Wednesday,
10th October, 1883

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXII

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OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS

1883

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1884

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vict., cap. 67.

The Council met at Government House, Simla, on Wednesday, the 10th October, 1883.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.G., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of the Panjáb, K.C.S.I., C.I.E.
His Excellency the Commander-in-Chief, G.C.B., C.I.E.
Lieutenant-General the Hon'ble T. F. Wilson, C.B., C.I.E.
The Hon'ble C. P. Ilbert, C.I.E.
The Hon'ble Sir S. C. Bayley, K.C.S.I., C.I.E.
The Hon'ble T. C. Hope, C.S.I., C.I.E.
The Hon'ble Sir A. Colvin, K.C.M.G.
The Hon'ble W. W. Hunter, LL.D., C.I.E.
The Hon'ble J. W. Quinton.
The Hon'ble D. G. Barkley.

CATTLE-TRESPASS ACT, 1871, AMENDMENT BILL.

The Hon'ble MR. ILBERT moved that the Report of the Select Committee, on the Bill to amend the Cattle-trespass Act, 1871, be taken into consideration. He said:—

"The object of this Bill is to enable Local Governments to transfer to local boards and similar authorities certain functions, such as the management of pounds and the like, which under the existing law have to be performed either by District Magistrate or the Local Government; and also to hand over to local funds under the management of those authorities certain sources of income which are derived from the surplus proceeds of the sale of impounded cattle, and which, under the present Act, have to be applied under the orders of the Local Government to the construction of roads and bridges and other works of public utility. The Select Committee to which the Bill was referred have made the measure somewhat more elastic by omitting the reference to the specific sections of the Cattle-trespass Act, and thus empowering Local Governments to transfer to local bodies any such functions as might, in the opinion of the Local Government, be

appropriately discharged by those local bodies, and also to hand over, not necessarily the whole, but either the whole or any part, of the sources of income to which I have referred. The Bill in this form is in accordance with the provisions to the same effect introduced into the various local self-government measures already passed, or in course of being passed, by this Council, and will remove certain technical difficulties which stand in the way of the Governments of Madras, Bombay and Bengal giving effect to their proposals for the extension of local self-government by means of legislation of their own. These are the only alterations which have been made.

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that the Bill as amended be pass.

The Motion was put and agreed to.

LAND IMPROVEMENT LOANS BILL.

The Hon'ble MR. QUINTON moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to loans of money for agricultural improvements be taken into consideration. He said :—

"MY Lord, it will be in the recollection of the Council that this Bill was introduced in October last by my friend Mr. Charles Crosthwaite, and that on that occasion, and at a subsequent meeting of the Council when the Bill was referred to a Select Committee, observations were made by the mover, by the Hon'ble Major Baring and by the Hon'ble Sir Steuart Bayley on the subject of agricultural banks, which attracted much attention and excited much public interest. The intention then was to legislate in this Bill for the promotion of the application, not merely of State loans, but also of private capital to the improvement of land, but, on closer enquiry, the latter was found to be a question of so wide a nature, and of such great importance, and to be attended with so many difficulties of detail, as to demand for its introduction a separate measure, instead of being brought in, as it were by a side wind, in a Bill of which it was not the main object.

"My hon'ble friends of the Executive Council who may speak after me will, no doubt, explain that the subject of agricultural banks has not been laid aside, and that it has been omitted from the present Bill solely on account of its importance and magnitude.

"This measure is accordingly one of a simpler character than that originally introduced, and is meant merely to consolidate and amend the law relating to loans of money *by the Government* for agricultural improvements.

"The necessity for amending the present law, which is contained in Acts XXVI of 1871 and XXI of 1876, was forcibly pointed out by the Famine Commission. As a protection against famine, no measures can be more effective than successful undertakings to improve permanently the productive powers of the soil; and, among such undertakings, the construction of wells, tanks and other works for the storage, supply and distribution of water has in all ages in India been regarded with approbation, and fitfully prosecuted, alike by the people and their rulers. The artificial lakes of Bundelkhund and Central India, the large tanks found all over the Madras Presidency, the inundation-canals of the Western Punjáb and the Madras Delta, are monuments of the anxiety of the Government of the day to counteract the disastrous effects of the failure of the periodical rainfall on which Indian agriculture is so dependent; and the Ganges, the Eastern and Western Jumna, and the Orissa canals, the anicuts and distribution-channels of the Godavari and Kistna, and on the Bombay side Lake Tifa and the Ekrakh and Ashti tanks testify that the British Government has not lagged behind its predecessors in efforts to protect its subjects from the ravages of famine. But the field is too vast to be completely covered by the direct exertions of any Government, however powerful, and it has always been the policy of the Government of India to encourage the people themselves to execute smaller protective works by giving them advances for that purpose from the public treasury.

"To give legal effect to this policy, which had previously been carried out on the authority of the Executive Government, was the object of the enactments to which I have just referred; but unfortunately their provisions, when put in practice, were found to be either defective on the one hand, or too stringent on the other, and they failed consequently to realise the intentions of their framers The Famine Commission enumerated several obstacles to their successful operation, the reports received from Local Governments and their officers on this Bill allude to others, and contain many valuable suggestions, and a committee of experienced Revenue officials considered the whole subject in Calcutta last cold weather, and reported on it to the Revenue and Agricultural Department of the Government of India. The information derived from these different sources has been carefully weighed and sifted by the Select Committee; and I shall now proceed to state briefly to the Council the alterations we propose in the existing law, and some of the reasons which have induced us to adopt them.

"Before doing so I may premise that the Select Committee were unable to accept a recommendation of the North-Western Provinces Board of Revenue to amalgamate with the present Bill the Northern India Takkávi Act. That Act gives power to the Local Government to make advances to the owners and occupiers of arable land for the relief of distress, for the purchase of seed or cattle and

other like purposes. Its object is quite distinct from that of the present Bill. It is intended to secure Government from loss in making advances for the relief of temporary distress, whereas the Bill now before us is meant to promote the lasting improvement of the productive powers of the soil. The Northern India Takkávi Act requires for its application in each case but little preliminary enquiry, and the loans made under it are petty and are generally recovered within the year; whereas in any system of loans for land-improvement the enquiries must of necessity be more tedious, the sums advanced will, as a rule, be of far larger amount, and the time fixed for their repayment will be far longer. It would thus be difficult, if not impossible, to frame a single enactment which would admit of both objects, namely, the improvement of the land and the relief of temporary distress, by loans from Government, being carried out to the fullest extent.

"The Northern India Takkávi Act has been brought into operation with conspicuous success in parts of the North-Wstern Provinces and Oudh. By means of it, the vigorous and intelligent exertions of my friends Messrs. M. Conaghey and La Touche have effected the reclamation of extensive tracts of land rendered barren by kans grass in the Banda district; and in the Rae Bareli district in 1880, my friends Messrs. Arthur Harrington and Bennett, by making liberal advances for the construction of temporary wells and the purchase of plough-cattle and seed, were able to save thousands of cultivators from penury, if not from famine.

"We considered it altogether inexpedient to endanger the successful working of an Act under which such beneficent results have been attained by amalgamating it with one intended to effect a different object, and we declined to seek for legislative symmetry at the risk of practical failure.

"I now turn to the provisions of the Bill.

"By section 4 we authorise Government to advance money for the purpose of making improvements on land to any person having a right to make those improvements, or, with the consent of that person, to any other person; but we do not attempt to define what persons have the right to make the improvements. We empower no person, who has not the right already, to injure another by making an improvement which might alter the extent of their respective interests in the holdings. It has been objected that we enable tenants to make improvements without the consent of their landlords, but this is exactly what we carefully avoid doing. Whether a tenant can make an improvement with or without his landlord's consent is a question to be settled by the law of landlord and tenant in different provinces. In the Central Provinces, the respective rights of the two parties, on this subject have been explicitly laid down in the Act recently passed here;

in the Bengal Tenancy Bill, now pending before Council, the same point is provided for; and in the North-Western Provinces I believe I am correct in saying that custom recognises the right of certain classes of tenants to make such improvements. In no province is the law in force on the point, whatever it may be, in any wise altered by the Bill.

"In section 4 we also define what we mean by improvements. The list is substantially identical with that contained in the present law; but, in order to provide for works which might be called for by the circumstances of one province and not of another, we enable Local Governments, with the sanction of the Governor General in Council, to bring under the category any other works of a like nature. Vats for agricultural purposes, farm-buildings, planting topes, channels, preservation of the soil on ridges and slopes, and in the villages of hilly tracts, and the prevention of landslips and of the formation of ravines and torrents have all been suggested from different quarters as fit objects for which loans might be advanced.

"By making subject to the sanction of the Governor-General in Council the exercise of the power conferred upon Local Governments, we endeavour to guard against hasty action likely to affect private rights.

"One main reason given for the reluctance of agriculturists to avail themselves of the provisions of the present law is the delay in obtaining the loan caused by the elaborate enquiries prescribed by the Act on receipt of the application. By section 5 we leave it optional with the officer to whom the application is made to issue a notice calling for objections. In provinces where a record-of-rights is carefully maintained, and where the rights of the applicants to make improvements are clearly laid down by law, it will rarely be necessary to issue the notice, and much delay in granting the loan will thereby be avoided; but where these favourable conditions do not exist, a slower procedure is inevitable, and notice will issue as a matter of course.

"When questions of title or the like are raised which the officer feels that he cannot satisfactorily dispose of, the parties will be referred for a settlement of their disputes to the Courts of law; and, until such settlement be made, no loan will be granted.

"As explained in the Statement of Objects and Reasons, section 6 prescribes with some detail, following the model of the English Acts on similar subjects, the mode and the period in which the loans shall be repaid. They must be repaid by instalments, in the form of annuity or otherwise, within a period not to exceed 35 years, unless the Local Government and Governor General in Council, having regard to the durability of the work for the purpose of which the loan is granted,

and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by it, think proper to extend it beyond that term. The existing law laid down no period for the repayment of these loans. The practice was to require repayment within a certain number of years, fixed with reference not to the durability of the work but to the amount of the sum borrowed. The result was that small men who had taken loans were compelled to repay principal and interest before they had realized the full benefit of the works for which the loans had been granted, as the amount of the annual instalments was generally out of all proportion to the extent of the annual profits derived from the improvement. It seemed to us, therefore, that the law should clearly indicate the policy to be universally adopted, and show that the object aimed at by the Government of India is not the speedy realization of the loans, but the promotion of improvements on the land.

