

[Mr. Buckland.]

(b) The colleges in which no Europeans are employed to teach the English language and English literature in the F.A., B.A., and M.A. classes are—

Presidency College (at present one Eurasian and four Indian Professors are employed).	Rajshahi College
Sanskrit College.	Krishnagar "
Hooghly "	Ravenshaw "
	Chittagong "
	Dacca "

In the remaining college, viz., the Patna College, one European and one Indian Professor are employed to teach English.

(c) The list below shows the names of the Professors or Lecturers in the Presidency College who are employed to teach English and the classes taught by them:—

First-year class ...	...	{ Babu Sasi Bhusan Dutt, M.A.
		{ „ Bijoy Gopal Mukherjee, M.A.
Second-year „ ...	...	{ Babu Bijoy Gopal Mukherjee, M.A.
		{ „ Aditya Nath Mukherjee, M.A.
Third-year „ ...	...	{ Mr. Jogendra Nath Das Gupta, B.A.
		{ Babu Bijoy Gopal Mukherjee, M.A.
		{ Mr. H. M. Percival, M.A.
Fourth-year „ ...	...	{ Mr. H. M. Percival, M.A.
		{ „ Jogendra Nath Das Gupta, B.A.
Fifth-year „ ...	...	{ Mr. H. M. Percival, M.A.
		{ „ Jogendra Nath Das Gupta, B.A.

THE BENGAL SETTLED ESTATES BILL, 1903.

The Hon'ble MR. BUCKLAND moved for leave to introduce a Bill to facilitate the family settlement of estates in Bengal. He said:—

“The Bill, with the Statement of Objects and Reasons, was, Sir, under your orders published in the Calcutta Gazette a few weeks ago, so that Hon'ble Members and the public have already had an opportunity of studying it. But I cannot rely upon the formal publication of the Bill as relieving me of the duty of offering an explanatory statement to the Council in making the motion which stands in my name. For some years past the British Indian Association have been applying to Government to legislate for the purpose of maintaining the position of the noble and wealthy families of Bengal, which, under the existing law of the Province, have been liable to fall into decay, owing, among other causes, to the division of estates, and many of which have, in fact, been thereby disintegrated. An incomplete list of the names of 25 such families was prepared without difficulty. The application of the landowners has met with the general approval of successive Lieutenant-Governors of Bengal and their advisers, and after a prolonged correspondence with the Government of India and the Secretary of State (which will show that the subject has been thoroughly discussed), the desirability of undertaking legislation for the family settlement of immoveable and moveable property in Bengal, with the object of preserving old or wealthy families from decay, maintaining their territorial influence and preventing the subdivision of estates of historical and political importance, has been acknowledged by all the authorities, and has found expression in a definite shape in this Bill. In other words, the object of the Bill is to make provision, in special cases approved by Government, for preserving the continuity of noble and influential families whose estates are not protected by the existing law from division on the decease of the proprietor.

“There are several main points to which I desire to invite the attention of the Council. There is perhaps no sentiment more universal in civilized human nature than that of family pride, and it is only a natural consequence of this sentiment that heads of wealthy families should adopt all the measures in their power to found a family (as it is called), to preserve the continuity of the family, and to improve its status. Thus, in some cases in Bengal,

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and conspicuously so where there is an impartible Raj, the custom of primogeniture has prevailed, and it has been asserted that in former times large zamindaris could be willed, and descended, when there was no will, to the eldest son exclusively, subject to the rights of other sons to maintenance. The number, however, of cases of indivisibility of property in a family has not been large in Bengal. Speaking generally, Hindu Law makes for the division of estates. That is the character of the local Law of Succession. In cases of intestacy the property must be divided among all the sons. The direct effect of the *Dayabhaga* Law which prevails in Lower Bengal is to partition and break up landed property on the death of an owner among all his sons. Its principle is that every son should have a share of the father's property, whether ancestral or self-acquired: at the same time it allows the holder of the property for the time being to give away the property by gift or otherwise to any one of his sons to the exclusion of the rest, or even to a stranger. The power of making one son the heir is not exercised generally, because it can only be exercised for one life, and in its operation there is no security against alienations either by sale or mortgage. The universal effect is the division of estates.

"The *Mitakshara* Law is somewhat different, but, whenever joint-property is divided, all the sons take equally. Under the *Mitakshara* Law, a father cannot settle property on any one of his sons. Under the *Dayabhaga* Law, a father, as the sole owner of what he has acquired by inheritance or otherwise, has full power to dispose of it by deed or will in favour of his eldest or another son to the exclusion of the remaining sons; but, as was settled more than 30 years ago in the great Tagore Will case (which judgment did not deal with family settlements), he cannot settle it in favour of a son or remoter issue not born at the time of the settlement.

"The result, therefore, is that unless the Legislature intervenes, no Hindu head of a family can make a settlement of his property for the purpose of maintaining or improving the position of the family.

"So, also, the Muhammadans have a law of inheritance, which, it is true, is not peculiar to Bengal, but the effect of which is the universal disintegration of the Muhammadan families. That the Muhammadan community appreciate the ill-effects of the Muhammadan law of inheritance appears from their evasion of the law by the device of a family entail under the name of a religious endowment. This device has been declared by the Privy Council to be invalid. Therefore, unless the Legislature provides a means, the Muhammadans are left without resource. It has therefore been decided to legislate by a permissive measure to give both Muhammadans and Hindus the power, which they have shown themselves desirous of possessing, of making a family settlement of their property. No one can be called upon to take advantage of its provisions against his will. It has been decided also not to insist or rely in any way on primogeniture as the sole condition upon which immoveable property may be settled. The object is to preserve the continuity of the family in the possession of the settled estates, and for this purpose the succession of members of the family other than the eldest son may, within certain limits, properly be recognised.

"And here I would take the opportunity of observing that, though this is a Government measure in one sense, it is not a measure which Government bring forward for their own purposes. It is understood that the principle of the creation and preservation of a body of influential and powerful landed gentry is one which commands the sympathy of the Government of India, and, no doubt, it is to the interest of Government, who are responsible for the maintenance of law and order, to have the native leaders of society attached to them by some form of gratitude. Land-owners all over the world are a loyal and conservative body. This is so even where their tenures are the growth of ancient law and custom. And there are no firmer ties than that of land in India, where many of the tenures are the creation of the Imperial power. On occasions of plague, famine, religious and other disturbances, it is to the heads of the community that Government must turn, and experience shows that their influence can be best maintained, as a rule, by their position as landed proprietors. The

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heads of families who have a great stake in the country and have, in fact, claimed to be not only important factors in the social economy, but also the real pillars of the State, may be expected, in times of trouble and disturbance, to rally to the side of Government rather than to espouse the cause of its enemies.

“Moreover, wealthy and settled families may be expected to show more consideration to their subordinate tenure-holders and tenants than proprietors who acquire subdivided estates by the partition law or as money-lenders, and look more to making profit out of the land than to the maintenance of position and dignity by possessing it. It is a great satisfaction to Government to see a prosperous and contented peasantry. But what I wish to emphasise is that, though there may be incidental gains which may accrue to the State from the passing of this permissive measure, they are not the objects for which the Bill is being introduced. That the Bill is not a necessity for Government is clear for two reasons. The power of Government is sufficiently strong and established already: on the other hand, there is no ground for making any general charge of discontent or disloyalty against the land-owners of Bengal as necessitating such a measure. The Bill may be useful to Government as an auxiliary support, it is not an indispensable element of strength.

“It has, indeed, been decided by Government that it is impossible to grant in full the application of the Bengal landowners, which originally aimed at obtaining legislation to permit the settlement of estates in perpetuity. It has long been the settled policy of the Statute Law of England to forbid perpetuities. This policy has been accepted in most civilised countries, and is based on the recognition of the principle that economically it is not expedient to fetter the free transfer of property. Departures from this principle can only be supported on the ground of strong political necessity. Exceptions have been made, indeed, from the settled policy of the Government of India and the Secretary of State in favour of certain talukdars of Oudh and in respect of certain ancient zamindaris in the Madras Presidency. But it has been ruled that there is no such necessity for a similar exception to the general policy of the Government of India being granted to the zamindars of Bengal. The law against perpetuities, as it works in England, means that property can be settled for a life or lives in being and 21 years. It has been decided, by slightly varying the English practice, to allow settlements of moveable and immoveable property to be made in Bengal, limited to three generations, not to three lives, and to allow each successive proprietor on succeeding to the property as tenant for life to make a new settlement, should he wish to do so. The right to make a new settlement is to be specifically granted afresh by the Local Government. The rights to be created by or under the family settlement are to prevail over rights derived from family custom or from the general law of succession to which the parties are subject. While a settlement will not have effect beyond the period authorized in the Bill, the opportunity to be given for re-settlement from time to time can be taken if the tenants for life so desire.

“If the Council have borne in mind what I said a few minutes ago about the present requirements of the Hindu and Muhammadan Laws, it will be obvious that this permissive Bill will give the heads of wealthy and influential families in Bengal power to make settlements of property which they cannot at present make. Though such settlements will be of a limited character—not in perpetuity—there will be nothing to prevent the settlement being continued to infinity, if the successive tenants for life are actuated by a becoming family pride and desire to maintain and improve the position of the family according to the provisions of the Bill. In England the settlements of land are strictly limited by law, but they have answered their purpose very well. In the case of almost every great English estate, it is protected by a deed which has no operation beyond the lives of the parties and their children. The main object of the deed is to keep the *corpus* of the property intact in the hands of the eldest son; the subsidiary object is to provide for the maintenance of widows and younger children. The settlement is renewed once in a generation, usually when the eldest son comes of age, or marries. The backbone of the English law of settlement is the rule against perpetuities, to

[*Mr. Buckland; the President.*]

which I have alluded. The question which Government has had to consider has been whether it would be possible to devise a form of settlement which would enable land-owners in Bengal to do for themselves what English land-owners have been doing for many generations. The present Bill is the solution of the question offered. Its provisions I propose to deal with more fully when speaking to the motion for referring the Bill to a Select Committee.

"At present, Sir, I have the honour to move for leave to introduce the Bill to facilitate the family settlement of estates in Bengal."

The Motion was put and agreed to.

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. Pugh, the Hon'ble Mr. Gupta, the Hon'ble Mr. Hare, the Hon'ble Maharaja Manindra Chandra Nandy, of Cossimbazar, the Hon'ble Rai Tarini Pershad, Bahadur, the Hon'ble Nawab Bahadur Khwaja Salimullah, of Dacca, the Hon'ble Dr. Asutosh Mukhopadhyaya and the Mover, with instructions to report at the next meeting of the Councils. He said:—

"Sir, I said just now that in speaking to this motion I should deal more fully with the provisions of the Bill. The Bill itself is based partly upon the Oudh Settled Estates Act, 1900, so far as regards procedure and powers of alienation, and partly upon the Indian Perpetuities Bill in the form originally submitted by the British Indian Association. Many of the provisions of the Oudh Act which appear superfluous and unsuitable to Bengal have been omitted. The framework of the Bill may be briefly described. After the usual preliminary sections containing the title and definitions, there follow sections 3 to 6 which deal with the manner in which applications are to be made for permission to make a settlement and with the preliminary inquiries which are required before Government passes final orders on an application unless it is summarily rejected. Sections 7 to 16 deal with the provisions of such settlements, and explain how they are to be notified, how they may be modified or revoked and what is to be their effect. Sections 17 to 20 explain certain restrictions of the powers of the tenants for life, while sections 21 and 22 are intended to prevent the defeat of settlements under this measure by the operation of the Revenue Sale Law. Sections 23 and 24 deal with notifications and empower Government to make rules under the Act. Such is, speaking broadly, the framework of the Bill. I now turn to particular sections.

"In section 2 a change in the definition of the word 'estate' has recently been introduced by which that word has been made to include not only immoveable property, but also money and jewellery or other moveable property which should, in the opinion of the Local Government, be treated as heirlooms. Sections 3 and 4 particularly avoid specifying any classes of landholders who may be supposed to be entitled to make settlements and leave the power to grant such a concession entirely within the discretion of the Local Government. Section 5 provides for the issue of notifications for the purpose of giving full and free publicity to important transactions of the nature of such a settlement, so that objections may be filed and considered in time. It is thought that, unless such notifications are published, it will be impossible for Government

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to ascertain the actual financial position of an estate. Section 6 deals with the rejection or approval of applications after notifications have issued.

“Sections 7 and 8 deal with the order of succession. They are intended to provide for settlement for three generations, *i.e.*, (1) the original settlor, the first tenant for life, (2) the second tenant for life, and (3) the ultimate holder. It is in this section that the variations from the present Hindu law are introduced, as the terms of the section allow a settlement of property upon one son only and upon a person yet unborn. The same section 7 provides that the settlement shall usually follow the natural course of succession, but a departure from this rule may be sanctioned by the Local Government for sufficient reason. There is nothing in the section which can be construed as allowing an estate to be settled away from the family in any case. From the reports that have already reached my hand it is evident that there is a considerable difference of opinion about this section which will require to be very carefully considered by the Select Committee. By a definition in the Bill the word ‘son’ includes an adopted son, and the Hindu practice of adoption makes it unlikely that settlers will often die without heirs. But section 8 makes provision for this extreme case by requiring that every settlement should contain provisions for further remainders.

“Under section 9 all incumbrances have to be specified in the settlement. Then provision has to be made for the discharge of incumbrances, for the payment of interest, for the maintenance of the widows, unmarried daughters and relatives (other than the second tenant for life) of the settlor. The same section provides for management in possible cases of minority. No restrictions on management, such as are found in English law, are imposed on an adult tenant for life in view of the strong opinion expressed by the British Indian Association in favour of giving the tenant for life absolute control over the property, subject of course to the provisions of sections 17 and 19, which impose restrictions on alienation and leases by the tenant for life.

“Section 10 provides for additions to the settled estate at any time and for the making of a fresh settlement either by the original settlor or by a subsequent tenant for life. The expression used in the Bill is that the fresh settlement is to be in supersession of the former settlement. It is not quite clear to me whether it is meant that the fresh settlement must contravene the former one, or whether it really means that a continuation or renewal of the former settlement will amount to a fresh settlement. I think this point requires examination.

“Sections 11, 12 and 13 state the formalities which must be observed before a settlement can take effect. It will be observed that section 12, subsection (2), provides that every such deed of settlement should bear a stamp of a value equivalent to one-fourth of the annual net profits of the estate comprised in the settlement, and such stamp-duty is made payable within three years. I am afraid that this provision of the Bill will be regarded as a severe tax by intending settlers, but it has been inserted by the Government of India as the condition on which the privilege of making such settlements is accorded, and it is perfectly clear that, if the condition is not accepted, the Bill, though passed by this Council, will not be approved by the Government of India. There is no alternative between accepting the provision and wrecking the Bill.

“Section 14 contains provisions necessary to prevent the ordinary law of the country or a special custom from operating to defeat settlements made under the Bill. Sections 15 and 16 provide for the revocation and cancellation of a settlement, for it seems proper that it should be possible under due safeguards, such as the sanction of Government, to terminate a settlement at any time.

“Sections 17 to 20 limit the powers of the tenant for life and save the provisions of the Bengal Tenancy Act of 1885. They also contain provisions that, when any portion of an estate is sold or when any premium or fine is taken for a lease, the proceeds shall accrue through official channels to the benefit of the estate, and not to the personal benefit of the tenant for life for the time being. Under the English law, as altered by modern legislation, the life owner of a great estate is usually invested with extensive powers

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of management: he may, for example, mortgage or sell the estate or part of it, but any capital sums which he may realize by the exercise of those powers are paid over to trustees and held by them on the same trusts as the land. The system works well in England, because it is not difficult to find good trustees. In India it may not be possible to find satisfactory trustees to act without remuneration, so that it is considered necessary, in such matters as the alienation or lease of a portion of a settled estate, to empower some officer of Government to perform the duties of a trustee.

