

*Friday,  
22nd June, 1900*

ABSTRACT OF THE PROCEEDINGS  
OF THE  
Council of the Governor General of India,  
  
**LAWS AND REGULATIONS**

**Vol. XXXIX**

**Jan.-Dec., 1900**

ABSTRACT OF THE PROCEEDINGS  
OF  
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA:  
ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS

1900

VOLUME XXXIX



Published by Authority of the Governor General.



CALCUTTA  
PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA,  
1901

*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

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The Council met at the Viceregal Lodge, Simla, on Friday, the 22nd June, 1900.

**P R E S E N T :**

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir W. Mackworth Young, K.C.S.I., Lieutenant-Governor of the Punjab.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Sir A. C. Trevor, K.C.S.I.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Sir E. F.G. Law, K.C.M.G.

The Hon'ble Kunwar Sir Harnam Singh Ahluwalia, K.C.I.E., of Kapurthala.

The Hon'ble Mr. C. L. Tupper, C.S.I.

The Hon'ble Mr. H. C. Fanshawe, C.S.I.

**N E W M E M B E R S.**

The Hon'ble MR. TUPPER and the Hon'ble MR. FANSHAWE took their seats as Additional Members of Council.

**PUNJAB ALIENATION OF LAND BILL.**

The Hon'ble MR. RIVAZ moved that the Bill to amend the law relating to agricultural land in the Punjab be referred to a Select Committee consisting of the Hon'ble Sir Arthur Trevor, the Hon'ble Mr. Raleigh, the Hon'ble Sir Edward Law, the Hon'ble Sir Harnam Singh, the Hon'ble Mr. Tupper, the Hon'ble Mr. Fanshawe and the mover.

The Hon'ble KUNWAR SIR HARNAM SINGH said:—"My Lord, as I was not a Member of Your Excellency's Legislative Council when the Bill was introduced, and had not, therefore, an opportunity of stating my views on the subject, I would wish, with Your Lordship's permission, before the Bill is refer-

[*Kunwar Sir Harnam Singh.*]

[22ND JUNE, 1900.]

red to a Select Committee, to submit to the consideration of the Council certain facts in connection with the measure which strike me as having an important bearing upon it, and which may, I venture to hope, induce the Council to postpone for the present its further consideration.

"The object of the measure is to place certain restrictions on the transfer of agricultural land in the Punjab with a view to checking its alienation from the agricultural to the non-agricultural classes. It has been stated that expropriation of the hereditary agriculturist in many parts of the Province through the machinery of unrestricted sale and mortgage has been regarded for years past as a serious political danger. It is recognised that the danger is accompanied with bad economic results, that it is increasing, and that, if not arrested, it will grow to formidable dimensions.

"I am bound to say, my Lord, at the outset, that the whole country feels deeply grateful to the Government of India for the warm solicitude it evinces for the agricultural classes. There is no country in the world, as Your Excellency justly said, that is so dependent upon the prosperity of the agricultural classes as India. 'Our land-revenues,' Your Excellency was pleased to observe, 'are the staple of our income; upon the contentment and solvency of the millions who live upon the soil is based the security of our rule.' Any measure, therefore, which affects the agricultural interests of the country, and of this Province in particular, demands the most serious consideration of this Council.

"As I have said before, the Hon'ble Member in charge of the Bill observes in the Statement of Objects and Reasons that it is recognised that the political danger involved in the present state of affairs is accompanied with bad economic results. It has been pointed out by some of the officers of the Punjab Commission that, whatever may be said about the first part of the proposition regarding the so-called political danger, it cannot be rightly asserted that the existing arrangements are accompanied by bad economic results. Mr. D. C. Johnstone, Divisional Judge of Umballa, says that—

'These words, if they mean anything, mean a reduction in the wealth of the country or community, or a retardation of the natural increase of wealth, or a relegation of property capable of improvement to the hands of persons not able to effect improvements.' 'I do not deny,' he adds, 'that when a village-proprietor has been bought out by a money-lender, the former's means of subsistence become somewhat precarious. But this cannot be called in itself a bad economic result. The land is still there unimpaired in value and in the hands of another subject of the State it will grow the same crops as before and

[22ND JUNE, 1900.] [Kunwar Sir Harnam Singh.]

yield the same profits ; and it has been transferred to a man presumably willing and able to make the most of it, and *from* a man whose resources were presumably unequal to the task of living and thriving on it.'

" Mr. J. M. Douie, Commissioner, Lahore Division, has shown that the transfers are more numerous in the most thriving tahsils than in the most depressed. This fact alone goes a long way to prove that the existing agricultural loans are in no way responsible for what are called ' bad economic results.'

" The main question which should engage the attention of the Council is whether the proposed measure will be calculated to prevent the indebtedness and avert the consequent ruin of the agricultural classes, and whether it will secure the contentment and well-being of the landholders. Mr. Justice Clark, Chief Judge, in his remarks on the measure, says that the Bill is admittedly of an exceptional nature, based on political considerations.

' Granting,' he adds, ' that the disease exists and that a remedy (if there be any) should be applied, still it is better that no remedy than a wrong one should be applied, and it seems to me that the proposed remedy would tend rather to aggravate than cure the disease. The ultimate result of keeping the land in the hands of the agriculturists and so securing a contented peasantry is the justification for the Bill ; but if the Bill would produce increased sales and mortgages, and if the mortgagor when he came into his land at the end of fifteen years came in as a pauper, this result would not be obtained.'

