

*Thursday,
17th December, 1896*

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

LAWS AND REGULATIONS

Vol. XXXV

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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,

1896

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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 under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 17th December, 1896.

P R E S E N T.

His Excellency the Earl of Elgin, Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.

His Honour Sir Alexander Mackenzie, K.C.S.I., Lieutenant-Governor of Bengal.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble J. Woodburn, C.S.I.

The Hon'ble M. D. Chalmers.

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

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

The Hon'ble C. C. Stevens, C.S.I.

The Hon'ble H. E. M. James.

The Hon'ble Sir A. S. Lethbridge, K.C.S.I., M.D.

The Hon'ble M. R. Ry. P. Ananda Charlu, Rai Bahadur.

The Hon'ble Sir G. H. P. Evans, K.C.I.E.

The Hon'ble Alan Cadell, C.S.I.

The Hon'ble J. D. Rees, C.I.E.

The Hon'ble G. P. Glendinning.

The Hon'ble P. Playfair, C.I.E.

The Hon'ble Rahimtula Muhammad Sayani, M.A., LL.B.

The Hon'ble Pandit Bishambar Nath.

NEW MEMBERS.

The Hon'ble RAHIMTULA MUHAMMAD SAYANI and the Hon'ble PANDIT BISHAMBAR NATH took their seats as additional Members of Council.

MERCHANT SHIPPING BILL.

The Hon'ble MR. CADELL moved that the Hon'ble Mr. Chalmers be substituted for Sir A. E. Miller as a member of the Select Committee on

*MERCHANT SHIPPING FISHERIES ; AMENDMENT OF
CRIMINAL TRIBES ACT, 1871 ; AMENDMENT OF
NEGOTIABLE INSTRUMENTS ACT, 1881.*

[Mr. Cadell ; Mr. Woodburn ; Mr. Chalmers.] [17TH DECEMBER, 1896.]

the Bill to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea.

The motion was put and agreed to.

FISHERIES BILL.

The Hon'ble MR. WOODBURN moved that the Bill to provide for certain matters relating to Fisheries in British India be referred to a Select Committee consisting of the Hon'ble Mr. Chalmers, the Hon'ble Mr. James, the Hon'ble Rai P. Ananda Charlu, Bahadur, the Hon'ble Rao Sahib Balwant Rao Bhuskute and the mover. He explained that a couple of years ago the Bill was introduced into the Council. The Bill had been before the Local Governments in the interval, and the Government of India had decided to make material alterations in it. The reason for these alterations he had explained at a recent meeting of the Legislative Council at Simla.

The motion was put and agreed to.

CRIMINAL TRIBES ACT, 1871, AMENDMENT BILL.

The Hon'ble MR. CADELL moved that the Bill to amend the Criminal Tribes Act, 1871, be referred to a Select Committee consisting of the Hon'ble Mr. Woodburn, the Hon'ble Mr. Chalmers, the Hon'ble Pandit Bishambar Nath and the mover. He said that the opinions of the different Local Governments had now been received with reference to the Bill.

The motion was put and agreed to.

NEGOTIABLE INSTRUMENTS ACT, 1881, AMENDMENT BILL.

The Hon'ble MR. CHALMERS moved that the Bill to amend the Negotiable Instruments Act, 1881, be referred to a Select Committee consisting of the Hon'ble Sir James Westland, the Hon'ble Rai P. Ananda Charlu, Bahadur, the Hon'ble Sir Griffith Evans, the Hon'ble Mr. Glendinning, the Hon'ble Mr. Playfair and the mover. He explained that this was a Bill which had stood over from last session and would be familiar to the members of the Select Committee.

• The motion was put and agreed to.

[17TH DECEMBER, 1896.] [*Mr. Chalmers ; Mr. Woodburn.*]

UNITED KINGDOM PROBATES BILL.

The Hon'ble MR. CHALMERS moved that the Bill to provide for the recognition in British India of Probates and Letters of Administration granted by Courts in the United Kingdom be referred to a Select Committee consisting of the Hon'ble Sir James Westland, the Hon'ble Mr. Woodburn, the Hon'ble Rai P. Ananda Charlu, Bahadur, the Hon'ble Sir Griffith Evans, the Hon'ble Mr. Sayani and the mover. He said that this was also a Bill which stood over from last session and would be familiar to the members of the Select Committee to which it was referred last year.

The motion was put and agreed to.

MEMONS BILL.

The Hon'ble MR. WOODBURN moved that the Bill to render it permissive to the members of the Memon Community to declare themselves subject to Muhammadan law be referred to a Select Committee consisting of the Hon'ble Mr. Chalmers, the Hon'ble Mr. Stevens, the Hon'ble Nawab Amir-ud-Din Ahmad Khan, Bahadur, the Hon'ble Mr. Sayani and the mover.

The motion was put and agreed to.

REFORMATORY SCHOOLS BILL.