“Sections 21 and 22 deal with the recommendations made by the British Indian Association, that a settled estate should be protected from sale under the Revenue Sale Law for default in the payment of land revenue. If it were possible for a tenant for life to default in the payment of the land revenue of an estate and thereby bring an estate to sale, it would be possible for him, unless otherwise prevented, to pocket the surplus proceeds of the sale. It is well known that in most cases there is a handsome surplus of the sale-proceeds after the arrear of Government revenue has been satisfied in a revenue sale. It has, therefore, been provided that such surplus of the sale-proceeds shall accrue to the benefit of the estate, and not to the personal profit of the tenant for life. The latter will, therefore, have no object in voluntarily incurring an arrear of land revenue so as to bring the estate to sale. Section 21 contains also a proviso to guard against the danger of *benami* purchases at sales for arrears of revenue. There is nothing more to be said about sections 23 and 24 of the Bill.

“These observations will, I trust, have put the Council in possession of all the points of the Bill which are worthy of their present notice.”

The Hon'ble BABU KALI PADA GHOSH said:—“I do not think the Bill, so far as its main principle is concerned, can be open to any serious objection. It proposes to ensure permanence and stability of the ancient aristocracy of the Province, and as such it will be generally regarded as a wholesome measure. But it cannot at the same time be denied that the Bill will make a rather violent change in the existing Law of Succession. Under the *Dayabhaqa* School of Hindu Law, one can bequeath his properties by a testamentary disposition or make a gift thereof in favour of any individual he chooses, and can even disinherit his own issues, but the gift must be to a person in existence and capable of taking effect at the time of the gift. Section 7 of the Bill, however, shows that a person making a settlement of his estate will be entitled to make such settlements in favour of an unborn son and even the son of an unborn son. The change will appear all the more striking in a case where a family is governed by the *Mitakshara* School of Hindu Law. In such a case a son by his very birth acquires a right to the ancestral property, and the father has not the power to dispose of the property either by will or gift, but under the provisions of the Bill, all the sons except one may be excluded from their legitimate shares in the ancestral property. This is certainly a point deserving of serious consideration, and I do not think it can possibly be intended that the Bill should go so far as to entitle a person to make settlement of a property over which he has no right of disposal under the principles of ordinary law. It seems to me to be desirable that the applicability of the provisions of the Bill should be restricted to large estates, and a pecuniary limit for this purpose should, if possible, be fixed.

“The objectionable feature of the Bill is, however, redeemed to a certain extent by the fact that it is a purely permissive measure, and in its practical application can affect only a few families in the whole of the Province, and that in the case of such as would voluntarily avail themselves of its provisions.

“In matters of detail the Bill is open to objection in several other respects, but I do not think I should be justified in taking up the time of the Council by dwelling upon such questions at this stage, as it will be for the Select Committee to carefully consider all questions of details.”

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—“I heartily thank His Excellency the Viceroy and Your Honour's Government for the measure which

[*Rai Tarini Pershad, Bahadur ; Dr. Asutosh Mukhopadhyaya.*]

has just been introduced by the Hon'ble Member in charge of it. I must say, Sir, that in the new measure I am not personally interested, for I have no property which is either large or of any importance which will in any way personally interest me in the new legislation. I, however, feel rejoiced at this occasion, as when it becomes law it will be a boon to those who are looking forward to it with unsavoury hearts.

"I must also say that if such a measure had ripened into law much earlier, many estates belonging to ancient families would have avoided a shipwreck and continued at least much longer than they did—many estates of considerable value and extent would have avoided change of hands and dismemberment. What the Hon'ble Member in charge has with Your Honour's permission introduced into the Council is nothing like anything unknown to this country. It owes its origin to long-established usages and customs existing from time immemorial, Regulation XI of 1793 and subsequent Regulations and the decided cases of the highest Courts testifying to the fact of the existence of such usages and customs.

"I would beg to lay before Your Honour a small mistake in the reply sent by the Bhagalpur Landholders' Association. They were under a wrong impression when considering the Bill that it will generally apply to Bengal proper and to the whole Presidency. It applies really to the whole Presidency, and it is all right.

"The provision in the Bill for stamp duty is looked upon by the public as a very harsh measure, and if it be not in the province of the Local Government and the Council to bring down the rate to a more reasonable and fair level, it had better be left alone, and the Bill, I hope, with certain improvements will become law.

"Another matter I beg to notice is that the definition of 'estates' should be made definite and final once for all, subject only as usual to be modified later on if necessary." ~

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Sir,—Under the Rules for the conduct of Legislative Business in this Council, when a motion is made that a Bill be referred to a Select Committee, the principle of the Bill and its general provisions may be discussed; I trust, therefore, I may, without impropriety, submit to the Council, at this stage, some observations on the measure now before us.

"In the first place, I may be permitted to observe that the proposed legislation is of a very exceptional character. It restricts in some measure, the operation of the rule against perpetuities and of the other wholesome rules which regulate the creation of future interests and the imposition of restraints on the alienation of property. It is too late in the day to question the policy which underlies these rules, and which has stood the test of criticism for centuries. Any legislative measure which purports to interfere with these rules, and which renders it possible that a considerable proportion of the land and capital of the community may be put in fetters, requires to be jealously scrutinised, and, I may say without hesitation, that if the measure now before us had gone much further than it does, had been of unrestricted application, and had not contained the safeguards to be found in the Bill, I should have found it extremely difficult to give it even my qualified support.

"The principle, however, which underlies the Bill, namely, the preservation of the ancient and aristocratic families of this Province from decay, has my unqualified approval, and, in so far as the provisions of the Bill are calculated to attain that object, they have my hearty support. I am afraid, however, that the extent to which by this Bill a concession is made in favour of our landed aristocracy has been misunderstood and to some extent exaggerated. Under the law as it has now been settled by judicial decision, a Hindu is entitled to deal with his property freely if the estate which he creates is, in respect of quality and quantity, such as is recognised in Hindu law and is not opposed to any principles of public policy. As pointed out by the Judicial Committee in the celebrated case of *Tagore vs. Tagore*, a Hindu is entitled to create a succession of life estates, provided

[Dr. Asutosh Mukhopadhyaya.]

the donee is a person in existence at the date of the gift. If, therefore, a landowner has his son and grandson alive, he is entitled to give a life-interest in his properties to his son, and subject to such life-estate, an absolute interest to his grandson. The Bill in substance provides that this may be lawfully done even if the son and the grandson are not in existence.

"To this extent the Bill abrogates the rule that the donee must be in existence and capable of taking at the time when the gift is made; to the same extent, also, the Bill makes the rule against perpetuities inapplicable; subject in each instance to the restriction that the donee is selected with reference to the rule of primogeniture. The exception, therefore, which is made to the ordinary law of the land in favour of the aristocracy is of a limited character and ought to meet with our approval. In the absence of any provision in the law similar to those contained in the Bill, our ancient and wealthy families must ultimately be ruined; their estate must in each generation be divided amongst the owners, and consequently their family prestige and territorial influence considerably diminished.

"The observations I have made are applicable primarily to Hindu families, but they apply with still greater force to the Muhammadan nobility, who live under a law which allows upon the death of a proprietor, not merely his sons, but a number of relations, more or less remote, to partake in the inheritance. Indeed, I may be permitted to observe that so far as these Muhammadan families are concerned, the Bill in one sense comes too late for families in which a number of heirs has already succeeded to the inheritance, and I am happy to find that my views are in entire agreement with those of my hon'ble friend, the Nawab Bahadur of Dacca, when I say that it would have been more satisfactory if some scheme had been devised and embodied in the Bill for vesting the management of the entire estate belonging to such noble Muhammadan families in the eldest male member, who might rightly be regarded as the head of the family, and would be able to maintain its dignity and traditions.

"In the second place, Sir, I may be permitted to point out that the legislation is of a purely permissive character. The provisions of the Bill when passed into law will not be forced upon any of His Majesty's subjects, and it is idle to say that it interferes with the personal law of any member of the community, be he Hindu or Muhammadan. It is entirely optional with a landowner to say whether he will take advantage of the provisions of the Act or not. If he chooses to avail himself of the provisions of the Act, his choice will have to be approved by the Local Government before the settlement can be effected. I hope I am not making too great an assumption when I say that the Local Government may be trusted to exercise the discretion so vested in it fairly and wisely. At any rate, I have seen no substantial reasons advanced as to why such discretion should not be vested in the Local Government.

"I do not, Sir, at this stage propose to detain the Council with an examination of the various provisions of the Bill, but I may be permitted to point out that the details will have to be carefully examined. I may indicate, for instance, one question which will have to be faced, namely, the applicability of the Bill to the great landowners of Bihar, who are governed by the *Mitakshara* law. Other points which will require careful consideration will be, the number of generations to which the settlement should be limited, the provisions which must be adequate and effective for the maintenance of the relations of the settlor, the payment of the stamp duty on the settlement, the effect of this Bill upon existing laws and customs, and last, but not least, the question of the satisfaction of the debts due to creditors, raised in the very important letter from the Secretary to the Trades Association, which was placed in our hands last night. These and various other questions will have to be carefully considered and minutely scrutinised. I may be permitted, therefore, to express the hope that adequate time will be given to the Select Committee for the fullest discussion of every point connected with the Bill, and for the amplest consideration of representations which may be made by persons interested in or affected by a measure of such vital importance. Though I do not profess to be wholly unfamiliar with the subject, it seems to me that adequate time is absolutely necessary for the consideration of the details of this Bill in their various aspects."

[*Maharaja Manindra Chandra Nandy, of Cossimbazar; Maulvi Seraj-ul-Islam, Khan Bahadur; the President.*]

The Hon'ble MAHARAJA MANINDRA CHANDRA NANDY, of Cossimbazar, said :—

"I beg fully to support the Hon'ble Dr. Asutosh Mukhopadhyaya. I also thank the Government for the introduction of this Bill, which will be a great boon to noble families of Bengal. There are many matters in this Bill that will require to be carefully considered and discussed, and I beg also that sufficient time be given for this discussion."

The Hon'ble MAULVI SERAJ-UL-ISLAM, KHAN BAHADUR, said :—"The policy that underlies this measure seems to me to be a sound and wholesome one, and the object of the Bill is to preserve the continuity of influential zamindar families, both Hindu and Muhammadan.

"From the Muhammadan point of view, Sir, I may submit that there seems to be no objection to the principle of the Bill, inasmuch as this principle is recognised in the Muhammadan Law itself and is known as Wakf Alal Aulad, or settlement on children. Although unfortunately the Privy Council has given an adverse decision on this point, but a large proportion of Muhammadan lawyers and authorities do not agree with the view of the Privy Council, and maintain that the Muhammadan law recognises this principle in our Wakf Alal Aulad, or settlement on children. That being so there will be no objection from the Muhammadan point of view to the principle of the Bill. No doubt it appears that the Bill trenches on the doctrine of perpetuity, but under section 2, clause (d), of the Transfer of Property Act, the Muhammadan Law is saved from the law of perpetuity. In other words, a Muhammadan can create a perpetuity even in spite of that law, as he is saved by section 2, clause (d). But, Sir, I quite agree with my hon'ble and learned friend, Dr. Asutosh Mukhopadhyaya, that this Bill does not go far enough, and I venture to urge that, unless the suggestion of the Hon'ble Nawab Bahadur of Dacca is adopted, and if this Bill is passed into law as it stands, it will be almost a dead-letter, because there is hardly one Muhammadan property in Bengal of which one person is the sole proprietor. The Bill provides only for cases in which there are no co sharers, where a man is the sole proprietor, and therefore Muhammadans will hardly be able to avail themselves of the benefits this measure is designed to confer. I trust that this matter will be carefully considered by the strong Select Committee that has been formed, and I hope they will see their way to giving the Bill a wider scope, for otherwise it will be of no avail to the Muhammadans in the Province.

"There is another point to which I should like to refer, and that is with reference to the stamp duty. The Council are no doubt aware that there is a consensus of opinion against the provisions of section 12 as regards the stamp duty, and there also seems to be objection as to whether the power of revocation ought to be given. I commend these matters to the careful consideration of the Select Committee, and while supporting the Bill submit that it ought to have a wider scope."

The Hon'ble the PRESIDENT said :—"Before putting this motion I desire to advert for one moment to the remarks which have fallen from some Hon'ble Members to the effect that full time should be given for the consideration of this Bill before the Select Committee submit their Report. As Hon'ble Members will see the terms of the motion which I have to put before the Council are that the Bill be referred to a Select Committee with directions to report at the next meeting of the Council, and the present intention is that the next meeting of the Council shall be on Friday next. I see that this announcement has been received with some surprise, and I therefore proceed to explain what the reasons are for calling a meeting of the Council at such an early date.

"In the first place, this Council will shortly disperse and the members of Government who compose it will be leaving Calcutta. During the week that is before us it is the intention of the Member in charge of the Bill to have several meetings of the Select Committee so that the work may be got through as quickly and as thoroughly as possible, and that their Report may be prepared by

[*The President.*]

next Friday. After that if the Report is prepared and presented, my intention is that it should be published for thorough and extensive criticism by all those concerned, and that the Select Committee's Report should not be taken up for consideration till some date at the beginning of the cold weather, so that six weeks or two months will be given for a complete study of that Report. Another reason is that it seems most likely that several important matters will be brought forward in Select Committee, and it may be necessary to refer some of them to the Government of India. If the Select Committee submit their Report next Friday, there will be time to submit those matters to the Government of India and to receive their reply before the next meeting of the Council.

"These are the reasons which have led me to think that this Report should be submitted at such an early date. I desire to add that it is always in the power of the Select Committee to submit a supplementary or additional report after receiving further suggestions."

The Motion was then put and agreed to.

The Council was adjourned to Friday, the 14th August, 1903. at 11 A.M.

A. P. MUDDIMAN,

For Secretary to the Bengal Council and

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

CALCUTTA;
The 18th September, 1903. }

*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 Friday, the 14th August, 1903.

Present:

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

The Hon'ble MR. L. P. PUGH, *Offg.* Advocate-General of Bengal.

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. L. P. SHIRRES.

The Hon'ble MR. A. EARLE.

The Hon'ble BABU CHATURBHOJ SAHAY.

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 TAEINI PERSHAD, BAHADUR.

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

The Hon'ble BABU KALI PADA GHOSH, M.A., B.L.

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

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

QUESTIONS AND ANSWERS.

EXPENDITURE FOR EDUCATIONAL REFORMS

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said :—

In the Bengal Financial Statement for 1902-1903, under head 22—Education, Rs. 42,42,000 was budgeted, including an Imperial grant of Rs. 10,00,000, for educational reforms.

(a) Will the Government be pleased to furnish details showing in what manner the normal grant of Rs. 32,42,000 and the special grant of Rs. 10,00,000 were actually spent between the 1st April, 1902, and the 31st March, 1903?

(b) Will the Government be pleased to state how much of such expenditure under each head was incurred between the date of the preparation of the Bengal Financial Statement for 1903-1904 and the 31st March, 1903?

(c) Will the Government be pleased to state the substance of any instructions given by the Government of India as to the manner in which the Imperial grant of Rs. 10,00,000 was to be spent, contained in their letters dated the 10th March, 1902, 10th May, 1902, and any other letters on the subject?

