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**COUNCIL OF THE GOVERNOR GENERAL
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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 Act of Parliament 24 & 25 Vic., Cap. 67.

The Council met at Simla on Thursday, the 18th September 1873.

P R E S E N T :

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

His Excellency the Commander-in-Chief, G. C. B., C. S. I.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble B. H. Ellis.

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

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

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

The Hon'ble R. E. Egerton.

The Hon'ble J. F. D. Inglis, C. S. I.

His Highness Sarámade Rájáháe Hindústán Ráj Rájendra Srí Maharájá-
dhiráj Sivái Rám Sing Bahádur, of Jaypur, G. C. S. I.

NAWAB NAZIM'S DEBTS BILL.

The Hon'ble MR. HOBHOUSE in moving for leave to introduce a Bill to provide for the liquidation of the debts of His Highness the Nawáb Názim of Bengal, and for his protection against legal process, said :—
“ This is one of those somewhat abnormal measures which the Government of India is from time to time called upon to pass, by reason of their peculiar relations with some of the old and dignified Indian families. There are, as is well known, several families now existing, whose ancestors were at the time of the growth of the British power possessed, by one title or another, of some degree of sovereignty. By dint of internal dissensions of wars, treaties, and other political changes, the power of the families I am speaking of has passed to the British Government, but it has been thought wise and right to maintain the families themselves in a position of dignity and affluence. This object has been effected not by an out and out gift of so much property, which the existing generation might get rid of, but by allotting to each generation in turn discretionary grants out of the public revenue, of such amount and nature as have appeared to the Government to be required for its adequate maintenance. Such grants are of course very different in amount, and are

made subject to very different conditions. They have, however, usually been made to each recipient for the term of his life, so that he may know what his own position is, but are subject to revision or to cesser on death.

“ This policy has doubtless been wise and is attended with many advantages ; but there is one serious drawback to it. It has been found that persons supported in this way have a strong tendency to be exceedingly careless in money matters. They have usually been bred up in idleness ; they rarely take to any serious occupation ; the remembrance of the family dignity forbids their entry into the ranks and the business of ordinary society ; their amusements are expensive ; they are not compelled to provide for their families ; and even for themselves they feel confident of protection and ample maintenance in the last resort. In short, they have not the ordinary motives which induce us to lead regular, industrious and prudent lives ; and those who can rise above ordinary motives, who can resist ordinary temptations, who can live up to a high standard, because it is right and because they take a lofty view of what constitutes human happiness,—such men we must always expect to be few in number.

“ In the case of the Nawáb Názim, these remarks will be found to receive a full exemplification. I do not desire to say an unnecessary word which may inflict pain on the Nawáb Názim or his family ; but I must do my duty, and my duty is to make it plain to the Council how it comes about that such a measure as this, which is not an ordinary one, is yet a necessary and proper one.

“ The present Nawáb Názim succeeded his father in the title in the year 1838 ; he was then a mere child, and he did not come of age till ten years afterwards. In the year 1848 he attained his majority and entered upon possession of his property and of the income attached to the Nizámat. What his patrimony may have been worth I cannot say ; but attached to the Nizámat there was a considerable quantity of land, and also an allowance from the public revenues amounting to about seven lakhs of rupees by the year. Now, I believe, it is the case with most noblemen of this country that along with the family estate they take the burden of supporting collateral branches of the family and a number of dependants and retainers. This burden fell and falls on the Nawáb Názim only to a limited extent, for large sums are disbursed every year from the Treasury for the purpose of answering such obligations in the case of his family. He is in great measure saved even from the ordinary expenses of a private person who is married and has children. Money has been granted from time to time for the benefit of his children, buildings have been erected, and are now kept in repair free of cost to him. I am confident that I speak without much exaggeration, if with any, when I say that the large sum of seven lakhs a year has been his to spend, without the drawback

of those moral and social obligations which narrow the incomes of most Indian noblemen, and relieved even from much of the ordinary burden of providing for sons and daughters.

“Such being his means, I am sorry to say that the Nawáb Názim has at least for some years past pursued a career of most lamentable extravagance; his great income has proved quite unequal to his personal expenditure; he has borrowed recklessly and often at the most exorbitant rates of interest; and has in short shewn such weakness, such a want of self-restraint, that we may fairly pronounce him unfit to manage the affairs of the Nizám. On the character of his expenditure I do not dwell; what I am about to say of its results is quite sufficient. In the month of February 1871, his debts were ascertained by the Agent at Murshidábád to amount to upwards of twenty-three lakhs of rupees; they are now estimated at upwards of thirty lakhs. Most of this is carrying ruinous rates of interest. Suits have been brought by creditors and attachments have been issued against the property of their debtor. He himself is in England; his affairs, so far as they are looked after at all, are looked after by two of his sons, each of whom claims certain rights and powers under instruments executed by his father. In the meantime the interest on the debts is running on at a rapid rate. The result is a most distressing, and indeed a most scandalous state of things, which is drifting into greater and greater confusion every day.