" Mr. D. C. Johnstone, Judge of Umballa, with whose opinion the Chief Judge agrees in almost all he says, thus sums up his views on the proposed measure :—

- ' (1) Sales will become more frequent than they are at present.
- ' (2) This being so, it is very doubtful whether the fact that sales must ordinarily be to fellow-tribesmen of the same district, or to agriculturists of the same village, will leave the sellers who have become mere tenants or day-labourers any more contented or well-affected to Government than sales to money-lenders would.
- ' (3) Loans will only be obtainable by agriculturists on terms much more onerous than at present.
- ' (4) The new law will not only not save the zamindar from the consequences of his want of thrift ; it will also make his ultimate ruin more certain and rapid when once he has started on his downward path.

[*Kunwar Sir Harnam Singh.*] [22ND JUNE, 1900.]

- (5) The zamindar, already obliged to make unfavourable contracts with lenders, will in future be in a weaker position than ever, and will be obliged to accept terms more onerous than before.
- (6) Where a zamindar now mortgages 10 bighas out of a holding of 40 bighas, he will in future for the same sum have to mortgage his whole estate for a term, leaving himself landless and dependent upon his labour alone.
- (7) One temporary alienation will be followed by another, usually to the same alienee, until such a fresh necessity arises as will make a sale imperative, such sale being made at a price far below the natural market-value.

"It is the new law and not the old, Mr. Johnstone justly says, that is calculated to produce bad economic results. The Judge of Umballa has drawn a woful picture, and every well-wisher of the agricultural classes may well pause before he endeavours to disturb the existing arrangements.

"As regards the popularity of the measure, says the highest authority on judicial questions in the Province,—

"it would of course be extremely unpopular with the banking class, as also with the official and well-to-do classes who like to invest their savings in land. As regards the agriculturist himself, it would limit his credit and restrain his powers, and this would naturally be distasteful to him, and for 15 years he would reap no benefit."

"Thus the measure will not be popular with any class of the community, and especially with those for whose benefit it is ostensibly intended, and whose proprietary rights are going to be confiscated.

"It may very well be asked here in whose interests then the present proposal has been made? Surely it cannot be in the interests of those who are going to be deprived of their cherished rights. It is certainly more than human to expect those who are to be reduced to a great extent to nonentities in their own estates to acquiesce in the justice of the present proposal, and thus to kiss the rod that strikes them.

"A great deal has been said about the land-hunger of the sahuks or money-lenders. I am no advocate of this much-maligned class of men, but I must say that these village-bankers are very useful members of the village-society. The government of a village would be at a standstill without their aid. Village-economy would be destroyed without their cordial co-operation. They perform most valuable work in the village social organization. The cultivators

[22ND JUNE, 1900.] [Kunwar Sir Harnam Singh.]

in their difficulties come to them for help. Whenever any difficulty is experienced in paying Government revenue, the cultivators are obliged to take the aid of the money-lenders to meet the demand. The money-lenders provide funds for marriage and funeral expenses. If there be any bad seasons, and if there be a failure of crops, it is the money-lenders who provide the cultivators with food. When the cultivators want to buy cattle to till their fields, it is the money-lenders who come to their aid. As a rule, the money-lenders do not want to take hold of the lands of their debtors; they simply want a proper interest on the money advanced. It is only when their money cannot be realized by other means that they seize upon the land. It may not be generally known what difficulty the creditors experience in realizing the amounts due to them under the decrees of Court. They more often come to grief than is generally supposed. It does sometimes happen, I admit, that there is a fraudulent manipulation of accounts against the cultivators; but such cases are rare, and dishonest money-lenders are shunned and lose their credit.

"It has been said that agricultural banks should be established by the State to save improvident cultivators from the clutches of the village-bankers, but it is very questionable whether it is expedient for the Government to take up the position of a sahuکار. There are various reasons why such a position would be undesirable. Those who have any experience of zamindari affairs are well aware of the difficulty which the cultivators experience in paying off Government takkavi advances, and we can well imagine what additional pressure and hardship will be put upon the poor cultivators, if larger demands are made upon them by the Government, for granting additional loans to them. A sahuکار, even if he be armed by a process of law, may be put off, but the State with its hard-and-fast rules will not be in a position to show consideration to its debtors. Under such circumstances, even if the new order of things prevail, the institution of money-lenders cannot be dispensed with.

"If the present measure be passed into law, the relations between the cultivators and the money-lenders will be considerably disturbed. Money-lenders are already tightening their purse-strings, and access to them now is not so easy as it was before the present Bill was introduced. Credit has already been reduced, and cultivators are already beginning to feel the pressure of the proposed measure. If the Bill be passed into law, the credit of the landholders, I repeat, will be destroyed, and it will be extremely difficult for them to follow even their ordinary avocations. In times of scarcity the curtailment of credit will

[*Kunwar Sir Harnam Singh.*] [22ND JUNE, 1900.]

simply mean ruin to the agricultural classes, and the proposed measure will be responsible for the impoverishment of millions of men living upon the soil. The remedy proposed, it will thus be seen, is a great deal worse than the disease.