The Hon'ble MR. WOODBURN moved that the Bill to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders be referred to a Select Committee consisting of the Hon'ble Mr. Chalmers, the Hon'ble Sir A. S. Lethbridge, the Hon'ble Mr. Cadell, the Hon'ble Rao Sahib Balwant Rao Bhuskute, the Hon'ble Pandit Bishambar Nath and the mover.

The motion was put and agreed to.

ACT XXXVII OF 1850, AMENDMENT BILL.

The Hon'ble MR. CHALMERS moved that the Bill to amend Act XXXVII of 1850 (*for regulating Inquiries into the Behaviour of Public Servants*) be referred to a Select Committee consisting of the Hon'ble Mr. Woodburn, the Hon'ble Mr. James, the Hon'ble Mr. Rees, the Hon'ble Nawab Amir-ud-Din Ahmad Khan, Bahadur, the Hon'ble Sir Laksmishwar Singh, Maharaja Bahadur of Durbhanga, and the Mover. He said :—“ This Bill was introduced

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INDIAN PAPER CURRENCY ACT, 1882.*

[*Mr. Chalmers ; Sir James Westland*]. [17TH DECEMBER, 1896.]

at Simla and the amendment is almost purely a formal one. It is simply an amendment of the definition of ' Government '. The definition originally inserted in the Bill applied to the various Local Governments as they existed in 1850. Now it is proposed to extend the definition to the various Local Governments throughout India."

The motion was put and agreed to.

INDIAN PAPER CURRENCY ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved for leave to introduce a Bill to amend the Indian Paper Currency Act, 1882. He said:—"On the 26th March last I took the opportunity of the Budget debate to inform this Council that one matter had been under the consideration of the Government, which would eventually come before this Council for the purpose of legislation. The question was that of increasing the investment of the Government currency reserve, which is at present limited to eight crores of rupees, up to ten crores of rupees. Shortly after the session in Calcutta closed, various papers were published in the Gazette of India of the 11th April last, showing the nature of the proposal which the Government made and the reasons by which they justified it. I may remark that this question is to a certain extent one of the public credit of the Government and of the Currency Department, and although I might be quite ready to justify to my own mind the proposal to raise the investment, still I would consider it necessary to judge it, not by mere logical deductions from the facts which were within my knowledge, but to a large extent by the opinions of experts regarding the proposal ; that is to say, the importance of the convertibility of the currency is a matter of such great moment to the banking and mercantile community, that, however I might myself feel justified in proposing a measure which affected that convertibility, I would nevertheless consider it necessary, before adopting it, to satisfy myself that the mercantile and banking community thoroughly approved the measure and considered that it could be carried out without in any way impairing the credit of the Currency Department. Taking this view, the Government referred the question to the mercantile community and the banking community, namely, to the five principal Chambers of Commerce and to the three presidency banks. I shall refer to the replies given to us by these institutions in order to show that they, with a modified exception, thoroughly approved the measure which the Government had suggested.

"First of all, to take the case of the banks. The reply which the Bank of Bombay gave us to the proposal was that they 'desired to express their entire approval of the proposal submitted for their opinion.' The reply which the Bank of Madras gave to us was that 'they are of opinion that the cash balance held in the Currency Department may be reduced by two crores with perfect safety.

"The Bank of Bengal, in the same way, said :—

'The proposed increase of securities in the paper currency reserve should therefore leave a stock of coin and bullion sufficient to ensure convertibility of the notes under all circumstances for which it appears necessary to provide.'

"They go on to discuss certain matters which do not refer immediately to the question as it relates to the Currency Department. They pointed out that certain other consequences which stood apart altogether from the question of the safety of the convertibility of the currency were affected by the transfer of two crores of rupees from currency to treasury and from treasury into ordinary circulation ; but, so far as regards the Currency Department, they were satisfied that there was no impairment of the security of the currency by the addition of two crores to the amount. With reference to these collateral points, I shall quote part of their letter as I shall have to refer to it later on. After giving their opinion that the two crores might with safety be invested, they pointed out the necessity of choosing, with reference to the state of the money market generally, the time when that investment should be made. They say :—

'In India the currency has no self-adjusting power. It has no fixed specie export point, while its fixed specie import point (*1s. 4d. plus transit charges*) is far beyond the present range of exchange ; and this want of elasticity might create a stringency at a time when the reserve treasury balances were low, which would best be met by an addition to the currency such as Government propose to make. The stringency might occur suddenly and require prompt relief, and, under these circumstances, I have to suggest, for the consideration of His Excellency the Governor General in Council, that the power contemplated should be obtained from the Legislature, but should be reserved either for use in an emergency such as above described or until the currency is made automatic.'

"I am quoting this opinion in order to show that the Bank of Bengal, although they confessed to certain doubts regarding the consequences of the proposed measure, nevertheless recommended that the powers which I now ask leave to legislate for, should be obtained from the Legislature, and also made a proposal that we should watch the time at which it was brought into operation so as to make it consonant with the interests of the money market.

