a Civil Court is bound to take cognizance, and get an order for registration; but there is no provision in this Bill of such elasticity, and there could be none, regard being had to its scope and object. There will thus be a disability under the Bill, but none under the Land Registration Act. Again, the consequence of an omission under the Bill is to make the defaulter liable to a fine, whatever be the reason of the omission; but under the Land Registration Act there is no fine, except when the omission is voluntary and intentional, or due to culpable negligence. And if you make the provisions of the Bill to all intents and purposes the same as those of the Land Registration Act, still in many cases conflict would be unavoidable, because matters of discretion are such that two persons or two Courts may take different views of one and the same question. I refer to this matter of conflict at this place by way of parenthesis. I will deal with it more in detail further on.

“There are two preliminary matters to which I wish to refer cursorily before coming to the main provisions of the Bill: the first is that which has already been referred to by the Hon'ble the MAHARAJA OF DARHANGA: it relates to the Patwari Regulation. The way in which the point occurs to me is this: there is no section in the Bill providing for the repeal of any Act or Regulation. As I do not wish to prolong the discussion, I do not desire to repeat the arguments which have been placed before the Council by His Highness in favour of the view that the Patwari Regulation should be repealed. It is obviously expedient that the Regulation should be repealed. I submit, some measure should be provided in this Bill or some step should be taken alongside of, and simultaneously with, this Bill, or at any other time most convenient to the Government, to do away with the dual control of the patwari.

“The other preliminary point to which I desire to refer relates to the procedure in regard to the realisation of rents. At the time of the passing of the Bengal Tenancy Act in 1885, to say nothing of the time before and after that, it was a matter which received the careful consideration of the Government and its officers how to devise a procedure which would offer facilities for

[*Maulvi Muhammad Yusuf.*]

the realisation of rents by the zamindars; but in 1885 no precise and definite result could be arrived at, because no procedure could be thought of, which was feasible and at the same time free from defect and not open to objection of a more or less serious nature. The reasons which weighed in 1885 against a satisfactory procedure being devised has now ceased to exist, and what was not feasible in 1885 in regard to the grant of a more easy procedure to the zamindars for the collection of their rents is now feasible and practicable; and if the conviction is certain in regard to the successful operation of this Bill, then I say the time has arrived that the zamindars should, within such limits as might be considered necessary to be laid down, be armed with the certificate procedure for the purpose of realising their just dues. The details of the tenancy being ascertained, the demand would be known, and the party entitled to receive and the party bound to pay would be known, and therefore no reasonable objection can exist to the enlargement of the certificate in favour of zamindars generally, or with necessary qualifications, within limits in which this Bill will have operation.

“With these observations I shall just glance over the provisions of the Bill and state to the Council on what point or points those provisions appear to me to be defective and open to criticism.

“I think I am right in supposing that this Bill is the outcome of Chapter X of the Bengal Tenancy Act, and that it presupposes operations contemplated in that Chapter to have been carried out; that is to say, it presupposes that a record of rights has been prepared. With that record this Bill has nothing whatever to do. A record of rights having been effected under Chapter X, and the points required by section 101 of the Tenancy Act having been laid down and ascertained, this Bill comes into play. The object of this Bill is to maintain that which has been attained by the operation of Chapter X. In other words, the legitimate object of this Bill is the *khatian* and not the *khewat*. A consideration of the *khewat* therefore seems to me to be foreign to the scope and object of this Bill.

“One or two minor suggestions have crossed my mind here. In some of the papers before the Council it has been pointed out that section 1 should be improved. As it stands, the result might be this that if, in reference to, say, twenty bighas of land in a certain district, this Bill comes into operation, then the whole of the district might be liable to the cess—a result which, I think, is

[*Maulvi Muhammad Yusuf; the President.*]

not contemplated by the hon'ble mover of the Bill. I do not think it was ever the intention to make the whole of a district liable owing to operations which have taken place only in a certain defined area in that district. I am therefore of opinion that the language of the first section should be modified in order that the real intention regarding the operation of this Bill should be clearly expressed. In reference to section 2 of the Bill, the words 'record of rights' have been defined with reference to the *khewat* and the *khatian*, but these words themselves require definition. These, however, are minor points. I have examined the provisions of the Bill, both as they stand in the Bill, and also as they bear on existing Acts, and the result of my examination has been that certain sections of this Bill most certainly conflict with certain sections of the Land Registration and of the Bengal Tenancy Acts. I shall explain myself fully on this point so as to afford an opportunity for an explanation in reply that the conflict imagined is not real."

The Hon'ble THE PRESIDENT said:—"I would suggest that it is unnecessary to enter into such questions of detail: if there is any such conflict, the Select Committee will set it right."

The Hon'ble MAULVI MUHAMMAD YUSUF KHAN BAHADUR continued:—"Then I shall omit the observations I was about to make with reference to those sections of this Bill which seem to me to conflict with certain sections of other Acts. I was going to observe, with reference to section 3 and section 11 of the Bill, that, regard being had to the scope and object of the Bill, it appears to me that it is not necessary that the *khewat* portion of the record of rights should be reflected in the mutation registers, or if it be necessary for the sake of symmetry that the *khewat* should also find a place in the mutation registers, I submit that there are words at the end of section 4 which would be amply sufficient to convey every information to the Sub-Registrar to enable him to make the corresponding changes in the register. The words to which I refer are:—"The Collector shall inform the Sub-Registrar of every mutation ordered by him under sections 52 and 55 of the Land Registration Act, and on the receipt of such information, the Sub-Registrar shall record the same in the Register of Mutations."

"It should not be a part of this scheme that proprietors should be bound or should have to apply to the Registrar of Mutations in respect of their

[*Maulvi Muhammad Yusuf.*]

proprietary interests, but if it be deemed necessary that proprietary interests should also find a place in the Register of Mutations, then the Collector should transmit the necessary information to the Registrar. I therefore submit that this Bill should confine itself to the subject-matter of section 7. The initiation of points relating to the *khatian* as well as completion thereof should be assigned to the Sub-Registrar. The initiation of matters regarding proprietary interests should be left to the Land Registration Act in the same manner as the completion of final entry regarding those interests is left by this Bill to that Act.

“Section 5 appears to be unnecessary and out of place. The same remark applies to section 6. The information required by section 6 should not be exacted from the proprietors under the working of this Bill. Under the Road-Cess Act, provision is already made for zamindars to file a return; and under clause (d), section 30, of the Land Registration Act, the Collector of the district is empowered in order to maintain his record corrected up to date, to compel proprietors to file any statement which they are bound to file. Holders of estates and tenures cannot be expected to take notice of every change in every village, and cannot therefore in their statement show any change which they have not themselves recognised: so far as the information required to be submitted relates to the *khatian* or the tenants' rights, such information will be contained in the working of section 7 from the tenant's point of view. By forcing the zamindar's hand in the matter no additional advantage can be gained, and the only result of section 6 will be to launch people into litigation which they would not have undertaken but for this legislation. The burden thus thrown would be wholly unnecessary, inasmuch as the proposed statements will not be published under section 105 of the Bengal Tenancy Act, and the entries will not be of any evidential value either in favour of the landlord or against the raiyats. Besides, the words of the section are wide enough to include mutations of rent, although such mutations of rent do not come within the purview of section 7.

