

ABSTRACT OF THE PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

LAWS AND REGULATIONS.

VOL 14

Jan to Dec

1875

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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.

1875.

WITH INDEX.

VOL. XIV.



Published by the Authority of the Governor General.

Gazettes & Enactments Section
Parliamentary Library Building
Room No. FB-026
Block V

CALCUTTA:

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING.

1876.

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

The Council met at Government House on Tuesday, the 14th December 1875.

PRESENT:

His Excellency the Viceroy and Governor General of India, G. M. S. I.,
Presiding.

His Honour the Lieutenant-Governor of Bengal.

Major-General the Hon'ble Sir H. W. Norman, K. O. B.

The Hon'ble A. Hobhouse, Q. C.

The Hon'ble E. C. Bayley, C. S. I.

The Hon'ble Sir W. Muir, K. O. S. I.

The Hon'ble Sir A. J. Arbutnot, K. O. S. I.

Colonel the Hon'ble Sir Andrew Clarke, R. E., K. O. M. G., C. B.

The Hon'ble J. R. Bullen Smith.

The Hon'ble John Inglis, C. S. I.

The Hon'ble Sir Douglas Forsyth, K. O. S. I.

The Hon'ble Ashley Eden, C. S. I.

The Hon'ble T. C. Hope.

His Highness MAHÁRÁJÁ ISWARÍPARSHÁD NÁRÁYAN SINGH BAHÁDUR, of Benares.

The Hon'ble D. Cowie.

The Hon'ble Rájá Narendra Krishna Bahádur.

NEW MEMBER.

His Highness MAHÁRÁJÁ ISWARÍPARSHÁD NÁRÁYAN SINGH BAHÁDUR took his seat as an Additional Member.

PRESIDENCY BANKS BILL.

The Hon'ble Sir W. Muir introduced the Bill for constituting and regulating the Banks of Bengal, Madras and Bombay, and moved that it be referred to a Select Committee with instructions to report in two months. He said—

“Your Excellency; when I obtained permission of the Council to introduce the Bill for constituting and regulating the three Presidency Banks, I stated the occasion of the measure to be that Government had resolved on retiring from its position as a shareholder in the existing Banks, a change which rendered necessary a new Act of incorporation.

"I will trouble the Council now with but a very brief narrative of the circumstances which have led to the present measure. The Bank of Bengal took its origin as the immediate result of an able letter addressed in 1801 to the Government of India by its Accountant General, Mr. Henry St. G. Tucker, in which he showed that a Bank was necessary both in the interests of Government and of the mercantile community. Money was in those days raised by what were called 'Treasury bills.' But although these bore interest, they were liable to depreciation in the market, and by the combination chiefly of Native brokers, were often at a heavy discount. To remove the inconveniences of this arrangement and maintain the credit of Government, Mr. Tucker argued that a bank was indispensable; and that in order to its security, it was necessary that Government should aid it by contributing as a shareholder to its capital, and by sharing in its direction and in the privilege of voting. Upon this footing the Bank of Bengal was opened in 1806, and obtained its charter in 1809. Its capital was then £500,000, of which the State contributed £100,000. The capital was from time to time increased, and now stands at £2,200,000, of which £220,000 belong to Government. Up to 1854, the Secretary was, with one exception, a member of the Civil Service. Thus constituted, the Bank of Bengal has well answered its object. It has proved a useful auxiliary to the State and to the mercantile community, and in seasons of difficulty has often afforded substantial assistance and valuable support to the Exchequer.

"The Presidency Bank of Madras was incorporated by Act IX of 1843, superseding an already existing State Bank. It also has proved, though on a much smaller scale, a useful institution.

"The Bank of Bombay was first constituted by Act III of 1840, but it came to a disastrous ending. As is now matter of history, it suffered severe losses in the wild and excited speculation which followed on the American war, and the rise in the price of Cotton; and in 1868 it was voluntarily wound up. The new Bank of Bombay, Limited, rose upon its ruins, being constituted by Articles of Association under the Indian Companies Act of 1866.