“Now, doubtless, the easiest course for the Government in such a case would be to fold its hands and to let prodigality and self-indulgence bear their proper fruits. But there are several reasons why the Government should not take this course. One reason lies on the surface, namely, the compassion which such a case excites, and which prompts us to stand between a man in such unhappy circumstances and his utter ruin. But there are other reasons of a more prudential character. For, in the first place, what is the object for which we charge the public funds with large sums payable to persons in the position of the Murshidábád family? It is in order to preserve the dignity and honour of an exalted Indian family, and that the public sentiment may not be hurt by the spectacle of their fall into utter poverty. But such an object would be frustrated if the head of the family were subjected to all the legal consequences of pecuniary embarrassment. Another reason is that, as I will presently explain, the Government itself is getting involved in the litigation. There is property not belonging to the Nawáb Názim personally, though the Nawáb Názim for the time being has had the possession and enjoyment of it, but which is designed for the maintenance of the title and dignity, and so for the benefit of future generations of the family. Of this property there is certainly no protector; I suppose there is no

legal owner except the Government. The creditors, perhaps naturally enough, have not distinguished between property which belongs to the Nawáb Názim personally and absolutely, and that which he only possesses and enjoys along with the title; they seek to enforce their decrees against both indiscriminately; and for the sake of the family and the public, the Government is obliged to protect the property thus erroneously attacked. Again, there is the chance that if affairs are left to drift of themselves, the Indian tax-payers will ultimately be the sufferers. The reasons for supporting this family which have actuated the Government hitherto are not likely to be abruptly abandoned; they will continue to operate for some time to come; and yet if the head of the family is allowed to squander the funds which should be available for all, where is the support to come from except by fresh draughts upon the public purse? It is therefore for the interest of the Nawáb Názim himself, of his family (present and future), and of the public at large, that the Legislature should provide some special remedy for the case, and should not leave it to the ordinary course of law.

“ If then we interpose, how shall we do it? We must operate by some kind of commission of bankruptcy; by a suspension of the ordinary processes of law, and the establishment of a tribunal with plenary powers to settle with each creditor the amount which he ought in honesty to receive. Whatever is so proved as receivable, the Government must pay. For the future it will be important to prevent the Nawáb Názim from incurring fresh pecuniary liabilities as has been done in the case of the King of Oudh, and as we are proposing to do with the future head of the Carnatic family. I may also mention that arrangements on the other principles I have just propounded were contemplated in the case of the King of Oudh, but it never became necessary actually to pass a law for the purpose, because his creditors found it for their advantage to make moderate compromises of their claims, and did so while the measure was pending; fifty lakhs of claims being settled for eight of hard cash.

“ Now, I must expect that on such a proposal as this two important questions will be asked; first, whether it will not be unjust to the existing creditors of the Nawáb Názim; and secondly, whether it is right that the Indian tax-payers should be mulcted to pay for the extravagance of a reckless spendthrift? I think I can answer both these questions in a satisfactory way, but in order to do so I must briefly refer to the former history of the family and its possessions.

“ In the year 1765, when the Moghul Emperor, Shah Alum, granted to the East India Company the *diwání* of Bengal, Behar and Orissa, his *firman* contained a stipulation that the Company should provide for the expenses

of the Nizámat. By the Nizámat of course was meant not this family but the important executive duties of the office. The Company on their part maintained Mír Jaffir and his descendants, the ancestors of the present Nawáb Názim, in the subadárí of the provinces; and so long as any duties of the subadárí or Nizámat remained to be performed by them the stipulated provision was duly made. This was done by different arrangements made with different incumbents of the office; the amount provided for expenses lessening as the duties falling on the British Government became heavier and those of the Nawáb Názim less heavy. In progress of time the whole of these duties were undertaken by the British Government and all the necessary expenses with them. The bargain made with Shah Alum then expired, for there were no expenses of the Nizámat to be provided for, and the Nawáb Názim became a mere titular dignitary. It was thought right, however, to show great consideration to the house of Mír Jaffir, though it had no longer any State duties to perform. Accordingly they were continued in possession of the high title which the head of the family still enjoys, and personal provisions were made for the support both of the head and other members of the family. In the year 1770 it was considered that the sum of sixteen lakhs annually was a proper sum to allow out of the public revenues for the maintenance of the family and its dependants, and for defraying the expenses incident to the high social position of the Nawáb Názim. But the amount of that allowance and mode in which it should be applied have always been within the discretion of the British Government. Arrangements have been made from time to time and carefully adhered to for certain payments to ascertained individuals or for specific purposes, and it is under one of these arrangements that the Nawáb Názim receives his seven lakhs per annum; but no one has any legal right to the fund or to any portion of it until actually made over to him. The total amount of grant held available for the family has never been diminished since the year 1770, but the amount actually expended has varied considerably from time to time; sometimes the whole has been spent, sometimes more; but in ordinary times there has been a surplus not immediately required for any purpose. Previously to the year 1834, a specific portion of the surplus which accrued from the dropping of some expired pensions was invested and made to bear interest. But with this exception the practice has been simply to consider the unexpended surplus as a reserve fund available for emergencies, for extraordinary grants, and ultimately for a permanent provision for the family in relief of the annual grant now made for the public revenues.