"My Lord, may I be permitted to enquire whether the evil complained of has really assumed such formidable proportions as it is represented to have done? Statistics I know have been collected to show the gravity of the situation. But figures, it is often said, are like potters' clay obedient to our touch; they may be made to take any form we may be disposed to impress upon them. When I come to analyse the statistics which are available, I find that proprietary land, representing some 10 per cent. of the revenue, has been sold within the last 25 years. If this analysis be correct, it shows that the magnitude of the evil has not assumed such alarming dimensions as to necessitate the introduction of such a drastic measure. So far as I can see, the whole Province has not been affected by the evil to any appreciable extent. Even assuming that within the last 25 years land representing 10 per cent. of the revenue has been alienated as stated above, it will take at least a century before agricultural land, representing 50 per cent. of revenue, passes away from agriculturists to non-agriculturists. The agricultural conditions of the Province which may exist after a century may safely, I should think, be excluded from the purview of the present legislation. Many things within this period are likely to happen which will be calculated to counteract the apprehended evil. The economical conditions of the Punjab after the next century, it will be readily admitted, do not come, to use an English political phrase, within the range of practical politics, and the present legislation is thus uncalled for. It should also be borne in mind that a considerable portion of the alienations has been made to agriculturists, and not a very large portion has been in favour of non-agriculturists. If this be taken into consideration, the percentage of alienations, which is the subject of anxiety, will be considerably reduced, and the basis of the proposed legislation will consequently be greatly weakened.

"The proposed measure involves a very important principle, and, if this principle be followed, the proprietary rights of the landholders will be entirely extinguished. When the Punjab was annexed, the policy of the Supreme Government and that of the Local Government were entirely different from that which the present measure professes to follow. As far as I can understand, the policy of those days was to confirm the absolute proprietary rights which the landholders enjoyed before the annexation. This led to the improvement and



[22ND JUNE, 1900.] [*Kunwar Sir Harnam Singh.*]

progress which the Province has enjoyed within the last 50 years. It has been said that the landholders never enjoyed these proprietary rights before the annexation, and that it was the British Government which presented them with the 'fatal gift.' We have the highest authority for stating that such was not the case. We have the authority of Sir James Lyall, the late Lieutenant-Governor of the Punjab, for saying that 'full individual proprietary right with power to sell or mortgage was well established in many parts of the Punjab before the advent of British rule.' There can be little doubt, therefore, that voluntary transfers are not altogether the product of British rule.

"It has been abundantly shown that during the Muhammadan Government the people fully enjoyed proprietary rights, and that the Sikh Government confirmed the rights. Though the right of free disposal was not prohibited by the Sikh Government, it was not frequently and freely exercised by the people, for the simple reason that there was no solid ground for capitalists for investing their money in land. The Sikh Government could not give to the Province that stability and assurance which the British Government has given it. But such academic discussion, it seems to me, is not of any great value. It comes to the same thing, whether the British Government confirmed the proprietary rights of the people or conferred these rights upon them. These rights were recorded at the first revenue-settlement, and people have come to know what their rights are, and have been enjoying them freely and absolutely within the last 50 years. To deprive them now of such rights by one stroke of the pen seems to me, to say the least, a very questionable policy. It has been said that the gift of the British Government has proved 'fatal,' but I have shown above that no positive proof has been adduced that such has been the case.

"It is very doubtful, my Lord, whether tying down property will conduce to improvement and progress. It is necessary at times to get rid of indolent and thriftless cultivators, and to infuse energy and new blood into the agricultural classes; and it is necessary also to employ fresh capital to improve the land. If the free right of alienation be restricted, the slough of despond will continue to exist, and no improvement of the land can fairly be expected. The beneficial results of the measure, it is evident, will not be commensurate with those that are anticipated.

"There is a consensus of opinion that, if the proposed measure be carried out, the market-value of land will be considerably reduced. This itself is a calamity which ought to be averted. The decline in the capital value of

[*Kunwar Sir Harnam Singh*] [22ND JUNE, 1900.]

land and its availability for the investment of capital will react on the accumulation of capital itself in the hands of the commercial classes and its increment will necessarily be much retarded. View the measure from what point we like, we are struck by the evil consequences which are sure to follow in its train. To restrict the freedom of contract is to doom the people to perpetual misery, to destroy their happiness and contentment, and to retard the progress of the Province for at least another 50 years.

"I am not one of those, my Lord, who would allow ignorant cultivators to have what is called 'ruinous credit'. If the phrase be properly defined, it will be seen that many elements are included in it which, if eliminated, would show that the phrase is based on misconception. If money is raised for paying the Government revenue or for meeting necessary and urgent domestic expenses,—such as birth, marriage, funeral expenses,—would it be reasonable to say that in taking loans for these purposes the cultivator is indulging in improvident habits and is taking advantage of 'ruinous credit' unchecked by law? Those who would venture to assert so would show a want of knowledge, I may say, of the social and economical conditions of the people. More than 70 per cent. of the loans of the cultivators are contracted to meet such necessary and urgent demands as have been referred to above.

"It has been asserted that the proposed measure will be the means of training the people to economical habits; that it will check extravagance and teach economy. This is an assertion which is not based on a correct knowledge of the social institutions of the people. So long as social institutions remain unaltered, the existing wants of the people cannot be curtailed; and, if they are not brought within the limits which the proposed measure would evidently prescribe, means must be found to properly meet the social responsibilities and obligations. It is a trite saying, my Lord, that social institutions cannot be made or altered by forced legislation. The growth of the laws of social evolution cannot be forced on by external legislation, but must be brought about by internal forces and by natural processes. External pressure in the shape of forced legislation will rather retard than promote the growth of social institutions. Social customs and social institutions can never change their character so long as public opinion, the sentiments, ideas and beliefs of the people remain unchanged. With the progress of education and the growth of enlightened ideas, the ignorance and prejudices of the people will disappear, and then alone will their customs and institutions undergo a marked change. Laws are sure to fail in their operation

[22ND JUNE, 1900] [Kunwar Sir Harnam Singh.]

if they are not suited to social conditions. Violent changes will inevitably produce violent effects. The present legislation is admittedly of a revolutionary character and is not suited to present social conditions. It will *bouleverse* the existing social, political and economical institutions, will put back the hands on the dial, retard the progress of the country, steep the people in misery and discontent, and promote the very evil which it is the ostensible object of the measure to eradicate. The fundamental principle of a stable Government ought to be to avoid a violent disturbance of the existing state of things, and at the same time to slowly move onwards. The present measure will introduce a new order of things not based upon past history and experience. The very worst results, I submit, may be expected of the proposed measure if it is passed into law.

