

*Friday,
19th October, 1900*

ABSTRACT OF THE PROCEEDINGS
OF THE
Council of the Governor General of India,

LAWS AND REGULATIONS

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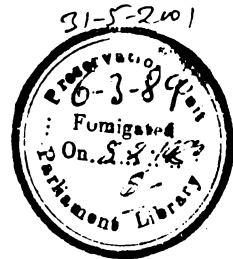
ABSTRACT OF THE PROCEEDINGS
OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA:
ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS

1900

VOLUME XXXIX



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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).

The Council met at the Viceregal Lodge, Simla, on Friday, the 19th October, 1900.

P R E S E N T :

His Excellency Baron Curzon, 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.

The Hon'ble Nawab Muhammad Hayat Khan, C.S.I.

Before proceeding with the business of the Council, His Excellency THE PRESIDENT made the following statement :—

STATEMENT ON FAMINE.

" Exactly a year ago today I made a speech in this Council upon the then impending Famine. Throughout the twelve months that have intervened, this Famine, which within the range of its incidence has been the severest that India has ever known, has been the main preoccupation of Government. It has engrossed our whole attention, has placed a terrible strain both upon our resources and our officials, has disorganised our finances, and has addressed a perpetual and irresistible appeal to our individual humanity. Now that it is drawing to a close, it may not be inappropriate that I should attempt to sum up the results of the past year's experience; so that the public may realise within a short compass what the Great Famine of 1899-1900 has meant, how

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we have endeavoured to meet it, what a mark it has left, or will leave, upon the history of the country, and what is the teaching that may be derived from a study of its features.

"We cannot, I think, be accused of having failed to anticipate or to provide for this great drought. Our anxiety as to the prospects dated from as far back as July, 1899. In the early autumn the Local Governments and ourselves were busily occupied in making preparations for the possible failure of the monsoon. When I spoke in October, relief-operations had already commenced, and half a million persons were on relief. The numbers rapidly rose month by month, till in July last they touched the unprecedented total of considerably more than six millions of persons. Even now over two millions are still in receipt of relief; though we hope that, in the course of next month, the necessity may disappear, and that the whole of this number may be drafted away to their homes.

"The main statistical features of the Famine are already sufficiently well known and may be briefly dismissed. It has affected an area of over 400,000 square miles, and a population of about 60 millions, of whom 25 millions belong to British India and the remainder to Native States. Within this area the Famine conditions have, during the greater part of the year, been intense. Outside it they have extended with a gradually dwindling radius over wide districts which have suffered much from loss of crops and cattle, if not from actual scarcity. In a greater or less degree nearly one-fourth of the entire population of the Indian Continent have come within the range of relief-operations. It is difficult to express in figures with any close degree of accuracy the loss occasioned by so widespread and severe a visitation. But it may be roughly put in this way. The annual agricultural production of India and Burma averages in value between 300 and 400 crores of rupees. On a very cautious estimate the production in 1899-1900 must have been at least one-quarter, if not one-third, below the average. At normal prices the loss was at least 75 crores, or fifty millions sterling. In this estimate India is treated as a whole. But in reality the loss fell on a portion only of the Continent, and ranged from almost total failure of crop in Guzarat, Berar, Chhattisgarh and Hissar, and in many of the Rajputana States to 20 and 30 per cent. in districts of the North-Western Provinces and Madras, which were not reckoned as falling within the Famine tract. If to this be added the value of some millions of cattle, some conception may be formed of the destruction of property which a great drought occasions. There have been many great droughts in India, but there has been no other of which such figures could be predicated as these.

"It must further be remembered that, unlike previous Famines, that of 1900 was separated by the short space of only two years from a drought not greatly

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inferior to it in extent and scarcity. Some tracts which suffered in 1896-97 have been fortunate enough to escape in 1899-1900. But the most calamitous feature of the recent Famine has been that there were others which not only suffered again, but suffered in a worse degree. This was the case in the Central Provinces and in portions of Rajputana, Central India, the South-East Punjab, and the Bombay Dekkhan. Apart from this area of twofold distress, the centre of gravity tended on the present occasion to shift towards the west. The cluster of Native States lying between the Nerbudda, the Jumna and the Sutlej were swept into the area of scarcity. Finally, the fertile provinces of Guzarat and Kathiawar, whose rainfall is generally so abundant and so steady that they have been styled the Garden of India, were attacked; and there, in proportion as the immunity hitherto enjoyed has been the longest, so was the suffering the most widespread and enduring.

"This was the situation with which we were confronted a year ago, and which has gradually developed since. It was not merely a crop failure, but a fodder Famine on an enormous scale, followed in many parts by a positive devastation of cattle—both plough cattle, buffaloes, and milch kine. In other words, it affected, and may almost be said to have annihilated, the working capital of the agricultural classes. It struck some of them when they were still down from the effects of the recent shock. It struck others who had never before known what calamity was, and who were crushed and shattered by the suddenness and directness of the blow. It attacked Native States to whose Durbars had never previously been brought home the obligation of Famine relief on an extended scale and whose dearth of administrative staff was enhanced by the poverty of their financial resources. It laid its hand upon primitive hill men, unused to discipline or restraint, impulsive, improvident, lazy, living in an almost barbarous state in wild and inaccessible jungles. It sharpened the lurking nomadic instinct of wandering tribes, and sent them aimlessly drifting about the country, a terror to the Famine-officer, and an incubus to the camps. For a year it never left hold of its victims; and one half of the year had not elapsed before famine had brought its familiar attendant Furies in its train; and cholera, dysentery and fever had fallen upon an already exhausted and enfeebled population. This is the picture of suffering that India has presented during the past year. Let us now examine the steps that have been taken to ameliorate it.

"In such diverse circumstances the methods of relief, the difficulties encountered, and the degree of success attained, have varied greatly. The

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preceding Famine had bequeathed experiences and lessons of the utmost value, which were carefully gathered up by the Commission of 1898, and which have profoundly affected the policy of the present Famine. The stress laid by the Commission on the necessity for starting relief before the people have run down; their advocacy of more extensive gratuitous relief, especially in the form of kitchen relief; their recommendations concerning the special treatment of aboriginal and forest tribes; their approval of small or village relief-works in special circumstances in preference to large works,—these and other injunctions will be found to have influenced our measures and shaped our course throughout the Famine. The Commission's recommendations were generally in the direction of greater flexibility in relief methods and greater liberality of relief. The dangers of ill-regulated profusion are obvious; and, apart from all considerations of cost, it would be a national misfortune if relief were ever made so facile or so pleasant as to destroy the self-respect and self-reliance of the people. But the Commission were not unmindful of this danger; and their findings amounted to this, that they recognised that in the last Famine we had not succeeded in preventing great mortality and suffering, and that they thought better results might be attainable by a larger expenditure of money and a somewhat greater regard to the circumstances of special localities and classes. They said in effect that, if it was good policy to combat a Famine, it was good policy to combat it effectively. It is possible that in certain directions their recommendations erred on the side of over-liberality. Their wage-scale is an instance. It was tried in all provinces at the commencement of the present Famine, but was speedily reduced by the independent consent of all Local Governments. Again, their advocacy of gratuitous relief may be said by some to have led in the present Famine to a scale of alms-giving unprecedented in magnitude and likely to embarrass future Famine administration. This question I will discuss in a moment. I merely mention the matter now to show that, in the present Famine, we have broken new ground, and, acting upon the lessons of its predecessor, have accepted a higher standard of moral and financial obligation than has ever before been recognised or acted upon in this or any country.

"If, indeed, a special characteristic should be attributed to our campaign of Famine relief in the past year, it has been its unprecedented liberality. There is no parallel in the history of India, or in that of any country in the world, to the total of over 6 million persons who, in British India and the Native States, have for weeks on end been dependent upon the charity of Government. Let

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me compare these figures with those of the preceding Famine. In 1897, the high-water mark of relief was reached in the second fortnight of May, when there were nearly 4 million persons on relief in British India. Taking the affected population of 40 millions, the ratio of relief was 10 per cent. In one district of Madras, and in two districts of the North-Western Provinces, the ratio for some months was about 30 per cent. ; but these were exceptional cases. In the most distressed districts of the Central Provinces 15 or 16 per cent. was regarded in 1896-97 as a very high standard of relief. Now, take the figures of the present year. For some weeks in June and July upwards of 4½ million persons were on relief in British India. Reckoned on a population of, say, 25 millions, the ratio of relief was 18 per cent. as compared with 10 per cent. in 1897. In many districts the proportion exceeded 20 per cent. In several it exceeded 30 per cent. In two districts it exceeded 40 per cent. In the small district of Merwara, where Famine has been present for two years, 75 per cent. of the population has been on relief. Nothing that I might say can intensify the simple eloquence of these figures.

"The next test that I apply is that of the number of officers whom we have lent, both to British districts and to Native States, to reinforce the overworked and, in many cases, undermanned local establishments. From the Army 84 Staff Corps officers, 17 Native officers, 10 British non-commissioned officers and privates, and 228 Native non-commissioned officers and privates, have been deputed, for periods of various length, to Famine duty in British India and Native States. They have done excellent work. Including the above, the total number of public officials deputed from civil and military employ to Famine duty has amounted to 637. Among these were 35 Assistant Surgeons and 141 Hospital Assistants, 44 Civil Engineers, 10 Royal Engineers and 24 Public Works subordinates. Large as these numbers were, we would gladly have sent more, had the men been forthcoming. Since the Famine began, I cannot recall ever having refused an application, if it was possible to grant it. We literally scoured the remaining provinces of India for the loan of men, and with great generosity, wherever practicable, their Governments responded to the appeal. After my return from Guzarat, we collected and sent down a large number of additional Hospital Assistants, of whom I had noted a regrettable paucity, to Bombay. Similarly in the Native States, as the Chiefs and Durbars have repeatedly acknowledged, it has only been owing to the administrative knowledge, the unflagging energy, and the devotion of the British officers whom we have lent to them, that they have escaped a disastrous breakdown.

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"My third test is that of financial outlay. The direct expenditure on Famine relief in British India and in Berar, from the commencement of relief-operations up to the end of August, has been 854 lakhs of rupees. We estimate a further expenditure of about 150 lakhs up to the 31st March next, making in all in round numbers about 10 crores of rupees. In loans and advances to land-holders and cultivators, we have expended Rs. 238 lakhs. We have made advances for plough-cattle and for agricultural operations this autumn free of interest, and on very easy terms as to eventual repayment; and our expectation is that not more than one-half will be recovered. In the matter of land-revenue, our latest estimate is that, of a demand of Rs. 392 lakhs in the Central Provinces and Bombay, Rs. 164 lakhs will be uncollected during the year. In the distressed districts of the Punjab, suspensions aggregating Rs. 41 lakhs are anticipated. With these figures I compare those for the Famine of 1896-97, calling attention, however, to the fact that, in 1896-97, the area and population in British India affected by Famine were considerably larger than in the present year. The total direct expenditure on Famine relief was 727 lakhs of rupees; 130 lakhs were advanced as *takkavi*; and land-revenue to the amount of about 2 crores was suspended. In this comparison, our further outlay in connection with relief in Native States has been omitted, for the reason that, in 1896-97, the calls upon us in that respect were insignificant. In the present Famine, our loans to Native States in Rajputana have amounted to 69 lakhs of rupees; to Native States in the Bombay Presidency we have lent 78 lakhs of rupees, besides guaranteeing the repayment of loans to the amount of 105 lakhs of rupees borrowed by other States in the market. We have also come to the assistance of the Nizam of Hyderabad, whose extensive dominions have suffered from severe drought. In all, our actual loans to Native rulers in connection with the present Famine amount in the aggregate to over 3½ crores. This is exclusive of the guaranteed loans. Without this assistance it may be safely said that the States would have been wholly unequal to the task of relieving their subjects, and even in some cases of carrying on the ordinary administration of their territories.

"I now pass to an examination of the methods of Famine-relief which we have adopted. In one respect they have differed materially from those of the preceding Famine. Profiting by its lessons, we have learned to apply a much more flexible system. Thus in 1897 the effective relief of the aboriginal races in the Central Provinces was regarded as an insoluble problem. They suffered and perished in their jungles. This year congenial work and extensive gratuitous relief were provided for them in the forests, and the Gonds and Baigas have survived with no exceptional mortality. Again, whereas in 1897 there was

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a terrible mortality in the Central Provinces when the rains set in, owing to the abrupt closing of relief-works without a simultaneous expansion of home or village relief, in the present year we have scattered broadcast over the country an extensive system of kitchen relief upon which, while no one disputes its general necessity or its success, the only criticism that has been passed is that it has erred on the side of liberality, and has been abused by able-bodied persons who preferred to be fed for nothing in the kitchens to earning their own livelihood in the fields. In 1897, the complaint was one of parsimony and lack of preparation. If we have now in some cases gone too far in the opposite direction, some allowance must be made for the natural recoil from earlier mistakes.

"Guzarat supplies another instance of the degree in which we have accentuated and added to the flexibility of the Famine Code. When the great outbreak of cholera had disorganized the large relief-works, and had driven the terrified workers away to their homes, and when extraordinarily high death-rates revealed the existence of very widespread destitution and suffering, the Government of India did not hesitate to advise the Bombay Government to meet the situation by enlarging the customary bounds of gratuitous relief, and by opening petty village-works to take the place of the deserted Public Works relief-camps. The effect of this policy was that, whereas in the middle of May the number of persons on gratuitous relief in the five districts of Guzarat was little more than 50,000, at the end of June it had risen to 150,000; at the end of July to 308,000; and by the middle of August to 385,000, the last figure representing more than 12 per cent. of the entire population of those districts. Before the present Famine, such a percentage would have been regarded as a flagrant abuse of Famine relief. We were, however, satisfied that a strict adherence to the labour-test principle would in June and July last have failed to meet the very special set of circumstances created by the cholera outbreak in Guzarat, and I have no doubt that the satisfactory decline in the death-rate was largely due to the policy adopted.

"In drawing attention, however, to the greater liberality of relief that has been practised, the question may be asked whether it was after all only due to the superior intensity of this year's Famine, or whether it has denoted greater efficiency and perfection of method, or has perhaps only been the result of promiscuous and thoughtless charity. Some part of it must no doubt be attributed to the greater severity of the recent distress which I have already demonstrated. Upon the second head we may safely claim to have profited by experience in the improvement of our relief-arrangements, and in their more

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accurate adaptation to the special circumstances of different districts, the special requirements of different classes, and the different seasons of the year. No critic would dispute this proposition. As regards the third point it is not without a smile that, while I now read in some quarters that the conditions of relief, notably in respect of kitchen relief in the Central Provinces, have been relaxed to a dangerous and demoralising degree, I remember that, nine months ago, the Government of India were being assailed for the alleged stringency and harshness of the warnings that they had given in the Circular of December, 1899. Looking back upon our entire experience, I have now no hesitation in saying that our warning note was well-timed and was wisely issued. Our enquiry was followed by a very salutary re-organization of relief-works in the Central Provinces and elsewhere, by large additions in all provinces to the superior Famine staff, and by considerable improvements in the supervision and conduct of relief-measures. One of its results was the exposure of inadequacy of the superior staff, and of the dangers which were certain to ensue if this were not rectified. It was in consequence of this discovery that we offered the substantial help, in respect of Staff Corps Officers, Medical Officers, Officers drafted from the Postal, Salt and Police Departments, and Engineers, of which I have already spoken.

"I should like to add that, in my opinion, there was no inconsistency between the position taken up by the Government of India in the first months of the Famine, and their subsequent attitude in permitting a vast expansion of gratuitous relief during the rains in the Central Provinces, and in counselling the Government of Bombay to relax the conditions of relief in Guzarat, when cholera had disorganized the large works. Conditions are radically different at the beginning and at the height of a Famine : and a degree of firmness at the outset is essential which would, at a later stage, be altogether out of place. If this be borne in mind, our policy will on examination prove to have been consistent throughout. On the one hand, we have set our face against indiscriminate and pauperising charity, and have endeavoured to insist on relief being administered with the care and method which we owe to the taxpayer and to the exchequer. On the other hand, we have been prepared to accept any expenditure of which it could be shown that it was required to save life or to mitigate genuine distress. The only intelligent and the only possible policy is based on these two principles. There is no contradiction between them. No Famine has ever been, or ever will be, successfully administered that does not exhibit, according to the point from which it is scrutinised, the opposite characteristics of strictness and leniency, or that is not open to the charge—if charges are to be brought—of being at different moments profuse and grudging.

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"Nevertheless, we may still be asked whether we are quite satisfied that the abnormal mortality in Guzarat, the widespread misery described by competent observers, and the temporary breakdown of the relief-machinery in that part were not due to any fault in our initial instructions. That the mortality was very great cannot be denied. In Broach the monthly death-rate rose from 29.6 *per mille* in October, 1899, to 24.83 in May, 1900. In the Panch Mahals the death-rate for the same month of May was 46.60 *per mille*; in Kaira 21.07; in Ahmedabad 24. These rates include deaths from cholera, a most virulent wave of which swept over Guzarat in April; although it is impossible to distinguish accurately between the mortality for which cholera was directly responsible, and that which was due to other diseases, to debility, to privations, and to the temporary disorganisation of the camps. I have seen the report of a special enquiry which has just been conducted into the Guzarat mortality by the Sanitary Commissioner to the Bombay Government. He specifies no fewer than eight causes for the excessive death-rate in that district. They were insufficient and unwholesome food; resort to Rangoon rice and other unaccustomed grains; bad cooking and bad water; the physical softness of a people who had never previously experienced famine; the unwillingness of certain classes, such as the Bhils and herdsmen, to apply for relief; and the vagabond instincts of large sections of the population. Some of these causes were preventible or reducible; the majority were not. If a perfect relief-system is anywhere attainable, it is obvious that it is more likely to be realised in a district where the people are already acquainted with the principles of relief, and where they feel no natural reluctance to avail themselves of it. Neither of those conditions was present in Guzarat. The rapidity and completeness of the calamity took the people by surprise; the weakness and incapacity for resistance of the people took the Local Government by surprise. Had there been greater previous experience in either respect, the results might have been modified. The failure was certainly not due to any antecedent orders on the part of Government, or to any parsimony in the scheme of relief. On the contrary, the actual cost of relief per head in Bombay exceeded the cost-rate in other parts of India. While, therefore, I feel that the excessive mortality in Guzarat is a phenomenon of which it is difficult to give a full explanation, and which may still call for further enquiry, I think that a good deal of weight should be attached, in a comparison, for instance, between Guzarat and the Central Provinces, to the different temperaments of the afflicted populations, and to their relative familiarity or unfamiliarity with relief methods.

"If we examine the death-rate elsewhere, we shall find that, in the Central Provinces, it remained satisfactorily low until the concluding months of the

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Famine. Excluding epidemic disease, the provincial rate for April was only 3'25 *per mille*, and for May 3'42 *per mille*. These were the worst months in Guzarat. In June the rate (excluding cholera and small-pox, which carried off 23,000 persons) rose to 4 *per mille*, and in some parts was higher. In July it rose to 5'35 *per mille*, while some districts showed a local rate of from 7 to 10 *per mille*. In August the death-rate in one district rose to no less than 15'21 *per mille*. It is a curious fact, however, that this high mortality was not accompanied by any exterior evidence of starvation or even of emaciation. The people in fact did not die of want of food, but from the sudden change in climatic conditions, which occurs during and after the rains.

"In the Punjab, the mortality statistics exhibit much the same features as in the Central Provinces, though in a slightly less degree. In Hissar, where the death-rate has been highest, it has never exceeded 8 *per mille*, excluding cholera. The result of my examination has been to show that relief has been fully and sufficiently given in the Punjab, and that there has been no mortality from starvation, or even from direct privation, save in the case of wanderers from Native States, who arrived in too debilitated a condition to be saved.

"In Berar, the death-rate has been generally moderate, except in two districts adjoining the Nizam's Dominions, where there was much pauper emigration across the border. In the last weeks of the hot weather the mortality rose everywhere, especially in those two districts; but no one has been found to suggest that it was due to any deficiency of relief.

"I do not speak of the mortality in the Native States, which has in many cases been shocking, because the Government of India cannot be held responsible for a system which it does not control, and because my sole desire has been, while stating the best, and admitting the worst, that can be said about our own methods, to ascertain how far the latter have justified themselves, or are capable of amendment. Broadly speaking, it may be said that no endeavours which it is in the power of the most philanthropic or generous of Governments to put forward will avail to prevent an increase of mortality during a severe Famine. No relief-system in the world will counteract the effects of reduced food-supply, cessation of wages, high prices and break up of homes, among millions of people, or will prevent Famine from being attended by its twin sister, pestilence.

"When, however, I read the records of earlier Famines, and compare their results with this, I do feel some cause for satisfaction. We are sometimes told

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of the wonderful things that happened in India before the days of British rule, and are invited, in most unhistorical fashion, to regard it as a Saturnian age. I have looked up the statistics of the last great Famine that occurred in Bengal, while that province was still under Native administration. This was in the year 1770. I speak of local administration, because, although the Diwani of Bengal had been assumed by the Company a few years before, the latter had not yet taken over the civil administration, which remained in the hands of the former Native officers of the Delhi Government. Throughout the summer of that year it is on record that the husbandmen sold their cattle; they sold their implements of agriculture; they sold their sons and daughters, till at length no buyer of children could be found; they ate the leaves of trees and the grass of the field; and, when the height of the summer was reached, the living were feeding on the dead. The streets of the cities were blocked up with promiscuous heaps of the dead and dying; even the dogs and jackals could not accomplish their revolting work. Disease attacked the starving and shelterless survivors, and swept them off by hundreds of thousands. Before the end of May, 1770, one-third of the population was officially calculated to have disappeared; in June the deaths were returned as 6 is to 16 of the whole inhabitants: and it was estimated that one-half of the cultivators must perish. Two years later Warren Hastings, who had assumed the government of Bengal on behalf of the British Power, stated the entire loss as at least one-third of the inhabitants, and subsequent calculations revealed that the failure of this single crop, in the single province of Bengal, had carried off within nine months no fewer than ten out of less than thirty millions of human beings.