(d) Is it true that the Imperial grant of Rs. 10,00,000 was intended to meet, in part, the expenditure which will be the outcome of the recommendations of the Educational Conference held at Simla in September, 1901? If so, will the Government be pleased to state what are the recommendations of the Conference which have been so carried out?

(e) Will the Government be pleased to state what sum out of the ordinary Education grant of Rs. 32,42,000, and what sum out of the Imperial grant of Rs. 10,00,000, included in the Financial Statement of 1902-1903, actually remained unexpended on the 31st March, 1903? Will the Government be pleased to state whether such unexpended balance lapsed to Government?

The Hon'ble MR. EARLE replied :—

“(a) The statistical information asked for in clause (a) of the Hon'ble Member's question is furnished, as far as it is available, in a statement which is laid on the table. The replies to the remaining clauses of the question are as follow :—

“(b) No reply can be given to this question, because, as a matter of fact, the Bengal Financial Statement is under preparation during the month of March: in the current year it was presented on the 27th of that month.

“(c) and (d) (i) The Government of India, in their letter of the 10th March, 1902, referred to by the Hon'ble Member, stated that they had decided to make a recurring grant of Rs. 10,00,000 to Provincial Revenues to meet increased expenditure under Education, while in their letter of the 10th May, 1902, they stated that the grant of ten lakhs was intended to meet, in part, the expenditure which would be the outcome of the recommendations of the Educational Conference held at Simla in September, 1901, and should not be generally utilised for charges falling outside that expenditure. No further instructions have been given with regard to this subject by the Government of India.

“(ii) The Lieutenant-Governor is not able to furnish information showing which of the recommendations of the Educational Conference, held at Simla in 1901, have been carried out, because the proceedings of that Conference are still treated as confidential.

“(e) A sum of Rs. 2,07,774 out of the Provincial grant of Rs. 32,42,000 and a sum of Rs. 2,05,409 out of the Imperial grant of Rs. 10,00,000 remained unexpended on the 31st March, 1903. The unexpended balances lapsed to Government.”

[Mr. Earle; Dr. Asutosh Mukhopadhyaya.]

The following is the statement referred to above:—

THE actual expenditure out of the sum of Rs. 42,42,000 provided in the Education Budget was Rs. 38,28,837, as shown below:—

	Rs.
(1) Direction	68,119
Inspection	3,44,058
Government Colleges } Arts	5,49,928
} Industrial and technical	2,25,146
Government Schools ... } High and middle ..	6,45,954
} Survey and training	2,62,874
Grants-in-aid'	5,39,727
Primary Schools	1,83,345
Scholarships	1,98,903
Miscellaneous	75,784
Refunds	6,229
Total	31,00,067
(2) Transferred to District Boards—	
For the improvement of primary education	3,71,700
„ additional Sub-Inspectors of Schools	18,900
„ „ remuneration to teachers in primary schools	1,16,170
„ purchase of furniture, etc., in primary schools	52,815
Total	5,59,585
(3) Transferred to the Public Works Department—	
For Educational works	1,69,185
GRAND TOTAL	38,28,837

The information available does not show separately and in detail the items of expenditure of the grant of Rs. 32,42,000 and of the Imperial grant of Rs. 10,00,000. Approximately, the expenditure incurred from the former amounted to Rs. 30,34,246, and that from the latter to Rs. 7,94,591.

REDUCTION OF GOVERNMENT SCHOLARSHIPS.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked:—

(a) Will the Government be pleased to state whether the junior Government scholarships awarded upon the results of the Entrance Examination of the Calcutta University and the senior Government scholarships awarded upon the results of the F. A. Examination of the Calcutta University have been reduced both in number and amount? If so, will the Government be pleased to state the extent of such reduction?

(b) Will the Government be pleased to state in what year the amount of each scholarship, which has now been reduced, was originally fixed? Will the Government be pleased to state for how many years the number which is now reduced has continued unchanged?

(c) Will the Government be pleased to state (1) the number of candidates who appeared at the Entrance and F. A. Examinations of the Calcutta University in 1903; (2) the number of junior and senior scholarships awarded upon the results of such examinations and the value of each of such scholarships; (3) the number of candidates who appeared at the Entrance and F. A. Examinations of the Calcutta University in the year in which the number and value of the junior and senior scholarships were fixed at the figures which were in force up to 1902; (4) the number and value of each of such scholarships in the year just mentioned?

(d) Will the Government be pleased to state whether it is true that some of the junior scholarships previously awarded upon the results of the University Entrance Examination have been diverted for the encouragement of students passing by the B and C standards under the new bifurcation scheme? If so,

[Dr. Asutosh Mukhopadhyaya; Mr. Earle.]

will the Government be pleased to state the number and value of the scholarships so diverted? Will the Government be pleased to state the number of students who have appeared, or are likely to appear, at the B and C standard examinations and to whom the competition for the diverted scholarships is confined?

(e) Is the Government aware that though the ordinary monthly tuition fee in the Presidency College is Rs. 12, an exception has hitherto been made in the case of students holding junior scholarships who are required to pay only Rs. 10, being the amount of the junior scholarship of the lowest grade? Inasmuch as the value of the junior scholarship of the lowest grade is now reduced from Rs. 10 to Rs. 8, will the Government be pleased to consider whether the tuition fee in the Presidency College should not be reduced from Rs. 10 to Rs. 8 in the case of students holding junior scholarships?

(f) Has the attention of the Government been drawn to paragraphs 71 to 75 of the Report of the Indian Universities Commission relating to the raising of fees in Colleges and the establishment of a "comprehensive and liberal system of scholarships" for the benefit of "poor but really able students"? Will the Government be pleased to consider whether it is advisable to reduce the number and value of the scholarships when the question of raising the fees and establishing a liberal system of scholarships is under the consideration of the Government of India?

(g) Will the Government be pleased to state the reasons for the reduction in the value of the scholarships? Will the Government be pleased to state what is the amount saved annually by such reduction?

The Hon'ble MR. EARLE replied:—

"The statistical information asked for by the Hon'ble Member, under heads (a) to (d) of this question, is given in a statement which is laid on the table. The replies under heads (e), (f) and (g) are as follow:—

"(e) Government is aware that junior scholars reading in the Presidency College are required to pay Rs. 10 a month as tuition fees. The question of a reduction of these fees, in the case of these scholars, who now receive stipends amounting to Rs. 8 *per mensem* only, was fully considered in the year 1902, but it was decided that no change should be made.

"(f) and (g) Government is fully aware of the remarks recorded in paragraphs 71 to 75 of the University Commission's report, to which the Hon'ble Member has alluded, and those observations are still under consideration. The reduction in the number and value of the scholarships now under discussion was made at the instance of the Government of India, who, in reviewing the Report on the Progress of Education in India from 1892-93 to 1896-97, observed that the amount spent on junior and senior scholarships in Bengal had exceeded the 2 *per cent.* limit fixed by the Education Commission of 1881. A reduction was, accordingly, effected in the manner above shown, the whole of the amount thus set free (Rs. 14,376 *per annum*) being allotted for the creation of additional primary scholarships."

The following is the statement referred to above:—

(a) The number of Junior Government Scholarships awarded upon the results of the Entrance Examination of the Calcutta University has been reduced by 18, but no reduction has been made in the number of Senior Government Scholarships awarded upon the results of the F. A. Examination. The values of both the Junior and Senior Scholarships have been reduced, as shown below:—

JUNIOR SCHOLARSHIPS.

1st grade.

6 Scholarships from Rs. 20 to Rs. 16 a month.

2nd grade.

41 Scholarships from Rs. 15 to Rs. 12 a month.

[Mr. Earle ; Dr. Asutosh Mukhopadhyaya.]

3rd grade.

87 Scholarships from Rs. 10 to Rs. 8 a month.

SENIOR SCHOLARSHIPS.

1st grade.

10 Scholarships from Rs. 25 to Rs. 20 a month.

2nd grade.

40 Scholarships from Rs. 20 to Rs. 16 a month.

(b) The values and number of these scholarships were originally fixed in the year 1889. No change was made in the number of these scholarships till the year 1902.

(c) (1) The number of candidates who appeared at the Entrance and F. A. Examinations of the Calcutta University in the year 1903 from schools or colleges in Bengal, exclusive of private candidates, who are ineligible for scholarships, was 5,693 and 3,552, respectively.

(2) The number of Junior Scholarships awarded on the result of the Entrance Examination, exclusive of 3 special scholarships for females and 20 special scholarships for Muhammadans, was 134, while the number of Senior Scholarships awarded on the result of the F. A. Examination, exclusive of 2 scholarships for females and 20 special scholarships for Muhammadans, was 50. The values of these scholarships were as shown under (a) above. The values of special scholarships for girls are the same as those of scholarships for boys, while the values of the special Senior Scholarships for Muhammadans are Rs. 10, or Rs. 7 a month, respectively (10 at Rs. 10 and 10 at Rs. 7), and those of special Junior Scholarships for Muhammadans are Rs. 7 a month.

(3) The number of candidates who appeared at the Entrance and F. A. Examinations of the Calcutta University in the year 1889 from the schools or colleges in Bengal, exclusive of private candidates, who are not eligible for scholarships, was 4,761 and 2,099, respectively.

(4) In the year 1889 there were 152 Junior Scholarships, exclusive of 3 special scholarships for females and 20 special scholarships for Muhammadans, and 50 Senior Scholarships, exclusive of 2 special scholarships for girls and 20 special scholarships for Muhammadans. The values of the Junior Scholarships were Rs. 20, Rs. 15 and Rs. 10, and those of the Senior Scholarships Rs. 25 and Rs. 20, respectively. The values of the special scholarships for girls were the same as those of scholarships for boys, while those of special scholarships for Muhammadans were as shown in c (2) above.

(d) Four Junior Scholarships of the first grade, 6 of the second grade, and 8 of the third grade, of the values of Rs. 16, Rs. 12 and Rs. 8, respectively, previously awarded upon the result of the Entrance Examination, have been transferred to students passing by the B and C standards under the new bifurcation scheme. The number of students who appeared at the recent B and C examinations was 84.

PLACING OF GOVERNMENT COLLEGES UNDER INDIAN PROFESSORS.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked :—

In paragraph 864 of the Bengal Administration Report for 1901-1902, page 313, it is stated that "the policy of Government of placing certain of the Government Colleges entirely under Indian Professors is being gradually carried out."

(a, Will the Government be pleased to state when the policy referred to in the preceding extract was inaugurated, and specify what steps have been taken to give effect to such policy ?

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

(b) Will the Government be pleased to specify the names of the Government Colleges which are *now entirely* under Indian Professors, and also the names of the Colleges which are intended to be placed under Indian Professors?

(c) Will the Government be pleased to state whether it is intended to include the Presidency College in this category? Will the Government be pleased to state the number of Professors and Lecturers now employed in the Presidency College, and specify how many of these are Indian and how many non-Indian?

(d) In the case of Government Colleges which have already been placed *entirely* under Indian Professors, will the Government be pleased to state whether it is true that such Indian Professors belong, in the majority of instances, to the Provincial Service, whereas the European Professors whom they have replaced belonged generally to the Imperial Service? Will the Government be pleased to state whether it is true that such employment of Indian Professors has resulted in a substantial saving in the cost of management of such Colleges?

(e) Will the Government be pleased to state whether these Indian Professors, who are on a lower grade and draw a lower salary than the European Professors whom they have replaced, are carrying on educational work with equal efficiency?

The Hon'ble Mr. EARLE replied:—

“(a) and (b) The policy of placing certain of the Government Colleges entirely under Indian Professors emanated from a recommendation made by the Public Service Commission in the year 1886-87, to the effect that the English agency employed in the Educational Service should be reduced. This recommendation was, however, qualified by an expression of opinion that there should be, in each Presidency, at least one College with a staff of Professors capable of teaching up to the highest European standards, under a European Principal, and that the same object should, as far as possible, be kept in view as regards the smaller Colleges. In pursuance of this policy, while several officers of the Indian Educational Service have always been attached to the Presidency College, and the Dacca and Patna Colleges have each been provided with a Principal and a Professor belonging to that Service, the Colleges at Hooghly, Krishnagar, Rajshahi, Cuttack and Chittagong, and the Sanskrit College, Calcutta, have usually been manned by officers of the Provincial Educational Service, which consists almost entirely of Indian gentlemen. All the last-named Colleges, with the exception of the Hooghly College, are at present entirely officered by Indian Professors. There is no proposal to increase the number of Colleges which are entirely placed under such Professors.

“(c) As shown above, it is not intended to include the Presidency College in the category of those institutions which are to be placed entirely under Indian Professors. There are at present attached to the Presidency College 15 Indian and 7 European Professors. Owing to the absence, on deputation and leave, of four European Professors from this College, there has recently been some temporary reduction in the number of such officers and a corresponding increase in the number of Indian Professors.

“(d) In the case of Government Colleges, which have been placed entirely under Indian Professors, such Professors usually belong to the Provincial Service. According to present arrangements, however, the Dacca College will shortly be entirely manned by Indian Professors, two of whom will be in the Indian Educational Service. Inasmuch as the rate of pay in the Provincial Service is lower than that which prevailed in the former superior graded service, from which the European Professors were previously drawn, the substitution of Indian for European Professors has resulted in a substantial reduction in the cost of maintaining the Colleges under consideration.

“(e) In order to institute the comparison between the educational work of the Indian Professors and that of the European Professors whom they have replaced, as desired by the Hon'ble Member, it would be necessary to call upon the Director of Public Instruction for a full report. The Lieutenant-Governor is not disposed to take this step.”

[*Mr. Buckland; the President.*]

THE BENGAL SETTLED ESTATES BILL, 1903.

The Hon'ble MR. BUCKLAND presented the Report of the Select Committee on the Bill to facilitate the family settlement of estates in Bengal.

The Hon'ble the PRESIDENT said:—"Since we last met in this Council Chamber, the Select Committee on the Bill for the family settlement of estates in Bengal have worked with such assiduity that the Hon'ble Mr. Buckland has been able to present to-day their Report on the Bill.

"It will be recollected, however, that on Saturday last I mentioned that there might be certain matters in the Report which might necessitate a reference to the Government of India. I have perused the Report which the Hon'ble Mr. Buckland has just presented, and I find that my expectations have been fulfilled. There are several modifications of importance which the Select Committee have felt themselves obliged to recommend. Therefore, in accordance with the provisions of Rule 7 of the Instructions of the Government of India regarding legislation in Local Councils, I consider it necessary to delay the further progress of this Bill until these matters have been laid before the Government of India and their instructions have been received.

"In these circumstances the Report will not be published at present, and the further consideration of the Bill, to which it refers, will be postponed till some later date."

The Council was adjourned *sine die*.

A. P. MUDDIMAN,

CALCUTTA;
The 18th September, 1903. }

For *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 12th December, 1903.

Present:

The Hon'ble SIR ANDREW FRASER, K.C.S.I., Lieutenant-Governor of Bengal,
presiding.

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

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

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. W. A. INGLIS.

The Hon'ble MR. L. P. SHIERES.

The Hon'ble MR. A. EARLE.

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

The Hon'ble MR. T. K. GHOSE

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.

The Hon'ble BABU KALI PADA GHOSH, M.A., B.L.

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

The Hon'ble BABU BHUPENDRA NATH BASU, M.A., B.L.

NEW MEMBERS.

The Hon'ble MR. WOODROFFE, the Hon'ble MR. GREER, the Hon'ble MR. T. K. GHOSE, and the Hon'ble BABU BHUPENDRA NATH BASU took their seats in Council.

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

QUESTIONS AND ANSWERS.