"I believe I am warranted in saying that the Government of India has no wish to make money out of these transactions, and that, so long as the interests of the general tax-payers are guarded by adequate security for the payment of instalments sufficient to cover risk of loss, the period fixed for the liquidation of the debt may be a long one.

"We were unable to adopt a suggestion, emanating from high Revenue-authorities, that repayment of the principal lent should never be required but that the loan should be commuted into permanent addition to the land-revenue equivalent to the interest on the sum advanced. This plan, specious though it seems, we found to be open to the fatal objection of mixing up inextricably the affairs of the State in its capacity of capitalist with its business as a landholder, and we believed it impossible to devise a plan which would reconcile borrowers to paying an annuity for ever on account of an improvement the duration of which is necessarily temporary.

"Section 7 is an expansion of the corresponding section of the present law, empowering Government to recover, with interest (which by some unaccountable oversight was omitted from Act XXVI of 1871) and costs, advances made under this Act from the borrower or his surety, or from the land improved or hypothecated, as if it were an arrear of land-revenue; and we have added a proviso protecting interests in the land which existed before the date of the loan.

"We have further authorised the Collector, on the application of a surety from whom any arrears due by the principal debtor on account of a loan, interest or costs have been realized, to recover in a similar way such sums from the borrower or from the land. This provision is intended to induce persons to come forward readily as sureties.

"In section 8 we have to some extent adopted a suggestion of Government of Bengal, and provided that the order of an officer granting a loan should be conclusive evidence that the work for which the loan was granted is an improvement, that the person mentioned in the order had, at the date on which the order was made, a right to make the improvement, and that the improvement is one benefiting the land specified. These are points which, so far as Government is concerned, it is not desirable or expedient to have called in question in Courts of law; but we have guarded against injury to private rights by restricting the operations of the provisions to the purposes of this Act only. No one will be able to contest the right of Government to recover a loan taken for an improvement under this Act on the grounds that the word was not an improvement, or that it did not benefit the land, or that the person who made it had no right to do so when once an order has been recorded on these points by the proper officers but as amongst private persons, such disputes may be fought out in the Courts of law notwithstanding the existence of such order.

"Section 9 was framed to meet a wish of the Panjáb Government, with the object of inducing village-communities or joint proprietors to take loans for improvements, such as tanks or embankments, in which they were jointly interested, by enabling them to define conclusively at the time of taking the loan the amounts for which, as among themselves, each should be held liable, without impairing the joint and several liability of the entire body for the debt to Government.

"As explained by Mr. Crosthwaite in the original Statement of Objects and Reasons, everything for which it is not absolutely essential to provide in the body of the Act is left to rules to be framed by the Local Governments with the previous sanction of the Government of India. In an Act of this nature intended to apply to all India, it is impossible to lay down rules on points such as are enumerated in section 10, which will be equally suitable for every province; and as the only interests likely to be affected are those of Government, the ordinary objections to giving such extensive powers to Local Governments have no weight. Local Governments have the strongest motives to promote the successful working of the Act, and may safely be left to guard their own interests.

"Section 11 contains a very important innovation on the existing law. It declares generally that the increase in value derived from an improvement made with the aid of a loan granted under this Act shall not be taken into account in revising the land-revenue assessment of the land benefited.

"On this subject the Famine Commissioners wrote:—

'In addition to the difficulties mentioned as arising out of the working of the rules made under the Act (XXVI of 1871), another reason has been prominently alleged for the disinclination

of landholders to spend money, whether their own or borrowed, on the improvement of the land, and that is their doubt whether, at the expiration of the term of settlement, they will be allowed to enjoy the whole profits of such an improvement, or whether it will form the occasion for an enhancement of their assessment. In the Panjáb, it is a rule of the revenue-system that the constructors of new wells should be protected for 20 years from enhancement on account of the irrigation thus provided, and that repairers of old wells and diggers of water-courses should be similarly protected for 10 years. In the North-Western Provinces, Oudh and the Central Provinces, no definite rule appears to have been laid down. In Birár and Madras, rules have been issued providing that the assessment on lands on which wells or other improvements have been constructed by the owners or occupants at their own cost shall not be enhanced at a future settlement except on the ground of a general revision of the district rates. But these rules have not the force of law, and in the Bombay Presidency alone has this understanding been embodied in an Act. We think it important that *a precise and permanent understanding should be come to on the subject* and *ratified by law*. The landholder should be guaranteed against any enhancement of his assessment for such a period as shall secure to him such a reasonable return on his investment as will encourage the prosecution of improvements.'

"As regards the allusion to the North-Western Provinces I would observe in passing that a rule of the nature indicated has been executively prescribed, but it is indefinite in its terms, and there is reason to believe that it has not been generally or uniformly acted on.

"The section as it left the hands of the Select Committee proposed to go even beyond the recommendation of the Famine Commission, and to exempt from increase of assessment profits arising from improvement effected by the aid of loans taken under this Act, not merely for such periods as would secure to the maker a reasonable return on his investment, but for all time. In those temporarily settled provinces where cultivation has almost reached its natural limits, this principle might, perhaps, be applied with advantage; but in others where extensive areas are still awaiting reclamation, which can practically yield no return and pay no revenue until irrigated, the enactment of such a hard-and-fast rule would result only in a useless sacrifice of the prospective financial resources of the State. I therefore propose to move the amendment, immediately after the Motion now before us has been disposed of, of which notice has been given, with the view of empowering the Local Governments, with the sanction of the Governor General in Council, to fix, by rule, periods after the expiration of which increase of value arising from the reclamation of waste land, or from the irrigation of land previously assessed at unirrigated rates, may be taken into account in assessing the land-revenue. To all other improvements under the Act, the general principle prescribed will apply. No enhancement of land-revenue will ever be claimed by Government on account of them.

"If the amendment be accepted, the section will then, in the words of the Famine Commission, embody a precise and permanent understanding on the

subject, and give to such understanding that legal ratification which is essential to its successful operation.

"This Bill being intended to regulate only transactions to which Government is a party, no place can properly be found in it for a provision corresponding to section 11, as to improvements effected by tenants. Tenants, as well as landlords, have an equitable right to enjoy the fruits of their labour and expenditure, but the legal provisions for securing this object must be sought for in the law of landlord and tenant. In enactments already passed, or now pending before this Council, they have not been overlooked, and the subject has lately engaged the attention of the legislature in England as well as in India.

"Such, my Lord, are the main provisions of the Bill. We have endeavoured to amend the present law by simplifying the procedure on applications, and to give to it greater elasticity by conferring on the Local Governments extended powers of making rules for matters of detail. We have indicated with no uncertain sound the wish of the Government of India that repayment of advances should be made as easy as possible to the borrower consistently with the interests of the general tax-payer, and we have announnced in unmistakable terms that Government will not hasten to appropriate, in the shape of enhanced land-revenue, profits arising from improvements effected under this Act. I cannot assure the Council that the passing of the measure will inaugurate a new era of improvements, or give an irresistible impetus to the building of wells. The Indian agriculturist is not a man of enterprise, and inert habits, the growth of centuries, are not altered in a day ; but if, under the present Act, with all its imperfections, over a lákh and a half of rupees were expended in the Panjáb within three years, if within the same period the expenditure in the North-Western Provinces and Oudh reached nearly 3½ lákhs, the bulk of this being due to the influence with their people possessed and exercised by the same district officers to whose successful working of the Northern India Takkávi Act I have already alluded, and if the Opium Department was able to induce its cultivators to take in advances for wells since 1879 no less than Rs. 1,22,600, we may reasonably anticipate that the removal of obstacles which have hampered the operation of Act XXVI of 1871 will not be unfruitful, and that it will be followed by a steady, if not rapid, increase in the number of new works constructed year by year to protect the people from famine by improving the productive powers of the soil throughout the empire."

The Hon'ble SIR STEUART BAYLEY said :—"There are several points connected with this Bill which, from the point of view of the Revenue and Agri-

cultural Department, are of considerable importance, and, though they have been mostly dwelt upon by my hon'ble friend Mr. Quinton, still there are two or three of them on which I would ask the permission of the Council, to offer some additional remarks. The first of these points relates to the question of loans by private persons for agricultural banks. The reason which led to the introduction in the original Bill of the provision regarding loans for agricultural purposes, made by private persons duly authorised by the Collectors, to be recovered by revenue-process was explained in the three last paragraphs of the Statement of Objects and Reasons, and it was further dwelt upon in my hon'ble friend Mr. Crosthwaite's opening speech and amplified again by myself. Those reasons, briefly put, were, first, the natural dislike of cultivator-borrowers to come to the Government and get their loans exclusivly from them. It was explained that where a man has two competitors both offering to lend him money, one of whom can only lend him money for one purpose, and the other for all purposes; where in the one case the procedure was exceedingly complicated, and in the other money was readily available, it is perfectly clear that under such circumstances the borrower will go to the Native money-lender and not to the Government. Another reason was that Government officers are, from the very nature of their duties and from the circumstances under which they carry on those duties, incapable of sufficiently acquainting themselves with the circumstances of the borrower. These fwo facts seemed to indicate as a natural conclusion that Government, if possible, should let the business be done by private persons, and that, in consideration of private persons or banks taking up this business, and carrying it out on conditions, to be approved by the Government, that Government should give them special facilities for recovering their debts. These were the circumstances which led to the sections being originally introduced into the Bill. The sections were purely skeleton sections, and, as wa sobserved at the time could lead, to nothing without very careful consideration of the details and being thoroughly threshed out in committee. When the question came to be considered, it was found that it bristled with difficulties of all kinds. There was, first, the difficulty of distinguishing between loans given for one purpose and loans given for other purposes; for obviously, although Government might undertake to recover loans lent for special purposes under special conditions, it was not at all so clear that they might undertake to recover loans given for ordinary transactions. Then objection was taken to giving preference to one kind of loan and one class of creditors over other kinds of loans and other classes of creditors, and considerable doubts were expressed by experienced officers as to the expediency of allowing Revenue-officers to collect those private debts. There was also great difficulty in arranging for the clearing up of prior incumbrances before banks could be induced to advance money on risky business on what the Government considered

moderate rates of interest. Still further complication was likely to arise out of the simultaneous or concurrent jurisdiction in regard to identical transactions between the Revenue and Civil Courts. The consideration of all these difficulties led to the general conclusion that it was better not to include legislation for this purpose in the present Bill, but to take the subject up separately and consider it with all its difficulties on its own basis. My hon'ble friend Mr. Quinton has observed that the matter is not done with. As a matter of fact, since Sir Evelyn Baring made his speech in this room about a year ago, the special experiment to which he therein referred in regard to some particular talúqa in the Dekkhan has been the subject of considerable correspondence with the Bombay Government, and, through that Government in communication with Sir William Wedderburn, committees of capitalists have been induced to consider the experiment. The subject has now been threshed out; most of the details of it are about to be submitted to the Secretary of State, and, until he has expressed his opinion upon it, no further action will be taken. That is how the case at present stands, and I may mention that the conclusion come to by the Select Committee to not legislate for this particular point had already commended itself to the Secretary of State.