"After this appalling record of what Famine meant in India a century ago, it was almost with a sense of relief that I read the other day in a manifesto issued by an English M. P. to his constituents, whom I may observe in passing that he no longer represents, that 'Lord George Hamilton and Lord Curzon have looked helplessly on, while two millions of human beings have perished of starvation and disease in India.' Had this statement been true, however damaging to the Secretary of State or to myself, it would yet have pointed an extraordinary contrast between the methods and results of 1500 and those of the eighteenth century. But that it is not true is known to every intelligent person in England and in this country. Every man, woman and child who has perished in India in the present Famine has been a burden upon my heart and upon that of Government. Their sufferings have never been absent from our thoughts. It cannot truthfully be said even by the most envenomed of opponents that we have looked helplessly on. On the contrary, I fearlessly claim, and I challenge

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contradiction, that there has never been a Famine when the general mortality has been less, when the distress has been more amply or swiftly relieved, or when Government and its officers have given themselves with a more whole-hearted devotion to the saving of life and the service of the people.

“What the actual mortality may have been it is impossible to tell with complete accuracy. At a later date the forthcoming Census will throw useful light upon the problem. At the same time, from a comparison of the normal death-rate of the famine-stricken districts in British India, with which alone, of course, I am competent to deal, with the death-rate throughout the twelve months' duration of the drought, we can ascertain that there has been an excess mortality of 750,000, or $\frac{3}{4}$ million persons. But out of this total we also know that cholera and small-pox have accounted for a recorded mortality of 230,000, figures which are admitted to be below the mark. Making this deduction, therefore, we arrive at an excess mortality of half a million in British India, more or less attributable to the Famine conditions of the year. To say that the greater part of these have died of starvation, or even of destitution, would be an unjustifiable exaggeration; since we know that many other contributory causes have been at work, while the figures include the deaths of immigrants from Native States, for which our administration cannot be held responsible. When further it is remembered that this total is not more than 2 per cent. of the entire population in the tracts to which it applies, it will be obvious that no very remarkable depopulation has occurred, and it will be recognized that it is with ample justification that I give the assurance that in the entire history of Indian Famines, while none has been more intense, in none have the deaths been so few.

“So far my remarks have been confined almost exclusively to what has been done in the recent Famine in British India. I must add a few words about the Native States, many of which have been affected in a scarcely inferior degree to our own territories. As I indicated a year ago, while we have sedulously refrained from assuming the direct responsibility for Famine relief in those areas, and have shrunk from any unsolicited interference with Native administration, we have yet, in the discharge of our duty as the Paramount Power, and in the interests of the States themselves, tendered them constant advice, have lent them competent officers, have made them liberal loans, and have supplied co-ordination and system to their methods of relief. On the whole, we may congratulate ourselves upon the success that has attended these efforts. In a few States the duty of succouring their subjects has been so neglected by the Durbars as to need strong interference; and in others the

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good intentions of rulers have been frustrated by the dishonesty and peculation of subordinate officials, who could not resist turning even the starvation of their fellow-creatures to their own profit. But in the majority of cases the Chiefs have shown a most laudable disposition to accept our methods of relief, in so far as their resources and the agency at their command permitted. In some of the Rajputana States, especially in Jaipur, Jodhpur, Bikanir and Kishengarh, the arrangements have been admirably planned and carried out by the rulers themselves, and have aroused the admiration of persons familiar with the Famine system of British provinces. Surveying the Native States as a whole, we may say that there has been an awakening to the call of philanthropic duty, which has been most gratifying.

"Nevertheless, the difference of the standards in vogue may be judged from a comparison of the figures on relief in the two areas. In Bikanir and Jodhpur, for instance, the numbers relieved in any month never exceeded 6 per cent. of the nominal population, while in the British districts of Ajmer-Merwara, 25 per cent. of the population were for months on relief. Even in the States under the Bombay Government, in which for various reasons the initiative and supervision of the Political Officers were more in evidence than in Central India and Rajputana, the scale of relief was very different from that in Guzarat. In Kathiawar, the numbers on relief never exceeded 13 per cent. of the population. In Palanpur they reached, but did not exceed, 15 per cent. in one month alone. In the same month (July, 1900), one-third of the aggregate population of the four distressed districts of Guzarat was on relief. The two great States of Baroda and Hyderabad flank the Bombay territory on the north and east. In Hyderabad and Baroda the numbers on relief never rose to 5 per cent. of the nominal population; and yet both States were visited by drought and famine not less severely than the adjoining districts of the Bombay Presidency. Meanwhile, the difference in the standards of relief was further testified by the eagerness with which thousands of fugitives streamed across the border from Native States into British territory, where they passed themselves off as British subjects, in the hope of enjoying the superior wages and comforts of our relief-works, our poor-houses and our hospitals.

"I do not dwell on this point in order to disparage the efforts, in many cases most praiseworthy, made by Native States to relieve their people; but simply because the difference between the standard of relief at which we have by degrees arrived and the standard of relief recognised as liberal in the best managed Native State, is one of the elementary facts of Famine experience.

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We may gladly admit that more has been done for their people by the Chiefs and rulers of Rajputana on this occasion than in any other historic Famine. There are many bright examples of benevolence and humanity. The Maharaja of Jaipur has extended his princely munificence not only to his own people, but to India at large. There is the instance of the late Maharaja of Kishengarh, who, though suffering from a mortal illness, took the keenest interest in the relief arrangements of his State, and never once alluded to his own ill-health. There is also the case of the wife of Maharaja Pertab Singh of Jodhpur, who, not content with opening an orphanage, resided there herself in order to superintend it. These instances—and their number might easily be increased—show the spirit with which the Famine has been faced in Rajputana by some, at least, of its rulers. As for the people, they have borne their trials, as the Indian people always do, with exemplary fortitude and resignation.

"I now pass to the subject of the charitable help which has been rendered to us in our long struggle, from so many quarters, in so many parts of the world. An impression appears to prevail that on the present occasion this assistance has been scant and disappointing. I do not share these views. Looking to the circumstances under which our appeal has been made, and even accepting the test of comparison with the Famine of 1896-97, I still hold that the amount contributed has been munificent, while its utility can scarcely be overrated. In 1896-97 the total collections amounted to 170 lakhs, of which 10 lakhs remained over at the beginning of the recent Famine; in the present year, the Central Relief Committee has received a sum of close upon 140 lakhs, or not far short of one million sterling.

"Analysing the subscriptions, I find that India has contributed about the same amount to the Fund as in 1895-97, that is to say, about 32 lakhs. If the contributions from the European community are deducted, India may be considered to have contributed at the outside less than one-fifth of the total collections of 140 lakhs. More might have been expected from the Native community as a whole, notwithstanding individual examples of remarkable generosity. The little Colony of the Straits Settlements, for instance, which has no connection with India beyond that of sentiment, has given more than the whole of the Punjab. A careful observation of the figures and proceedings in each province compels me to say that, in my opinion, Native India has not yet reached as high a standard of practical philanthropy or charity as might reasonably be expected. Though private wealth in India is not widely distributed, its total volume is considerable. If Englishmen in all parts of the world can

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be found, as they have been found, twice in three years, willing to contribute enormous sums for the relief of India, on the sole ground that its people are the suffering fellow-subjects of the same Queen, it surely behoves the more affluent of the Native community not to lag behind in the succour of those who are of their own race and creed.

"The collections from abroad have amounted to 108 lakhs, as against 137 lakhs in 1896-97. The United Kingdom's contribution of 88½ lakhs compares indifferently with its contribution of 123 lakhs in 1896-97, but in the circumstances of the year it is a noble gift. The City of Glasgow has been especially generous, with a donation of 8½ lakhs, and Liverpool with 4½, in addition to nearly 16 lakhs from the rest of Lancashire. Australasia has given nearly 8 lakhs in place of the 2 lakhs sent in 1896-97. The Straits Settlements, Ceylon and Hong Kong have also been extremely generous. Even Chinese Native officials have collected handsome sums on behalf of the Fund. The liberal donation of Germany at the instigation of the Emperor has already been publicly acknowledged. Finally, the United States of America, both through direct contributions to the Fund, and by means of privately distributed gifts of money and grain, have once more shown their vivid sympathy with England's mission and with India's need.

"I pass on the mode in which the Famine Fund has been distributed. The formation of the Fund was accompanied by two announcements; the one, that in the distribution of the money the four objects of relief recognised in 1896-97 would be adhered to: the other, that the claims of Native States would be fully considered. These principles have been faithfully adhered to by the Central Committee. Until the detailed expenditure accounts of the Local Committees are received, we cannot accurately state the distribution under the several headings. But we know approximately that, of 137 lakhs allotted by the Central Committee, 111 lakhs have been for cattle and seed and subsistence to cultivators. The allotments to Native States aggregate nearly 50 lakhs of rupees. The allotments to Rajputana alone amount to 22 lakhs. Measured by the population of the distressed areas, Rajputana has thus been not less generously treated than the Central Provinces. In the case of wealthy States like Gwalior, Hyderabad and Baroda, the Central Committee have restricted their grants to such amounts as the Political Officers have thought it expedient to ask for. Speaking generally, the grants made in Native territory have far exceeded the expectations of the rulers or their subjects. The gratitude of the latter has been expressed in homely and touching phrase. 'If the English had not sent us this money, the thread of our lives would have been

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broken.' 'These are not rupees which have come over the sea, they are the water of life.' 'We have heard of the generosity of Hatim Bai, but we have *tasted* that of the Great Queen.' How timely was the arrival of this charity, and how much it meant, is seen in scores of affecting incidents. 'Now I have got through to the other side,' said a poor cultivator, with tears in his eyes, to the English officer who had given him a few rupees to buy fodder for his famished bullocks. There is ample evidence that this gratitude is of an enduring nature. Some of the happiest memories of Famine-officers are those of unexpected visits from men who had been helped back to their old life by grants of seed and bullocks, and who returned after many days to again acknowledge the value of the gift. Nor should the self-respect which in not a few cases stood between a needy person and the proffered gift, or the scrupulous regard which led to its return because it might be misapplied, be overlooked. From Rajputana comes an old-world tale of a Rajput Chief, dwelling in his bare house among his destitute tenants, who distributed among the latter the grant allotted to his village, but refused any gift for himself—'I am a Rahtor. I could not take charity'—and who with difficulty was induced to take a small loan. From Rajputana also comes the story of the man who was given a little money to convey his family and himself to a relief-work because he said that he had no means of feeding them on the way, but who came back and returned the gift because, as he said, he had not spoken the truth, since he had five goats which he could kill, one each day, eating part of the flesh, and selling the remainder. It is these incidents which lead one to hope that this great national charity has not been misplaced, but has been received in the spirit in which it has been offered.

"In a Famine campaign which has lasted for so long, and has provided so many opportunities for chivalry and self-sacrifice, it would not be difficult, but it might be invidious, to select any names for special mention. Numerous cases of devotion, amounting to the loftiest heroism, have been brought under my notice. I have heard of Englishmen dying at their posts without a murmur. I have seen cases where the entire organisation of a vast area and the lives of thousands of beings, rested upon the shoulders of a single individual, labouring on in silence and solitude, while his bodily strength was fast ebbing away. I have known of Natives, who, inspired by this example, have thrown themselves with equal ardour into the struggle, and have uncomplainingly laid down their lives for their countrymen. Particularly must I mention the noble efforts of the Missionary Agencies of various Christian denominations. If ever there was an occasion in which their local knowledge and influence were likely to be of value, and in which it was open to them to vindicate the highest

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standards of their beneficent calling, it was here; and strenuously and faithfully have they performed the task.

"From this record of the past I will now turn for a few moments to the future. After the sombre picture that I have been compelled to draw, it is with no small relief that we may contemplate the existing situation and outlook. The monsoon was late in coming, but it has lingered long; and except in the Eastern parts of the Bombay Dekkhan, where I hear of crops withering from the premature cessation of the rains, of a poor *kharyf*, and of anxious prospects, the outlook is everywhere promising. The early autumn crops are already being harvested, and prices are steadily falling back to their accustomed level. A good cotton crop is on the ground, and, as the cotton crop of India is worth thirteen millions sterling in an average year, its importance to the agriculturist will be readily understood. Preparations for the winter crops are being actively made, and there is every expectation that the sowings in many parts will be unusually large, and will be made in the most favourable circumstances. A good winter harvest means cash to the farmer, as a good autumn harvest means cheap and abundant food to the poorest classes. If we have the good fortune to see our anticipations realised, next year should witness the export trade in agricultural produce again revive, and the import trade expand with the improvement in the purchasing power of the people.

"That the Famine-smitten tracts will at once or speedily lose the marks of the ordeal through which they have passed, is not to be expected. The rapidity of the recovery will depend upon many circumstances—upon the vitality and stout-heartedness of the tillers of the soil, upon the degree of their indebtedness, upon the goodness or badness of the next few seasons, upon the extent to which their cattle have perished, and not least upon the liberality, in respect of revenue remission, of the Government. As regards the loss of stock, our latest reports are more encouraging than at one time we could have foreseen, and justify us in the belief that, if the seasons be propitious, recuperation will be more rapid than might at first sight be deemed likely. In olden times, after a Famine such as we have experienced, the districts would have been depopulated, and the land would have lain waste for a generation, for lack of hands to till it. There may be isolated tracts in the jungles and mountain fastnesses of Central India and Rajputana, where the approaching Census will reveal a melancholy decrease of population. But, treating India as a whole, neither in Native States nor in British territory is the widespread and lasting desolation which followed the footsteps of a Famine a hundred years ago any

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longer within the bounds of possibility. The standard of humanity has risen with the means of combating the peril ; and in proportion as the struggle has been arduous, so are its after-effects mitigated.

" I have alluded to the attitude of Government. In so far as generosity in respect of advances of loans, of suspensions, and most of all of remissions, is concerned, the figures that I have previously given will have shown that on our part there has been no hanging back. Our first object has hitherto been to pull the sufferers through. Our first object now is to start them again with reasonable chances in the world. Behind these two objects lies the further and binding duty of profiting by the lessons that the Famine has taught. It will not do for us to sit still until the next Famine comes, and then bewail the mysteries of Providence. A Famine is a natural visitation in its origin ; but it is, or should be, a very business-like proceeding when once it has started. There are many subjects into which we shall require to make careful enquiry, and an investigation into which we have already suggested to the Secretary of State. We shall want to compare the various relief-systems and their results as practised in the different provinces ; to see in what respects our Codes are faulty, where they are too rigid, and where they are too lax ; to still further investigate the vexed question of large works as against small works, and of relief-concentration as against relief-dispersion. We shall have to examine the rival merits of relief-establishments, and of unconditional gratuitous relief when the rains break. We must consider how far sudden and excessive mortality is to be explained or prevented. We must ascertain the best means of bringing home relief, in the form of revenue remissions and suspensions, with the greatest promptitude and directness to the people. We must investigate and report upon the various public works that have been undertaken in the course of the recent Famine, and must provide for the execution of a continuous programme of preventive works in the future.

" In this connection I would remind my hearers that the last Famine Commission in their report devoted much attention to the matter. Unfortunately the recent Famine came upon us before their recommendations had had time to bear fruit ; and in the rush and hurry of the overwhelming calamity of the past year, works had often to be improvised so to speak in a moment, to meet the demands of a particular area, whether the work was or was not likely to be of permanent value. Against this danger we shall require to guard by insisting upon the methodical preparation of district programmes, and upon the formation of provincial branches, to be charged with this special duty. Railway earthwork has been pretty well exhausted for the present. More roads exist than can be

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properly kept up. But there are few parts of the country where works for the storage of water are not practicable. They may not, probably will not, be directly remunerative. But if such a work will conduce to greater security of the crops, and if it can be maintained at a moderate cost, it is just the sort of work which should be taken up or kept in hand for an emergency. No direct programme of relief should be considered complete until every possible irrigation or water storage scheme in the district has been examined, until a definite opinion has been come to as to its practicability and utility, and until detailed plans and estimates have been prepared for every accepted scheme. Such works will not fall within the category of the vast productive irrigation-projects such as have been executed in many parts of India. These are only possible amid certain physical surroundings, in the alluvial plains of the Punjab and the North-Western Provinces, in the deltaic tracts of Madras and Sind, and within the dry zone of Burma. All the possible schemes of this character are well known, and are gradually being undertaken. Tank storage again is not everywhere practicable. It is often found impossible to construct new tanks without injuring those already in existence; there is risk of water-logging the soil; and the water-supply is apt to fail altogether and to run dry at the very moment when it is most wanted, namely, in time of Famine. Nor are the average results of works of this description that have already been carried out very favourable. It is possible to reclaim land for cultivation at a cost that is too heavy. On the other hand, it would seem that the underground storage of water might be more widely and systematically undertaken, and that a more generous policy might be adopted towards the construction of wells. All these are matters which we should investigate and set on foot before the next Famine comes. The annual rainfall of India we can neither regulate nor forecast. The social habits of the people we cannot alter in a decade, or in a generation. But, if we can neither prevent nor cure, at least we can do a good deal by way of precaution.

"There is one recommendation that was made by the last Famine Commission which should, I think, be of value to us in our policy of preparation, inasmuch as it has since received the sanction of the Secretary of State. This was the proposal that the cost of investigating and preparing new projects falling into the class of protective works should form a charge against the annual Famine Grant. Hitherto such preliminary outlay has been chargeable to the ordinary Public Works head of the Provincial Budget, and this has no doubt deterred the Provincial Governments in the past from expending money in investigating projects for canals and irrigation reservoirs, which might prove, on examination, to be impracticable, and which, even if practicable, would have to stand over indefinitely

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until required for purposes of Famine-relief. There are other respects in which I think that the Famine Grant might be turned to better account in carrying out its original object than is at present the case ; but I have not time to deal with them now.

"I must apologise to Council for having detained them so long. But a Famine such as we have lately experienced is not an every day or an every year occurrence. It cannot be met with a sigh, or dismissed with a shudder. It is a terrible incident, an abiding landmark, in the history of the Indian people. As such, its management and its study impose a heavy responsibility upon those of us who are charged with the government of this great dependency. It is with the object of demonstrating to the Indian public that in the administration of the recent Famine we have not been unworthy of our trust, and that this year of strain and suffering will not have passed by without our profiting by its lessons, that I have made this speech."

PUNJAB ALIENATION OF LAND BILL.

The Hon'ble MR. RIVAZ moved that the Reports of the Select Committee on the Bill to amend the law relating to agricultural land in the Punjab be taken into consideration. He said :—"I should like, before this motion is put to the Council by Your Excellency, to say a few words in reply to the criticisms which have been made in several quarters on the general principles of our scheme. It is not necessary for me at this stage to make out a case for doing something, if possible, towards checking the transfer of land from the agricultural to the money-lending classes in the Punjab. I have shown on former occasions that of late years, as land has increased in value and become more attractive as a profitable investment, the number of transfers has increased correspondingly, and the conclusion which was come to by the Government of India, after most careful consideration of the subject, that this ever-growing expropriation of the yeoman and peasant proprietors of the Punjab constitutes a grave political danger which needs a prompt and decisive remedy, has been fully accepted by the Secretary of State. The question, therefore, to which I will now confine myself is whether our scheme is calculated to attain the object we have in view. Those who have opposed and criticised the measure put forward have done so mainly on two grounds : namely, that, firstly, the restrictions which we are imposing on alienations will have the effect of diminishing the credit of the small proprietors to such an extent—some even go so far as to say that it will be extinguished altogether—that they will be forced into parting with their lands at a more rapid rate than is

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taking place at present. The contention of the opponents of the Bill is, as my Hon'ble friend, Sir Harnam Singh, has graphically put it in his Minute of Dissent from the Report of the Select Committee, that the monster fishes in the agricultural community will swallow the smaller fishes. If I thought that this result was really to be apprehended, I would be the first to admit that our scheme was essentially a faulty one; for its main object is the preservation, not the extinction, of the small proprietor. But I have no hesitation in challenging the view thus taken as being an altogether erroneous one, for it is obviously based on the assumption that the present borrowing power of the Punjabi landowner, under his existing unrestricted right of alienation, is essential in order to enable him to procure money for his agricultural and domestic necessities. Our case, however, for the Bill before the Council is that the unlimited power of alienation at present possessed by landowners in the Punjab is a direct incentive to extravagance, and that in a large majority of cases they misuse this power and raise money for various purposes which are quite beyond the limits of necessary or reasonable expenditure. In corroboration of this view of the situation, I will refer to a passage in the speech which my Hon'ble friend made in this Council on the 22nd June last. He said that the Commissioner of the Lahore Division had shown that transfers were more numerous in the most thriving tahsils than in the most depressed, and I understood him to found an argument thereon against the scheme embodied in the Bill. Now, to my mind, no more convincing proof could be adduced for the necessity of our proposed measure. The Commissioner of Lahore was chiefly referring to the Tarn Taran Tahsil of the Amritsar District and the Kasur Tahsil of the Lahore District. The land-revenue assessment of these two tahsils is a notoriously moderate one; the area of cultivation and the value of land have increased very largely under British rule owing to the introduction and extension of canal irrigation; and the bulk of the village proprietary bodies is composed of the sturdiest peasantry of the Punjab. Well, if in these circumstances transfers are, as the Commissioner says, increasing in rapidity, if the Sikh Jat of the Manjha cannot resist the temptation of having recourse to the money-lender when, in his case at all events, there is clearly no question of necessity, what stronger argument can be forthcoming in support of restrictive action on the lines we propose? As I have already said, the object we are aiming at is not to extinguish or injuriously affect the agriculturist's credit, but to restrict it to a reasonable extent, to discourage him from raising money recklessly on his land for extravagant purposes, but to leave him ample facilities for doing so for all necessary purposes. It has been said in some quarters that the effect of our scheme will be to reduce sales

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perhaps, but certainly to largely stimulate mortgages. I am not at all prepared to admit that this result will follow. The proportion of mortgages to sales will probably be a good deal larger than it is at present, and I hope that this will be the case, for one of the main objects of our scheme is to encourage temporary in preference to permanent alienations; but I do not for a moment believe that the aggregate amount of alienations, permanent and temporary, will exceed the present amount; on the contrary, I confidently anticipate a material decrease not only in sales, but also in mortgages. As regards the disappearance of the small proprietor which, as I have already said, is predicted by some, it is neither possible nor desirable to devise measures for the absolute prevention of all transfers. When holdings become so minute by subdivision that they cannot afford a sufficient means of subsistence, or when the proprietor of a holding is hopelessly thriftless or impoverished, it is obviously desirable that the land in such cases should pass into the hands of some other person who can make better use of it. But the object at which we are aiming, and which we hope to secure, is that in these cases the land shall not pass into the hands of a money-lender but to some other agriculturist, and preferentially to one of the same tribe. I fail to see that there is anything in our scheme which will place the small proprietors as a class at the mercy of their wealthier fellow-tribesmen and compel them to part with their lands for insufficient consideration. As I have already said, the restrictions which we are imposing on transfers are intended to go no further than to provide a check on the reckless extravagance in which the Punjabi agriculturist is, with the present means of credit at his disposal, too prone to indulge, while leaving him sufficient facilities for raising money on his land for all reasonable and necessary purposes. That a restricted right of transfer is not incompatible with a high degree of agricultural prosperity is evidenced by the generally well-to-do condition of the occupancy-tenant class in the Punjab. Here we have a considerable body of agriculturists whose rights of transfer are materially limited, but who nevertheless experience no difficulties of insufficient credit, and who certainly are on a level of prosperity with the peasant proprietary class with whom they are intermixed. We have also the instance of the Crown tenants in the Chenab Canal colonies. After considerable hesitation, it was decided not to give these settlers unlimited proprietary rights, but only rights of occupancy, which cannot be alienated without the permission of the chief revenue-authority of the province, and I believe the experiment has been a complete success. I do not wish to make too much of this example. The Chenab colonies are still in their infancy, and the last few seasons have been exceptionably favourable for canal lands. Still the fact remains that a large body of agriculturists, with very much more restricted

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rights of alienation than our scheme contemplates, has been settled for some years on some hundreds of thousands of acres, and that they have not suffered, so far as I know, from insufficiency of credit.