SALARIES OF MINISTERIAL OFFICERS.

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

WITH reference to the Hon'ble Sir Denzil Ibbetson's announcement that a sum of 3½ lakhs of rupees has been provided in the current year's budget for the improvement of clerical establishments in District Offices (*vide* Gazette of India, 4th April, 1903, Part VI, page 113)—

(a) will the Government be pleased to state what proportion of the grant has been assigned to Bengal; and

(b) will the Government be further pleased to inform the Council whether, in view of the urgent need for reform, there is any likelihood of an early revision of the salaries of ministerial officers in District Offices?

The Hon'ble MR. SHIRRES replied:—

“(a) The reply to the first portion of the Hon'ble Member's inquiry is that no part of the grant in question has been assigned to Bengal.

“(b) With reference to the latter half of his question, I would invite the Hon'ble Member's attention to the remarks of the Hon'ble Mr. H. M. Kisch, Financial Secretary to the Government of Bengal, made in the course of the debate on the budget in the Council held on the 9th April, 1902. He reminded Hon'ble Members who had commented upon the absence of provision from the budget for improving the pay of ministerial officers that the question had never been lost sight of, that Government was in full sympathy with the desire that all grades of ministerial officers should be sufficiently remunerated, and that though financial considerations had prevented the entertainment of wholesale proposals for a simultaneous increase in all Departments of Government, improvements had been effected from time to time in several important offices. In the past few years the position of the lower paid subordinates of the Custom House, of the offices of the Director of Land Records and Agriculture, the Collector of Income-tax, and the Inspector-General of Jails, and of the District Taazi establishments has been materially improved, and I need only repeat the words of the Hon'ble Mr. Kisch that ‘when the Government is in a flourishing condition and such applications are supported by good grounds, they are almost invariably sanctioned.’

“The question of my hon'ble friend suggests, however, that this Government should take up the question and deal with it as a whole at an early date. Unfortunately it is impossible to make any promise at present; because if anything like a complete revision of establishments were required, involving a large increase of recurring expenditure, the whole of it would have to be met from Provincial Revenues. At present, however, the resources of the Province are undergoing the periodical revision which is a necessary incident of the method of decentralizing Provincial finance which has prevailed up to the present. The object of such a revision is to establish equilibrium between income and expenditure, and it is obvious therefore that no new recurring expenditure on a large scale can be undertaken until sufficient time has elapsed for the revenue to grow so as to give a surplus.”

TRANSFER OF THE CHITTAGONG DIVISION TO ASSAM.

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

(a) Has the attention of the Government been called to the persistent reports in the newspapers, especially in the *Pioneer*, to the effect that the transfer of the Chittagong Division to Assam will soon take place?

(b) Has the Government any information on the subject?

(c) If not, will the Government be pleased to obtain information and lay it on the table, regard being had to the strong feeling of opposition which the proposal has evoked from the people of the Chittagong Division?

[Mr. Macpherson; Rai Tarini Pershad, Bahadur; Mr. Inglis.]

The Hon'ble MR. MACPHERSON replied:—

“(a) The attention of Government has been drawn to the reports referred to and to the article in the *Pioneer*. The latter appears to have been based on the Notification which appeared in the Gazette regarding the acquisition of land in Chittagong. That acquisition, however, does not pledge the Government to anything, but would be wise whether Chittagong is transferred to Assam or not.

“(b) The *Gazette of India* published this morning contains a letter (No. 3678, dated 3rd December, 1903) from the Secretary to the Government of India in the Home Department, in which the proposal to transfer Chittagong to Assam has been mentioned along with other proposals for reducing the size of this province. The Government of India have fully set forth their views; and the public have as much information as this Government has on this matter.

“(c) The matter is now one to be taken up by this Government, an expression of whose views has been invited by the Government of India.”

RAILWAY ACCIDENT NEAR SONEPUR

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—

I beg to call the attention of the Government to the serious railway accident which took place a few months back on the Bengal and North-Western Railway near the Sonepur Station, resulting in loss of life. Is it the case that an inquiry was held? If so, will the Government be pleased to lay on the table the report of the inquiry, or if that be impracticable, the main findings of the report with the reasons thereof? Is it the case, as stated in the *Bengalee* of the 7th October last, that since the accident there has been “a reduction in the number of signallers at the following stations: Bhagwanpur, Kurhani, Turki, Dhole and Ugarpur; that a reduction of signallers at other stations is under contemplation, and that there has been a reduction of hands in other Departments besides the Traffic Department?” If this information is correct, will the Government be pleased to inquire into the reasons for such reduction?

The Hon'ble MR. INGLIS replied:—

“An inquiry was held. Copies of the reports which give the results of the judicial and departmental inquiries, and copies of the judgments of the Magistrate of the district by whom certain persons were tried, are laid on the table. It has been ascertained that the signallers at the Kurhani, Turki and Ujarpur stations have been withdrawn during the current half-year with the approval of the Consulting Engineer. Certain signallers were also removed (but were not dismissed) from a number of smaller stations on the Bettiah and Khanwa Ghât branches, where they were being trained for service on new extensions of the Bengal and North-Western Railway system.”

THE BENGAL AND NORTH-WESTERN RAILWAY.

The Hon'ble RAI TARINI PERSHAD, BAHADUR, asked:—

(a) Has the attention of Government been drawn to a communication from Darbhanga under the heading of “B. N.-W. Ry.,” published in the daily issue of the *Bengalee* of the 21st October last? Will the Government be pleased to state whether it does not think it proper to take any steps to remedy the grievances complained of?

(b) Will the Government be pleased to state whether it is a fact that the Board of Directors of the Bengal and North-Western Railway have proposed to take lease of the Eastern Bengal State Railway? If so, will the Government be further pleased to state whether it has arrived at any decision on the point?

The Hon'ble MR. INGLIS replied:—

“(a) The Lieutenant Governor has seen the communication. The Bengal and North-Western Railway is controlled by the Government of India through the Consulting Engineer for Railways, Lucknow. The attention of the Consulting Engineer has been drawn to the grievances stated, and he has been requested to furnish a report on the subject.

“(b) The Lieutenant-Governor has no information.”

[Rai Tarini Pershad, Bahadur ; Mr. Inglis ; Dr. Asutosh Mukhopadhyay ;
Mr. Earle.]

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

The Hon'ble RAI TARINI PERSHAD, BAHADUR, asked :—

Has the attention of Government been drawn to an editorial in the same issue of the *Bengalee* headed "Herding of 3rd-class passengers in goods wagons on the East Indian Railway"? Will the Government be pleased to state whether it does not consider it desirable to take steps to remove the grievance therein mentioned?

The Hon'ble MR. INGLIS replied :—

"The Lieutenant-Governor has seen the article. The use of covered goods wagons for the conveyance of passengers is at times necessary and unavoidable to meet exceptional rushes of passenger traffic. The rules under which the use of the wagons is permitted are contained in Chapter XIII, paragraph 37 of the General and Subsidiary Rules for the Traffic Department of the East Indian Railway; they have had the approval of Government. The rules guard against overcrowding, and provide for lighting at night. The Traffic Manager, East Indian Railway, has explained that in October last 115 wagons were used for the conveyance of passengers returning from the Pitripakha *méla* at Gaya, and that the average number taken in each wagon was 23½. The rules permit of 25 being carried in a covered iron wagon in the hot weather, and 34 in the cold weather."

IMPERIAL GRANT FOR EDUCATIONAL PURPOSES.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, said :—

With reference to the Imperial grant of ten lakhs of rupees for educational purposes during the year 1903-1904, will the Government be pleased to state—

- (a) whether any (if any, what) scheme has been prepared for the expenditure of the money during the year?
(b) how much of the money has already been spent and in what manner?

The Hon'ble MR. EARLE replied :—

"A statement is laid upon the table showing (a) how the Imperial grant of ten lakhs of rupees for educational purposes during the year 1903-1904 has been allotted; (b) how much of the grant made under each head has already been spent or will probably be spent; and (c) the actual or probable balance under each head. It is not possible to give more exact figures, because, in many cases, the money is in process of expenditure by the local authorities. Every endeavour is being made to utilise the anticipated balances before the close of the year."

Statement showing (a) how the Imperial grant of ten lakhs of rupees for educational purposes during the year 1903-1904 has been allotted; (b) how much of the grant made under each head has already been spent or will probably be spent; and (c) the actual or probable balance under each head.

	Sanctioned distribution of the Imperial grant of ten lakhs for Educational work during the year 1903-1904.		Probable amount which will be spent, or amount which has actually been spent.	Probable or actual balance available.	
	Rs.	A. P.		Rs.	A. P.
1. For an Assistant Director of Public Instruction.	6,500	0 0	Rupees 1,500 only will be spent within the year, because a successor to Mr. Peake, who has been appointed Assistant Director, has only recently been selected by His Majesty's Secretary of State.	5,000	0 0
2. For an Inspectress of Schools and her establishment.	3,000	0 0	Most of the money will be available for expenditure under other (Educational) heads, because the lady, who is to be Inspectress of Schools, has only recently been appointed by His Majesty's Secretary of State.	2,000	0

[Mr. Earle.]

Sanctioned distribution of the Imperial grant of ten lakhs for Educational work during the year 1903-1904.		Probable amount which will be spent, or amount which has actually been spent.		Probable or actual balance available.			
	Rs.	A.	P.	Rs.	A.	P.	
3. For an additional High School for girls.	8,000	0	0	Arrangements have been made for opening the school; and the money will, it is expected, be spent.		Nil.	
4. For an additional Sub-Inspector of Schools in Singhbhum.	900	0	0	Exact figures are not available, but it is believed that the money will be spent.		Nil.	
5. For opening Commercial classes at the Kurseong Victoria Boys' School.	6,000	0	0	Rs.	A.	P.	
				2,900	0	0 (spent)	3,100 0 0
6. For opening a Middle English School in the northern quarter of Calcutta for Muhammadans.	6,000	0	0	6,000 0 0 (spent)		Nil.	
7. For raising the status of the Dacca Survey School.	60,000	0	0	51,694 14 11 (spent)		8,305 1 1	
8. For the opening of Training Schools for Primary School Teachers.	57,000	0	0	Exact figures are not available, as the money is in process of expenditure by the local officers. Some savings are expected, which will be utilised for the purchase of lands, etc., for the schools.			
9. For opening new institutions for training female teachers.	15,380	0	0	Rs.	A.	P.	
				15,380	0	0	... Nil.
10. Additional grant sanctioned in 1903-1904, over and above the grant for 1902-1903, under the head of Grants-in-aid.	1,41,000	0	0	Exact figures are not available: probably the whole sum will be spent.		Nil.	
11. For scholarships to be held in Europe.	4,500	0	0	Rs.	A.	P.	
				4,300	0	0 (spent)	200 0 0
12. For the training of officers in Europe.	2,000	0	0	Nil.		2,000 0 0	
13. For the Astronomical Observatory in the Presidency College.	11,000	0	0	11,000 0 0 (spent)		Nil.	
14. For apparatus for Government schools.	2,400	0	0	1,279 11 0 (do.)		1,120 5 0	
15. For Primary Education, the money having been placed at the disposal of District Boards.	4,00,000	0	0	4,00,000 0 0		Nil.	
16. For Sub-Inspectors of Schools, the money having been placed at the disposal of the District Boards.	63,000	0	0	63,000 0 0		Nil.	
17. For tents for the students of the Bihar School of Engineering.	4,000	0	0	4,000 0 0		Nil.	
18. For opening "continuation" schools.	10,800	0	0	Exact figures are not available, because the money is being spent by the local officers; no savings are expected.		Nil.	
19. For opening four Training Classes for female teachers.	2,500	0	0	Rs.	A.	P.	
				2,500	0	0	Nil.
20. For the salaries of a Nurse and an Assistant Matron at the Victoria Boys' School, Kurseong.	295	8	0	295 8 0		Nil.	
21. For the supply of an oil-gas apparatus, and for the construction of a workshop, for the Rajshahi College.	3,000	0	0	3,000 0 0		Nil.	
22. For the acquisition of land for the extension of the Nawab's Madrasa, Murshidabad.	4,839	0	11	4,839 0 11		Nil.	

[Mr. Earle.]

Sanctioned distribution of the Imperial grant of ten lakhs for Educational work during the year 1903-1904.	Probable amount which will be spent, or amount which has actually been spent			Probable or actual balance available.	
	Rs.	A.	P.		
23. For a building grant to the Diocesan Girls' School, Darjeeling.	25,000	0	0	25,000 0 0 (spent)	Nil.
24. For the up-keep of the electric plant in the Civil Engineering College, Sibpur.	800	0	0	800 0 0	Nil.
25. For a verandah for the Balasore Zilla School.	3,102	0	0	3,102 0 0	Nil.
26. For the opening of a special class at the Presidency College.	3,150	0	0	The class was opened in June 1903. The greater part of the money will, therefore, be spent.	
27. For the construction of servants' quarters at the Victoria Boys' School, Kurseong.	5,000	0	0	Rs. 5,000 A. P. 0 0	Nil.
28. For additional grants to Circle Schools.	676	0	0	676 0 0	Nil.
29. For two type-writing machines for the Commercial Classes at the Presidency College.	663	0	0	663 0 0	Nil.
30. For the construction of new verandahs at the Madrasah Hostel at Chittagong.	1,175	0	0	1,175 0 0	Nil.
31. For the construction of a masonry drain round the Chittagong Training School building.	1,050	0	0	1,050 0 0	Nil.
32. For the reconstruction of the Boarding House for Sonthal students at the Dumka Zilla School.	2,858	0	0	2,858 0 0	Nil.
33. For the acquisition of land for the play-ground of the Taki Government School.	433	5	9	433 5 9	Nil.
34. For raising the status of the Ranchi Industrial School.	1,000	0	0	1,000 0 0	Nil.
35. For initial charges for Gururaining Schools.	49,239	0	0	Exact figures are not available, because the money is being spent by the local officers: no savings are expected.	Nil.
36. For improvements of the buildings of the Cuttack College.	57,280	1	3	It is reported that Rs. 17,000 only can be spent by the Public Works Department before the close of the year. The balance of Rs. 40,000 will now be utilised for other (educational) purposes.	
37. For the restoration of the Dumka Zilla School.	10,998	0	0	Rs. 10,998 A. P. 0 0	Nil.
38. For the purchase of chemicals for the Chemical Laboratory of the Bihar School of Engineering.	1,050	0	0	1,050 0 0	Nil.
39. For the improvement of the water-supply at the Dow Hill Girls' School, Kurseong.	5,200	0	0	5,200 0 0	Nil.
40. For the acquisition of land for the Patna College Hostel.	18,250	0	0	18,250 0 0	Nil.
41. For the extension of the Hooghly College Library.	684	0	0	684 0 0	Nil.
42. For remuneration to officers conducting tests at the Civil Engineering College, Sibpur.	800	0	0	800 0 0	Nil.
	Rs. ...	10,00,522	15 11		
Deduct odd hundreds of rupees ...		- 522	15 11		
Total ...		10,00,000	0 0		

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

RE-ORGANISATION OF THE PROVINCIAL CIVIL SERVICE.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—

With reference to the statement contained in paragraph 6 of the explanatory notes on the Bengal Financial Statement for 1903-1904 that a grant of one lakh of rupees has been made for the improvement of the status of Sub-Deputy Collectors and that a grant of one lakh and five thousand has been made for the re-grading of Munsifs and additional temporary Sub-Judges, will the Government be pleased to state what action has been taken in respect of each of these matters during the current financial year?

Will the Government be further pleased to state the financial effect of the changes introduced?