[*Sir James Westland.*] [17TH DECEMBER,

"I shall presently show that the Bank of Bengal are at the present moment very strongly of opinion that the precise moment which they contemplated has now arrived, and that they strongly recommend the immediate adoption of the measure to which they gave their conditional approval so long ago as last November."

"I go on to quote the opinions which were given to us, in reply to our references, by the various Chambers of Commerce. The first is that of the Bombay Chamber. They say :—

"The proposal to take power from the Legislature to raise the limit of the paper currency reserve from eight to ten crores of rupees meets with their entire approval, and the Committee will be glad to learn that early legislative action has been taken to give it effect."

"The next reply is from the Chamber of Commerce, Rangoon, in which they say that 'the Committee approve of the proposal.' From Madras we were told—

"This Chamber sees no objection to the proposal in so far as it will affect the proportion of cash to be held in order to make good the issue of currency notes."

"They then go on to discuss certain questions relating to the currency policy of the Government. The Karachi Chamber give their reply that they 'see no objection to the increase of the reserve as contemplated, provided it is done gradually and at a favourable time.' The Chamber of Commerce, Calcutta, were divided as to the merits of the proposal, and I, therefore, quote their opinion neither on one side nor on the other, but my hon'ble friend Mr. Playfair will presently, I understand, give a strong opinion that, if we are going to do it, it is time to do it now."

"I have quoted these opinions in order to show that the mercantile community and the banking community, who are pre-eminently interested, have given their cordial approval to the measure which I now bring before the Legislature; but I wish to go a little further and show that the Legislature has in its past action with reference to the Currency Department, practically given its approval to the grounds on which I base the measure which I am now about to bring before the Council."

"The Currency Department started in 1862, and the law at that time (Act XIX of 1861) gave permission to invest out of the currency reserve an amount

not exceeding four crores of rupees. That was the amount up to the amending Act, which was No. XXIII of 1871. I have placed upon the table, in the hands of Members, statements which I now desire to make reference to with a view to enabling them to follow the remarks which I have to make. The first statement to which I draw attention is that headed No. 3, and I wish to point out that, during the last five years of the period during which the Currency Department was conducted under the Act of 1861, the minimum circulation was about seven or eight crores. At that time the amount which we had invested was about 41 or 43 per cent. of the total amount of the reserve. In 1870-71 the proportion was 37 per cent. At that time the new Act—Act XXIII of 1871—was passed, the Legislature giving authority to raise the investment to six crores; that is to say, that they were quite satisfied that it was safe to increase the investment of the reserve beyond 37 per cent., and the permission they gave to the Government at that time was to invest an amount, which was at the time of passing the Act as high as 66 per cent. of the minimum circulation. This Act remained in force for about 20 years. We had during the whole of these 20 years a sum of practically 6 crores of rupees invested, the remaining part of the currency reserve being held in the form of cash or bullion, ready for the encashment of the notes presented. The currency circulation during these 20 years very considerably increased. Towards the end of this 20 years the circulation varied between about 16 crores as a maximum and 12 or 13 crores as a minimum. The amount that we had invested, being 6 crores, was over 40 per cent. of the amount of the minimum circulation. At that time the Government again came before this Council and asked for permission to increase the amount of the investment. That permission was given, and the permission practically meant that, whereas the maximum investable balance was 40 per cent. of the minimum circulation, they agreed to the amount being raised to about 53 per cent.

“Since this Act of 1891 was passed the circulation has undergone a still further development, and the amount that was our minimum circulation then is very far below the amount which is our minimum circulation now. The result is that the proportion of the minimum circulation which the Legislature at present allows us to invest amounts to only about 30 per cent. of the minimum circulation for which we have to provide. This is far below the proportion which the Legislature has on two previous occasions declared that it is quite safe for us to invest, and that is one of my justifications for now asking the Legislative Council to pursue the same policy which it has hitherto pursued and allow us to increase the investment. I am not asking for permission to increase up to 66 per cent. which

the Legislative Council gave in 1871, nor am I asking for permission to increase up to 53 per cent. which the Legislative Council gave us in 1890. The amount which we really ask for only comes to 41 per cent.; that is to say, that, if the Government take advantage of the Bill, which I hope the Council will pass, to invest a total amount of 10 crores in the currency reserve, the total reserve investment will amount, after all, to only 41 per cent. of the minimum circulation.

"I now wish to say a few words on the merits of the question as apart from merely quoting the authority of the banking community, the mercantile community and this Legislative Chamber itself, and for that purpose I ask Hon'ble Members to look at the statements Nos. 1 and 2 which I have also had prepared and laid on the table. The first of these statements shows the total circulation of currency notes. It will be seen that in 1894-95 it was very high, well over 30 crores. Since then it has gradually come down, and we are now at 24 or 25 crores. It was with reference to these 24 or 25 crores that I offered the Legislative Council just now the calculation that the investment of 10 crores which we proposed to make comes to only 41 per cent. of what should be regarded as the present minimum circulation; but I desire to call particular attention to the second statement, which affords an even stronger argument for the security of the note circulation than statement No. 1.

