

Proceedings of the Council

OF THE

LIEUT.-GOVERNOR OF BENGAL

Index to Vol. XXXV.

JANUARY TO DECEMBER, 1903.

Published by Authority of the Council.

Calcutta :

BENGAL SECRETARIAT PRESS.

1904.

INDEX TO THE PROCEEDINGS
OF THE
COUNCIL OF THE LIEUT.-GOVERNOR OF BENGAL
FOR THE YEAR 1903.

A.	PAGE.
ACT VIII OF 1885 (BENGAL TENANCY). AMENDMENT OF,— <i>See</i> Bengal Tenancy (Validation and Amendment) Bill, 1902.	
ACTING LIEUTENANT-GOVERNOR OF BENGAL. <i>See</i> Bourdillon.	
ADJOURNMENTS OF COUNCIL. <i>See</i> Council.	
ADVOCATE-GENERAL OF BENGAL. <i>See</i> Woodroffe.	
AGRICULTURAL BANKS. <i>See</i> Questions.	
AMALGAMATION OF THE CHITTAGONG DIVISION WITH ASSAM. <i>See</i> Questions.	
APCAR, HON'BLE MR. A. A.—	
Bengal Financial Statement for 1903-1904	119
Chittagong Port Commissioners (Amendment) Bill, 1903	42, 54
APCAR, HON'BLE MR. A. A., APPOINTED TO SELECT COMMITTEE ON—	
Chittagong Port Commissioners (Amendment) Bill, 1903	41
APPOINTMENT OF MEMBERS OF THE PROVINCIAL SERVICE TO SECRETARIAT POSTS. <i>See</i> Questions.	
ASUTOSH MUKHOPADHYAYA.* <i>See</i> Mukhopadhyaya.	
B.	
BARMAIDS' BILL. <i>See</i> Bengal Excise (Amendment) Bill, 1903.	
BASU, HON'BLE BABU BHUPENDRA NATH—	
Bengal Excise Bill, 1903	229, 235, 236
Bengal Public Parks Bill, 1903	226
BASU, HON'BLE BABU BHUPENDRA NATH, APPOINTED TO SELECT COMMITTEES ON—	
Bengal Excise Bill, 1903	238
Bengal Public Parks Bill, 1903	238
BENGAL ACT VII OF 1878 (EXCISE). AMENDMENT OF,— <i>See</i> Bengal Excise (Amendment) Bill, 1903	
BENGAL ACT I OF 1879 (CHOTA NAGPUR LANDLORD AND TENANT PROCEDURE). AMENDMENT OF,— <i>See</i> Chota Nagpur Tenancy (Amendment) Bill, 1903.	
BENGAL ACT IV OF 1887 (CHITTAGONG PORT COMMISSIONERS). AMENDMENT OF— <i>See</i> Chittagong Port Commissioners (Amendment) Bill, 1903.	
BENGAL ACT IV OF 1897 (CHOTA NAGPUR COMMUTATION). AMENDMENT OF,— <i>See</i> Chota Nagpur Tenancy (Amendment) Bill, 1903.	
BENGAL EXCISE BILL, 1903.	
Leave to introduce	231
Introduced and read in Council	233
Referred to Select Committee	233

INDEX.

P. 11.

BENGAL EXCISE (AMENDMENT) BILL, 1903.

Leave to introduce	16
Introduced and read in Council	16
Referred to Select Committee	ib
Report of Select Committee presented	19
" " considered	20
Amendments proposed and accepted	20, 21, 22
Bill passed	22

BENGAL FINANCIAL STATEMENT FOR 1903-1904.

Laid before Council on the 28th March, 1903	64
Discussed in Council	103-134

BENGAL MOTOR-CAR AND CYCLE BILL, 1903.

Leave to introduce	23
Introduced and read in Council	25
Referred to Select Committee	ib
Report of Select Committee presented	34
" " considered	35
Amendments proposed and accepted	36-37
Bill passed	37

BENGAL PUBLIC PARKS BILL, 1903.

Leave to introduce	220
Introduced and read in Council	226
Referred to Select Committee	228

BENGAL SETTLED ESTATES BILL, 1903.

Leave to introduce	192
Introduced and read in Council	195
Referred to Select Committee	195, 220
Report of Select Committee presented	209

BENGAL TENANCY (VALIDATION AND AMENDMENT) BILL, 1902

Report and Supplementary Report presented	5
Amendments proposed and accepted	6-7, 14-15
Ditto and negatived	8-11, 11-13
Ditto and withdrawn	7, 13-14
Bill passed	15

BENGAL TRAMWAYS (AMENDMENT) BILL, 1903.

Leave to introduce	223
Introduced and read in Council	238

BHUPENDRA NATH BASU. *See* Basu.

BOURDILLON, HON'BLE MR. J. A.—*See* Lieutenant-Governor of Bengal

BUCKLAND, HON'BLE MR. C. E.—

Applied for suspension of Rules of Business	25, 195, 220, 226, 238
Bengal Excise Bill, 1903	221, 228, 229, 238
Bengal Motor-Car and Cycle Bill, 1903	23, 25, 34, 36, 37
Bengal Public Parks Bill, 1903	220, 226, 228
Bengal Settled Estates Bill, 1903	192, 195, 209, 220

BUCKLAND, HON'BLE MR. C. E., APPOINTED TO SELECT COMMITTEES ON—

Bengal Excise Bill, 1903	238
Bengal Excise (Amendment) Bill, 1903	16
Bengal Motor-Car and Cycle Bill, 1903	25
Bengal Public Parks Bill, 1903	228
Bengal Settled Estates Bill, 1903	195, 220

Budget. See Bengal Financial Statement.

BUSINESS OF THE COUNCIL.

Change in the order of,	10
Statement of the Course of,	2

C.

CHANGE IN THE ADMINISTRATION OF ORISSA DIVISION. See Questions.

CHANGE IN THE ORDER OF BUSINESS. See Business.

CHATURBHOJ SAHAY. See Sahay.

CHITTAGONG PORT COMMISSIONERS (AMENDMENT) BILL, 1903.

Leave to introduce	40
Introduced and read in Council	41
Referred to Select Committee	45
Report of Select Committee presented	51
" " considered	45
Amendments proposed and accepted	52-54, 54-56, 56-58, 62
Ditto and negatived	58-60, 60-61
Bill passed	62

CHOTA NAGPUR TENANCY (AMENDMENT) BILL, 1903.

Leave to introduce	35
Introduced and read in Council	31
Referred to Select Committee	36
Addition to Select Committee	103
Report of Select Committee presented	137
" " considered	146
Clauses of Bill considered	45
Amendments proposed and accepted	146, 150-151, 151-152, 154, 154-155, 157-158, 159, 159-160, 162, 164, 165, 165-166, 166, 169, 170, 170-171, 173, 175, 175-176, 176, 177, 178, 179, 179-180, 180-181, 182, 182-183, 184-185, 185-186
Ditto and negatived	147-150, 152-154, 155-157, 158-159, 160-182, 163, 164-165, 167-169, 169-170, 171, 172, 172-173, 174, 176, 184-186
Ditto and withdrawn	147, 150, 158, 164, 165, 166, 169, 171, 173, 174, 178, 179, 180, 181-182, 183, 185
Bill passed	186

CIRCULAR ISSUED BY THE DISTRICT MAGISTRATE OF MYMENSINGH. See Questions.

COLLIN, HON'BLE MR. E. W.—

Applied for suspension of Rules of Business	16
Bengal Excise (Amendment) Bill, 1903	15, 16, 19, 20, 21, 22
Bengal Financial Statement for 1903-1904	64, 103, 127
Replied to questions regarding the Chaukidari Act, 1870	18
Ditto ditto Fees for transfer and service of Notice upon Landlords	19
Ditto ditto Gratuitous Medical Relief by District Boards of Bhagalpur and Patna Divisions	101-102
Ditto ditto Inadequate supply of Water at Bhagalpur	101
Ditto ditto Landlords' Fees	84
Ditto ditto Plague in Bhagalpur	49
Ditto ditto Plague Mortality in Calcutta	103
Ditto ditto Water-Supply along District Board Roads of Hazaribagh and Ranchi	49

INDEX

COLLIER, HON'BLE MR. E. W., APPOINTED TO SELECT COMMITTEES ON—

Bengal Excise (Amendment) Bill, 1903	16
Chittagong Port Commissioners (Amendment) Bill, 1903	41

CONVEYANCE OF THIRD-CLASS PASSENGERS ON THE EAST INDIAN RAILWAY. *See Questions.*

COUNCIL OF THE LIEUTENANT-GOVERNOR OF BENGAL.

Adjournments of—	16, 31, 43, 62, 97, 144, 187, 201, 222, 228
Ditto <i>sine die</i>	184, 209
Divisions of—	56
Meetings of—	1, 17, 33, 45, 63, 99, 135, 145, 189, 203, 211, 225
<i>See Debates.</i>	

CYCLE BILL. *See Bengal Motor-Car and Cycle Bill, 1903.*

D.

DEBATE IN COUNCIL ON—

Bengal Excise Bill, 1903	228-238
Bengal Excise (Amendment) Bill, 1903	20-22
Bengal Financial Statement for 1903-1904	103-184
Bengal Public Parks Bill, 1903	228-238
Bengal Settled Estates Bill, 1903	192-201
Bengal Tenancy (Validation and Amendment) Bill, 1902	5-15
Chittagong Port Commissioners (Amendment) Bill, 1903	41-43, 51-62
Chota Nagpur Tenancy (Amendment) Bill, 1903	146-197

DEPUTY MAGISTRATES AND PENSION RULES. *See Questions.*

DIVISIONS OF COUNCIL. *See Council.*

E.

EARLE, HON'BLE MR. A.—

Bengal Financial Statement for 1903-1904	125
Chota Nagpur Tenancy (Amendment) Bill, 1903	103
Replied to questions regarding the Agricultural Banks	43
Ditto ditto Expenditure for Educational Purposes	46
Ditto ditto Expenditure for Educational Reforms	204-205
Ditto ditto Imperial Grant for Educational Purposes	214-216
Ditto ditto Placing of Government Colleges under Indian Professors	208
Ditto ditto Recruitment of Female Coolies by Garden Sardars	219
Ditto ditto Reduction of Government Scholarships	206-207
Ditto ditto The Provincial Educational Service	64, 100
Ditto ditto The Zamindari Dak Cess	101
Ditto ditto Tutors employed to teach English and Literature in Colleges in Bengal	191-192

EARLE, HON'BLE MR. A., APPOINTED TO SELECT COMMITTEE ON—

Chota Nagpur Tenancy (Amendment) Bill, 1903	103
---	-----

ELWORTHY, HON'BLE MR. H.—

Bengal Excise Bill, 1903	229, 234
Bengal Financial Statement for 1903-1904	120

ELWORTHY, HON'BLE MR. H., APPOINTED TO SELECT COMMITTEES ON—

Bengal Excise Bill, 1903	238
Bengal Excise (Amendment) Bill, 1903	16
Bengal Motor-Car and Cycle Bill, 1903	25

EXCISE. *See Bengal Excise Bill, 1903; Bengal Excise (Amendment) Bill, 1903.*

INDEX.

PAGE.

EXPENDITURE FOR EDUCATIONAL PURPOSES. *See* Questions.

EXPENDITURE FOR EDUCATIONAL REFORMS. *See* Questions

EXPENDITURE FOR POLICE REFORMS. *See* Questions.

F.

FEES FOR TRANSFER AND SERVICE OF NOTICE UPON LANDLORDS. *See* Questions.

FINANCIAL STATEMENT. *See* Bengal Financial Statement.

G.

GHOSH, HON'BLE BABU KALI PADA—

Asked questions regarding the Income-Tax	218
Ditto ditto Police Contributions in Chota Nagpur	218
Ditto ditto Pollution of the River Hooghly	219
Ditto ditto Recruitment of Female Coolies by Garden Sardars	219
Bengal Settled Estates Bill, 1903	197
Chota Nagpur Tenancy (Amendment) Bill, 1903	149, 151, 152, 155, 161, 165, 168, 169, 170, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 184, 185

GRANTS TO DISTRICT BOARDS FOR FREDER ROADS. *See* Questions.

GRATUITOUS MEDICAL RELIEF BY DISTRICT BOARDS OF BHAGALPUR AND PATNA DIVISIONS. *See* Questions.

GREER, HON'BLE MR. R. T.—

Bengal Financial Statement for 1903-1904	123
--	-----

GREER, HON'BLE MR. R. T., APPOINTED TO SELECT COMMITTEES ON—

Bengal Motor-Car and Cycle Bill, 1903	25
Bengal Public Parks Bill, 1903	228

GUPTA, HON'BLE MR. B. L.—

Bengal Tenancy (Validation and Amendment) Bill, 1902	10, 11
Chittagong Port Commissioners (Amendment) Bill, 1903	53, 55, 56, 61
Chota Nagpur Tenancy (Amendment) Bill, 1903	151, 162, 181

GUPTA, HON'BLE MR. B. L., APPOINTED TO SELECT COMMITTEES ON—

Bengal Excise Bill, 1903	238
Bengal Excise (Amendment) Bill, 1903	16
Bengal Motor-Car and Cycle Bill, 1903	25
Bengal Public Parks Bill, 1903	228
Bengal Settled Estates Bill, 1903	195, 220
Chittagong Port Commissioners (Amendment) Bill, 1903	41
Chota Nagpur Tenancy (Amendment) Bill, 1903	38

H.

HARE, HON'BLE MR. L.—

Bengal Financial Statement for 1903-1904	127
Replied to questions regarding the Appointment of Members of the Provincial Service to Secretariat Posts	102
Ditto ditto Change in the Administration of Orissa Division	34
Ditto ditto Chaukidari Act, 1870	18
Ditto ditto Deputy Magistrates and Pension Rules	51
Ditto ditto Expenditure on Police Reforms	46
Ditto ditto Houses of Ill-fame in vicinity of Educational Institutions	50
Ditto ditto Provincial Service	50
Ditto ditto Removal of Sub-divisional Offices from Rajmahal	49
Ditto ditto Sub-Deputy Collectors and Pension Rules	103
Ditto ditto Transfer of Civil and Criminal Appellate Jurisdiction of Palamau to Gaya	51

HARR, HON'BLE MR. L., APPOINTED TO SELECT COMMITTEES ON—

Bengal Excise Bill, 1903	335
Bengal Settled Estates Bill, 1903	195, 230

HOUSES OF ILL-FAME IN VICINITY OF EDUCATIONAL INSTITUTIONS. *See Questions.*

I.

IMPERIAL GRANT FOR EDUCATIONAL PURPOSES. *See Questions.*

INADEQUATE SUPPLY OF WATER AT BHAGALPUR. *See Questions.*

INCOME-TAX. *See Questions.*

INGLIS, HON'BLE MR. W. A.—

Applied for suspension of Rules of Business	41
Bengal Financial Statement for 1903-1904	124
Chittagong Port Commissioners (Amendment) Bill, 1903. 40, 41, 42, 51, 53, 54, 58, 59, 60, 62	
Replied to questions regarding the Misconduct of Railway Employés at Asansol Station	137
Ditto ditto Munsifs' Residences	146
Ditto ditto Pilfering of Parcels on Railways	190
Ditto ditto Railway Accident near Sonapur	213
Ditto ditto Railway or Steam-Tramway at Bhagalpur	100
Ditto ditto The Bhabua Sub-division of Shahabad	190
Ditto ditto Third-class Passengers on the East Indian Railway	214
Ditto ditto Waiting-room for Native Ladies at Asansol Station	137

INGLIS, HON'BLE MR. W. A., APPOINTED TO SELECT COMMITTEE ON—

Chittagong Port Commissioners (Amendment) Bill, 1903	41
--	----

ISLAM. *See Seraj-ul-Islam.*

JOY GOBIND LAW. *See Law.*

KALI PADA GHOSH. *See Ghosh.*

LANDLORDS' FEES. *See Questions.*

LAW, HON'BLE BABU JOY GOBIND—

Bengal Financial Statement for 1903-1904	103
Chittagong Port Commissioners (Amendment) Bill, 1903	53

LAW, HON'BLE BABU JOY GOBIND, APPOINTED TO SELECT COMMITTEE ON—

Bengal Motor-Car and Cycle Bill, 1903	25
---	----

LIEUTENANT-GOVERNOR OF BENGAL (HON'BLE MR. J. A. BOURDILLON)—*President.*

Bengal Excise (Amendment) Bill, 1903	22
Bengal Financial Statement for 1903-1904	106, 116, 132
Bengal Settled Estates Bill, 1903	200, 209
Bengal Tenancy (Validation and Amendment) Bill, 1902	15
Chittagong Port Commissioners (Amendment) Bill, 1903	56, 61
Chota Nagpur Tenancy (Amendment) Bill, 1903	159, 167, 169, 175, 177, 181, 186
Proposed a change in the Order of Business	103
Statement by, regarding the Course of Business	2
Suspended Rules of Business in cases of—	
Bengal Excise (Amendment) Bill, 1903	16
Bengal Motor-Car and Cycle Bill, 1903	25
Bengal Settled Estates Bill, 1903	195
Chittagong Port Commissioners (Amendment) Bill, 1903	41
Chota Nagpur Tenancy (Amendment) Bill, 1903	31

LIEUTENANT-GOVERNOR OF BENGAL (HON'BLE SIR ANDREW FRASER)—*President.*

Bengal Excise Bill, 1903	223, 229, 236
Suspended Rules of Business in cases of—	
Bengal Excise Bill, 1903	238
Bengal Public Parks Bill, 1903	226
Bengal Settled Estates Bill, 1903	290

M.