“As regards section 7, the first thing that strikes me is, that non-occupancy raiyats are not obliged to register. That is so far so good, and I do not refer to raiyats of that class with a view to make the registration of their holdings compulsory, but I refer to them for another purpose, viz., that of showing that after the best consideration the Government has been able to bestow upon the question of maintenance of record of rights, that record must remain to a certain

[*Maulvi Muhammad Yusuf.*]

extent incomplete, viz., so far as the non-occupancy raiyats are concerned. I submit that the balance of convenience also requires that there should be some modification in the registration of transfers by occupancy tenants even at the risk of making the record further incomplete. As the law at present stands, occupancy raiyats have no right to transfer their holdings without the consent of their landlords, except where there is a custom to effect such transfer irrespective of such consent. That view of the law is unaltered by the present Bill. If therefore transfers by occupancy raiyats are registered without reference to the landlords, then to say nothing that the fact of registration itself will give an impetus to unauthorised transfers, the effect of such registration will be to set class against class, and to revolutionise the law relating to the transfers of tenures and make them transferable, custom or no custom. Therefore, in order to make the section consistent with the present law, after the words 'occupancy raiyats' in clause 1, there should be added 'where such transfer exists by custom.' Or the section might provide that on the occasion of a transfer, &c., the tenant shall 'first get his name registered in the zamindar's office and shall then get his consent in writing and give notices, &c., &c.' This will keep up and promote harmony between the parties without introducing anomalies. I therefore think that in the first place the registration of transfers by occupancy raiyats need not be made compulsory. The Tenancy Act contains provisions for registration of tenures which are transferable; but the mutation of occupancy holdings was not at any time considered necessary (*vide* paragraph 26 of the *Calcutta Gazette*, page 275, Part 6, dated the 21st March, 1883). The proposal of the Rent Commission 'to extend the registration system to occupancy holdings has not been adopted, as it is feared that there would be greater difficulty in bringing home to persons of the raiyat class the details of such a system.' But if the registration of transfers by occupancy raiyats is to be made compulsory, then the section must be considerably modified before it can be safely enacted into law. There are other matters of detail in connection with this which I omit, such, for instance, as the notice being treated as a document; the procedure relating to applications for registration in regard to succession; the absence of a provision empowering registration after time, and so forth.

"As regards section 9, on the question of the presumptive force of recorded mutations, I submit there is an apprehension that this section will militate

[*Maulvi Muhammad Yusuf.*]

against the right of the landlord to refuse to recognise subdivisions of a tenancy. Care should therefore be taken that the law, as it stands at present, should not be interfered with. There should be a proviso that, if an objection is raised by the landlord or by persons interested in the question, then the presumption shall not arise: under section 109 of the Bengal Tenancy Act, it is only undisputed entries that are presumed to be good.

“As regards sections 15 and 16, they go along with section 4; and as I have, under a suggestion from the Chair, omitted to deal with section 4 in detail, I likewise omit to deal with sections 15 and 16 at any length.

“I now come to Part II, which is a most important part of the Bill. I submit that section 114 of the Bengal Tenancy Act contains sufficient provision for the purpose of enabling the Government to realise its dues. The actual expense is recoverable under that section in certain proportions from the zamindars and tenants, but under section 18 of the proposed Act the actual expense is declared to be a cess, with the result that the whole might be recovered from the zamindar alone. If it is considered expedient to modify section 114 of the Bengal Tenancy Act, that modification should not be upon the lines laid down in section 21 of the Bill. If it is difficult for the Government, armed as it is with summary powers, to realise their dues from the raiyats, it is still more so to the zamindar, who has no such power; besides a zamindar who has let out his estate in *mukarrari* cannot conveniently collect the cess from the numerous tenants of the estate. The inconvenience of collecting a few annas by a large number of fractional sharers, who, under the Bengal Tenancy Act, must all sue together, will be immense. Furthermore, section 21 does not provide for the realisation of the costs by each grade of landlord from his tenants. If each grade is to get 20 per cent. extra as collection charges, what will be the condition of the tenant? And it must be conceded that in the case of intermediate tenures, it is in compatible with justice that the highest landlord should collect from the lowest tenant.

“I am of course aware that by section 40 of the Road Cess Act of 1871, every holder of an estate is bound to pay the entire Road Cess to the Collector, and under section 47, the holder of the estate is entitled to recover with interest at 12 per cent.; but the existence of such a provision in the Road Cess Act of 1871 is no reason why the present Bill should contain a like provision. The considerations which were relied upon at the time the Road

[*Maulvi Muhammad Yusuf.*]

Cess Act was enacted for imposing the obligations on the zamindars do not arise in relation to the present Bill. In the debate in Council on the 8th July, 1871, (see page 160), the President said:—

‘Property had its duties in all parts of the world as well as its rights, and that was eminently the case in India and most eminently so in Bengal, where landed property had been created for the sake of the duties which the landholders were expected to perform. Under the Indian Agrarian System all sorts of duties were delegated to the zamindars, and one of those duties was, as he believed, the making of roads. As the zamindars had been absolved from that duty in consideration of paying a cess with others, the least they could do in return was to collect the rate, and that duty was not of a burdensome character. We had in no degree mitigated the process by which the zamindars could collect the rate. The process would involve the sale of the lands of their under-tenant, and other stringent means of compulsion. We armed them with these powers, and all they had to do was to collect a certain sum in excess of their rents—to add a percentage to their own collections; and in consideration of their collecting the rate they were absolved from their original burden of keeping the roads in repair.’

‘The analogy from the Road Cess Act does not therefore apply to the present Bill, which is intended for the benefit of the tenants without the zamindar being, of himself, from any consideration of justice or equity in the abstract, bound to provide such tenants with such benefit. But there is still another objection: all the solvent tenants are, by this section, taken by the Government, and all the insolvent and refractory ones are left to the zamindar. The Government should either collect the whole of its dues from the tenants or not at all; and if the zamindars are to be allowed to collect the cess for the Government, then I submit that interest ought to be allowed to them for payments made to Government by them on behalf of others.

‘Then again the maximum amount of costs per acre should be laid down, and in no case should the survey expense exceed 20 per cent. of the gross rental. The maximum proportion of costs payable by Government, by the zamindars, and by the tenants should be fixed by law. The proportions payable by rent-free tenure-holders should also find a place in the Bill.

‘With regard to the last few sections of the Bill, there is not much to be said. In section 23 the order of the Commissioner is declared to be final: it is not made clear whether that order is to be final only so far as the Revenue Courts are concerned, or whether it is final even in the sense so as to shut out the dispute from the cognisance of the Civil Court. The latter view cannot

[*Maulvi Muhammad Yusuf; Mr. Buckland.*]

possibly be the intention of the Bill, and should not be allowed to prevail, because the Bill is sure to give rise to a mass of litigation with which nothing but the machinery of the Civil Court would be equal to cope, and this Bill, being the first measure of the kind, notwithstanding the care which the Government is taking in framing this Bill, we are, as it were, about to take a plunge in the dark, and no light which it is possible to have reflected on the subject in future should be excluded. The Bill should therefore go forth with all possible guarantee against injustice in any conceivable case. I therefore think that the jurisdiction of the Civil Courts should not be taken away in order that persons who might be dissatisfied with the decision of the Revenue Courts might have recourse to those Courts for relief.

“In the same section 23, I find that no appeal is allowed to the Board of Revenue from the orders of the Commissioner; but I notice that in section 81 of the Land Registration Act it is provided that the order of the Commissioner is open to revision and modification by the Board. I should think there ought to be an appeal under this Bill, as a matter of right, to the Board of Revenue against the Commissioner’s order.

“I now bring my observations to a close, and I trust the Council will pardon me for having trespassed on their time and patience to such a length; my justification for having done so consisting in the novelty and extreme importance of the subject under consideration.”