"There are in this country two large reserves of funds: one is the large sums of money which are held by the presidency banks of Calcutta, Bombay and Madras; the other is the reserve treasury, in which we deposit, for treasury purposes, the amount of money which is not immediately required for our purposes, but which, as our transactions bring us in a large amount of revenue at one time of the year, and a smaller amount of revenue at another time of the year, it is necessary for us to hold in order to tide over the low balance period of the year. Those two reserves are very naturally held, to a large extent, in currency notes. These currency notes, therefore, may be regarded as a kind of circulation quite different from the general circulation of notes in the hands of bankers, merchants and private individuals all over the country. Statement No. 2 shows what the circulation of the paper currency stands at, if we exclude the amounts which are held in the balances at the presidency banks and in the reserve treasuries; and the point to which I would desire to draw special attention is the remarkable steadiness of these figures of what I may call the net circulation. During the last four or five years they varied by not so much as 10 per cent.; that is to say, by something like 5 per cent. in either

direction. Now during this period we have passed through two or three peculiar experiences as affecting the money market. The bank rate, for example, has been as low as 3 per cent., and it has been as high as 10 per cent. The total treasury balance has been as high as 25 crores, and it has been as low as $7\frac{1}{2}$ crores. Moreover, at one period, which will be within the recollection of us all there was a very curious state of affairs which resulted from the currency legislation of June, 1893, and was followed by something like half a year during which the Secretary of State drew no Council bills and there was a large amount of money accumulating on this side. Notwithstanding all these causes of stringency, or ease, in the money market, the net circulation, as I have called it, preserved the even tenor of its way. It stood continuously at 19, 20 and 21 crores and varied to a very small amount. The argument which I wish to base upon this is that it is possible that reasonable objection might be taken to the figures in statement No. 1. The person who objected to our policy might say—‘you show in statement No. 1 that the circulation has gone as high as 30 crores and on one occasion to 32 crores, but it has also come down to 24 or 25 crores; what security have you that we may not have another tumble down to a still lower figure? In short it may be said that statement No. 1 shows a large amount of variability in the circulation, and does not give that confidence which it is necessary to inspire in the Legislative Council in giving us permission to take a fixed figure as the minimum circulation on which we base our present proposal. But if you look at statement No. 2 it will be seen that these large variations which have taken place in the total circulation altogether disappear; that is to say, those variations in circulation are entirely due to the variations in the amounts which are held by the presidency banks and which are held in the reserve treasury. The amount in circulation which is in the hands of the public generally, including private individuals, is remarkably steady. It varies, as I have pointed out, but the variations are so small that it is hardly possible to conceive any ordinary circumstances under which it would be materially reduced below the 21 or 22 crores at which it has stood for a considerable time.

“ On these grounds, therefore, I think I have established the point that, in asking the Legislature to agree to our investing 10 crores of the balances, we are taking a measure which is a long way within the margin of safety which we ought at all times to preserve in the Currency Department.

“ I have been at pains to explain this matter very fully to Hon'ble Members of this Council, because, as will be seen from the notice-paper, it is my intention

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to propose presently that the measure be taken into consideration with the view to its being passed immediately. I do this not for any object which the Government itself has in view, but entirely with reference to the present peculiar state of the money market, with reference to which it has been represented to the Government that, if this measure is to pass, it is desirable that it should pass immediately. I hope I have satisfied the Legislative Council that the measure may be taken practically as one already much discussed and fully established, and that they will be prepared, after hearing the reasons for the urgency which I shall bring forward, to pass it in the course of this meeting.

“ It is a peculiar feature of the money market of India that it is very closely connected with the Government balances. Practically almost the whole of the available current capital used in commerce is composed of the Government balances.

“ In the middle of October last, when we saw the approach of famine and its necessary consequences in stopping the incoming of revenue and creating large outgoings in the way of expenditure, we saw that there would be a time when the depletion of the balances would have a serious effect upon what is ordinarily called the money market. It will be remembered that in the middle of October the Secretary of State suddenly reduced to a very large extent his drawings. He did so because we were obliged to inform him that, although we had made the usual preparations and the usual calculations in order to get over what we call our minimum balance period, that is, December, with the balance of about eight crores or a little more, yet we had before us the prospect of having to use a considerable portion of these eight crores for the purposes of prevention of distress. We had a demand made upon us for the suspension of a crore of revenue in one Province alone, and we also had a demand made upon us for making large advances, to the extent of tens of lakhs of rupees, for the purpose of meeting and avoiding as far as possible agricultural distress. The result is that at least a crore and a half of the funds which, under normal circumstances, would at the present moment be at head-quarters in Calcutta and Bombay and would be, under ordinary circumstances, at the disposal of the mercantile community for purposes of trade, are now either placed in the pockets of agriculturists all over the country in the shape of advances or are left with them in the shape of suspensions of revenue. Notwithstanding the extremely small drawings of the Secretary of State during the past month, the Government balance at the beginning of this month was only $7\frac{1}{2}$ crores of rupees—an amount which is