"The second general criticism which has been made on our scheme by some persons is this. They say 'your plan looks pretty enough on paper, but in practice it will prove ineffectual. The money-lender will get round your restrictions somehow or other, and grab the land as much as ever'. Well, time will show whether this prediction comes true or not. I am far from claiming perfection or finality for our scheme. It is a novel and bold experiment, and it is very possible that flaws at present unforeseen will be found in it for a time when it comes to be worked, and that these flaws will have to be remedied by amending the enactment before us. But, my Lord, those who never risk anything never win anything. Even if our scheme should prove altogether unsuccessful and ineffectual, I, for my part, should still think that the attempt we had made to grapple with an undoubted and ever-growing source of political danger was well worth the venture. But I fear no such failure. I make bold to say that our scheme is framed on the proper lines, and that it will achieve the object we have in view of reducing land transfers and of diverting such transfers in future from the money-lending to the agricultural classes. It will require much patience, tact and judgment on the part of those who will have to work it in its initial stages, but all this it will receive from the zealous and capable officers who will be concerned in putting it into operation, and I feel assured that in future years the measure now before us will be regarded as among not the least successful and beneficial acts of Your Excellency's administration.

"I must now notice some of the criticisms on the details of the Bill which are contained in my Hon'ble friend Sir Harnam Singh's Minute of Dissent from the Preliminary Report of the Select Committee, but I will endeavour to be as brief as possible.

"In the first paragraph of this minute my Hon'ble friend criticises the definition of 'agriculturist' in sub-clause (1) of clause 2 of the Bill as being arbitrary, obscure and defective; but I think his remarks show that he has misapprehended the essential objects of our scheme. Its main principle is, as regards permanent alienations, to restrict them in the case of members of agricultural tribes to within the same tribe as far as possible. But, as a pure concession, the scheme provides for allowing persons who, even though they do not belong to an agricultural tribe, have held lands either as owners or occupancy-tenants, and either in their own names or in the name of an ancestor in the male line, since

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the early days of British rule in the Punjab, to acquire land in any particular village where they have so held. This concession would, were it practicable to do so, be restricted to persons who were actually holding land at the time of the annexation of the Punjab, but, as no reliable records of title of that time are available, we have extended the concession to persons who were recorded as owners or occupancy-tenants at the first regular settlement, if such settlement was made within twenty years after the annexation. Nearly all the first regular settlements of the Punjab were made within this period. A few—not more than half a dozen in all I think—were made after 1870, and, as regards these few settlements of modern dates, we have given power to the Local Government to go back to the record of some earlier summary settlement if such previous record is a reliable one. I hope this explanation will satisfy my Hon'ble friend that this part of our scheme is neither obscure nor arbitrary.

"The remarks in paragraph 8 of my Hon'ble friend's Minute show that he has misunderstood the proviso to sub-clause (1) of clause 3 of the Bill. The restriction in this proviso only applies to an agriculturist who has bought from a member of an agricultural tribe. If, being a member of a non-agricultural tribe, he buys from another member of a non-agricultural tribe, he may sell again to whomever he pleases.

"Paragraph 9 of my Hon'ble friend's Minute refers to the grouping of tribes. I explained the object of this part of the scheme when I presented the Preliminary Report of the Select Committee, but the details of the system of grouping, which is being allowed in the case of some of the smaller tribes, are still under consideration.

"My Hon'ble friend next criticises, in paragraphs 10 to 13 of his Minute, the portion of our scheme which deals with mortgages. The general gist of his remarks is that the provisions of the Bill in this respect will lead to perpetual mortgages. How he has arrived at this view I fail to understand, for the object of the scheme is exactly the opposite. We have provided that all mortgages allowed under the scheme will, except when the mortgagor remains in cultivating occupancy of the mortgaged land, be self-redeeming after a maximum period of twenty years, no interest being allowed to accrue during the period of the mortgage and the mortgagor being unable to bind himself personally to repay the mortgage-money. The whole object of these precautions is to prevent mortgages being perpetual. It is true that, after such automatic redemption, the owner of the redeemed land can mortgage it again for a fresh period not exceeding twenty years, but, as I have explained on former occasions, it is impossible to devise any practi-

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cable means of preventing this. Anyhow, the mortgagor will get back his land unencumbered and start afresh, and so will be in an infinitely better position than he is under the present law.

"My Hon'ble friend's next criticisms relate to improvements on mortgaged lands and the proposed cancelment of conditions of sale in existing mortgages, but, as he is about to move amendments on both these points, I need not touch on them at present.

"As regards paragraphs 22 and 23 of my Hon'ble friend's Minute, I have explained on former occasions why we are prohibiting the appearance of legal practitioners in proceedings under the Bill, and why, in the case of land belonging to a member of an agricultural tribe, its sale in execution of decree is being forbidden. But I may mention in this connection that while such sale is being stopped, while also the question of exempting from attachment and sale such portion of an agriculturist's crops as may be necessary for his maintenance is under consideration, the general question of facilitating the execution of money-decrees by a material simplification of the present cumbrous provisions of the Civil Procedure Code on this subject is also being taken up, and I hope that this portion of the Code will at no distant date be thoroughly revised and improved.

"My Hon'ble friend's next criticism relates to restrictions on alienations of self-acquired property. This point, too, I will deal with presently, when he moves his amendment on the subject.

"The rest of the Minute contains general criticisms on our scheme which I have already answered in the earlier portion of my present remarks. I will only add, as regards the remarks in paragraph 27, that the question of starting agricultural banks, not only in the Punjab but throughout India, is at present under the consideration of Government. It is impossible, for obvious reasons, to run such banks as Government institutions. They must be managed as private concerns on co-operative principles, but it may be found possible for Government to give some financial assistance in first starting them. This, however, is a matter on which my Hon'ble colleague in charge of the Finance Department, who, I may perhaps be permitted to say, takes a special interest in the matter, is better qualified to speak than I am. But I do not admit for a moment that such banks, however desirable the experiment of starting them may be, are in any way a necessary adjunct to the scheme embodied in the Bill at present before the Council."

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The Hön'ble NAWAB MUHAMMAD HAYAT KHAN said :—" My Lord, as I have not before had an opportunity of making any observations on the principles of this Bill, I crave Your Lordship's permission to express at some length my opinion on the subject, which appears to be necessary in view of the opposition which the proposed measure has met with in some quarters, especially in its original form.

" Knowing the province intimately as I do, having been connected with twenty-five out of thirty-one districts of the Punjab in various capacities as a Revenue and Settlement Officer and subsequently as a District Judge and a Divisional Judge, and as a landowner myself, conversant with agricultural conditions in many districts, I cannot shut my eyes to the fact that within recent times the condition of the sturdy agriculturists of this province has deteriorated and every year has almost invariably brought an increasing number of expropriations of land and transfers of it from agriculturists to non-agriculturists. During the last triennial period, 1897-98 to 1899-1900, the number of mortgages and sales by agriculturists to non-agriculturists amounted to 120,803 and 31,898, respectively, exclusive of the alienations made by agriculturists to agriculturists. During the quinquennium preceding this period (that is, from 1892-93 to 1896-97) the total number of agricultural mortgages was 315,977, while that of sales was 105,346, and of these about a half were in favour of money-lenders. The zamindar in the Punjab is sinking deeper and deeper into debt, and large areas of land are passing into the hands of money-lending non-agriculturists. An idea of the extent of areas transferred by the large number of mortgages and sales above described may be formed from the fact that the area of land transferred by sale from agriculturists to non-agriculturists in the year 1899-1900 alone amounts to 119,245 acres, while the area transferred by mortgage during the same period amounts to 290,269 acres, the mortgage-money on which is about a crore of rupees. As the want of thrift generally imputed to the zamindars is by no means solely responsible for their growing indigence, but as many alienations can be traced to their simple-minded ignorance, their inability to fully comprehend the consequences of contracts entered into by them under the complex laws introduced in modern times, it behoves the legislature, which is to some extent the indirect cause of this misfortune of the agriculturists, to take steps to remedy it. It must be acknowledged, to the credit of British officers in charge of districts and divisions, that from the very start they have been alive to the hardships experienced by the zamindars owing to the swelling of small debts, sometimes incurred for bare necessities, into heavy sums by the accumulation of exorbitant interest and compound interest, and to the slow process by which the at first obliging village money-lender brings the zamindar to his knees

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and makes him yield up his land. Many an official and demi-official report to the Government from these officers has emphatically urged the necessity of some measures being adopted to remedy this state of things. As a matter of fact, the question of protecting the legitimate rights of the zamindars has been practically before the Government for the last two decades or so, that is, ever since the number of sales and mortgages of land in favour of non-agriculturists began to assume an alarming proportion. Of late the situation has been growing more perplexing than ever, and the Government of India may, I think, be congratulated on its determination to grapple at last with the intricate problem that has been so long puzzling the authorities. To my mind the decision to face it boldly and to try a remedial measure does not come a moment too soon. I agree with Mr. Justice Gordon Walker in thinking that 'a good deal of mischief might have been avoided if remedial measures had been taken earlier,' but hold, at the same time, to the good old maxim 'better late than never.' Mr. Justice Gordon Walker, who is an old Settlement-officer and who has put on record his conviction that the conclusions arrived at by the authorities are 'thoroughly sound,' is of opinion that 'the present circumstances of the agricultural population of the province not only justify to the full, but necessitate, the action that it is proposed to take.' Mr. Justice P. C. Chatterjee, whose distinguished career as a lawyer of large practice, before joining the bench of the Punjab Chief Court, brought him in intimate touch with Punjabi agriculturists, and which combined with his present position entitles his opinion on this subject to considerable weight, has made the following observations in justification of the Bill :—

'The political dangers of allowing the hereditary land-owning and cultivating classes to become landless and to sink to the position of tenants of the banking and money-lending classes, who cannot cultivate land themselves, and who necessarily become rackrenters, have been pointed out in numerous documents and have been well summarised in the opening speech of the Hon'ble Member who introduced the Bill. The fact is, free trade in land was an innovation and a violent one. It suited the capitalist classes, but not the agricultural, who are dependent on land and cannot take up another avocation. The effect, like free trade in other matters, has been disastrous, and no well-wisher of the country who sees the effects of the sudden introduction of the institutions of a highly civilised, progressive and mobile community in a backward and conservative and a slow-going one, can deny that some measure of relief is required or object to the underlying principle of the Bill. The evil is rapidly growing and can only be met by a remedy of a comprehensive and radical character, and not, as His Excellency well put it in the Council, "by timid and temporising measures."'

"It would seem unnecessary, at this stage, to enter into a detailed justification of the principle underlying this Bill, but as it has been called in question in

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this Council itself, and one of my Hon'ble colleagues has thrown the weight of his position and of his eloquence against the Bill, I think I, as the other Punjabi representative of the people of the Punjab, may be allowed to add a few words to what has already been said on this important question. The real issue on which the fate of this legislation hinges is whether the number of alienations is sufficiently large to justify the alarm that land will gradually pass generally out of the hands of agriculturists. I think the passing of hundreds of thousands of acres annually from zamindars to the members of the money-lending classes, as has been shown by figures quoted above, constitutes an evil of the gravest magnitude, urgently calling for a remedy. It is gratifying to notice that this view is shared by the majority of the experienced and able officers of the Punjab Commission, who are admitted to be 'well acquainted with the economical conditions of the province and the thoughts and feelings of the people.' The able and learned Financial Commissioner of the Punjab, the advantage of whose wise counsels we have had in the Select Committee considering this Bill, has put on record a note in which he affirms that he has 'throughout been an unhesitating advocate of the principle of this measure.' Mr. J. Wilson, Settlement Commissioner, observes:—

'I am one of those who believe that in many parts of the Punjab alienation of land has attained such dimensions and is proceeding at such a pace as to constitute an evil of the first magnitude and a grave political danger, and it is incumbent on the legislature, in the interests of justice and good administration, to lose no time in passing some such Act as is now contemplated. I therefore heartily welcome the present Bill and should be glad to see it pass into law at an early date.'

"Lieutenant-Colonel J. A. L. Montgomery, Commissioner, Rawalpindi Division, expresses himself 'in entire agreement with the general principles of the Bill;' and Mr. F. D. Cunningham, Commissioner, Peshawar, thinks it suited to the requirements of the Province. Mr. J. M. Douie, writing as Commissioner, Lahore Division, remarks:—

'If we can root the peasant more firmly to his ancestral fields without at the same time making his daily life very much harder than it is at present, we shall have done a great deal for the well-being of the people and for the stability of our rule over them, on which that well-being depends. Circumstanced as this country is, and as we are in it, the expropriation of large numbers of small peasant-farmers by the money-lender cannot be looked on with indifference.'

"The views of most of the Deputy Commissioners on this subject are no less pronounced. The members of the Punjab Commission in the judicial line are

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also generally agreed as to the necessity of the Bill. To take only one instance : Mr. T. J. Kennedy, Divisional Judge, Jullundur, says :—

‘Generally, I think, the provisions of the Bill are admirably calculated to effect the object they have in view, the prevention of the further expropriation of the old landed proprietors of the province. But seeing that so much of the best land of the Province has already passed into the hands of the money-lending classes, whose rapacity as landlords is the cause of much agrarian discontent and as I believe of political danger, I regret the transfer back of land from them to members of the old landed classes has not been encouraged by a provision making in all future settlements land held by non-agricultural tribes assessable at a higher rate.’

“Coming to non-official public opinion, we find it divided no doubt, but several large landed proprietors have joined their strong voice to that of officials in favour of the measure. A number of representations from some of the leading zamindars of the province in favour of the measure are among the papers relating to the Bill. The newspapers and public bodies in the Punjab, as indicating non-official views, are no doubt not united in opinion as to the necessity of the Bill, but a very large number of them have given it their unqualified support, and it is worthy of note that the majority of those opposing the measure are by no means representatives of the interests of the agricultural population. Moreover, considering that there are quite a number of influential persons all over the Punjab interested in opposing the legislation, the fact that the measure has received as much public support as it has actually done, has a significance which cannot be made light of.

“My Lord, I do not think it necessary to take any more of Your Excellency's and the Council's time in proving that the measure is urgently wanted, but I think it desirable to refer briefly to the argument of ‘political danger’ involved in neglecting further the adoption of a remedy to put a stop to the increasing transfers of land. It may have been observed from the opinions already cited that the supporters of the Bill take the ‘political danger’ as an axiomatic truth, while the opposition try to belittle it as much as possible, reducing it almost to a negligible quantity. These extreme views seem to be the result of a misunderstanding as to the words ‘political danger’. The opposition seem to take them in the light of a rising against Government on the part of expropriated agriculturists. I think no one can be Quixotic enough to think of such a thing in these days of established rule. On the other hand, I think that the lawlessness that has generally resulted from expropriation threatens serious disturbance of public peace and tranquillity and hence is a grave political danger. As the Hon'ble Mr. Douie

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has put it, 'a landless man possessed of the energy which is the characteristic of so many of the peasants of the Punjab is likely to be a lawless man.' Dacoities and robberies of a serious nature were reported in more than one district of this province during the last year, and I believe that cases of lawlessness have shown an increase nearly proportionate with the increase of expropriations. Some of the more daring among the dacoits have been known to say, when they have accidentally come in contact with agriculturists, that they meant no harm to them, but only wanted to avenge their wrongs on the money-lenders. The destruction of the account-books of money-lenders' records in several places indicates clearly the source of discontent among expropriated zamindars, and, if further evidence be wanted that the lawlessness to which I have referred is partly due to agricultural discontent, the following facts may be considered :—

- (1) among the lawless bands are agriculturists of all classes, Hindu Jats, Sikhs and Muhammadans, and their common victim has generally been the money-lender, no matter to whatever class he may belong ;
- (2) in villages where the greed for land among non-agricultural classes has not marred the harmony prevailing between money-lenders and agriculturists, but little lawlessness has been observed ;
- (3) there are, to my knowledge, many villages throughout the Punjab where, owing to the relations between the creditors and the agricultural debtors being harmonious, money-lenders advance money to the agriculturists on simple ledger accounts and bonds, without security, and in such villages dacoities of the character alluded to above are almost unknown.

"The safety of the money-lenders themselves and the maintenance of public peace and tranquillity therefore demand that the causes which turned the sturdy peasants from friendly and peaceful neighbours of the money-lenders into their determined enemies be minimised. This Bill, it seems to me, makes an effective attempt in the required direction. As Mr. W. S. Talbot, the Settlement-Collector of Jhelum, observes, 'it will serve, in time, to re-establish the mutual confidence which existed between the money-lender and his client a generation ago because the Bill removes the motive for most of the trickery of which the zamindar is at present too often the victim.'

"I now pass to a consideration of the objections that have been urged against the enactment of the measure. They may be divided into two general

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heads: *first*, those raised on general grounds of the legislation being unprecedented and against the principles of political economy, and involving an undue interference with proprietary rights; *secondly*, those professing to be advanced in the interests of the peasants themselves, for whose benefit the measure has been introduced.

"Before dealing with other objections let us see if this legislation is unprecedented. A glance at the ancient history of India will show that the policy of Hindu lawgivers of antiquity was to keep intact the right of the members of every profession to ply their trade without interference by others, and the Brahmin and the Kshatria were not expected to till the soil. The division of the Hindu world of India into four castes, and the jealous guard with which the Hindu law has maintained this distinction from time immemorial, clearly show the importance attached to keeping every section of society to its proper task, and the present legislation in a way emphasises the same recognised principle. In the Punjab, even up to the present day, a Brahmin and a Kshatria taking to agriculture are looked down upon by their fellow Brahmin Kshatrias, and in Kangra and other hill tracts I have known *halbah* (agriculturist) Brahmins being almost outcasted and denied the right of intermarriage with Brahmins confining themselves to their proper occupation. Similar restrictions have not been entirely unknown in Muhammadan law. The Caliph Omar prohibited his Arabian followers from possessing and even acquiring land in Egypt, leaving it solely for the *fallahin* (peasants). Subsequent religious leaders of Islam recognised this principle for a long time. Even the British Government does not allow its British-born subjects to acquire land in the Native States of India, except by special permission, for reasons which it is needless to discuss here.