The Hon’ble MR. BUCKLAND in reply said:—“I do not propose to detain the Council at any length. The remarks with which we have been favoured by the Hon’ble THE MAHARAJA OF DARBHANGA, I am afraid, hardly reached us on this side of the room, but I did make out some of the points to which the hon’ble member referred. I am glad to hear from him that the scheme of registration contained in this Bill is the best of the schemes which have been before the public. Coming to the objections raised by the Chamber of Commerce, I may observe that I have already alluded to them in my preliminary remarks; they referred to the appellate sections at the end of the Bill, and I may say that they will receive our full consideration. With reference to the quotation which the hon’ble gentleman read from MR. E. MACNAGHTEN’S report, it will be in the recollection of the Council that it was about the *patwari*. It is perhaps known to some hon’ble members that considerable correspondence has taken place on this very subject, and before long the papers will very

[*Mr. Buckland.*]

likely be published, and will contain some very interesting information on this subject, but at present they are not available. I think I caught some remarks of the Hon'ble THE MAHARAJA OF DARBHANGA in regard to the Permanent Settlement. I do not propose to follow him in detail on that subject, because we shall never come to an end if we go back to the time of the Permanent Settlement, but I would ask him to refer to the debate in Council in June, 1871, when the Road Cess Bill was before the Council; and if he would refer to the remarks of MAHARAJA SIR JOTENDRO MOHUN TAGORE at the time, it will save me some trouble now. I would also refer him to the remarks of BABU DIGUMBER MITTAR, who then said:—

'As regards the main principles involved in the proposed measure, viz., the liability or otherwise of the lands in the permanently-settled estates in Bengal to additional taxation, the question having been already disposed of in the affirmative by the highest executive authority, this Council, he supposed, had no other alternative than to carry out that order in all its integrity. He would therefore refrain from making any observations on that point.'

"And MAHARAJA SIR JOTENDRO MOHUN TAGORE said:—

'The question of imposing a cess on the permanently-settled estates of Bengal had been almost discussed threadbare. Eminent lawyers like SIR ERSKINE PERRY and SIR BARNEP PEACOCK had given their decided opinion as to the legal bearing of the question; and statesmen of wide Indian experience had also clearly recorded their views on the subject, as we see from the Education Blue Book lately published. He had nothing new to add, and he would not attempt to hold his *farthing rushlight to the sun*. It had been said that the Government had no intention whatever of breaking the stipulations of the Permanent Settlement, and a distinction had been attempted to be drawn between land revenue and land tax. He confessed that to the natives it seemed to be a distinction without a difference; for so long as the demand was upon the land, and was to be recoverable as arrears of revenue, it mattered not under what name that demand was to be made; and so long as the landholder's found that it took away so much of the profits the enjoyment of which had been solemnly guaranteed to them, they could not but look upon the demand as an infringement of the promise made to them by Lord Cornwallis and ratified in the British Parliament.'

"And more to the same effect. But he went on to say:—

'But we knew that the Secretary of State had already given his decision on the question of the proposed cess, and it was not for him (RAJA JOTENDRO MOHUN TAGORE) to hamper the proceedings of the Local Government by raising factious opposition.'

"I think it is hardly necessary to multiply quotations from the literature of the subject on the question of the Permanent Settlement. There is no intention

[*Mr. Buckland.*]

whatever of breaking that Settlement. All that we say is that, if it is decided by the Select Committee that this is the best way of collecting these dues on account of the cost of a survey and settlement, there is nothing in the Permanent Settlement to show that that procedure should not be adopted. Whether the procedure which is sketched out in the Bill should be adopted is a question which we practically leave the Select Committee to decide.

“There is no intention whatever, although the words in section 18 do not prevent that conclusion, to make this cess a permanent one. There is a certain bill to be paid, and when that is paid off the cess will naturally lapse. It has all along been considered advisable that this cess should be levied on certain lines, but those lines are not altogether settled, except that it is important to make it as light as possible. There are two ways of looking at this question, and it is for consideration whether we are not going a little too far in entrusting the collection of this cess to the zamindars. Several authorities have offered in their reports the opinion that there is a certain amount of risk attaching to these collections, and it has been thought that they are very liable to be abused, and by some of the smaller zamindars to be converted into a permanent cess, much to the discontent of the raiyats. Not long ago I found a rather strong passage to this effect in one of the native papers, in some comments upon this Bill. It said:—

‘The raiyat’s part of the cost will be realized from the zamindar, who, in his turn, will realize it from the raiyat. This process will certainly lead to the oppression of the raiyat. There are zamindars in Bengal who levy the Road Cess at the rate of one anna per rupee of rent, but pay to Government only at the rate of a quarter anna. In fact a good many zamindars have increased the rents of their raiyats in the name of the Road Cess. And it is certain that what is taking place in connection with the realization of the Road Cess will also happen in connection with the new cess, if its collection is left in the hands of the zamindars. Government is therefore earnestly requested to make the collections in the present instance directly from the raiyats.’

“I merely mention this to show that there are two sides to the question, and that it is a matter of some difficulty, and it is therefore thought that it will be best to leave it to the Select Committee to decide which is the best course.

“The hon’ble member who spoke last (MAULVI MUHAMMAD YUSUF) went considerably into details, and to a large extent over the same ground as I did in my preliminary observations. When the report of his speech is printed, I shall be able to give his views the attention they deserve.

[*Mr. Buckland; the President.*]

“With these remarks, I hope the Bill will be allowed to go before the Select Committee.”

The Hon'ble THE PRESIDENT said:—“I do not think I am called upon to-day to add very much to what has been said by the Hon'ble MR. BUCKLAND in defence or explanation of the provisions of the Bill, as I think that what had been said is sufficient. I listened with great attention, but I am sorry to say with very ill success, to the important speech made by the Hon'ble THE MAHARAJA OF DARBHANGA. What he said hardly reached me, but I shall have an opportunity of studying it very carefully afterwards. The principal point which he dwelt upon was the important point involved in section 21 of the Bill. If I apprehended rightly, what he said was that he met this section with uncompromising opposition. The Hon'ble MR. BUCKLAND has already explained pretty fully the position which the Government take up in proposing this form of collecting the cost of the survey. It was first suggested by SIR ANTHONY MACDONNELL, who was greatly impressed by the argument used as to the labour which would be involved in collecting such a great quantity of minute demands from all the raiyats, and the great advantage which would result to them and the country at large if the zamindars would collect the cess on their behalf. I certainly thought when I adopted his views that the suggestion would not meet with any serious opposition. Of course I realized that there are cases in which there would be some annoyance and trouble to the zamindars, but on the whole I thought that the annoyance would be so small, and the advantage to the raiyats so great, and that there is so much solidarity between the interests of the zamindars and the raiyats which stand and fall together, that it would be better for them for their own sakes and for the raiyats' sakes to undertake this charge than to leave it in the alternative manner in which it stood, and is still standing, namely, that these costs should be collected individually by the certificate process from the raiyats.

“Since the discussion on this Bill began, we have had a report from MR. FORBES, Commissioner of Patna, which is written with great ability and knowledge of details, and he has endeavoured to show that the difficulties and the annoyance to cultivators have been overrated, and that it will not be so costly and laborious a process to collect from them, and he instanced the collection of the canal water rate and canal dues in the district of Shahabad, where it may be said that innumerable small rates are collected with a

[*The President.*]

minimum of friction and inconvenience. That of course is an argument which would weigh with the Government and with the Select Committee, but speaking on behalf of the Government, I wish it to be understood that there is no intention on my part to override the feelings and the wishes of the zamindars on this subject. I proposed it as a sort of olive branch: I threw it out as a procedure which I thought zamindars would be glad to adopt, feeling that with the responsibilities attaching to their position, they would obtain a certain amount of indirect but real advantage, and seeing that the interests of the zamindars are identified with those of the raiyats.