"The question may fairly be asked whether the condition of the cultivator will be improved by restricting his right of transfer within 15 years? The proposed law does not prevent him from remortgaging his holding after the lapse of 15 years. The effect will be that he and his successors will be mere tenants-at-will all their lives. In what respect then is his condition improved by restricting his freedom? I may also enquire here how is it expected that his condition would be improved, if his holding be transferred to one of his own tribe, and not to a non-agriculturist or an alien middleman? If the object of the present measure be to avoid middlemen, that object will not be attained by the provisions of the Bill. Agriculturist middlemen will be more hard and exacting than alien middlemen. An agriculturist middleman will not show the least mercy in ousting from his holding one of his own tribesmen, whereas an alien middleman, seeing that he cannot till his own fields, will never be able to dispense with the aid of the men of the agricultural class. If the middleman be not an agriculturist but an alien, he may be coerced by agriculturists to submit to their own terms. Thus it will be seen that it is more an advantage than otherwise to have an alien and not an agriculturist middleman.

"I have now to approach, my Lord, a very delicate question. It has been said that there is political danger in the continuance of the present situation. I confess my inability to comprehend the serious nature of the apprehended danger. Do those who perceive political danger in the existing arrangements mean to say that those indolent and thriftless men, who are obliged to alienate agricultural lands, would be disloyal and turn their arms against the British Government? Those who say so could not have studied the real character of the men who are compelled to part with their lands. Even Lord Lansdowne, dealing with the

[Kunwar Sir Harnam Singh.] [22ND JUNE, 1900.]

question as to the necessity of having on the Statute-book a measure of this kind, says 'the thing is no doubt wrong from a purely economical point of view, but we have to deal with a serious political danger and I see no way out of it but this.' I venture to say that, if all the facts of the case had been laid before His Lordship, his opinion about the necessity of such a measure would have been different. If in asking for the views, on the proposed Bill, of the officers of the Punjab Commission, who are well acquainted with the economical conditions of the Province and the thoughts and feelings of the people, a request had been made to discuss freely the principle of the measure, I feel sure that much valuable light would have been thrown on many dark points now enveloping the question, and the assertion about political danger would, I submit, have been shown to be entirely baseless.

"If we come to examine the real character of the alienations and the antecedents and nature of the men who are compelled to make them, we shall find that the apprehension about any political danger arising from these people is without any foundation. It has been officially ascertained that 'the larger number of transfers appears, as a rule, to be found among tribes such as the Rajputs, who are generally lacking in industry, or among tribes such as the *Arains*, whose holdings are excessively small, or among semi-commercial communities such as the *Khatris* and *Aroras*, who are inclined to look on the land less as a heritage than as a marketable commodity.' With reference to these people Diwan Narendra Nath, Deputy Commissioner, a gentleman of great enlightenment and particularly high educational attainments, who is thoroughly acquainted with the habits, thoughts and feelings of the people, and has had exceptional opportunities of studying the life and history of the agricultural classes, says:—

'The people who have been completely expropriated are so small in number, and owing to their expropriation hold such an insignificant place in society, that the amount of their discontent and its potency for mischief must be measured with due regard to the position which these men occupy. I think that much has been done unconsciously in the way of awakening them to their interests by the sayings and writings of sympathetic Government officers actuated by the most benevolent motives. If the agriculturists had been left to themselves, the discontent would not have appeared in its present dimensions. The *Rais* class in the Punjab is going down from day to day. The gentry of Maharaja Ranjit Singh's time has every reason to be discontented with its present condition. But very few Government officers have any sympathy with that class; very few apprehend that any political revolution is likely to come from their direction. The result is that the *Raises* have after all reconciled themselves to their present condition and have quietly submitted to their

[22ND JUNE, 1900.] [*Kunwar Sir Harnam Singh.*]

lot. The agriculturists would have perhaps submitted themselves to expropriation in a somewhat similar spirit.

‘What is often said with regard to the possibility of discontent spreading amongst classes from which the Native Army is recruited is also subject to the remarks already made as to the partial inability of the agriculturists in India of forming any idea of a class interest, except where there is a difference of religion between the agriculturists and the money-lender. In addition to this it has been noticed that the man who enters the army seldom himself suffers expropriation. He earns money and makes remittances to his creditors. He often acquires more land and seldom parts with any that he has already got.’

“Mr. Fred. A. Robertson, the late Director of Land Records and Agriculture, Punjab, writing on the same subject, says :—

‘I believe, in the first place, that the extent of the evil is not so great as some believe. A large portion of the transfers of which so much is made are sound commercial transactions. Many landowners engage in trade and still more in parts in carrying trade. These men raise money on their land before they start, and repay it when it suits them. Most of the Sikh soldiers in China, Burma and Africa mortgage their lands to the hilt before they go, leaving the produce to pay the interest. By this means they get money for outfit, etc., and they secure the land being well looked after. They remit large sums of money, but they do not redeem until they return, when they take back their land at once in most instances.’