"A Commission was appointed by the Government of India to enquire into the causes of failure of the Bombay Bank, and in 1869 this Commission furnished an elaborate report of the results of the investigation. The majority consisting of Sir Charles Jackson the President, and Mr. Maxwell Melville, were of opinion that Government should retire from its position as shareholder. Major Innes on the contrary considered the position an expedient one. Sir Charles Jackson's argument was that the partnership of Government and its

participation in the direction of its business afforded no real security against disaster; and that the Government Directors, having other important duties of their own to perform, had not the leisure (and not always the special qualifications) to enforce an effective and vigilant control. The connection, while thus giving no material protection, was looked upon by the outside world as an all-powerful guarantee; and in the event of failure, the discovery that that guarantee was worth nothing must create wide-spread dissatisfaction, as it really did in the case of the Bombay Bank. In short, there was an apparent, but not any real, responsibility. Further it was urged that the necessity for connection with the State no longer existed; it might have been expedient or even indispensable in the poverty of mercantile resources at the beginning of the century to support the credit of the Bank by Government capital and direction. But this had long ceased to be the case, and there were now abundant materials, altogether apart from the State, for banking upon a secure and independent basis. And even supposing a Bank to be needed for the transaction of the business of Government and the custody of its balances, sufficient security could be obtained by legal checks and restrictions upon a private Bank, without the State becoming itself a shareholder.

“The position thus contended for has been accepted by Her Majesty’s Government. Various opinions have prevailed upon it, and much discussion. For my own part, I agree in the conclusion that has been come to as upon the whole the most wise and expedient. But in truth the subject is now beyond the range of discussion. The separation has been deliberately resolved upon by the highest Authority; and it only remains to provide measures for giving effect to it, and for the constitution of new Banks independent of the Government, but on so secure a basis that they can be used by Government for the purposes of the Exchequer.

“Such being the case, it has become necessary to provide for the disposal of the shares of Government and to remodel the Acts of incorporation; and the opportunity is taken to make one Act under precisely the same conditions applying to all the three Banks. Although the State will no longer be a shareholder in the Banks, it will still be a depositor; all payments to or by Government at the several presidencies will be paid by or to the respective Banks, which, as Bankers of the State, will transact the business of Government at the presidencies. The provisions on this head will be found under section 11 of the Bill. These provisions render it necessary that the interests of the public should be secured by certain legal safeguards and restrictions on the kind of business to be transacted by the Bank and the mode of its transaction, by the

power of inspection on the part of Government, and by the periodical publication of the state of the Banks' assets and balances. At the same time such relaxations in the existing law as have been found compatible with safety have been admitted.

"The Bill which I now introduce is based upon a draft drawn by the New Bank of Bombay in 1872; and it has been subjected to very careful and anxious revision in the Financial and Legislative Departments. Advantage has been freely taken of the criticisms received from the directors of the three Banks. Further suggestions will no doubt be advanced by the directors and others while the Bill is before the Select Committee; and they will there receive the fullest consideration, with the aid which I trust we shall obtain from my hon'ble friends the mercantile members of the Council. The Bill is in itself much more elaborate and systematic than any of the previous enactments, and it may be hoped will prove well adapted for its object. If passed into law, I have every confidence that it will afford a full security and yet ample liberty of action.

"The chief relaxations in the mode of conducting business are these :—

"The Banks may invest in Railway stock, debentures or shares of Railway or other Companies of which the interest has been guaranteed by Government (section 9, (a) clause 3). They may similarly invest in the debentures of legally constituted municipalities (clause 4). The advance of money is no longer restricted to goods 'not of a perishable nature;' it is left in the discretion of the Banks whether the goods are of a nature to warrant advances or not, without any risk of a breach of the law (clause 5). Lastly, branches may be opened anywhere within the respective presidencies at discretion and with no need of Government sanction (section 15).

"In this last section (15) it has been provided that the agency of the Bank of Bengal now in Bombay shall not be disturbed. The Council are aware that much controversy has existed between the New Bank of Bombay and the Bank of Bengal in respect of this agency; and it has been finally decided by Her Majesty's Government not to insist upon its withdrawal. The scope of this agency is limited to what has been hitherto its object, namely, the transaction of the business proper of the Bank of Bengal, and it will not interfere with the functions of the Presidency Bank beyond those limits. The new Bank has flourished notwithstanding the existence of this agency, and there is no reason to apprehend any injury to it from the same cause in the future. I may add that should permission be at any future time given to the Bank of Bombay

to establish a corresponding agency in Calcutta, it will be under precisely the same restrictions, for the imposition of which due power has been reserved in section 15.