“I should myself be extremely unwilling to see this measure passed, if it is passed in the face of the opposition of the zamindars and landholders in Bengal; and if I did not succeed in bringing round the Hon'ble THE MAHARAJA OF DARBHANGA to our view and the other hon'ble members who represent the landed interest in this Council, I shall be quite content to omit the proposal; but I should be very much more content and satisfied if we can bring them round to our views, and I should be glad if they would be prepared, with the modifications and facilities we propose to grant them, to withdraw their opposition and assent to the arrangement; otherwise if the opposition is kept up, my advice to the Select Committee would be to adopt their views and remodel section 21 so as to cut out the provision for collecting through the zamindars and to simplify and carry out the original procedure as laid down in section 114 of the Bengal Tenancy Act, under which we are now recovering, and collecting directly from the raiyats themselves. I believe that on the whole the better arrangement would be—for the good of the whole community, for the diminution of expenditure, diminution of loss of time, and friction and irritation in setting up of class against class,—I believe that it would be better that our proposal be accepted. I do not wish to take up the position of using the official majority of the Council or the general majority of the Council to force the measure on them, unless the zamindars themselves accept it.

“Turning to the remarks of the Hon'ble MAULVI MUHAMMAD YUSUF, I trust that he did not think that I interfered unduly in pointing out to him that this was not a suitable time for entering upon objections on matters of detail which he might see in the draft Bill. One of the principles which underlie the Bill is that we should attempt to fuse the Land Registration Act and the Indian Registration Act together, and make them work together, so that the work of

[The President.]

registering a deed should *ipso facto* be the work of registering the *dakhil khary*, and that the procedure of the Registration Act should go on and become the registration of mutations. When the Hon'ble MAULVI MUHAMMAD YUSUF said that there were many points in which there was conflict between the two Acts, I said that it was not necessary to elaborate the argument, because I admitted it, and the hon'ble mover of the Bill admitted it. Several small points of detail have been pointed out that would require a little modification here and there, but the object of appointing a Select Committee is that they may fuse the two Acts together in the way we desire.

"I will only say a word or two in regard to the papers which have been laid before the Council. I wish first to express on behalf of the Government our sense of the care and good sense with which the Bill has been criticised, and I wish particularly to return our thanks to the Hon'ble Judges of the High Court for the excellent letter which we have received from them. There is not a single suggestion made by them which I do not accept, and which I do not think should be embodied in the Bill, except so far as they have misunderstood our intention and assumed that we are going to give *quasi-judicial* powers to the Sub-Registrar. That assumption, as I have said, is a mistake: we have no intention to give any *quasi-judicial* powers to these officers, who are to treat these notices of transfer exactly in the same way as any other deeds brought to them. If they are properly admitted before the Registrar they are registered: if they are disputed, the Registrar will refuse to register them, and leave the parties to carry on their quarrels and settle their differences in the Civil Court; they will do nothing as to the registering notices of transfer unless both parties agree; and if it is a case of succession, unless full publicity is given and the village at large has full opportunity of stating whether they accept the fact that a certain person is the successor of a deceased raiyat, and that he ought to have his name registered.

"As the Hon'ble MR. BUCKLAND has stated, there are two sections in particular which we have put in for the sake of facilitating matters for the zamindars, and which are not essential to the principle of the Bill, section 4 and section 8. As I mentioned before, the idea in section 4 is to make it easier for land-owners to effect mutations by enabling them to go to the nearest Registrar only three or four miles off, instead of to the head-quarters at a considerable distance. But at the same time several difficulties have been pointed out, and

[*The President.*]

unless the Select Committee can make the two Acts work together, it is a point which must be given up, and also if zamindars and raiyats do not desire it, it must go out. A more difficult section is section 8 which I commend to the careful consideration of the Select Committee. We propose that the zamindar should receive intimation that there has been a transfer *inter vivos* from one raiyat to another of part of his holding or the whole holding. Thus if A B asserts that he has sold, and C D states that he has bought, and nobody disputes the fact, then the registration is effected. Then comes in the legal right of the zamindar to object to the transfer, totally apart from the fact that the transfer has taken place. Mr. FORBES has in a very forcible letter suggested that we should have nothing to do with this side of the question, on the ground that we would be creating an opportunity for litigation and would be setting class against class. That is not my own view, but it is a view which is tenable, and a view which, if this Committee agree with it, will be fatal to the section. From the zamindar's point of view it seems fair that he should receive information of transfers of this kind, and that transfers of holdings or parts of holdings which have taken place should not be recorded behind their backs and without their knowing it. But the section is in no respect vital to the Bill, and involves no principle, and it is for the Select Committee to be guided by the opinions they receive, and to decide whether the section should remain with more or less modification, or whether it should go out altogether.

“With these remarks, I will close the discussion of this subject, and I will only say with regard to the action of the Select Committee that if they find it possible to revise the Bill, although I know it requires a great deal of revision, and to make their report within a fortnight, it will be advantageous to the general procedure, and it will have the particular advantage of the assistance of the Hon'ble the Legal Remembrancer, who will be leaving at the end of that time; but if the report cannot be made before he leaves, his successor will take his place, and it will to a certain extent delay the completion of the work. I have no desire to press for any undue haste, but if the Select Committee find themselves able to bear this in mind and report the Bill within a fortnight, it will conduce to the general rapidity of the proceedings of the Council.”

The Motion was put and agreed to.

[*Mr. Bourdillon; Sir John Lambert.*]

THE LEPERS BILL.

The Hon'ble MR. BOURDILLON presented the Report of the Select Committee on the Bill to provide for the segregation of pauper lepers, and the control of lepers exercising certain trades.

THE CALCUTTA AND SUBURBAN POLICE ACTS, 1866,
AMENDMENT BILL.

The Hon'ble SIR JOHN LAMBERT presented the Report of the Select Committee on the Bill to further amend the Suburban Police Act, 1866, and the Calcutta Police Act, 1866.

The Council adjourned to Saturday, the 23rd instant.

GORDON LEITH,

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

CALCUTTA; }
The 17th April, 1895. }

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

The Council met at the Council Chamber on Saturday, the 23rd March, 1895.

P r e s e n t :

The HON'BLE SIR CHARLES ALFRED ELLIOTT, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The HON'BLE SIR CHARLES PAUL, K.C.I.E., *Advocate-General*.

The HON'BLE H. J. S. COTTON, C.S.I.

The HON'BLE SIR JOHN LAMBERT, K.C.I.E.

The HON'BLE D. R. LYALL, C.S.I.

The HON'BLE J. A. BOURDILLON.

The HON'BLE MAULVI ABDUL JUBBAR, KHAN BAHADUR.

The HON'BLE F. R. S. COLLIER.

The HON'BLE C. E. BUCKLAND.

The HON'BLE T. D. BEIGHTON.

The HON'BLE R. C. DUFT, C.I.E.

The HON'BLE SURENDRANATH BANERJEE.

The HON'BLE L. GHOSH.

The HON'BLE MAHARAJA SIR LUCHMESSUR SINGH BAHADUR, K.C.I.E., OF DARBHANGA.

The HON'BLE MAULVI SERAJUL ISLAM, KHAN BAHADUR.

The HON'BLE W. C. BONNERJEE.

The HON'BLE J. G. WOMACK.

The HON'BLE MAULVI MUHAMMAD YUSUF, KHAN BAHADUR.

The HON'BLE C. E. SMYTH.

NEW MEMBERS.

The Hon'ble MESSRS. BEIGHTON and SMYTH took their seats in Council.

LICENSES FOR ARMS.

The Hon'ble BABU SURENDRANATH BANERJEE asked:—

Whether the attention of the Government has been called to a statement which has appeared in the newspapers to the effect that the licenses for

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

arms which are being issued by the Magistrate of Dacca permit the carrying of arms only within the limits of the town or village where the holder of the license may happen to live? Whether it is true that it has hitherto been the practice at Dacca to grant licenses for the carrying of arms throughout the whole district, and with the authorization of the Commissioner throughout the whole Division? Will the Government be pleased to state why it has been found necessary to depart from the practice of previous years; and having regard to the complaints which the new orders have given rise to, will the Government be pleased to direct that the practice of the former years be followed, and that the license should authorize the carrying of arms throughout the whole district, or with the consent of the Commissioner throughout the whole Division?