The Hon'ble MR. MACPHERSON replied:—

“The scheme for the re-organisation of the Subordinate Civil Service is still before the Government of India, who called for further information, which has recently been submitted. The estimated increase of expenditure provides for an increase in the cadre of this service as well as for a re-adjustment of the number of officers in each grade; and it was inaccurately noted therefore as intended to be allotted (entirely) for improvement of the status of Sub-Deputy Collectors.

“The scheme for the re-grading of Munsifs was sanctioned in 1902, and the increased expenditure of Rs. 74,400 *per annum* involved thereby will proceed against the grant for that purpose. Temporary Subordinate Judges have been sanctioned for six months in three districts, and this increased expenditure, which is estimated at Rs. 9,522, will also be a charge against the grant for such portion of the period as falls within the current financial year.”

GRANTS TO DISTRICT BOARDS FOR FEEDER ROADS.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked:—

(a) Will the Government be pleased to state the details of the grants made to District Boards for feeder roads during the first-half of the current financial year?

(b) Will the Government be pleased to call for a report shewing in what manner the grants made to various District Boards for feeder roads during the year 1902-1903 were utilised by those bodies and lay the same on the table?

The Hon'ble MR. SHIRRES replied:—

“(a) A statement containing the information asked for in the first part of the question has been laid on the table.

“(b) With reference to the second part of the question, if my hon'ble friend wishes, I can supply him with copies of the annual reports of the Divisional Commissioners on the working of the District Boards: these reports are in print and contain some information on the subject. Or, if he will communicate with me and state precisely why he asks the question, I may possibly be able to supply him with other information which he may desire. The Lieutenant-Governor, however, has no reason to doubt that these grants are properly expended, and he is not willing to call for special reports and returns from a large number of districts unless there is some clear and definite object to be gained thereby.”

Annexure to the above Answer.

THE following grants have been sanctioned by the Financial Department in the first-half of the year 1903-1904:—

District.		Rs.	
Bogra	{	For Jamalgunge and Etakhola hat road ...	7,252
		„ Panchbibi to Lokma hat road ...	6,659
		For road from Burbigha to Sheikpura railway station ...	
Monghyr	{	„ „ „ Serari to Chowriah railway station ...	50,000
		„ „ „ Jaimangla to Serari railway station ...	
		„ „ „ Ramgarh to Sheikpura railway station ...	
		63,911	

[*Babu Kali Pada Ghosh; Mr. Shirres; Mr. Macpherson.*]

INCOME-TAX.

The Hon'ble BABU KALI PADA GHOSH asked :—

Will the Government be pleased to state—

- (a) The amount of income-tax assessment in Bengal during the year 1902-1903 on incomes above one thousand rupees, and also the amount of current year's assessment on such incomes?
- (b) The average annual increase in the income-tax revenue during the last five years?
- (c) Whether the Government contemplates any reduction in the staff of income-tax assessors in view of the expected decrease in the income-tax revenue on account of the raising of the minimum limit of assessable income?
- (d) Whether the Government is aware that there has been a tendency on the part of some of the officers employed in making assessment of the income-tax to make up the deficiency in revenue consequent upon the raising of the minimum limit by excessive assessments? If so, will the Government be pleased to issue such instructions as the Government may think fit in this behalf?

The Hon'ble MR. SHIRRES replied :—

The replies to sub-heads (a), (b), (c) and (d) of the question are :—

- (a) The amount of income-tax assessment in Bengal during the year 1902-1903 on incomes above one thousand rupees was Rs. 46,76,552, exclusive of fines, penalties, refunds, &c. The amount of the current year's assessment on such incomes is not yet known.
- (b) The average annual increase in income-tax revenue during the five years ending with 1902-1903 was Rs. 1,65,000.
- (c) A reduction in the staff of income-tax assessors will be made with effect from 1st April, 1904.
- (d) The Government is not aware that there is any such tendency.

POLICE CONTRIBUTIONS IN CHOTA NAGPUR.

The Hon'ble BABU KALI PADA GHOSH asked :—

Is the Government aware that a cess called the Police contribution is realised from several elaquadars in the districts of Chota Nagpur? Will the Government be pleased to state whether there is any law authorising the levy of such cess? If there is no law, will the Government be pleased to direct that the realisation of the cess be discontinued?

The Hon'ble MR. MACPHERSON replied :—

“Government is aware that a contribution on account of Police establishments is levied from some of the landholders in the Chota Nagpur Division as from some of the zamindars in other parts of Bengal under the provisions of clause 4, Article VII, Section VIII of Regulation I of 1793.

“These contributions have been realised from the time when the landholders were exonerated from the charge of Police establishments. If in any cases they are not realised under the provisions of the law just cited, it is presumed that they are covered by the terms of the agreements into which the landholders have entered either at the time of settlement of their lands or when they were relieved of their police duties. If in any case any landholder thinks that the contribution should not be realised from him, he can make a representation to the District Officer.

“On the information before him, the Lieutenant-Governor is certainly not prepared to direct that the realisation of these contributions should be discontinued.”

[*Babu Kali Pada Ghosh; Mr. Shirres; Mr. Earle.*]

POLLUTION OF THE RIVER HOOGHLY.

The Hon'ble BABU KALI PADA GHOSH asked :—

Is it the case, as stated in the *Bergalve* of the 17th September, 1903, that the water of the Bhagirathi is being polluted near some of the mills situated on the banks of the river by the discharge into it of liquified night soil? If so, then having regard to sanitary considerations and especially to the religious feelings of the Hindu community who regard the Bhagirathi as a sacred stream, will the Government be pleased to direct the discontinuance of the practice?

The Hon'ble MR. SHIRRES replied :—

“THE Government is not aware of any arrangements in mills on the banks of the Bhagirathi such as are indicated. Presumably the question refers to the septic tanks which have been installed in certain mills on the banks of the Hooghly. The substance which is discharged from these tanks is not, as the question would seem to imply, crude sewage in a liquid form, but a clear fluid, in appearance not unlike ordinary river water. When the system is properly worked, the fluid is non-putrescible and nearly odourless. I have a sample of it here which my hon'ble friend may examine if he wishes. This substance is chemically quite different from crude sewage. It is not wholly innocuous, for it still contains bacteria, and it could not be allowed to flow into the Hooghly in proximity to the intake for the Calcutta water-supply; but the contamination from this cause is insignificant compared with that from riparian Municipalities and villages, from carcasses floating down the river, and from boats on the river. At the same time the Government fully recognises the desirability of keeping the water of the Hooghly as clean as possible, and some time ago the Commissioners of the Presidency and Burdwan Divisions were asked whether the effluent from these septic tanks could not otherwise be disposed of. What action will be taken with this object cannot be stated until the reports have been received and duly considered.”

RECRUITMENT OF FEMALE COOLIES BY GARDEN-SARDARS.

The Hon'ble BABU KALI PADA GHOSH asked :—

Has the attention of the Government been drawn to the fact that there is no distinct provision in the Assam Labour and Emigration Act, 1901 (VI of 1901), for an inquiry by the Registering Officer, in the cases of recruitment of female coolies by garden-sardars, although there are such provisions in cases of recruitments by recruiters. Will the Government be pleased to state if any measures have been taken to prevent the abuses which are likely to be committed for want of such a provision in the law?

The Hon'ble MR. EARLE replied :—

“This matter has already received the special attention of Government. In the case of the recruitment of women by recruiters, the Registering Officer has to be satisfied of the consent of the guardian, or of the fact that there is no guardian, in the manner laid down in section 34 (3) and (4) of Act VI of 1901. On the other hand, under section 69, read with section 9, when women are recruited by garden-sardars, the presumption is that the guardian (if there is one) consents, unless he comes forward to object; and it is only when there is positive reason for suspecting that a woman is being “cajoled away” from her lawful guardian, that special inquiries should be made. At the same time, the terms of section 69 clearly do not contemplate that the examination by the Registering Officer of intending emigrants should degenerate into a mere matter of form. Accordingly, it has been decided that it is incumbent on Registering Officers to make special inquiries in cases in which circumstances arouse a suspicion that a contract is being entered into by a woman against the wishes, or without the consent, of her husband or lawful guardian. This procedure is being followed with good results, and no further action at present seems necessary.”

[*Mr. Buckland; the President.*]

THE BENGAL SETTLED ESTATES BILL, 1903.

THE Hon'ble MR. BUCKLAND applied to the President to suspend the Rules of Business for the purpose of referring the Bill to facilitate the family settlement of estates in Bengal to a Select Committee.

He said :—“ In making this application I ought to explain in a few words how the situation has arisen which makes it necessary. It will be within the recollection of the Council that, on the 8th August last, I obtained leave to introduce the Bengal Family Settled Estates Bill. It was then referred to a Select Committee, which met from day to day and took much trouble in making their report quickly after fully examining all the papers which had then been submitted to them, and presented their report at the meeting of the Council held on the 11th of August. On that occasion the late Officiating Lieutenant-Governor stated in Council that for the reasons which he gave it was impossible to proceed with the discussion and publication of the report as the matter had to be referred again to the Government of India. That reference has been made, and, their reply having been received, it is now necessary to proceed with the measure. But the rules of the Council are such that, the report having been once presented, it ought to be now taken into consideration. But now that fresh matter has to be introduced, the Bill must go again to a Select Committee, and, therefore, I have to ask you, Sir, to suspend the Rules of Business to enable this to be done.”

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

the Hon'ble Mr. BUCKLAND moved that the Bill be referred to a Select Committee consisting of the Hon'ble Mr. Hare, the Hon'ble Mr. Gupta, the Hon'ble Mr. Woodroffe, the Hon'ble Rai Tarini Pershad, Bahadur, the Hon'ble Nawab Bahadur Khawaja Salimullah, of Dacca, the Hon'ble Dr. Asutosh Mukhopadhyaya, and the Mover, with instructions to report on the 9th January.

The Motion was put and agreed to.

THE BENGAL PUBLIC PARKS BILL, 1903.

THE Hon'ble MR. BUCKLAND also moved for leave to introduce a Bill for the regulation of Public Parks in Bengal.

He said :—“ As the Bill is a short one, consisting only of eight sections, I propose, in accordance with the usual practice of this Council when the Bill is a short one, to make my explanatory remarks on the first opportunity that offers. The object of the Bill is to provide for the protection of Public Parks and Gardens in Bengal from injury, and to secure the public who visit these parks from molestation and annoyance while resorting to them.

“ The late Superintendent of the Botanic Garden at Sibpur, Howrah, Sir George King, shortly before retiring from the service a few years ago, reported to Government, as the result of his 25 years' experience, that it was not only desirable but necessary that the rules in force in the garden there should be put on a legal basis. Hitherto, they had only been operative as having been sanctioned by Government. Sir George King stated that, at the time when the rules were originally issued, the mere fact of an order having the sanction of Government was sufficient to insure its being obeyed, but he had found from his long experience that something more had become necessary. The warnings and checkings which it had been found necessary to have recourse to, under the rules, were found to be insufficient in practice, and, when cases came before the Law Courts, they invariably failed because of the want of jurisdiction. He mentioned some cases in which people had been found committing small offences against the rules and certainly deserved punishment, but, on their being prosecuted, it was impossible to have them punished. Sir George King therefore suggested that a small Bill should be brought into Council and passed on the model of the Public Parks' Act in England. A Bill was framed for the purpose, and at one time it was thought likely that a Bill would be passed in the Council of His Excellency the Governor General, but for some reason or

[Mr. Buckland.]

another that idea was abandoned, and as there was a great deal of legislation before this Council at one time, this Bill was held in abeyance. Within the last year or two, however, the project has been revived and further experience in the gardens there and in other places have shown that it is necessary that the management, not only of the Botanic Garden, Howrah, but also of the Zoological Garden, Alipur, should have legal powers to enforce the rules which they have found necessary for the preservation of peace and order, as I might say, and for the protection of the property in the gardens under their charge.

"The authorities of the gardens, both at Howrah and at Alipur, have been consulted, and they have expressed their entire approval of the project as being necessary to give them the power they want to carry out the rules. The rules are perfectly simple and are probably well known to the public already, but as I have said, it is impossible to obtain the punishment of anyone offending under the rules. The Bill, therefore, has been framed and modelled on the English Parks' Act.

"The principal provision is that, a certain number of the higher subordinate officials are to be made park durwans and vested with small police powers. They are to have power to arrest people who infringe the rules and to take them up to the Superintendent in charge of the garden, or in his absence, to the next highest officer in charge of the garden, by whom they may be detained until they give their correct name and residence. As soon as they give their correct name and residence they will be allowed to go. There is also a provision in the Bill that no person can be detained under this section for a longer period than 24 hours, but I suppose five minutes will be the ordinary period of detention, and there need be no detention at all, if an offender at once gives his correct name and residence.

"The next provision gives to the park durwans certain general powers, duties and responsibilities. There will be very few of them in both gardens, perhaps half-a-dozen in each case. These park durwans are to be vested with the powers, and be liable to the duties, of a police constable within the limits of the police-station in whose jurisdiction their park or garden is, and every park durwan is to be subordinate to the Superintendent of the garden.

"There is also a provision for fine or imprisonment for an assault on a park durwan. I am sorry to say that many of the offences which have occurred both at the Botanic Garden, and at the Zoological Garden, are cases either of assault on the servants of the garden, or threatened assault.

"The Bill also proposes to take power on the lines of the Public Parks' Act in England to give to every police constable employed within the limits of the police-station within whose jurisdiction the garden is, the powers, privileges and immunities conferred on a park durwan by this Act. That in fact is the whole of the Bill.

"It is intended that the Bill should apply at first only to the five public parks or gardens specified in the Schedule, with power to the Government to add any more parks or gardens to the number.

"The only object of the Bill is to legalise what is now attempted to be carried out by the rules which have long been in force as the rules of these gardens, but which have had no legal authority. I therefore beg to move for leave to introduce a Bill for the regulation of Public Parks in Bengal.

The Motion was put and agreed to.

THE BENGAL EXCISE BILL, 1903.

THE Hon'ble MR. BUCKLAND also moved for leave to introduce a Bill to consolidate and amend the law in force in Bengal relating to excisable articles and the revenue derivable therefrom

He said:—"This Bill will be a much longer one and will take up much more of the time of the Council than the Bill upon which I have just been speaking. It is therefore my intention only to make a few remarks on this occasion and to address the Council at greater length on a subsequent occasion when it becomes necessary to ask for the Bill to be read in Council or to be referred to a Select Committee. I will only now say that the Bill is chiefly a consolidating measure, and that opportunity has been taken to make certain amendments of the law as the result of long experience.

[*Mr. Buckland; Mr. Woodroffe.*]

“This Bill has been in contemplation for the last ten years. That is all I need say on this point at the present moment. The last consolidating Excise Act was passed in 1878. When the Bill, which afterwards became that Act, was introduced into Council by the Hon'ble Mr. Reynolds, the Secretary to the Government of Bengal, in 1876, he stated that the Excise law was then contained in five or six Acts, and it was therefore desirable to consolidate the law. He quoted at that time a dictum of the Government of India of 1875 in which that Government said that it was most desirable that the law on a subject on which the public were largely interested should be clearly arranged, and therefore the Government of India suggested consolidation.

“If it was thought necessary to consolidate the law in 1876, when the law on Excise was contained in five or six Acts, it is much more necessary to consolidate the law now, when the Excise law is contained, not only in the Act of 1878 but also in nine Amending Acts.