"Coming to the other technical objections, we find that they proceed either from officials who judge the measure by the test of abstract principles based on the peculiar conditions of the West and not fully suited to the requirements of this province, or from non-officials with modern education bringing their knowledge of the works of Fawcett and of Mill to bear on the hard facts of agricultural indebtedness and expropriation as existing in the Punjab. To the theoretical economist, an answer may best be given in the words of the Hon'ble Mr. Tupper: 'that laws should everywhere be suited to the existing condition of society.' Mr. Tupper rightly holds that the condition of society which existed in the Punjab before annexation was 'prae-feudal tending to feudalism. That condition of things has been deeply and widely modified by fifty years of British rule; the present condition of society is an amalgam of indigenous ideas and institutions imported from a country that was centuries in advance of what the Punjab

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was before our day. Is it likely that the laws and institutions of an advanced Western community will be suited to a complex state of society produced by this fusion of things old and new? The presumption seems to be the other way. The real point appears to be—is the Bill suited to the complex state of society now existing in the Punjab? If we can answer this question in the affirmative, the interest of other points in discussion of the principle of the measure is perhaps more academic than practical.' Mr. H. A. Rose also points out that Europeans are accustomed to a social organisation of a certain kind, while the village-system of India is the very opposite of the English system, and goes on to observe: 'England is industrial, not agricultural, and a vast industrial population can exist under conditions which would be disastrous if suddenly forced upon this country. One can only view with concern an India of the future in which the village as an organisation will have given place to a large estate, cultivated by tenants-at-will or by labourers under a landlord of a trading caste.' The next objection is that the Government is going unduly to interfere with the private rights of its subjects and robbing them practically of the proprietorship of their land. No sensible man honestly can hold, however, that the Government means anything of the kind, after having recognised the full proprietary rights of the agriculturists over their lands. I am glad to declare, as a member of one of the dominant agricultural tribes in the province and voicing the agriculturist masses of the Punjab, that the loyal peasantry of the Province have a deep and firmly rooted faith in the benevolent and good intentions of the British Government, which cannot be easily shaken. Efforts to shake it were made in some quarters at the beginning of the agitation against this Bill, and these led to some misapprehension on this score among a small portion of the agriculturists themselves; but it is coming to be universally recognised among them that it is not proposed to absolutely prohibit the alienation of land, but that only certain restrictions are proposed to be placed on it in the interests of the cultivators themselves. Even the existing laws of the country furnish precedents for restricted rights of alienation, as an official with considerable experience of revenue and judicial work remarks: 'the Punjab customary law as judicially ascertained places severe restrictions on the power of alienation. To state the case moderately, it gives an agriculturist's immediate agnates in certain cases the power to set aside, as against themselves, a wanton alienation made by him. The practical effect of this custom cannot be overlooked. In passing a Bill like this, Government is not introducing any new principle.' Mr. R. Sykes, the Director of Land Records and Agriculture, puts this very argument more forcibly still when he says:

'The general tendency of recent judicial decisions has been to make the alienation of land more and more difficult. A son or an agnate may contest an alienation made by

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his father or collateral unless made for the strongest necessity; an alienation by a widow is even more liable to be set aside by the Courts. The proposed Bill is only carrying this principle to a certain and definite conclusion, and, if it becomes law, it will prevent much useless and vexatious litigation.'

"The restrictions on the disposal of ancestral property placed by Hindu law and the limiting of the right of bequests in favour of persons other than legal heirs in case of a Muhammadan to one-third of the whole property, are instances of absolute ownership being denied to people by their personal laws in the interest of their heirs.

"The objections professing to be advanced in the interests of the agriculturists themselves deserve a more serious consideration. The most important of these seem to be that in our anxiety to protect the zamindar we may not make things too hard for him by unduly reducing the price of his land and by diminishing his credit and his capacity for borrowing to the extent of rendering it difficult for him to meet his unavoidable wants. I must confess that, while fully realising the extent of agricultural distress in the Punjab and the corresponding need of some practical remedy for its amelioration, I myself had in the beginning strong misgivings on this score, when the Bill was introduced in its original form. When I had the honour and the privilege to be invited to share the deliberations of Your Excellency's Council on this Bill, I determined to draw the attention of the Council to the consequences likely to result from the Bill, in the direction of dangerously curtailing the credit of the zamindar and reducing the prices of land—disadvantages which would possibly have counterbalanced, if not outweighed, the advantages contemplated by the Bill. One remedy to counteract the disadvantages apprehended was to place no restrictions on interalienation among persons belonging to agricultural tribes throughout the Province. This, to my mind, appeared to be a sufficiently effective provision for keeping up the prices of land as much as possible. If this were done, the prices of land would be but imperceptibly affected. With regard to this the Select Committee have arrived at a compromise. In the amended Bill the formality of the sanction of the Deputy Commissioner in cases in which it was to be given as a matter of right has been dispensed with, and it has been decided to form groups of agricultural tribes living in a district or adjoining districts among whom interalienation may freely go on. As the limit prescribed in the original Bill, that the intending alienor and the alienee must belong to the same tribe in the same district, has been modified, and as it is not often that an agriculturist comes from one corner of the Province to purchase land in the opposite one, I think that the market for the sale of land has been rendered considerably wider than was originally proposed, though not as wide as I desired to have it.

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I may be permitted to observe, however, that the success of this arrangement will largely depend on the judicious grouping of agricultural tribes so as to allow them every reasonable facility for dealings among themselves, and I have no doubt that under the wise guidance of the Hon'ble the Lieutenant-Governor the grouping will assume the elasticity it is desirable to impart to it. In the beginning the effect of the comparative narrowing of the field of purchasers of land may be a slight diminution in its market-value; but this temporary loss is more than counterbalanced by the advantages that will accrue from the Bill, in the form of the retention of land by those whose ancestors have been making their livelihood by tilling the soil, and who are therefore more attached to it than persons newly acquiring it can possibly be. It should not also be lost sight of in this connection that even at present it is very seldom that the zamindars get the full value of their lands when selling to those to whom they owe money. As Mr. W. S. Talbot points out, 'the seller of land under present conditions seldom touches its real value, the sale being generally in satisfaction of an old debt with accumulated interest'. Moreover, the prices stated before the Registrar in a large majority of cases are bolstered up to defeat the rights of agricultural pre-emptors. Now that the non-agriculturists are to be restricted, so far as possible, from the acquirement of land, the motives for adding false sums to the amount really paid will be reduced to a considerable extent.

"Considerable elasticity, as compared with that allowed by the provisions of the original Bill, has been given to the right of the peasant to temporarily alienate his land in order to meet the requirements of his everyday life. It has been decided to allow him to mortgage to a fellow tribesman or a member of the same group of agricultural tribes in any form he likes, except by way of conditional sale. He has also been allowed to mortgage to non-agriculturists, in the three forms prescribed in the amended Bill, the third form, namely, that of a written usufructuary mortgage by which the mortgagor recognises the mortgagee as a landlord and himself remains in cultivating occupancy of the land as a tenant subject to the payment of rent at the fixed rate, being an addition to the previous draft of this section. The addition of this form obviates to a large extent difficulties as to the obtaining of small loans for private and family purposes, in addition to purely agricultural needs for which the peasant would require to be helped by Government more generously than before in peculiarly hard times. As a safeguard it is provided that if the mortgagor is dispossessed the mortgage shall be converted into one under form (a), and this meets most of the objections raised against the addition of this sub-section in the amended Bill.

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"Another objection advanced in the interests of the agriculturist himself is that he will not be materially better off than he now is, as his land will be taken away from him all the same, though by his richer tribesmen instead of by the money-lenders, and that thus a class of monster agricultural fishes will be created to swallow the small agricultural fishes. But I contend that, if we have to choose between the alienation of land in favour of agriculturists and that in favour of money-lenders, the former is decidedly the lesser of the two evils. At present all the agricultural fishes, big and small, are being swallowed by the money-lending big fish, while the smaller agricultural fish are the prey of both money-lending and agricultural big fishes; but under the new law the number of the swallowing fishes will be reduced, and the alienors will realise the real market-value of their land when selling to their agricultural brethren, instead of disposing of it for sums of which accumulated interest and compound interest form a main part. Besides, anyone conversant with agricultural affairs in this Province cannot have failed to observe the marked contrast presented by the treatment which expropriated agriculturists receive at the hands of their landlords according as they happen to be their fellow tribesmen or non-agriculturists. The former show every sympathy with these agriculturists in times of need and distress, freely open their granaries for the maintenance of these dependents if they find them starving, and either help them with seed gratis or give them seed-grain on condition that exactly the quantity borrowed may be repaid on harvest. Such is not, however, the liberality with which non-agricultural landlords treat those whose lands they occupy.

"It was the devotion of the big landlords, the natural leaders of the people, to the cause of the British, that proved a valuable source of strength to our Government during the stormy days of the Mutiny; and though circumstances have materially changed since 1857, and the vastness of the resources of the British Government has strengthened its prestige, while its just administration has created for it a place in the hearts of the people unparalleled in the annals of India, so that the possibility of its requiring the services of the leaders of the Punjab peasantry is now more than remote, yet the value of a contented and grateful agricultural population, ready to obey the call of duty in the service of their Queen and country, can hardly be overrated.

"A provision in the original Bill which elicited the greatest opposition from the money-lending classes was the one declaring all previous and future mortgages by way of conditional sale null and void, leaving the mortgagee to apply to the Revenue-officer for a usufructuary mortgage. The abolition of this form of

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mortgage was, however, urgently called for. The conditional sale has for years past been the form of alienation coveted most by the money-lenders and considered the surest and easiest way of ousting agriculturists from their lands. The number of mortgages by way of conditional sale had of late been assuming alarming proportions. In 1894-95 their number was 4,857, in 1895-96 it increased to 6,626. But during the famine year of 1896-97 it went up enormously to 12,377. In 1897-98, though there was considerable relief from famine, it kept as high as 8,008. The frequent resort to this form of mortgage was commented upon year after year in official reports, and the necessity of abolishing it has at last been brought home to the Government. All Judicial and Revenue Officers consulted are agreed on the undesirability of *bai-bil-wafa* continuing in future. It may be added in this connection that I have ascertained that the Muhammadan law does not permit contracts of this nature, and that even in the Hindu law I have failed to find any sanction for them, so far as my own limited knowledge of it goes.

"There have been some differences of opinion, however, as to interfering with previous mortgages by way of conditional sale, non-interference with which has been advised by some on the ground that it is not desirable to give retrospective effect to the law. But at the same time there were those who considered the iniquity of a contract by way of conditional sale sufficient to justify its being set aside and suggested that at least the condition operating by way of conditional sale should be omitted, allowing the rest of the mortgage to stand or be changed into one of a usufructuary nature. Mr. Justice Clark, Chief Judge of the Punjab Chief Court, advised that 'the conditional sales both prior and subsequent to the Act be made null and void'. Mr. Justice Gordon Walker noticed 'with special approval the proposed abolition of that iniquity, the mortgage by way of conditional sale'. Mr. Rose said :—

'It seems only reasonable to extend this provision [section 6 (2)], to mortgages by way of conditional sale effected before the Act is passed. The principle "once a mortgage always a mortgage" is a well-established equity doctrine which Regulation I of 1798, was never intended, I believe, to override, though as judicially interpreted it has done so in a peculiarly drastic way. The Courts will be able to deal with existing deeds of mortgage by way of conditional sale on equitable principles.'

"The Committee has adopted this view with some alterations and decided to leave the mortgagees under the existing *bai-bil-wafa* deeds in the condition in which it finds them, that is, mortgages with the condition of *bai* struck out, or mortgages in forms (a) and (b) recognised by the Act. This amendment has been generally accepted by many critics of the Bill to be a very fair arrangement

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to both parties ; but there are still some who wish to push their objections to retrospective effect to their full logical conclusions, and desire us to leave all past contracts, of whatever nature they may be, absolutely uninterfered with. My answer to them would be that we are striking out the condition of *bai-bil-wafa* as it was a device to defeat the provisions of another existing regulation. I can say, from personal experience of judicial and settlement work for over forty years past, that before the year 1870 *bai-bil-wafa* contracts were almost unknown in the Punjab, and it is since the promulgation of the order that no decree of a Civil Court for sale of land should take effect without the previous sanction of the higher Revenue-authorities that the *bai-bil-wafa* has been resorted to, when it was found that such sanction was hard to obtain. By this device the necessity of going to the Financial Commissioner was obviated, and the Courts had no option but to declare the mortgage as foreclosed on the expiry of the term after which the sale was to become absolute under the provisions of the Regulation (No. XVII of 1806). A world of mischief has been done by this form of contract, and every year's statistics have brought to light an increasing number of these mortgages and their foreclosures as the easiest means of depriving the poor peasant of his land.

" My Lord, it is a well known fact that the British law in England as well as in India is based on justice and equity, and it is to the principles of equity that contracts like the *bai-bil-wafa* are most repugnant. The saying of an eminent English authority on law, I think it was the late Lord Russell, occurs to my mind in this connection. His Lordship said that 'the duty of a judge is to find out what is the rule which people of candour and honour and fairness in the position of the two parties would apply in respect to the matter in hand. The law of England is not a science ; it is a practical application of the rules of right and wrong to the particular case before the Court. That is the common law of England and there is no other law.' The same may be said of the laws which have been made applicable to, and are enacted for, the benefit of this country since the British rule. With Your Excellency's permission, however, I beg to lay on the table authenticated copies of deeds connected with a *bai-bil-wafa* contract, hundreds like which have been entered into in this Province, and ask the opponents of the Bill if equity demands the ratification of such a contract or if its terms are in accordance with 'the rule which people of candour and honour and fairness in the position of the two parties would apply in respect to the matter in hand.'

" This is a case in which a big landed proprietor was sued by his creditors for Rs. 67,190 on account of loans given from time to time, together with interest

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thereon accumulated up to the date of the institution of the suit. The case was compromised out of Court and the landed property of the debtor, amounting to more than 7,500 acres, mortgaged to the creditors for Rs. 62,000, on the condition that the latter would enjoy the produce of the land in lieu of interest on Rs. 40,000 and would charge interest on the remaining Rs. 22,000 at the rate of 12 per cent. per annum. The creditors have been in possession of the estate since 1885, and have up to this time enjoyed its produce, the value of which must be a lakh and a quarter of rupees at the lowest computation, and have now made up their account against the widow and daughter of the debtor, who has died in the meanwhile, amounting to two lakhs two thousand six hundred and fifty-three rupees, principal and interest, and wish to foreclose the mortgaged property, valued at about Rs. 4,00,000, under the condition of *bai-bil-wafa*. Such, my Lord, is the state of things in the Punjab which has necessitated the remedy contemplated by the Council, that is, the abolition of the conditional sale.

"I do not think I have a right to trespass further upon the time of the Council by referring at length to the various sections of the Bill; but I beg leave to say that it has been the earnest endeavour of the Committee entrusted with the Bill to pay full regard to the interests of the money-lending classes while protecting those of the agriculturists, because the money-lenders are a highly useful and indispensable part of the economic system of this country. The right of alienation by non-agriculturists has now been left without any restriction whatsoever, so that they can dispose of their land to agriculturists and non-agriculturists alike and have a wide market for their land, which will operate greatly to their advantage, thus leaving them no cause for complaint on this score. By extending the period of a usufructuary mortgage in form (a) from fifteen to twenty years the Committee have deferred to public opinion, and I think the period is now quite long enough to make it worth his while for a *sahukar* to lend money to an agriculturist on a mortgage in form (a). The new form of mortgage in form (c) also is one which makes things favourable for the lender. On the whole, I think the Bill as amended cannot be regarded as unduly hard on money-lenders while it allows reasonable liberty to agriculturists.

"Before closing, I beg leave to take this opportunity, when the circumstances of the Punjab zamindars have the good fortune of receiving attention at the hands of the Government, to express the earnest hope that the Punjab Government and the Government of India will take into early consideration the position in which the zamindars will be placed when this Bill becomes law. Though the Land Alienation Act will eventually tend to ameliorate their condition, will make them comparatively thrifty under the present reduced chances of indiscriminate borrowing and the

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reduced temptations for indiscriminate lending on the part of the *sahukars*, and will diminish litigation and thus reduce one of the chief drains on the purse of the peasantry, yet it cannot be denied that with all the elasticity the Government have tried to impart to this law, it will operate to a certain extent, at the outset, to the inconvenience of the agriculturists.

"It is clear enough that, in spite of the manifest displeasure with which the money-lending classes have generally viewed this piece of legislation, it will not stop money-lending business. Some of the *sahukars* in large cities may be in a position to afford to divert their money to industrial channels advantageous to themselves and to the prosperity of the country, but the majority of them, especially the village-lenders, will find no better outlet for their money even under the new law. But it is probable that in several places they may form leagues, for some time at least, to refrain from helping the agriculturist. This would necessitate the adoption of certain measures by the Government to prevent any such coalitions from defeating the aim of the legislation in hand. For this purpose I venture to make three suggestions which, combined with the effects expected from this Bill, are calculated, I think, permanently to set at rest the problem of agricultural indebtedness in the Punjab.

"First of all, I would suggest a more liberal grant in the form of *takkavi* and remission of revenue. The *takkavi* might not only be distributed on a more liberal scale, but the arrangements for its distribution might be so improved as to remove the difficulties which have now to be experienced by an agriculturist in getting the *takkavi* money. As to remissions, it has been suggested by many experienced Revenue-officers, and very wisely, that suspensions of revenue should be replaced by more frequent remissions. I support this suggestion not because I think the assessments of land-revenue are particularly heavy. On the contrary, I can say, as a landowner knowing the feelings of many agriculturists, that assessments are generally reasonable and based on justice, and that the peasant should, in fairness, be prepared to bear the burden of revenue in a bad year when he reaps the advantage of a bumper harvest. As the Punjab peasantry, however, are not provident enough to lay by for a rainy day, and have to incur debts for payment of revenue in bad years, which prove so ruinous, and as in case of suspensions of revenue their condition is worse on account of the accumulation of Government dues, I think every form of relief meant for them might with advantage take the shape of remissions of revenue.

"The second suggestion I have to make relates to the institution of stock notes and the opening of agricultural banks. The first part of it will be

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found comparatively easy to manage. The zamindars may be given the opportunity of investing their small savings, whenever they are able to make them, in Government stock notes of, say, from Rs. 5 to Rs. 100, and thus may be furnished with an inducement towards thrift. The notes and the interest thereon may be received in payment of the Government dues. With regard to agricultural banks, however, the question is, I admit, fraught with difficulties, but it is evident at the same time that those difficulties will have to be faced if the problem of agricultural indebtedness is really to be solved. I have studied the method of working such banks in some other countries, and I think the system may be given a trial here. I have a plan in mind, by which the system may be tried without incurring the expenses of a separate department, working as the banking agency, which seems to have been the chief difficulty in the way of agricultural banks being started in India. The agency may be entrusted to respectable *sahukars*, selected by District and Tahsil Officers and prepared to furnish security to the extent of the amount of money placed in their charge, and to accept a certain percentage of the sum disbursed through their agency as compensation for their pains. They may be instructed to lend money to agriculturists at six per cent., and to submit their accounts to their respective tahsils, so that the money may be realised back with the revenue-demand at harvest time. Further details can be suggested, if the Government thinks it worth while to try this plan.

“The third suggestion is the most important of all. I have observed that in almost every district the fear of possible enhancements of land-revenue deters agriculturists from improving their land, and cases have not been unknown in which periods immediately preceding settlement-operations in a district have been marked by efforts to deteriorate the productive power of land. In the interests of agricultural prosperity, therefore, I would have advocated permanent settlement for the Punjab had I felt convinced that revenue-assessments in this Province have reached a stage beyond which they cannot be expected to rise. I think that, if it be possible to confer the boon of a permanent settlement on the Punjab without any serious loss being apprehended therefrom to the interests of Government, there is every likelihood of the multiplication of agricultural improvements in the Province and increased interest on the part of agriculturists in enhancing the productive power and increasing the facilities for the cultivation of their lands, and thus minimising the injurious effects of frequent famine. The granting of this boon would, I am sure, tend to strengthen the ties of affection and loyalty, uniting the peasantry and the Government. But, as I do not think the time has come to permanently settle the assessment of land-revenue for the Punjab, I would most respectfully urge the necessity of at least extending the period

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intervening between two settlements to thirty years, instead of twenty years, as is now the case. The settlement-operations in a district last for about five years, and as long as they last they are a source of great inconvenience to the zamindars. Not only are improvements of land retarded for the time being, but the continuance of the operations means a deal of expense and labour to the peasants, and they have but a short breathing time before another settlement comes round. I know of districts which have had as many as three settlements during the last fifty years and in which the total period occupied by settlement-operations amounts to seventeen years. It is, therefore, my firm conviction that the extension of the interval between one settlement and another is urgently necessary.

"Reverting to the Bill, I think that the Bill, like all other human measures, cannot lay claim to absolute perfection, but, in view of the urgent necessity which clearly exists for taking some step in order to remedy a crying evil, it seems to me to be one which eventually will prove most beneficial to the agricultural class in this Province, a section of the community who have always been recognised to be the backbone of the British Indian Empire. I beg, therefore, to congratulate Your Excellency and the Council at having arrived at conclusions which may reasonably be expected to give general satisfaction."

The Hon'ble MR. FANSHAWE said:—"My Lord, the remarks upon the general bearings of the Punjab Land Alienation Bill with which I shall trouble the Council will be very brief.

"From the days of the three famous Roman Tribunes dead now two thousand years ago in the cause they championed to the date of the Irish land reforms of Mr. Gladstone, the angry echoes of which have hardly yet died away, agrarian legislation has been a subject so exceptionally thorny to handle, that a shadow of evil omen has become attached to the term in ordinary parlance; and the legislator or critic who would speak of the present Bill in terms of unmeasured praise or unmeasured blame must be very much more bold or very much more experienced than I should dare profess to be. I may be permitted perhaps to say that, whereas some years ago I slowly came to the conclusion that the questions with which the present Bill attempts to deal must be faced and grappled in view of the very grave evils and attendant difficulties with which we were confronted, I have always been, and still am, wholly opposed to any interference with the free exercise of proprietary rights which can possibly be avoided consistent with securing the objects which the stress of circumstances compels us to attain. It so

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happens that, while I was intimately connected with the early stages of the discussion of this question in the Punjab commenced now some twelve years back, I was absent from India while the final searchings of heart which led to the present Bill took place; and I own that when I first read its provisions I was disposed to think that they were possibly more drastic in some respects than was perhaps really needed. The opportunities which I have now had of restudying the question and of considering it in all its details have corrected this opinion: and, while I have become more convinced than ever that the matter must be faced, I am satisfied that the provisions of the Bill as now amended are necessary to effectually attain the object in view, while they will not unduly restrict the reasonable freedom of the proprietary rights of the landowners of the Punjab.