"The next point upon which I have to ask the attention of the Council is that of the repayment of loans under section 6 of the Bill. My hon'ble friend Mr. Quinton has observed that the section in its present shape is very much amplified from what it stood in the original Bill, and has explained what the object in amplifying it was. Nothing is more noticeable in the correspondence of the Local Governments on the subject than the frequent complaints made that one great obstacle to working the present system is the very short period over which the repayment of loans extended. It is generally from five to ten years, and it varies, not with regard to the nature of the improvement, but with regard to the amount of money spent upon it. The point is one which recommended itself strongly to my hon'ble friend Mr. Evelyn Baring, and it was at his request principally that the section is drawn as it is in the Bill and the special reference made to it in the Statement of Objects and Reasons. He wanted it to be understood that the Government have no objection to extending to 30 or 35 years the repayment of loans where necessary; and also, in special cases, in permanent and costly improvements, that it would be a matter for the consideration of the Local Government whether they should not extend the period of repayment beyond the generation that actually borrowed the money and throw some of the burden upon the succeeding generation.

"In connection with the question of the repayment of loans, one important and difficult proposal has been made, and it is one which has the support of some experienced Revenue-officers, among whom I may mention the Secretary to the Government of India in the Revenue and Agricultural Department.

That proposal is that the loan should be commuted into a perpetual charge on the land instead of being repaid within a certain term of years, and that it should form a perpetual addition to the rent or revenue, but for present purposes only to the revenue. The proposal has in it certain obvious advantages. I myself think that it would be exceedingly popular, and that it would induce a rapid acceptance of these loans for improvements.

"It would be popular for this reason—that the interest is fixed below that at which a man could borrow from a Native capitalist: he has also the immense advantage and satisfaction that he has never got to repay the loan, and that the burden of it will be thrown upon future generations. There is also another great advantage connected with it, and that is that, the security being land and not personal, not only can Government afford to lend the money at a lower interest, but also you do away with the necessity for collateral security, which is a very serious obstacle to the working of the present system. You only require collateral security where the borrower has not got a transferable interest in his land, but that unfortunately is the case with the great majority of the cultivators in Northern India. There is consequently a good deal to be said for the proposal, and at one time I was rather inclined to support it; but other considerations prevailed, and I found that the objections to it were very serious. It is obviously inapplicable to the permanently-settled districts, to tracts where there is much sub-in-feudation, and to tracts where the assessment is made with joint proprietary bodies, village brotherhoods for instance. There is a further objection to it, that it would necessarily lead in the future to great inequality of assessment; for instance, where two men made similar improvements with the same amount of money, the one has repaid his loan and the other has had his loan commuted into a permanent addition to his revenue. In course of time the man who has repaid his loan is assessed, and his assessment will be much below that of the man whose interest on his loan is added to the revenue. That may be kept in view for a short time, but the inevitable tendency of it would be in the course of time to bring the assessment of the man who has repaid his loan up to the same level as that of the man who is still paying the burden of his interest as an addition to his assessment. But, besides these objections, it was considered by the best authorities that it was economically wrong in principle for Government to mix up this loan business with its reversionary interest in the produce of the soil. The loans should be lent as any body else would lend money, and all that Government wants to recover is the interest on its own money and sufficient to cover risks and the cost of collection. It was felt that such a proposal as making a permanent addition to the revenue for improvements was scarcely consistent with the particular principle in section 11, which desires to exempt all improvements hereafter from future assessment. There would further be a risk of serious complication

in the case of an exhausted improvement. The man who has had his revenue permanently increased in connection with it will very naturally call for a remission, and it would be exceedingly difficult for Government not to grant that remission; in other words, he will borrow money for his failure too cheaply and at the expense of his neighbours. For all these reasons it was determined in Committee that this proposal should not be embodied in the law, and I have quite come to the conclusion that the Committee's decision was correct; I only notice the matter here to show that it has not lightly been cast aside but fully considered.

"Still connected with this question of interest, my hon'ble friend Sir Evelyn Baring had intended to make a few remarks, and as he was not to be here when the Bill was to be considered in Council, he sent me a short note telling me what he intended to say. It was merely to point out that, under the present law, the rate of interest is fixed by rules made by Local Governments with the previous sanction of the Government of India, and that in our new Bill we do not attempt to alter the procedure in any way; that the present rate is a uniform rate of 6¼ per cent. which was fixed by the Government in 1877, the Government desiring it to be understood that they did not wish to make any profit by these loans; that the object in fixing the rate of interest was to fix it at such a point as would not only suffice to cover their own interest, but also the cost of collection and secure them from loss; and when that was done that was all they wanted; but if any Local Government thought that these objects could be secured at a lower of rate of interest their representations would be considered. That is what Sir Evelyn Baring had to say upon that subject.

"I now come to a still important question—that of improvements under section 11. My hon'ble friend Mr. Quinton has already given the history of the section and of the proposed amendment which he would make. I may say for myself that I am very pleased to see this amendment; for without it I should have had some difficulty in accepting the section as it stands. Mr. Quinton has already quoted what the Famine Commission have said upon the subject; and there is one other extract I may read to you in conjunction with his remarks. They wrote:—

'In addition to the difficulties mentioned in paragraph 2 of this section as arising out of the working of the rules made under the Act, another reason has been prominently alleged for the disinclination of landowners to spend money, whether their own or borrowed on the improvement of the land, and that is their doubt whether at the expiration of a term of settlement they will be allowed to enjoy the whole profits of such an improvement, or whether it will form the occasion for an enhancement of their assessment. In the Panjáb it is a rule of the revenue system that contractors of new wells should be protected for 20 years from enhancement on

account of the irrigation thus provided, and that repairers of old wells and diggers of water-courses, should be similarly protected for 10 years. In the North-Western Provinces, Oudh, and the Central Provinces, no definite rule appears to have been laid down. In Birár and Madras rules have been issued providing that the assessment on lands on which wells or other improvements have been constructed by the owners or occupants at their own cost shall not be enhanced at a future settlement, except on the ground of a general revision of the district rates. But these rules have not the force of law, and in the Bombay Presidency alone has this understanding been embodied in an Act. We think it important that a precise and permanent understanding should be come to on the subject and ratified by law. The landowner should be guaranteed against any enhancement of his assessment for such a period as shall secure to him such a reasonable return on his investment as will encourage the prosecution of improvements. It appears to be quite possible to draw up a set of rules defining what the period should be for any locality or any class of cases, so that it may be clearly known, without fear of mistake or danger of retractation and change of view, by every landowner or tenant who executes a permanent improvement on the land, whether he is entitled to the entire profits arising from it, or to a part for ever or for a term of years. We have made a further reference to this subject in the section which treats of wells.

'The question of how far the State could properly intervene directly in the construction of wells in the case of the landlords declining to take advances, or not assenting to the charge for the construction being placed on the land, is not one easily answered. But, notwithstanding the arguments that have been adduced by some experienced officers in the opposite sense, we are not able to satisfy ourselves either that the Government could safely or equitably insist upon the construction of a well on any land at the cost or risk of the owner of that land or its occupier for the time being, or that it would be practicable for the Government under any system which provided for the first construction of wells at its cost, also to undertake their maintenance for all time. Assistance might properly be given by the loan of dredging tools, or of boring tools in countries where rock is likely to be met with ; it might also take the form of loans of money, or both loans and supervision. Provision might also be made for meeting all difficulties dependant on complications of tenure or differences of opinion among interested parties, the law being so amended as to provide that where co-proprietors whose land will be benefited by the construction of a well cannot agree, the wish of the majority should override the dissent of the minority. It might also be possible to stimulate well-construction by extending the practice of Bombay and Madras to Upper India so far as to rule that the assessment of land irrigated from a permanent well should not be liable to enhancement on account of the well at any revision of the settlement, provided that the well is kept in efficient repair. But whatever plan be adopted to facilitate well-construction, we can hardly doubt that in some way the landholder must discharge the cost of first construction, with interest thereon in a term of years and thereafter become the sole owner of the well, and be placed in respect to it in exactly the same position as that which he would have occupied if he had made the well himself.'

"The Revenue Department last year in taking up the recommendations of the Famine Commission piece by piece had to consider the whole question. They called upon each Local Government for a statement as to how the law and rules

stood in each province. The answers came and the Bombay Government have legislated for it and Madras has provided for it, in its Revenue rules. The Bombay law stands thus. Section 106 of the Bombay Revenue Code is as follows:—

"'It shall be lawful for the Governor in Council to direct at any time a fresh revenue-survey or any operation subsidiary, thereto, but no enhancement of assessment shall take effect till the expiration of the period previously fixed under the provisions of section 102.

"'A revised assessment shall be fixed not with reference to improvements made from private capital and resources during the currency of any settlement made under this Act or under Bombay Act I of 1865, but with reference to general considerations of the value of land, whether as to soil or situation, prices of produce or facilities of communication.'

"Then a subsequent section (107) provides:—

"'Nothing in the last preceding section shall be held to prevent a revised assessment being fixed —

"'(a) with reference to any improvement effected at the cost of Government, or

"'(b) with reference to the value of any natural advantage when the improvement effected from private capital and resources consists only in having created the means of utilizing such advantage, or

"'(c) with reference to any improvement which is the result only of the ordinary operation of husbandry.'

"The Madras rules are found in the Standing Orders of the Board, I, paragraph 5 —

"'Collectors of districts in which settlement by the Settlement Department has been completed or is in progress will notify in their Gazettes that the rates will be liable to revision after thirty years duration. It is to be explained however to the raiyats that if the general rates of a district are altered, the demand will be regulated with reference to the intrinsic quality and position of the land as compared with other land of similar natural soil and situation, and not with reference to any improvement which may have been effected by the raiyats at their own cost.