MACPHERSON, HON'BLE MR. W. C.—

Applied for suspension of Rules of Business	30
Bengal Tenancy (Validation and Amendment) Bill, 1902	5, 7, 9, 12, 14, 15
Chota Nagpur Tenancy (Amendment) Bill, 1903	25, 30, 31, 38, 156
Replied to questions regarding the Amalgamation of the Chittagong Division with Assam	3
Ditto ditto Circular issued by the District Magistrate of Mymensingh	136
Ditto ditto Fees for transfer and service of Notice upon Landlords	4
Ditto ditto Landlords' Fees	3
Ditto ditto Police Contributions in Chota Nagpur	218
Ditto ditto Provincial Civil Service Examination	5
Ditto ditto Re-organization of the Provincial Civil Service	217
Ditto ditto Re-organization of the Subordinate Execu- tive Service	136
Ditto ditto Re-organization of the Subordinate Provin- cial Civil Service	5
Ditto ditto Subordinate Judge for Noakhali	136
Ditto ditto Transfer of the Chittagong Division to Assam	213

MAHARAJA OF COSSIMBAZAR. *See* Nandy.

MAHARAJA OF GIDHOUR. *See* Singh.

MAULVI SERAJ-UL-ISLAM. *See* Seraj-ul-Islam.

MEETINGS OF COUNCIL. *See* Council.

MEMBERS. *See* New Members.

MISCONDUCT OF RAILWAY EMPLOYÉS AT ASANSOL STATION. *See* Questions.

MOTOR-CAR BILL. See *Bengal Motor-Car and Cycle Bill, 1903.*

MUKHOPADHYAYA, HON'BLE DR. ASUTOSH—

Asked questions regarding the	Change in the Administration of Orissa Division	34
Ditto ditto	Deputy Magistrates and Pension Rules . . .	50-51
Ditto ditto	Expenditure for Educational Reforms . . .	204
Ditto ditto	Grants to District Boards for Feeder Roads . . .	217
Ditto ditto	Imperial Grant for Educational Purposes . . .	214
Ditto ditto	Munsifs' Residences	146
Ditto ditto	Placing of Government Colleges under "Indian Professors	207-208
Ditto ditto	Provincial Service	50
Ditto ditto	Reduction of Government Scholarships . . .	205-206
Ditto ditto	Re-organization of the Provincial Civil Services . . .	217
Ditto ditto	Transfer of Civil and Criminal Appellate Jurisdiction of Palamau to Gaya	51
Ditto ditto	Tutors employed to teach English and Literature in Colleges in Beugal	190-191
	Bengal Financial Statement for 1903-1904	112
	Bengal Settled Estates Bill, 1903	198
	Bengal Tenancy (Validation and Amendment) Bill, 1902	7, 9, 12
	Chittagong Port Commissioners (Amendment) Bill, 1903	14, 53, 54, 55, 59, 61
	Chota Nagpur Tenancy (Amendment) Bill, 1903	29, 149, 150, 151, 153, 154, 157, 161, 162, 164, 165, 166, 167, 169, 170, 174, 175, 177, 179, 180, 181, 183, 184, 185, 186

MUKHOPADHYAYA, HON'BLE DR. ASUTOSH, APPOINTED TO SELECT COMMITTEES ON —

Bengal Excise (Amendment) Bill, 1903	16
Bengal Motor-Car and Cycle Bill, 1903	26
Bengal Settled Estates Bill, 1903	195, 220
Chota Nagpur Tenancy (Amendment) Bill, 1903	38

MUNSIFS' RESIDENCES. See Questions

N.

NANDY, HON'BLE MAHARAJA MANINDRA CHANDRA, OF COSSIMBAZAR—

Asked questions regarding the Plague Mortality in Calcutta	102-103
Bengal Financial Statement for 1903-1904	110
Bengal Settled Estates Bill 1903	200

NANDY, HON'BLE MAHARAJA MANINDRA CHANDRA, APPOINTED TO SELECT COMMITTEE ON—

Bengal Settled Estates Bill, 1903	195
---	-----

NAWAB OF DACCA See Salimullah.

NEW MEMBERS—

Hon'ble Mr. R. T. Greer (took his seat in Council on the 7th February and 12th December, 1903)	1 & 211
Hon'ble Mr. W. A. Inglis (took his seat in Council on the 7th February, 1903)	1
Hon'ble Rai Tarini Pershad Bahadur (took his seat in Council on the 7th February, 1903)	1
Hon'ble Nawab Bahadur Khwaja Salimullah, of Dacca (took his seat in Council on the 7th February, 1903)	1
Hon'ble Maharaja Sir Rameswar Proshad Singh, Bahadur, of Gidhour (took his seat in Council on the 7th February, 1903)	1

MEMBERS—*conold.*

Hon'ble Mr. L. Hare (took his seat in Council on the 24th February, 1903)	17
Hon'ble Mr. T. K. Ghose (took his seat in Council on the 24th February and 12th December, 1903)	17 & 211
Hon'ble Mr. A. Earle (took his seat in Council on the 21st March, 1903)	43
Hon'ble Mr. L. P. Pugh (took his seat in Council on the 4th April, 1903)	99
Hon'ble Mr. F. A. Slacke (took his seat in Council on the 18th July, 1903)	135
Hon'ble Mr. W. C. Macpherson (took his seat in Council on the 18th July, 1903)	135
Hon'ble Mr. L. P. Shirres (took his seat in Council on the 18th July, 1903)	135
Hon'ble Babu Kali Pada Ghosh (took his seat in Council on the 1st August, 1903)	145
Hon'ble Dr. Asutosh Mukhopadhyaya (took his seat in Council on the 8th August, 1903)	181
Hon'ble Mr. J. T. Woodroffe (took his seat in Council on the 12th December, 1903)	211
Hon'ble Babu Bhupendra Nath Basu (took his seat in Council on the 12th December, 1903)	211
Hon'ble Babu Sahgram Singh (took his seat in Council on the 19th December, 1903)	225

P.

PARKS. See Bengal Public Parks Bill, 1903.

PRESHAD, HON'BLE RAI TARINI, BAHADUR—

Asked questions regarding the Appointment of Members of the Provincial Service to Secretariat Posts		102	
Ditto	ditto	Conveyance of Third-class Passengers on the East Indian Railway	214
Ditto	ditto	Gratuitous Medical Relief by District Boards of Bhagalpur and Patna Divisions	101
Ditto	ditto	Houses of Ill-fame in vicinity of Educational Institutions	49
Ditto	ditto	Inadequate Supply of Water at Bhagalpur	101
Ditto	ditto	Misconduct of Railway Employés at Asansol Station	137
Ditto	ditto	Plague in Bhagalpur	49
Ditto	ditto	Railway Accident near Sonapur	213
Ditto	ditto	Railway or Steam-Tramway at Bhagalpur	100
Ditto	ditto	Removal of Sub-divisional Offices from Rajmahal	49
Ditto	ditto	Re-organization of the Subordinate Executive Service	136
Ditto	ditto	Sub-Deputy Collectors and Pension Rules	102
Ditto	ditto	Superintendent of Stamps and Stationery	137
Ditto	ditto	The Zamindari Dak Cess	101
Ditto	ditto	Waiting-room for Native Ladies at Asansol Station	137
Ditto	ditto	Water-supply along District Board Roads of Hazaribagh and Ranchi	49
Bengal Excise Bill, 1903		235	
Bengal Financial Statement for 1903-1904		115, 116	
Bengal Settled Estates Bill, 1903		197	
Chittagong Port Commissioners (Amendment) Bill, 1903		52, 54, 55, 58, 60, 61, 62	
Ghota Nagpur Tenancy (Amendment) Bill, 1903		147, 150, 152, 154, 158, 159, 160, 161, 162, 163, 165, 167, 169, 170, 171, 172, 173, 174, 175, 176, 178	

PRESHAD, HON'BLE RAI TARINI, APPOINTED TO SELECT COMMITTEES ON—

Bengal Public Parks Bill, 1903	228
Bengal Settled Estates Bill, 1903	195, 230

FILTERING OF PARCELS ON RAILWAYS. See Questions.

PLACING OF GOVERNMENT COLLEGES UNDER INDIAN PROFESSORS. See Questions.

INDEX.

Page

PLAGUE IN BHAGALPUR. *See* Questions.

PLAGUE MORTALITY IN CALCUTTA. *See* Questions.

POLICE CONTRIBUTIONS IN CHOTA NAGPUR. *See* Questions.

POLLUTION OF THE RIVER HOOGHLY. *See* Questions.

PORT COMMISSIONERS. *See* Chittagong Port Commissioners (Amendment) Bill, 1903.

PRESIDENT. *See* Lieutenant-Governor of Bengal.

PROVINCIAL CIVIL SERVICE EXAMINATION. *See* Questions.

PUGH, HON'BLE MR. L. P.—

Chota Nagpur Tenancy (Amendment) Bill, 1903 158, 159, 161, 168, 176

PUGH, HON'BLE MR. L. P., APPOINTED TO SELECT COMMITTEES ON—

Bengal Settled Estates Bill, 1903 195

Chota Nagpur Tenancy (Amendment) Bill, 1903 108

QUESTIONS ASKED IN COUNCIL—

Agricultural Banks (on the 21st March, 1903)	48
Amalgamation of the Chittagong Division with Assam (on the 7th February, 1903)	8
Appointment of Members of the Provincial Service to Secretariat Posts (on the 4th April, 1903)	102
Change in the Administration of Orissa Division (on the 7th March, 1903)	34
Circular issued by the District Magistrate of Mymensingh (on the 18th July, 1903)	186
Conveyance of Third-class Passengers on the East Indian Railway (on the 12th December, 1903)	214
Deputy Magistrates and Pension Rules (on the 21st March, 1903)	50-51
Expenditure for Educational Purposes (on the 21st March, 1903)	46
Expenditure for Educational Reforms (on the 14th August, 1903)	204
Expenditure on Police Reforms (on the 21st March, 1903)	46
Fees for transfer and service of Notice upon Landlords (on the 7th February, 1903)	4
Grants to District Boards for Feeder Roads (on the 12th December, 1903)	217
Gratuitous Medical Relief by District Boards of Bhagalpur and Patna Divisions (on the 4th April, 1903)	101
Houses of Ill-fame in vicinity of Educational Institutions (on the 21st March, 1903)	49
Imperial Grant for Educational Purposes (on the 12th December, 1903)	214
Inadequate Supply of Water at Bhagalpur (on the 4th April, 1903)	101
Income-Tax (on the 12th December, 1903)	216
Landlords' Fees (on the 7th February, 1903)	3, 18
Misconduct of Railway Employés at Asansol Station (on the 18th July, 1903)	137
Munafa's Residences (on the 1st August, 1903)	146
Pilfering of Parcels on Railways (on the 8th August, 1903)	190
Placing of Government Colleges under Indian Professors (on the 14th August, 1903)	207-208
Plague in Bhagalpur (on the 21st March, 1903)	49
Plague Mortality in Calcutta (on the 4th April, 1903)	102-103
Police Contributions in Chota Nagpur (on the 12th December, 1903)	218
Pollution of the River Hooghly (on the 12th December, 1903)	219
Provincial Civil Service Examination (on the 7th February, 1903)	5
Railway Accident near Sonapur (on the 12th December, 1903)	213
Railway or Steam-Tramway at Bhagalpur (on the 4th April, 1903)	100
Recruitment of Female Coolies by Garden Sardars (on the 12th December, 1903)	219
Reduction of Government Scholarships (on the 14th August, 1903)	205-206
Removal of Sub-divisional Offices from Rajmahal (on the 21st March, 1903)	49
Re-organisation of the Provincial Civil Service (on the 12th December, 1903)	217

INDEX.

31
PAGE.

QUESTIONS ASKED IN COUNCIL—*concl'd.*

Re-organization of the Subordinate Executive Service (on the 18th July, 1903)	186
Re-organization of the Subordinate Provincial Civil Service (on the 7th February, 1903)	4-5
Salaries of Ministerial Officers (on the 12th December, 1903)	212
Sub-Deputy Collectors and Pension Rules (on the 4th April, 1903)	102
Subordinate Judge for Noakhali (on the 18th July, 1903)	136
Superintendent of Stamps and Stationery (on the 18th July, 1903)	137
The Bhabuah Sub-division of Shahabad (on the 8th August, 1903)	190
The Chaukidari Act, 1870 (on the 24th February, 1903)	17
The Provincial Educational Service (on the 28th March and 4th April, 1903)	64 & 100
The Provincial Service (on the 21st March, 1903)	50
The Zammdari Dāk Cess (on the 4th April, 1903)	101
Transfer of Civil and Criminal Appellate Jurisdiction of Palamu to Gaya (on the 21st March, 1903)	51
Transfer of the Chittagong Division to Assam (on the 12th December, 1903)	212
Tutors employed to teach English and Literature in Colleges in Bengal (on the 8th August, 1903)	190-191
Waiting-room for Native Ladies at Asansol Station (on the 18th July, 1903)	137
Water-supply along District Board Roads of Hazaribagh and Ranchi (on the 21st March, 1903)	49

R.

RAILWAY ACCIDENT NEAR SONEPUR. *See* Questions

RAILWAY OR STEAM-TRAMWAY AT BHAGALPUR. *See* Questions.

RECRUITMENT OF FEMALE COOLIES BY GARDEN SARDARS *See* Questions.

REDUCTION OF GOVERNMENT SCHOLARSHIPS. *See* Questions.

REMOVAL OF SUB-DIVISIONAL OFFICES FROM RAJMAHAL. *See* Questions.

RE-ORGANIZATION OF THE PROVINCIAL CIVIL SERVICE. *See* Questions.

RE-ORGANIZATION OF THE SUBORDINATE EXECUTIVE SERVICE. *See* Questions.

RE-ORGANIZATION OF THE SUBORDINATE PROVINCIAL CIVIL SERVICE. *See* Questions

RULES OF BUSINESS. SUSPENDED IN CASES OF—

Bengal Excise Bill, 1903	238
Bengal Excise (Amendment) Bill, 1903	16
Bengal Motor-Car and Cycle Bill, 1903	25
Bengal Public Parks Bill, 1903	226
Bengal Settled Estates Bill, 1903	196, 220
Chittagong Port Commissioners (Amendment) Bill, 1903	41
Chota Nagpur Tenancy (Amendment) Bill, 1903	31

S.

SAHAY, HON'BLE BABU CHATURBHOJ—

Asked questions regarding the Agricultural Banks	48
Ditto ditto Expenditure for Educational Purposes	46
Ditto ditto Expenditure on Police Reforms	46
Ditto ditto Provincial Civil Service	5
Ditto ditto Re-organization of the Subordinate Provincial Civil Service	4-5
Bengal Financial Statement for 1903-1904	104, 106
Bengal Tenancy (Validation and Amendment) Bill, 1902	7, 8, 10, 11, 13, 15
Chota Nagpur Tenancy (Amendment) Bill, 1903	39, 149, 151, 153, 155, 160, 170, 173, 182

SAHAY, HON'BLE BABU CHATURBHOJ, APPOINTED TO SELECT COMMITTEE ON—

Chota Nagpur Tenancy (Amendment) Bill, 1903	38
---	----

SALARIES OF MINISTERIAL OFFICERS. *See* Questions.

SALIGRAM SINGH. *See* Singh.

SALIMULLAH, HON'BLE NAWAB BAHADUR KHWAJA, OF DACCA, APPOINTED TO SELECT COMMITTEES ON—

Bengal Motor-Car and Cycle Bill, 1903	26
Bengal Settled Estates Bill, 1903	195, 220

SELECT COMMITTEES—

	Appointed and supplemented.	Report presented.	Report considered.
Bengal Excise Bill, 1903	238
Bengal Excise (Amendment) Bill, 1903	16	19	20
Bengal Motor-Car and Cycle Bill, 1903	25	34	34
Bengal Public Parks Bill, 1903	226, 228
Bengal Settled Estates Bill, 1903	195, 220	209	...
Bengal Tenancy (Validation and Amendment) Bill, 1902	...	5	5
Chittagong Port Commissioners (Amendment) Bill, 1903	41	51	51
Chota Nagpur Tenancy (Amendment) Bill, 1903	38, 103	137	146

SERAJ-UL-ISLAM, HON'BLE MAULVI, KHAN BAHADUR—

Asked questions regarding the Amalgamation of the Chittagong Division with Assam	3
Ditto ditto Circular issued by the District Magistrate of Mymensingh	136
Ditto ditto Fees for transfer and service of Notice upon Landlords	4
Ditto ditto Landlords' Fees	3
Ditto ditto Pilfering of Parcels on Railways	190
Ditto ditto Salaries of Ministerial Officers	212
Ditto ditto Subordinate Judge for Noakhali	136
Ditto ditto The Bhabuah Sub-division of Shahabad	190
Ditto ditto The Chaukidari Act, 1870	18
Ditto ditto The Provincial Educational Service	64, 100
Ditto ditto Transfer of the Chittagong Division to Assam	212
Bengal Settled Estates Bill, 1903	200
Bengal Tenancy (Validation and Amendment) Bill, 1902	10
Chittagong Port Commissioners (Amendment) Bill, 1903	53, 59
Chota Nagpur Tenancy (Amendment) Bill, 1903	146, 147; 149, 150, 151, 155, 157, 158, 163, 164, 169, 171, 172, 176, 177, 179, 184, 185

SERAJ-UL-ISLAM, HON'BLE MAULVI, APPOINTED TO SELECT COMMITTEES ON—

Bengal Excise Bill, 1903	238
Bengal Excise (Amendment) Bill, 1903	16
Chittagong Port Commissioners (Amendment) Bill, 1903	41

SETTLED ESTATES *See* Bengal Settled Estates Bill, 1903.