The Hon'ble MR. COTTON replied :—

“The question of the Hon'ble Member has been transmitted to the Commissioner of the Dacca Division, with a request that he will report upon the facts of the case.”

INSUFFICIENCY OF MUNSIFS.

The Hon'ble BABU SURENDRANATH BANERJEE asked.—

Is the Government aware that Munsifs through want of time and pressure of work have to put off from day to day the hearing and final disposal of many cases, and that parties and witnesses have to be in attendance in Court from day to day at great sacrifice and inconvenience to all concerned? Whether this state of things is not due to the insufficient number of subordinate Judicial Officers and to the circumstance that Munsifs have more work thrown upon them than they can cope with? If so, will the Government be pleased to add to the number of Munsifs?

Will the Government state the number of Munsifs employed in these Provinces in 1892-93, 1893-94 and 1894-95, the number of suits instituted before them, and the number disposed of by them in 1892-93, 1893-94, and the nine months of 1894-95?

The Hon'ble MR. COTTON replied :—

“The Lieutenant-Governor is afraid that the postponement of cases is too common in the Civil Courts, but he does not believe that the delay in the disposal of cases is due to any material extent to insufficiency in the number of

[Mr. Cotton.]

Munsifs' Courts, since the number of cases disposed keeps fairly even with the number of cases instituted. His attention and that of the High Court have been directed to the abatement of the tendency and to the measures which should be taken to ensure the efficient performance of the work of the Courts. The High Court have recently added to the Register of Civil Suits a column showing the date of each adjournment, such as has always been done in Criminal Registers, so as to attract the eye of the District Judge or other inspecting officer to cases where postponements have been abnormally numerous and where enquiry is *prima facie* called for. Moreover, the High Court have recently recommended, and the Lieutenant-Governor has sanctioned, the grant of Small Cause Court powers on an extended scale, so as to enable the Munsifs to deal with their cases expeditiously.

"Statistics of Civil Work are compiled by the calendar year. The following figures which have been extracted from the reports of the High Court on the administration of Civil Justice give the information desired by the Hon'ble Member:—

1 YEAR	2 Number of Munsifs.	3 ORIGINAL SUITS DIS- POSED OF UNDER ORDINARY PRO- CEDURE		4 ORIGINAL SUITS DIS- POSED OF UNDER SMALL CAUSE COURT PROCEDURE		5 Total	6 Average number of cases dis- posed of per Munsif
		Contested	Uncon- tested	Contested	Uncon- tested		
1890	262	77,060	244,673	11,168	74,908	407,809	1,556
1891	275	76,815	252,339	12,660	91,075	432,889	1,574
1892	285	84,720	267,647	18,988	137,804	509,168	1,786
1893	289	82,170	268,210	21,610	151,835	523,825	1,812

"From this statement it will be seen that there has been a steady progressive improvement in the number of cases disposed of by each Munsif, and therefore presumably less delay in the disposal of cases. It will also be observed that a considerable increase in the number of Munsifs has been made during the past four years; a further increase in their numbers was sanctioned during the year 1894, and this, together with the enlargement of their summary powers, will, it is hoped, enable them to keep the work under."

[*Mr. Bourdillon.*]

THE BENGAL PROVINCIAL SERVICE BUDGET FOR 1895-96.

The Hon'ble MR. BOURDILLON laid on the table the Bengal Provincial Service Budget for 1895-96. He said:—

“With Your Honour's permission I will follow the precedent of last year, and, instead of reading the statistical document in my hands, will lay it on the table for the perusal of hon'ble members and for publication. I will ask the Members of this Council, after considering it, to submit, as soon as possible, any questions that they may desire to put in order that the answers may be given at the next sitting of the Council. I am sure hon'ble members will recognise that it is obviously desirable that this should be done in order that the Secretary who prepared this Budget may be able to reply to any questions which may be put in regard to it, instead of this task being left to his successor.”

EXPLANATORY NOTE ON THE BENGAL PROVINCIAL SERVICES
BUDGET FOR 1895-96.

PART I.—General Remarks.

I have now to submit to the Legislative Council the Budget for Provincial Services in Bengal for the official year 1895-96. This is the third occasion on which the Financial Statement for the Province of Bengal has been presented before this Council. On both previous occasions the system of Provincial Finance and the financial relations of the Supreme Government with that of Bengal were explained at some length. No change has been introduced during the past year in the arrangements described a year ago, and since many members of this Council were present at the Budget Debate of 1894, while for the remainder the necessary information is available in the Proceedings of this Council, I do not consider it necessary again to trace the history or expound the system of Provincial Finance.

2. Following the procedure adopted last year, I propose to divide my remarks into two parts—of which the first will deal with (1) the Closed Accounts of 1893-94, (2) the Revised Estimate for 1894-95, and (3) the Budget Estimate for 1895-96; while the second will treat in greater detail of the Budget of 1895-96.

(1) CLOSED ACCOUNTS OF 1893-94.

3. In the Financial Statement which was laid before the Council on 31st March, 1894, it was assumed that the year 1893-94 had opened with a credit

[Mr. Bourdillon.]

	Estimate, 1895-96.
	Rs.
<i>Deduct</i> (to be received from Imperial Funds)—	
(b) Advance for the remodelling of the Hidgili Tidal Canal	1,65,000
(c) Grant on account of Imperial Buildings placed under Local Bodies	10,000
(d) Compensation for loss sustained by the Provincial Revenues on account of the reservation of the Western Duars for the Khedda Department ...	18,000
(e) Grant for the additional establishment entertained in the Calcutta Custom House on the introduction of the new Tariff Acts	2,64,000
(f) Assignment for the Gnatong Police Guard ...	16,000
Total to be added to the Provincial Share ...	<u>4,73,000</u>
Net sum to be transferred to Imperial Funds out of the Provincial Share (one-fourth) ...	<u>9,92,000</u>

14. The estimated Provincial Share of Land Revenue is arrived at as follows:—

HEADS.	FIGURES PASSED BY GOVERNMENT.	
	Revised Estimate, 1894-95. Rs.	Estimate, 1895-96. Rs.
Gross Land Revenue	3,86,50,000	3,87,00,000
Deduct 12 per cent. on estimated collections from Government Estates ...	4,75,000	4,77,000
Net amount divisible between Imperial and Provincial Funds	<u>3,81,75,000</u>	<u>3,82,23,000</u>
Provincial Share of above (one-fourth) ...	95,44,000	95,56,000
Deduct on account of Adjustments ...	14,60,000	9,92,000
Net ...	<u>80,84,000</u>	<u>85,64,000</u>
Add 12 per cent. Collections ...	4,75,000	4,77,000
Total Provincial Share	<u>85,59,000</u>	<u>90,41,000</u>

[Mr. Bourdillon.]

The above estimate does not include any provision for "Recoveries on account of the cost of Bihar Survey and Settlements." It is anticipated that Rs. 1,50,000 will be recovered in 1895-96, but this will be added to the Imperial Share of Land Revenue.

15. *Stamps*.—The Budget Estimate of total receipts in 1894-95 was Rs. 1,00,50,000. In view of the steady increase that has occurred in this branch of revenue during the last six years, averaging 4½ lakhs per annum, both the revised estimate for 1894-95 and the estimate for 1895-96 have been placed at Rs. 1,67,00,000. The Provincial Share is three-fourths of this sum and amounts to Rs. 1,25,25,000, which is an advance of Rs. 4,87,000 on the budget estimate of 1894-95.