“It has been the custom, when Acts are amended from time to time, to issue copies of them as modified up to date. I hold in my hand a copy of the Excise law as modified up to the 1st December, 1903, but it is one thing to have an Excise Act complete in itself and a very different thing to have the Excise law as modified up to date by amendments in the possession of a few officers and the officials in charge of the Excise Department. It is hardly sufficient, I think, to be content with the Legislative Department issuing the additions to the law itself as modified up to date. From time to time it is certainly necessary that the law should be consolidated and re-issued in a complete form. The Bill, which I now ask leave to introduce, will extend the main Act from 85 sections to 105. As I have already said, the opportunity has been taken to make some amendments which are recommended by long experience. Many suggestions have been received from many officers and other quarters, and some amendments are based on the experience gained in other provinces where the Excise Act has been administered with great ability and profit to the country.

“I do not propose to go into any further details on this occasion, and beg to move for leave to introduce a Bill to consolidate and amend the law in force in Bengal relating to excisable articles and the revenue derivable therefrom.”

THE HON'BLE MR. WOODROFFE said:—“I have listened with attention to the speech of the Hon'ble Member in charge of the Bill, and have noticed with regret that although this is a ‘Bill to consolidate and amend the law in force in Bengal relating to excisable articles and the revenue derivable therefrom,’ and the preamble states:

‘Whereas it is expedient to consolidate and amend the law in force in Bengal relating to the manufacture, sale, possession, import, export and transport of excisable articles, to the regulation and licensing of places in which such articles are sold, and to the collection of the revenue derived from such articles.’

“No reference seems to be made to the desirability of introducing into the Bill such clauses and provisions as are to be found in the License Acts in Europe with a view to prevent drunkenness.

“When this Act was last before the Council in 1903, being a Member of the Select Committee, I proposed certain amendments in order to discourage and prevent, as far as possible, the sale of intoxicating liquors and drugs to habitual drunkards, women and children. The principle of these amendments was accepted unanimously by the Select Committee, but it being pointed out to me that it was the intention of the Legislature shortly to introduce a Bill to consolidate the whole of the provisions relating to excisable articles, in which the amendments proposed would more properly find place, I consented on the assurance of the Hon'ble Member in charge of the Bill then before the Select Committee that the amendments which I proposed to introduce into the Act of 1903 should then be considered and dealt with. I consented to their standing over until the introduction of this Bill. In the speech of the Hon'ble Member I find no reference to them. They are very important matters affecting the well-being of the community. In a licensing Bill we have not

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

only to consider the interests of the Government and the profit arising from collection of revenue from the sale of excisable articles, but also the health and morals of the community, and the diminution of the prevalent vice of drunkenness and crime consequent thereon, and we are bound to put upon persons who hold licenses from Government such control as shall be proper and expedient in order to prevent these licensed houses becoming sinks of iniquity and a danger to the community.

"I trust, therefore, that this Bill does contain such provisions, but if it does not, I would respectfully suggest that the matter should be carefully considered; and proper powers taken for the introduction of such clauses."

THE Hon'ble the PRESIDENT said:—"I think that I may, perhaps, best serve the interests of the Council by simply saying that what the Hon'ble Mr. Woodroffe has just said will certainly receive consideration between the present time and the date when the Council will be asked to refer the Bill to a Select Committee. I suppose it is not necessary to call upon the Hon'ble Member in charge of the Bill to make any remarks in this connection, as he has promised that he will lay before us the principles in detail when he will move that it be read in Council or be referred to a Select Committee. I can give the Hon'ble Mr. Woodroffe the assurance that his remarks will receive full consideration."

The Motion was then put and agreed to.

THE BENGAL TRAMWAYS (AMENDMENT) BILL, 1903.

THE Hon'ble MR. SHIRRES moved for leave to introduce a Bill to amend the Bengal Tramways Act, 1883.

He said:—"This Bill will, I think, be a record in this Council for shortness and has for its object the introduction of only two words into the existing Act.

"The first section runs as follows—

'This Act may be called the Bengal Tramways (Amendment) Act, 1903.'

"Section 2 is as follows:—

'After the word 'shorter,' in the proviso to section 41 of the Bengal Tramways Act, 1883, the words 'or longer' shall be inserted.'

"All that is desired by this Bill is that the words 'or longer' shall be inserted.

"In the law as it stands at present, when the local authority makes an agreement for the construction of a tramway, it must, at the expiry of a period not longer than 21 years, exercise the option or right of purchase. This limitation to 21 years has in practice been found to prevent the construction of tramways, and therefore this Bill has been introduced to extend the period."

The Motion was put and agreed to.

The Council was adjourned to Saturday, the 19th December 1903.

CALCUTTA ;
The 30th December, 1903. }

F. G. WIGLEY,
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 19th December, 1903.

Present:

The Hon'ble SIR ANDREW FRASER, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

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

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

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

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

The Hon'ble MR. L. P. SHIRRES.

The Hon'ble MR. A. EARLE.

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

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

The Hon'ble MR. H. ELWORTHY.

The Hon'ble MR. A. A. APCAB.

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.

The Hon'ble BABU KALI PADA GHOSH, M.A., B.L.

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

The Hon'ble BABU BHUPENDRA NATH BASU, M.A., B.L.

The Hon'ble BABU SALIGRAM SINGH.

NEW MEMBER.

The Hon'ble BABU SALIGRAM SINGH took his seat in Council.

[*Mr. Buckland; the President; Babu Bhupendra Nath Basu.*]

THE BENGAL PUBLIC PARKS BILL, 1903.

The Hon'ble MR. BUCKLAND introduced the Bill for the regulation of Public Parks in Bengal, and moved that it be read in Council.

He said:—"At the last meeting of the Council I explained at some length the object of this Bill for the regulation of Public Parks in Bengal and the necessity for it. I do not think I need trouble the Council with any further remarks on this occasion. I therefore beg to move, Sir, for leave to introduce the Bill for the regulation of Public Parks in Bengal and to move that it be read in Council."

The Motion was put and agreed to, and the Bill was read accordingly.

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

The Hon'ble the PRESIDENT said:—"In passing orders on this application of the Hon'ble Mr. Buckland, I think it right to say that I do not as a rule consider it well to suspend rules which have been solemnly made, but as I do think that there will be a great loss of time in this case I shall suspend the Rules of Business. I may also inform the Council that, as I think there is loss of time generally if the rules on this subject are observed it is under consideration to have them amended."

The Hon'ble Mr. Buckland 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 Rai Tarini Pershad, Bahadur, the Hon'ble Maharaja Sir Ravaneshwar Prashad Singh, Bahadur, of Gidhour, and the Mover.

The Hon'ble BABU BHUPENDRA NATH BASU said:—"With your Honour's permission I beg leave to offer a few remarks on this Bill. At the last meeting of the Council the Hon'ble Member in charge of the Bill was pleased to observe that this Bill was only following the lines of the Public Parks Act in England, and that it was introducing nothing into the Legislature of this country which required any particular notice. He was also pleased to observe that in the case of detention of any person visiting the gardens, the detention would be only for a few minutes. The Hon'ble mover referred to these matters as if they were matters of very little importance in considering the provisions of this Bill. I may say at once that I am against the multiplication of Penal Laws in this country. We have a most elaborate system of Criminal Law which embraces within itself every possible crime and misdemeanour which may arise. Some of these parks to which this Bill is intended to apply have been in existence in Bengal for many years; the Zoo has been in existence in its present site for more than a quarter of a century, and the Botanical Gardens for a very much longer period, but up to now the necessity for a Bill of this description has not been felt. We have been referred to no specific instance in which there has been a breach of the peace, or any disturbance of the public peace in these gardens which the law as it now stands has failed to deal with.

"I may remind the Council that, taking as an instance the Zoo, a large number of ignorant villagers with their women-folk and children, visit the Zoo daily. It forms one of the chief attractions in the city of Calcutta to the mufassal men. I do not think it necessary to refer in this Council to the feeling with which the country at large and more especially the more ignorant classes regard the subordinate branches of the Police, and here we are seeking to invest the park durwans with the powers of police constables, with the powers of arresting offenders on the spot and taking them to the thana. I submit that the terrors of the subordinate Police of this country are enough, and they need not be added to in this way unless a strong and clear case has been made out. There have been rules for the guidance of visitors to these gardens in existence for many years, and to our knowledge these rules have been seldom, if ever, violated.

[*Babu Bhupendra Nath Basu; Mr. Shirres.*]

The rules are of a very simple kind and can very easily be followed by the visitors who frequent the parks. If the durwans get power to arrest a man for violating any of these rules, it will be imposing a very severe burden upon the durwan himself and imposing a very severe penalty upon the people visiting the parks. The analogy of the English Law has been cited. We know, Sir, that such a law exists in England, but the mere existence of a Law on the Statute Book of the British Parliament is not enough to create an analogy between England and India. There they have to deal with a more virile race, with men who know their rights and know how to assert them. Here we have to deal with ignorant villagers, most of them unacquainted with the vernaculars in which these rules are to be printed and put up in the gardens,—ignorant villagers who have a greater dread of the police constable than of the highest dignitary in the land, who do not know how to protect themselves and do not know how to act in an emergency like this when for a very simple act or for an unintentional offence they may be arrested by the park durwan, who is to be vested with the powers of a police constable. If the analogy of British Laws was used in cases where people prayed for a privilege, as in a case where the Government sought to impose a liability which was necessary, I should have nothing more to say. But if the analogy was brought forward for the sake of introducing a piece of legislation which is not necessary, I think I have a clear right to say that this analogy in itself should not be held sufficient. In the case of the park durwan or park-keeper in England the right to arrest applies only to a case in which the offence takes place before the park-keeper himself. Here this Bill goes further than that. Clause 5 says: 'If any person who in the presence of a park durwan in uniform has committed or has been accused of committing a breach of any rule made under section 3, refuses, on demand of such durwan, to give his name and residence, or gives a name or residence which such durwan has reason to believe to be false, such person may be arrested, etc.'

"This is clearly introducing an innovation which does not exist in the English Act. It goes further than the English Act. As I have been trying to explain to this Council, the Zoo for instance is visited mostly by ignorant men who reside far away in the interior; they can bring forward no evidence that will satisfy the park durwan that the name and address given is correctly given, nor can the durwan himself ascertain whether the name and address given is correct.

"Apart from the initial difficulties of having to deal with ignorant men, there is this substantial difficulty in the event of this section being put into operation. I do not wish to take up the time of the Council unnecessarily, but I humbly beg to submit that no case has been made out for the introduction of such a law. The crowds who frequent these parks, the Zoo and the Botanic Garden, mostly belong to the non-criminal classes. As we all know, the object of their visit to Calcutta is to go to Kalighat, and on the day before their departure they take a turn round and go to the Zoo, and woe to the villager who should by any chance be detained on the day of his departure for twenty-four hours. If such a law is to be introduced it should be safeguarded. The simpler remedy would be to invest the Park Superintendent with certain powers to enable him to impose a fine, so that he might deal with an offender there and then, instead of detaining a man and taking him before a Magistrate. These are the observations which I have ventured to offer for the consideration of the Council."

The Hon'ble Mr. SHIRRES said:—"I have listened with much attention to what has fallen from the Hon'ble Babu Bhupendra Nath Basu. The main substance of his remarks is to the effect that no case for legislation has been made out. He says that to our knowledge no such a case has ever occurred to justify the introduction of this measure. I am sorry to say that he is under a misapprehension, and I shall be happy to furnish him with the list of offences which led to this Bill being drawn up. The complaints which led to the drafting of this Bill have extended over a long series of years, and the

[*Mr. Shirres; Mr. Buckland.*]

attention of the Government has been drawn to the matter repeatedly by Sir George King and the present Superintendent of the Botanic Garden.

"The Hon'ble Member also objects to certain of the provisions of the Bill, but it is hardly my part to go into this. I would merely remark that the provision as to the taking of the address of an offender is a well-known provision in the Code of Criminal Procedure which has been in force for a long series of years, and has not been found to be productive of the difficulties which the Hon'ble Member anticipates."

The Hon'ble MR. BUCKLAND said :—"I should like to say a few words in reply to the Hon'ble Member who spoke last but one. He says that the necessity for the Bill has not been made out. I thought I said enough on the last occasion to show that the rules under which these gardens are now managed are not sufficient for the purpose. I shall be glad to go over the ground again with the Hon'ble Member if he desires me to do so in the Select Committee to which I propose to add his name as a member. He also said that no specific cases have been brought to the notice of the Council to show the necessity for this measure. If I did not bring specific cases to the notice of the Council it was not for want of them. I have here provided myself with eight specific cases from the Botanic Garden and a similar number from the Zoological Garden to show that cases have occurred in which the powers for which I am now asking the Council were necessary. The people who visit the gardens are not only the poor unsophisticated villagers to whom the Hon'ble Member refers, but there are sometimes rowdy and turbulent gentlemen belonging to other nationalities whose spirits sometimes leads them into excesses which they no doubt regret, but for which they must be called to account.

"The Hon'ble Member also quoted some of my remarks on the last occasion to the effect that the detention was only to be for a few minutes. I think I also said that there need be no detention at all if the person accused gave his correct name and address. How the correctness of the name and address is to be ascertained is a matter of some difficulty. But it may be supposed that when a person is under such accusation he will give his correct name and address or he might find himself in greater trouble hereafter. Nor is it the case that a park durwan is to take an accused person off to the thana. He has first of all to take him to the Superintendent and in his absence to the next highest officer in the garden, who we may presume is a person of some intelligence and respectability, and by whom the case will be properly investigated, so that no injustice may be done by the park durwan or any other person concerned. I do not think I need detain the Council at any length in referring to this subject in greater detail; in fact, there is nothing more to be said. It is quite essential that these rules, which have been long in force under the sanction of the Government, should have legal force, and if the sections are not drafted entirely to the satisfaction of the Hon'ble Member, it will be open to him to make any suggestion he likes in Select Committee."

The Hon'ble MR. BUCKLAND then 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 Rai Tarini Pershad, Bahadur, the Hon'ble Maharaja Sir Raveneshwar Prashad Singh, Bahadur, of Gidhour, the Hon'ble Babu Bhupendra Nath Basu, and the Mover.

The Motion was put and agreed to.

THE BENGAL EXCISE BILL, 1903.

The Hon'ble MR. BUCKLAND introduced the Bill to consolidate and amend the law in force in Bengal relating to excisable articles and the revenue derivable therefrom, and moved that it be read in Council.

[*Babu Bhupendra Nath Basu; the President; Mr. Elworthy; Mr. Buckland.*]

The Hon'ble BABU BHUPENDRA NATH BASU said:—"I should like to point out that the Bill, as printed, is defective. Section 15 does not appear in the printed Bill circulated to us."

The Hon'ble the PRESIDENT:—"This is undoubtedly a printer's error, but I do not think it could have led to a mistake on the part of Members. It has been promised by the Secretary that a corrected copy will be circulated later on, and this I think will relieve the technical difficulty raised. I do not think any Hon'ble Member could have been led to any misunderstanding by reason of this clerical mistake having been made."

The Hon'ble BASU BHUPENDRA NATH BASU said:—"It is not for the purpose of taking a technical objection that I have drawn attention to this omission. These are very important provisions, relating to the sale and possession of exciseable articles, in which we, as representatives of the public, are more interested than in the revenue portion. It does not appear in this Bill, and therefore we are not in a position to judge of this Bill. We are more concerned in the possession and sale of exciseable articles than in the revenue derivable therefrom."

The Hon'ble MR. ELWORTHY said:—"I don't find section 16 in the printed copy of the Bill in my hand."

The Hon'ble the PRESIDENT said:—"I understand that there is nothing left out of the Bill, and that the only mistake is that there has been some slip in the numbering of the sections. Is that not so, Mr. Elworthy?"