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smaller than has been experienced at any time within the last 20 years. The result is an extreme stringency in the money market. We foresaw this in October, and we have been watching with some anxiety the state of affairs ever since about the 10th of November. I may also mention with His Excellency's permission that our opinion of the stringency was so great that, under His Excellency's orders, I had prepared the necessary measures for stepping in at any moment if I were called upon to do so by the mercantile and banking community. Fortunately the official rate never went above 8 per cent. till quite recently, and it was unnecessary with the bank rate at that amount to take any heroic measures. Now I would not recommend any measure affecting our Currency Department upon the mere grounds of stringency in the money market, a thing that has nothing whatever to do with the safety of our currency and our currency circulation, and I do not bring this stringency forward at present in order to recommend the measure to the Council as one which it ought to pass. But it will be observed that the introduction of the measure has nothing whatever to do with the state of the money market. If reference be made to the papers which were published in the Gazette of India on the 12th September last, it will be seen that with the sanction of the Secretary of State, in August last it was determined that this measure for increasing the currency investment should be brought forward at the first session of this Council in Calcutta. At that time nobody foresaw the stringency which has come to the market since then. But having thus, on independent grounds, determined to introduce the measure, we now urge that in consideration of the position of the money market, and of the relief it will obtain by our increasing the investment of the currency, the measure we propose can be carried into effect with great opportuneness at the present time. We have been pressed by the Bank of Bengal, whose duty it is of course to take a lead in these matters, to take up this question as urgently as possible. I had some personal communications with Mr. Cruickshank of the Bank of Bengal and also with the Hon'ble Mr. Playfair with reference to this matter as soon as the Viceroy arrived in Calcutta; and I shall read the letter which at that time I caused to be addressed to the Secretary to the Bank of Bengal, because it shows the position which I took up in dealing with the representations made to me by the two gentlemen I have named. The letter runs:

'The Bill for increasing the currency investment to 10 crores will be introduced in the Legislative Council on the 17th. In ordinary course it will be brought up in the Council with a view to its being passed on the 7th January. Sir James Westland considers himself bound to regard the measure purely from a paper currency point of view, and is not

[*Sir James Westland ; Mr. Playfair.*] [17TH DECEMBER,

prepared for any reasons affecting the Government to press it as an urgent measure on the Legislature. The question of its urgency from the point of view of the money market is more immediately one for the consideration of the banking and mercantile community, and it is for them in the first place to raise that question. Any representation which you or your Directors or the representatives of the mercantile community may desire to make will receive the earliest attention at the hands of the Government.'

"The result was that both the mercantile community as represented by the Chamber of Commerce and the Bank of Bengal took action immediately after receiving this intimation of the views which, by His Excellency's orders, I communicated to the Bank of Bengal. On the 15th December, that is to say, two days ago, we received from the Bank of Bengal a letter which I have caused to be circulated to Hon'ble Members, and upon which I based the notice which was given in the notice-paper circulated yesterday that I intended to propose that the Bill should be immediately taken into consideration. It will be seen that both the Bank of Bengal and the mercantile community urge that, if this measure is at all to be passed, it should be passed at once, and that the relief which will thereby be given to the money market will come at a very opportune time and will remove the stringency which is at present affecting commerce, on this side at least, of India.

"Having thus explained the measure itself and having explained the urgency which causes me to propose that that it should be passed to-day, I have only to say further that, while I hope that there will be no opposition to the proposal which I make to pass it to-day, Hon'ble Members will necessarily have an opportunity of stating their objections on the question of procedure when the motion is made that the Bill be taken into consideration. At present my motion is merely for leave to introduce a Bill to increase the investment of the currency reserve."

The Hon'ble MR. PLAYFAIR said :—"As explained by the Hon'ble Member in charge of Finance, I understand that the policy of Bill now before Your Excellency's Council has not met with the approval of the whole of the mercantile community, but that the preponderance of opinion is in favour of the measure provided the opportunity taken to put it into operation be carefully considered. In addition to the statements and information that have been specially prepared and published in explanation of the measure, Government has opportunities, not available to the general public, for coming to a conclusion that it will be safe in the interests of the finances of the State, and of trade, to adopt this measure of liberating two crores of coin held as reserve against the paper currency, and I