"And again in paragraph 8—

"'The raiyats should receive the most distinct assurance, that the tax on lands cultivated by means of wells henceforth to be reconstructed by them at their own cost, will never be enhanced, unless on a geneal revision of the district rates; and that in such revision any modification in the assessment of lands so improved will be irrespective of the increased value conferred upon them by their holders.'

"I need not go into the rule for the other provinces. With the exception of the Panjáb the rules are somewhat indefinite, and I cannot say that they have been very carefully acted upon in all the settlements made hitherto. With these facts before us the question of how the Famine Commissioner's recommendations were to be carried out came to be considered, and a proposal was made to legislate upon the subject. Mr. Crosthwaite was consulted, and he drew out a

rough sketch of the lines on which in his opinion legislation ought to be conducted I will briefly mention those lines because they contained some suggestions of importance. He proposed that improvements made during the currency of existing settlements should be registered. That is a very valuable suggestion. The value of the improvements was to be settled by a committee of arbitrators and registered, together with the improvement and the area covered by it. Then he divided his improvements into two classes, one of which might be specified as quasi-permanent improvements and costly; the other more temporary and less costly improvements and partaking of the nature of reclamation. The first class Mr. Crosthwaite proposed to exempt from assessment altogether; the second class he proposed to exempt absolutely for five years, and thereafter to let him recoup his interest, by deducting 6¼ per cent. on cost of improvement from the full assessment of the land. These were the lines upon which Mr. Crosthwaite thought that it would be possible to legislate. When the question came up to be discussed, we found that difficulties cropped up at every turn. The first main difficulty was perhaps one of theory; it was in fact to reconcile two conflicting theories—what I may call the English theory and the Indian theory. The English theory has regard to the relation between lessor and lessee, and from this point of view the English theory naturally urges that any increase in the letting value of the land caused by the lessee should be his and benefit him, and that he should get this benefit in the shape either of an increased length of lease on the old terms, or compensation for the unexhausted portion of his improvements. The Indian theory, if I may say so, disregards altogether the relation between lessor and lessee and looks upon Government as a joint proprietor with the landholder, and that Government, as joint proprietor, is by the ancient law and custom of India entitled to a share in the produce of every bígah of land. The logical deduction from the English point of view would be that the landholder should have, as a permanency, the full benefit of any increased value caused by his improvement. Even here I think myself that the fact of the landholder in India having a permanent right of occupancy in his land really divides off his position in a very marked way from that of the leaseholder in England whose position is a temporary one. The natural outcome of the Indian point of view is that when the Government as the sleeping shareholder in the land has provided that the improver should receive full interest for his money spent on improvement, and that he has been recouped for his original outlay, thereafter the Government should retain its right to a share in the improved produce of the soil. These two theories no doubt are antagonistic, but I think that it would have been possible to have come to a reasonable compromise upon them. As a matter of fact you will see that Mr. Crosthwaite based his proposals on the Indian theory, but he went far outside that Indian theory when he proposed that permanent improvements

of a valuable kind should be exempted for ever. His object in so doing was that he considered that public policy required that we should do all in our power to encourage improvements of this kind rather than look to future increase of revenue. And in this view, as a matter of expediency, I most fully concur. I think that it would have been very possible to arrange the two conflicting theories upon somewhat such terms as these if we had gone on and proceeded to legislate. But there was another difficulty and that was the difficulty of distinguishing between the two classes of improvements which Mr. Crosthwaite desired to distinguish. It was almost impossible to draw any line or to find any logical terms to cover the distinction which he desired; permanent and temporary would not do, nor perfect and imperfect; and after considering the matter again I have come to the conclusion that our mistake was in looking at the nature of the improvement instead of trying to find the distinction in the condition of the country to be improved. I think that if we had looked rather to the question of complete or incomplete cultivation, by a sparse or full population, we might probably have more easily found the means of logically distinguishing between the two classes than in looking to the nature of the improvement to be effected. However, the idea of special legislation upon this point was abandoned, and it was abandoned because it was inextricably mixed up with the very much larger question with regard to the whole principle of re-settlement in Northern India which was at that time under reference to the Secretary of State. In referring that question to the Secretary of State, the Government of India expressed in very general and broad terms its desire that improvements effected by landholders should hereafter be exempted from assessment, and in reply the Secretary of State, in equally general and broad terms, expressed his thorough approval of the principle. The general question including the special point of assessing improvements, is now under the consideration of the Local Governments. When, therefore, section 11 was introduced in Select Committee I had very great doubts as to whether it ought to be accepted; not because I doubted the principle of it, I quite accepted and most strongly endorse the principle that as a matter of policy we ought as a rule to secure to the improver the full value of his improvement;—but for the reason that the general question was then under the consideration of the Local Governments, and it appeared to me that modifications might have to be made by each Local Government. It was also perfectly obvious that we could not deal with improvements made under this Act with the money borrowed from Government in a different way from improvements made out of private capital, and that whatever we did in the one case would bind us in the other; and it seemed to me that it would be better if we were first to get the Local Governments' opinions and that the matter should be legislated for in regard to improvements as a whole, and not in regard to improvements only on money borrowed from the Government. How-

ever, my views did not command the assent of the majority and I gave in on that point, but shortly after that, as my hon'ble friend Mr. Quinton has explained, it became obvious that some modification in the broad and general rule we have adopted should be made ; and it became specially obvious in regard to the Panjab. In the Panjab in the south-western districts, the condition of things is that there is a very large amount of waste land unoccupied, and a very sparse population ; the land in its unirrigated state is of very little value, and in Montgomery for instance, such land is assessed at somewhere about one anna an acre ; but as soon as water is brought to it, it can be assessed at 14 annas or one rupee an acre ; and it seems monstrously unjust to the general taxpayers of India that the Government of India should give up all further claim to the increased produce of land assessed at one anna an acre when by a very small expenditure that land becomes assessable at one rupee. That would be the effect of section 11 as it stands, and consequently I think that the amendment which my hon'ble friend Mr. Quinton proposes to introduce to that section is a great improvement. The point has a further indirect bearing on the Government revenue for it is not merely in the present that you lose, but, as has been already pointed out, there is this to be considered—when you come to revise your settlement hereafter, the question of improvements made before the passing of this Act must come up. People who have been assessed for improvements made on unirrigated land before the Act was passed would complain that others have not been similarly assessed on improvements made since the Act was passed and the result would be a general levelling down of assessments, and consequent loss of revenue to Government. That would be the effect if it were not for this modification which it is now proposed to put in the Bill. The present practice of the Panjáb Government as has been stated by the Famine Commissioners is to give an exemption of 20 years and this apparently carries out the principle which I have explained that the improver should get back the cost of his improvement and a fair amount of interest. I find it stated that the average cost of sinking a well may be put down at Rs. 300 and the average assessment from which it is exempted is put down at Rs. 18, and twenty times 18 is 360 ; and so he is enabled fully to recoup his expenditure with at least a portion of interest on it. Obviously to my mind this principle if accurately worked out, is far fairer as regards such lands than would be the broad exemption for ever of all improvements from assessment. I quite admit—in fact I most fully concur—in what Mr. Quinton observed as to districts where the land is fully cultivated and where there is a very small margin of waste and a very full population—where, in other words, it is far more important to improve existing cultivation than to bring additional land under the plough—that there section 11 in its broad application may well stand, and the Government should say 'improve your lands by

all means, we shall never take anything for it, But where the position is reversed, where there is much waste land, where improvement is scarcely so much improvement as reclamation, there I think that the Government ought to return in its hands some security, and safeguard its right to share in the future produce of the land. As I have said the proviso which my hon'ble friend Mr. Quinton proposes to introduce as an amendment quite meets my views in regard to this particular Bill and I shall very gladly support it; but it may well be that Local Governments in dealing with the matter in regard to their own provinces, not with reference only to improvements made with Government money but to improvements generally, will see the necessity of adapting the modification in the proviso to the local circumstances of each particular province and they may have to modify the form if not the principle of the proviso."

His Excellency THE PRESIDENT said :—" I do not wish to detain the Council at any length but I should like to make one or two observations before this motion is submitted to the Council. The object of the Bill has been very clearly stated by my hon'ble friend Mr. Quinton. It has been found in practice that the provisions of the Acts upon the subject of loans from Government for land improvement have not been made use of so largely as was desirable, and have, in certain respects, tended to discourage recourse on the part of landholders and cultivators of the soil to the Government for assistance of this description. My hon'ble friends, Mr. Quinton and Sir Steuart Bayley, have quoted extracts from the report of the Famine Commission, which show how much importance they attached to loans of this sort, and there can be no doubt I think that there are few objects of greater public interest than the encouragement by every possible means of the improvements of land devoted to agricultural purposes.

" The amendments in the existing law proposed in this Bill have all been made with the object of rendering recourse to loans from the Government for land improvement more easy; and removing some, at all events, of the proved obstacles which exist under the present law to the use of such loans.

" I no more than my hon'ble friend, Mr. Quinton, can venture to say whether this Bill, when it becomes law, will lead to a great extension of applications for Government loans. When this measure was first introduced it was I think my hon'ble friend Sir Evelyn Baring—whose loss to this Council every Member, I am confident, deeply regrets—who said that he was not very sanguine as to the practical results that might follow from this measure. Be that as it may, I hope that the greater facilities which this Bill will afford for obtaining these loans will, at all events, tend to encourage applications for them, and to induce the cultivators of the soil to make greater use of the capital of the Government for the improvement of their land.

"I might content myself with these few remarks and put the question at once, but there are one or two points which have been alluded to by previous speakers upon which I should like to say a few words.

"With respect to Agricultural Banks I desire only to say that I hope no one will suppose that by the omission from this Bill of the clauses touching upon that subject, which were included in the original Bill, the Government imply any intention of abandoning the object which they then had in view. My hon'ble friend Sir Steuart Baylay has stated that that important object is still under the consideration of the Government, and that it is shortly their intention to address the Secretary of State in respect to it. No measure of this kind could be undertaken without the sanction of the Home Government, and I hope that the public will clearly understand that the withdrawal from this Bill of those clauses, imperfect in their nature as they were, does not in the least degree mean that the Government have lost their interest in the question or given up the solution of it as hopeless.