SHIBBES, HON'BLE MR. L. P.—

Bengal Excise Bill, 1903	236
Bengal Public Parks Bill, 1903	227
Bengal Tramways (Amendment) Bill, 1903	223, 238
Replied to questions regarding Grants to District Boards for Feeder Roads	217
Ditto ditto Income-Tax	218
Ditto ditto Pollution of the River Hooghly	219
Ditto ditto Salaries of Ministerial Officers	212
Ditto ditto the Superintendent of Stamps and Stationery	187

INDEX.

xiii

PAGE

<p>SINGH, HON'BLE MR. L. P., APPOINTED TO SELECT COMMITTEE ON— Bengal Excise Bill, 1903</p>	<p>238</p>
<p>SINGH, HON'BLE BABU SALIGRAM — Bengal Excise Bill, 1903</p>	<p>236</p>
<p>SINGH, HON'BLE MAHARAJA SIR RAVNESWAR PROSHAD, BAHADUR, OF GIDHOUR, APPOINTED TO SELECT COMMITTEES ON— Bengal Public Parks Bill, 1903 Chota Nagpur Tenancy (Amendment) Bill, 1903</p>	<p>228 38</p>
<p>SLACKE, HON'BLE MR. F. A. Chota Nagpur Tenancy (Amendment) Bill, 1903</p>	<p>137, 146, 147, 148, 150, 152, 154, 155, 158, 159, 160, 162, 163, 164, 165, 166, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186</p>
<p>SLACKE, HON'BLE MR. F. A., APPOINTED TO SELECT COMMITTEE ON— Chota Nagpur Tenancy (Amendment) Bill, 1903</p>	<p>103</p>

STATEMENT. *See* Bengal Financial Statement; Business.

SUB-DEPUTY COLLECTORS AND PENSION RULES. *See* Questions.

SUBORDINATE JUDGE FOR NOAKHALI. *See* Questions.

SUPERINTENDENT OF STAMPS AND STATIONERY. *See* Questions.

SUSPENSION. *See* Rules of Business.

T.

TARINI PERSHAD. *See* Pershad.

TENANCY. *See* Bengal Tenancy (Validation and Amendment) Bill, 1902; Chota Nagpur Tenancy (Amendment) Bill, 1903.

THE BHABUAH SUB-DIVISION OF SHAHABAD. *See* Questions.

THE CHAUKIDARI ACT, 1870. *See* Questions.

THE PROVINCIAL EDUCATIONAL SERVICE. *See* Questions.

THE PROVINCIAL SERVICE. *See* Questions.

THE ZAMINDARI DAK CESS. *See* Questions.

TRAMWAYS. *See* Bengal Tramways (Amendment) Bill, 1903.

TRANSFER OF CIVIL AND CRIMINAL APPELLATE JURISDICTION OF PALAMAU TO GAYA. *See* Questions.

TRANSFER OF THE CHITTAGONG DIVISION TO ASSAM. *See* Questions.

TUTORS EMPLOYED TO TEACH ENGLISH AND LITERATURE IN COLLEGES IN BENGAL. *See* Questions.

W.

WAITING-ROOM FOR NATIVE LADIES AT ASANSOL STATION. *See* Questions.

WATER-SUPPLY ALONG DISTRICT BOARD ROADS OF HAZARIBAGH AND RANCHI. *See* Questions.

INDEX

PAGE

WOODROFFE, HON'BLE MR. J. T. (*Advocate-General of Bengal*),

Bengal Excise Bill, 1908	222
Bengal Excise (Amendment) Bill, 1908	20, 21, 22
Bengal Tenancy (Validation and Amendment) Bill, 1908	6, 9, 12, 14

WOODROFFE, HON'BLE MR. J. T., APPOINTED TO SELECT COMMITTEES ON—

Bengal Excise (Amendment) Bill, 1908	16
Bengal Settled Estates Bill, 1908	220

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

THE Council met in the Council Chamber on Saturday, the 7th February, 1903.

Present:

The Hon'ble MR. J. A. BOURDILLON, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. J. T. WOODROFFE, Advocate-General of Bengal.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

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

The Hon'ble MR. R. T. GREER.

The Hon'ble MR. W. A. INGLIS.

*The Hon'ble MR. T. K. GHOSE.

The Hon'ble MAULVI SYED MAHOMED, KHAN BAHADUR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU CHATURBHOJ SAHAY.

The Hon'ble BABU JOY GOBIND LAW, C.I.E.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, OF COSSIMBAZAR.

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble RAI TARINI PERSHAD BAHADUR.

The Hon'ble NAWAB BAHADUR KHWAJA SALIMULLAH, OF DACCA.

The Hon'ble MAHARAJA SIR RAVANESHWAR PRASHAD SINGH BAHADUR, K C.I.E., OF GIDHOUR.

NEW MEMBERS.

The Hon'ble MR. R. T. GREER, the Hon'ble MR. W. A. INGLIS, the Hon'ble RAI TARINI PERSHAD BAHADUR, the Hon'ble NAWAB BAHADUR KHWAJA SALIMULLAH, of Dacca, and the Hon'ble MAHARAJA SIR RAVANESHWAR PRASHAD SINGH BAHADUR, K.C.I.E., of Gidhour, took their seats in Council.

[*The President.*]

STATEMENT OF THE COURSE OF BUSINESS.

The Hon'ble the PRESIDENT made a statement regarding the course of legislative business during the present Session. In doing so, he said:—

“It is, I believe, the practice for the President to make a statement at the first meeting of this Council with regard to the legislative business which will be laid before it in the course of the Session. But it is impossible for me to proceed to that statement without first alluding to the sentiments which, I feel certain, are uppermost in the minds of us all this morning. The last occasion on which this Council met was the 25th of August, 1902, and its deliberations were presided over, we little thought for the last time, by the late Sir John Woodburn. He carried in him at that moment the seeds of the disease which eventually proved fatal, and he presided in much pain and weariness: in doing so he displayed, never more signally, the consideration for others, the devotion to duty, and the unselfishness which were so conspicuous in his character. The Province still deplures and will long deplore his loss, and the Members of this Council who knew him so well will never forget or cease to admire the unfailing tact, fairness and dignity with which he guided its deliberations.

“No very extensive legislation is likely to demand the attention of this Council during the present Session, for the large Bill to consolidate and amend the law in force in Bengal relating to the Excise Revenue, which has been under consideration for some years, is not yet ready to be introduced into Council, and can hardly be ready during the present Session. We shall be engaged rather upon a series of short Bills dealing with matters of less wide application, but still important enough to require legislation and careful attention. These are five in number.

“The first is the Bengal Tenancy (Validation and Amendment) Bill, 1902, which stands against the name of the Hon'ble Mr. Macpherson, and which we propose to consider with the Report of the Select Committee, and perhaps to pass to-day. The second is a short Bill to amend the Bengal Excise Act, 1878, as regards the conditions to be imposed on holders of Excise licenses in Calcutta, more especially in respect of the employment of women. The Hon'ble Mr. Collin is in charge of this Bill, and it is proposed to introduce it and to refer it to a Select Committee. That concludes the business of the Council for to-day.

“On a subsequent occasion, perhaps the 24th of this month, it is proposed to introduce the third and possibly the fourth of the measures on our programme. The first of these is, a short Bill for regulating the use of motor-cars and cycles in streets and public places in Bengal. The second is a Bill to amend the Chota Nagpur Landlord and Tenant Procedure Act of 1879 and the Chota Nagpur Commutation Act of 1897; this may prove to be a difficult piece of legislation, and even if it be possible to introduce it during the present Session, which is not quite certain, there is no probability of the Bill being passed into law till at least the monsoon Session of this Council.

“At the third meeting of the Council to be held early in March, we hope to advance one or two stages, and perhaps pass two of the foregoing Bills, and to introduce the fifth of the new measures of this Session, viz., a Bill to amend the Chittagong Port Commissioners' Act, 1887.

“Later in the season we shall have two meetings of Council: the first to lay on the table the Provincial Budget, and the second to discuss it, and this will probably close the legislative work of the Session. We shall still be left with a Bill to amend the Salt Law, which is now held in abeyance with the large Excise Bill to which I have referred, and with another measure to which much

[*The President; Maulvi Seraj-ul-Islam, Khan Bahadur; Mr. Macpherson.*]

importance is attached by many of the landed aristocracy of Bengal and all who wish them well—I mean the Bill to facilitate the family settlement of estates in Bengal. The last two of these measures are still under the consideration of the Government of India and are not yet ripe for introduction. It is hoped that they may be undertaken in July or August.

“To these tasks, Gentlemen, let us now address ourselves with that spirit of business-like industry which has long animated and characterised this Council.”

QUESTIONS AND ANSWERS.

AMALGAMATION OF THE CHITTAGONG DIVISION WITH ASSAM.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, said:—

Will the Government be pleased to inform the Council whether it is true that the Chittagong Division will, from the 1st April, 1908, be amalgamated with the Province of Assam? If so, will the Government kindly state the reasons that have induced them to order the transfer?

The Hon'ble MR. MACPHERSON replied:—

“The Lieutenant-Governor has no information as to any such proposal having been made since this question was discussed six years ago.”

LANDLORDS' FEES.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, said:—

Will the Government be pleased to inform the Council as to the total amount of landlords' fees realised under sections 12 and 13 of the Bengal Tenancy Act from the date of the passing of the Act down to the end of the last financial year?

Will the Government be pleased to inform the Council as to the amounts now in deposit in the Government Treasuries of the different districts of Bengal on account of the landlords' fees realised under the said sections?

The Hon'ble MR. MACPHERSON replied:—

“At this moment complete information is not available to Government as to the total amount of landlords' fees realised under sections 12 and 13 of the Bengal Tenancy Act from the passing of the Act, or as to the amounts now held in deposit on this account in the different Government Treasuries.

“The Board of Revenue have been asked to furnish information in reply to both the questions put by the Hon'ble Member, and this information, when received, will be laid upon the Council table.

“From the year 1897-98 statements have been annually published in the Board's Land Revenue Report showing the receipts and payments of landlords' fees. An abstract of these statements has been prepared and is laid upon the table for the information of Hon'ble Members.”

[Maulvi Seraj-ul-Islam, Khan Bahadur; Mr. Macpherson; Babu Chaturbhooj Sahaya]

Statement showing the Receipts and Paymen's of Landlords' fees under Sections 12 to 15 of the Bengal Tenancy Act from 1897-98 to 1901-1902 (as furnished in the Board's Land Revenue Reports, for those years).

YEAR.	BURDWAN DIVISION.			PRESIDENCY DIVISION.			RAJSHAHI DIVISION.			DACCA DIVISION.		
	Amount received.	Amount paid out to landlords.	Difference of columns 2 and 3.	Amount received.	Amount paid out to landlords.	Difference of columns 5 and 6.	Amount received.	Amount paid out to landlords.	Difference of columns 8 and 9.	Amount received.	Amount paid out to landlords.	Difference of columns 11 and 12.
1	2	3	4	5	6	7	8	9	10	11	12	13
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1897-1898	6,688	1,513	5,175	8,651	367	8,284	1,484	25	1,459	6,512	289	6,083
1898-1899	5,685	1,594	4,091	8,986	410	8,576	1,597	51	1,546	5,900	95	5,905
1899-1900	17,837	878	16,959	12,578	455	12,123	2,017	80	1,937	9,575	88	9,487
1900-1901	33,749	2,175	31,574	27,871	477	27,394	3,509	102	3,407	22,607	188	22,419
1901-1902	35,014	1,986	33,028	25,964	415	25,549	3,658	58	3,600	26,219	106	26,113

YEAR.	CHITTAGONG DIVISION.			PATNA DIVISION.			BHAGALPUR DIVISION.			TOTAL.		
	Amount received.	Amount paid out to landlords.	Difference of columns 14 and 15.	Amount received.	Amount paid out to landlords.	Difference of columns 17 and 18.	Amount received.	Amount paid out to landlords.	Difference of columns 20 and 21.	Amount received.	Amount paid out to landlords.	Difference of columns 23 and 24.
	14	15	16	17	18	19	20	21	22	23	24	25
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1897-1898	4,026	696	3,330	1,290	279	1,011	1,674	7	1,667	30,125	2,815	27,310
1898-1899	4,007	421	3,586	711	67	644	1,245	33	1,212	27,531	2,650	24,881
1899-1900	6,517	215	6,302	3,141	50	3,091	1,380	102	1,278	53,045	1,860	51,185
1900-1901	21,939	1,770	20,169	13,569	378	13,191	4,015	41	4,074	1,28,159	5,336	1,22,823
1901-1902	27,750	4,611	23,139	16,032	983	15,049	5,319	243	5,076	1,39,376	8,402	1,31,574

FEEs FOR TRANSFER AND SERVICE OF NOTICE TO LANDLORDS.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, asked:—

Is the Government aware that although fees for transfer and service of notice are generally levied, yet as a matter of fact the notices are not served upon the landlords in a large number of cases? Will the Government kindly inquire into this matter?

The Hon'ble MR. MACPHERSON replied:—

“Government has not got precise information on this subject, but an inquiry has been ordered.”

RE-ORGANIZATION OF THE SUBORDINATE PROVINCIAL CIVIL SERVICE.

The Hon'ble BABU CHATURBHOJ SAHAY asked:—

Having regard to the observations made on the 9th April last by the Hon'ble Mr. J. A. Bourdillon, C.S.I., the then Chief Secretary, now presiding at the deliberations of the Council as the Lieutenant-Governor of Bengal, during

[*Babu Chaturbhooj Sahay; Mr. Macpherson.*]

the course of the debate on the Bengal Government Budget for the current year with reference to the re-organisation of the Subordinate Provincial Civil Service, which, to quote the words of the Hon'ble President, "is admittedly at present much depressed," may I inquire—

- (a) if the re-organisation scheme has reached its final stage;
- (b) when it is likely to be published and given effect to?

The Hon'ble MR. MACPHERSON replied:—

"A scheme for the re-organisation of the Subordinate Provincial Civil Service has been submitted to the Government of India, whose orders are awaited."

PROVINCIAL CIVIL SERVICE EXAMINATION.

The Hon'ble BABU CHATURBHOJ SAHAY said:—

Will the Government be pleased to consider the desirability of allowing Sub-Deputy Collectors to compete for the Provincial Civil Service Examination, subject to such restrictions as to age and other points as may be deemed necessary by the Government in the interests of the Service?

The Hon'ble MR. MACPHERSON replied:—

"There are strong objections to allowing candidates who have accepted appointments as Sub-Deputy Collectors to appear again in the examination for Deputy Magistrateships. The Lieutenant-Governor considers that the present practice is preferable, under which promotion to the grade of Deputy Magistrates is given to selected Sub-Deputy Collectors for proved good work in the subordinate grade."

THE BENGAL TENANCY (VALIDATION AND AMENDMENT) BILL, 1902.

The Hon'ble MR. MACPHERSON presented the Report and Supplementary Reports of the Select Committee on the Bengal Tenancy (Validation and Amendment) Bill, 1902.

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

"The changes in the Bill proposed by the Select Committee are set forth in their reports which are in the hands of Hon'ble Members. In the opinions received by us on the Bill as it was introduced in this Council in August, we found a general agreement that it is necessary, not only to validate transfers of shares of permanent tenures and holdings at fixed rents, which have been inadvertently made without payment of the landlord's fee, but also transfers of entire tenures or holdings so made. It is also generally recommended that we should not only set right, as far as practicable, mistakes made in the past, but further declare that mistakes made in the future with regard to omission of payment of the landlord's fee shall not carry so extreme a penalty as invalidation of the transfer. We then came to the conclusion that the best way of meeting the difficulty is broadly and simply to declare that no transfer of a permanent tenure or holding at a fixed rent or share in such tenure or holding shall be invalid merely because a landlord's fee has not been paid. We were strengthened in this conclusion by finding nothing in the discussions which preceded the passing of the Tenancy Act of 1885 to show that the framers of that measure ever contemplated that omission to pay the landlord's fee should lead to forfeiture of a tenure or holding. It is in this view that clause 1 of the amended Bill before the Council has been shaped.

"While proposing, however, to make clear that non-payment of the landlord's fee shall not invalidate a transfer, we thought it necessary to provide the landlord with a speedy means of recovery of the prescribed fee, and this we give to him in clause 2 of the Bill.