“Two new restrictions on the scope of the Bank’s business may be noticed as having been based on the experience gained from the failure of the Bombay Bank and the suggestions of the commission. One is the prohibition of discounting securities supported by only one name (section 10 (e)), the expediency of which, as bearing on safe banking, needs no illustration. The other is that advances (other than those upon security authorised by the Bill) are limited in respect of any single person or firm at any one time to Rs. 6,00,000. On this subject Sir Charles Jackson wrote—

“It would be advisable, considering the pressure brought to bear on Directors in such mercantile communities as Bombay, that the Indian Act should mention some limit beyond which no person, firm or company should be under advance. The limit mentioned in the old Bombay Act (III of 1840) of three Lakhs for individual firms is rather low for these days, and it is clear that the bills of the large Indian Banks might safely be taken for a larger amount.’

“Following this opinion, and after careful deliberation, the amount has been doubled and the limit enlarged to six Lakhs.

“The terms of the contracts between Government and the Banks are still under negotiation; but no difficulty is apprehended in the settlement of such conditions as shall be readily accepted both by Government and by the Banks.

“Among the details which will come before the Select Committee is one which I may here allude to. The shares have been lowered in amount, and it is not improbable that this may have the effect of bringing in a larger number of the holders of small shares. In the schedule of votes, a number of small capitals held separately by different shareholders carry a larger voting power than a much greater capital singly held. It will be considered whether greater weight than at present should not be given in the scale of votes to the larger capitals.

“These are all the remarks which it occurs to me to make upon the Bill. A new era now opens for the Presidency Banks. They emerge from Government control. Only so much inspection is insisted on as will satisfy the Government that the requirements of the Act are being carried out, and that its balances are safe under the Bank’s custody. At this juncture it is right that, on the part of Government, I should acknowledge the valuable services which have been rendered by the Banks as heretofore constituted, and specially by the

most important of them, the Bank of Bengal, to Government, and likewise the useful position they have occupied in aiding—what really constitutes the prosperity of the State—the interests of the commercial community of India. The Banks have no doubt done good business for themselves, and upon the whole yielded to their shareholders excellent returns on the capital invested. But their good management and their success in this respect is no reason why the State should not acknowledge its obligations for the benefits which it has received from association with them.

“And there is every reason to hope and trust that in the future these benefits will not be lessened, and that, under a more perfect definition of the limits of safe business and of legal responsibilities and obligations, greater liberty of action may be exercised without any reasonable risk of disaster; and the securities of the law prove no bar to financial success.”

The Hon'ble MR. BULLEN SMITH said that connected as he was with one of the three Presidency Banks of which Sir William Muir had just been speaking, it would scarcely be possible to allow the motion to pass without expressing the great satisfaction which he felt at the introduction of the Bill, which promised to put an end to a certain amount of anxiety and uncertainty which had for a long, although perhaps unavoidable, period existed as to what were to be the precise relations of Government with the Presidency Banks in future, and the conditions upon which those institutions were to conduct their business. He had listened with great interest to all that had fallen from the hon'ble member as to the rise and progress of these Banks, and although he (MR. BULLEN SMITH) conceived there might be difference of opinion as to whether or not there did exist at the present time a real necessity for the severance of that connection which had so long and with such great advantage subsisted between the Government and these Banks, yet he was for his part somewhat careless to enquire as to the precise need for that severance. The Banks had derived great advantage from that connection in times past, but he thought the moral support which the Government lent to the Banks, besides its material support, was now no longer required. He thought these institutions were now in a position to go on alone, which they were not at the time of their original establishment, and that support, which was in the early days almost necessary, was now no longer required.

As to the Bill itself, he was quite prepared to say that in most particulars he was content with it. There were one or two sections which he thought were too strictly drawn, inasmuch as he believed it would be found that, in regard to the amount of capital available and business transacted,

conditions which applied with equity and propriety to one might not with equal equity and propriety apply to others. These, however, would be matters for discussion in Committee, and he was quite sure that anything which might be said from his point of view and that of others would receive the utmost attention.

In conclusion, he desired especially to express his high approval of, and the pleasure with which he had read, section 15 of the Bill, establishing legally the agency of the Bank of Bengal at Bombay. That agency, it was not too much to say, had during several years been assailed with great bitterness and determination. Attempts had been made repeatedly to procure its removal, and assertions made that it was carrying on other than its own legitimate operations. An enquiry was made by the Government of India some time ago into these allegations, and the fact that the agency of the Bank of Bengal had not been prohibited from remaining in Bombay was, he presumed, sufficient evidence that the Government was satisfied that the charges were unfounded, and that the agency was not acting as a branch, but was doing the work for which it was established, and that only. Still he welcomed this section, because its introduction into the Bill seemed to proclaim in a public manner that the Bank of Bengal had not gone to Bombay under false pretences, that it had not asked leave to do one thing and done another, that the agency was acting strictly within its functions as such, and that the Bank had in all loyalty and good faith confined its operations in Bombay to the purposes for which it sought and obtained permission to establish an agency in that city. With these observations he had much pleasure in supporting the motion.