"I now come to the point touched on at some length by Sir Steuart Bayley, namely, that dealt with in the eleventh section of the Bill as it now stands to which Mr. Quinton is about to move an amendment when the present discussion is disposed of. Sir Steuart Baylay has said that he at one time was of opinion that it would have been better to have omitted section 11 altogether from this Bill, and not to have dealt in this measure with this particular subject. I quite admit that section 11 relates only to a portion—in fact only to a small portion—of a much larger question, and that the principles which that section lays down are principles which must have, and ought to have, a much wider application than that which can be given to them under the present Bill. But at the same time I think that the Select Committee acted wisely in not striking out section 11 from this Bill; because I cannot but think that when that section had once been introduced and the Bill published with it, its entire removal would have led to serious misapprehension as to the intentions of Government with regard to the assessment on land improved by the owner or occupier and increased in value by such improvement. I therefore think that it was wise, having once put in the section, to leave it in the Bill, amending it so as to make clear the views of the Government upon the matter with which it deals. With regard to the question of principle I will not detain the Council long, because it is a much larger question than that raised in this particular measure, and it is one on which the Government will have hereafter to express their opinion much more fully: but at the same time, after what has fallen from my hon'ble friend Sir Steuart Bayley, I should like to say a few words as regards my own opinion on this subject, Sir Steuart Bayley has said that there are two theories on this question—the English theory and the Indian theory—and he defined the English theory to be that a tenant

who made improvements in the land which he occupied, ought, if he were removed from his farm, to receive compensation based upon the addition which his improvement had made to the letting value of the land, I very much wish that I could say that that is the recognised English theory upon this question. It is my own theory unquestionably, and it is a theory which has been partially, and in the end I fear imperfectly, adopted by Parliament at home; but it is a theory only held by a certain number of persons, and there is a wholly antagonistic theory very prevalent among other persons in England, namely that the tenant should only receive on quitting his holding repayment of the actual outlay he may have made on his improvements.

"For myself as I have said, I entirely hold, in respect to ordinary cultivated land, to the theory which Sir Steuart Bayley has described as the English theory.

"I think that if a tenant, by his own exertion, and the expenditure of his own capital, adds to the letting value of my land, I ought if he leaves his farm to compensate him for the additional letting value of the land of which I am about to take possession. I think that is a perfectly sound and just principle with respect to land under full cultivation because although it is I know said that there are two factors in the results of all improvement, namely, the expenditure of the tenant's capital and labour, and the inherent qualities of the soil, in the case of cultivated land, this second factor should not, as it seems to me, be regarded as constituting an appreciable element in the calculation of the value of a tenant's improvements. For the right to enjoy the results of the inherent qualities of the soil is already covered by the payment of his ordinary rent, and the addition to the letting value of his land arising from his improvements may therefore be treated as resulting only from his expenditure of capital and labour and may fairly be taken as the measure of the compensation which should be given to him in respect of such improvements, when he quits the land.

"Therefore, it appears to me that the principle laid down in section 11 as it stood is a right principle in regard to what I may describe as fully cultivated land but I admit that the case of what may be broadly called reclamation differs very materially from that of the improvement of land already under full cultivation. In the case of the reclamation of land by a very small expenditure of capital and labour, a very great result may often in a few years be produced. The inherent qualities of the land are the principal factor; the outlay of the occupier is a much more limited factor, and the true mode of dealing with cases of that kind seems to me to be the adoption of what is called in England an improvement lease. The land should be let at a low rent or should be assessed to revenue at a low rate for

a certain number of years so that the cultivator may recoup himself for the operations which he carries on in order to bring the waste under cultivation.

"He should have ample time to fairly repay himself for that expenditure, and the rent or revenue, at first very low, should be gradually increased, until at length when the land has been brought into a state of cultivation, it becomes reasonable that the Government or the landowner should step in once for all and place upon the land the full ordinary rates of rent or revenue of similarly cultivated land in the neighbourhood.

"After that has once been done, then any other improvements that the occupier of land may subsequently make ought to fall under the principle laid down in the first portion of section 11, and the person making the improvement should be entitled to reap the full and entire benefit of any addition that he may make to the letting value of the land. That appears to me to be a fair mode of dealing with the question of the reclamation of land, and from the information which I have received, I believe that the case of unirrigated land, especially in the Panjáb, and probably also in other parts of India, which is let at unirrigated rates, falls very much into the same category as that of unreclaimed land, because by a very small expenditure of money or labour on the part of the occupier of the soil a very large additional value may be given to the land. Consequently I am quite prepared to admit, as proposed by the amendment of Mr. Quinton, that 'where the improvement consists of the reclamation of waste land, or of the irrigation of land assessed at unirrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed by the Local Government with the approval of the Governor General in Council. My hon'ble friend, Sir Steuart Bayley, alluded to the difficulty which had been felt in drawing any such distinction as Mr. Crosthwaite originally proposed to draw between different descriptions of improvement. I admit the force of that remark as applied to the particular proposal made by Mr. Crosthwaite, but it appears to me that between improvements on land under full cultivation, and improvements made for the purpose of reclamation of waste land, or for the irrigation of land at present unirrigated, a line may be distinctly drawn which is, in itself, in this country and elsewhere, quite defensible upon grounds of principle. No line of this kind that you can draw can be absolutely satisfactory ; there must always be border cases difficult to deal with ; but it seems to me that such a line as I have described is easy and simple and rests upon clear and intelligible grounds.

"Under these circumstances I readily agree to the adoption of the amendment which my hon'ble friend, Mr. Quinton, is about to move, and with that

alteration it appears to me that section 11 will lay down an important and valuable principle which I hope to see in course of time much more widely adopted.

"I have no more to say at the present moment on this subject. I have every hope that the Bill will make an important imporvement in the existing law, and it will afford me great satisfaction if it should be largely made use of by those for whose benefit it is intended."

The Motion was put and agreed to.

The Hon'ble MR. QUINTON also moved that, for the proviso to section 11, the following be substituted, namely :—

"Provided as follows :—

"(*1*) Where the improvement consists of the reclamation of waste-land, or of the irrigation of land assessed at unirrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed by the Local Government with the approval of the Governor General in Council.

"(*2*) Nothing in this section shall entitle any person to call in question any assessment of land-revenue otherwise than as it might have been called in question if this Act had not been passed."

He said that the observations which had fallen from His Excellency the President and from Sir Steuart Bayley on the subject of the amendment relieved him from the necessity of detaining the Council by urging anything in addition to what he had already said in his remarks on the previous motion and was glad that it had obtained such powerful support.

His Honour THE LIEUTENANT-GOVERNOR said that he had intended to offer a few remarks in support of the proposed amendment, but much of what he had to say had been anticipated by His Excellency the President and Sir Steuart Bayley. He fully agreed that the principle embodied in section 11 of the Bill as it left the hands of the Select Committee was applicable to districts which were fully developed, in which the margin of waste-land was small, and where the share in the assets of the land had come up to a fair level. But that was not the case in the Panjáb. In that province there were vast tracts of land which could be brought under cultivation at very small expense, and any proposal to relieve them from the higher assessment for all time would be a wanton sacrifice of the resources of the State. The whole of our revenue-system in the Panjáb had been built up upon the system of what His Excellency the President had described as improvement-leases. Wells, when sunk, were exempted for a period of longer or shorter duration from assessment. After the expiry of 20 years an assessment was taken, and it would never do now to exempt in future all new wells from the higher assessments, because that would at once raise a great diversity of interest between persons who-

had in years past embarked their capital in the improvement of land and those who were to do so after the passing of this Act. The result would be that the part assessments, which were higher than those imposed on land improved under this Act, would have to be forced down to the level of assessments on unirrigated land. The consequence of that would be a loss probably of one-third of our assessment. HIS HONOUR could not therefore have supported clause 11 of the Bill as it stood but the proposed amendment removed the objections which he entertained to it; it met the case of the Panjáb; it would enable the Panjáb to carry on its system as it had hitherto done; and for that reason he was quite prepared to give it his cordial support. But he wished at the same time to point out that, by adopting this provision in the present Bill, the Government was practically pledged in the future not only for improvemnts executed by loans taken from agricultural banks, but for improvements executed by loans taken from private individuals, and in the expectation that Government would in the future accord equal protection to improvements of both kinds he was prepared to support the present proposals.

The Hon'ble MR. HOPE said that he wished to express his satisfaction that his hon'ble colleague Mr. Quinton had come forward and moved the amendment which stood in his name, because it appeared to him that that amendment embodied a principle of a most important character, which was indeed to be drawn from the words in which his hon'ble colleague had couched his first clause, but which appeared to him (MR. HOPE) to be even more clearly and satisfactorily stated in a portion of the extracts from the Bombay Land-revenue Code which his hon'ble colleague Sir Steuart Bayley had read out to the Council. The particular portion he referred to was that in which, after providing that no assessment should be levied with respect to any improvements made during the currency of a settlement, permission is given to take such improvements into consideration on its revision :—

> "With reference to the value of any natural advantage, when the improvement effected from private capital and resources consists only of having created the means of utilising such advantage."

Of course, under the Bombay system, the extent to which a revision should be carried, and the amount of assessment which ought to be imposed, under such circumstances was a question of fact, which would have to be determined in the several individual cases which arose. In some of the more fully cultivated districts, where population was dense and the assessment already heavy, it might even happen that, as the Hon'ble Mr. Quinton had suggested, it might even be judged not worth while to make any increase in the assessment at all, but the right to make such increase must nevertheless be stated in clear and definite terms in the law.

This principle of the assessability of improvements in view of the rights of the landowner was in accordance with the practice which existed throughout the whole of India under the old Native rulers. All civil officers who had had much to do with revenue-assessments were acquainted with hundreds, perhaps thousands, of cases in which they had found wells to have come under assessment, after they had been held, for a certain term of years, exempt from assessment under sanads and other orders by Native Governments—Governments who, he might say, were remarkably shrewd, and whose views in those matters were in accordance with modern principles of political economy. But this principle strikingly was not only in accordance with old custom in India. It was also sound in itself and in accordance with well-recognised principles of political economy. The case was not one of policy, but of mutual rights. If it was reasonable that the occupier of land, whoever he might be, should get a full and fair return for any capital which he might invest in improvements, it was equally reasonable to secure to the owner his rights for any natural advantages which his property might possess, and which had not already been discounted by the rent imposed upon the occupier. There were of course some cases in which the occupier could turn the land, or its mineral resources to other than ordinary uses contemplated in fixing his rent, as where dry crop land was converted by a well into irrigated; but such cases were exceptional, and when they occurred it was just as reasonable, as he had already remarked, that the one party should be protected as the other. It would be as unreasonable to contend that Government was under such circumstances precluded from raising the assessment at a revision, or that a private person was precluded from securing by the provisions of his lease the full advantage to which the mineral or other properties of his land entitled him, as it would be to contend that if a man possessed a building site upon which he did not choose to build a house, or a coal mine which he was unable or disinclined to work, he must therefore allow the free use of that land, or present the working of that coal mine to some one else, without charging ground rent in the one case or royalty in the other.