[*Mr. Macpherson; Mr. Woodroffe.*]

“It remains for me to draw attention to the proviso and *Explanation* to clause 1 of the Bill which have been framed to meet a serious difficulty. It will be remembered that we are legislating to remedy, so far as lies in our power, unfortunate results of mistakes made by registering officers and by the Courts, and perhaps also it may be said to set right an omission on the part of the framers of the Tenancy Act clearly to express their intention in this matter of payment of transfer fees. But in such a case there is great difficulty in setting back the clock. Transfers have been made and have been declared invalid by the Courts, on the ground that a landlord’s fee has not been paid, and further transfers to third and fourth parties have been made in good faith on the strength of rulings of the Courts. What are we to do in such cases? It may be said that there is a choice of evils; but the greater evil appeared to us to be to set aside decisions of the Court which had become final. It would be more dangerous, we think, to establish such a precedent than it is harmful to leave some unredressed.

“If the Council will bear with me for a moment I will try to explain the dilemma. A tenure-holder *A* has transferred his interest in a tenure by a registered document to *B*. But in consequence of the erroneous orders which for some ten years obtained in the Registration Department, the landlord’s fee has not been received, and *B*’s right, therefore, became insecure. If there has been no litigation our legislation will set things right. But supposing that the Courts have been asked to decide the validity of the transfer, or supposing that they have finally decided, in interpretation of the existing law, that the transfer was invalid because the landlord’s fee was not paid, what remedy should we attempt to provide for this state of things? If we set aside the decisions of the Courts in order to help *B*, we may do wrong to third parties who have relied on those decisions. The Select Committee propose, therefore, to maintain the final decisions of the Courts in such cases. Whatever we do it seems certain that we cannot satisfy every one, and some complications and hard cases must remain. The difficulties of the case have been ably pointed out in two letters written by Babu Akhil Chundra Dutta, a Zamindar and Honorary Magistrate in the Backergunge District, a district which is the special country of the tenure-holder. The *Explanation* added to the proviso in clause 1 is inserted in deference to, and in acceptance of, the views which Babu Akhil Chundra Dutta advocates. But we have not seen our way to accepting his proposals in entirety.

“Before making the motion which stands in my name in the notice paper and without anticipating remarks which the Hon’ble the Advocate-General and the Hon’ble Babu Chaturbhooj Sahay may be about to offer in support of the amendments which stand in their names, I have to add that the Government will accept both the amendments to be moved by the Hon’ble the Advocate-General, and therefore in substance the first amendment standing against the name of my friend, the Hon’ble Babu Chaturbhooj Sahay.

“I now move that the Report and Supplementary Reports be taken into consideration, and that the clauses of the Bill be considered in the form recommended by the Select Committee.”

The Motion was put and agreed to.

Preamble.

The Hon’ble MR. WOODROFFE moved that the Preamble be amended by omitting the words after the word “Whereas” in the first line down to the end of the sixth clause thereof and inserting in lieu thereof the words “doubts and difficulties have arisen respecting the meaning and effect of sections 12, 13, 17, and 18 of the Bengal Tenancy Act, 1885.” He said:—

“There is probably no subject of greater difficulty than the relation of the preamble of an Act to the Act itself. There have been various statements from time to time from the highest judicial authorities in respect of this. It has been said on the one hand that the preamble is the key wherewith to open the Act and shew its object and scope, while later decisions go to shew that a

[*Mr. Woodroffe; Babu Chaturbhooj Sahay; Dr. Asutosh Mukhopadhyaya; Mr. Macpherson.*]

preamble should not be resorted to unless there are doubts and difficulties in the enacting clauses. It seems therefore to me undesirable to afford ground for argument and discussion, seeing that if the preamble is in accordance with the enacting part of the Bill it is useless, and if it is not in precise accordance it may give rise to doubts and difficulties.

“As this amendment has, as I understand, received the assent of the Government, it requires I think no further words from me to support it. It is not usual now in modern legislation to insert these long preambles. Formerly, they were much in fashion, but the difficulties that have arisen in later years have led to the preamble being as short and precise as possible.”

The Hon'ble BABU CHATURBHOJ SAHAY said:—“The Bill is a short one and the Preamble is unnecessarily long. Moreover, the first four of these paragraphs simply reiterate what is contained in sections 12, 13, 17 and 18 of the Bengal Tenancy Act, and paragraph 5 points out the failure on the part of the Registering Officers to take the prescribed landlord's fee before registering transfer of shares in holdings, which failure can be defended by them on the authority of the opinion expressed in 1888 and 1889 by the then Superintendent and Remembrancer of Legal Affairs as pointed out by the Hon'ble Mr. T. K. Ghosh, the present Inspector-General of Registration, in his letter to the Secretary to the Bengal Council, dated the 18th October last. The law as contained in sections 12 and 17 is not going to be changed, nor is any fresh legal authority going to be vested in the Registering Officers. On these grounds I venture to submit that those paragraphs seem to be unnecessary.

“Furthermore, paragraph 6 also, which does not appear in the original Preamble, seems to be unnecessary, as no useful purpose is served by having it, specially when the law imposing upon the Civil Courts the duty of requiring the purchaser or mortgagee acquiring title under section 13 of the Bengal Tenancy Act to pay into Court the landlord's fee is not going to be altered; and as the non-observance of the law in this connection can be well dealt with in the Executive Department by calling the attention of the Officers and Courts concerned to the irregularities complained of, there is hardly any need for this paragraph. The first object of the measure under discussion is to validate the transfers which, on the authority of the High Court ruling in *re Babur Ali versus Krishna Kamini*, reported in I. L. R. 26, Cal., 603, would be otherwise invalid.

“The matters contained in these six paragraphs may well appear in the Statement of Objects and Reasons, and may be left out in the Preamble expunging the initial word ‘and’ from paragraph 7; the rest of the Preamble as published will fully explain the necessity of the present legislation, and that is all that we need in a Preamble. I have only one remark more to offer, and that is that the Preamble is no part of the Statute, so this lengthy Preamble, without in the least sacrificing the principle of the Bill, may be omitted.”

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—“I am entirely in favour of the amendment moved by the Hon'ble the Advocate-General, but I would take the liberty to point out that if this amendment is accepted, it will be necessary to make a slight verbal amendment in the last line of the seventh paragraph of the Preamble, *viz.*, that for the word ‘said’ the words ‘landlord's prescribed’ be substituted.”

The Hon'ble MR. MACPHERSON said:—“I accept the amendment proposed by the Hon'ble the Advocate-General, and also the consequential amendment proposed by the Hon'ble Dr. Asutosh Mukhopadhyaya.”

The amendments were then put and agreed to.

The Hon'ble BABU CHATURBHOJ SAHAY, by leave of the Council, withdrew the motion of which he had given notice that the six first paragraphs of the Preamble and the initial word “and” in the seventh paragraph of the same be omitted as unnecessary.

[*Babu Chaturbhooj Sahay.*]

Clause 1.

The Hon'ble BABU CHATURBHOJ SAHAY moved that after the words "or holding" in the fifth line of paragraph 1 of clause 1 of the Bill, the following words be added:—

"where a share in a holding is transferable by custom."

He said:—"It does not seem that it was ever the intention of the Legislature to recognise by statutory law the transfer of a share in a raiyati holding with a rate of rent or rent fixed in perpetuity. If it had had any such intention it would have, while making by section 18, clause (a), the provisions with respect to the transfer of a permanent tenure applicable to a transfer of a holding at a rent or rate of rent fixed in perpetuity, expressly made a similar provision with respect to transfer of a share in a holding. The argument that the whole includes the part, therefore the provision for transfer of a whole holding includes the provision for transfer of a share, is, I venture to think, fallacious, and is completely met by the circumstance that when the Legislature wanted that transfer of a share in a permanent tenure should be recognized by law, it did not rest content with having enacted only for transfer of a tenure, leaving the law governing the transfer of a share in a tenure to be inferred by the rule of the whole, including the part, but a special section, *viz.*, section 17, was expressly enacted to govern the transfer of a share in a permanent tenure; so with due deference to the learned Judges who held in the case of *Mohesh Chunder Ghose versus Saroda Prosad Sing*, reported in I. L. R., 21 Cal., 433, that sections 17 and 18 of the Bengal Tenancy Act recognise the transfer of a share of a holding I submit that this ruling is not convincing, and so we can approach unfettered the consideration of the question which is not free from doubts and difficulties. If the question were free from doubt, the seventh paragraph of the original Preamble of the original Bill before it was recast in the Select Committee would not have, in spite of the aforesaid ruling, recited that doubts have been expressed as to whether clause (a) of section 18 of the Bengal Tenancy Act applies to shares in the holding of the raiyat. Paragraph 3 of the Statement of Objects and Reasons further fortifies my arguments.

"The definitions of the words 'holding,' 'raiyat,' 'tenure' and 'tenure-holder,' all point to the conclusion that there can be no valid transfer of a share in a holding. I may, with advantage, quote here the following passage from a ruling of the High Court, reported in I. L. R., 25 Cal., 917, in *re Hari Charan Bose versus Runjit Singh*:—

'Holding' means a parcel or parcels of land held by a *raiyat* and forming the subject of a separate tenancy. Does this mean an entire parcel or entire parcels, or may it also include an undivided fractional share of a parcel or parcels of land? Evidently the definition applies only to an entire parcel or entire parcels, and is not intended to include an undivided share in a parcel or parcels, and the reason seems to be obvious. A *raiyat* holding, which from the very definition of a '*raiyat*' in section 5, sub-section (2), means land occupied by a *raiyat* for the purpose of cultivation, can be ordinarily held only in its entirety, and the cultivation of an undivided fractional share of a parcel of land will be ordinarily meaningless. A 'tenure,' on the other hand, which is the interest of a tenure-holder, who, as defined in section 5, sub-section (1), is a person who has acquired a right to hold land for the purpose of collecting rents or bringing it under cultivation, by establishing tenants on it, may relate only to an undivided fractional share in land without leading to any practical difficulty. And it is for this reason that whilst 'tenure' is defined as the interest of a tenure-holder or an under-tenure holder, 'holding' is defined, not as the interest of a *raiyat*, but as a parcel or parcels of land held by a *raiyat* and forming the subject of a separate tenancy.

"Again, the recognition of a transfer of a share in a holding would be a fruitful source of litigation and would tend to embarrass both the landlord and the tenant, which the Legislature ought to try its best to avoid.

"But thinking that fractional shares may be transferable by custom in some places, I respectfully beg to propose that after the words 'in holding' the words 'where share in holding is transferable by custom' be added. The

[*Babu Chaturbhoj Sahay; Mr. Macpherson; Dr. Asutosh Mukhopadhyaya; Mr. Woodroffe.*]

Secretaries to the British Indian Association and Bengal Landholders' Association object to the transfer of a share in raiyati holding being recognized by law."

The Hon'ble MR. MACPHERSON said:—"I am not prepared to advise the Council to accept this amendment. The amendment suggests an interpretation of section 18 of the Bengal Tenancy Act with regard to the transferability of shares in holdings at fixed rates or fixed rents which is not in accordance with the interpretation put upon the section by the High Court in the ruling in the 21st volume of the Law Reports which the Hon'ble Member has read to us. I was not aware of the subsequent ruling contained in the 25th volume which the Hon'ble Member has also cited, and I am not prepared to say what may be the effect of the latter ruling. The Bill as first introduced into this Council contained a clause 3 which proposed to amend section 18 of the Bengal Tenancy Act. The Bill as introduced no longer contains such a clause. As explained in the Select Committee's Report, we considered that it was unnecessary to retain that clause in the view that it is sufficiently clear that section 18 of the Act is covered by section 17 which relates to transfers of shares. The Hon'ble Member's amendment is antagonistic to the interpretation given by the High Court in the earlier ruling which he cited, and it is also antagonistic to the view taken by the Select Committee.

"The amendment proposed by the Hon'ble Member cannot be described as going beyond the scope of the Bill, because the Bill as introduced proposed a declaration of the law on this very point of the transferability of shares of holdings, but our declaration was to have been in a sense very different to that proposed by the Hon'ble Member. The provisions of the existing law say nothing at all about custom in this connection. Custom decides the question of transferability of occupancy holdings, but that is a matter quite different from the question of the transferability of holdings at fixed rates and fixed rents, which is now before the Council. For these reasons I shall vote against the amendment."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I regret I cannot support the amendment moved by my hon'ble friend, Babu Chaturbhoj Sahay. In the first place it seems to me that the amendment is absolutely unnecessary. The section, so far as it relates to the matter now before us, says that 'no transfer of any share in a holding shall be deemed to be invalid merely on the ground that the landlord's fee prescribed by the said sections 12 or 13 has not been paid.' That is to say, if it is invalid on any other ground, it will be so in fact. The only question about which we are now legislating is the payment or non-payment of the landlord's fee. My learned and hon'ble friend apprehends that if the Bill is passed into law as it now stands, it may be argued that the transfer of a share in a holding is permissible. I submit that no such inference can be properly drawn, because all that we say is negatively that such transfer is not invalid merely by the omission of the payment of the landlord's fee.

"In the second place, it seems to me that it would be dangerous to accept the amendment on other grounds. My learned and hon'ble friend wishes to put in these words 'where a share in a holding is transferable by custom.' But suppose a share in a holding is transferable by contract? Suppose that in a number of leases, in the case of tenants of holdings at fixed rates and fixed rents, the contract provides that shares in the holding may be transferred, are we to say that such a transfer is not to be allowed? Why assume that a share in a holding is transferable only by custom and not otherwise?

"I submit therefore that the amendment is absolutely unnecessary, and that if we accept it we may be led into difficulties which we do not foresee at the present moment."

The Hon'ble MR. WOODROFFE said:—"I do not think, for the reasons which have been mentioned by the Hon'ble Dr. Asutosh Mukhopadhyaya, that the amendment is necessary; nor do I understand from what has fallen from the

[*Mr. Woodroffe; Mr. Gupta; Maulvi Seraj-ul-Islam, Khan Bahadur; Babu Chaturbooj Sahay.*]

Hon'ble Mover that the decision that was given in the case of Mohesh Chunder Ghose *versus* Saroda Prosad Sing has been reversed or dissented from in the latter ruling. No doubt, as pointed out by the Hon'ble Mr. Macpherson, it cannot be said that the matter is absolutely alien to the Bill as it at present stands; but seeing that the first paragraph simply deals with the difficulty or supposed difficulty arising from non-payment of the landlord's prescribed fees, that the Act expressly provides for the maintenance of section 88, and that it is not proposed to deal with any subsequent portion of the Act relating to the transfer of shares in holdings, I think that it is unnecessary and alien to the real scope and bearing of this Bill to introduce this amendment."

The Hon'ble MR. GUPTA said:—"I entirely agree with the observations which have fallen from the Hon'ble the Advocate-General and also from the Hon'ble Dr. Asutosh Mukhopadhyaya. I quite agree with them in thinking that this amendment is unnecessary and may lead to complications and unnecessary difficulties in construing other sections of the Act. I think the Hon'ble Mover of this amendment has overlooked the force of the word 'merely' which was put by the Select Committee (at least I am not sure if it was on the original draft), and also the force of section 88 of the Tenancy Act which sufficiently protects the landlord against division of the tenure or holding.

"Then there is this question, that in any case the Registrar before whom such a deed is presented for registration will be bound to register, and he will not be bound to enter into the question as to whether it is transferable by custom or not. We merely do this: where the Registrar who has registered a deed has by oversight omitted to take the registration fees, this Bill simply enacts that such omission as such will not invalidate the transfer. So since a Registrar is bound to register a deed we make provision only as to the effect of the omission to levy the prescribed fee, leaving the general provisions of the Act and the general law of the country as it stands. Whether a share is transferable or not is unaltered by this Bill. With regard to that ruling on section 18, if that ruling is not correct, it may afterwards be overruled by a Full Bench, or it may be differed from by another Bench of the High Court, but I do not think we should be justified in taking upon ourselves the responsibility of going counter to that ruling, nor does this Bill in any way affect the construction of section 18 as regards the non-payment of landlord's fee."

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, said:—"I also think that this amendment is not only unnecessary, but that it will raise some difficulty. What the Hon'ble Mover is anxious to secure is already met by section 88 of the Tenancy Act, which says that the landlord is not bound to recognise the transfer of any holding or tenure or any sub-division of any holding or tenure. Secondly, it appears to me, as several Hon'ble Members have remarked, that the scope of the Bill is limited. This Bill simply says that the non-payment of fee is not sufficient to invalidate a transfer, and if a transfer is otherwise invalid, this Bill will not make it valid. The Hon'ble Mover is labouring under one misapprehension. This Bill does not deal with occupancy holdings; it deals with holdings which are superior to occupancy holdings. It is a question, and a moot question, whether such holdings which are permanent holdings and on which rent is fixed in perpetuity are transferable by custom. Now if the amendment is accepted, instead of getting rid of the difficulty, we will complicate matters more. If we accept the amendment, it will indicate that the holding is transferable irrespective of custom. I submit that the amendment is unnecessary and that it will also create further difficulty."

The Hon'ble BABU CHATURBOOJ SAHAY in reply said:—"I feel the weight of authority pressing against me, but after considering the importance of the subject, I think that the views I have given expression to in my first address should be made known to the Council both in the interests of landlord and tenant.

"That there might be cases where a share in a holding may be transferred by contract as suggested by my learned and hon'ble friend Dr. Asutosh Mukhopadhyaya, I quite admit. Therefore, the proper thing to do would be not to

[*Babu Chaturbhooj Sahay; Mr. Gupta.*]

oppose my amendment on that ground, but to insert the words 'by custom or contract.' Moreover, a case of contract would be covered by section 88 of the Bengal Tenancy Act.