16. *Excise*.—The progressive increase of Excise Revenue since 1890-91 has been as follows, giving an average annual advance of Rs. 5,61,000:—

		Rs.	Increase over preceding year. Rs.
1890-91	...	1,04,65,000	.....
1891-92	...	1,11,34,000	6,69,000
1892-93	...	1,15,94,000	4,60,000
1893-94	...	1,21,48,000	5,54,000

In the Resolution on the administration of the Excise in Bengal during 1893-94, the Lieutenant-Governor pointed out that revenue had increased at a higher ratio than consumption in regard to the three important heads of Country Rum, Opium and Ganja, while the increase in the consumption of distillery liquor exceeded that of revenue chiefly in Bihar, where duty was intentionally reduced and revenue surrendered in order to check illicit distillation. In view of the steady increase above recorded and of the general prosperity which the good crops of 1894-95 may be expected to induce, the estimate for 1895-96 has been placed at Rs. 1,27,00,000. The Provincial Share is one-fourth, and amounts to Rs. 31,75,000, which is a lakh and a half higher than the budget estimate of the current year.

17. *Provincial Rates*.—The Budget Estimate of total revenue from Provincial Rates for 1895-96 amounts to Rs. 42,81,000, or Rs. 3,79,000 less than the budget estimate of the previous year. The decrease is chiefly nominal, and

[Mr. Bourdillon.]

is due to the fact that, owing to a change in the mode of adjusting the cost, no credit has been taken in the Provincial Accounts for "Recoveries of the proportionate cost of establishment for collecting Road Cess." The amount will now be debited direct to the District Funds in the Local Funds Budget instead of being passed through both sides of the Provincial Accounts.

18. *Assessed Taxes.*—The Budget Estimate of total revenue from Assessed Taxes for 1894-95 amounts to Rs. 43,00,000. The actual receipts in 1893-94 were Rs. 43,50,479, and the collections in the first ten months of the current year show an increase of Rs. 1,12,000 as compared with those of the corresponding period of last year. The increase is attributable partly to better assessments, and partly to prompter payments, which latter cause would lead to an expectation of smaller receipts during the remainder of the year; but, looking to the steady growth of revenue under this head from year to year, the revised estimate for 1894-95 and the estimate for 1895-96 have each been placed at Rs. 45,00,000. The Provincial Share is one-half and amounts to Rs. 22,50,000, which is one lakh better than the Budget of 1894-95.

19. *Forests.*—The total receipts of the Forest Department are estimated at Rs. 8,10,000 against Rs. 8,02,000, the actuals of 1893-94, and Rs. 8,00,000, the revised estimate of 1894-95. The Government of India have recently proposed certain relaxations of the restrictions hitherto imposed upon the grazing of cattle in Government Forests, and the Inspector-General of Forests has been requested to suggest the best method of giving effect to the principles now laid down for adoption. It is possible that some reduction of income may ensue, but pending receipt of further information, the estimate of total receipts for 1895-96 has been retained at Rs. 8,10,000. One-half is Provincial.

20. *Registration.*—The actual receipts of 1893-94 amounted to Rs. 13,89,000 in round numbers and the Budget Estimate of 1894-95 was Rs. 14,50,000. The small amount of the receipts in 1893-94 has been attributed chiefly to the orders reducing the minimum *ad valorem* fee for Registration from annas 12 to annas 8, which took effect from the 1st July, 1893. These orders are still in force, and will continue to affect the receipts during 1894-95; but as the reduction of the fee did not prevent an increase of 50,182 in the number of Registrations in 1893-94, and a further increase is anticipated during 1894-95, the revised estimate for the current year has been placed at Rs. 13,60,000, and

[*Mr. Bourdillon.*]

for 1895-96 the estimate has been raised to Rs. 14,00,000. One-half of these receipts is Provincial.

21. *Jails.*—The Budget Estimate for 1894-95 was fixed at Rs. 9,55,000. In view of smaller receipts from cash sales of manufactured articles and from supplies to Departments, and the actuals of the twelve months ending 31st December, 1894, amounting to Rs. 7,45,000, the revised estimate has been reduced to Rs. 7,80,000. On the average of past actuals, the estimate for 1895-96 has been placed at Rs. 8,70,000.

22. *Marine.*—The Revised Estimate, based on actuals of the earlier months of the current year, has been placed at Rs. 9,45,000 against Rs. 9,34,000, the actuals of 1893-94. In view of the fact that the imposition of import duties on cotton goods may possibly prevent any further increase in the trade of the Port of Calcutta, the estimate for next year has been placed at Rs. 9,40,000.

23. *Scientific and other Minor Departments.*—The total receipts for next year are estimated at Rs. 1,99,000 against Rs. 1,85,000 the revised, and Rs. 1,74,000 the budget estimate for 1894-95. The increase is expected chiefly from larger sales of Quinine and from a new item, viz. "Veterinary Receipts."

24. *Miscellaneous.*—The receipts under this head are essentially fluctuating and difficult to forecast, and the estimate for next year has been placed at Rs. 8,62,000 with reference to the average actuals of past years, although it is much below Rs. 9,35,000, the revised estimate of 1894-95.

25. *Railways.*—Under the terms of the Provincial Contract the Local Government has been relieved of all responsibility in the matter of Railway Administration, though the Province receives half the net earnings of the Eastern Bengal State Railway. The Government of India estimate the Provincial Share of these receipts for 1894-95 at Rs. 43,00,000, against Rs. 33,50,000 Anticipated when the Budget was originally passed. The increase is attributable to a large extent to increased receipts for carrying a heavy jute crop. For next year the estimate has been placed at Rs. 36,50,000, for although the Eastern Bengal Railway is doubtless an improving property, it would be unsafe to expect the recurrence of a third year of such high profits as the present and the past.

[*Mr. Bourdillon.*]

EXPENDITURE.

26. *Land Revenue.*—The total Provincial Expenditure under this head in 1893-94 was Rs. 35,30,000, and in consideration of the actuals in the first eight months of the current year, the revised estimate for 1894-95 has been placed at Rs. 36,00,000. The estimate of expenditure for next year has been fixed at Rs. 36,88,000, which includes a grant of Rs. 50,000 for agricultural improvements in Government Estates, an item which has hitherto been debited to Irrigation—Minor Works. As compared with the budget grant for 1894-95, there is an increase of Rs. 1,15,000 under “Charges of District Administration,” which is due (*a*) to a larger provision of Rs. 60,000 for Exchange Compensation Allowance, (*b*) to increased provision for Clerks who are required in the Certificate Department (Rs. 10,000), (*c*) to increased provision under Partition Establishment necessitated by an increase of work in that Department (Rs. 6,000), and (*d*) to an increased grant for the Survey of Waste Lands in Jalpaiguri (Rs. 18,000). The advance of Rs. 10,000 under “Land Records and Agriculture” is chiefly due to the provision of Rs. 3,000 for the local allowance to the Director of Land Records and Agriculture, sanctioned by the Secretary of State, and also for increased provision under “Establishment and Contingencies,” with reference to past actuals.

27. *Salt.*—The estimated expenditure in 1894-95 was Rs. 33,000. In consequence of the large importations of Salt during the current year, it has been necessary to make additional grants (1) for extra establishment, (2) for structural alterations in the salt warehouses, and (3) for the hire of extra accommodation required at the Kidderpore Docks; and in view of these facts, the revised estimate for 1894-95 has been placed at Rs. 40,000. The total expenditure for 1895-96 is estimated at Rs. 36,000, as it will probably not be necessary to incur again construction charges such as those referred to above.

28. *Stamps.*—The actual expenditure of 1893-94 was Rs. 6,32,000, and the budget estimate of 1894-95 was Rs. 6,82,000, the revised falling to Rs. 6,73,000. The estimate of total expenditure for 1895-96 amounts to Rs. 6,95,000, which is expected to be Rs. 22,000 higher than the revised estimate of the current year. The increase is chiefly in the cost of “Stamp Paper supplied from Central Stores.” This increase is a necessary complement of the more extensive use of Stamps and of the consequent increase

[Mr. Bourdillon.]

in receipts, as it is caused by the larger supplies of paper taken out in order to be impressed with Stamps, and also to be sold for use with adhesive Stamps. The Provincial Share is three-fourths or Rs. 5,22,000.