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[*Mr. Playfair.*]

am, therefore, content to leave the decision with Government. I desire, however, to represent to Your Excellency's Government that the finances of the country and the position of the money market have become altered since the date on which the expressions of public opinion I have referred to were received, and I believe I am justified in saying that many who expressed themselves doubtful of, or opposed to, the policy of the Bill, as well as those who have expressed their opinion in favour of the measure, consider it desirable that, if Government has decided to take legislative powers to decrease the metallic reserve of the paper currency by the substitution of Government securities, this Bill should not only be passed promptly, but action should follow immediately. The opinion expressed by the Directors of the Bank of Bengal, after consultation with the Committee of the Bengal Chamber of Commerce and other representatives of the European and Native mercantile community in their letter of 15th instant, addressed to the Government of India, support the conclusion I have come to. I would emphasise the remarks made by the Hon'ble Member on the Government cash balances, and point out that these have fallen from $16\frac{1}{2}$ crores estimated as the closing balance of 1895-96 to $7\frac{1}{2}$ crores at 30th November, or to a point that was not anticipated by the Hon'ble Member when, in paragraph 178 of his Budget Statement presented to Your Excellency's Council last March, he placed the minimum cash balance required by the Government of India in November and December at between 8 and 9 crores of rupees. This depletion, I understand, arises in part from the outlay made necessary by the programme for the construction of additional lines of railway entered upon by Your Excellency's Government, to the satisfaction of the commercial community, and by the expenditure on the army mobilization scheme which was explained so clearly to this Council by General Sir Henry Brackenbury last March. On the other hand, income from railways has diminished and the treasury has not been replenished by the usual instalments of land-revenue owing to the most untoward failure of the autumn crops—an occurrence that has been so unfortunately general throughout the Empire. The Secretary of State has for some weeks past reduced his drawings, it may be presumed, not because he is holding for a better rate of exchange than the current market will yield, but on account of the restricted cash resources with the Government of India available for the purpose of meeting these drafts. As the Secretary of State's bills and telegraph transfers are now the chief medium of financing the export trade of the country, it is evident that any undue restriction of these bills must be an embarrassment to trade. The embarrassment

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in the present instance must become more serious as the resources of the joint stock banks in this country become reduced in the ordinary course of business without the means of being replenished. Nor can the banks be blamed if, under such circumstances, they arrest business in their careful regard for the cash balances held by them. This is a matter of additional importance at the present juncture, when it is particularly desirable that no monetary check to the free transfer of food supplies from one part of the Empire to another, such as from Burma to Hindustan Proper, should occur. If the effect of liberating these two crores of coin will be to enable the Secretary of State to resume the sale of his bills and telegraph transfers more freely, the present stringency in the money markets of India, which I feel myself justified in characterising as extreme, will be relieved ; trade, it is to be hoped, will then be able to be carried on without interruption ; and Government itself will be able, with comfort, to meet its engagements until such time as the treasury shall again be strengthened with the land-revenue which it has been compelled in part either to forego or postpone.

“ With reference to remarks that have fallen from the Hon’ble Member upon the bank rate being only 9 per cent. and less than quotations reached on previous occasions, I would like to observe that the current rate is not in itself a criterion of the present stringency in the money market. I understand that the Directors of this Presidency Bank, realizing that a higher rate would not, under existing circumstances, produce adequate supplies, have wisely, in the interests of trade, not forced a higher quotation, which might in itself have created that extreme apprehension which leads on so easily to panic. My Lord, my proposal does not imply that the currency reserve is a useful fund to fall back upon when the cash balances may happen to be unduly low ; but, as this Bill, after mature consideration with the best authorities, comes before this Council at a time when its effect can be of use to the cash balances, I would represent to Your Excellency’s Government the advisability of meeting this monetary stringency by making the proposed addition to the currency without formal delay. In other words, I wish to say that it is desirable under the present unusual circumstances of the money market that what the Government has decided to do should be done quickly, and I rest the urgency of the case on the present position of the cash balances in relation to the money market and to the danger to trade in suspending the Secretary of State’s drawings.

The Hon’ble MR. GLENDINNING said :—“After the able speech which we have just heard, it is not my intention to take up the time of the Council further

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[*Mr. Glendinning ; Sir Griffith Evans.*]

than to say that I also beg to support the Bill. It seems to me to be a distinct measure of relief at the present time to the mercantile community, and I would hope and urge that it may be brought into operation at once."

The Hon'ble SIR GRIFFITH EVANS said :—"I do not propose to discuss any of the questions which have been raised with regard to the policy of this Bill. It is sufficient to say that it is practically agreed on all hands that it does not in any way endanger the convertibility of the Government currency. Under these circumstances and after the reasons which have been put forward by the Hon'ble Financial Member, it has become apparent to everyone, whether they like it or whether they do not, that the Bill is certain to be passed on the 7th of January next. The question then that has got to be considered is mainly this: seeing that there is no danger to the currency, and seeing that this Bill is certain to be passed at the latest on the 7th of January, is it desirable to suspend the standing orders and to pass it without further discussion to-day? To put it in other words the question is: is the advantage that is likely to be derived from any further discussion between this and the 7th January greater than that which will be derived by giving immediate relief to the present stringency of the money market? It is within my knowledge, as it is within the knowledge of almost all people who live in Calcutta, that that stringency has been extreme and unusual—far more so than is indicated by the bank rate. It is in the knowledge of many of us that firms of undoubted solvency who have ample security to offer, other than Government paper, have found the greatest difficulty in obtaining the necessary cash advances—I mean cash advances which they ordinarily obtain for the ordinary purposes of business at this time of the year. It is also known that it has been a question with the Bank of Bengal whether they would not stop advances, or contract advances even upon Government paper. This is a very unusual state of things, and is crippling the trade of the country; I do not propose to discuss what the reasons of it are. The reasons are various, and some of them have been indicated by the Financial Member; but, the position being such as I have stated, it is quite evident that if, as everybody seems agreed, the immediate passing of this Bill and the immediate putting of it into operation will have the effect of relieving the stringency, any small and doubtful advantage which might be gained by further discussion is far and away less than what will be derived by the immediate passing of the Bill. I say doubtful advantage with regard to further discussion, because this question does not come upon anybody as a surprise. It has practically been before the public for a very considerable time. It has been known for some time that it was coming on. It