“Lieutenant-Colonel J. B. Hutchinson, late Commissioner of the Lahore Division, writing in 1896, pointed out that many of the transfers, and generally those of the largest areas, did not, in his opinion, affect the question of political danger in any way at all. He referred to alienations by men of high families who had incurred enormous debts by dissolute lives and had in consequence been obliged to part with their estates. But there were other men of the real agricultural classes who, by careful living and good management of their estates, had been able gradually to purchase land not only from other indebted zamindars, but also from money-lenders.

“Hitherto I have referred to the apprehension of political danger arising from cultivators of the soil. But it may be said that there may be also political danger from middlemen of the non-agricultural classes. To my mind, if any political danger is to be apprehended from middlemen of these classes, it is as much to be apprehended from middlemen of the agricultural classes as from the former. I should think that brute force is more to be dreaded than the educated moneyed classes. The latter would, in their interest, if for nothing else, support a stable

[Kunwar Sir Harnam Singh.] [22ND JUNE, 1900.]

and powerful Government. In my humble opinion greater danger is to be apprehended from the reversal of the policy of Government regarding the right of alienations than from middlemen and expropriated cultivators. It appears to be strange that Government in its anxiety for safeguarding the interests of the agricultural classes entirely ignores the rights, thoughts and feelings and the attitude of other classes of the people connected with land. Political justice is as much due to them as to the cultivating classes. Their sense of wrong and discontentment would be as much a source of political mischief as the discontentment of the latter classes.

"I have referred already to the disapprobation with which the proposed measure would be looked upon by all classes of the people and particularly by the landholders in whose interest the measure has been initiated. I would repeat that, in the opinion of some of the most eminent members of the Punjab Commission, the restriction on transfer to the extent proposed would be viewed with the greatest disfavour by those in whose interest it is proposed.

'Such a measure,' writes an experienced officer, 'would elicit the strongest protest amongst those who were affected by it. They would never believe that it was done in their interest. The opposition of the moneyed classes to the measure would of course be great. They would see in it a measure directed against themselves, they would see the most secure investment of their capital taken from them, and they would be debarred from what is often a very fervent desire, the acquisition of land, and I am inclined to think that their power and influence and the danger of their opposition is far greater than is sometimes believed.'

"Mr. Douie, Commissioner, Lahore Division, writing on the same subject, observes that the question whether the legislation will be popular with the class for whose benefit it is intended is a very difficult one to answer. Mr. MacLagan, he says, agrees with Mr. Abbot that the measure will be unpopular at first, and doubts whether it will ever become popular, the necessity of curtailing expenditure being resented. 'My own impression,' Mr. Douie continues, 'from such enquiry as I have been able to make, is that the shrewder zamindars dislike the measure, and are alive to the difficulties which the stringency of credit will create.' Mr. Douie thinks that such men in the end will become reconciled to it, as it will in fact be specially advantageous to them. I am not able to agree with this conclusion of Mr. Douie. It is based upon a wrong premise. The measure restricting their absolute right is far from advantageous to the landholders, and their sense of advantage, therefore, accruing from the measure will simply be nil.

[22ND JUNE, 1900.] [Kunwar Sir Harnam Singh.]

" My Lord, I cannot too strongly solicit Your Excellency's attention to the fact that the feeling of the people of the whole Province is dead against the Bill. It can never be expected that the grantees, the military and others, will look with favour upon a measure which is calculated to considerably diminish the value of their land. In this connection I am bound to say that the proposal to ignore the interest of the proprietors of self-acquired property would create a strong feeling of resentment; it is against law and equity and the custom of the Province that any restriction should be placed upon the freedom of alienation of this class of property. Such restrictions would, in my humble judgment, be unjust and inexpedient.

" From what I have said above, it will be seen that, if there can be any political danger, it will be quite in a different direction to that which has been pointed out by the advocates of the proposed measure. The discontent of the agricultural classes who are going to be deprived of their long-cherished and absolute rights of alienation, and the discontent of the moneyed and cultured classes who are to be forcibly debarred from acquiring proprietary rights, will constitute a greater and more powerful source of political mischief than the fancied dissatisfaction of an insignificant class of expropriated proprietors. It is a well-known fact that gold and culture are both overwhelming forces, and when these two are combined their power is simply irresistible, and such a fact, therefore, should never be ignored.

" I should be the last person to deny that the evil complained of does exist to a considerable extent, in an acute form, in some of the tracts in this Province. If there be a special disease, a special remedy should certainly be applied. But those who are not affected by the disease ought not to be forced to swallow a remedy which they do not require. Speaking of a remedial measure, Sir Dennis Fitzpatrick, the late Lieutenant-Governor of the Punjab, observed :—

' A more momentous proposal, and one more bristling with difficulties of various kinds, it would be hard to conceive. It may, I think, be taken for granted that, if any law is to be passed to give effect to it, it will not be a law applying everywhere by its own vigour, but an enabling Act empowering the executive Government to apply its provisions to any tract where they may be shown to be necessary.'

" This is a wise suggestion. If carried into effect, it is calculated to disarm criticism and silence opposition. The Hon'ble Member in charge of the Bill, in referring to the proposal of Sir Dennis Fitzpatrick, says :—

[*Kunwar Sir Harnam Singh.*] [22ND JUNE, 1900]

'In the first place, the remedy would not be tried till the disease was very largely beyond cure; and in the second place, if the restrictive measures were confined to scattered tracts throughout the Province, the agricultural population in those tracts would be placed at a very serious disadvantage. Their credit would be injuriously impaired, for the money-lenders, while able to look to the land for their security everywhere outside these special areas, would naturally avoid lending to men who were prohibited from giving such security. The agriculturists in these areas would thus stand apart as a proscribed class, and would naturally resent their position.'