"Then section 88 has been quoted by several hon'ble speakers who have opposed the amendment, and who say that it gives a sufficient remedy. I am quite aware that section 88 provides that unless the consent in writing of the landlord is obtained there can be no splitting up of a tenure or holding or *jama*. But there are cases of transfers, legal or illegal, where notices are sent by the Collector to the landlord who is bound under the existing law to make such transferee a party along with the original registered tenants. This will add, according to my humble view, to the difficulties of the landlord in obtaining a decree for rent. The transferee in question may be a wicked person and may throw some sort of obstacle in the way of the landlord in his getting rent and so forth; and therefore I submit that the proposal I have made in the interests of both landlord and tenant should not be negatived on the grounds mentioned by the Hon'ble Members who have opposed the motion."

The Motion was then put and lost.

The Hon'ble BABU CHATURBHOOJ SAHAY also moved that the following proviso be added after the word "Act" in the second paragraph:—

"Provided also that the provisions of this section shall not prejudicially affect the rights of third persons with respect to any tenure or holding acquired *bona fide* before the validation of the transfer of such tenure or holding by the operation of this Act."

He said:—"The necessity for this amendment is that there may be cases where tenure-holders or raiyats holding at rents or rates of rents fixed in perpetuity, relying upon the decision of the High Court in the case of Babur Ali *versus* Krishna Kamini Debi, may have subsequently sold away or mortgaged their tenures or holdings to third persons who may have purchased the same in good faith for valuable consideration in the honest belief that the previous transfer was judicially declared invalid or would be invalid on the strength of the said decision of the High Court. In order to protect the interests of this class of innocent purchasers for value, in which expression I include mortgagees as well, I beg to move this amendment which, I trust, will meet with the approbation of the Hon'ble Members of the Council."

The Hon'ble MR. GUPTA said:—"I am obliged to oppose this amendment chiefly on the ground that it would be speculative legislation and a leap in the dark. We should not know what rights we might not upset if we accept it. I fully appreciate the object with which it is moved, namely, that *bona fide* purchasers for value should not be put to loss. To put it briefly, my position is this. The rights of these third parties whom it is intended to protect either flow from a decree, or they do not flow from a decree. If they do not flow from a decree, they are protected by the first clause. If they flow from a decree, they are protected by the first proviso. The only case which my hon'ble friend seems to contemplate is, that where believing that such transfer is invalid certain parties have made purchases, and afterwards this transfer is validated. I should very much have liked him to give us a concrete case exactly in point so that we might have met it or considered it in detail. Let us suppose such a case as he has mentioned. Suppose A has already transferred one-fourth of his share to B without paying the landlord's prescribed fee. Then after the High Court's decree A thinks that he is safe and that his transfer to B is invalid, and therefore sells the same share to C, this time after paying the landlord's fee. Then the effect of the amendment proposed by the Hon'ble Babu Chaturbhooj Sahay is that C who is a *bona fide* purchaser for value would be protected. But on the other hand the rights of B will be lost, which but for this amendment would be established. So that by this attempt to protect the rights of third parties whom we know nothing about, we may be upsetting the rights of other parties, and therefore I say we should be taking a leap in the dark and jeopardising the rights of second and may be fourth parties

[*Mr. Gupta; Mr. Woodroffe; Dr. Asutosh Mukhopadhyaya;
Mr. Macpherson.*]

in trying to protect these third parties. There are instances in our law where a *bonâ fide* purchaser is not protected. For instance, *A* sells his property without registration to *B*, accepts value and puts *B* in possession. He then sells the same property to *C* with registration, but cannot give him possession because *B* continues in possession. It has been held by a Full Bench that *C*'s right will prevail over *B*'s. This is an instance where a *bonâ fide* purchaser for value is not protected by law. In a system of law some hard cases must occasionally arise.

"In the present case I feel that the grounds urged in support of the amendment are very uncertain, and in trying to legislate to protect the rights of persons about whom we do not know anything, we may be unwittingly jeopardising the rights of others."

The Hon'ble MR. WOODROFFE said:—"One or two observations occur to me. Either a transfer has had the sanction of Court, or it has not. If a transfer is deemed to be invalid merely by reason of the fee not being paid he is protected by the first clause. If on the other hand there has been a decree, then the exception to the proviso I venture to think sufficiently provides the matter. Under any circumstances it appears to me, as it appears to the Hon'ble the Legal Remembrancer, that by accepting this amendment we should be making a leap, and a very long leap, in the dark."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The question raised by the Hon'ble Mover of the amendment is not wholly free from difficulty. After the best consideration which I have been able to give the matter, I think it ought not to be accepted, and for this reason. If accepted, it will lead to a great deal of mischievous litigation. Take the concrete case put by the Hon'ble Mr. Gupta. *A* is a tenant who sells his tenure to *B*, but the landlord's fee has not been paid. Then he comes to know of this decision of the High Court. He says: 'Although I have taken *B*'s money, the transfer is invalid, and I may endeavour to cheat *B*. I will sell the property again to *C*.' *C* seeing that the property has already been sold to *B*, but finding that there is an informality which may invalidate the transfer, says: 'I will pay my money to *A* and take a transfer.' If he chooses to inquire in the Registry Office he will see that there has been a previous transfer in favour of *B*. By virtue of this Act the transfer in favour of *B* is validated. My hon'ble and learned friend says: '*C* is a *bonâ fide* purchaser for value and ought to be protected.' I confess I have very little sympathy with *C*. At any rate it would be a choice between two difficulties—either *B* or *C* must lose. If *C*, knowing that there has been a prior transfer to *B*, chooses to throw away his money, he has only to thank himself.

"If you accept the amendment, what will be the effect? In every case there will be a fight between *B* and *C*. *B* will say *C* is not a *bonâ fide* purchaser. *C* will say I am a *bonâ fide* purchaser, and probably it will be decided that *C* is or is not a *bonâ fide* purchaser. Then the other man will bring an action against the transferor to recover his money. I think it is not necessary to have this amendment."

The Hon'ble MR. MACPHERSON said:—"The Hon'ble Member's amendment represents that portion of the recommendations of Babu Akhil Chundra Dutta which I mentioned that the Select Committee were not able to accept. I said that we were able to accept a part of those recommendations, and the remainder is what the Hon'ble Member's amendment would insert in the Bill. I had come to Council with a somewhat open mind on this matter and had hoped with the Hon'ble the Legal Remembrancer that the Hon'ble Mover would have given us a concrete case showing how his proposed amendment would work in the case of persons affected who have given valuable consideration for a transfer. In the absence of explanation of a concrete case, and not being able to foresee in what way parties may be affected if the amendment should be accepted,—because there may be completely different sets of transactions to be considered—I shall feel it incumbent on me to vote against the amendment."

[*Babu Chaturbhooj Sahay.*]

The Hon'ble BABU CHATURBHOJ SAHAY in reply said:—"I anticipated little difficulty in being able to carry this amendment, but it appears that I was wrong. I would like to make my views clear in order to meet some of the arguments urged by the gentlemen who opposed my amendment. The first remark I shall deal with is, that I have failed to give a concrete case and therefore the amendment cannot be well attended to. I submit that the business of the Legislature is to take a comprehensive view and to provide not only for present cases but also for cases that may crop up in the future. We cannot undertake to legislate for each case as it arises. We must see ahead whether a case like this is possible or not.

"The point I wish to make clear to Hon'ble Members of Council is this: when in the year 1899 the decision in the case of Babur Ali *versus* Krishna Kamini Debi was published, it was well known to the general public that a transfer without payment of the landlord's fee was invalid by reason of that ruling. We have undertaken to cure that defect in the year 1903. So between 1899 and the present date the general impression of the public has been that a transfer without payment of the landlord's fee is invalid.

"Take this concrete case which, though it may not have happened, is quite an intelligible case. Let us suppose that *A* transfers his holding to *B* in the year 1898. In the year 1899 the case of Babur Ali appeared. Just after that *A* came to know that the transfer made by him to *B* is invalid by reason of the fee not having been paid. He then sold to *C* the same property by receiving consideration for the same, the prescribed landlord's fee being paid. One of the remarks made by the Hon'ble Dr. Asutosh Mukhopadhyaya was, that this was in order to cheat *B*. I fail to understand the force of this remark, for the simple reason that as the transfer to *B* was invalid, he, *i.e.*, *A* was *ex hypothesi* perfectly at liberty to sell his property to any one he liked. The element of cheating is absolutely absent, so far as my humble judgment leads me to see. Then *C* acquires the property, and in this case let us suppose he has acquired possession as well. Now in 1903 we are going to disturb his possession by passing this Act and hand the property to *B*. This case does not come under any decree or provision that has been pointed out by the Hon'ble the Legal Remembrancer. Of course if it had been the case of a decree, it would have been covered by the *Explanation* which has been attached to the first proviso. This is quite true, but the case I have put is quite independent of any case covered by the first proviso or by the *Explanation*. The first proviso says: 'Provided that, subject to the *Explanation* following, nothing in this section shall be held to affect the decision of a Court of competent jurisdiction which has become final before the commencement of this Act.' That is to say, that if a transfer has been judicially declared invalid, this Act will not be able to help that party whose transfer has been so judicially declared. But in my case that has not been invalid at all. When the first transfer fell through, the second transfer took place without any object of injuring any party, because at that time no intermediate rights were existing.

"It is said that such transactions should not be supported. As for the right of *B*, the first transferee, to recover his purchase-money, both in cases of execution sales and private conveyances, I fail to understand that notwithstanding the invalidity of the transfer from 1899 to January, 1903, how he has been keeping quiet without stirring in the matter and without trying to recover his purchase-money. We are discussing the rights of third persons who must be innocent parties and *bona fide* purchasers for value. I submit, Sir, that a case like this deserves the most careful consideration of the Council. Of course if the document itself be invalid on any other ground, such as want of registration, &c., this clause that I am proposing will not help at all. Of course I am taking for granted that the transfer is otherwise valid and has become invalidated only because the first transfer has now been validated by the operation of this Act."

The Motion was then put and lost.

The Hon'ble BABU CHATURBHOJ SAHAY remarked that there was no need of pressing the following amendment standing in his name, as his point

[*Babu Chaturbhooj Sahay; Mr. Woodroffe; Mr. Macpherson.*]

was covered by the *Explanation* subsequently attached to clause 1 of the Bill:—

“The benefit of the first proviso of this paragraph shall not be extended to the decision of a competent Court dismissing a suit for rent on the ground that no relationship of landlord and tenant exists by the circumstance of the landlord’s fee not having been paid.”

Clause 2.

The Hon’ble MR. WOODROFFE moved that clause 2 be amended by inserting the words “or may hereafter be” between the words “been” and “left.” He said:—

“It was explained to the Council by the Hon’ble Member in charge of the Bill that this Act is intended not merely to validate matters which have passed, but also to safeguard the possibility of mistakes in the future. Now since the words ‘has been’ might be taken to refer simply to the past, I move that these words ‘or may hereafter be’ be inserted. Assuming this amendment accepted, I ask leave to make some other verbal amendments which are consequential thereon. They are:—That in the second paragraph of the same section, to strike out the words ‘by which’ and substitute the word ‘effecting,’ and delete the last two words ‘was effected’; and in the fourth paragraph, to insert the words ‘or may hereafter be’ between the words ‘been’ and ‘made,’ in order to make this section applicable quite clearly to cases either in the past, or in the future. Although it seems to me that subsequent mistakes would in all probability be held to come within the operation of the Act, I ask permission to add these words in order to avoid all possibility of discussion.”

The Hon’ble MR. MACPHERSON said:—“I accept the several amendments proposed by the Hon’ble the Advocate-General.”

The Motions were put and agreed to.

The Hon’ble MR. MACPHERSON said:—“I ask permission, under rule 22 of the Rules of Business, to bring forward an amendment which is not in the notice paper. I propose that in the penultimate line of clause 2, after the words ‘the Collector shall realise such fee’ the words ‘if still unpaid’ be inserted. The object of inserting these words is to make it clear that the Collector is not bound to realise the fee without giving an opportunity to the tenant to show that it has been paid.”

The Motion was put and agreed to.

The Hon’ble MR. WOODROFFE said:—“If I am in order, I should like with the President’s permission to move the following amendment that after the words and figures “Bengal Tenancy Act, 1885,” in the Preamble of the Bill as settled in Council, the words “as regards the payment of the prescribed landlord’s fee, and the effect of the non-payment of such fee” be added.

“The reason why I trouble the Council with this amendment at this stage is to make it clear, with reference to the arguments that have preceded this, that the whole scope and intention of this Act is limited to the question of the payment or non-payment of the landlord’s fee. If these words that I propose to add to the first clause of the amended Preamble meet with the approbation of the Council, they will, I venture to think, remove to a considerable extent the difficulty which the Hon’ble Babu Chaturbhooj Sahay has suggested during the course of his arguments.”

The Hon’ble MR. MACPHERSON said:—“I accept the amendment. The object of the Hon’ble the Advocate-General’s amendment is merely to define more clearly the scope and purposes of this Act.”

[*Babu Chaturbhooj Sahay; Mr. Macpherson; the President; Mr. Collin.*]

The Hon'ble BABU CHATURBHOJ SAHAY said:—"I have pleasure in supporting the amendment."

The Motion was then put and agreed to.

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

The Hon'ble the PRESIDENT said:—"Under rule 44 of the Rules of Business if any amendment be moved of which due notice has not been given, it is open to any Hon'ble Member to object to the passing of the Bill at the same meeting. Does any Hon'ble Member desire to move any amendment or to raise any objection?"

No objection having been raised, the Motion that the Bill be passed was then put and agreed to.

THE BENGAL EXCISE (AMENDMENT) BILL, 1903.

The Hon'ble MR. COLLIN moved for leave to introduce a Bill to amend the Bengal Excise Act, 1878. He said:—

"I will explain briefly the history and object of the measure. It is called a Bill to amend the Excise Act, but it is more properly an Explanatory Bill, as it merely recites provisions which are already in force under the existing law.

"Section 28 of the Excise Act empowers the Board of Revenue in general terms to regulate the form and conditions of all licenses in need for the sale of exciseable articles. This section was taken from the old Excise Act of 1856, which was passed when there was perhaps greater confidence in the Executive than at present. The tendency of modern legislation, however, has been to curtail the power of the Executive by defining in the Acts the subjects on which rules may be made, and a general empowering clause, such as that of section 28 of the Bengal Excise Act, is now seldom found. It is doubtful whether the old system or the new is the better; but, however that may be, it appears that under the general authority given by section 28, the Board has from time to time, when issuing licenses, imposed without objection such conditions as appeared necessary to secure the orderly management of licensed houses, and to carry out the policy of Government for the restriction of the consumption of liquors. They have imposed conditions that liquor shall be obtained from certain sources and be sold at certain places. Licensed vendors are required to set up signboards over their shops and to keep accounts of their sales. They are forbidden to sell except at certain hours, and they are not allowed to sell at all to certain classes, as, for instance, European soldiers. They cannot transfer their licenses or sublet their shops.

"These conditions have, as already explained, been imposed under the general provisions of section 28 of the Excise Act, and the authority to do so would probably never have been questioned had it not been found expedient two years ago to interfere with the practice of employing females for the sale of liquor which had then become unduly prevalent in Calcutta. It is not necessary to enter into the details of the controversy which arose on this subject. It is sufficient to say that it was found that there were over 30 women employed in the bars of Calcutta licensed houses, and that the object of their employment was to attract customers and to stimulate the consumption of liquor. The policy of Government is, however, to restrict the consumption of liquor to the lowest point compatible with the supply of legitimate demands, and it was in pursuance of this policy necessary to take action to stop these irregular methods of stimulating consumption and encouraging people to drink, and to do so at once before the evil had become established. These were the reasons, from an Excise point of view, which led to the exclusion of women from the bars of Calcutta.

[*Mr. Collin ; the President.*]

“There were other objections on administrative grounds to the employment of women in such duties which will occur to every Member of this Council, and it is not necessary now to state them. When the orders were passed, it was suggested that they were not covered by the provisions of the Excise Act. Government, however, did not derive its authority solely from that Act. The Calcutta Police Act of 1866 gives special powers in respect of the licensed houses of the town, and under section 37 of that Act it is open to the Government to fix conditions when issuing licenses for the regulation of such houses and for the prevention of drunkenness and disorder in places of public entertainment. This section, therefore, was a sufficient authority for Government to forbid the employment of women, whose services admittedly increased the consumption of liquor, and thus tended to lead to drunkenness and disorder.

“It is, however, inconvenient to take action in such a matter under the Police Act, and it has, therefore, been thought advisable to add a provision to the Excise Act so as to remove all uncertainties and to show clearly what conditions may be attached to Excise licenses. The clause which it is proposed to add to the Act recites all the subjects on which conditions have been enforced, and which have hitherto been accepted without demur by licensed vendors. The exclusion of women met at first with some opposition from licensed vendors, who complained that their profits would be reduced, but effect has been given to the orders during the last year.

“In section 3 of the Bill a small addition is made to section 67 of the Act, in order to prevent licensed shops from being used as a meeting place for persons of notoriously bad character. This provision has for years been inserted as one of the conditions of a license, and no objection has been made to it. It is obviously a proper condition, and it is thought desirable to embody it definitely in the Act. I ask, Sir, for permission to introduce the Bill which is in the hands of the Hon'ble Members.”