The Hon'ble RÁJÁ NARENDRA KRISHNA BAHÁDUR said that the Bill proposed to confirm the sale of the shares held by the Government in the Banks of Bengal and Madras to the private proprietors of these Banks; or, in other words, the Government wanted to modify materially its connection with them. Since the establishment of these Banks their affairs (he alluded especially to the Banks of Bengal and Madras) had been managed partly by experienced Civilians appointed by Government, and partly by influential members of the mercantile community. The banking business, under their joint management, had generally prospered. The exercise by Government of a healthy control over the Banks had hitherto supplied a firm foundation for the unbounded confidence of Native and European shareholders, as well as of the public at large. The present Bill, by upsetting, to a very great extent, this long existing wise arrangement, would take away a powerful safeguard, unsettle a variety of interests, and seriously affect many existing transactions. He

need only specify the existing practice of most Natives, and, he believed of the Europeans, preferring to deposit money in these Banks instead of in other Banks, although the latter allowed a certain interest on the deposits. He might also be allowed to observe that financial schemes of great magnitude in this country, which had not enjoyed the supervision of Government, had generally collapsed. The Government, indeed, had, with a due regard to the principles he had touched upon, made certain salutary provisions, as explained in the concluding paragraph of the Statement of Objects and Reasons of the Bill; but he would suggest the propriety of associating a competent Civilian with the executive functionaries of the Banks, without which, he feared, the existing unlimited confidence of the public in the transactions of the Banks could not remain intact. Although the Government would cease to have any direct pecuniary concern in the Banks, yet, as they would be empowered to act as bankers for the Government, it ought very legitimately to have its own responsible officer to superintend their affairs.

The Hon'ble Sir W. Muir in a few words expressed his great satisfaction at what had fallen from his friend, Mr. Bullen Smith, and the support he had accorded to the action of the Government: he could only again assure him that every attention and consideration would be given to any suggestions or remarks that might come either from individual members of the mercantile community, or from the Directors of the Banks.

With reference to the remarks of Rájá Narendra Krishna, he trusted that the gloomy apprehensions he had expressed from the Banks not having connection with the State, or Civilians not being in their direction, would be falsified in the result, and that the carefully-drawn provisions of the Act would secure all the protection necessary for, or desired by, the public.

The Motion was put and agreed to.

The Hon'ble Sir W. Muir also moved that the Bill be published only in English in the *Gazette of India*, the *Calcutta Gazette*, the *Fort St. George Gazette* and the *Bombay Government Gazette*.

The Motion was put and agreed to.

CALCUTTA UNIVERSITY (HONORARY DEGREES) BILL.

The Hon'ble Mr. HOBHOUSE moved for leave to introduce a Bill to authorize the University at Calcutta to grant Honorary Degrees.

He said that the growth of this University had been such that, independently of any special occasion, it might be proper to consider whether they

should not have the power to grant Honorary Degrees. There was however a special occasion which this Bill was intended to meet; namely, the visit of His Royal Highness the Prince of Wales, upon whom it was proposed to confer such a Degree. But the University had no power at present to confer Degrees without examination. The Corporation was established by an Act of this Council passed in the year 1857, and in the preamble of that Act the scope of the Corporation was described as being for the purpose of ascertaining, by means of examination, the persons who had acquired proficiency in certain specified subjects, and of rewarding them by Academical Degrees as marks of honour. In the 11th section of the same Act it was provided that the University should have power, after examination, to confer the several Degrees therein specified. These were the Degrees of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, and Master of Civil Engineering. Those were the provisions of the Act of 1857. It was subsequently found convenient to give the University greater latitude with respect to the Degrees to be conferred; and accordingly, by an Act passed in 1860, it was provided that the University might confer such Degrees as they should appoint by any bye-laws. But it was also provided that all the provisions which were contained in the Act of 1857 with respect to the old Degrees should apply also to the new Degrees to be created under the Act of 1860. Therefore it remained the case that no Degree conferrible under the Act of 1860 could be conferred without examination. Under the powers given by the latter Act, a bye-law was passed establishing the Degree of Doctor in Law. Shortly afterwards, in the year 1862, it was a matter of discussion amongst the University authorities whether or not they should apply for power to confer Honorary Degrees. There was a good deal of difference of opinion at that time, but upon the whole the opinion prevailed that the University was too young a body to confer such Degrees, and that it would be better to wait until it had grown into a larger body before that subject was mooted. Now the growth of the University had been very rapid, and it had taken an important place in the Indian community. And he thought that when a personage in the position of the Prince of Wales came forward and expressed his readiness to be the first recipient of such a Degree, the University need not be very modest in the matter but might consider themselves competent to confer it.