"With due deference to the opinion of the Hon'ble Member in charge of the Bill, I may be permitted to say that, in the first place, the executive Government has always exceptional opportunities for learning when the remedy is necessary, and it cannot therefore be supposed that it would delay trying the remedy till the disease was very largely beyond cure. The argument about the curtailment of credit, in the next place, cuts both ways. It is the curtailment of credit which we all strongly deprecate. It is one of the principal grounds of opposition to the Bill, and I am glad to notice that the Hon'ble Member appreciates the difficulty. Credit will be curtailed, but that is an inevitable consequence of the application of the proposed remedy. I believe, however, that village-bankers, as a rule, can never afford to leave their place of business and set up in a strange place where they are unknown, and where they are sure to lose their custom. If such an Act as Sir Dennis Fitzpatrick proposed were applied only in places where the evil complained of has spread, the Government would have an opportunity of judging the effect of the measure and would gain experience, which would no doubt be very instructive in connection with the problem of undertaking further legislation on the same lines.

"From a careful study of the writings on the subject, I gather that His Honour the Lieutenant-Governor is not an enthusiastic admirer of the efficacy of the proposed measure. He simply said in his speech when the Bill was introduced in Council that 'the measure as now proposed is a compromise, arrived at after the fullest consideration between two sets of opinions, and, like most compromises, deliberately and thoughtfully adopted, probably represents the best counsels.'

"Your Excellency, in speaking of the merits of the Bill, was pleased to observe that 'the issues at stake are, in my judgment, as momentous as any that can attract the attention of the Government of India.' The issues at stake, my Lord, not only deeply concern the land policy of the Punjab,



[22ND JUNE, 1900.] [Kunwar Sir Harnam Singh; Mr. Rivas.]

but intimately affect the agrarian policy of the whole empire. The decision which is deliberately arrived at with regard to the present Bill will eventually be followed throughout the country in determining the relations of landlords to agricultural lands. It seems, therefore, meet, my Lord, that the Bill should be discussed in full Council in the Calcutta session and not passed into law in the present session. It may be said that, as the non-official Members are not acquainted with the peculiar land policy of the Punjab, they will not be in a position to throw any strong light on the intricacies of the problem by their deliberations. I am of opinion that, when all the papers in connection with this subject are laid before them, they will be able to form a correct judgment on the subject. It may be said also that delay in passing the Bill is fraught with injurious consequences, and that the excitement caused by the introduction of the Bill into Council should be allayed as early as possible. My answer to this is that the proposed measure has been discussed for a number of years, people's minds have been already unsettled, and it will make but slight difference if the present state of feeling be continued for a few months longer. If the Bill be taken up in the Calcutta session, the people of this Province will have the satisfaction of knowing that the consideration of the question was submitted to the united wisdom of the Council.

"There is another point which I would beg leave to bring before Your Excellency for consideration. The whole Province rejoices that two highly experienced European officers of the Punjab Commission, who are well known for their generous sympathies for the people, have been appointed to Your Excellency's Council to assist in its deliberations regarding the Bill. Would it be transgressing the limits of propriety if a request were made, in case the Bill must be taken up in this session, that another Indian Member, well acquainted with the agricultural conditions of the Province, be appointed to assist in the deliberations of the Select Committee and to take part in discussions at all stages of progress of the measure? Such an appointment would give great satisfaction to the people of the Province who are interested in the decision of this momentous question."

The Hon'ble MR. RIVAZ said:—"I do not purpose meeting my Hon'ble friend's lengthy and vigorous criticisms on the Bill at its present stage. When I introduced this Bill in this Council last autumn, I explained at some length the reasons which had actuated the Government of India in undertaking the proposed legislation. There is nothing new, I think I may say, in the arguments which my Hon'ble friend has just used, and the points he

[Mr. Rivaz; the President.] [22ND JUNE, 1900.]

has noticed were all very carefully considered before the Bill received its present shape. I am now asking leave to refer the Bill to a Select Committee on which my Hon'ble friend is being invited to serve. He will therefore have full opportunity for expressing his views and having them considered. If, when the Bill emerges from Committee, he still finds himself dissatisfied with any of its provisions, I will endeavour to reply to any objections he may then put forward.

"As regards my Hon'ble friend's specific proposal to defer the further consideration of the Bill till the next Calcutta session, I think that, on further reflection, he will see that this is not a reasonable request. I quite agree in my Hon'ble friend's estimate of the great importance of the Bill, but it is an enactment which, if passed, will apply only to the Punjab and affect the people of only that one Province. This being the case, Simla, where the Council have the advantage of including amongst its Members the Lieutenant-Governor and other high officials of the Province concerned, is surely the proper place for the consideration of the Bill; not Calcutta, where this advantage would not be forthcoming. And I will remind my Hon'ble friend that, with one exception, all the important Acts connected with the Punjab, which have been passed by the Governor General's Council during the past thirty years and more, have been considered and passed at Simla. The Tenancy Acts of 1868 and 1887, the Land-revenue Acts of 1871 and 1887, the Courts Act of 1884 and its amending Act of last year, were all considered and passed here at Simla. The one exception is the Punjab Laws Act of 1872, which for some reason was passed in Calcutta. Why that one Act was so treated I cannot say straight off.