The Motion was put and agreed to.

The Hon'ble MR. COLLIN also applied to the President to suspend the Rules of Business for the purpose of introducing the Bill and referring it to a Select Committee.

The Hon'ble the PRESIDENT having declared the Rules suspended, the Hon'ble Mr. Collin introduced the Bill and moved that it be read in Council.

The Motion was put and agreed to.

The Bill was read accordingly.

The Hon'ble MR. COLLIN also moved that the Bill be referred to a Select Committee consisting of the Hon'ble Mr. Buckland, the Hon'ble Mr. Gupta, the Hon'ble Mr. Woodroffe, the Hon'ble Dr. Asutosh Mukhopadhyaya, the Hon'ble Mr. Elworthy, the Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur, and the Mover, with instructions to report on the 16th February next.

The Motion was put and agreed to.

The Council adjourned to Tuesday, the 24th February, 1903.

CALCUTTA ;
The 24th February, 1903. }

J. G. MORISON,
Offg. Secretary to the Bengal Council, and
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

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

The Council met in the Council Chamber on Tuesday, the 24th February, 1903.

Present:

The Hon'ble MR. J. A. BOURDILLON, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. J. T. WOODROFFE, Advocate-General of Bengal.

The Hon'ble MR. L. HARE, C.I.E.

The Hon'ble MR. W. C. MACPIERSON, C.S.I.

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

The Hon'ble MR. R. T. GREER.

The Hon'ble MR. W. A. INGLIS.

The Hon'ble MR. T. K. GHOSE.

The Hon'ble MAULVI SYED MAHOMED, KHAN BAHADUR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU CHATURBHOOJ SAHAY.

The Hon'ble BABU JOY GOBIND LAW, C.I.E.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar.

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble RAI TARINI PERSHAD BAHADUR.

The Hon'ble NAWAB BAHADUR KHWAJA SALIMULLAH, of Dacca.

NEW MEMBERS.

The Hon'ble MR. L. HARE, C.I.E., and the Hon'ble MR. T. K. GHOSE took their seats in Council.

[*Maulvi Seraj-ul-Islam, Khan Bahadur ; Mr. Hare ; Mr. Collin.*]

QUESTIONS AND ANSWERS.

THE CHAUKIDARI ACT, 1870.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, asked :—

Is the Government aware that the operation of the Chaukidari Act, 1870 (Bengal Act VI of 1870), is attended with great hardship and oppression upon the poor tax-payers in all the districts of Bengal, and specially of Eastern Bengal? Will the Government be pleased to call upon the District Officers to inquire into the matter and report?

The Hon'ble MR. HARE replied :—

“The Hon'ble Member has not stated in what direction and in what respects the operation of the Chaukidari Act is hard and oppressive. On the other hand, from the evidence before Government, it would appear that the working of the Act is generally approved. As no specific allegations have been made, and as the whole question of chaukidari administration is being considered by the Police Commission, the Lieutenant-Governor sees no necessity for calling for a special report on the subject from District Officers.”

LANDLORDS' FEES.

The Hon'ble MR. COLLIN, in continuation of the answer given to Questions Nos. II and III of the Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, at the Council Meeting of the 7th February, 1903, said :—

“The Board of Revenue have now furnished a statement showing, as far as information is available, the amount of landlords' fees realized under the Bengal Tenancy Act up to the end of the last financial year, and the amount now held in deposit in the several District Treasuries. A copy of this statement is laid upon the table for the information of Hon'ble Members. Information in respect of the districts of the Chittagong Division has not yet been received. When received, it will be laid upon the Council table. Such fees are not realized in the districts of the Orissa and Chota Nagpur Divisions.”

Statement showing the amount of Landlords' fees realized under the Bengal Tenancy Act up to the end of the financial year, 1901-1902.

DIVISION.	District.	LANDLORDS' FEES.		REMARKS.
		Realized.	Held in deposit.	
		Rs.	Rs.	
BURDWAN	Burdwan ...	34,406	23,372	From 1891 to 1901-1902.
	Birbhum ...	6,293	2,232	
	Bankura ...	32,991	10,477	
	Midnapore ...	35,397	27,845	
	Hooghly ...	87,189	61,746	
PRESIDENCY	24-Parganas ...	92,417	73,302	Include amounts under sections 14 and 15 also.
	Nadia ...	19,465	16,948	
	Murshidabad ...	12,966	8,206	Include amounts realized under sections 14, 15 and 18 (a).
	Jessore ...	25,998	23,192	
	Khulna ...	32,802	28,422	

[Mr. Collin.]

DIVISION.	District.	LANDLORDS' FEES.		REMARKS.
		Realized.	Held in deposit.	
		Rs.	Rs.	
RAJSHAHI	Rajshahi ...	2,808	2,171	
	Dinajpur ...	5,177	3,003	
	Jalpaiguri ...	127	114	
	Rangpur ...	7,745	3,050	
	Bogra ...	2,904	2,089	
	Pabna ...	9,305	9,210	
DACCA	Dacca ...	16,544	12,383	Approximate figures. Include amounts under sections 14 and 15 also.
	Mymensingh ...	16,161	15,654	
	Faridpur ..	22,547	18,14	
	Backergunge	99,776	93,821	
PATNA	Patna ...	4,884	3,076	From 1887-88 to 1901-1902.
	Gaya ...	10,448	7,404	
	Shahabad ...	21,894	11,756	From 1899-1900 to 1901-1902.
	Saran ...	4,953	4,306	
	Champanan ...	6,649	4,407	
	Muzaffarpur	10,856	5,530	
	Darbhangha ...	11,242	6,515	From 1886-87 to 1901-1902.
BHAGALPUR	Monghyr ...	13,169	10,718	
	Bhagalpur ...	11,868	8,972	
	Purnea ...	2,989	1,979	From 1891-92 to 1901-1902.
	Malda ...	3,322	2,651	

FEES FOR TRANSFER AND SERVICE OF NOTICE UPON LANDLORDS.

The Hon'ble MR. COLLIN, in continuation of the answer given to Question No. IV of the Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, at the Council Meeting of the 7th February, 1903, said:—

“From a report received from the Board of Revenue, it appears that notices under sections 12, 13 and 15 of the Bengal Tenancy Act, for the service of which fees are levied under those sections, are generally served either on the landlords personally, or at their residences or cutcherries.”

THE BENGAL EXCISE (AMENDMENT) BILL, 1903.

The Hon'ble MR. COLLIN, in presenting the Report of the Select Committee on the Bill to amend the Bengal Excise Act, 1878, said:—

“It is not necessary to explain at any length the changes which have been made in the Bill. The amendment of the Act proposed in clause 7 of the Bill requires, however, a word of explanation. As I stated when introducing the Bill, orders were passed in 1901 which were intended to prohibit the employment of women in licensed houses. These orders prohibited their employment in the sale of liquor; but the Select Committee have ascertained from various sources, and especially from the Commissioner of Police, Calcutta, who was good enough to attend one of their meetings, that the intention of the orders had been evaded by the employment of women in licensed houses in other ways, which did not come within the strict letter of the prohibition. These women are employed in order to attract customers and to encourage the consumption of liquor. It is only in a few houses that they are found, and in these houses the consumption of liquor is much greater than where no women are allowed. The Select Committee have therefore, after very careful consideration, found it necessary to add a specific section to the Act in order to effect the object of the present legislation.

[*Mr. Collin; Mr. Woodroffe.*]

“They have at the same time recognized that there are posts in hotels and other houses of a similar character where women can be employed without objection, and they have left such cases to be dealt with by the Board of Revenue. The other amendments are sufficiently explained in the Report of the Select Committee. We have had the advantage of the advice of the Hon'ble the Advocate-General in framing this Bill, and the Select Committee is greatly indebted to him for the keen interest which he has taken in the matter. It is hoped that with the further amendments which the hon'ble gentleman proposes to introduce, and which I am prepared to accept, the Bill will be complete and effective for the purpose for which it has been introduced.”

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

The Motion was put and agreed to.

Clause 2.

The Hon'ble MR. COLLIN also moved that in clause 2 of the Bill, as amended by the Select Committee, for the words “said Act” the words and figures “Bengal Excise Act, 1878,” be substituted.

He said :— “This is merely a verbal amendment.”

The Motion was put and agreed to.

Clause 7.

The Hon'ble MR. WOODROFFE moved that in line 3 of clause 7, before the word “employ” the words “during the hours in which his licensed premises may be kept open” be inserted. He said :—

“The Report of the Select Committee shows that it was of opinion that the employment of women was generally undesirable in licensed drinking shops as tending to lead to excess of drinking and other evils. The Select Committee, as has already been pointed out to Council, had the advantage of hearing the Commissioner of Police, and from his statement it was apparent that much evil results from the employment of women, in one capacity or another, in the public rooms.

“It is not of course the intention of the Legislature altogether to prohibit the employment of women in the liquor trade, which is a lawful and legitimate trade, otherwise it would not be sanctioned by the Government of this or of any other civilised country, but to prevent their being employed in such a manner as to endanger the best interests of the public. That intention will be best given effect to by the insertion of the words ‘during the hours in which his licensed premises may be kept open’ before the word ‘employ.’ The owners of licensed premises will thus be enabled to employ women at their premises at any time, save the hours in which his licensed premises may be kept open, and at the same time it will be made apparent that there is no intention on the part of the Legislature to prevent the employment of women in any honest work in public houses in which they can take part without injury to themselves or others, as for instance the cleaning up of the premises, arranging bottles and glasses, seeing to the linen and crockery, washing and scrubbing the floors, etc., during the time when the premises are not open.”

The Hon'ble MR. COLLIN said :— “I accept the amendment of the Hon'ble Member.”

The Motion was put and agreed to.

[*Mr. Woodroffe; Mr. Collin.*]

The Hon'ble MR WOODROFFE also moved that in line 4 of the same clause for the word "his" the word "such" be substituted. He said:—

"This amendment is one of a purely formal character, and is incidental to the amendment which has just been moved and carried."

The Hon'ble MR. COLLIN said:—"I accept the amendment of the Hon'ble Member."

The Motion was put and agreed to.

The Hon'ble MR. WOODROFFE also moved that in line 3 of the same clause after the word "employ" the words "or permit to be employed" be inserted. He said:—

"Lest, Sir, there may be a difficulty arising from the word 'employ,' and that hereafter questions may be raised as to whether or not the licensed vendor himself employed the persons or class of persons, whose employment is struck at, in the manner and to the extent of this new section, I move that the words 'or permit to be employed' be inserted."

The Hon'ble MR. COLLIN said:—"I accept the amendment of the Hon'ble Member."

The Motion was put and agreed to.

The Hon'ble MR. COLLIN moved that in sub-clause (2) of clause 7 the word "modified" be substituted for the word "altered."

He said:—"This, Sir, is a purely verbal amendment."

The Motion was put and agreed to.

Clause 8.

The Hon'ble MR. WOODROFFE moved that in line 6 of clause 8 for the word "therein" the words "in any license granted under this Act" be substituted. He said:—

"The amendment which stands in my name in this matter has been introduced for the purpose of avoiding, if possible, all questions that might arise in regard to the language of clause 8 of the Bill. As it stands at present, section 28 of the Act provides that—

'The Board may regulate the form and conditions of all licenses granted under this Act.'

"It appears to me that, regard being had to the amendment of that section now proposed to be made, it is desirable to make it clear that there is power to make special conditions applicable to certain licenses. The word 'therein' may be read to mean all licenses; but it is apparent that there may be licenses in which it might be unnecessary to insert all the conditions now legalised.

"There are many houses in which, for instance, there may be no necessity for placing signboards over the shop, and it may be desirable to secure earlier closing in some houses than in others; and therefore, in order to make it clear that certain conditions may be inserted in one license and not in others, the safer way is as it seems to me to insert in place of the word 'therein' the words 'in any license granted under this Act.'"

The Hon'ble MR. COLLIN said:—"I accept the amendment of the Hon'ble Member."

The Motion was put and agreed to.

[*Mr. Collin; Mr. Woodroffe; the President.*]

The Hon'ble MR. COLLIN moved that in line 9 of clause 8, after the word "licensee" the words "and may modify such conditions from time to time" be inserted. He said:—

"In this clause we have given power to the Board of Revenue to make conditions; but we have omitted to give them power to modify such conditions from time to time, and this amendment is meant to supplement the section as drafted by the Select Committee."

The Motion was put and agreed to.

Clause 9.

The Hon'ble MR. WOODROFFE moved that in clause 9, between the words "permits" and "persons" the words "two or more" be inserted. He said:—

"The section at present runs as follows:—'or permits persons who have been convicted of any non-bailable offence or who are reputed prostitutes to assemble in his shop, whether for the purposes of crime or prostitution or not.'

"Although the use of the word 'assemble' and the word 'persons' in that section make it reasonably clear that it is not intended to apply to one person only, or to prevent the supply of liquor to any person who has been convicted of a non-bailable offence or to a reputed prostitute, but that the object sought to be attained is the prevention of the assembling of such persons; yet it seems to me that it is better to put in the words 'two or more' between the words 'permit' and 'persons' thus making more clear our object which is the prevention of the assembling of these undesirable classes in public licensed premises."

The Hon'ble MR. COLLIN said:—"I accept the Hon'ble Member's amendment."

The Motion was put and agreed to.

The Hon'ble MR. COLLIN then moved that the Bill, as settled in Council, be passed.

The Hon'ble MR. WOODROFFE said:—"In rising to support this Motion I desire to say that when this Bill was before us in Select Committee, it appeared to me to be highly desirable to take power to prevent the sale of liquor to persons who, by the habitually intemperate use of such liquor or other articles, had brought themselves to that condition of degradation which in England is dealt with in the Habitual Drunkards Bill, as also to children under the age of fourteen. Those are two great evils; and although the Select Committee was of opinion that the prohibition embodied in the two sections thus proposed by me was highly desirable, yet having regard to the fact that if they were inserted in the Bill it would be necessary to apply to the Government of India, I withdrew these two sections in the hope, expressed in Select Committee, that when a general Licensing Bill is brought in, effect might be given to these suggestions. It appears to me that the question of prohibiting the employment of undesirable persons in the sale of liquor is but part of a very much larger evil, and that that larger evil can only be properly dealt with by legislation which would prevent the sale of liquor and intoxicating drugs to persons who may be described as habitual drunkards and to children under the age of fourteen years. With these observations I support the motion of the Hon'ble Member in charge of this Bill that the Bill be passed."

The Hon'ble the PRESIDENT said:—"I feel certain that I give expression to the feeling of the Council when I say that we sympathise with the sentiments expressed by the Hon'ble the Advocate-General; and I assure him that when the time comes for the introduction of the larger Excise Bill, the views which he has to-day expressed will receive the fullest consideration at the hands of the Council."

The Motion that the Bill be passed was then put and agreed to.

[Mr. Buckland.]

THE BENGAL MOTOR-CAR AND CYCLE BILL, 1903.

The Hon'ble MR. BUCKLAND, in moving for leave to introduce a Bill for regulating the use of motor-cars and cycles in streets and public places in Bengal, said:—

“Before proceeding further, I desire to explain that the mere fact that this Bill is in my hands as a Member of the Board of Revenue does not make it a revenue measure. Far from it. It is meant to be a police measure. It was brought to the notice of Government a few months ago by the Commissioner of Police that he had no power to regulate the use of motor-cars in the streets of Calcutta, and that in expectation that motor-cars would be introduced into this country in some numbers before very long, it was desirable that he should be invested with powers to regulate their use. The Commissioner of Police accordingly submitted some draft rules for the consideration of Government. These draft rules, I may say at once, were taken *verbatim* from the rules which are in force in England, and passed by the Government under the Act entitled ‘The Act to provide for the Use of Locomotives on Highways’—a Statute of 1896. I hold in my hand a copy of these Police Regulations issued by the Commissioner of Police, London. The rules submitted by the Commissioner of Police, Calcutta, followed those rules exactly.

• “Having therefore ascertained what we wanted to do, it was thought desirable to sanction these rules, or rather to take legal power to pass rules such as were submitted by the Commissioner of Police, or such other rules as might be found necessary from time to time. The Bill has been drafted for this purpose. The Statement of Objects and Reasons attached to the Bill is in the hands of Hon'ble Members, and it shows distinctly why a Bill of this kind is required.

• “As Hon'ble Members are aware, in this country horses are not so well broken as they are in England and on the Continent. I may say the primary education of horses in this country leaves much to be desired, and their higher education has been altogether neglected. I think if Hon'ble Members in this country who have experience of the speed with which motor-cars are driven in London, and in the country in England, and on the Continent as I have myself seen them, were to see motor-cars driven at such a speed in this country they would be astonished. I think there is no reason for me to dwell at any length on the desirability of giving such powers to the Commissioner of Police and the Magistrates of the towns of Bengal as we propose to take in this Bill.

• “The English Act, which I have mentioned, contains some substantive provisions with regard to the regulations for lights, and for the ringing of bells, and for the rate of speed. It also enacts that the keeping for use of petroleum or other inflammable liquids is to be subject to regulations made by the Secretary of State. In another section of the Act power is taken by the Local Government Board to make regulations. The regulations made are those to which I referred just now as having been issued by the Commissioner of Police, London. Our Bill does not altogether follow the lines of the English Act in laying down any substantive law. It rather takes power to make rules to provide for the definite objects which we have in view. That really comes in practice to be a distinction without a difference.