He had one more remark to make. It would appear that some persons were under an apprehension that a restriction or reservation of right such as that contemplated would act very materially in preventing people from investing their capital in improvements. All that he could say was that no such result had been found to follow from the principle, which was in force throughout the Bombay Presidency. That principle, although it had only lately been embodied in the Bombay Revenue Code, had been recognised in orders there throughout the whole of his period of thirty years' service in India, and he might very easily have come to the Council to-day armed with statistics to show the enormous increase of wells

and other improvements of a like nature, involving immense expenditure of money, which the tenants in Bombay under the thirty years' revenue settlements had effected notwithstanding. For his own part he did not feel the slightest apprehension that, if the proposed amendment were adopted by the Council, it would have any prejudicial effect upon the object of improving the land and attracting capital to it, which we all so greatly desired.

The Motion was put and agreed to.

The Hon'ble MR. QUINTON also moved that the Bill as amended be passed.

The Motion was put and agreed to.

PUNJAB DISTRICT BOARDS BILL.

The Hon'ble MR. BARKLEY moved that the Report of the Select Committee on the Bill to make better provision for Local Self-government in the Panjáb be taken into consideration. He said :—

"My Lord, when I moved for leave to introduce this Bill, I explained that it had been framed to give effect to the proposals of the Local Government for the further extension of local self-government in the Panjáb, but that it did not apply to municipalities ; and that, as it had been decided in correspondence between the Panjab Government and the Government of India that it was desirable to consolidate the local cesses levied on land in each district with the local rate imposed under Act V of 1878, and to amend that Act in other respects, it was proposed to repeal that Act and to re-enact its provisions with the necessary amendments.

"The members of the Select Committee, to which the Bill was referred, have considered the Bill, with the suggestions for its improvement made by the Local Government, and by the various officers and local authorities who were consulted by that Government and they have been able to accept a considerable number of those suggestions. The Local Government has been communicated with in regard to all changes of any importance proposed to be made in the Bill as introduced, and, as the measure is one relating to local administration, great weight has always been given to its views in determining whether proposed alterations should be adopted or not. As the changes, other than amendments in matters of minor detail, which have been made are fully set forth in the report of the Select Committee, which briefly explains the reasons for each, I propose to confine my remarks to those which are of most importance.

"Taking, first, the provisions relating to taxation, the powers of imposing taxes other than the local rate conferred by section 30 are given, subject to the

provisions of that and the following section, to all district boards, instead of to those only which are empowered to determine the incidence of the local rate, as these powers may sometimes be found useful in cases in which the Local Government may not wish to delegate the power of determining the incidence of the local rate to the district board. The proceeds of taxes so imposed will be credited in full to the district fund of the district, as the Local Government does not think it necessary to retain the provision, contained in the Bill as introduced, that the same proportion of these taxes as of the local rate should be carried to its own credit. In any case in which it may be found necessary to impose new taxes, the district in which they are levied will thus get the full benefit of them.

"Power has also been given to the Local Government to direct that any portion of the net proceeds of the local rate which may be levied within the limits of a municipality or military cantonment should be made available for the purposes of the municipality or cantonment. Under the law hitherto in force, the proceeds of the local rate and cesses on land levied within municipal or cantonment limits were applicable to the purposes of the districts as a whole, and were expended under the orders of the district committee. There are only a few cases in which the local rate or cesses are levied in military cantonments; but in some districts a considerable portion of the local rate is paid for lands within municipal limits. As the financial position of particular districts and municipalities must be considered in determining whether any change should be made in the existing appropriation of the local rate paid for lands in such localities, it was found impossible to lay down any general rule on the subject in the Bill, and the Local Government is therefore empowered to decide the question in each case.

"In other respects there is no material change in the part of the Bill which relates to taxation.

"Next, as regards the constitution of district and local boards the district boards to be established under the Act will take the place of the committees appointed under the Local Rates Acts previously in force. Unlike those committees, they will in all cases be corporations, with power to acquire and hold property, to contract, and to sue and be sued; but as in some districts it may not be at present possible to establish boards of this character, the Local Government is empowered by section 67 to except these from the provisions of this part of the Act, and section 68 provides for the constitution in these districts of a committee similar to those which now exist, unless where the Local Government for special reasons otherwise direct. This exception has been added to provide for cases like that of the Simla district, the most important part of which is comprised within the Simla municipality and the several hill cantonments, the

remainder consisting only of the two small detached parganas of Kotgarh and Kotkhai, distant fifty miles or more from Simla. It has not been found convenient hitherto to maintain a district committee to control the expenditure of the insignificant local income of these two parganas.

"The district board will ordinarily have authority throughout the district for which it is established, with the exception only of the area of municipalities and military cantonments; but the Local Government may except portions of districts from this part of the Act. This power is required for hill tracts like portions of the Kangra and Hazara districts, and may also be required for parts of some of the Trans-Indus districts, whenever district boards are established in those districts.

"Some change has been made in the Bill with respect to the relation of the local boards which may be formed within districts to the district board. As there is no present intention to declare any such boards independent of the district board, the provisions originally contained in the Bill for the case of local boards declared independent of the district board have been dropped, and it is now provided that all local boards shall act as the agents of, and be under the control of, the district board. The Local Government, however, may direct particular matters to be placed under the management of the local board, and may also make rules as to the apportionment of the district fund between the general purposes of the district and the purposes of particular parts of the district, and for determining the relations between district boards and local boards. Sections 21 to 23 and 41 of the Bill also contemplate the appropriation of specific funds to the purpose of the local boards, and the nature of the control which may be exercised by district boards is regulated by sections 22, 23 and 41. It will not, therefore, be possible for the district board, if it were so disposed, to reduce the local boards subordinate to it to mere nonentities; and it will probably be found most convenient ordinarily to leave the administration of many matters in the hands of the local boards, which will be able to meet more frequently than the district board.

"Chairmen of district and local boards, whether elected or appointed by the Local Government, will be chosen from among the members of the board and will hold office for such term, not exceeding three years, as the Local Government may fix. It has all along been intended that only members of boards should be eligible for election or appointment as chairmen, though this was not distinctly stated in the Bill as introduced.

"It has not been thought necessary to empower local boards to appoint joint committees in concurrence with other local boards or authorities, as the district board will discharge the functions of a joint committee for the local boards

within the district, and can appoint a joint committee in concurrence with other local bodies when this is desirable. But cantonment authorities have been added to the other local authorities who may concur in appointing joint committees, as this may sometimes be found useful in regard to matters in which district boards and residents in cantonments are jointly interested.

"As the district board is the corporate body, it has been empowered to employ such servants as are necessary for the purposes of the local boards subordinate to it, as well as such as are necessary for its own prurposes. This will enable it to authorize a local board as its agent to employ necessary servants. The power given by the Bill as introduced to Deputy Commissioners to control appointments made by second class boards has been extended to all boards as recommended by the Local Government. As I mentioned on a recent occasion, the Delhi Municipal Committee, when consulted on the original draft of the Municipal Bill, thought it desirable that the Deputy Commissioner should have this power: and if it is exercised in such a way as to give dissatisfaction to the board, it will have an appeal to the Commissioner of the division.

"As respects finance, the effect of the provisions of sections 35 and 36 forming a district fund, and vesting that fund in the district board, and of the repeal of Act V of 1878 in districts in which the present measure is brought into force, will be to put an end to the power, which that Act gave to the Local Government to withdraw from any district unexpended balances of the allotment made to it from the proceeds of the local rate. The district boards will, therefore, occupy a much more secure financial position than the committees whose place they will take. They have also been empowered to invest their funds in approved securities, subject to such rules as may be made by the Governor General in Council in that behalf, and to the previous sanction of the Local Government. This condition will be a check upon money being hoarded when it might be spent with more advantage in meeting the immediate requirements of the district.

"Additional powers to make rules have been given to the Local Government for the purpose of regulating the language of the boards, the channel through which correspondence should pass, and the preparation and sanction of plans and estimates for works, and for the guidance of district boards in conducting litigation.

"With reference to the last point, as district committees were not hitherto empowered to sue nor liable to be sued, all suits relating to matters under their control having to be brought by or against Government, it is probable that district boards will require some instructions as to the course to be adopted when suits are brought against them, or when they have occasion to institute suits; and it

may be desirable that such cases should ordinarily be reported to the Local Government, in order that it may be in a position to give the boards any assistance or advice which may be required.

"The Bill originally contained a section, similar to that which is to be found in most Municipal Acts, requiring persons proposing to sue a district board, or any of its members or officers, for compensation for any wrongful act done or purporting to be done under the Act, to give written notice at least a month before instituting the suit. It will be remembered that, on the occasion of the passing of the North-Western Provinces and Oudh Municipalities Act, I doubted the expediency of omitting the provision of this nature which was contained in the Act previously in force, and that my hon'ble friend Mr. Ilbert explained why it had not been considered necessary to retain it, and expressed an opinion that, if such a provision is really required, it ought to be embodied in a general Act, granting the necessary protection to all persons acting under statutory or other similar authority. I understood him to think that the protection was not more likely to be wanted in India than in England, where it had been found possible to dispense with it, and the prospect of its being given by a general Act therefore seemed to me to be somewhat faint; but, from what afterwards passed in committee on the present Bill, I gathered that, if Local Governments showed cause for considering that local authorities required such protection as would be afforded by notice of suits, there would be no objection to providing it. On this understanding I agreed to the omission of the section in question from the Bill; and I had the less difficulty in doing so, because it could not be said in this case, as in that of a Municipal Bill, that by the omission we were depriving the boards of a protection which their predecessors had enjoyed under the law hitherto in force. District boards are perhaps less likely to be frequently engaged in litigation than municipal committees; but if suits for compensation for alleged wrongs are brought against them, and it is found that inconvenience is caused by the want of sufficient notice before such suits are brought, steps will no doubt be taken to make this known to the Government of India, in order that the necessary legislation may be taken in hand.