"It has been asserted that the present measure is one of an entirely novel class of legislation. This, however, is not by any means altogether the case. Apart from such Acts as the Dekkhan Agriculturists' Relief Act and various Acts dealing with encumbered estates, all Indian legislation in the direction of securing the occupancy-rights of old established tenants of land has been legislation limiting the rights of owners of land, and, as the Hon'ble Nawab Muhammad Hayat Khan and others have pointed out, many such limitations have been imposed by case law. Again, it has been asserted that an unrestricted proprietary right existed in India before the definite grant of this boon by the British Government. But this, too, is not, strictly speaking, what was actually the case in practice, at least in the Punjab. What did exist before annexation here was a limited proprietary right, restricted by family custom and by State interference, which was freely exercised when this was considered desirable. This is still the case for the most part in the Native States of the Province, and it cannot be pretended that the practice has grown up in them since 1848. Yet again it has been contended that Government, having for so long waived any claim to interference in the full proprietary rights conferred by it, is debarred in equity from interfering now; but the assertion upon which the contention is founded is entirely opposed to the fact that from early days since the annexation of the Punjab the sale of agricultural land by order of a Civil Court has been forbidden without the consent of the Collector of the district and the sanction of the Commissioner of the division or of the Financial Commissioner, while it is a fact that though this consent has been refused in at least 95 per cent. of the applications made for it, that has not prevented money-lenders from advancing lakhs of rupees on the land, even without having recourse to the evasion of rule and practice in this respect secured by obtaining mortgages with a clause of conditional sale. It must not be forgotten that the gift of unrestricted proprietary right by the British Government was made as a great concession in order that the land-owners might benefit by it. Now, by

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an irony of fate not uncommon in the East, we find that the benefit of the concession is not secured to them, and we consider it necessary to correct this solely in the interest of the landlord, and in no wise for any direct gain to Government. That the credit of the land-owner will be restricted by this Act is an undoubted fact, for it is to attain this very thing in reason that it is proposed; but we know from experience of the Dekkhan Agriculturists Act that such restriction of credit has encouraged thrift and enterprise in a remarkable way, and we know from our experience of our occupancy-tenants and of the Native States of the Punjab, where the alienation of land is subjected to very severe restriction, that in these conditions agriculturists can exist with reasonable credit for all reasonable purposes, and that money-lenders continue to pursue their legitimate business. I may mention also as an interesting fact that the District-officers of the Delhi Division are of opinion that the overhanging shadow of the present measure during the late famine and distress, now happily passed away, has not had any material effect upon the credit of those who were able to secure crops, and that persons have been able to maintain their ordinary relations with the village money-lenders upon the credit of their crops. This is what we desire to see everywhere; and I would fain hope that the above experience may prove a good omen to our Bill.

"Taking all the circumstances of an extremely difficult question into consideration so far as it is possible for finite intelligence to do so, I would venture to express the view that we may look forward with quiet confidence to the working of this measure, as now widened and simplified, and may reasonably hope that it will prove as successful as any such measure, professedly tentative in some respects, can be expected to be, and will be accepted as in no wise essentially unfair by both the great classes of the Punjab people who will be directly affected by it."

The Hon'ble MR. TUPPER said :—"As I have been closely connected with the progress of the present measure in its different stages during the past four years, I am anxious, with Your Excellency's permission, to take this opportunity of explaining why it has my hearty support.

"The reasons for adding to the already existing restrictions on the transfer of agricultural land in the Punjab are both political and economic. While I admit the force of the economic reasons, which have been fully explained today by the Hon'ble Member in charge of the Bill and by the Hon'ble Nawab Muhammad Hayat Khan, I wish to say that it is the political reasons which have most strongly influenced my judgment in this important matter.

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" Here, as often happens in India, the political argument is in a measure an historical argument. It is what I have gathered during the course of my service concerning the political and administrative history of the Punjab that has convinced me of the political necessity of some measure of the present kind.

" The written history, the traditions, the existing tenures and the social institutions of the Province combine to suggest the probability that before any authentic and continuous narrative becomes possible the plains of the greater part of the Punjab were peopled by fairly compact immigrant tribes who either occupied the waste or drove out or subjugated previous inhabitants and possessed themselves of the land, practically as its masters, much in the same way as, within historical times, the Bannuchis, the Marwats and the Darwesh Khel Waziris possessed themselves of most of the Bannu District, and the Yusafzais, Muhammadzais, Khalils, Mohmands and Daudzais established themselves in the Peshawar Valley. When the Delhi empire fell to pieces and in the Punjab the confusion consequent on its ruin was worse confounded by the successive irruptions of Nadir Shah and Ahmad Shah Durani, many of the tribes of the Western Punjab asserted an independence similar to that with which we are familiar in the case of the Afridis and the Orakzais. Amongst these independent tribes I may instance the Gakkhars of Rawalpindi, the Janjuas of Jhelum and the Sials of Jhang. By this time also the Sikh *misls*, which were in origin predatory bands like those of the Pindaris, were acquiring or had acquired political and territorial power. The independent tribes came into conflict with the now formidable Sikh *misls*, and the *misls* in their turn were incorporated in the vigorous army and the tolerably well consolidated kingdom of Maharaja Ranjit Singh. In the Eastern Punjab the history was rather different. But in the border land between the Sikh and the Mahratta Powers strong Jat villages frequently defied all authority; and the Sikh *misls*, as in the Central and parts of the Western Punjab, acquired dominant authority in the country between the Sutlej and the Jumna. The composition of the Sikh *misls* is somewhat obscure, and the *misls* certainly often included men other than those belonging to the dominant clans; but I think I may safely say that the *misls* were mainly recruited from Jats, that is, from men of those very agricultural tribes thickly clustered in the Central Punjab whom it is an object of the present measure to maintain in the enjoyment of their ancestral lands.

" Now, one result of all the history is that we still have the lands of the Punjab plains held largely, though not exclusively, by tribes of bold traditions and high spirit, whose courage and love of adventure commands the hearty sympathies of

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men of our race, but whose inherited qualities, formed in times of war and depredation, are far better suited to success in the field of battle than in the Courts of law. No one wishes men of this type, whose courage in our cause has again and again earned our gratitude, to be dispossessed of their ancestral lands. I say no one advisedly, for I do not believe that even the trading classes, who, by the undesigned effects of our system, are being drawn into the possession of some of these lands, really themselves desire the social revolution which would ensue if we did not interfere to check that process while there is still time to check it with effect. The insidious danger with which the old dominant agricultural tribes are threatened under our rule is not, I think, due to any deliberate design or wish to oust them from their possessions, but to the scope allowed to perfectly reasonable commercial instincts from the time when law and order superseded the anarchy and turbulence of former days. And these commercial instincts, even though they do not evoke enthusiastic sympathy, we, who belong to a pre-eminently commercial nation, can regard at least with justice and respect.

"In truth the contest between the agricultural tribesman and the money-lender for the sources of wealth which have been so enormously developed in the Punjab during the last half century seems to me to have been quite inevitable. It has been suggested that the present legislation is revolutionary in character and unsuited to the social conditions which exist in the Punjab. I venture to think that the converse is true. The object of this Bill, as I understand it, is to avert a social revolution, not to create one. The Bill is conservative of the possessions and status of the classes who were dominant before our day and still represent by far the most important political forces which we have to take into account in this part of India. It has been cautiously devised by the co-operation of many authorities to suit the peculiar social conditions which have followed upon the regular working of British Law Courts in what was once the kingdom of Ranjit Singh.

"It would be possible to take this Bill clause by clause and show how each is intended to harmonise either with the rural economy of the Punjab at large or with the administrative system which we have established there. I do not propose to occupy the time of the Council with any such detail; but we may take as an illustration a main principle of the Bill, namely, that as between certain classes permanent transfers of agricultural land shall be allowed only with the sanction of a Revenue-officer. Restrictions on the transfer of land are, as my Hon'ble friend Nawab Muhammad Hayat Khan and the Hon'ble Mr. Fanshawe have pointed out, no novelty in the Punjab. There were administrative restrictions dating from 1850,

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referred to by His Honour the Lieutenant-Governor in paragraph 6 of his memorandum on the proceedings of the Simla Committee of 1898, of which the object was really the same as one object of the present Bill, that is, to prevent the transfer of land to strangers unconnected with the village-community. There are still the restrictions, arising out of the claims of reversioners under the customary law. There are the restrictions, which in cases affecting certain classes we are about to make absolute, on the sale of agricultural land in execution of decrees. All these restrictions have failed for various reasons to avert what some of us have at length, after fifty years of British rule, been convinced that it is most necessary to avert—I mean a direct though never-desired and never-intended consequence of the establishment of that rule on the position of the old agricultural tribes.

"The early administrative restrictions took their later form in the law of pre-emption. That law in itself was insufficient,—for this reason amongst others, that it deals with the issue perceived by the first administrators of the Punjab, the issue between the village-community and the outsider, and does not deal with the much wider issue now seen to have been developed—that between the trading classes and the old agricultural tribes. Moreover, that law, as it has come to exist, actually admits the outsider whom it was the original intention to exclude. This defect will, I hope, be shortly remedied by a Pre-emption Bill to be introduced in the Punjab Council, partly on its own merits, and partly as being supplementary to the present measure. The customary law relating to the claims of reversioners is wholly insufficient, both because its action depends on the interests and even the caprice of individuals, and because, while alienations may be made in case of necessity, necessity has been held to exist is money if wanted for just debts. Finally, the Punjab rules as to sales in execution of decrees have been evaded by resort to mortgages by conditional sale. I do not pretend that the step we are now taking is not a momentous one; but to my mind it seems just as much a natural consequence of the administrative history of the Province as the retention of the zamindar in the possession of his ancestral lands is a political necessity arising out of its political history. Restriction after restriction has either missed its actual mark or has otherwise failed to secure that retention. Is it not at least reasonable that we should now intervene, and that in the directest fashion by the present legislation?

"As to temporary transfers, if the mortgagor is not a member of an agricultural tribe, or if he is such a tribesman and the mortgagee is a member of the same tribe or of a tribe in the same group, there is no change in the law except in so far as the Bill gives power to determine what bodies of persons shall be

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deemed to be agricultural tribes. In other cases we have been guided by experience in selecting for adoption those forms of mortgage which are believed to be least harmful to the agricultural debtor; and because some forms of mortgage and conditions of mortgages not recounted in the Bill may nevertheless turn out to be innocuous, we have guarded the position by enabling the Local Government to add to the forms of mortgage and conditions so enumerated. This is one of the many precautions we have taken to ensure that the Bill shall not jar with the common customs of the peasantry.

"Lastly, I wish to express my concurrence with some of the remarks of the Hon'ble the Nawab in regard to the trading classes from whom most of the opposition to this measure proceeds. I agree in the assertions made by him and in some of the papers connected with this Bill as to the important and useful place which the village money-lender occupies in the agricultural system of the country. I hope and indeed believe that the more enlightened members of the trading classes, all of whom have benefitted enormously by British rule, will recognise that in the present legislation there is neither any hostility to them nor any disregard of their just rights. We do not indeed wish them to supplant the zamindars, and so far as we can we intend to prevent their doing so. But we mean that the zamindars shall pay their just debts; and I have heard to-day with much satisfaction that measures are in contemplation which will enable men of the trading classes,—or indeed of any class,—who hold decrees in their hands, to get their money for them more easily than is often the case now. I would repeat here the remark that I have made elsewhere that a far-reaching measure of the present kind is the more likely to succeed if it does injustice to nobody. It is not, in my opinion, in any way unjust to the *sahukar*. It leaves open a wide field for the investment of capital in the customary way in mortgages of a suitable description—mortgages which do not need the sanction of any revenue-authority but are necessarily subject to the essential condition that the mortgagor who is a member of an agricultural tribe shall not be permanently dispossessed. Is it too much to ask the *sahukar*, who owes so much to law and order and improved communications and the assistance of the Courts, to be content without the permanent possession of lands which are in the hands of their ancestral proprietors a strength to the State, but would be in his hands a danger to himself, even sometimes as it is, and more certainly and widely should the law and order on which his tenure depends be at any time temporarily interrupted? The permanent transfer of the ancestral lands of the agricultural tribes to the trading classes does no good whatever so far as I can see, not even economic good, for the agricultural tribes are the better agriculturists: and on the historical and administrative grounds which I have explained I heartily rejoice that Government has determined as far as possible to put a stop to it."

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The Hon'ble KUNWAR SIR HARNAM SINGH said :—" My Lord, I have already expressed my opinion with regard to the main provisions of the Bill to amend the law relating to agricultural land in the Punjab. The alterations made by the Select Committee, though extensive, have not removed the objections I preferred. My views regarding the principle underlying the Bill, and some of the drastic changes proposed to be made in the existing law, remain unchanged.

" It is quite clear from the motions on the notice-paper for the day that the Government has definitely made up its mind to pass the measure in spite of the representations that have been made against it by many of those who have a thorough knowledge of the agricultural conditions of the Province. Under such circumstances, I feel that it may be vain to make any further representations on the subject. As I am unable, however, to give my support to the present legislation, duty to Government and the people impels me to raise again my humble voice against the proposed measure in the hope that some at least of the amendments I intend to propose may be accepted, in deference to strongly expressed public opinion on this vexed question.

" Some of the most eminent officers of the Government do not feel sure as to what will be the ultimate effect of the measure. They are extremely doubtful as to its beneficial results. Even one of the most experienced officers, who is in favour of the proposed arrangement, has been obliged to admit that 'this Act will have an immense effect on the dearest interests of the agricultural communities to which it is applied, and it is impossible to tell what its ultimate results will be.' This is an admission in effect that a big leap is being taken in the dark, and circumstances, hitherto quite unknown, will determine whether the changes proposed to be made will be beneficial or baneful to agricultural communities which will be affected by them. The British Government has always been distinguished for discrimination in its legislative action, and nothing has hitherto been left to chance or accident to affect the character of its deliberate legislation, and I am unable to understand why in the present instance the legislative policy of the Government should be entirely altered.

" Political necessity has been urged as an extraordinary ground for this extraordinary measure. A well-known officer, whose opinion is entitled to great respect, says that he is not aware that an experiment like the one now proposed has ever been tried in any country, and yet the Punjab has been chosen, so far as I know, as the first country in the history of the world where such a unique experiment should be tried. It seems to me to be strange that those who speak of 'serious political danger' should not consider that, had there been the least shadow of the apprehended political mischief, such far-seeing statesmen and

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administrators as Lord Lawrence and his immediate successors would have never introduced into this Province a scheme of revenue-administration which, according to the views entertained by the advocates of the Bill, might have the effect of imperilling the existence of the British *raj* in the country. It is only within the last ten years or so that groundless fears of such a calamity have been entertained. I cannot conceive of the existence of any unprecedented circumstances which might have justified the apprehension of such danger.

"The Punjab has been uniformly loyal, and the military service which the stout yeomanry of the Province have rendered to the British Government in many a hard-fought battle has been repeatedly and handsomely acknowledged. It is mainly from the agricultural classes that these men are taken for the military service. Retiring in old age from service, they return to their village homes expecting to live in comfort and happiness, and in the free and unrestricted enjoyment of their ancestral or self-acquired acres. But, if the present measure be passed into law, they will find, to their disappointment, that their proprietary rights have been interfered with, and that their lands in which they invested their hard-won earnings have been greatly reduced in value by legislation. They will find that they have been impoverished from the most benevolent motives and from the mistaken belief that political danger will ensue if the present agricultural arrangements are allowed to continue. It will be difficult for them to comprehend the grounds of the policy pursued by the advocates of the measure. There is sure to be irritation and discontent that may cause trouble to Government, and against which adequate remedies will have to be provided.

"British prestige, I fear, will be rudely shaken the moment the trust of the people in inviolable British faith is weakened. Such a disastrous contingency cannot be too carefully guarded against. For half a century people have been enjoying full proprietary rights which have been solemnly guaranteed to them by the British Government. Relying upon the inviolable promise of the British Government, the stern, unyielding character of British justice and the inflexible laws of the country, land-owners have been freely exercising the proprietary rights conferred upon, and confirmed to, them by the Government. And now, for no valid reasons assigned, and for no fault of their own, their credit is to be curtailed and the value of their lands considerably reduced. They may fairly exclaim, what have they done to deserve this severe treatment ?

"Speaking of the free right of alienation of land-owners, Sir James Lyall, writing in 1884, said :—

'Full individual proprietary right, with power to sell or mortgage, was well established in many parts of the Punjab before the advent of the British rule... .. The second

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proposition, namely, that the people were, and still are, unfit for such gift, the vast majority being to-day almost as rude, ignorant and imprudent as they were upon the annexation of the Punjab, is much too strongly put in the opinion of the Lieutenant-Governor. It is, moreover, impossible for Government to go back from the gift made, which is in reality a necessary outcome of the development of individual rights and the gradual solution of the village communal bond; and the people themselves would not support the Government in carrying out any proposal of the kind.

'The gods themselves cannot recall their gifts.'

'I may mention in this place that when the question of the indefeasibility of the proprietary rights of the taluqdars of Oudh in the estates conferred on them by the British Government was being warmly discussed in 1864, Sir John Wingfield, the eminent statesman, who was at the time the Chief Commissioner of Oudh, emphatically asserted that—'The doctrine that it is the duty of the State to interfere to prevent the owner of the soil from doing what he pleases with it is one that Englishmen will never subscribe to.'

'His Honour the Lieutenant-Governor says that 'without the establishment of agricultural banks, or in its place an enormous extension of the system of agricultural advances by the Government, the introduction of the measure will almost certainly result in the extermination of a large number of small peasant-proprietors, and he fears that there can be no doubt that this process has already begun owing to the announcement of the Government policy.'

'The characteristic feature of the Punjab revenue-system by which a very large body of peasant-proprietors was secured to the Province will be destroyed, and agricultural land will be in the possession of a limited number of wealthy money-lending agriculturists. Considerable facilities have been given by the provisions of the Bill for the creation of this class of middlemen. The undesirability of having a powerful body of such middlemen has been abundantly proved. 'They are,' says Mr. J. A. Anderson, the Divisional Judge of the Delhi Division, 'harder on their debtors than others. I have known instances at opposite extremities of the province, namely, in Rawalpindi and Delhi, where they have been more hated for their harshness than the ordinary money-lenders. In 1892 a considerable Jat money-lender (an agriculturist) was murdered on the public road within the boundaries of his own village by a number of persons. It was believed that many of the village-people connived at the murder, and the general opinion was that the man was rightly served. In the case in Rawalpindi the money-lending zamindar was equally hated, but too powerful to be reached.'

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"Under the proposed arrangement the majority of the Punjab peasantry will be placed in dependence under these agriculturist middlemen. I would point out the gravity of the situation to those who perceive political danger in the existing agricultural conditions. In the expressive words of a critic of the measure, the Province will present the appearance, if the Bill be passed into law, of a large tract of country, filled with a small number of wealthy and powerful agriculturist landlords surrounded by an enormous number of impoverished and discontented peasantry chasing each other in the struggle for existence. It is not hard to conceive what the ultimate result of such a state of things will be in the near future. People in commenting upon the arbitrary character of the Bill have freely indulged in observations to the effect that the measure is simply calculated to rob Peter to pay Paul—to deprive small proprietors of their holdings in order to enrich a few grasping agriculturist money-lending middlemen. It is difficult to understand what useful State purpose such an arrangement will serve. Both Mr. Thorburn and Mr. Tupper, the late and the present Financial Commissioners, have drawn a glowing picture of a revenue-system which degrades men of the fighting tribes to nothing better than serfs under a class of people known as money-lenders. The picture will lose none of its colouring if we substitute agriculturist money-lenders for non-agriculturist money-lenders.

"Reports already come from several districts that great discontent has been caused by this Bill even before it has been passed into law, and that the introduction of the measure into the Legislative Council has led men to commit violent crimes against property. Lieutenant-Colonel J. A. L. Montgomery, Commissioner of the Rawalpindi Division, speaking of the sudden outburst of lawlessness in the Rawalpindi and Jhelum Districts at the end of the last and the beginning of the present year, says that he concurs with the Deputy Inspector General and the District Superintendent of Police that the sudden outburst of crime, in which dacoities are included, was due to some extent to the Land Alienation Bill which was brought to notice by organized meetings. Speaking specially of the Jhelum District, he adds that the 'Land Alienation Bill is much resented by the money-lenders and professional classes; when scarcity came the money-lenders closed their purse-strings and refused to lend money. The people were in difficulties and there were not wanting persons to stir them up and to tell them that now was the time to avenge themselves on their tyrants, and so dacoities began. In almost every case they were committed by Muhammadan zamindars led on by bad characters, and the persons robbed were money-lenders.'

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"Testimony to the same effect can be adduced from the observations made by Mr. Alexander Anderson in regard to organized crime in the district of Ferozepore. There is no evidence to the effect that the outburst of violent crime has to any extent been due to the dispossession of land by the exercise of the free right of alienation, and that such crimes were committed by expropriated land-owners; but on the contrary there is abundant evidence to prove that in several districts organized crime had its origin in the apprehension of village-bankers that the land-owners would be deprived of their proprietary rights by the present legislation and their subsequent withdrawal of credit. When such has been the state of things on the mere introduction of the measure into the Legislative Council, we may well imagine what will be the state of affairs when the measure is in full operation.

"Rawalpindi was the division in which Mr. Thorburn's investigations were carried on regarding peasant-indebtedness and the alienation of land to non-agriculturists, and his recommendations regarding a Land Alienation Bill were based upon enquiries made in this tract of country. The western districts of the Province, Rawalpindi included, are peculiarly situated. Here all the original land-holding classes and the mass of the population are Muhammadans, and the money-lenders are practically all Hindus. As a rule, the Muhammadan zamindars are not so thrifty as their Hindu brethren. They are given more to extravagance than Hindu land-owners. What I mean to say is that the results of enquiries made in the western districts ought not to be held to be a criterion of peasant-indebtedness and of agricultural distress in the eastern districts of the Province. A law of restriction which might apply with profit to Muhammadan agriculturists in the western would not necessarily be applicable to agriculturists in the eastern districts, be they Hindu or Muhammadan. There is an extraordinary similarity of customs of the different tribes in the eastern districts, and Hindus and Muhammadans, who are mostly Hindu converts, are on an equal footing as regards their usages. Such being the case, a wide distinction ought to be made in applying a far-reaching agricultural law in regard to the seventeen eastern districts and the fourteen western districts. The agricultural conditions are dissimilar, and the social habits and beliefs are different. No agricultural law, which would suit one set of circumstances, would suit the other.