[*Sir Griffith Evans ; Major-General Sir Edwin [17TH DECEMBER, 1896.]
Collen ; Sir James Westland.*]

has been discussed outside, and really I think there is very little to add to what we already know about it. Under these circumstances I have no hesitation in agreeing with the views expressed by the Hon'ble Mr. Playfair that it is better under these circumstances to pass the Bill to-day and give immediate relief, seeing that it is certain to be passed on the 7th January next."

The Hon'ble MAJOR GENERAL SIR EDWIN COLLEN said :—"There is one passage in the speech of my hon'ble friend Mr. Playfair to which I would venture to invite attention, as it affects the question of military expenditure. The passage to which I refer is that relating to the mobilization of the army and the expenditure thereon. As far as I could gather, it might be inferred from what Mr. Playfair said, that one of the chief causes, or one of the causes at all events, which has led to the depletion of the cash balances has been the expenditure on the mobilization of the army. I should like to point out that the sum after all was not a considerable one, and that, although arrangements have been made during the present financial year to meet the mobilization requirements, a good deal of it has not yet been spent, and in fact the cash has not actually been paid."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND introduced the Bill.

The Hon'ble SIR JAMES WESTLAND moved His Excellency the President to suspend the Rules of Business to admit of the Bill being taken into consideration.

THE PRESIDENT declared the Rules to be suspended.

The Hon'ble SIR JAMES WESTLAND moved that the Bill be taken into consideration. He said :—"I have just explained in full the circumstances which led Government to take this course, but I am pleased to find that justification for it has been made so complete by the speeches of the Hon'ble Mr. Playfair and the Hon'ble Sir Griffith Evans. Allusion has been made to the fact that discount rate of the Bank of Bengal is not above 9 per cent., but my information on that subject exactly corresponds with that already communicated by my hon'ble friend Mr. Playfair. The rate of 9 per cent. does not express the rate at which business is being done. It unfortunately at this moment expresses the rate at which business is not being done. The Bank of Bengal has been obliged to contract its operations, and this contraction of its operation, and the necessary

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limitation of the advances which under ordinary circumstances it would make; is part of the state of circumstances which we desire to remedy."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND moved that the Bill be passed. He said:—"I wish to add one remark, namely, that the Government intend that immediate action should be taken as soon as the Bill is passed. According to the law it is necessary to obtain the sanction of the Secretary of State before any steps are taken, because the law provides that the amount of investment shall be fixed by the Governor General with the consent of the Secretary of State. This consent, which is necessary by law, will be obtained by telegraph, and as soon as it is obtained the necessary action will be taken."

The motion was put and agreed to.

BILLS OF SALE BILL.

The Hon'ble MR. CHALMERS moved for leave to introduce a Bill to provide for the compulsory registration of certain transfers and dispositions of goods in order to prevent debtors from defeating the claims of their creditors by secret assignments of such goods. He said:—"The scope and objects of this measure are pretty fully set forth in the Statement of Objects and Reasons which will be published with the Bill, but I ought, perhaps, to add a few words of explanation here. The Bill originated in this way. The attention of the Government of India was called to a case where a merchant had secretly assigned the whole of his goods and the whole of his stock-in-trade to a particular creditor, but he remained in apparent and ostensible possession of the ownership of his goods and of his stock-in-trade. He got into difficulties, and then, when the general body of his creditors sought to realise his estate, the secret creditor came in and swept away the whole. The Government of India made enquiries, and they found out that in India, as in England, this was by no means an uncommon state of affairs. They consulted Local Governments and the Secretary of State and people at home as to whether it was desirable to pass some measure somewhat on the lines of the English Bills of Sale Act of 1878, and there seems to be a universal consensus of opinion that legislation somewhat on those lines is desirable, and the present Bill has accordingly been drafted to give effect to those recommendations.

[*Mr. Chalmers.*]

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"The Bill is a short one. It consists of five clauses only. The first clause requires very little to be said about it. It contains the title of the Bill, namely, 'the Indian Bills of Sale Act,' and provides for its extent and operation. We propose that the Bill shall only be brought into operation in any place where the Local Government thinks fit to bring it into operation. I take it, probably, that in the first instance it will only be brought into operation in large towns, such as Presidency-towns, or towns with a large mercantile community.