• “It may be said that this Bill, to some extent, overlaps the provisions which are already to be found in the Calcutta and Suburban Police Acts. That is so, but those provisions in the Calcutta and Suburban Police Acts which only apply to the regulation of traffic and to the use of carriages and vehicles, and so on, do not provide altogether for everything which we wish to provide for. And it was thought better in this matter to have a little consolidated Bill—a Bill which combines in itself all that we wish to do in regard to motor-cars, rather than to supplement the existing provisions of the Calcutta and Suburban Police Acts.

• “With regard to the mufassal I may say that the Bill, as you will see by the third clause of the first section, may be extended to any other town in Bengal. Now already in the mufassal towns of Bengal considerable power

[*Mr. Buckland.*]

exists for regulating traffic and preventing obstructions and encroachments on roads. Those powers, however, are not exactly the powers which we wanted for dealing with motor-cars. This will be seen by a reference to the different headings of sub-clause (2) of clause 2 of the Bill. But so far as the mufassal towns have powers and can use them to regulate the use of motor-cars, it will of course be unnecessary for them to apply to Government for the issue of rules.

"So far as Calcutta is concerned there can be no question that some rules are necessary for the proper regulation of motor-cars driven in the streets.

"I should say a few words with regard to the use of cycles, which it is also proposed to take power to regulate by this little measure. At present there is no legal power to frame a rule prohibiting the riding of cycles on footpaths. Cycles are not driven, nor are they carriages. Therefore they do not come under the present provisions of the Police Acts. It is desirable that there should be power taken to regulate the use of cycles which may become a nuisance and a danger to the public if improperly used. There are certain provisions in the Police Acts which refer to the rule of the road, but they would not, of course, refer, unless this Bill is passed, to the use of cycles. It was only a day or two ago that a gentleman wrote to the papers (sending me a copy of his letter) saying that we should be particularly careful of the extraordinary behaviour on the part of Calcutta cyclists as to which side of the road they monopolised. In fact it was an instruction to me to take care that provision was made in our measure for the use of the right portion of the road, that is the new side, by cycles when in use in Calcutta.

"I think I have explained nearly all the provisions which the Council would care to hear. But there is one matter of importance which I must not overlook. In the English Act it is laid down that the speed of these motor-cars should not exceed fourteen miles an hour; and by the Regulations issued under the English Statute the speed is not to exceed twelve miles an hour. That would be the speed which it would be proposed to insert in the rules under this Bill, or, at any rate for the present, I presume that would be the rate which would be authorised as a maximum. It has been suggested that there should be no rule on the subject; but I think in such a matter we can be safely guided by the English law and by the English practice on the subject.

"The next point is that it has been suggested that all drivers of motor-cars should be required to hold a certificate of competency. I am informed that this is the law and the practice on the Continent, but I have no information on the subject otherwise; but be that as it may, I think it would be going rather a little too far in this matter, and that we may leave it to the individual to care for his own life and personal safety, and not to drive a motor-car, or not to drive with a friend in a motor-car unless the driver is competent to manage it; and therefore it is not proposed to take any power to insist on a certificate of competency from the driver of a motor-car.

* "The penalty which it is proposed to attach for infraction of the rules has been put at Rs. 50 for the first offence, and Rs. 100 for subsequent offences. The penalty in the English Statute amounts to £10, so I do not think any one can complain about the undue severity of the penal clause introduced into the Bill.

"The last section of the Bill, authorising the arrest of offenders without a warrant, follows the rule that was sent up by the Commissioner of Police on the authority of the English rules, and it is a reasonable one. Otherwise it would be perfectly easy for the driver of a motor-car to escape after having broken the law, if power was not given to the police to arrest him without a warrant in the best way they can. I do not know how they will always catch the driver of a motor-car, but that is their business. But it would be a serious thing to be necessary for a police officer to apply for a warrant in each case or to be debarred from immediate action by having to apply for summons.

"With this explanation I commend the project to the Council, and beg to move the motion standing in my name."

The Motion was put and agreed to.

[*Mr. Buckland; the President; Mr. Macpherson.*]

The Hon'ble MR. BUCKLAND also applied to the President to suspend the Rules of Business for the purpose of introducing the Bill and referring it to a Select Committee.

The Hon'ble the PRESIDENT having declared the Rules suspended—

The Hon'ble MR. BUCKLAND introduced the Bill and moved that it be read in Council.

The Motion was put and agreed to.

The Bill was read accordingly.

The Hon'ble MR. BUCKLAND also moved that the Bill be referred to a Select Committee consisting of the Hon'ble Mr. Gupta, the Hon'ble Mr. Greer, the Hon'ble Dr. Asutosh Mukhopadhyaya, the Hon'ble Babu Joy Gobind Law, the Hon'ble Mr. Elworthy, the Hon'ble Nawab Bahadur Khwaja Salimullah, of Dacca, and the Mover, with instructions to report at the next meeting.

The Motion was put and agreed to.

THE CHOTA NAGPUR TENANCY (AMENDMENT) BILL, 1903.

The Hon'ble MR. MACPHERSON moved for leave to introduce a Bill to amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897. He said:—

“This important task has fallen to me because as Revenue Secretary to Government during the last twelve months I was in charge of the correspondence relating to this measure. The Bill, which I hope to be permitted to present to the Council, is the most important proposal for land legislation which has been made in Bengal since the Bengal Tenancy Act was passed by the Council of the Governor General in 1885. The question of the legislation to be undertaken for improving the relations of landlords and tenants in Chota Nagpur has been under the consideration of the Government, the Board of Revenue and the local officers for thirteen years. It is incumbent on me therefore, I think, to offer some remarks with the object of linking up this proposed legislation with the history of the Chota Nagpur Division and with the special Acts which have before been passed for that Division. It is also necessary for me briefly to explain the course of the discussions of the last thirteen years, which has resulted in the Commutation Act of 1897 and in the present Bill.

“The British districts of the Chota Nagpur Division, viz., Hazaribagh, Ranchi, Palamau, Singhbhum and Manbhum, were separated from the Regulation districts of Bengal and were constituted non-Regulation districts by Regulation XIII of 1833. For some time they were administered as the South-West Frontier Agency, and since Act XIV of 1874 was passed, they have been known as Scheduled districts.

“It is not proposed in this Bill to deal with Manbhum. Neither of the two Acts to be amended is in force in Manbhum. Manbhum is, in many respects, more closely assimilated to the neighbouring Bengal districts than to the rest of the Chota Nagpur Division; and its Rent Act is Act X of 1859, for which, perhaps, the Bengal Tenancy Act may be substituted at no very distant date.

“The districts, then, for which we propose to legislate are Hazaribagh, Ranchi, Palamau, and Singhbhum. They have an area of about 23,000 square miles, and a population of rather over 3½ millions. One of the features of the Census taken two years ago was the large increase of the Christian population in this Division, who now number 144,000. The conversion of a large number of the aboriginal population to Christianity since the Missions began work in the middle of the last century has been a factor of some influence in the course of the land questions which have arisen.

[*Mr. Macpherson.*]

"The state of society in Chota Nagpur is still, as described by the Hon'ble Mr. Reynolds, when in 1877 he introduced in this Council the Bill which became Act I of 1879, very conservative and even primitive. The landlords in general belong to one race and the tenants to other races. Many of the landlords are, or claim to be, Rajputs, while the tenants are, to a large extent, of Kol or Dravidian origin. A very picturesque account of the conditions of agricultural life and landholding in Chota Nagpur was given six years ago in this Council by the late Mr. Grimley, a former Commissioner of the Division, in the debates which preceded the passing of the Commutation Act of 1897 (one of the two Acts which it is proposed to amend).

"I can recommend to Hon'ble Members who may wish to master the land questions of Chota Nagpur and the history of former legislation on this subject that the speeches made in this Council by the Hon'ble Mr. Grimley in 1897, by the Hon'ble Mr. Reynolds in 1878, and by the Hon'ble Mr. Dampier* in 1868 and 1869, are well worthy of study. There is also a very interesting sketch of the land organisation of the Kol and Dravidian tribes of Chota Nagpur in Sir Henry Baden Powell's book on the Land Systems of British India.

"I may remind the Council that there has been agrarian trouble in Chota Nagpur, more or less acute, ever since the disturbances of 1831, known as the Kol Rebellion. Those disturbances were attributed by Dr. Davidson, the Principal Assistant to the Agent to the Governor General, to acts of oppression committed by the landlords and their representatives. The disturbances were renewed in 1858, the year of the Mutiny, and after much agitation the first remedial measure was passed in the Chota Nagpur Tenures Act of 1869, of which the object was to ascertain, record, and regulate the lands belonging to the Bhuinhari, Majahas, and Bhetkheta tenures.

"Land, it may be mentioned, in Chota Nagpur falls for the most part under the three divisions of Bhuinhari, that is held by persons claiming to be descendants of the original founders of the village; Majahas, that is reserved for the absolute use of the village zamindars; and Rajahas, or ordinary rent-paying land. There are other tenures which I need not mention. The Act of 1869 did not provide for a record of the Rajahas land, and the Special Commissioner appointed under it dealt only with the Bhuinhari and Majahas land.

"Ten years later was passed the Landlord and Tenant Act of 1879, which we now propose to amend. The Act of 1879 was based upon Act X of 1859, formerly the Rent Law for the whole of Upper India, which had been recognised as being in force in Chota Nagpur. In practice however, as Mr. Reynolds explained, several important modifications of Act X of 1859 had been made in Chota Nagpur which rested on no specific legal basis, but upon orders of the executive authorities.

"I find that in his speech of the 29th December, 1877, Mr. Reynolds dwelt upon five matters of first-rate importance as then requiring attention. They were the occupancy right, the conditions of enhancement of an occupancy raiyat's rent, distraint, ejection, and sales of tenures. With regard to occupancy right, it was said at the time that this right was never claimed, and that the great majority of the raiyats in Chota Nagpur were entirely in ignorance of its existence. I have not been able to ascertain how this assertion was reconciled with a statement made by Colonel Dalton, Commissioner of the Division, as far back as the year 1869, to the effect that the cultivators had generally obtained a right of occupancy. Mr. Reynolds remarked that there was no good reason for excluding the Chota Nagpur raiyats from this privilege; and the section of the older Rent Law (Act X of 1859) is substantially reproduced in section 6 of the Act of 1879. With regard to enhancement of rent, special provisions were made in sections 21 to 24 of the Act.

"The provisions of Act X of 1859 relating to distraint were omitted from the later Act, on the ground that they had never been enforced, and that there was reason to apprehend serious agrarian difficulties if they should be enforced. It was provided that the right to eject a raiyat should not be exercised, except under a decree of Court. Sales of tenures and under-tenures were made subject to the approval of the Commissioner of the Division. These, I have said, were

[*Mr. Macpherson.*]

the matters which attracted most attention in 1879, and the Act passed in that year was no doubt remedial in these matters.

“The Act did not, however, go to the root of the troubles, nor did the land have rest after it. The raiyats specially complained of exactions made by the landlords in the matter of services and cesses. From 1887 to 1890 the attention of Sir Steuart Bayley, at that time Lieutenant-Governor of the Province, was prominently drawn to agitations connected with claims made by the landlords for services, claims made by the tenants to hold land at quit-rents, petitions made by zamindars and raiyats for assistance of the authorities, and also to the intervention of the missionaries in the dispute. Rents were withheld and meetings were held at which leaders of the raiyats incited them to take possession of the Majahas land.

“The disputes continued during the last decade, and may be said to have culminated in the disturbances of 1899 to 1900, when troops and armed police had to be called out to put down acts of violence in the Munda country in Ranchi, which were committed by, and at the instigation of, religious fanatics, but which were intimately connected with the agrarian dissensions.

“The proposal first made by Sir Steuart Bayley's Government, which was endorsed by the local officers and accepted by Sir Charles Elliott, was to extend the Bengal Tenancy Act to Chota Nagpur. In 1892, after further inquiries had been made, Sir Charles Elliott was led to entertain doubts as to the desirability of extending the Bengal Tenancy Act in its entirety to Chota Nagpur. But the proposal to extend that Act, with the exception of a few sections, and to repeal the local Act I of 1879, still held the field till 1897, when Mr. Grimley introduced a Bill into this Council for the limitation of the enhancement of rent for the record and commutation of predial services and for the registration and resumption of tenures. The Bill proposed to repeal Act I of 1879, and it was intended to extend the Bengal Tenancy, save certain sections, by notification.

“In that year, however, the then Commissioner of Chota Nagpur, Mr. Arthur Forbes, opposed the substitution of the Bengal Tenancy Act for Act I of 1879 on the ground that the question had not been fully examined; and for this reason, and also because the Bengal Tenancy Act was itself at the time under amendment, the Select Committee appointed to consider Mr. Grimley's Bill recommended that the repeal of Act I of 1879 and the substitution of the Tenancy Act should be deferred. This recommendation was accepted by the Council; and Act II of 1897, known as the Commutation Act, is confined, therefore, to the subject of record of predial services, that is to say, services of ploughing, digging, sowing, and reaping for the landlord and carrying the landlord's burdens in journeys and their commutation into cash payments.

“There remained the question of extension of the Bengal Tenancy Act, or of amendment of the local Act of 1879, and on this question there has been much correspondence during the last five years, local Conferences have been held, and three distinct Bills have been drafted. Mr. Forbes was supported by a general consensus of local opinion in his view that the extension of the Bengal Tenancy Act *en Uloc* to the Division was an unsuitable measure. The Board of Revenue and the late Lieutenant-Governor accepted this view; and further decided, while admitting the great official convenience of having the law in a compendious Act, that legislation should be undertaken in the simplest and least contentious form; in other words, that it would be better to have an amending rather than a consolidating Bill.

“The reasons which led the late Sir John Woodburn to this decision were partly political and partly administrative. With reference to the rising of the Mundas in Ranchi in 1890 and 1900, it seemed to the Lieutenant-Governor to be inadvisable to introduce a Bill which might lead to lengthy discussions and give rise to wild rumours among an easily-excited and very credulous people. Furthermore, it appeared that until a survey and record-of-rights had been prepared, it was impossible to say whether the provisions of the Bengal Tenancy Act were really suitable to the conditions of this wild area.

[*Mr. Macpherson.*]

“Sir John Woodburn held, therefore, that legislation should be limited for the present to what is absolutely necessary for the appeasement of agrarian troubles in Chota Nagpur. The measures for which in his judgment legislative action is urgently required are those which come under the eleven heads set forth in the Statement of Objects and Reasons appended to this Bill. And the late Lieutenant Governor further recorded his opinion that ‘the essence of the whole business is to get a correct record of existing facts in tenants’ holdings.’ In this view he proposed that a survey and record-of-rights should be undertaken at first in the Munda tract, an area of some 1,800 to 2,000 square miles in the Ranchi district; and survey operations in this tract were sanctioned by the Government of India and were commenced just a year ago. Hon’ble Members may have noticed that a Notification was published in a recent Gazette extending to Chota Nagpur those sections of the Bengal Tenancy Act which authorise a survey and record-of-rights.

“Sir John Woodburn’s proposals for legislation on the lines of the present Bill were made to the Government of India early in the year 1901, and the Government of India promptly replied that they were in complete agreement with the Lieutenant Governor that legislation is required to amend the law of landlord and tenant in Chota Nagpur, and gave their assent to the general form which it was proposed that the legislation should take. Before giving a final opinion, however, on the precise form and scope of the needful changes in the law, the Government of India asked the Lieutenant-Governor to consider the desirability of giving finality to the legislation by dealing with the questions of occupancy right and rent settlement.

“This injunction necessitated a reference back to the Board and to the local officers, and another year was occupied with discussion of these two difficult questions, with the result that the Government of India ultimately accepted the late Lieutenant Governor’s view, which coincided with that of the local officers, that the question of introduction into Chota Nagpur of the provisions of the Bengal Tenancy Act on the subject of the occupancy right should be postponed until the completion of the survey and record-of-rights which has begun in the Ranchi district.

“Except, therefore, in the adoption in clause 2 of this Bill of the definition contained in the Tenancy Act of a ‘raiyat,’ and except also in adoption in clause 3 of a section of a Central Provinces Act with regard to lands exchanged, it is proposed to leave the occupancy right question in Chota Nagpur alone for the present, that is, to leave it as the Act of 1879 left it.

“With regard to fixation of rents, I shall invite the attention of the Council to clause 9 of the Bill, which proposes a new section—28B—in adaptation of a section of the Bengal Tenancy Act. It will be for the Select Committee and the Council to decide whether this clause provides a satisfactory solution of a difficult question. The difficulty of the question consists in the treatment of areas held in excess by raiyats, and it will be a principle new to this Province to enact that there shall be fixity of rents recorded without settlement. The object of Government is to prevent enhancement of rate; but the late Lieutenant-Governor recorded his opinion that the landlord should not be excluded from rent for any excess area which the tenant may subsequently take up.

“Clause 5 of the Bill contains two new sections, based on the law in the Central Provinces, which impose restrictions on the sale or other transfer of the rights of raiyats. This is a policy of great importance, which merits the close attention of the Council.