29. *Excise.*—The variations under this head are extremely small, the estimated expenditure in a total of Rs. 1,66,000 being only Rs. 6,000 higher than the revised estimate of 1894-95.

30. *Provincial Rates.*—As compared with the budget estimate of 1894-95, there is a great apparent decrease in the revised estimate of 1894-95 and the budget of 1895-96 of Rs. 3,22,000 and Rs. 3,11,000 respectively, which is due to a change in the mode of adjusting the cost of charges for the collection of Cesses and the valuation and revaluation of Estates, as has already been explained.

31. *Customs.*—Almost the whole of the expenditure under this head is incurred in Calcutta. The increase in these charges, amounting in the revised estimate for 1894-95 to Rs. 1,95,330 above the figures of the budget estimate, and in the budget for 1895-96 to another Rs. 79,140, is due to the cost of additional establishment, the entertainment of which is necessitated by the passing of the Tariff Acts VIII and XVI of 1894. The provision is at present tentative only, as the Supreme Government has not yet formally accepted the proposals of the Lieutenant-Governor.

32. *Assessed Taxes.*—The total expenditure of the Income-tax Department for 1894-95 was originally estimated at Rs. 1,88,000, and this amount has been reduced to Rs. 1,82,000 in the revised estimate for 1894-95, while the estimate for next year stands at Rs. 1,90,000. The estimate for 1895-96 includes for the first time a provision of Rs. 3,500 to meet the salary of occasional and temporary peons employed in the mufassal for the realization of the arrears of Income-tax which has hitherto been charged against Land Revenue. The provision has been made on the understanding that the receipts from Process-fees earned by these peons will be credited to the head of Income-tax.

33. *Registration.*—The figures for 1895-96 exceed by Rs. 32,000 those in the budget for 1894-95, chiefly because under "District Charges" larger provision has been made on account of commission payable to Special and Rural Sub-Registrars—a necessary consequence of the establishment of new offices and of the anticipated increase in Registrations. A smaller sum has been provided

[*Mr. Bourdillon.*]

under "Superintendence," partly owing to the reduction in the salary of the Inspector-General of Registration, and partly because the present incumbent is not entitled to the Exchange Compensation Allowance.

34. *General Administration.*—The estimate of expenditure under this head during 1895-96 amounts to Rs. 17,08,000 against Rs. 16,77,000, the budget estimate, and Rs. 17,20,000, the revised estimate for 1894-95; in the net increase of Rs. 31,000 over the budget estimate of 1894-95 the principal items are "Civil Secretariat" (Rs. 13,000) and "Commissioners" (Rs. 33,000). With regard to the first-named head, the increased provision during 1895-96 is due to larger deductions having been made on account of probable savings in 1894-95. The increase under "Commissioners" is partly due to the provision of Rs. 13,000 made towards the construction of a new steamer for the Chittagong Division, and partly to smaller deductions on account of probable savings in 1895-96.

35. *Law and Justice—Courts of Law.*—The estimate of total expenditure for 1895-96 amounts to Rs. 90,32,000, which provides for an increase of Rs. 1,56,000 on the budget estimate, and of Rs. 1,37,000 on the revised estimate for the current year, of which Rs. 1,50,000 arises from the growth of Exchange Compensation Allowance. The other increases of expenditure are due to the appointment of two new Munsifs and of additional establishment in the Courts of Munsifs (Rs. 20,000), and to the ordinary growth of charges for copying, process-peons, &c. (Rs. 12,000), which necessarily accompanies increased litigation. On the other hand, there is a decrease of Rs. 34,000 caused by the elimination from the Budget of provision for the salaries of eight Munsifs and one Subordinate Judge employed in Assam, which were erroneously included in the budget for 1894-95.

36. *Law and Justice—Jails.*—The estimate of total expenditure sanctioned for 1895-96 amounts to Rs. 21,47,000. The general result as compared with 1896-94 is an increase of Rs. 72,529, and as compared with the budget of 1894-95 a decrease of Rs. 97,000. The heads in which the largest fluctuations occur are those of "Supplies and Services" and "Manufactures." The expenditure under the former head chiefly depends on the number of prisoners in Jail and the price of provisions. There has of late been a continued increase in both these factors, but in the coming year it is expected that the prosperity caused by a good harvest will lower the price of provisions and cause a decrease of crime.

[*Mr. Bourdillon.*]

The chief items of expenditure under the head "Manufactures" are raw materials and purchase of machinery. A high figure was granted under these heads in the budget of 1894-95, which does not seem likely to be worked up to, and the grant for 1895-96 has been fixed upon a consideration of the average figures for the last five years.

37. *Police.*—The anticipated expenditure in 1895-96 is Rs. 60,18,000 as against Rs. 55,93,000 in 1893-94, and a revised estimate of Rs. 59,12,000 in 1894-95. Over the budget estimate of 1894-95 the increase is Rs. 1,26,000.

38. Under the head of "Presidency Police," the estimate passed for 1895-96 is larger than the budget estimate for 1894-95 by Rs. 17,000. A portion (Rs. 8,000) of this increase is due to the larger provision made for Exchange Compensation Allowance and another (Rs. 2,000) to the increase in the number of Guards for Public Buildings required for the Calcutta Collectorate. A new provision of about Rs. 6,000 has been made for refunds with reference to the actuals, which in 1893-94 amounted to Rs. 8,043. The increase of Rs. 3,000 in the estimate for 1895-96 under (3) "Superintendence," over the budget estimate for the current year, is attributable to the increase of establishment sanctioned for the office of the Inspector-General, and to Exchange Compensation Allowance.

39. Comparing the Budget Estimates for 1894-95 and 1895-96, the net increase under the head of "District Executive Force" amounts to Rs. 98,000. The chief items under this head are a provision of Rs. 1,01,000 to enable the Inspector-General of Police to carry out further, during 1895-96, the reforms recommended by the Police Committee. Provision has been made for an increase of 563 in the number of Constables and of 219 in the number of Sub-Inspectors, involving an increased cost of Rs. 1,37,000, against a reduction of 196 in the number of Head-Constables, resulting in a decrease of Rs. 32,000 in cost. Another large item is that of Rs. 1,59,000 provided mainly to meet the additional charge for "Station Charge Allowances," the grant of which is also one of the recommendations of the Police Committee; a provision of Rs. 10,000 has also been made for a school for the training of Sub-Inspectors. By these means the Lieutenant-Governor will be able to take a large step towards fulfilling the recommendations of the Police Commission, and will leave little to be done in future years.

[Mr. Bourdillon.]

40. There is a provision of Rs. 16,000 under "Special Police" on account of the Military Police Guard to be enlisted for service at Gnatong. The cost of maintaining this Garrison at Gnatong will be met from the Imperial Revenues by a corresponding annual assignment of Rs. 15,650 which will be adjusted under the head of "Land Revenue."

41. *Education.*—The total sum spent by Government on Education from Provincial Revenues, or under its auspices from Local Funds, is not shown under this head, but is distributed over several budgets, viz., the Medical Budget for Medical Education, the Public Works Budget, which deals with the construction and repairs of school buildings, and the Budgets of District Boards and Municipalities, which contain contributions from Provincial Revenues for scholastic purposes. Recognising the incomplete character of the figures contained in the Educational Budget strictly so called, the Lieutenant-Governor has caused to be prepared a statement of which the following is an abstract, showing the true total of expenditure on Education in these Provinces during 1893-94, 1894-95 and 1895-96:—

SOURCE OF PROVISION.				1893-94.	1894-95.	1895-96.
1				2	3	4
				Rs.	Rs.	Rs.
Provincial Funds	...	...	...	30,20,304	30,14,681	31,10,990
District Funds	...	...	..	10,83,441	10,86,000	12,24,313
Mohsin Fund	...	...	...	69,833	81,000	67,153
Other sources	...	...	...	18,794	10,051	8,645
Total				41,92,372	41,91,732	44,11,131

No figures are given for Municipal Expenditure, as the returns received are incomplete for 1894-95 and 1895-96. The actual expenditure in 1893-94 was Rs. 93,201.