"As the Bill does not now make the district boards a continuation of the committees previously in existence with larger powers than before, it has become necessary to make provision for their liability to discharge obligations incurred by those committees. We have therefore adopted the provisions of the Act recently passed for the North-Western Provinces and Oudh, saving contracts made on behalf of district committees, and providing for the continued employment of Government officers serving under them.

"Comparatively little use has been made in the Panjáb of the provisions of Act XX of 1856, for the appointment and maintenance of police-chaukídárs

in towns, and most places in which it was in force, other than military cantonments, have been constituted into municipalities and now raise the necessary taxation by other methods. In any towns which have not become municipalities, a tax can be imposed for the purpose of paying for watchmen under the provisions of the Panjáb Laws Act, as amended in 1878 and 1881. The Local Government, under these circumstances, did not consider it necessary that Act XX of 1856 should continue to apply to such towns; and, as that Act contains no provision for withdrawing it from operation in any place to which it has been extended, we have provided in section 69 that, when a district board is established having authority in any place to which Act XX of 1856 applies, the Local Government may direct that that Act shall cease to be in force.

"The changes which have been made in the Bill have not altered what I pointed out in moving for leave to introduce it as one of its most marked features, namely, the extent to which it leaves details to be regulated by rules to be made by the Local Government. It was then explained that this was rendered necessary by the varying circumstances of different parts of the province, with regard to which the rules must be framed if much progress is to be effected.

"But wherever the provisions now to be found in the third chapter of the Bill can be made applicable, the district boards will enjoy a much greater measure of independence than the committees which have hitherto performed similar functions, and they will have a much more complete control over the administration of their funds. They will in most instances be relieved by local boards of such duties as can most suitably be discharged by smaller bodies, with local knowledge and with a real interest in local business; but these boards will be subordinate to the district board, and it will continue to manage all matters affecting the interests of the district as a whole. The constitution of these smaller bodies is a new step in the direction of local self-government, and it may fairly be hoped that the interest which has hitherto been taken by members of district committees in the departments of administration entrusted to them will be still more largely manifested by the members of the local boards now to be constituted, who will be thoroughly acquainted with the wants and interests of the smallar areas over which their authority will extend, and who will be put to less inconvenience in attending meetings than the members of a committee assembled from all parts of the district to meet at its head-quarters. The powers reserved to district officers by the Bill will enable them to give these boards the guidance, counsel and assistance which they must often require and which could neither be so frequently nor so usefully supplied by the district board; and the relations which at present as a rule exist between the rural population and the district officer afford some guarantee that both district and local boards will be ready to

be guided by his advice, and that he will take a hearty interest in training them to make the best use of their powers, and in the success of their administration."

The Motion was put and agreed to.

The Hon'ble MR. BARKLEY said that he had now to ask His Excellency the President for leave to move two amendments of which he had not given notice. The amendments, he explained, were not of an important character.

His Excellency THE PRESIDENT said that he had been made acquainted with the nature of the two amendments which Mr. Barkley wished to propose, and the necessity for moving them now had arisen in consequence of the lateness at which the Report of the Select Committee was brought to the notice of the Lieutenant-Governor and himself. Under those circumstances, and as they did not involve any important points, he would give leave that the amendments be made.

The Hon'ble MR. BARKLEY said that the first amendment was as follows :—

That the proviso to the second sub-section of section 20 be omitted.

The matter which that amendment was intended to cover was already provided for by section 34 of the Bill, which required the Local Government, when services, the cost of which was hitherto borne by Government, were undertaken by a district board under section 20, to provide it with adequate funds for their maintenane in the same state of efficiency as before. That being so, it did not appear necessary to retain that proviso to section 20.

The Hon'ble MR. ILBERT remarked that the proviso was inserted for the purpose of making clear the mutual relations of section 20 and section 34 of the Bill; but as he understood that its retention in its present form might possibly lead to administrative difficulties and as the meaning of the Bill appeared to be reasonably clear without it, he would not offer any objection to its omission.

The amendment was put and agreed to.

The Hon'ble MR. BARKLEY also moved that to section 51 the following be added, namely :—

"but shall be immediately reported to the Governor General in Council and shall be subject to his orders."

He said that this course would no doubt always be adopted, but that it was better to provide for it in the Bill.

The Motion was put and agreed to.

The Hon'ble MR. BARKLEY moved that the Bill as amended be passed.

His Honour THE LIEUTENANT-GOVERNOR said :—"This Bill is a younger son in a tolerably large family, and, as is the fate of younger sons in thrifty households, it has been made to wear the clothes of its elder brothers. The fit is, no doubt, in some respects excellent. But I am not sure that the child would not have run about more freely and grown more robust in the loose homespun in which it was first clothed by its nurse than in the elaborate and tight-fitting garments in which it now appears. Although the Bill has been greatly altered in its transit through Committee, I desire to express my thanks to the Council for the great consideration that has been given to the representations which I have on several occasions found it my duty to make in respect to the various changes from time to time proposed, and for the concessions that have been made to me. Above all, I am grateful that the distinctive features of the Bill have not been interfered with. As described in the Panjáb Government letter of 24th April last, and by my hon'ble colleague Mr. Barkley in his speech when introducing the Bill, this is an enabling rather than an enacting Bill. No doubt, this peculiarity of form makes large drafts upon the confidence of the Government of India, the legislature and the public. But in no other way can local self-government, in my judgment, be successfully developed in the Panjáb. When municipal government was first attempted in this Province, almost everything was done by executive arrangement without any law at all. When the necessity for some law came to be felt, a mere skeleton Act was passed. It enacted little, but permitted much. A few years later the law was revised and somewhat elaborated, but still left elastic. Now, after twenty years' experience, it is found practicable to reduce to positive enactment not only the leading principles but many of the details of municipal government, and a Bill for the purpose is now before this Council.

"I should wish to proceed in a somewhat similar way in introducing local self-government in the districts—that is to say, progressively, but tentatively and cautiously. This is the explanation of the peculiar feature of the Bill. It is only in myth and fable that Athene springs at once full armed from the brain of Zeus. In nature and the work-a-day world, things proceed more slowly—first the blade, then the ear, then the full corn in the ear. The necessity for cautions advance and for diversity of arrangements to meet the varying requirements of different parts of the country has, notwithstanding all we have heard to the contrary, been from the first recognised and insisted upon both by the Supreme and Local Governments. In the Government of India resolution of 18th May, 1882, it was said that the Governor General in Council is quite aware of the absurdity of attempting to lay down any hard-and-fast rules which shall be of universal application in a country so vast, and in its local circumstances so varied, as

British India. And in the Local Government resolution of 7th September, 1882, diversity of arrangement was strongly insisted on as presumptive proof that the varying requirements of localities have not been disregarded. The policy of Government is to be found less in the Bill than in the published resolutions. The Bill, and the rules of general or local application to be framed under it and to be modified from time to time as circumstances require, are the steps by which effect is gradually to be given to that policy in its integrity. Uniformity is impossible, and an Act rigid in its provisions and applicable to the whole province is altogether out of the question at the present stage. In no other way than by leaving large discretion to the Local Government to vary its arrangements when necessary district by district, and from time to time, can local self-government be successfully attempted in this Province. In no other way can we avoid, in this country of deep-rooted prejudices and hoary traditions, the evils that inevitably result from laws too far in advance of the social condition of the people.

"The policy of local self-government has often been assailed on the ground that we ought not to legislate in advance of social opinion. That is a proposition to which I for one cannot agree. In the countries of Europe and America it may be true: society there has inherent elements of progress, and, as Sir Henry Maine has forcibly remarked in his ancient Law, page 24, social necessities and social opinion are in progressive societies always more or less in advance of law. Here in India the case is reversed. Society is inherently unprogressive. It is firmly rivetted to ancient custom and inveterate prejudice. The only true progress it has made for centuries has been forced upon it from without. Had our legislature waited upon Indian opinion, the fires of the suttee would not yet have been extinct; the Ganges would still have claimed her human victims; crimes would still have been defined and punishments awarded with reference to the caste and rank of the offender; property would still have been forfeited for religious opinion; we should have had no free Press, no railways, no telegraphs, no post-offices, no municipal government; and the country would be a century behind its present state of development.

"There is no more plausible fallacy than the proposition that in India legislation ought not to be in advance of the social state of the people. From the nature of the case it must always be in advance. The real question is one of degree. Legislation that is too progressive may be a greater calamity to a people than legislation that lags behind the popular demand. But it is our duty, in the position in which we are placed, so to adjust both our legislative and our administrative measures as to create a higher and a better social opinion, and to give to the people gradually and progressively, as they are able to receive it, an

increasing share in the benefits flowing from political principles which England has secured for herself by centuries of struggle and at the cost of much of her best and noblest blood. Thus only, in my humble opinion, can we be faithful to our trust in India and true to the great traditions we have inherited.

"As regards particular sections of the Bill, I need say very little. The Bill differs from the Central Provinces Act, the North-Western Provinces Act, and all other Bills that I have seen, in requiring the Local Government, when transferring to district boards any works or services paid for from provincial revenues, to provide the boards with sufficient funds for the maintenance of those works and services. This is in accordance with the principles laid down by the Government of India. But the Panjáb Bill is the only one that contains such a provision or affords such a security to the district boards.