“The Bengal Tenancy Act allows free transfer of permanent tenures, and leaves the validity of transfers of ordinary raiyati holdings without the consent of the landlord to custom, but does not prohibit transfers of such holdings. In special areas of this Province, such as the Sonthal Parganas, the Kolhan estate in Singhbhum, and in Angul in Orissa, transfer of tenant-right is restricted by executive order, which in the case of the Sonthal Parganas may be said to have the force of law, inasmuch as it is based on provisions of a Regulation which give large powers to Government and to Settlement Officers. Transfers of raiyats’ rights are said to be contrary to custom in Chota Nagpur. Writing of the Hos in Singhbhum, Dr. Manuk, who long held office as an

[*Mr. Macpherson ; Dr. Asutosh Mukhopadhyaya.*]

Assistant Commissioner in that district, said : ' A Ho cannot dispose of his lands as he chooses. The land does not belong to him ; it is hereditary, inalienable, and must descend to his sons and sons' sons ; and if a Ho has not direct male issue, the land goes to his brother or next of kin ; and if no kith or kin, to the village community represented by the Munda.'

" I have drawn the attention of the Council to three of the principal amendments of the law which are proposed in this Bill, or which have been considered by Government, and I shall briefly mention three more. The first is clause 6 of the Bill, which would enact a provision similar to a section of the Central Provinces Tenancy Act of 1898, empowering Revenue Officers to impose a fine for exactions in excess of rent. This is not an entirely novel provision. Section 11 of the existing Act of 1879 gives tenants a right to recover damages for exactions in excess of rent ; and section 75 of the Bengal Tenancy Act authorises a Civil Court, on institution of a suit by the tenant, to award a penalty not exceeding Rs. 200, or not exceeding double the amount levied in excess. The Central Provinces section, however, is more stringent in this matter, and it may be more suitable to the conditions of Chota Nagpur, where illegal exactions are such a danger to the peace of the country.

" The next matter is the provision made in clauses 19 and 20 for giving relief to zamindars in recovering rents from tenure-holders, and especially from holders of resumable tenures. The necessity of giving such relief to superior landlords was strongly pressed upon Government by Mr. Forbes, the late Commissioner of the Chota Nagpur Division.

" The third matter is the provision made in clause 27 for the amendment of the Commutation Act of 1897, in which a defect has been found. It is desirable that commutation of predial services, that is, of the labour services rendered by the tenant, should be placed on a more equitable basis.

" With these remarks, which, I fear, have been wearisome, but which were the least that I could offer on a great subject, I ask for the leave of the Council to introduce this Bill."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—" Before the motion of the Hon'ble Member in charge of the Bill is put to the Council, I would ask permission to make a few observations on the importance of the measure which I welcome as a very necessary piece of legislation. The very fact that the Act which is now sought to be amended was passed 24 years ago, during which time the information at our disposal, regarding the land law of Chota Nagpur, has been considerably increased, would be sufficient to show that a revision is necessary. On looking at the Statement of Objects and Reasons it will be found that it is proposed to alter not only the substantive law but also the adjective law on the subject. Heads 1 to 6 and 11 deal with the substantive law on the subject, and 7 to 10 deal with the procedure applicable to suits between landlords and tenants.

" As regards the substantive law, very important changes are proposed in the sections dealing with occupancy rights, right of registration, the right to alienate a holding, and the preparation of a record-of-rights. As regards first of all the clauses relating to occupancy rights, the registration of rights and the right to alienate a holding, I entirely agree with the Hon'ble Member in charge that they are needed and are intended to protect the interests of an aboriginal ignorant population. As regards the preparation of a record-of-rights, it is unquestionable that such a record is necessary in order to enable the Government to have reliable materials for legislation in future.

" But, so far as the procedure goes, I would have been glad if the Bill had been fuller. I will explain in a few words what I mean. Act I of 1879, the present Chota Nagpur Act, was modelled on the Bengal Rent Act X of 1859. When Act X of 1859 was drafted we had no elaborate Code of Procedure. The consequence was that Act X of 1859 not only contained the substantive law on the subject, but also the procedure applicable to suits for rent between landlord and tenant. This part of Act X of 1859 was necessarily incomplete, because you cannot in one Code comprehend the whole of the substantive law,

[*Dr. Asutosh Mukhopadhyaya ; Mr. Macpherson.*]

and the whole of the procedure, so far as rules are necessary for regulating suits between landlord and tenant. When Act I of 1879 was passed, Act X of 1859 was taken as its model. But when the Bengal Tenancy Act VIII of 1885 was passed, the Legislature had before it an elaborate Code of Procedure, namely, the Civil Procedure Code of 1882. The consequence was that in Act VIII of 1885 we find a provision to the effect that the rules contained in the Code of Civil Procedure are ordinarily applicable, subject to certain modifications stated in the Act, and I would submit that when we amend the Act of 1879, a similar course may be followed.

"I will give one illustration to the Council. Act I of 1879 is silent as to the right of appeal in rent suits to the High Court. From 1879 up to 1900, that is to say, for 21 years, appeals were allowed to the High Court on the analogy of appeals being allowed to the High Court under Act X of 1859; but in 1900 a Full Bench of the High Court decided that as Act I of 1879 contains Rules of Procedure, the Act must be taken to be a Code complete in itself; and as the Act nowhere says that appeals may be preferred to the High Court, there is no right of appeal under Act I of 1879 to the High Court. Of course it is not for us to say if this is the right view of the law or not, but this is how the law has been interpreted by a Full Bench of the High Court. The consequence is that, whereas in a suit for rent between landlord and tenant under the Bengal Tenancy Act an appeal is allowed to the High Court, under Act I of 1879 no such appeal is allowed.

"Now, as we are going to amend this Act and are putting in a number of new provisions in the clauses relating to occupancy rights and the right to transfer holdings, there can be no doubt that questions of interpretation of these sections will from time to time arise. Is it desirable that these questions of law should be decided once for all by an inferior Court, or is it desirable that the High Court should be given an opportunity of judging of the correctness or otherwise of those decisions? If I had to give an opinion on this point, you know what my answer would be. I think if any question of interpretation arises, the High Court ought to have an opportunity of settling the matter.

"I should therefore ask the Hon'ble Member in charge of the Bill, at a later stage, when the Select Committee has been appointed, to consider more fully the question of procedure applicable to rent suits under the Chota Nagpur Act.

"I may give another illustration. I find that in section 21 of the Bill we have a provision which is modelled upon section 174 of the Bengal Tenancy Act. It is a very salutary provision. It enables a judgment-debtor to have the sale of his holding set aside under certain conditions. But since the passing of the Bengal Tenancy Act, a section has been put into the Civil Procedure Code (section 310A) which entitles all judgment-debtors to have sales of their property set aside under similar but not exactly the same conditions. I will point out to you in what the difference consists. Under section 174 of the Bengal Tenancy Act, as also under section 21 of this Act, a sale may be set aside if the amount recoverable, with costs, is paid. That leads often to disputes as to what the exact amount recoverable under the decree is. But section 310A of the Civil Procedure Code entitles an applicant to have a sale set aside upon payment of a determined sum, namely, the amount specified in the sale proclamation by the decree-holder. This clearly simplifies matters, and the new section in the Bill before us may perhaps be modified in the direction indicated by me."

"These are merely suggestions which I throw out for the consideration of the Hon'ble Member in charge of the Bill, at a later stage, when the matter comes before the Select Committee."

The Motion for leave to introduce the Bill was then put and agreed to.

The Hon'ble MR. MACPHERSON applied to the President to suspend the Rules of Business for the purpose of introducing the Bill and moving that it be read in Council.

[*The President ; Mr. Macpherson.*]

The Hon'ble the PRESIDENT having declared the Rules suspended—

The Hon'ble MR. MACPHERSON introduced the Bill and moved that it be read in Council. He said :—

“I think that when this has been done, we shall have done what is possible to advance the consideration of this measure which has been so long on the anvil. The next stage will be to move that the Bill be referred to a Select Committee, and at that stage, I understand, that Hon'ble Members will have an opportunity of discussing the policy of the Bill. With the permission of the Council I introduce the Bill and move that it be read in Council.”

The Motion was put and agreed to.

The Bill was read accordingly.

The Council adjourned to Saturday, the 7th March, 1903.

CALCUTTA ;
The 16th March, 1903. }

J. G. MORISON,
Offg. Secretary to the Bengal Council, and
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

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

The Council met in the Council Chamber on Saturday, the 7th March, 1903.

Present:

The Hon'ble MR. J. A. BOURDILLON, C.S.I., Acting Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. B. L. GUPTA.

The Hon'ble MR. L. HARE, C.I.E.

The Hon'ble MR. W. C. MACPHERSON, C.S.I.

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

The Hon'ble MR. R. T. GREER.

The Hon'ble MR. W. A. INGLIS.

The Hon'ble MAULVI SYED MAHOMED, KHAN BAHADUR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU CHATURBHOJ SAHAY.

The Hon'ble BABU JOY GOBIND LAW, C.I.E.

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar.

The Hon'ble MR. A. A. APCAR.

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR.

The Hon'ble NAWAB BAHADUR KHWAJA SALIMULLAH, of Dacca.

[Dr. Asutosh Mukhopadhyaya; Mr. Hare; Mr. Collin; Mr. Buckland.]

QUESTIONS AND ANSWERS.

CHANGE IN THE ADMINISTRATION OF ORISSA DIVISION.

The Hon'ble DE. ASUTOSH MUKHOPADHYAYA asked:—

Is it true that it is the intention of Government to sever Orissa from the Bengal Administration and to place it under the Administration of the Central Provinces?

If no such change of Administration is under consideration, will the Government be pleased to allay the alarm which the news of such a possible change has created in Orissa?

The Hon'ble MR. HARE replied:—

“No such proposal is under the consideration of the Government of Bengal.”

LANDLORDS' FEES.

The Hon'ble MR. COLLIN, in continuation of the answer given to Questions Nos. II and III of the Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur, at the Council Meeting of the 7th February, 1903, said:—

“The Board of Revenue have furnished a statement showing the amount of landlords' fees realized under the Bengal Tenancy Act from the date of passing of the Act up to the end of the last financial year, and the amounts held in deposit at the close of that year in the several district treasuries in the Chittagong Division. The figures are as follows:—

DIVISION.	District.	LANDLORDS' FEES.		REMARKS.
		Realised.	Held in deposit.	
1	2	3	4	5
		Rs.	Rs.	
Chittagong	Tippera ...	16,623	12,360	”
	Noakhali ...	48,542	32,229	
	Chittagong ...	84,464	79,571	

THE BENGAL MOTOR-CAR AND CYCLE BILL, 1903.

The Hon'ble MR. BUCKLAND presented the Report of the Select Committee on the Bill for regulating the use of motor-cars and cycles in streets and public places in Bengal.

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

“The Select Committee met the other day and gave the Bill before them the most careful consideration; the alterations they had to suggest are only of a minor character and in regard merely to details. I propose first, with Your Honour's permission, to describe briefly the

[Mr. Buckland.]

small changes which are included in the Bill. In the first place we propose to insert the words 'or area' in clause 1, sub-clause (g), so as to make it possible for Government to extend the operations of the Bill to any area they think necessary outside the town. It seemed to be desirable, when rules may be made for Calcutta and Barrackpore, or say for Dacca and Narainganj, or, again, say for Patna and Dinapur to give power to the Local Government to make rules for controlling the use of motor-cars and bicycles on the roads and streets between these places respectively. It is quite possible that before very long motor-cars may be in use in the Chota Nagpur Division. It seems, therefore, desirable, while we are undertaking this legislation, to give power to the Local Government to enable them to include in the operation of the Act areas outside of towns. Whether they will ever avail themselves of it is, of course, for the consideration of the Government, but it seemed undesirable to tie their hands by limiting the operation of the Act strictly or merely to towns. In the second place, in the amended Bill, a definition of what is a motor-car has been inserted. This has been rather widely drawn on purpose. I have not been able to find any definition of 'motor-car,' but in the English Act there is a description of locomotives to which the Act is intended to apply, rather than a strict scientific definition. Our purpose, therefore, was to make a definition, or so-called definition, of motor-car, which would reasonably include any such vehicles as those to which we intend the Act to apply. It has been drawn rather widely so that it may apply hereafter also to traction engines.

"In clause 3 (1) of the amended Bill we have endeavoured to make it clear that the rules the Local Government intend to make under this Act should be previously published for criticism, and that the Government should have the power to modify or cancel such rules from time to time.

"In the second sub-clause of the third clause of the Bill we have added some words to make it clear that the rules which may be drawn up when applying to the following matters which are named in the Bill, may also apply to other matters which are not named. It was for this object that we have resorted to the addition of the words 'without prejudice to the generality of the foregoing power.' I think this form will commend itself to the Council so as not to limit unduly the power of the Local Government to make rules under this Act.

"The other changes which have been proposed to be made in the Bill are shown in italics in the sub-clauses (d), (f), (i), (k) and (n).

"When I was introducing the Bill in Council, I said I did not propose to require from the driver of a motor-car any certificate of competency, but it was pointed out to us in Select Committee that it was desirable that there should be some standard of competency required from the driver. I have therefore introduced a few words into the Bill which will make it possible for the Local Government to insist upon a standard of competency in the form of a certificate, from the driver, or person in charge of a motor-car. It is required, I am told, on the Continent, and on reflection it seems to me that on the whole it is desirable that in a country like India we should require a certificate of competency from the driver, or person in charge of a motor-car; the Select Committee have, therefore, introduced these words, acting on such advice as we had before us.

"Sub-clause (f) prohibiting the leaving of motor-cars unattended or in the charge of incompetent persons speaks for itself. It will never do to have motor-cars ready for driving left about the streets, which might go off themselves if not properly attended to.

"In another sub-clause (i) we have added a provision to make a rule to insist upon the carrying of number and name-plates on motor-cars. It has been pointed out that often the only means of identifying a motor-car will be the number on the side or end of it. I shall move later on to amend this sub-clause in a slight degree by providing for the registration of these numbers and name-plates.

"I will next refer to sub-clause (n) relating to the stoppage of motor-cars when required by the police for the regulation of traffic. It seemed desirable to give the police power to stop motor-cars when it was desirable to do so in the interests of the traffic. My attention has been called to the fact that this power

[*Mr. Buckland.*]

will not be sufficiently wide and that the police might from time to time require to stop a motor-car when it might be contested that the stoppage was not altogether necessary for regulating traffic. I shall have to say a few words on that subject when I come to deal later on with an amendment which I propose to that sub-clause.

"I omitted just now sub-clause (k) which refers to cycles and the riding of cycles on footways, streets or other places where their use may be attended with danger to the public. When I introduced the Bill in Council the other day my attention was drawn to two decisions in the English Courts. It was pointed out that it seemed to have been held in England that the term 'carriage' included 'bicycle.' When we looked into these decided cases it did not appear to me to be clear that this statement was altogether correct. In the one case it was held distinctly that a bicycle was not a carriage for the purpose of paying toll under the English Act, and in the other case it was held that a bicycle was a carriage when a prosecution was instituted for driving furiously. When we came to consider this point in the Select Committee it also transpired that, when the Calcutta Municipal Act was on the legislative anvil in 1899, care was then taken to define 'carriage' so that it did include a 'bicycle.' It therefore seemed to us most likely that the Indian Courts would decide that a bicycle was not a carriage within the meaning of the Calcutta and Suburban Police Acts. It therefore seemed desirable to adhere to the opinion that I ventured to submit in introducing the Bill that we should take care to provide by legislation for the punishment of people who ride bicycles on footways, streets or other places where their use was attended with danger to the public, and also with regard to the rules of the road, so as to make it quite clear that, whatever was the previous opinion with regard to bicycles not being carriages, the point should be quite clear for the future that the abuse of bicycles on footways, streets and public places is to be punishable.

"The last clause that we have inserted is, that offences committed in contravention of this Act shall be triable by Presidency Magistrates or by any Magistrate of the first class within whose jurisdiction the offence may have been committed. It was thought desirable that power should be taken so as not to leave a matter like this, which might perhaps be a difficult one to be decided, to any Magistrate of the third class or of inferior status to a Presidency Magistrate of the first class.

"I think I have nothing more to add to show to the Council in what respects the Bill has been amended by the Select Committee.

"I trust this Bill will be found to be a useful measure, and that it will help the police materially in the regulation of traffic and the use of motor-cars and cycles in Calcutta and the other towns and places to which it might be made to apply.

"I therefore beg to move that the Report be taken into consideration and that the clauses of the Bill be considered in the form recommended by the Select Committee."

The Motion was put and agreed to.

Clause 3.

The Hon'ble MR. BUCKLAND also moved that in clause 3, sub-clause (2) (i) of the Bill as amended, after the words "on motor-cars" the words "and the registration thereof" be inserted. He said:—

"My attention has been drawn to the necessity of some few words, such as I have mentioned, for the reason that motor-cars can go great distances, and the only way of identifying them and tracing them will be by the numbers on the cars. It is not of much use to have numbers on the motor-cars unless there is some central place where the numbers are registered through which their owners and drivers may be traced. It may easily be imagined that a motor-car may go dashing along at a speed of, say, 12 miles an hour, and that all that can be distinguished is the number. It is obvious that there should be some office or institution to apply to from which can be traced by means of the