"The second clause is a definition clause.

"The third clause is the operative clause. It provides that where a man, whether a trader or not,—for it is not confined to traders,—that where a man sells, mortgages or charges his goods, but remains in apparent possession of them, then, although the transaction will be perfectly good as between the grantor and the grantee, still it will not be good as against either the execution-creditor or the assignee in bankruptcy, unless the sale, mortgage or charge is reduced into writing and registered under the Indian Registration Act.

"We do not propose for a moment to interfere with any transaction as between a grantor and grantee. We only provide that if a man chooses to assign or charge his goods, and his creditor chooses to allow him to remain in possession of them and in ostensible ownership, then, as long as he is in ostensible ownership, they will be liable to be seized by either an execution-creditor or an assignee in bankruptcy representing the general body of his creditors. Of course, we must take great care not to interfere with ordinary mercantile practice. We have, of course, saved the operation of all mercantile documents of title, such as bills of lading, dock-warrants, and all those mercantile documents of title which by mercantile usage throughout the world represent ownership. It is immaterial from the mercantile point of view to have actual possession of the goods, because for all mercantile purposes they are deemed to be in the possession and to be the property of the person who has the mercantile document of title to them. We have, therefore, exempted mercantile documents of title from the operation of the Bill, and we have also exempted certain other documents, such as ante-nuptial marriage settlements and transfers of ships, which are already registered.

"The fifth clause gives power to make rules to supplement the provisions of the Bill where necessary. Of course, it is easier in India than it is in England to provide for registration. We already have existing machinery here which everybody understands and which operates automatically as soon as we require an instrument to be registered.

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“There are only two other remarks that I ought to make. To any English lawyer, or any one cognisant of English law, it is well known that our English legislation concerning bills of sale has given rise to an enormous amount of vexatious and futile litigation, and we ought to be very careful in introducing any system of registration of bills of sale to avoid, if possible, the difficulties which have arisen in England. During the twelve years that I sat as a Judge in England, I do not suppose that a week passed without some question turning up about a bill of sale. As far as my experience goes, and as far as the experience of those with whom I have discussed the matter goes, the difficulty which has arisen in England is mainly attributable to two sources. In the first place, the English Acts only strike at documents and do not strike at the transactions themselves. The consequence is that continual attempts are made to evade the Act by setting up fraudulently, or sometimes honestly, an antecedent verbal transaction which does not require registration; supplemented of course by fictitious transfers of possession. We seek to get over that by providing that the transaction itself should be voided if the proper document is not executed and registered. When the Bill goes, as I presume it will go, into Committee, I shall be prepared to consider whether we ought not, for the sake of peace and quietness, to exempt certain small transactions altogether and fix a money limit. Another difficulty in England which has given rise to more trouble than any other is this: the Legislature in dealing with bills of sale and protecting the general body of creditors has also endeavoured to protect the debtor from the money-lender. It has done this more or less by a side wind. I am sure that the protection of debtors from money-lenders must be kept quite distinct from the protection of the general body of creditors from a particular secret creditor. The result of the English legislation—a well-meant endeavour to protect debtors from money-lenders—has been simply to raise the rate of interest charged to debtors and to upset a great many honest transactions which could not be brought within the complicated terms of the Act. I do not think a really fraudulent transaction has often got within the meshes of the Act. I hope we have to a great extent avoided the pitfalls which underlie the English legislation, and that this Bill, though a small one, will be of some advantage to the mercantile community.”

The motion was put and agreed to.

The Hon'ble MR. CHALMERS introduced the Bill.

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

[*Mr. Chalmers.*] [17TH DECEMBER, 1896.]

the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

RULES FOR THE CONDUCT OF BUSINESS.

The Hon'ble MR. CHALMERS moved that a Select Committee consisting of the Hon'ble Sir James Westland, the Hon'ble Mr. James, the Hon'ble Mr. Cadell, the Hon'ble Sir Griffith Evans, the Hon'ble Sir Lakshmishwar Singh, Maharaja Bahadur of Durbhanga, the Hon'ble Rao Sahib Balwant Rao Bhuskute and the mover be appointed to consider certain amendments in the Rules for the Conduct of the Business of the Council which are thought to be necessary. He said:—"This is a matter which I believe stands over from last session. The amendments proposed are small ones, but the Rules have been several times amended since they were passed and published, and, if we can make these fresh amendments, the new edition of the rules, which is much required, will be published shortly."

The motion was put and agreed to.

The Council adjourned to Thursday, the 7th January, 1897.

<p>CALCUTTA; The 18th December, 1896.</p>	}	<p>J. M. MACPHERSON, <i>Secretary to the Government of India, Legislative Department.</i></p>
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NOTE.—The meeting of Council which was fixed for the 29th October, 1896, was subsequently postponed and the next meeting was held in Calcutta on the 17th December, 1896.