

*Friday,
1st September, 1899*

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

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ABSTRACT OF THE PROCEEDINGS
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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 1st September, 1899.

P R E S E N T :

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

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

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

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

The Hon'ble Mr. C. E. Dawkins.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Lieutenant-Colonel R. Gardiner, R.E.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Rai Bahadur Protul Chandar Chatterjee.

PRESIDENCY BANKS BILL.

The Hon'ble MR. DAWKINS moved that the Bill further to amend the Presidency Banks Act, 1876, be taken into consideration. He said:—"Last Friday, when asking leave to introduce this Bill, I reminded Council that strict limitations were imposed by the legislature on the business in which the Presidency Banks are authorized to deal, and I added that these limitations, to some extent, appeared to have survived the times and conditions which had rendered them necessary. With the permission of Your Excellency, I would like to amplify the opinion which I then expressed incidentally. Upon its becoming known that we intended to introduce the purely formal amendment now before us, we were informed, through the Comptroller General, that the Bank of Bengal desired us to reconsider, in connection with this amendment, the refusal of Lord Elgin's Government to add the securities of assisted branch lines to the securities of Railways guaranteed by Government in which alone the Presidency Banks may deal. We also received a telegram from the Madras Chamber of Commerce, asking us to introduce further legislation to empower the Presidency

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Banks to deal in the securities issued by District Boards with the authority of Government. The Presidency Bank of Madras and the Madras Government support the proposal.

"We have come to the conclusion, a conclusion which, I think, must commend itself to every reasonable man, that we could not tack on, in a hurry, legislation involving questions of principle to a purely formal amendment. Nor could we defer passing this formal amendment and give time for the mature consideration of these larger issues, as this amendment is urgent, its object being to enable the Presidency Bank of Bombay to deal in the securities of the loan already issued by the Bombay Improvement Trust.

"At the same time we do not wish to return a simple non-possumus to the requests of the Bengal Bank and of the Madras Chamber of Commerce or, what is perhaps more disheartening, to postpone their consideration indefinitely. In the opinion of Government the time has come for reviewing the question of these restrictions on the Bank's operation, as there is ground for thinking that they may, to some extent, have survived the reasons for their imposition, and do unnecessarily hamper business and enterprise.

"The origin of these restrictions is, I think, generally known, but perhaps I may be allowed to refer to it. Formerly, as Hon'ble Members are aware, Government had a pecuniary interest in the Presidency Banks and was largely concerned in, and responsible for, their management. In 1872, after the failure of the old Bank of Bombay, it was decided that Government should divest itself of its interest in the Banks, and withdraw from active participation in their management. Protracted discussion took place for several years; and I find among the proceedings that a proposal was made, but not pressed, to allow the Presidency Banks the freedom and discretion of ordinary Banks in dealing in shares and stock. It was natural that the proposal was not pressed, for the failure, involving Government in considerable loss, of the old Bombay Bank, which for some reason had been freed from the restrictions imposed upon the other Presidency Banks, was primarily attributed by the Commission of Inquiry to speculative dealings encouraged by the absence of such restrictions. It was therefore felt that the business of the Presidency Banks must still be subjected to strict limitations in view of a variety of circumstances and principally, of course, with the object of securing the safety of the Government balances entrusted to the Presidency Banks by special arrangement. Much has happened since 1876: new banks have grown up; new forms of enterprise have been started—but the principal factor remains constant: the Presidency Banks are still the custodians

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of the Government balances—and I do not think that any Bank in India, which receives custody of the Government balances, can expect to be without restrictions on the class of business in which it may engage these public balances. Two considerations must be borne in mind. The Presidency Banks depend to a quite exceptional degree for their cash balances on the Government account. As Sir J. Westland showed, in the busy season nearly 80 to 90 per cent. of these balances are supplied from the Government account: a fact which, added to the fluctuations in the rate of discount, may make us ask seriously how far the Presidency Banks have sufficient capital to allow of the absorption of the resources they command in enterprises, the securities of which might not be easily realizable.

“Again, the circumstances of India are peculiar. In England, if the Government were suddenly in need of money and the Bank of England had locked up the Government balances, it would not be of serious consequence. Money could be procured from a dozen other different quarters. In India, this would not be possible; and, indeed, we have a historic example in the embarrassment, which the inability or reluctance of the Banks to produce the money deposited with them, brought upon Government when confronted with the sudden emergency of the Orissa Famine.