"The feeling of the agriculturists of the eastern districts is in strong opposition to the proposed measure, and I venture to say that, if authentic records were collected in the western districts, the same feeling would be found to exist in that tract of the country. I can aver from my own personal experience in the

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Punjab, where I have had special opportunities of studying agricultural conditions, and also from my intimate knowledge of these conditions in a sister province, that the proposed measure would be resented by agricultural proprietors generally, to whatever class or degree they might belong. If all the memorials and representations which have been submitted to Government since the introduction of the Bill be carefully examined, it will be found that most of them deprecate the measure, and even those which give their support to the principle of the measure strenuously oppose some of the most important provisions of the Bill.

"I venture to say, my Lord, that it is questionable whether it would be wise for the Government to interpose its legislative authority to arrest the course of the natural evolution of property. Such legislative interference, to my mind, would be productive of immense social and political mischief. Individual property is being developed by a natural process from collective property, and such development is caused by various social and political circumstances. To throw back the gradual evolution of property now to its old channel would be arresting the march of progress. In the early years of British rule it was necessary in the interest of good government to maintain communal property by positive laws, and with this view in the despatch constituting the Punjab Board of Administration the officers of Government were enjoined to maintain the village co-parcenaries or communities in their integrity. But the circumstances which rendered such action necessary immediately after annexation have materially changed, and village co-parcenaries do not exist now in that strength in which they existed before. It is well known that 'at the present day, though the owners in a village remain in theory jointly responsible for the revenue, they have in most cases divided off either the whole area or cultivated area only into holdings occupied by individuals or families,' and the result has been that the alienation of land by individuals is not very extensively contested by the heirs and others entitled to contest transfers. This clearly points to the fact that individual ownership is breaking the bonds of collective ownership. The object of legislation, I am humbly of opinion, should be to regulate and not to restrain the growth of social forces. Progress should certainly be based upon order, and the march of progress should be slow but sure, and legislative enactments ought to be calculated to ensure steady advancement. Traditional ties of blood relationship, tribal organizations, village-unions, house-communities and joint families are all disappearing in obedience to a well-established law of nature, and when those ties, which at one time were considered indissoluble and which firmly knitted ancient society, are being gradually loosened, no artificial bond ought to be created to prevent dis-

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integration. Individual property is the outcome of the present order of things, and neither customary law, the artificial restraints of pre-emption nor any forced legislation will be able to retard its growth. The mark which the tribal origin of property left on customary law is being daily obliterated and individual ownership is asserting its rights.

"It has been stated that the Government should use for a political object some of the accepted principles of the customary law. 'If this be admitted,' it is said, 'it is natural to observe that the possession of their ancestral lands by the dominant agricultural tribes is defended by a double line; the first line is that of the reversioners whose right to sue for an alienation to be set aside is regulated by custom, and the second line is that of the pre-emptors whose right to restrict the vendor in his choice of a purchaser is regulated partly by the Punjab Laws Act and partly by custom.' This is a one-sided argument. It loses its force on considering that if we admit its validity there is no tangible ground for the present legislation. If laws already exist for restricting improper alienation, where is the necessity for enacting a fresh law to compass the same object? The fact of the matter is that customary law and the existing law of pre-emption are not strong enough to prevent alienation, and the proposed measure is intended to restrain alienation for the purpose of serving an imaginary political object. Such an attitude cannot be defended by far-seeing political wisdom.

"It has been repeatedly stated that alienations to money-lenders constitute in a greater or less degree an ever-increasing element of political danger everywhere in the Province, and that the only real remedy in the matter is the imposition of restrictions of some kind on future alienations. By the term money-lenders is evidently meant professional money-lenders of the *baniya* class. These men, as a rule, are only anxious to secure interest on their money and are not particularly covetous of the lands of their debtors. It is not correct to say that alienations are made mostly to professional *baniyas* who are stigmatised by many choice epithets. If the records of alienations be carefully examined, it will be found that these alienations are made in an increasing proportion to other groups of persons who do not belong to the *baniya* class. The artisan classes and other groups of men who combine agriculture with other occupations are rising into importance, and it is these men who are becoming new agriculturists. The last Census Report shows that the life of the artisan classes is based very largely upon the agriculture of the Province. Several hundred thousands have been enrolled as agriculturists, and the number is increasing every year. To be connected with land is considered a sign of respectability, and the lower classes of people, therefore, covet the possession of land and invest their earnings in land.

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These people are abandoning their old status and are gaining social importance. Is it desirable and expedient to prohibit them from rising? Ought not the law of the land to encourage them to better their condition and improve their social status? Is it not wrong from a political point of view to restrain their ambition and force them to remain in the lower strata of society which they have been hitherto occupying? It is a trite saying that all men are equal in the eyes of the law; but the present legislation is calculated to impose upon them disabilities which will be galling to them and must make them keenly feel their degradation. Class legislation for obvious reasons is reprobated in all countries, and it cannot but be admitted that the proposed arrangement will be productive of evils which emanate from such legislative action. With the spread of enlightenment and education the existing social distinctions are sure to vanish, and all classes of people ought to be allowed to equally enjoy the benefits of British rule and not to be harassed by legal disabilities.

"As to the economical effects of the measure, I can quote numerous authorities to show that the operation of the present scheme would be attended with disastrous results. Agricultural credit will be destroyed, value of the land will be considerably reduced, sales and mortgages will be multiplied, debts will be heavily accumulated, and land-owners, if they survive their reverses, will be impoverished and ruined. I have the highest judicial authority of the Province for stating that it would be Utopian to expect that extravagance will be curtailed by reducing the credit of the proprietors:—'Proprietors will be extravagant as before, and to protect these extravagant proprietors by limiting the powers of alienation of all proprietors is too heavy a price (in the consequent contraction of credit and the State interference in private affairs) to pay for the protection of the extravagant proprietors.' Any measure which would disturb the harmonious relations of money-lenders and zamindars would be fraught with incalculable agricultural mischief.

"Had the recommendations made by Sir Dennis Fitzpatrick with regard to an enabling Act been followed, a great deal of opposition to the present measure would have been withdrawn. Among others, Mr. J. Wilson, the Settlement Commissioner of the Punjab, in supporting the proposition about having an enabling Act, is of opinion that it should be so framed that its provisions could be extended by the Local Government to any parts of the Province or classes of persons it thought fit, with the previous sanction of the Governor General in Council. He observes:—

* It should be applied, in the first instance, tentatively and only to those areas and classes as regards which the Local Government is satisfied that such a restriction of the

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alienation of land is required. While I am strongly of opinion that such a restriction is urgently required in some parts of the Province, I recognise the undesirability of imposing restrictions on the freedom of action of those classes who have shown themselves fitted to enjoy their present freedom; and I apprehend that if the Bill is passed in its present form as an Act of general application, subject to exemptions to be made by special order of the Local Government, the result will be that it will remain in force in many parts of the Province in which, and as regards many classes of land-owners on whom, the imposition of such restrictions is neither necessary nor politic; whereas if the Act is made an enabling Act it will not be made applicable to any tract or class until good cause has been shown in each case and the great mass of the agricultural population of the Province will be left to enjoy their present freedom of action. The arguments that to impose restriction on one set of land-owners while leaving others free to alienate their lands will make them feel the slur of inferiority and will lead to a flow of capital from the area where restrictions are imposed to areas where none exist, are of no real value, for in whatever way the Act is framed the result must be that some areas and some classes are placed under restrictions while others are not. The Bill in its present form must evoke much greater opposition than an enabling Act would do, as all classes of agriculturists, including the steady thrifty Sikh and Hindu Jats, must feel that their freedom of alienation which they have generally employed with discretion is threatened; and in any case I hope that an early opportunity will be taken of announcing that Government intends to grant large exemption from the operation of the Act to areas and classes among which alienation of land has not attained to the dimensions of a serious evil.

"These considerations deserve serious attention before this measure becomes law.

"In my humble opinion the definition of 'agriculturist' is not complete. As it stands, it will throw out many persons who are entitled to be called agriculturists. Even Mr. Thorburn, who may be called in a way the father of the present measure, suggested that—

'*Agriculturist* shall be taken to mean a person who within the limits of a district, part of a district or other area to which this Act may for the time being extend—

- (1) ordinarily engages personally in agricultural labour; or
- (2) wholly or principally derives his livelihood from agriculture in the operations of which he takes an active part or interest.'

"Commenting on this definition a leading organ of public opinion observes:—

'We still think that a further addition to the definition is required, namely, the inclusion of persons who, belonging to a tribe, the members of which depend upon agriculture for subsistence, and having themselves always lived by agriculture, nevertheless were not owners or hereditary or occupancy tenants at the time of the first regular settlement. There are two reasons for this addition: first, no obstacles should be placed in the way of such persons becoming proprietors; secondly, as the market for land is going to be restricted, it

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should not be unnecessarily restricted, but should be made as wide and open as the principles of the Bill will allow.'

"These are wise suggestions, and had they been followed the definition would not have been so defective as it is at present.

"No valid reasons have been assigned why the year 1870 should be taken as the limit after which persons recorded at any regular settlement would not be recognised as agriculturists. The powers given to the Local Government to vary this period at its discretion are unjustifiable. I venture to submit that the Legislature should itself discharge its duties in as complete a manner as possible, and that when part of its functions is delegated to the Local Government it cannot be certain that its intentions will be carried out, and further that such delegation is inexpedient. Differences of opinion are sure to arise when the Local Government may fix an arbitrary limit creating numerous difficulties. A measure like this affecting such vast interests is entitled to receive from the Government of India that degree of care and precision which would inspire the public and the agricultural community with confidence. That confidence and that weight would never be given to the orders and notifications of the Local Executive Government which would be given to the enactments of the Supreme Legislature.

"I am given to understand that the officers of the Punjab Government who have been employed in determining what bodies of persons in any district or group of districts are to be deemed agricultural tribes or groups of agricultural tribes have found considerable difficulty in meeting the requirements of the proposed Act. I believe, my Lord, that these groupings should have been embodied in the Act; and I have already pointed out that the separation of Hindus from Muhammadans in the same agricultural group would seriously injure the latter.

"The restriction of the right of alienation of the second purchaser cannot be defended. It means reduction of the value of property of an owner who does not belong to an agricultural tribe. I can think of no reason why such an owner should be made to suffer.

"I have referred in detail in my Minute of Dissent to the creation of an overwhelming number of perpetual mortgages, and the disastrous effect they will produce both from economical and political points of view.

"In the opinion of His Honour the Lieutenant-Governor and some of the most eminent members of his Government, improvements on mortgaged lands should be permitted with the consent of the mortgage-debtor. The property will be considerably damaged—nay ruined—if such improvements be not allowed

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"I hold strong views, my Lord, with regard to *ex post facto* legislation relating to existing contracts by way of conditional sale. It is not consistent with the policy hitherto pursued by the British Government and the immutable principles of British justice. Even some of my severe critics agree with me that *ex post facto* legislation is a grave mistake, and they hope that the provision in the Bill regarding existing contracts by way of conditional sale will be omitted.

"It may be urged, my Lord, that the number of existing contracts relating to conditional sale is large, and that if these be recognized the object of the Bill would, in some measure, be defeated. Those who may say so should remember, however, that it is a well-known fact that a certain proportion of these contracts is redeemed every year. It should also be borne in mind that the number of these transactions dwindles into insignificance when they are spread over so wide an area as fifty-five millions of *malgusari* acres peopled by two millions of peasant-proprietors. The percentage becomes so small when this is considered that it is a matter for regret that a well-established principle is sought to be disturbed for the sake of such a small average. Admitting even that the number of these contracts is as large as it is represented to be, I venture to submit that they ought to be upheld in order to maintain British prestige, the inviolability of British justice and the integrity of British policy.

"It is contended that there is no injustice in prohibiting the transfers of lands under existing mortgages because *bai-bil-wafa* transactions are a fraud upon the present law intended to prevent such transfer. The law administered by the Civil Courts in the Punjab permits the mortgagee to bring land to sale; and the validity of this procedure is impliedly admitted in the proposed legislation undertaken to prohibit it. By section 141 of the Punjab Land-revenue Act, 1887, the orders of the Civil Court are executed by the Revenue-officers 'in accordance with the provisions of the law applicable to the Court issuing the orders and with any rules consistent therewith.' If therefore the practice of Revenue-officers in executing orders for the sale of land under mortgage-decrees is to refuse to permit the transfer, that practice would seem to be inconsistent with the law and furnishes no argument whatever for giving retrospective effect to a Bill interfering with contracts. No rules of a local authority can possibly operate to legalize a practice overriding in effect an express enactment of the Governor General in Council.

"The Bill prohibits the execution-sale of land belonging to a member of an agricultural tribe. I would beg to draw Your Excellency's attention to an enormously large number of hard cases which such a provision would create. By the

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operation of this provision all unsecured debts, that is, debts unsecured by mortgages contracted even before the commencement of the proposed Act, will almost be made irrecoverable. Under the existing arrangement, moneys have been freely advanced on simple bonds to agriculturists, whose lands have been found to be unencumbered, the creditor feeling sure that his money was perfectly safe with a free land-owner unfettered in his action. The Punjab land-holders generally have very little of movable property that could be attached, and the alienation of the produce of his land for one year, which the Bill sanctions, will not in the majority of cases be sufficient to meet the creditor's demand. The proposed law will not allow the land of the agriculturists to be touched, and the consequence will be that debtors would be freed from their liabilities at the expense of their creditors, and this both from an economical and a political point of view deserves the serious consideration of Government. The transactions I refer to, my Lord, will, I believe, be found on enquiry to cover a crore of rupees, if not more, and it would be unfair to deprive, by legislative action, thousands of creditors of such a large amount of money which they advanced in perfect good faith under the existing law. The difficulty under present arrangements of realising money decreed by Civil Courts is already found to be very great, and this difficulty, I am afraid, will, under the proposed law, be simply insurmountable.

"The proposed restriction of alienation of self-acquired property is strongly resented. That a man should not be allowed to dispose at will of his self-acquired property in land without legislative interference is a proposition which cannot be upheld on any principle of political or economic expediency. Even the Hon'ble Member in charge of the Bill expressed it as his opinion at one time that such property should be excepted from the operation of the proposed law. He has evidently changed his views on the subject, but I am not aware on what valid grounds such restrictions can be justified.

"My Lord, let me once more, in conclusion, plead the cause of those who will be affected by the Bill. My duty to Government and to my countrymen has led me to oppose the measure. In my humble opinion, when the proposed measure becomes law, it will create needless discontent and difficulties."

The Hon'ble Sir EDWARD LAW said:—"As a member of the Committee who were engaged in considering this Bill, I merely wish to say that the principle of it is one with which I feel much sympathy, but on the majority of its details I have not had the necessary experience to form any opinions of my own, and in approving of it I have done so in a belief in the experience of others who have studied

[*Sir Edward Law*; *Major-General Sir Edwin Collen.*] [19TH OCTOBER, 1900.

the question. I can only hope that the results of its working may justify the anticipations of those who are more competent than I am on the subject.

"One point which touches on my own Department has been raised in the discussion today; and that is the question of the possibility of obtaining credit in a new form for the land-owners in the event of there being perhaps an extra demand for credit in consequence of the working of this measure, in other words, the question of Agricultural Banks. That question interests me very specially, as I have previously made a study of it in other countries. I can only say that, with His Excellency's permission, we are going to have a conference in Calcutta of a few people who are specially qualified to speak on the subject, and to look at it with regard to Indian conditions; and that I hope the result of our consultations will be that we will be able to propose measures which will have the acceptance of His Excellency and this Council, and which will be not only for the good of the Punjab peasant-proprietors, but for the peasant-proprietors throughout India."

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN said:—"My Lord, as the measure now before us is one which is of vital importance to the province which is the home of so many of our best soldiers, I shall venture, before recording my vote, to lay before the Council my reasons for supporting the Bill, and to explain briefly how this question presents itself to a non-expert, in its broad and general aspect.

"I must first express my gratification at the prospect of the measure before us becoming law, as it seems to me to be the first practical recognition of the grave political danger which the ever-increasing transfer of land from the agricultural to the non-agricultural classes, under the joint influence of indebtedness and the procedure of our Law Courts, is creating in Northern India. No one who has examined in even the most cursory manner the voluminous reports which have been submitted on this subject can fail to be impressed with the conviction expressed by the best exponents of popular opinion in the Native community as to the reality of this danger. Our Hon'ble colleague Sir Harnam Singh stated that the cry of political danger had only been raised within the last ten years. This is, I think, a misapprehension. Sir George Campbell, one of the most capable and best informed officers of the past generation, put this question of political danger very forcibly, when speaking of the evils of the wholesale transfer of land in the North-Western Provinces and its influence upon the great convulsion of 1857. And his opinion was echoed by one of the ablest revenue-administrators of a later generation, Sir Charles Crosthwaite. Now, Sir Charles Crosthwaite, with the

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experiences of the mutiny in the North-Western Provinces before him, wrote that 'the political mischief resulting from the expropriation of the hereditary agriculturist was made evident in 1857; and whenever the power of Government is weakened or in abeyance it will be made evident again.' And in a more recent generation we have men like Sir James Lyall and Sir Dennis Fitzpatrick deploring or recognising that, through the facilities now given to the peasant for getting into debt and the remedies given to the creditor by our law and procedure, transfers of land are proceeding with dangerous rapidity in many parts of the country.

"It is, of course, one thing to entertain a conviction of a political danger in the future, and another to be certain as to how it can best be obviated, or whether it can be avoided at all. In the present case the second question has been the more difficult, but it seems to me that the first onward step was reached when that cautious administrator Sir Dennis Fitzpatrick recognized that the only effective remedy against alienation was to impose restrictions on transfer. It is true that he also recognised the drawbacks which might attend any such restrictions, and that he was personally disinclined to resort to them except in particular and possibly limited areas, where what he called an overwhelmingly strong case for action was made out. But I am only concerned with his conclusion as to the proper and sovereign remedy. And it appears to me that this conclusion of his has paved the way to the present Bill. He might have legal scruples as to how far its provisions should be locally extended, or doubt the wisdom of some of the restrictions which it places on the power of permanent alienation, or challenge the conditions to which mortgages of land between an agriculturist and a person outside his tribe are henceforth to be restricted. These are matters for specialists, and matters on which there is room for difference of opinion. But there is, I submit, no shadow of a doubt that the discussion which Sir Dennis Fitzpatrick initiated and the dictum which he laid down have resulted in the present measure, and that, if it meets with the success which we trust we may anticipate for it, Sir Dennis Fitzpatrick, equally with the Hon'ble Member in charge of the Bill, will have earned the lasting gratitude of the Punjab.

"As to the measure in itself, my Lord, the scheme of restrictions which it sets up is no doubt open to criticism on particular points. It is very easy to say of a measure like this, that it would be improved if it were made a little more elastic; and very difficult to prove that the line between extreme rigidity and absolute surrender of the principle has been correctly drawn. This is really the gist, as it seems to me, of all the unfavourable comments upon the Bill. With these points I am not concerned. I am prepared to accept the conclusions of

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the Committee which dealt with the Bill, the more so because they have shown their openness of mind in practically redrafting the Bill from beginning to end. Numerous and important concessions have been made to the advocates of unrestricted transfer and free trade in land, and I am quite prepared to accept the conclusion of my Hon'ble colleague in charge of the Bill that they could not have gone further without sacrificing the fundamental objects with which legislation has been undertaken. From a soldier's point of view the welfare of the Punjab and the well-being and prosperity of its manly agricultural classes should ever be foremost in our minds. I do not in the least accept the picture which my friend Sir Harnam Singh has drawn of the retired Native soldier, returning to his home, after fighting the battles of our Queen, and suffering from dispossession of his ancestral lands, by the operation of this Bill. I hold that the Bill will affect the Native soldier in an entirely opposite direction. It may, of course, be urged that the Sikhs, for example, stand in no special need of protection, as they have qualities which make for thrift and circumspection in their monetary affairs. But I venture to submit that even with them the restrictions of the Bill will not infrequently tend to keep together the ancestral acres of a loyal household, and will thus contribute to the maintenance and increase of this great source of our military strength in India. And it must be remembered that we have other powerful and manly races in the land of the five rivers. It has been impressively shown how the fine Muhammadan races of the Northern and Central Punjab are succumbing to the influences I have mentioned, and are divesting themselves, without real necessity, and practically without knowledge of what they are doing, of their tribal lands. The Bill strikes at the root of this evil, and, as it appears to me, strikes in the only effective way. It is too early to predict that it will do all we wish, but if it only does something, the work we hope to accomplish to-day and in which our Hon'ble colleague Mr. Rivaz has borne so conspicuous a part, will not have been in vain."