"My Hon'ble friend has also suggested that, if it is decided to proceed with the Bill here, it is desirable to have some further representation of the Punjab non-official community on the Council. This matter is not for me to deal with."

His Excellency THE PRESIDENT said :—"There are only two points in the Hon'ble Member's speech to which I will, at the present stage, allude."

"I cannot entertain a doubt that the Hon'ble Mr. Rivaz is quite right in the contention that Simla is a better place for the discussion of this Bill than Calcutta. Simla is under the Punjab Government, and has been the place where, as the Hon'ble Mr. Rivaz has pointed out, almost all the legislative measures

[22ND JUNE, 1900.] [*The President; the Lieutenant-Governor.*]

connected with the Punjab have hitherto been dealt with ; and whatever advantage might accrue from what the Hon'ble Sir Harnam Singh has described as the united wisdom of the Council of Calcutta, is, in my judgment, more than counterbalanced by the special advantages which we enjoy up here. These special advantages are the service of gentlemen, official or otherwise, belonging to the Punjab, who might not be able to place their time at our disposal at Calcutta, but upon whose services we have a lien throughout the summer session at Simla.

"As regards the other point, namely, the additional Members from the Punjab who have been placed upon the Council to deal with this Bill, the facts are these: the Government of India consulted the Lieutenant-Governor as to the desirability of adding two names to the Council for the special purposes of this Bill, and he for very good reasons, which I have no doubt he will be prepared, if called upon, to explain, recommended the two gentlemen who are seated at this table, and whose nomination, I am glad to hear from Sir Harnam Singh, has met with so much approbation throughout the Province. These two gentlemen were nominated by him to the two official vacancies which at that time existed in this Council. However, there happens to be at the present moment a non-official vacancy, and, with regard to that, all I can say is that if the Lieutenant-Governor desires, after due reflection, and before this Bill proceeds to a further stage, to submit to me proposals for filling it, they will receive the most ample consideration from the Government of India."

His Honour THE LIEUTENANT-GOVERNOR said:— "My Lord, I cannot but think it satisfactory that the opposition which undoubtedly is entertained, intelligently or otherwise, to this most important measure, should have been voiced by my Hon'ble friend Sir Harnam Singh. The measure is one on which there is room for great differences of opinion. This is patent from the official literature on the subject: but the public has not access to the whole of that literature, and is not fully informed of the steps by which the conclusion has been arrived at which is represented by the introduction of this Bill in the Council. They know from the speech of the Hon'ble Member last season, and also from Your Excellency's remarks, that the measure is one which has been very long in incubation; also that it is one in regard to which the Government is aware that there are differences of opinion: and also they are aware that the Government did not then mean to hurry its progress through Council, but to give every opportunity for the free expression of opinion on a measure of such

[*The Lieutenant-Governor; Sir Edward Law*] [22ND JUNE, 1900.]

importance to the Province. But, as I have stated, the arguments against such drastic measures as are undoubtedly contained in the Bill, are embodied in documents which are not available to the public, and I think that the Hon'ble Member has performed a public service in placing upon record, in terms which I think very fairly represent the opinions of the opponents of the measure, the objections which are felt to it, and thus making it clear to the public that, if this Council proceeds to legislation on this subject, it is with a full knowledge of the opposition which I have mentioned, and with a full realisation of the difficulties of the question, and of the responsibility which it undertakes in initiating legislation of this kind.

"With reference to Your Excellency's remark about the nomination of Members to this Council, perhaps I may be permitted to say that from the public prints, as well as from the opinions received by the Punjab Government in connection with this measure, it was apparent to me that the most extraordinary misapprehensions existed in regard to the intentions of this Bill; that apparently, for some reason or other, the public had great difficulty in grasping its intentions and its principles; and, when I was invited by Your Excellency to submit the names of gentlemen for appointment to this Council, it seemed to me imperative that I should consider this fact, and that I should put forward the names of persons who are thoroughly competent, not only to understand the Bill, but also to understand the real objections which underlie the opinions which have been submitted to the Punjab Government, and which I feel sure the Select Committee will find to contain a very large amount of misapprehension."

The motion was put and agreed to.

#### INDIAN PAPER CURRENCY BILL.

The Hon'ble SIR EDWARD LAW moved for leave to introduce a Bill to amend the Indian Paper Currency Act, 1882, as amended by the Indian Paper Currency Act, 1898. He said:—"The Indian Paper Currency Act of 1898 expires on July 20th of this year. At a meeting of the Legislative Council in Calcutta on the 21st March, my predecessor, the Hon'ble Mr. Dawkins, made a declaration that the Government considered the prolongation of the Act advisable. It is proposed to-day to give effect to that declaration, and at the same time the opportunity is taken to obviate, by an amendment, the inconvenience

[22ND JUNE, 1900.] [Sir Edward Law; Mr. Tupper.]

from which we have lately suffered under certain provisions of the Act of 1898. That inconvenience arises from the fact that it has been necessary, and may be necessary again, to add rupees to our coinage. The silver from which the rupees are to be coined for this purpose naturally has to be bought, and under the provisions of the existing Act the Secretary of State has been obliged to use his Treasury balances—resources outside the Paper Currency Reserve—for the purchase of that silver, and this has caused considerable difficulty. Being unable to touch the funds in the Paper Currency Reserve, we were obliged to find fresh money for our purchases, and the result was that we were locking up money in two different places at the same time for one and the same purpose. We were holding gold which, owing to the requirements of the Currency Reserve, we could not touch, and we were holding silver to be coined into rupees to be put, when coined, into the Currency Reserve in place of that gold. The proposals now made will enable us to consider silver bought for coinage as forming part of the Currency Reserve and will enable the Secretary of State to use the gold in the Currency Reserve for the purchase of silver.