42. It is further to be noticed that out of the sum shown as contributed by District Funds, Rs. 10,39,177 (which will be increased from the year 1895-96 to Rs. 10,99,177) represent the amount made over by Government annually to District Boards for the maintenance of schools under their control. Consequently

[Mr. Bourdillon.]

as a matter of fact the true sum expended on Education from Provincial Revenues in each of the years under notice may be taken as Rs. 40,59,481, Rs. 40,53,858, and Rs. 42,10,167 respectively as shown below. The other noteworthy points in these figures are the large rise in the expenditure from the Mohsin Fund in 1894-95 and the steady decrease in the contributions from "Other sources."

43. The figures contained in the Provincial Budgets under the heads of Education, Medical and Public Works stands as follows for the past, the present, and the coming year—

BUDGETS.	1893-94.	1894-95.	1895-96.
1	2	3	4
	Rs.	Rs.	Rs.
Education	25,72,110	26,10,000	26,72,000
Medical	2,90,253	2,95,000	3,02,000
Public Works Department	1,57,941	1,09,681	1,36,990
Total	30,20,304	30,14,681	31,10,990
Add Contributions to District Funds	10,39,177	10,39,177	10,99,177
GRAND TOTAL	40,59,481	40,53,858	42,10,167

44. Turning to the Education Budget proper as it now stands, the estimate for 1895-96 exceeds the budget estimate of 1894-95 by Rs. 26,000, and the revised estimate by Rs. 62,000. Under the head of "Inspection" there is a decrease of Rs. 30,000, being the pay and allowances of 25 Sub-Inspectors who will be placed under District Boards with a contribution from Government to that amount which will appear in another Budget. This sum forms part of the additional Rs. 60,000 mentioned in paragraph 42.

45. *Medical.*—The estimates for 1895-96 show an increase of Rs. 1,15,000 over those originally sanctioned for 1894-95, but of Rs. 29,000 only over the revised estimate of the same year. Of the increase first named, Rs. 60,000 is accounted for by Exchange Compensation Allowance. The orders of the Government of India establishing a reserve of Medical Officers involve an increased provision of Rs. 25,000, while in order to meet the increased activity of the

[*Mr. Bourdillon*]

Sanitary Department an additional grant of Rs. 15,000 has been sanctioned for Travelling Allowance. A sum of Rs. 8,400 will be expended on improvements at Medical Schools and Colleges.

46. *Scientific and other Minor Departments.*—The estimate of expenditure for 1895-96 under this head amounts to Rs. 4,61,000 against Rs. 4,42,000, the budget estimate for 1894-95, and Rs. 4,37,000, the revised estimates of the same year, giving an increase of Rs. 19,000 over the budget and of Rs. 24,000 over the revised estimate of 1894-95. The only item which shows considerable increase is that of "Cinchona Plantation," and in this case it is due to the provision of Rs. 71,000, the last instalment of the purchase-money of the Nim-bong Plantation, against Rs. 50,000, the amount paid during the current year.

47. *Stationery and Printing.*—The estimate under this head is less than the budget estimate of 1894-95 by Rs. 60,000, and than the revised estimate by Rs. 98,000. The greater part of this decrease appears under the head of "Stationery supplied from Central Stores," the estimate for which has been reduced by Rs. 70,000. Measures have been taken by Government and the Board of Revenue to effect as much economy as possible in the number of forms printed and in the quality and size of paper used for them, as well as in the consumption of forms and of stationery proper, and the Lieutenant-Governor hopes that it will be possible to make a still further reduction without at all impairing the efficiency of the Department.

48. *Miscellaneous.*—The estimate for 1895-96 of the somewhat heterogeneous items of expenditure classed under "Miscellaneous" is Rs. 17,000 higher than the budget of 1894-95, but Rs. 1,000 lower than the revised estimate of the same year. The principal item is an increase of Rs. 10,000 under "Rents, Rates and Taxes," which is mainly due to the enhancement of the municipal assessment on the Bengal Secretariat Building in Calcutta.

49. The detailed figures of the heads under the control of the Public Works Department are not yet available, but will be laid upon the table on a future occasion.

J. A. BOURDILLON,

The 22nd March, 1895.

Offg. Secretary to the Govt. of Bengal,

Financial Department.

BENGAL PROVINCIAL REVENUE.

(In rupees, omitting 000's.)

HEADS.	Actuals, 1893-94.	Budget Estimate, 1894-95.	Revised Estimate, 1894-95.	Estimate, 1895-96.
1	2	3	4	5
Opening Balance ..	22,55	20,87	26,24	32,73
Principal Heads of Revenue—				
I.—Land Revenue ... { Proper ...	1,00,36	9,81	1,00,19	1,00,33
... { Adjustments ...	-14,57	-16,08	-14,60	-9,92
III.—Salt ...	77	80	120	95
IV.—Stamps ...	1,19,82	1,20,38	1,25,25	1,25,25
V.—Excise ...	30,37	30,25	31,37	31,75
VI.—Provincial Rates ...	46,13	46,60	43,00	42,81
VII.—Customs ...	59	55	65	61
VIII.—Assessed Taxes ...	21,75	21,50	22,50	22,50
IX.—Forests ...	4,01	400	4,00	4,05
X.—Registration ...	6,95	725	6,80	7,00
Total ...	3,16,18	3,15,06	3,20,36	3,25,33
XII.—Interest ...	1,18	2,12	1,86	2,36
Post-Office, Telegraph and Mint—				
XIII.—Post-Office ...	4	5	5	5
Receipts by Civil Department—				
XVI.—Law and Justice—				
Courts of Law ...	8,97	9,04	8,60	8,90
Jails ...	8,08	9,55	7,80	8,70
XVII.—Police ...	2,44	2,40	2,50	2,43
XVIII.—Marine ...	9,34	9,19	9,45	9,41
XIX.—Education ...	5,69	5,70	5,70	5,70
XX.—Medical ...	1,90	1,77	2,10	2,00
XXI.—Scientific and other Minor Departments	1,83	1,74	1,85	1,99
Total ..	38,25	39,39	38,00	39,12
Miscellaneous—				
XXII.—Receipts in aid of Superannuation ..	79	72	68	68
XXIII.—Stationery and Printing ...	1,26	1,22	1,22	1,27
XXV.—Miscellaneous ...	8,63	8,13	9,35	8,62
Total ...	10,68	10,07	11,25	10,57
Railways—				
XXVI.—State Railways (Net receipts) ...	35,86	33,50	43,00	36,50
Irrigation—				
XXIX.—Major Works (direct receipts) ...	16,72	15,00	14,60	15,00
XXX.—Minor Works and Navigation—				
By Public Works Department ...	7,45	8,15	6,80	7,25
„ Civil Department ...	1,28	1,16	2,03	1,61
Total ...	25,45	24,31	23,43	23,86
Buildings and Roads—				
XXXII.—Civil Works—				
By Public Works Department ...	3,07	1,50	2,45	1,80
„ Civil Department ...	2,38	2,28	2,45	2,38
Total ...	5,45	3,78	4,90	4,18
Contributions ...	.....	.....	12	.....
Total ...	4,32,78	4,28,28	4,42,97	4,41,97
GRAND TOTAL ...	4,55,93	4,58,15	4,69,21	4,76,70