His Honour THE LIEUTENANT-GOVERNOR said:—"While congratulating my Hon'ble friend Mr. Rivaz on having safely piloted this Bill through troubled waters and on having greatly improved its form in the process, I am bound to confess that I find it impossible to speak with much confidence as to its probable effect. Throughout the discussions which have taken place regarding it, I have been conscious of seeing more clearly the objections to drastic legislation than the arguments in favour of it. I have been more in sympathy with the Punjab Revenue-authorities of the past than with newer views. Fifteen years ago Sir Charles Aitchison, writing of this subject, held the opinion that 'so far as the evils complained of are inherent in the

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character and traditional habits of the people, or in the gradual extension of law and systematic government over a country governed more or less irregularly, little if anything can be done to improve the position of the agriculturists.' Two years later Colonel Wace, one of the most thoughtful and experienced Revenue-officers whom the Punjab has produced, wrote in this connection that 'we cannot succeed in protecting people against themselves; nor ought we to hamper those who are thrifty by restrictions intended for the protection of those who are not.' Sir James Lyall in 1891, though strongly impressed with the dangerous rapidity with which transfers of land were proceeding in the Punjab, thus expressed himself: 'No one ventures to say that we can go back from the gift of proprietary right, and it is generally admitted that it existed before our time, and that what we have really done is to make it more valuable, and thereby to promote its being encumbered and eventually transferred.' He confined his recommendations to measures designed to check the progress of transfers so far as it is due to the action of our laws and Courts. His programme consisted of an Act to be framed for the Punjab on the model of the Dekkhan Agriculturists' Relief Act of 1879. He sketched the outlines of the measure which he proposed, and asked for early leave to assemble a Committee of Punjab officers to draft a Bill on those lines. No action up to date has been taken on these proposals, and the letter forwarding them remains unanswered. Personally I should have been content to follow Sir James Lyall's programme. But restriction of the power of alienating land had no place in his scheme, nor did he ever contemplate such direct interference with the discretion of proprietors. The initiative in this respect was taken by the Government of India in 1895, when the Governor General in Council announced the distinct opinion that some action in the direction of restriction upon the alienability of land is generally advisable and even necessary throughout India. As explained by the Hon'ble Mover in his speech in this Council on the 27th September, 1899, this opinion was framed in connection with, though not in consequence of the recommendations of, the Commission appointed in 1891 to report on the working of the Dekkhan Agriculturists' Relief Act of 1879 and on the desirability of extending a similar measure to other Provinces. What led the Government of India to this conclusion has not been explained. The idea did not emanate from the Local Governments, and up to the present time I believe no Province except the Punjab has been asked to consider it. I shall probably not be far wrong if I say that Mr. Thorburn's advocacy of the cause of the indebted peasant of the North-West Punjab against the money-lender had a good deal to say to it, while the distinguished Punjab officers who at that time and since have been connected with the Supreme Government have greatly influenced the decision. Be that as it may, the proposal to restrict the

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alienation of land in the Punjab was made to Sir Dennis Fitzpatrick in 1895 by the Government of India and not initiated by the Punjab Government. In reply Sir Dennis Fitzpatrick committed himself to the opinion that, if an overwhelmingly strong case were made out in regard to any particular tract, legislation empowering the Local Government to interfere with alienation in that tract would be justifiable, and having satisfied himself that such a case had been made out in regard to at least one assessment circle of one tahsil in the Gujranwala District, he founded on this conclusion a recommendation for an enabling Act for restricting transfers, not for an Act applying throughout the Province.

* The reply to Sir Dennis Fitzpatrick's proposals was received in April, 1898, after I had succeeded to the Lieutenant-Governorship of the Punjab. The conclusions framed by the Government of India were set forth in that reply and consisted of two main propositions: first, that a strong case seemed to have been made out for prohibiting all permanent alienations of agricultural land, except with the sanction of some duly empowered Revenue-officer, and, second, that the legislation for giving effect to this view should be general and not partial in its character, in contradistinction to the proposal of Sir Dennis Fitzpatrick. I was invited to summon a Committee of selected officers to advise me in framing my conclusions upon the scheme of the Government of India, and this I did after circulating to selected officials and non-officials a series of questions framed on its proposals, and submitted the resolutions of the Committee with my own opinion, not quite so soon as I was asked, but still within four months of the date of the letter calling for it. The proceedings were conducted at high pressure, but the subject was familiar to all of us, and my own opinion, which had been formulated and recorded nine years previously, had not changed since that time in any material degree; and, had I felt myself at liberty to do so, I should have reiterated my former views, and advocated resort to the less drastic measures proposed by Mr. Elsmie and myself as Financial Commissioners in 1889 and amplified by the then Lieutenant-Governor, Sir James Lyall. But there were two reasons against my taking this course. The first was that the Government of India with those opinions and many more before it had committed itself to a definite preference for interfering with the right of alienation, and, although I was freely invited to express my opinion, I felt I should only be justified in placing myself in opposition to its views if absolutely sure that the policy was mistaken and that the measure could not be adapted to the Province in any form without serious risk. I was not prepared to go so far as this. In stating my second reason I have to make an admission. The officers whom I nominated to the Committee represented the best experience available, and a

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very strong embodiment of it. I did not pack my jury, but just took the best officers I could bring together. And they were unanimous in accepting the main features of the Government of India scheme. Under these circumstances, while giving full expression to my personal doubts as to the wisdom of the measure, I considered it the more important part of my duty to give it the best shape possible, and this was what I endeavoured to do in conducting the proceedings of the Committee and in drafting the opinion which I submitted to the Government of India. I regret that that opinion has not been formally placed before the Members of Your Excellency's Council. It would have rendered the explanation which I have felt it my duty to give unnecessary. It would have made it clear that while the measure now before the Council goes beyond the utmost recommendations of the Local Government itself, it has the support on the one hand of the deliberate judgment of the Government of India, and on the other of a strong body of opinion within the Province; it would have shown that while I was personally very doubtful, and even apprehensive, of the effects of such a measure, I had waived my personal opinion, and confined my efforts to shaping it so as to conduce in the best possible manner to the end desired. This attitude has been described in one quarter which I am bound to regard with veneration as 'correct.' It will no doubt be described by others as timid. I do not much care what is thought of it, but I am anxious for reasons which I will explain that my position should be made quite clear. That position is described in the following extract from the opinion already mentioned :—

'Assuming that the Government of India have determined to adopt stringent measures for checking the alienation of land, and to make those measures of general application to the Punjab, subject to special exemptions, I recommend that the scheme accepted by the Committee for dealing with permanent alienations of which I have given some account above be approved. I believe it to be workable, and to be as little open to objection as any which can be devised; while, if successful in checking the transfer of land to the hands of the money-lender without unduly depreciating the wealth of the zamindar or creating wide agrarian discontent, it will be a boon to the country.'

"This, after the fullest consideration, is all I am able to say in favour of the Bill, and it is on this assumption and subject to this consideration that I shall record my vote in its favour.

"But, my Lord, it is not merely for the purpose of justifying my vote, still less with the object of gratifying a not unnatural desire to explain precisely my attitude towards a measure which will affect so closely the vast majority of the people of the Punjab, that I have taxed the patience of the Council with what sounds I fear too much like a long personal explanation. I have a more important

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object in view. The passing of this Bill is only the first act in a long drama. The working of it will be for many years the subject of anxiety to the Administration. A large number of opinions have reached the Council, some of them professing to come from bodies of agriculturists who are intimately affected by the measure. There are no doubt many genuine sentiments in these papers, but neither the agricultural community nor the village money-lender have really had their say, nor have they as yet any idea how they will be affected by the measure. Nor, I venture to say, has any Member of Your Excellency's Council. It is only when the provisions of the Bill come to be applied that we shall learn the effect of the experiment. How far they will depreciate the value of land, how far they will be disregarded, how far they will be evaded, how far they will pinch the borrower or make the lender's trade impossible, will only be revealed by degrees. The venture, which is a bold one, may be successful, or it may be a failure. But failure in legislation is of two kinds. A law may be more honoured in the breach than in the observance, and no great harm is done, though such laws are to some extent a source of weakness to the Administration. But, if it actually results in injury to any class of persons, the failure is more serious. And the question whether this measure will cause injury or not depends very largely on the way in which it is worked. The Government of India has retained in its own hands to a large extent the working of the Act. This seems to me not unreasonable in view of the fact that it is the Government of India which is responsible for the enactment. But, when the Local Government proposes rules or notifications under the Act, I hope it will be remembered that the Punjab Committee considered that their proposals embodied the maximum in the direction of restrictions on alienation which could be regarded as either safe or desirable in the interests of the Province, and that, although a strong body of opinion exists in the Province that interference with the right of alienation is possible and justifiable, those most nearly affected cannot be said to have manifested any desire for such legislation, while the Head of the Local Government, concurring with his predecessors, would have preferred a less drastic measure to that now before the Council.

"And now, my Lord, having explained the limitations under which my vote in favour of this measure will be recorded, I propose to make only a few remarks in regard to its provisions. As explained by the Hon'ble Mover in introducing the Bill, the proposals of the Punjab Committee constituted the foundation of the scheme which it then embodied. And subsequent alterations have still further assimilated it to those proposals, while other important additions have been made which in no way militate against them and have

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my entire concurrence. In one respect, however, the Bill departs from the distinct recommendations made by the Punjab Committee. That Committee contemplated no interference in respect of alienations of land to agriculturists. The Hon'ble Member in charge of the Bill explained in his speech on the 10th August last why he was unable to accept this view. The reason was because the agriculturist is also in many cases a trader and a money-lender. Accordingly the Bill as introduced in September, 1899, limited the freedom of such transactions to members of the same agricultural tribe residing in the district where the land was situated. The limits of the district for the purposes of this provision might be extended or restricted. The term 'agricultural tribe' was similarly liable to formal definition. The Punjab opinions recorded on the Bill supported almost unanimously the view of the Punjab Committee, and advocated no restriction on alienations to members of an agricultural tribe. In my opinion of the 15th May I strongly advocated this course, because otherwise matters would be made too hard for the small proprietors of small tribes. I pointed out that the main object of the Bill would not thereby be interfered with, while its principal danger would be averted. With reference to this view the Hon'ble Mr. Rivaz explained that the Select Committee had recognized the force of the objection that if free transfers were limited too strictly within the same tribe the market in the case of some small tribes would be undesirably narrowed. Accordingly he announced that the Bill had been amended so as to permit of the grouping together, when thought advisable, of small and what may be called cognate tribes in the same district or in a group of districts, and to allow permanent alienations without restriction within such groups. Now, the Bill itself as amended and as now presented to the Council says nothing about cognate tribes. It merely provides in section 4 that the Local Government, with the previous sanction of the Governor General in Council, may determine what bodies of persons in any district, or group of districts are to be deemed to be agricultural tribes or groups of agricultural tribes for the purposes of the Act. I still hold the opinion that the Punjab view is correct, and that the best plan would be not to interfere with permanent alienations by a member of any agricultural tribe to a member of the same or any other agricultural tribe, and that provision in order to meet the Hon'ble Member's objection should, if necessary, have been made in the Bill. But, as this opinion has not been accepted by the Select Committee, I will only record my hope that in working section 4 of the Bill the Government of India will disregard the suggestion, which is not contained in its provisions, to group only those tribes which are cognate, and will give full effect to the view of the Punjab Government and its officers in considering the recommendations of the Local

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Government under section 4 of the Bill. I cannot too strongly insist upon the view, that the great danger of the measure consists in the effect it will have on the small agricultural tribes, which will often be found scattered in isolated villages far distant from each other. The machinery for meeting the case of such tribes is provided in the section I have quoted, and I hope it will be freely utilized.

"I find it unnecessary to refer to any other provision of the Bill which, on the assumption which I have explained and subject to the remarks I have made, I accept as the best measure that can be devised for giving effect to the views of the Government of India. I shall direct my best attention during the remainder of my term of office to its working, and earnestly hope that it may conduce more than I anticipate to the welfare of the agricultural population of the Province.

"I will only add in conclusion that the legislation of this Bill needs to be supplemented by a system of Agricultural Banks, and that I listened with much satisfaction to the announcement of my Hon'ble friend Mr. Rivaz that the Government of India had such a system under consideration, and that of the Hon'ble Finance Member that he regarded the project with special interest and proposed shortly to take it in hand."

The Hon'ble MR. RIVAZ SAID :—"With reference to some of the views which have been expressed in the speeches just delivered, I am afraid that I must ask the Council to bear with me while, at the risk of exposing myself to the charge of wearisome repetition, I make yet a few further remarks regarding that all important part of our scheme which imposes restrictions on permanent and temporary alienations. I say again that the main object of the scheme is to discourage, as far as possible, members of agricultural tribes from selling their lands. To those who, while agreeing that sales to professional money-lenders ought to be prohibited, yet wish to leave the market of sale unrestricted as regards members of all the agricultural tribes between themselves, I wish to say, how can this be justified? Our sole justification for interfering with the free right of sale which the Punjabi land-owner has hitherto possessed is that he has proved himself incapable of making proper use of this right and that he has been unable to resist the temptation of raising money on his land, even to the extent of selling it, for purposes of pure extravagance. If, however, we only go so far as to prevent him from selling his land to the professional money-lender, but still allow him to sell as he pleases to any member of any agricultural tribe, what would be the result? To my mind it would certainly be this. We should, by thus partially narrowing his market of free sale, depreciate the selling

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value of his land to some extent, but not sufficiently so to discourage him from selling except in cases of real necessity. He would still be tempted to sell for purposes of extravagance, but whereas formerly, when he wanted to raise (say) one hundred rupees, he could do so by selling a couple of acres, he would now have to sell three. Would this be a fair way of dealing with the small proprietor? He would certainly disappear under such conditions at a more rapid rate than he is disappearing at present. I am not prepared to say whether the accumulation of large landed properties in the Punjab is, from a political point of view, desirable or not; but I do say most distinctly that it is no part of our scheme to encourage the growth of large properties at the expense of the small proprietor. I repeat that our main object is the preservation, not the extinction, of the small proprietor. This then is my objection to keeping the market of free sale as wide as some desire to keep it. If, however, we limit the market, as our scheme contemplates, to the tribe, or, in special cases, to a group of small similar tribes, then I claim that we are really narrowing the opportunities for sale to an extent which will remove the temptation to sell needlessly, yet will afford a sufficient market in cases of real necessity. As I have said before, it is neither possible nor desirable to prohibit sales altogether. The individual must in some cases part with his land, but under our scheme the powerful factor of sentiment comes in, and the land, though lost to the individual, is preserved to the tribe. If, however, in any particular case a man who is compelled by necessity to sell his land is really unable to find a purchaser for it at a fair price within his tribe, the Bill provides a ready remedy. As His Honour the Lieutenant-Governor remarked, in his speech in this Council on the introduction of this Bill a year ago, 'there is nothing absolute about the restrictive provisions. The person who lies under the greatest disability under the proposed Bill can obtain a dispensation from its provisions, if due cause be shown.'

"Moreover, it must be remembered that, although our scheme imposes material restrictions on sales, it provides large facilities, larger perhaps in my own opinion as the Bill now stands than is altogether desirable, for raising money on mortgage. In short, the key-note of our scheme is to discourage sales but to provide ample reasonable facilities for temporary alienation."

The motion was put and agreed to.

The Hon'ble KUNWAR SIR HARNAM SINGH said:—"My Lord, I have already stated fully my reasons in support of the amendments that stand in my

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name, and I need not take up again the valuable time of the Council by any detailed remarks in regard to each of them.

" My first amendment is as follows :—

" That at the end of sub-clause (3) of clause 2, definition of " land ", the words " but does not include any self-acquired property " be added.

" The object of this amendment is to make it clear that alienation of self-acquired property by purchase or gift is not to be brought under the operation of the proposed law."

The Hon'ble MR. RIVAZ said :—" It seems at first sight unreasonable and unnecessary to impose any restrictions on alienations of self-acquired property, but the practical difficulty in the matter is this : if self-acquired land is not included in our proposed restrictions, what is there to prevent a member of an agricultural tribe from buying a piece of ancestral land from a fellow tribesman and selling it next day as self-acquired to a money-lender ? I do not see how this could be prevented, and it would obviously open a very wide door to fraudulent evasions of the main principle of our scheme, for a money-lender could purchase as much ancestral land as he pleased by using the simple expedient of employing a member of an agricultural tribe as his secret agent.

" I must therefore oppose this amendment."

The Hon'ble NAWAB MUHAMMAD HAYAT KHAN expressed his concurrence with the Hon'ble Mr. Rivaz.

The Hon'ble MR. TUPPER said :—" I venture to think that this amendment should not be accepted, not only for the reason given by the Hon'ble Member in charge of the Bill, but also for what seems to me to be a cogent reason connected with the practical working of the Bill.

" I fully admit the validity of the distinction between self-acquired and hereditary property under Punjab customary law, and agree that there should be greater freedom in the disposal of self-acquired than of inherited property.

" But most of the cases in which a decision will be given by the Deputy Commissioner under section 3 will come up to him by means of the mutation procedure. The cases will be entered by the patwari in the village-register for mutation of names, and it will be for the patwari and the field kanungo in the first instance to call attention to the fact that the provisions of the Act have been infringed. .

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"Now, so long as the issue for them to consider is the simple one whether a man is or is not a member of an agricultural tribe, there is some chance of their getting through the work. But, if we go further and require these petty officials to say whether a given bit of land is self-acquired or ancestral, we impose upon them a task which, other objections apart, will unduly retard business. It is much better, therefore, not to complicate the issue in the way proposed.

"At the same time I see no reason why the Deputy Commissioners should not be reminded, in the circular which will be issued as to the working of the Act, that there is a real and important distinction between self-acquired and ancestral property, and that *ceteris paribus* sanctions to transfers of self-acquired property in land may be given with less reluctance than in the case of such property which has been inherited."

The motion was put and negatived.

The Hon'ble KUNWAR SIR HARNAM SINGH said:—"The second amendment I have to move is:—

'That in clause 3, sub-clause (1), the proviso be omitted.

"The object of this amendment is to remove the restriction placed upon the right of alienation by the second purchaser."

The Hon'ble MR. RIVAZ said:—"I have already explained, in the statement I made at the beginning of our proceedings to-day, that the provision of the Bill which allows a person who is not a member of an agricultural tribe to acquire land in certain circumstances, without having to obtain the Deputy Commissioner's sanction, from a member of an agricultural tribe, is a pure concession. This being the case, it is only reasonable that, when a person who comes under our definition of agriculturist takes advantage of the concession thus allowed to him, he should be restricted from selling again unless to another agriculturist in the same village or to a member of an agricultural tribe. If this restriction were removed, there would be nothing to prevent a money-lender who did not come under the definition of agriculturist from employing another money-lender who did so come as his agent for buying land from members of agricultural tribes.

"I cannot therefore accept this amendment."

The Hon'ble NAWAB MUHAMMAD HAYAT KHAN expressed his concurrence with the Hon'ble Mr. Rivaz.

The motion was put and negatived.

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The Hon'ble KUNWAR SIR HARNAM SINGH said:—"My third amendment is:—

'That in clause 8, sub-clause (1), after condition (b) the following new condition be inserted, the present condition (c) being re-lettered (d), namely:—

"(c) a condition permitting a mortgagee in possession to add to the amount of the mortgage-debt the value of any improvements of the land which he has made with the consent of the mortgagor."

"The object of the amendment is to permit improvements to be made by the mortgagee in possession on mortgaged lands with the consent of the mortgagor."

The Hon'ble MR. RIVAZ said:—"The question of allowing the mortgagee in mortgages which are permitted by clause 6 of the Bill to effect improvements and charge their cost to the mortgagor was very carefully considered by the Select Committee. There is a good deal to be said on both sides of the question, but, after giving the matter our best consideration, we decided not to allow any condition to this effect, even when the mortgagor consented, because it would militate against the cardinal principle which is embodied in the Bill of making all mortgages, except when the mortgagor remains in cultivating occupancy of the mortgaged land, automatically self-redeeming at the end of a fixed period not exceeding twenty years. I see no sufficient reason for withdrawing from this deliberately formed conclusion, and am therefore unable to accept this amendment."

The Hon'ble NAWAB MUHAMMAD HAYAT KHAN said:—"With due deference to the opinion of my Hon'ble colleague, I think it my duty to oppose this amendment on the following grounds:—

- (a) The mortgagor and the mortgagee in collusion with one another could avail themselves of the condition relating to improvements to make the expenses too heavy to be redeemed, and that process would be nothing less than an underhand sale. I have had experience of cases where, to frustrate the rights of pre-emptors, the mortgagor and the mortgagee actually made their contract one of sale, rendering the conditions of redemption almost impossible of fulfilment. The most difficult of such conditions has always been to burden the land with running items of improvement, which on enquiry not unfrequently are found to be untrustworthy, unreason-

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able and unnecessary. Similarly, in cases of the '*liekha mukhi*,' which occur generally in the south-west part of the Punjab, a running account of profits and losses is kept by the mortgagee. When I was a District Judge and a Divisional Judge in the Multan Division, a great number of disputed accounts came to my knowledge, and I not unfrequently found that the improvement item exceeded that of the profits, the result, according to the mortgagee's account, being disastrous to the mortgagor.

- (b) To ascertain the correct and fair cost of such improvements from the money-lenders' account-books is next to impossible. These books consist generally of entries of items, which after a short time admit of no investigation, and consequently the money-lenders make the amount repayable as large as they please. Experienced officers are aware of the fact that cases in connection with compensation for improvements between a proprietor and a hereditary tenant are always fraught with difficulties.
- (c) Even in cases where no collusion between the parties exists, the well-to-do money-lenders will in reality spend a great deal of money in the hope that the original proprietors, considering a repayment of expenses impossible, will relinquish possession.
- (d) The term of twenty years, as provided in usufructuary mortgages, is in itself so long that it would be worth the while of the mortgagee to reap as much benefit as he could during this lengthy period by improving the condition of land with the object of increasing his income, and when the term expired to surrender it to the mortgagor without demanding any repayment for what he had done in his own interests.

"For the above reasons, I ask the council to reject the amendment, which, though it apparently looks harmless, will practically open a dangerous loophole, detrimental to the cause of agriculture."

The motion was put and negatived.

The Hon'ble KUNWAR SIR HARNAM SINGH said:—"My last amendment is:—

'That sub-clause (a) of clause 9 and the words and figures "or sub-section (a)" in sub-clause (j) of the same clause be omitted, sub-clause (j) being re-numbered (a).

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"The object of this amendment is to prevent retrospective legislation with regard to existing mortgage-contracts in which there is a condition intended to operate by way of conditional sale."