"At the exact moment when the gold in the Currency Reserve is converted into silver, the silver bullion, which is equally in safe keeping, takes its place as part of the Currency Reserve, until it is made into rupees, and finally the actual rupees are paid into this Reserve; thus the gold, silver bullion and rupees take the place of one another successively without any change in the actual value of the Currency Reserve. This arrangement will be a great convenience and save us the necessity of finding money for the purchase of silver."

The motion was put and agreed to.

The Hon'ble SIR EDWARD LAW introduced the Bill.

The Hon'ble SIR EDWARD LAW moved that the Bill and Statement of Objects and Reasons be published in English in the Gazette of India and in the local official Gazettes.

The motion was put and agreed to.

#### COURT-FEES ACT, 1870, AMENDMENT BILL.

The Hon'ble MR. TUPPER moved for leave to introduce a Bill to provide for the Court-fee payable on certain Applications to the Court of the Financial

[Mr. Tupper.]

[22ND JUNE, 1900.]

Commissioner of the Punjab. He said :—"The very small Bill, consisting of one section only, which I ask leave to introduce, affects but one Court in the Empire, and that happens to be the Court over which I have the honour to preside. When the Punjab Courts Act of 1884 was passed, it was enacted that the court-fee on an application to the Court of the Financial Commissioner of the Punjab for the exercise of its revisional jurisdiction should be the same as that on the like application to the Chief Court; that is to say, when the amount or value of the subject-matter in dispute did not exceed twenty-five rupees, the proper fee was two rupees; and in other cases the fee was that leviable on a memorandum of appeal, this fee being graduated on a sliding scale rising from Rs. 2-12 to considerable amounts. Such was the law till the revisional jurisdiction of the Chief Court was altered by the Punjab Courts Act, 1899, which came into force on the 13th October last. Under circumstances fully explained in the Statement of Objects and Reasons it was an unexpected consequence of the Act of 1899 that the fee on applications for revision made to the Court of the Financial Commissioner was reduced from the rates just mentioned to a fixed duty of one rupee only. The object of the proposed measure is to remedy this defect by restoring the scale of fees in force before last autumn.

"No doubt the undesigned alteration of the law, if not set right, would occasion some small pecuniary loss to Government. But this is neither the only reason nor the chief reason for moving the Legislature. On merely fiscal grounds it might perhaps have been hardly worth while to propose to Government, as in fact I did, that the omission in the Act of last year to include revision cases in my Court should be supplied by early legislation. The present proposal relates to revisions in what are known as Revenue Court cases exclusively. Applications for revision in revenue executive cases are mainly concerned with the appointments of, or penalties imposed upon, lambardars, zaildars and patwaris, and with partition and boundary disputes, for all of which the fixed fee of one rupee is considered appropriate. Revenue Court cases are cases between landlord and tenant under the Punjab Tenancy Act, and the average number of revision cases of this class decided by the Financial Commissioner during the last three years is 499 per annum only. The fiscal gain or loss in the regulation of the court-fee is therefore not very important.

"I estimate that, if the fixed fee of one rupee had been in force during the past three years, the loss to Government would have been Rs. 3,148 in that period. The sum, therefore, that the proposed legislation affects may be taken to be about one thousand rupees in the year.

[22ND JUNE, 1900.]

[Mr. Tupper.]

"The main reason for requiring a higher fee than one rupee in Revenue Court revision cases is the highly speculative or practically hopeless nature of many of the applications. A Commissioner or Collector may move the Financial Commissioner to exercise his revisional jurisdiction, but the mass of the applications is from the parties. In all these cases there must be the concurrent decision of two Courts below against the applicant before his application is made; and the Financial Commissioner's power of interference is restricted in the same way as the like power of the Chief Court. It follows that the prospect of success in these applications is very small, and I observe that last year only 15 per cent. of them were successful.

"Still many of the litigants desire to take their chance of some interference in their favour, and many make it in a way a point of honour or are led on by mere pertinacity to fight their cases up to the last Court. Now, if such a litigant is not prepared to stake more than one rupee on his chance of success, the probability is that his case does not deserve much consideration. A higher fee, and especially an *ad valorem* fee on the cases of greater value, has the effect of checking to some extent useless and merely pertinacious applications. It is for this reason that I desire to see the law set again upon its former footing. At the same time there is no reason to suppose that the scale of fees in force during the past sixteen years proved any undue tax on litigants. Cases between landlord and tenant are not, as a rule, of high value. The average court-fee per case on Revenue Court revisions before the Financial Commissioner was, during the past three years, Rs. 3-2-11—a sum which, though more than thrice the amount of the fixed fee proposed to be abolished, cannot be regarded as excessive

"With these remarks I beg to ask leave to introduce the Bill."

The motion was put and agreed to.

The Hon'ble MR. TUPPER introduced the Bill.

The Hon'ble MR. TUPPER moved that the Bill and Statement of Objects and Reasons be published in English in the Gazette of India and in the Punjab Government Gazette.

The motion was put and agreed to.

The Council adjourned to Friday, the 29th June, 1900.

SIMLA;  
The 22nd June, 1900.

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J. M. MACPHERSON,  
Secretary to the Government of India,  
Legislative Department.