“I have thought it necessary to trouble Council with this retrospect and explanation, because we shall have to keep this central and vital consideration in view when we proceed to consider how far existing restrictions can be relaxed. But having uttered this word of caution, I may express my opinion that some relaxation is desirable; and I may state that Government is prepared and has decided to examine the whole question exhaustively, and in no narrow spirit.

“There is, I think, no doubt that, as regards railways, the limitation of the Bank's operations to the securities of guaranteed Railways is a serious impediment to the promotion of those assisted railways which the Government has so often expressed a desire to encourage. I may say that this is the conviction of my Honourable Colleague, Colonel Gardiner, whose great practical experience and knowledge lends much weight to his views, and I congratulate Council that my Honourable Colleague will be able to take part in the consideration of this question. He knows where the shoe pinches, and his familiarity with every branch of railway organization and with railway finance, will supply Government with valuable suggestions.

“To what precise extent we shall be able to authorize the Presidency Banks to deal in the securities of the various classes of assisted railways, I shall not of

[*Mr. Dawkins ; The President.*] [1ST SEPTEMBER,

course be expected to indicate at this moment. But, looking to the total capital of such branches and to the terms under which some of them are constructed, I do not think it will be impossible to devise such safeguards as would permit us to relax the prohibitions now placed upon the Presidency Banks in regard to dealing in some of their securities.

"I now pass to the question raised by Madras, that of authorizing the Presidency Banks to deal in the securities issued by District Boards, although this question, I may say, is not unconnected with that of railway development, in so far as District Boards may, as in the case of the Tanjore Board, themselves guarantee railways, etc., etc.

"I think we may admit that this is a question presenting less difficulty. District Boards and Municipalities, in the securities of which latter the Presidency Banks may deal, are equally considered as local authorities under the Local Authorities Loans Act of 1879, and require the same sanction from the Local Governments for their loan operations. The Municipalities and Port Trusts of the three Presidency Towns and Bombay City Improvement Trust alone stand on a different footing, as in the case of their operations the sanction of the Government of India, in addition to that of the Local Government, is required. But we thought the whole question of enlarging the area of securities in which the Presidency Banks may deal, might well be considered before further legislation was undertaken. No prejudice to the District Boards is likely to arise from the delay. The request from Madras has not been previously pressed upon Government, and there is no urgency, for, as a matter of fact, the District Boards almost invariably prefer to borrow from Government to borrowing in the open market, as they can get better terms from Government. Up to the present moment only two District Boards have raised money in the open market."

His Excellency THE PRESIDENT said:—"I should like to add a few words upon the subject touched upon by the Hon'ble Mr. Dawkins in the remarks to which we have just listened. The speech which he has made represents the views that are unanimously entertained by the Government of India. The question that has been raised by him is one, in my opinion, of great importance, and one upon which I should be grateful for the enlightenment and backing of public opinion. The Bill now before us, as he has told us, is one for a more or less formal amendment of the Presidency Banks Act of 1876, so as to admit to the list of securities, with which the Banks are at present permitted to deal, a particular security which has only hitherto been excluded, because, when the Act was last re-enacted, the Bombay City Improvement Trust had not yet been called

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into existence. The proposal, however, adumbrated by the Finance Member, contemplates a still further extension of these securities in the future by including in them the scrip of subsidiary assisted railway companies.

"Now, under the existing law, the Presidency Banks are prohibited from dealing in them. We are disposed, as my Hon'ble Colleague has pointed out, to relax those restrictions, in the first place, in the interest of the Banks, so as to increase the scope of their operations, but, secondly, and still more, in the interest of the investing public, and of the general development of the country which we all have so much at heart. But here I must interpolate a word of caution. We are anxious to be generous; but we are bound to be prudent, and there is a certain point beyond which we cannot go.