The Hon'ble MR. RIVAZ said :—"Our reason for cancelling any conditions in existing mortgages which are intended to operate by way of conditional sale is simply this. Mortgages of this nature have increased very considerably in the Punjab during the past few years, and there can be no doubt that this increase is mainly due to the fact that the mortgagee has been able, by inducing the mortgagor to enter into this form of mortgage, to evade the rule in force in the Punjab, which prohibits the sale of land in execution of decree except when sanctioned by the higher revenue-authorities. The consideration money entered in mortgage-deeds of this kind often does not represent nearly the real value of the land, and there is a consensus of opinion that this form of mortgage by way of conditional sale is essentially pernicious, so much so that the Bill before us absolutely prohibits its future use. In these circumstances, I think we are quite justified in interfering with still current mortgages of this nature, which in some parts of the Punjab at all events amount to a large number, affecting, I believe, several thousands of acres, and all of which will assuredly, unless some check is applied, be converted into absolute sales, to the extent contemplated by the provision which my Hon'ble friend wishes to eliminate from the Bill.

"I must therefore oppose his amendment.

"I may mention that I understand that a proposal for refunding any court-fees which may have been paid in any pending proceedings which will be affected by sub-clause (3) of clause 9 of the Bill is under the consideration of the Punjab Government. I can say that, if a proposal to this effect is submitted to the Government of India, it will be favourably received."

The Hon'ble NAWAB MUHAMMAD HAYAT KHAN said :—"I feel bound, for the good of the Province, to oppose this amendment also.

"I have stated, at some length, the iniquity and disadvantages of *bai-bil-wafa* in my remarks on the Bill generally to which the Council has just listened, and I, therefore, do not deem it necessary to state at length any circumstances in regard to its injurious effect in order to show that the amendment in question is not desirable, but I repeat—

(a) that such contracts were resorted to to escape the effect of the order to which I have referred in my remarks, namely, that no

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land should be sold in execution of any decree based upon the non-payment of any debt without the sanction of the Financial Commissioner, such sanction being impossible without needful scrutiny ;

- (b) Muhammadan law regards such a contract as absolutely illegal ; the Shastras, too, so far as I know, do not allow such contracts ;
- (c) according to the provisions of the amended Bill, the mortgagees of *bai-bil-wafa* have nothing to lose, because the new law will leave them in the position in which it found them. Of course, after the law comes into force, no sale on the strength of such a condition will be permissible and the mortgage will still remain a mortgage."

The Hon'ble MR. FANSHAWE said :—" My Lord, as it happens that the Delhi Division, at present under my charge, is the part of the Punjab which is principally affected by the provisions of deeds of mortgage in the form of conditional sale, known to the people as *bai-bil-wafa*, I will venture to make a slight trespass upon the patience of the Council in stating certain facts which convince me, and will I hope satisfy others, that in spite of strongest regard for the principle of upholding private rights Government is bound to interfere as regards these mortgages and to disallow the clauses existing in them of conditional transfers of proprietary right, and that therefore the amendment moved by the Hon'ble Sir Harnam Singh should be negatived.

" This form of mortgage, as the Hon'ble Nawab Muhammad Hayat Khan has remarked, is derived from a legal fiction in Muhammadan law, and according to the learned author of *The Dictionary of Islam* is one of those things which, though approved by legal authority, is held by the law to be abominable as a device for obtaining what the law prohibits. It was first taken notice of in our Statute Book by Regulations passed so long ago that some of them were enacted for application to the districts ceded by the Nawab Wazir of Oudh and to the province of Benares, and the provisions regarding it were made (as were those regarding rates of interest to be decreed in the earliest of the Regulations, No. XV of 1793) for 'preventing fraud and injustice in the conditional sales of land,' it being recited in the preamble that mortgagees were in the habit of evading payment or tender of payment by mortgagors within the period before foreclosure could be enforced, and being finally provided in Regulation XVII of 1805 that in all cases of foreclosure the mortgagee should give a year's notice to the mortgagor. This it was said in the quaint but most true language of the time would be for the benefit not only of the borrower

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but also of the lender 'if he mean to act fairly.' From the provinces named this Regulation was gradually extended as far as the Delhi Territories, which until 1857 were attached to the North-Western Provinces; but little or no use was at first made of it in these territories, and it was not declared to be legally in force in the whole of the Punjab until the passing of the Punjab Laws Act in 1872, which brings us down to very modern history.

"It is hardly necessary to remark that when *bai-bil-wafa* mortgages were recognised by Lord Cornwallis, Lord Wellesley and their colleagues they never could have dreamt in their wildest dreams of the extension of such a form of alienation to a country of peasant-proprietors, and the introduction by its means of outsiders into village-communities, probably the most conservative bodies in the world.

"Now, unblest as this legal fiction was in its origin, it has been doubly unblest in its working in this Province. The rule in the Punjab from early days after annexation has been that agricultural land should not be sold in the execution of a civil decree without the intervention of the Collector of the district and superior Revenue-authorities, and this intervention has resulted in a refusal to sanction such sales in at least 95 per cent. of the cases in which approval to sale was sought. The rule which has the sanction of law has been perfectly well known to all capitalists, and has never prevented their advancing large sums upon all kinds of lands. Unhappily it was discovered after 1872 that the Regulation of 1806 provided a means of evading this rule; and advantage has been taken of this in various parts of the Province, and especially in the Delhi Division. Not to weary the Council with details, I will merely say that no less than *half a million of acres* have during the twenty last years been made subject to mortgages with the provision of conditional sale in the Delhi Division alone, and that a quarter of a million of acres have been made subject to this form of alienation within the last five years, which unhappily have been years of great agricultural distress and trial, and most of this land is liable at the present moment to pass away from the owners for an entirely inadequate consideration. In the Hissar and Rohtak Districts the number of *bai-bil-wafa* deeds executed, the number of notices of foreclosure, and the number of decrees for transfer of title under them have doubled *in each period of five years* since 1880; and during the last five years the area affected has amounted to 150,000 acres in the former and 30,000 acres in the latter. If the deeds contained at least *some* provisions in favour of the mortgagor, then the nature of the instrument would have to be considered as a whole in proposing to interfere with any part of it; but this is not the case. While the debt for which the land is mortgaged is invariably made

19TH OCTOBER, 1900.] [*Mr. Fanshawe; Mr. Tupper.*]

up to a great extent of arrears of exorbitant interest, the period fixed before the mortgagee can issue notice of foreclosure is hardly ever longer than five years, and in most cases has in recent times been reduced to two years. It is obvious from this that the mortgagor is given no fair play in the matter, and that the mortgagee has no intention of acting fairly by him.

"During the last two years no less than 1,500 and 1,900 notices of foreclosure have been issued in the Hissar and Rohtak Districts in view of the present impending legislation, and unless this clause is declared null and void in the case of all existing deeds a very large area, amounting perhaps to a quarter of a million of acres, may pass from land-owners to the money-lending classes, practically without any fair consideration and in pursuance of a mere evasion of the legally authorised rule and practice of the Province. It may be said without fear of contradiction that in the beginning many of these deeds were executed in ignorance of the effect of the provision of conditional sale, perhaps even of its existence, and that later where this has not been the case there has commonly been an understanding that the clause would not be enforced; and as a matter of fact in several districts of the division it has seldom been enforced. It cannot be expected, however, that the advantage given by these deeds will be foregone any longer if the measure now under the consideration of the Council is passed in the form required by the amendment proposed by the Hon'ble Sir Harnam Singh, and unless the clause in question is specially disallowed by law (the rest of the mortgage-deeds, be it remembered, will stand as now if the mortgagee so wishes, and the mortgagee will thus be entitled to hold possession of the land mortgaged until his full debt is paid off), Government, while once more forbidding the sale of agricultural land in execution of a decree of a Civil Court, will deliberately leave open a loophole by which under an evasion iniquitous at least in its effects, of the old legal rule of the Province the proprietary right in a quarter of a million of acres in one division of the Province alone will probably pass away from its ancient owners, practically without consideration.

"It would be difficult, I venture to think, to imagine a case in which interference is more clearly demanded and can be more clearly justified on the grounds of morality and equity, and I am constrained on these grounds to oppose the amendment of the Hon'ble Sir Harnam Singh."

The Hon'ble MR. TUPPER said:—"This is a matter on which I have changed my mind, and I should like to say why I have done so.

"In the Punjab Committee of 1898 Major Dunlop-Smith and I were in a minority of two on the question of giving retrospective effect to the prohibition

[*Mr. Tupper ; Mr. Rivaz.*] [19TH OCTOBER, 1900.]

of mortgages by conditional sale, and in the first discussions of the Select Committee I adhered to the same vote. My reason was that I was mainly influenced by the political considerations which I have explained to-day and that I did not think the transfer of lands from the agricultural classes to the trading classes had yet proceeded so far that it was anywhere necessary to undo the past.

"It was, however, pointed out that the measure before us proceeds on economic as well as on political grounds. I agree that this form of mortgage, is a mischievous one, and it is probable that on economic grounds alone the provision of the Bill now under discussion might be justified.

"But it is not merely for this reason that I have assented to the provision on this subject which now stands in the Bill. Inquiries made since the discussion of the Select Committee began have shown that these mortgages by conditional sale have been very frequent of late years, especially in the Delhi Division, and there is, I think, no doubt that they have been used as a means of evading the Punjab rule in restraint of sale of agricultural land in execution of decree. It would then be a just, if a severe, measure to punish this evasion of a rule having the force of law by annulling the transaction which involved the evasion. The clause under consideration, however, tempers such justice with consideration for the interests of the creditor. As my Hon'ble friend Mr. Raleigh on one occasion observed, even creditors have rights; but the Bill does not deprive the creditor of security for his money. It cancels indeed the obnoxious condition, but gives the creditor his choice of his original mortgage with this condition left out or of a mortgage in one or other of two of the forms considered generally suitable for the agricultural community. I think this is a very fair decision upon a conflict of interests which has probably arisen out of one class taking excessive advantage of the necessities of another. The clause should therefore in my opinion be retained in the Bill."

The motion was put and negatived.

The Hon'ble MR. RIVAZ moved that the Bill, as amended, be passed. He said:—"I may mention that by clause 1 of the Bill it is provided that it shall come into force on such day as the Governor General in Council may, by notification in the Gazette of India, direct. It is intended to bring the Act into force as soon as the notification with respect to agricultural tribes and groups of tribes is submitted by the Local Government and approved by the Government of India."

19TH OCTOBER, 1900.] [The President.]

His Excellency THE PRESIDENT said :—" When the Government of India utilises its legislative power to pass what is certainly a drastic, and has been described in the course of these debates as a revolutionary, measure, affecting any subject, but more particularly affecting the land, there are two questions as to which it should, in my opinion, satisfy itself. The first is—has the existence of an evil, calling for legislative interference, been established? The second is—is the particular legislation proposed the right remedy?

" The first of these questions we had answered to our own satisfaction a year ago. A careful study of the reports and returns, extending over a period of more than thirty years, had convinced the Government of India that the alienation of land in the Punjab, practically initiated by the British Power after annexation, is progressing with increased and alarming rapidity; that in consequence of this progress land is passing away from the hands of the agricultural classes whom it is our policy to maintain upon it, and into the hands of classes or persons who, whatever the part that they may play in the economy of agrarian life, are not, in our judgment, either necessary or desirable as land-holders; and that consequently a grave political as well as economic danger threatens the province, which it is the bounden duty of Government to avert. Nothing that has occurred in the interim has tended to shake our confidence in the substantial justice of this conviction. On the contrary, I think that it has been strengthened by the evidence that has since poured in. We have been told, it is true, that there can be no political danger in leaving things as they are, because the discontent of the Punjab peasantry is never likely to take the form of active rebellion. I should be sorry to think that our political objections to a continuance of the *status quo* were supposed to be based upon such fears as these. It is not a disloyal peasantry that we apprehend. It is a despondent, debt-ridden, expropriated and impoverished land-owning class, particularly a class recruited from the stable and conservative elements so forcibly described by the Hon'ble Mr. Tupper, which would be both a source of weakness to the province and of alarm to the State. Again, it has been said today that the *sahukar* is a very useful and even indispensable factor in rural life, who is quite content if he secures his reasonable profits, and has no *à priori* appetite for land. So far as I can see, the model money-lender whom I have described, and whose utility I do not dispute, will not be at all injured by this Bill. The *samindar* will still require money, and the *baniya* will continue to provide it. But it is the Shylock, who insists upon his pound of flesh, and who, under the existing system, is in the habit of taking it in land, because it is the one security which his debtor can furnish, at whom we aim. A money-lending class I fully

[*The President.*]

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believe to be essential to the existing organisation of agrarian life in India; but we do not desire to see them converted into land-grabbers, either voluntary or involuntary, at the expense of the hereditary occupants of the soil.

"I do not, therefore, feel any doubt as to the seriousness of the málady which we have been called upon to diagnose, and for which, if we value our responsibility, it is our duty to prescribe. But there arises the second question, whether we have or have not adopted the right prescription.

"Now, there is one objection that has been raised to our Bill which would equally apply to any Bill. It has been said that social customs and institutions cannot be changed by arbitrary dispositions, either of law or executive authority; that they should be allowed to work out their own salvation; and that, in the process of what is described as evolution, but is in reality only blind and irresponsible abnegation of control, the desired reform will some day come. With me this argument carries no weight; for it is the argument, both of the optimist, in so far as it cheerily but thoughtlessly assumes that things, if left to themselves, will come right in the end, which I may observe in nine cases out of ten is not the case; and of the pessimist, in so far as it contends that Governments ought not to attempt to solve problems, because their solution is hard; while it is also in direct violation of historical facts. If successive British Governments had contentedly accepted the proposition that social and agrarian evils are not to be rectified by legislation, where, I wonder, would the boasted advance of the nineteenth century have been? How would the men in our coal-mines, the women and children in our factories, ever have secured the full protection which they now enjoy? Would labour have emancipated itself from the all-powerful control of capital? Had they not been guaranteed by legislative enactments, where would the valued privileges of compensation for improvements, compensation for accidents, compensation for disturbance, have been? Even in India itself how should we have built up the fabric of social and agrarian rights without the instrumentality of the law? Finally, as regards this particular case of land in the Punjab, I do not see how there can be anything immoral or revolutionary in taking away or modifying a privilege which it is proved beyond possibility of doubt was for the most part one of our own arbitrary creation. If it is an improper thing to diminish or destroy proprietary rights in land because it involves an interference with the course of nature, equally was it an improper thing to create them as we did fifty years ago, when they did not already exist. You cannot apply the argument at one end of the scale, without admitting it at the other. This is the answer to the plea of inviolable promises and inviolable rights that was put forward today by Sir Harnam Singh. The objections in principle to legislation of this description may, therefore, I think, be disregarded.

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"There remains the question whether this particular Bill and the methods to which it proposes to give the sanctity of law are the best remedy that could have been devised. I have been a good deal struck in the discussion, both in Council and in print, by the absence of any alternative prescription. Inaction, I may point out, is not an alternative. It is only an evasion of responsibility. It does not, of course, follow, because no other suitable or likely remedy has been pointed out, that ours is the sole or the right one. Such a contention would be both illogical and foolish. But given an evil which all admit, if the method of cure or rather of prevention which is suggested by the responsible physician is questioned either by the patient or by the public, the *onus*, I think, lies upon the latter of indicating a better plan. The fact that in the present case no such rival panacea has been forthcoming leads me to claim that the Government proposal, whether it be sound or unsound, at any rate holds the field.

"I now turn for a few moments to the Bill itself. It will not be denied that we have proceeded with the various stages of its growth and enactment with singular care and deliberation. The Bill in its original shape was the outcome of years of patient study. In the form which it has now finally assumed, it also bears the impress of repeated reference, of diligent reconsideration, and of an anxious desire to meet, in no dogmatic frame of mind, the criticisms whether of expert authority or of public opinion. We should, I think, have been very obstinate and unwise had we adhered to every clause, or even to every leading feature of the Bill, as introduced last year. It was emphatically a case in which a reasonable spirit was called for, and in which some concession was required to the arguments of opponents, not for the mere sake of compromise, but in order to bring the measure into closer harmony both with the feelings of the community and with the needs of the case. It is in such a spirit that the Bill has been conducted through Committee by the Hon'ble Mr. Rivaz, on whose behalf it will, I am sure, be admitted by all of his colleagues that if he has been clear as to where to stand firm, he has also known exactly how to conciliate and where to yield. As a result of the labours of the Select Committee, for which I must, on behalf of the Government of India, thank all its members, the Bill now emerges a more efficient, a more elastic, and therefore a more workable, measure. In the old Bill, for instance, the Revenue-officer's authority for every permanent alienation of land was made obligatory even in cases of merely formal sanction to alienation between non-agriculturists. Now this sanction has been wisely dispensed with. Next, we have extended the maximum period of mortgage

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when made by a member of an agricultural tribe outside his tribe or group of tribes, from fifteen to twenty years; we have added another form of mortgage which is likely to prove both serviceable and popular; and we have given power to the Local Government to prescribe, in case of necessity, yet other variations. These are only a few among the many changes and, as I think, improvements which have been introduced into the Bill. I do not say that they have converted it into a perfect measure. I have seen enough of agrarian legislation in the British Parliament to know that it never attains perfection, that it often fails in what are thought in advance to be its most certain effects, and that strange and unforeseen consequences ensue. No doubt our Bill will not differ from English or Irish Land Bills in this respect. Some of its provisions will not do what is expected of them. Others will meet with a surprising and unexpected vogue. That is the fate of all experimental legislation; and that we are making a great experiment I for one have never denied. Given the desirability of making it, which I have already argued, the utmost that we can do is, as far as possible, to anticipate every likely consequence, and to graft upon it the wisdom of the most expert intelligence.

"There are some features in the Bill upon which I admit that the arguments are very evenly balanced. It has been said, for instance, that we have drawn the restrictions too tight, that the phrase 'agriculturist' is too narrow and inelastic a term, and that there should be no restriction upon dealings between members of that class. I am not insensible of the danger of unduly narrowing the market for the compulsory vendor, or again of excluding as a purchaser the *bona fide* cultivator who may not happen to fall within the agriculturist definition. But, on the whole, I think that in these respects we have gone as far as prudence and the main principles of our legislation allow. The embarrassed land-owner should find a sufficiently wide market within the limits of his tribal group; while the category of agriculturists is, as has been shown, neither so rigid nor so exclusive as has sometimes been assumed. Money-lenders are inside as well as outside it; nor need the credit of the debtor be permanently impaired for lack of a partner to the desired transaction.

"As regards the future of this legislation, I will not be so rash as to prophesy. I should be treading upon too uncertain ground. One thing only I will predict, namely, that the gloomy forebodings of its opponents will not be realised. The case for the Opposition, as I may call it, has been stated upon a previous occasion in this Council, and again today, as well as in a printed Minute of Dissent, by the Hon'ble Sir Harnam Singh. If

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we are to believe the opinions which he has expressed or recorded at different stages, and I quote his actual words, the majority of the peasant-proprietors of the Punjab are to be reduced by this Bill to a state of serfdom worse than that of the Middle Ages; it is to be followed by the impoverishment of millions of men living upon the soil; it is to doom the people to perpetual misery, and to destroy their happiness and contentment; British prestige will be rudely shaken; agricultural credit will be destroyed; and the progress of the province will be retarded for at least fifty years. Every age and every epoch has had its Cassandra; and I do not complain of my Hon'ble friend for donning the familiar garb. I venture, however, to think that if his superlatives had been fewer his invective would have been more convincing, and that his vaticinations will be found to have been a good deal exaggerated. If this be so, I am confident that no one will be better pleased than the Hon'ble Member himself. I will not rush to the opposite extreme. I have no intention of claiming that universal peace, or prosperity, or affluence will settle down upon the land in consequence of this Bill. Far from it. There are many questions as to the future to which I should hesitate to give a confident reply. Will this measure really secure to the agricultural tribes of the province the full possession of their ancestral lands? Will it restrain them from reckless borrowing? Will it save them from the mesh of the usurer? Or, while protecting them from usurers of other castes, will it hand over the feebler and less thrifty units in the class to the richer and more powerful members of the tribe? Or, again, will it effectually divorce the money-bags of the province from the one form of investment which has always been dear to successful speculation? It would require a keener insight than mine to answer such questions with any certainty. It may be permissible, however, to anticipate that while all of these consequences will to some extent ensue, no one will follow to the exclusion of the others. The moneyed classes, the *nouveaux riches*, will still have their opportunity of obtaining land, but not on such easy terms as in the past. The agricultural tribesmen will not all in a moment be converted to frugal or provident habits; but the opportunities and the temptations of borrowing will, it is hoped, be less. The weakling and the spendthrift will still go under, and his possessions will pass to his stronger brethren. But the transfer will be more frequently to men of his own tribe or tribal group, and less frequently to outsiders who are not connected either with the traditions or with the traditional occupation of the province. The transition will not be abrupt or sensational. It will be enough if, though gradual, it is sure. I shall myself watch the venture with the warmest sympathy and interest, not merely because I have been head

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of the Government of India at the time when this Bill has passed into law, nor because I know it to have been framed with the most conscientious regard for the public interest, but because it is the first serious step in a movement which is designed to free the agricultural classes in this country—the bone and sinew of our strength—from an incubus which is slowly but steadily wearing them down.”

The motion was put and agreed to.

INDIAN PORTS BILL.

The Hon'ble MR. RALEIGH moved for leave to introduce a Bill further to amend the Indian Ports Act, 1889. He said:—“The Indian Quarantine Act of 1870 conferred upon this Government a power which was then exercised by all civilized Governments, the power to detain ships and persons coming from places where epidemic or infectious disease prevailed. Since the passing of the Act ideas have changed; it is now thought that quarantine is not a satisfactory or even a safe method for preventing the spread of infectious disease. Our medical advisers prefer to rely on vigorous measures of disinfection, on the segregation of persons suffering or just recovering from disease, and on the proper disposal of the dead. It is, therefore, proposed to repeal the Quarantine Act of 1870 and to take power to make rules under the Indian Ports Act of 1889 for the purposes which I have indicated to the Council. I ask leave to introduce a Bill for this purpose.”

The motion was put and agreed to.

The Hon'ble MR. RALEIGH introduced the Bill.

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

The motion was put and agreed to.

The Council adjourned *sine die*.

SIMLA;
The 23rd October, 1900.

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