"The Bill is also singular in its provisions regarding taxation. The scope and object of the taxation-sections were explained by Mr. Barkley when the Bill was introduced. But it will perhaps not be considered out of place if I advert to the subject again. I cannot make it plainer than by quoting the following passage from a note on the Bill which was forwarded to the Government of India with the Panjáb letter of 24th April last:—

'No system of local self-government will be complete which does not aim at the ultimate inclusion of all classes of the community within its scope. It has been matter of regret to Sir Charles Aitchison, in working out the scheme of local self-government, that a large section of the community will, for the present at all events, have no interest in the funds to be administered by rural boards, and will therefore be disqualified from representation at their sittings. The want which will be thus experienced will be partially met by a fuller development of the policy described in paragraph 21 of the Government of India Resolution of 18th May, 1882. Should it hereafter be possible to make over the administration of the license-tax to the local boards, the object will, in a large measure, be attained. But, apart from this possibility, the Lieutenant-Governor is very desirous of providing the machinery for interesting all classes of the people residing in the rural districts in the great work of self-administration; and it is necessary that all should bear their burden of taxation, if they are to have a substantial interest in the proceedings of the boards. Moreover, it is an admitted defect in our system of taxation that they usually fail to reach the classes who benefit most by British rule. The Lieutenant-Governor thinks that the local knowledge of Native communities should be brought practically to bear upon the solution of this problem. There are places where the local rates under the present Act may be heavier than is required by local circumstances; there are unquestionably other parts of the Province where no permissible amount of local taxation upon the classes now subject to it can really meet local needs, whilst, in the same localities, some other classes, benefited by local fund expenditure, altogether escape local burdens. The people themselves should come forward to redress these inequalities which with the advance of progress will be felt more and more. Section 18 (now section 30) will enable the people to do this, if they should so desire. Its operation, taken with that of section 12 (now section 5), will by no means

of necessity involve any increase of taxation. On the contrary, the total amount of local taxation in any given local area might be lowered; whilst at the same time the section might be used to redistribute the pressure of local imposts, to lessen the weight of taxation upon the labouring or cultivating classes who live by agriculure, and justly to lay an adequate amount of it upon the mercantile classes, who reap, with others, no small share of the benefits derived from local works and communications.'

"While therefore ample funds will be provided by the Provincial Government for all works and services paid from provincial finances which may be transferred to the control of district boards, taxation may be had recourse to either as a substitute for part of the local rate, so as thereby to reduce the taxation on the land or to provide additional funds wherewith to undertake new works and services or to extend and improve those already under their tontrol. For such purposes provincial funds cannot be allotted to district boards. The boards must find their own funds either by husbanding their resoures or by fresh taxation. The power of taxation, however, is sufficiently guarded by the provision of sections 30 to 32 of the Bill, and still more by the fact that all proposals for additional taxation must emanate from the boards themselves and not from the Government.

"In conclusion, I must once more express my cordial concurrence in the general policy to which this Bill is intended to give effect in the Panjáb. The policy itself is not new; it is rather an advance on lines laid down long ago. But it is a development of an old policy conceived in a spirit of generous sympathy with the people, and wise anticipation of their wants and legitimate aspirations. It has my most hearty support, and no effort will be wanting or my part to make it successful in the province which it is my privilege and my pride to govern."

His Excellency THE PRESIDENT said:—"I cannot let this Bill pass without expressing the great satisfaction which I feel that a measure intended to enable my hon'ble friend opposite, the Lieutenant-Governor of the Panjáb, fully and completely to carry out his Resolution of the 7th September 1882, should at last have been brought to completion, and should be about to become law. This measure has been so framed as to give the fullest possible effect to the Resolution to which I have just alluded, and that Resolution was drawn up in complete accordance with the views of the Government of India as laid down in their Resolution of the 18th May 1882. The Lieutenant-Govornor has, from the commencement, formed the most just estimate of the views and intentions of the Government of India as set forth in that Resolution, and under this Bill he will be enabled, according to his judgment of the requirements of the various localities under his Government, to give to the principles which that Resolution embodied such development as he thinks most suitable to the circumstances of each locality.

"It has been said in criticism of this Bill that it is, as my hon'ble friend has just explained, an enabling, rather than an enacting, measure. No doubt that is the case, but it was essential that that should be the character of legislation upon this subject, if one of the most fundamental principles of the Resolution of the 18th May was to be carried out, the principle, namely, that the system sketched out in that Resolution was to be applied in different degrees to the different provinces of India and to the different districts of each province.

"One of the points most clearly explained in that Resolution was the very obvious one that in a country so diversified as India it was essentially necessary to vary the arrangements for local self-government according to the varying condition, not of each province, but almost of each district in each province; variety was contemplated by that Resolution, and I myself have always regarded it as an essential feature of the proposal of the Government. I have therefore been rather surprised that other Local Governments have not, as that of my hon'ble friend has done, reserved to themselves more complete powers of varying the modes of applying the system of local self-government, and that they have rather tied themselves down to a cut and dry system to be applied generally throughout the districts under their Government. It is however quite true that if there be any province which more than another requires the adoption of different arrangements in different districts, that province is the Panjáb. In the Panjáb we have every variety of social circumstances; every variety of development; great differences of race and of creed, from old settled districts like that of Delhi, to the border districts on the Afghan frontier, and to hill tracts, like those in which we are living at the present moment. It was, therefore, extremely natural that the Lieutenant-Governor should feel it necessary to take large powers in order to enable him to give adequate elasticity to the schemes to be adopted in different parts of the province under his rule. Undoubtedly a measure of this kind makes a large demand upon public confidence; and it will depend very largely upon my hon'ble friend to what extent he carries out the principles of local self-government in the Panjáb. The Bill enables him to apply the principles sketched out in the Resolution of the 18th May to the fullest extent, but it will not compel him to do so. He has given to the public in his Resolution of the 7th September 1882 the fullest assurance as to the mode in which he intends to exercise the powers conferred upon him, and I have the most complete and entire confidence that, when this Bill becomes law, he will, without delay, apply the principles laid down for his guidance by the Government of India in such degree, in such manner, and to such extent, as he may feel to be most suitable to the various parts of the territory under his administration.

"When the boards to be established under this Bill have once been set up, the measure contains all due provision that they shall not be arbitrarily or rashly abolished; that, once established, they shall not be overthrown except in rare cases in which adequate reasons may exist for the change; and I hold, therefore, that the public may regard with complete satisfaction the passing of this Bill as assuring to the Panjáb a wide development of the system of local self-government.

"As Sir Charles Aitchison has said, that system is not a new one; the Government of India of the present day lay no claim to having in this matter struck out a novel policy; all that they have done is that they have endeavoured to make a large step in the direction of extending and developing the work which their predecessors commenced; and I am quite sure that that extension and development will nowhere be more thoroughly and fully carried into effect than in the Panjáb under the rule of my hon'ble friend.

"Sir Charles Aitchison has said something upon the taxing clauses in this Bill, and upon that subject I have one observation to make. The principle which the Government of India desire to see ap plied in respect to the matter to taxation is this: when any service is handed over to the new boards which are about to be established, there should be given to them at the same time an ample amount of funds out of existing taxation to enable them to maintain that service in its present state of efficiency. I should be exceedingly sorry if there should be any mistake on this subject, or if it should be supposed that the present extension of local self-government had been devised for the purpose of forcing additional taxation upon the people. That is not our intention; whatever duties the boards are required to undertake they will have funds given to them for the purpose of enabling them to discharge those duties upon the existing scale; if in future years they should desire to do more, of course they will provide for that at their own will under the taxing clauses of the Bill, but in regard to any services now provided for out of general or provincial funds which may be handed over to them means will be given to them at the same time for fulfilling those services without any increase of the total existing taxation.

"I have thought it desirable to make this point quite clear, because there has perhaps been some misapprehension upon it, and because the principle which I have just laid down is one to which the Government of India and the Secretary of State attach great importance.

"I have only in conclusion to congratulate my hon'ble friend the Lieutenant-Governor upon the passing of this Bill, and to express my entire confidence

that he will work it in complete accordance with the spirit of his Resolution of the 7th September 1882."

The Motion was put and agreed to.

INDIAN PORTS ACT, 1875, AMENDMENT BILL.

The Hon'ble MR. ILBERT introduced the Bill to amend the Indian Ports Act, 1875, and moved that it be referred to a Select Committee consisting of the Hon'ble Sir A. Colvin, the Hon'ble Mr. Reynolds and the Mover.

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that the Bill and Statement of Objects and Reasons be published in the *Fort St. George Gazette*, the *Bombay Government Gazette*, the *Calcutta Gazette* and the *British Burma Gazette* in English and in such other languages as the Local Governments might think fit.

The Motion was put and agreed to.

MADRAS PARTITIONS DEEDS REGISTRATION BILL.

The Hon'ble MR. ILBERT also moved for leave to introduce a Bill to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby. He said :—

"This is a Bill which has been prepared in pursuance of the request of the Madras High Court, who apprehend that an extra-judicial opinion expressed by the Court a good many years ago on one of the former Registration Acts, may cause some difficulties in connection with the titles to land in that Presidency.

"The subject is a highly technical one, and, in order to explain it, I shall be compelled to refer very shortly to some of the provisions of these Acts.

"This is how the case stands.

"Section 17 of the Registration Act XX of 1866 relates to instrumnents of which the registration is compulsory, and section 18 to instruments of which the registration is optional.

"Clause (7) of the latter section includes 'Instruments of Partition among other instruments. The High Court at Madras, shortly after the passing of the Act, recorded an extra-judicial opinion that partition-deeds relating to immoveable property were governed by section 18 of the Act, and that their registration was therefore optional. This opinion was promulgated and acted upon.

"The Act of 1866 was repealed by the Registration Act VIII of 1871, which, however, reproduced clause (7), section 18 of the former Act; but the Act of 1871 was in turn repealed by the Registration Act III of 1877. Section 18 of this Act revised the list of documents the registration of which was optional, and partition-deeds have been omitted from the list.

"The Madras High Court now say that, of late, grave doubts have been entertained as to the correctness of the opinion to which I have referred, and recommend that, in view of the serious consequences to persons who may have acted on the opinion of the Court, and of the dissensions which may be excited in families by the disturbances of such arrangements, resort should be had to legislation to quiet titles. They have sent up the draft of a Bill which will in their opinion effect the objects which they desire, and the Bill which I am now asking leave to introduce is framed in accordance with that draft."

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also introduced the Bill.

The Hon'ble MR. ILBERT also moved that the Bill and Statement of Objects and Reasons be published in the *Gazette of India*, and in the *Fort St. George Gazette* in English and in such other languages as the Local Government might think fit.

The Motion was put and agreed to.

SUNDRY BILLS.

The Hon'ble MR. ILBERT also moved that the Hon'ble Sir A. Colvin be added to the Select Committees on the following Bills :—

To amend the law relating to Court-fees.

To amend the law relating to certificates granted under Act XXVII of 1860 (*an Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*).

The Motion was put and agreed to.

The Council adjourned *sine die*.

D. FITZPATRICK,
Secretary to the Government of India,
Legislative Department.

SIMLA;
The 19th October, 1883.

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