The Hon'ble MR. ELWORTHY said:—"All the intermediate sections between section 14 and section 23 appear to have been omitted. From section 14 it goes off to section 23."

The Hon'ble the PRESIDENT said:—"I should like to explain to Hon'ble Members precisely what has occurred. If Hon'ble Members will look at section 7 of the Bill at the top of page 8, and run down the page, there is section 8; then follows section 9, and then on the top of the next page we have section 7 again, so that immediately after section 9 comes a second section 7, in the copy that has been circulated. That second section 7 ought to be section 10. Then section 7A should be section 11; section 8 following ought to be section 12; section 9, in Chapter III, ought to be section 13; section 9A ought to be 14, and section 9B ought to be 15; section 10 should be section 16; section 11 should be section 17; section 12 should be section 18; section 12A should be section 19; section 12C should be section 20; section 12D should be section 21; and section 14 should be section 22; and then we come to section 23. Nothing has been left out: there has only been a misprint in the numbering. Another copy is ready for circulation now. Are you satisfied with regard to this, Mr. Elworthy?"

The Hon'ble MR. ELWORTHY said:—"Yes. I am satisfied, Your Honour. I want to say a few words on this Bill, but the Hon'ble Mr. Buckland has not spoken on his Motion yet."

The Hon'ble MR. BUCKLAND said:—"At the last meeting of the Council, when this Bill was introduced, I promised that I would speak at greater length on this occasion. With your permission I propose now to give a short history of the measure and to allude to some of the more important provisions of the Bill.

"So long ago as 1892-93 a question arose as to the importation and taxation of Shahjehanpore rum in connection with the prohibition of its importation into Bengal except under bond. The matter was of some difficulty and had to be referred to the Government of India, who had to legislate in the Act of 1896 to meet the point then at issue. When that matter was before the Government

[Mr. Buckland.]

of India, they, in correspondence with the Government of Bengal, said that it was open to the Local Government to amend their Excise Act if the Lieutenant-Governor desired it. The Government referred to the Board of Revenue, who in due course of time sent in a number of proposed amendments to the Act. In the succeeding year, 1895, the Board submitted more amendments, and a *précis* of 48 pages of opinions of officers. They were then told to redraft the Bill. In 1896 the Board submitted a revised Bill, a full Bill with 68 more pages of opinions from Government officers. That same year the Board submitted a revised Bill No. 2 with 46 pages of, '*précis* of opinion' of Government officers. I need not go through, even in this analytic way, all the correspondence, which has been of considerable length. It will be sufficient perhaps to say that, besides the two long lists of proposed amendments and correspondence, there have been letters on the subsidiary matters which have been incorporated in the Bill now before us. All the matters with which it was intended to deal in this consolidating and amending Bill have not survived the ordeal of the correspondence to which I have referred, and it is therefore unnecessary for me to refer to those which have dropped out of the main objects of the Bill as originally introduced. Those still surviving are the following: the better regulation of ganja warehouses, the removal of a defect in the law as to medicated liquor, the particular cases which have come before the Law Courts to which I shall have to refer at greater length hereafter, the legalization of different rates of duty, the export of excisable articles, and the question of imprisonment in lieu of or in addition to fine on first conviction.

"Subsequently other subjects have cropped up, such as, the prohibition of employment of children in licensed premises and the necessity for a provision to prevent bottling for sale without a license. Provision has been made to meet all these points and many others, to which I will now invite the attention of the Council.

"I propose to run over the principal provisions of the Bill referred to in the Statement of Objects and Reasons. In the first paragraph of that Statement it will be seen that reference has been made to a proposal put forward by the Calcutta Wine, Spirit and Beer Association in which they ask that the bottling of wine and spirits for sale should be prohibited except under a license. That proposal was made by the Association so long ago as 1895 when they asked for this amendment of the law with a view to render more difficult fraud upon consumers by the sale to them of spurious imitations. It transpired that a great deal of cheap, white, silent, spirit was being imported from Germany and was being utilized for the manufacture of spirits and was being sold in the market in Calcutta and elsewhere under well-known names, while they were really spurious imitations. An inquiry was made into the matter at great length by Government, and it was ascertained that this stuff was not of a harmful character, but that there was no doubt that a fraud was being perpetrated upon consumers, who were led to believe that they were buying articles which were really genuine. The object of this provision of the Bill is to prevent German spirits sophisticated to resemble Whisky or Brandy from being sold as the genuine article.

"The next clause to which I need refer, is one which proposes to give power to the Board of Revenue, subject to the sanction of Government, full power to regulate the export of excisable articles. The necessity of such provisions was brought to notice in connection with the export of *ganja* to London without pre-payment of duty. I suppose it can hardly be doubted that some provision is necessary to deal with this matter in our Excise Law.

"It is also necessary for the Board to have power to realize on any excisable article imported from a Province in British India such duty as a Local Government has fixed in respect of a like article when manufactured in Bengal, or, if no like article is manufactured in Bengal, then such duty as the Local Government may fix on this behalf. The object of this provision is to ensure that dutiable articles consumed in Bengal should pay a proper duty.

"Another clause proposes to introduce a definition of 'Spirit.' The present Act contains no definition of 'Spirit,' but defines 'Spirituous liquor.'

[Mr. Buckland.]

This has been included for the reasons given in the Statement of Objects and Reasons. Then it will be within the power of the Local Government to declare what shall be deemed to be 'Country spirits' and 'Foreign liquor,' respectively.

"Referring to another matter, the present law fixes a maximum for the retail sale of each exciseable article, and difficulty has been felt from time to time owing to the limit of the retail sale being stereotyped in the Act. It is therefore now proposed to reserve power to the Board to fix the limits of retail and wholesale, respectively, for the whole Province or any specified local area.

"In another clause it is proposed with regard to intoxicating drugs to deal with the collection as well as the cultivation of plants. As many Members of the Council are doubtless aware, most of the *bhang* which is used in this Province is collected from wild plants; it grows wild; it is not cultivated. It is therefore necessary to have power in the law to deal with the unlicensed collection of these intoxicating drugs.

"It is also proposed to take power to have all stills licensed. It will doubtless be a surprise to the Council to hear that the present law does not provide any punishment for the possession of an unlicensed still. When therefore the law provides that in future all stills are to be licensed, obviously any one in possession of an unlicensed still will be subject to a penalty.

"The Bill also proposes to give power to the Excise Commissioner to fix the limits for a distillery. At present only the District Officer has power to do this, but sometimes liquor is supplied from a distillery to more districts than one. It is therefore essential that somebody higher than the Collector should have power to fix these limits, so that two or more districts can get their supplies from the same distillery.

"It is also proposed to take power in the Bill for the establishment and regulation of warehouses for the storage of hemp drugs. There is a system now for the licensing of warehouses for these drugs in Bengal, and it is now proposed to take legal power for their establishment and regulation.

"It is also proposed to add to the rule-making powers of the Board in order to cover the new matter introduced into this Bill.

"I next come to a provision which is taken from the Madras Act. It has often been alleged that deleterious substances are used in the process of manufacture, and it has therefore been thought desirable that the Excise authorities should have power to prohibit the use of such substances or the use of particular flavouring or colouring matters in blending spirits for the market.

"I next come to an important provision. It is proposed that the law should be slightly amended, so as to prohibit absolutely the possession of even the smallest quantity of any exciseable article that has been illicitly obtained. I think the reasonableness of this provision speaks for itself.

"In a case which came before the High Court, it was decided that under the present law an excise-officer has no authority to enter and search a house in which a 'Foreign exciseable article' may be suspected to have been concealed. To meet this defect, a definition of 'Foreign exciseable' articles has been embodied, and the power given under clause 20 will refer to all exciseable articles generally.

"It will be within the recollection of the Council perhaps that by the Excise Bill passed into the Act of last spring, generally known as the Barmaid's Act, power was taken to prevent the employment of women on licensed premises. It is now proposed to go further and prevent the employment of children under twelve years of age.

"In another clause it is proposed to amend the law so as to render a license or permit liable to be summarily cancelled for any offence against the Excise Act or the Indian Merchandise Marks Act, or any section introduced into the Indian Penal Code by section 3 of the Merchandise Marks Act. The necessity for this has been shown by the case to which I referred very briefly a short time ago. The whole case is practically set out in paragraph 29 of the Statement of Objects and Reasons. At present, a person who holds two or more licenses and is an offender against the conditions of one of his licenses

[Mr. Buckland.]

could not be dealt with by having his other licenses cancelled. Under the law as it stands, he was allowed to continue in possession of the licenses which he held. It is now proposed that a breach of the conditions of any one of his licenses should render him liable to the cancellation of all his licenses.

"In another clause it is proposed that when a licensee surrenders his license, he should be required to pay up for the whole period of the currency of the license. This principle, which is a very sound one, will be tempered by a proviso to permit the Excise Commissioner to remit to the vendor any sum payable by him.

"It is also proposed to amend the present law so as to give excise-officers not below the rank of Sub-Inspectors the power to enter and inspect shops. The power of inspection is necessary if any good is to be done.

"There is another section in which it is proposed to dispense with the attendance of the police in the search of a house. At present an excise-officer, on receiving information, can only search in the presence of an officer of police not below the grade of a corporal or head-constable. As police-officers are not everywhere available immediately, many cases escape detection. This proposal will no doubt commend itself to the Council.

"In another clause, paragraph 41 of the Statement of Object and Reasons, it is proposed to require every person employed by Government to take all reasonable measures within his power to prevent the commission of any breaches of the Act.

"In another clause provision is made for bail being accepted and to render it obligatory that the bail, if the parties tender a proper amount, is accepted. The system is found to have worked well in Madras.

"It is also proposed to give legal authority to what has always been the practice in Bengal, *viz.*, the power of closing shops when troops are passing or when any disturbance is apprehended or is likely.

"In many cases, it has come to the notice of Government that simple imprisonment has not been found effective to induce accused persons to pay the fines imposed upon them. A list of cases spreading over two years has been prepared; and this list, which is in my possession, shows that this power to punish by fine only for the first offence is insufficient to secure an observance of the law. It is therefore proposed to take power to render an offender liable to imprisonment even in the case of a first offence, and not only as before in cases where a previous conviction has been proved.

"A provision is required in the law to meet the common case of licensed vendors of distillery liquor selling outstill liquor. There is no provision in the law at present under which they can be dealt with, except that they can be prosecuted for a breach of the conditions of their license and fined Rs. 50. Therefore further legal powers are required by the excise authorities to deal with such cases.

"In the present law there is power to punish a licensee, but not his servant, for certain breaches of his license, committed by the servant. A case has occurred before the Courts which shows that such power is not sufficient. It is desirable to assimilate the practice in Bengal to that in Madras and to render the holder of an excise license as well as the actual offender punishable for any offence committed by any person in the employment of the licensee or acting on his behalf as if he had himself committed the same, unless he can prove that all reasonable precautions were exercised by him to prevent the commission of the offence.

"It is also proposed to give the Collector, as distinct from the Magistrate, power to compromise cases of offences under the Excise Act.

"It is also proposed to amplify the present power in the law which the authorities possess to exempt certain articles from the provisions of the Act on special festivals or on special occasions.

"These, Sir, are the principal cases in which power is required to be taken to amend the law. I think that, when the Select Committee and the Council come to consider them in detail, it will be found that there is nothing in them which is not reasonably required for administrative purposes or which in any way conflicts with the liberty of the subject to any improper extent.

[*Mr. Buckland.*]

"I now, Sir, come to the proposals adverted to by the Hon'ble Advocate-General at the last meeting of the Council. It will be remembered that the Hon'ble Advocate-General, whose absence from this meeting I regret to notice, referred to certain proposals which he had made before the Select Committee on the Barmaids' Bill last spring, the object of which was to more effectively watch over and prevent the supply of exciseable articles to drunkards or to children. The amendment which the Hon'ble Advocate-General proposed to introduce last February in the Barmaids' Bill was considered by the Select Committee to be acceptable in principle, but to be outside the limit or scope of the legislation then in hand. In fact, the matter was put off until the general revision of the Excise Act was taken in hand, with which we are now dealing, and the Hon'ble Advocate-General withdrew his proposals on that occasion, observing that effect was to some extent to be given to the principle of his proposals by the introduction of the conditions prohibiting the sale of intoxicating liquors and drugs to persons answering a certain description and to children.

"These proposals of the Hon'ble Advocate-General were duly considered by the Government during the summer. They referred the matter to the Board, and the Board obtained a report from the Excise Commissioner. The Excise Commissioner went into the matter very thoroughly, and showed that the particular proposals advanced by the Hon'ble Advocate-General were both impracticable, and, so far as this country was concerned, unnecessary. The Excise Commissioner laid particular stress upon the fact that the practical results of the proposed amendment of the law would be to throw upon the licensed vendor an impossible duty, and lead to the prosecution of ignorant offenders, and, it may be, to illegal gain in some places to the police and subordinate excise-officers.

"The Excise Commissioner has been watching the working of the new Law in England, and he felt himself justified in reporting that even in England the remedy was beset with serious difficulties, and that there was no reason to suppose that the evil existed in Bengal which it was the object of the Hon'ble Advocate-General's proposals to meet. I am referring especially so far to the matter of dealing with habitual drunkards. I think the Council knows in a general way that in England people who are termed habitual drunkards are put on a black list, and are cut off from the supply of liquor. Now the Hon'ble Advocate-General's proposals would go so far as to make a licensed vendor liable to punishment for the supply of liquor to habitual drunkards who may require liquor from them, although these licensed vendors may not be in a position to know the character of the particular person applying to be served with liquor. In fact, the whole object of this proposal of the Hon'ble Advocate-General is to throw upon the licensed vendor the impossible duty of knowing the characters and careers of his customers, and it would also doubtless lead to great oppression on the part of the police and subordinate excise-officers were such power incorporated in the law. The Board in dealing with the question accepted the principle that the proposals of the Hon'ble Advocate-General must commend themselves to all persons interested in the sale of intoxicants, but they were at a loss to deal with the subject further owing to the vagueness of the proposals. The Hon'ble Advocate-General's proposals contained a counsel of perfection, and it was impossible on the information then before the Board to know exactly what he meant, or what he proposed to do, and it was obviously very difficult to forecast all the subsidiary measures which would be required to give effect to them. The matter was reported to Government, who came to the conclusion that no necessity for legislation had been shown, and there the matter rests.

"On the other hand, I may say that in the present Bill it will be quite possible to introduce conditions into the licenses to be granted to licensed vendors which will go a long way to prevent their supplying liquor to such classes as habitual drunkards or any others that may be proscribed in the Act.

"Under clause 42 of the Bill it is proposed to give power to the Board to make rules prescribing the form of any license or permit to be granted under the Act and the conditions and particulars which may be inserted therein. And later on in the same section it is stated that conditions may be laid down, one of them being a condition as to the kind of person or classes of persons to whom

[*Mr. Buckland; Mr. Elworthy.*]

of licensee may or may not sell exciseable articles. Under this clause and sub-clause it is considered that it will be quite possible to do what is sufficient and practicable to meet the proposals of the Hon'ble Advocate-General.

"With regard to children it will also be possible to lay down similar conditions. Perhaps the Council are not aware that now, in an outstill license, there is a provision which prohibits the sale of liquor to children under twelve years, and when this Bill has been passed into law, it will be perfectly easy to introduce similar conditions into all licenses preventing the supply of exciseable articles to children under twelve years, as well as to habitual drunkards.

"I think, Sir, I have at sufficient length taken up the time of this Council in stating the main points of the Bill before them. I have now to ask for leave to make the motion which stands in my name."