"The Presidency Banks, as the Hon'ble Mr. Dawkins has pointed out, are not like ordinary Banks. No relaxation of restrictions, even if such were possible in an extreme degree, could make them so. They differ, because the bulk of their cash balances—or what I suppose I may call their loanable capital—is supplied by Government, and because, if we subtract this at any given moment, they are not, as a rule, in possession of sufficient independent capital to enable them to conduct operations on a large scale. The Government, therefore, is under a peculiar responsibility for these Banks, and we are bound to enforce special regulations for the protection and the security of the balances which we ourselves have provided. We cannot afford to jeopardize them in the interests of general philanthropy. Within these limits we desire to do all in our power to free the Banks from artificial bandages, and to give to them ample liberty of movement. But herein I should like to point out that a reciprocal obligation, in my judgment, is involved. We do not contemplate these steps merely in order to provide a new field for the employment of Government balances. What we want to do is to enlarge the opportunities available for the employment, in enterprises indigenous and beneficial to the country, of capital, both English and Native. It will be for the latter to profit by the occasion. The Government cannot do more than open the door. It will then be for the investing public to walk in.

"And here I am tempted to indulge in a further reflection. An examination of the existing system leads me to doubt whether the banking institutions of India are at all adequate to the growing needs of the country. This is a conviction that is gaining ground outside of India, and that I believe already exists in India itself. You will find substantial testimony to it in the speech delivered by the Secretary of State in the House of Commons in the Budget Debate three

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weeks ago, and you will notice that his sentiments on the subject were re-echoed by his predecessor, Sir Henry Fowler. Here we are at the end of the nineteenth century, with 22,500 miles of railway opened in this country; with the telegraph wires connecting all our important cities and centres; with business operations being conducted every year on a larger and increasing scale. Moreover, we are looking forward, if we can settle our Currency difficulties, to a considerable expansion of financial and industrial enterprise. And yet, in respect of banking, it seems to me that we are behind the times. We are like some old-fashioned sailing ship, divided by solid wooden bulkheads into separate and cumbrous compartments. This is a state of affairs which it appears to me can hardly continue. I can well believe that local interests will require to be consulted, and we must be careful to see that no injustice is done. But I cannot think that any sectional prepossessions should be allowed to stand in the way of a consolidation and concentration of banking facilities which strike me as being required in the interests of the business accommodation and credit of the country. Should we succeed in effecting any such amalgamation—should we get any such Central Bank, established on a sterling basis, giving us access to the London market—then I think we might with safety dispense with many of the existing restrictions; because we should have, on the hypothesis of a common Currency with England, a permanent and stable link between the Indian and English markets. This is a question worthy of serious examination, and which I submit, with these few introductory remarks, to the consideration of the financial and mercantile public."

The motion was put and agreed to.

The Hon'ble MR. DAWKINS moved that the Bill be passed.

The motion was put and agreed to.

CENTRAL PROVINCES TENANCY (AMENDMENT) BILL.

The Hon'ble MR. RIVAZ said :—" My Lord, when I introduced last week the Bill to amend the Central Provinces Tenancy Act of 1898, I explained that its object was merely to correct a mistake of drafting in one of the sub-sections of section 45 of that Act. That sub-section was intended to save past *bona fide* transactions from the provisions of that section. Accordingly, a new sub-section, in substitution, was drafted by the Legislative Department after very careful consideration, and was accepted by the Chief Commissioner of the Central Provinces. My Hon'ble friend, Mr. Chitnavis, has, however, shown me

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a telegram which I understand he received only last night from some lawyer friends of his in Nagpur. This telegram contains one or two criticisms upon the present wording of the sub-section. I believe my Hon'ble friend wishes these criticisms to be considered by the Legislative Department, and I see no objection to it. There is no immediate urgency for the passing of this Bill, and, with Your Excellency's permission, I would now move that its consideration be postponed till the next meeting of the Council."

The Hon'ble MR. CHITNAVIS said:—"I need not say that I am much thankful for the adjournment that has now been proposed. I am sure the amendment as telegraphed to me only last night has been worded, by local lawyers who knew the circumstances and the state of the law in the Province, with a view to meet the declared intentions of Government, and the postponement of the passing of the Bill that has now been moved will enable the Legislature to consider the amendment now proposed and to remove for all time to come all the uncertainties that may arise in future in connection with the interpretation of the section which is now being amended."

His Excellency THE PRESIDENT said:—"I do not think any objection will be entertained in any quarter to Mr. Rivaz's suggestion that, with a view to considering the further criticisms that have been put before us, our consideration of the Bill should be postponed till next meeting."

The motion was put and agreed to.

The Council adjourned to Friday, the 8th September, 1899.

SIMLA;	}	J. M. MACPHERSON,
The 6th September, 1899.)		Secretary to the Government of India, Legislative Department.