As Mr. HOBHOUSE was about to ask His Excellency to suspend the Rules for the Conduct of Business, it would be convenient to go on and state what were the contents of the Bill. The reasons for suspending the Rules were that the time was short, that there were many arrangements to make, and that it was desirable that the University authorities should know in what position they stood.

The object of the Bill was one as to which he should hardly anticipate any difference of opinion. The subject-matter was very simple, and the precaution had been taken to submit the draft which the Council had in their hands to the Syndicate of the University. It had been carefully examined by them, and had been approved in the form in which it stood. Therefore it was not likely that we should find errors in the draft if the Council passed it in that form. The nature of the Bill was of the simplest possible kind. It stated briefly that position of things which he had stated to the Council rather more fully, and then it provided that, with the consent of the Chancellor of the University, the Syndicate might grant any Academical Degree to any person without requiring him to undergo an examination. But it provided that the Vice-Chancellor and at least four members of the Syndicate should certify that, by reason of eminent attainments and position, he was a fit person for such Degree. The Council were doubtless aware that the executive powers of the University were managed by a body called the Syndicate, and one of these powers under the bye-laws of the University was to grant Degrees, Honours and Rewards. Therefore it was proposed that the Syndicate should grant any such Degree as the University might think fit to establish under the Act of 1860. They had established the Degree of Doctor of Laws. It was a fit Degree to confer upon His Royal Highness the Prince of Wales, and therefore it was proposed to confer that Degree upon him in the present instance. With respect to the safe-guards provided, it was not thought desirable that any very wide door should be open to persons to come in and ask for an Honorary Degree. It was therefore thought fit that a large number of the Syndicate, and the Chancellor, who stood quite independent of the Syndicate, should agree in the propriety of conferring such a Degree on any person.

His Excellency THE PRESIDENT said :—"As I have the honour, in virtue of my office, to fill the office of Chancellor of the Calcutta University, I wish to state that the object of this Bill has my entire concurrence. In fact it was owing to my own suggestion that the question of conferring an Honorary Degree of the Calcutta University on His Royal Highness the Prince of Wales was considered by the Syndicate. It appeared to me not only to be a proper compliment to offer on behalf of the University to His Royal Highness, but also a fitting occasion upon which His Royal Highness might be brought into connection with the great educational institutions of India which have attained their highest development in Calcutta. It was a matter of surprise to me to find that there was some difficulty with respect to the power of the University to confer an Honorary Degree of this nature, and the Bill which my honourable friend, Mr. Hobhouse, has asked leave to introduce to-day, has been framed simply for the purpose of removing that difficulty.

"The reasons given by my honourable friend, Mr. Hobhouse, amply justify me in suspending the Rules for the Conduct of Business, and asking the Council to pass this Bill to-day."

The Motion was put and agreed to.

The Hon'ble Mr. HOBHOUSE having applied to His Excellency the President to suspend the Rules for the Conduct of Business,

The PRESIDENT declared the Rules suspended.

The Hon'ble Mr. HOBHOUSE then moved that the Bill be taken into consideration.

The Motion was put and agreed to.

The Hon'ble Mr. HOBHOUSE also moved that the Bill be passed.

The Motion was put and agreed to.

SUNDRY BILLS.

The Hon'ble Mr. HOBHOUSE also moved that the Hon'ble Rájá Narendra Krishna Bahádur be added to the Select Committee on the following Bills:—

To consolidate and amend the law relating to Pleaders and Mukhtárs:

To consolidate and amend the laws relating to the Procedure of the Courts of Civil Judicature.

The Motion was put and agreed to.

The following Select Committee was named:—

On the Bill for constituting and regulating the Banks of Bengal, Madras and Bombay—The Hon'ble Mr. Hobhouse, the Hon'ble Sir A. J. Arbutnot, the Hon'ble Messrs. Bullen Smith, Hope and Cowie, the Hon'ble Rájá Narendra Krishna and the mover.

The Council then adjourned to Tuesday, the 21st December 1875.

CALCUTTA;
The 14th December 1875. }

WHITLEY STOKES,
*Secretary to the Government of India,
Legislative Department.*