The HON'BLE MR. ELWORTHY said:—"I have read this Bill as carefully as time would permit, and I found very little in it to which the Association, which I represent, could take exception. On the other hand, there is much that gives satisfaction.

"The clauses dealing with the bottling of wines and spirits for sale, without a license, are highly satisfactory. The restriction to prevent the bottling of patent spirits, and the indiscriminate bottling of other spirits to represent the genuine article, is badly needed. This counterfeit has been carried on for many years, and it is to be hoped that, armed with law to help them, the excise-officers will be able to stop the practice. Clause 38 of Chapter VI is the principal clause of a Bill brought in this year, and passed a few months ago. There was some amount of agitation and feeling in this city over that Bill, and, although some of us were adverse at the time to undertaking class legislation of too domestic a nature, generally unpopular and frequently unwise, we were of opinion that there were evils in the city beyond those against which the legislation was specially directed. The Council were now called on to confirm their action in passing this Bill. The operation of the law then passed has since been in the hands of the Board of Revenue and the Commissioner of Police. Before we proceed with these clauses in Select Committee, it would be advisable to know what the effect of this Act has been, how far the evil has been overcome, and how many houses have been closed. The Hon'ble Member in charge of this Bill might, perhaps, be able to help us in getting this information from the Police.

"Chapter V deals with the farm of fees. I observe that this system exists, and it has, I believe, been in existence for years. It will be interesting to know if that principle acts beneficially or otherwise, or whether, on the other hand, the time has arrived for change in the system of departmental collection by means of excise-officers.

"The powers of the Board of Revenue are apparently rather despotic. It is presumed that some appeal is permissible in case the public is not satisfied with decisions and orders, especially in private cases.

"In Chapter III, under the heading of 'Sale and Possession,' I note that clause 13 deals with licenses, and that clause 13 (2) (a) refers to private consumption. On this I wish to say a few words. Clause 13 (2) (a) permits the sale of a person's effects when leaving a station or after decease, and it is a piece of special legislation. There is another form of sale to which I wish to draw the attention of the Council: the sale of exciseable articles by clubs for consumption by members off the club's premises. This is a subject of complaint from firms carrying on business in this country, who are expected to pay for their licenses and to pay the taxes of this country's government. Many of the clubs in India are very slightly removed from ordinary trading establishments, selling their stores for profit. To this no one has any very grave objection. It should not, however, be permitted without a license. If clubs sell exciseable articles for profit, they should be subject to the same rules as trading firms; and they should be compelled to take out a license, and, like other trading establishments, contribute to the expenses of the Government. Clause 94 gives the Magistrate the power to compound. The clause is a new one. We should be glad to hear from the Hon'ble Member in charge of the Bill his reasons showing why this system of compounding is allowable."

[*Babu Bhupendra Nath Basu ; Rai Tarini Pershad, Bahadur.*]

The Hon'ble BABU BHUPENDRA NATH BASU said:—"I welcome the introduction of this measure in Your Honour's Council and under Your Honour's auspices. Since the Act of 1878 a great many years have passed, and public opinion in Europe and America has been considerably exercised over this Excise question. The time has come when reforms should be introduced into the Excise system of this Province, and we are glad that an opportunity has been offered to us of placing before Your Honour's Council the suggestions of the public with regard to how the Excise-revenue ought to be realised and the system administered. It has been said that local option will be a remedy for the increase of drunkenness which has certainly taken place, whether this increase be due to the introduction of Western culture or to large bodies of men being removed from village life and being brought together in one place. Apart from the restrictions which village life imposed upon them, it is an undisputed fact that amongst the lowest classes, and especially the labouring classes, there has been a great increase of drunkenness more in town and cities than in villages. If we had local option, a great step would be taken towards the mitigation of this evil. I may instance a very recent case in which a grog-shop has been allowed to be started in this city in Cornwallis Street in the neighbourhood of Grey Street, and around this grog-shop had grown up houses of bad repute on the principal thoroughfare for school-going boys in the Indian part of the town. The thanks of the entire community are due to Mr. Bignell, the present Commissioner of Police, who has earned our gratitude by removing those houses from that locality and clearing the street from this danger. Though I regret to say that the popular element in the Corporation of Calcutta has been removed, yet under the guidance of the Hon'ble Mr. Greer, its present Chairman, I have no doubt that if a system of local option was allowed, grog-shops would not be allowed to grow up everywhere.

"We have also heard of the Gottenberg system which prevails on the Continent under which licenses are not granted to private individuals, but to Municipalities. The Municipality of Calcutta at one time urged upon the Government of this country for a contribution towards its revenue by giving them a part of the revenue derivable from excise in Calcutta. That was refused. But if Municipalities like that of Calcutta and other manufacturing towns were authorized and permitted to take in hand the sale of liquor, I have no doubt that, apart from the benefit which it would confer upon the public, it would materially benefit the revenue of these Municipalities, and my Hon'ble friend, Mr. Greer, would be saved many an uncomfortable hour.

"There is another provision which I think ought to find a place in this legislation, and that is the sale of exciseable goods to young children. Most of the Members of this Council are aware that the habit of cigarette-smoking and cocaine-drinking is increasing enormously among the juvenile public of this city and other large cities in India. The law, as it stands at present, has been unable to deal with these cases, and we see cocaine sold in betel shops and similar other places to the great injury of the young people who use them. In passing along the streets of Calcutta we see large numbers of young children smoking cigarettes. Their parents and guardians have felt themselves powerless to deal with this evil. I will not detain this Council by suggesting any means or remedies at this stage. I hope the Bill will receive very careful consideration in the Select Committee, and that the public bodies and Associations will be invited to offer their opinions on the Bill and the Bill will be so framed as to meet the exigencies of the case, without depriving the Government of its legitimate revenue, while at the same time checking, as far as possible, the increase in drunkenness and other evil habits."

The Hon'ble RAI TARINI PERSHAD, BAHADUR, said:—"If not out of order and if permitted I will say a word in regard to the Bill which the Hon'ble Member in charge of it seeks to introduce. The Bill, copies of which have been circulated to Members of the Council, is a very important one from various points of view, and especially because the Government obtains a very large revenue from the Excise Department, and should therefore be kept up in a suitable manner.

[*Rai Tarini Pershad, Bahadur ; Babu Saligram Singh ; Mr. Shirres ;
Babu Bhupendra Nath Basu ; the President.*]

"During the last sessions of the Council, the Excise Act came before it for its consideration in a very limited scope. The special modification then in contemplation was an urgent one. I had then proposed an amendment in regard to section 67 of the Act; but I was too late, and I was then told that almost the whole Act would shortly come before the Council for consideration and necessary amendments when I will have full opportunity to come with my own humble suggestions.

"I sincerely thank Your Honour's Government for permitting and the Hon'ble Member in charge for his motion to introduce the Bill.

"I need hardly say that as put forward by my learned and hon'ble friend, Babu Bhupendra Nath Basu, that drunkenness has increased to a very great extent, especially among the poor low classes of people which has led to ruination of many of them. There was a grog-shop in my village Gordi. The people of the village indulged in drunkenness to an extent which compelled me to apply to the then Collector of Monghyr, Mr. C. R. Marriott, who kindly removed it to a place called Pando, two miles away from Gordi.

"I am glad the Council will now have ample opportunity to deal with the details. I will also join with my learned hon'ble friend, Babu Bhupendra Nath, in pointing out the importance of the necessity of inviting public opinion in regard to this Bill before it becomes law."

The Hon'ble BABU SALIGRAM SINGH said:—"I trust that the opinion of the public bodies will be invited on this measure. I think they ought to be consulted, but I do not wish to take up the time of the Council by repeating what previous speakers have said on this point."

The Hon'ble MR. SHIRRES said:—"I wish to make just one or two observations with regard to the remarks which have fallen from the previous speakers. The Hon'ble Babu Bhupendra Nath Basu suggested that if the administration of Excise were made over to Municipalities, and they were allowed to get part of the revenue, it would to a great benefit to them. Of course, this is a very obvious proposition, and it is scarcely necessary to point out that if the Provincial Government gives up its revenue from Excise to Municipalities, it would have to propose additional taxation elsewhere."

The Hon'ble BABU BHUPENDRA NATH BASU said:—"That was not my meaning. My meaning was that instead of the sale being open to the public, to private individuals, it might be entrusted to the Municipalities."

The Hon'ble MR. SHIRRES said:—"I understood you to say that the Government should give up a part of its revenue from Excise to Municipalities, and that if we did so, the Hon'ble Mr. Greer would be saved many an anxious hour."

The Hon'ble the PRESIDENT said:—"The meaning of the Hon'ble Member was, I think, that the profits derived by private individuals should be derived by the Municipalities."

The Hon'ble MR. SHIRRES continued:—"I beg your pardon. I did not understand that. With regard to what has been said by the Hon'ble Mr. Elworthy as to the sale of liquors by mufassal clubs, I am inclined to think that there is a good deal of exaggeration in that. I have been in a good many districts, and in most of them there is no such thing as the selling of liquor in this way. My experience has been that as soon as a liquor shop starts or a refreshment-room is opened, the club ceases to sell every article except what is not procurable locally. The only exception is Darjeeling. I know of no other. They are not supposed to sell for profit; there is no information before us that they do sell for profit, and that they are in the same position as traders."

The Hon'ble the PRESIDENT said:—"I should like to make one or two observations with regard to the proposal of the Hon'ble Advocate-General and my promise to him at the last meeting of the Council. Before going on to say what I have to say in regard to that matter, which has been brought

[The President.]

before us again to-day, I should like to make just one or two remarks. One is that undoubtedly we should do all that we can to get the advice and criticism of public bodies in regard to this Bill while it is still before the Select Committee, and before it has passed this Council. I hope that Hon'ble Members will realise that it is as much their duty as it is the duty of the Council as a whole to bring the matter before public bodies and elicit their opinion upon the subject. I have before my mind now a very valuable illustration of what may be done in this way. The remarks which we have heard from the Hon'ble Mr. Elworthy are the result of a very careful consultation with the body which he represents in this Council. Now this is an example which it would be well for us to follow. Where we represent, or where we have influence, let us do our best to secure the expression of public opinion before this Bill is passed.

"The only other matter which requires notice is the one I referred to when I rose. The other matters which have been brought before the Council by several Hon'ble Members are matters of detail, which will be discussed in the Select Committee, and I have no doubt that they will be fully threshed out there.

"But in regard to this matter of bringing the law of England into effect here in India in respect of habitual drunkards and in respect of children, I have one or two remarks to make. I promised the Hon'ble Mr. Woodroffe that I would consider the matter very carefully between last Saturday and now. I have done so. I have examined the papers carefully, and though I regret I have not been able to write out a formal statement of the conclusion that I have arrived at, yet I am able to lay before the Council the result of that examination.

"First of all, I desire to express my thorough agreement with what has already been said by an Hon'ble Member of Council to-day, that it is no argument whatever for the introduction of a measure in this country, that it has been introduced in England, and that we must suit our legislation to the circumstances of the country itself.

"There is another observation of the same Hon'ble Member which I desire emphatically to endorse, and that is that there is danger in increased police interference, and that until a strong case has been made out for police interference, this ought not to be resorted to. I do not think that we ought lightly to throw any such burden on the police or expose the people to possible exactions which undoubtedly this involves, especially in the interior.

"Now the first question which arises is, whether it is necessary to have this measure in India? I am very greatly in doubt on this point. I have examined the papers, and I find that the most experienced officers of Government have declared that in their opinion no case has been made out for such legislation in this country yet; and I find that my predecessor, Mr. Bourdillon, was of the same opinion, and on that account omitted this provision from the Bill. It would be absurd that I should, in the short acquaintance that I have had with this Province, profess to have information which would justify me in setting aside the opinion arrived at by the best advisers of Government and by my predecessor in office. I am therefore bound to say that, as at present advised, I do not see the necessity for the legislation which has been proposed.

"Suppose, however, that this necessity existed, is this particular form of action that which ought to be adopted to meet that necessity? On that point I have only two remarks to make. In the first place, it is an experiment even in England. While, as I have said, we are not bound to introduce any measure even if it succeeded in England, it would certainly be unwise to turn to England for example and bring from England a piece of legislation which is still even there only in an experimental state. We do not know whether the measure is succeeding or going to succeed in England.

"In the next place, if it did succeed in England, is it suitable to this country? As I have said before, I regard it as a very grave matter to legislate for any further interference on the part of the police, and I am not prepared to say that this particular mode of action in respect of the alleged evil would not be perhaps a more serious evil than the evil itself; whether we should not find that the cure was worse than the disease.

[The President; Mr. Buckland; Mr. Shirres.]

"I have also two other points which I think I ought to lay before the Council. One is that this Council could not undertake legislation in this direction without reference to the Government of India; and I am bound to say that I am not prepared at the present moment to make that reference on the grounds that I have already stated. The sanction of the Government of India would be necessary for including in the present legislation any provision of the kind.

"I should also like to point out, as has already been indicated by the Hon'ble Mr. Buckland, that we have a provision in this Bill which will enable us to deal with this matter. In the present Bill we have, under clause 42, sub-clause (a), power to make rules prescribing the form of any license and the conditions and particulars which may be inserted in it. And we have in clause (iv) power to make rules prescribing the insertion in any license granted under this Act conditions relating to the persons or classes of persons to whom a licensee may or may not sell excisable articles. We are therefore able in our licenses to deal with abuses as we find them arise.

"I desire therefore in conclusion to express my hearty sympathy with the views expressed by the Hon'ble Mr. Woodroffe last Saturday and by Hon'ble Members to-day with regard to the desirability of meeting any evil that may exist in this direction; and I promise on behalf of the Executive Government that we shall keep our eye on this matter and our attention fixed upon it; and as any evil arises and we are satisfied on the point, we will do all that we can under the existing provisions of the Act to meet it.

"I trust that this explanation will be satisfactory to the Council."

The Motion was then put and agreed to, and the Bill was read accordingly.

The Hon'ble Mr. BUCKLAND then applied to the President to suspend the Rules of Business for the purpose of referring the Bill to a Select Committee.

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

The Hon'ble Mr. BUCKLAND said:—"Before, Sir, I speak on this motion, I would ask leave to allude for one moment to a matter which you referred to in your speech just now. I allude to the intimation that Your Honour gave that all Public Bodies and Associations will be invited to send in their opinions upon this Bill. I will only take this opportunity of saying that these opinions should be sent in without any loss of time. The Select Committee ought to begin their sittings before long, and it will be unreasonable to ask the Select Committee to wait for an indefinite time for suggestions and proposals to be laid before them. I therefore venture to express the hope that any suggestions or representations upon the Bill which will now be published may be sent in without any unnecessary delay."

The Hon'ble Mr. Buckland moved that the Bill be referred to a Select Committee, consisting of the Hon'ble Mr. Hare, the Hon'ble Mr. Gupta, the Hon'ble Mr. Shirros, the Hon'ble Mr. Elworthy, the Hon'ble Maulvi Seraj-ul-Islam, Khan Bahadur, the Hon'ble Babu Bhupendra Nath Basu, and the Mover.

The Motion was put and agreed to.

THE BENGAL TRAMWAYS (AMENDMENT) BILL, 1903.

The Hon'ble Mr. SHIRRES introduced the Bill to amend the Bengal Tramways Act, 1883, and moved that it be read in Council.

The Motion was put and agreed to, and the Bill was read accordingly.

The Council was adjourned to Saturday, the 9th January, 1904.

CALCUTTA;
The 14th January, 1904.

F. G. WIGLEY,
Secretary to the Bengal Council and
Assistant Secretary to the Govt. of Bengal.

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