“To give the Council a more exact idea of the position of this reserve, which has gone under various names, and is now generally called the Nizámat Fund, though with the exception I have mentioned it hardly is a fund, it will be better that I should not use my own language but should refer to authentic—

documents of State. I quote from a letter dated the 14th January 1862, and addressed by the Government of India to that of Bengal:—

“9. At the same time it should be clearly explained to His Highness that the Governor General in Council entirely rejects his claims so far as they are founded on the assertion of any treaty rights or of any sovereign or hereditary title, and that his recognized position in regard to the sum of sixteen lakhs of sicca rupees, now annually set apart for Nizámat purposes, and to the accumulations thereof, is as follows:—

- 1st.—Since 1771, sixteen lakhs of rupees have been granted for Nizámat purposes. The continued payment of this sum is guaranteed by no treaty, and it has hitherto been paid of the free grace and favour of the British Government. It may cease, or may be diminished, whenever the Government shall so determine, but there is no intention of making any change in the present arrangement during the life-time of the present Nawáb.
- 2nd.—Though there is no guarantee for the continuance of the above payment in whole or in part, yet certain pensions now charged upon it were declared by Lord Cornwallis in 1790 to be, and are, therefore, hereditary.
- 3rd.—Out of the above-mentioned sum of sixteen lakhs, somewhat less than seven lakhs of sicca rupees a year are now paid to the Nawáb for his own purposes. This money is at the Nawáb's disposal without control, unless he falls into debt, in which case the Government may step in and take the management of it. Any pension granted out of this annual sum reverts to the Nawáb on its discontinuance. This arrangement, however, is only for the life-time of the present Nawáb, and will be re-considered at his death.
- 4th.—The rest of the sixteen lakhs, after deducting the amount paid to the Nawáb, is carried to the credit of the Deposit Fund.
- 5th.—Everything once paid into the Deposit Fund is held at the disposal of the Government as a means of providing for the collateral branches of the Nizámat family (exclusive of the Rájmahál branch), and for other purposes connected with the Nizámat.”

“I will read another passage from a Despatch by the Secretary of State to the Government of India, dated the 17th June 1864:—

“It appears that the personal allowance of the Nawáb Názim himself is about seven lakhs of rupees; that from the remaining nine lakhs provision is made for other members of the family, and that the balance goes to the formation of an accumulating fund, known as the ‘Nizámat Deposit Fund.’ It is unnecessary to trace further the history of this fund. Its accumulations, representing as they do the unappropriated portions from year to year of the sixteen lakhs stipend, unquestionably belong to the Názim and his family, and can properly be expended only for their benefit. But this does not confer upon the Názim himself any right to dispose or to superintend the disposal of these balances. This right belongs to the Government, under the conditions upon which the fund was constituted. It was assumed, in the first instance, mainly for the benefit and protection of the Názim and his family; and I am of opinion that it is to the advantage of His Highness and his family that this system should be maintained.”

“Those are the principles on which the reserve is administered; from time to time it is drawn upon for the benefit of members of the family; at the death of a Nawáb Názim it is largely drawn upon, but usually a surplus remains, and the whole now amounts to a very large sum of money.

“Now, besides the income of seven lakhs or thereabouts, there is, as I mentioned before, other property of which the Nawáb Názim has the enjoyment and possession, but not (as I believe though it is disputed) any ownership, or at all events not any ownership beyond his tenure of the dignity. This property consists of land which from time immemorial, at least from Mir Jaffir's time downwards, has been enjoyed by the Nawáb Názim for the time being as an appanage to, or incident of, the dignity; of some family jewels in the same category with the land; and of houses which have been built and kept in repair at the expense of the Nizámat Fund, certainly not in order that their value might be squandered by the head of the family for the time being, but in order that they might be a permanent addition to the family residence. Beyond the properties that I have mentioned, the resources of the Nawáb Názim must be very slender in comparison with the magnitude of the claims against him. All the private landed property which he possessed has long since been sold. He has some jewels of what value we do not know, but it is difficult to believe that they will go far in meeting thirty lakhs of debt rapidly increasing in amount. Indeed, we are safe in saying that if the value of all conceivable interest which the Nawáb Názim may have in the lands and houses enjoyed with the dignity, were added to that of his own jewels, the aggregate would go but a little way to satisfy the enormous claims subsisting against him. But this is all that his creditors have to rely on. In the Nizámat Fund he has no assignable interest whatever, and indeed he has been plainly told that it must not be considered as a resource for his creditors. As for his income out of the sixteen lakhs, it is liable at any moment to be resumed into the hands of Government from the very circumstance that he has run into debt, and again he has been plainly warned of this liability.

“From the foregoing statement the Council will already have gathered easily enough how I answer the two questions which I have supposed to be put to me. As regards the creditors, they have very slender resources to rely on, and they probably will not reach, even those without the expense and delay of litigation. They will, therefore, be better off in the prospect of a speedy settlement with those who can pay them in hard cash sums, which however much less than their claims, will probably be very remunerative to them, than by fighting over the relics of the Nawáb Názim's fortune and getting only a small dividend at last. As regards the public, the Government no doubt will pay the debts, but they will charge all expenditure

on this account against the reserve or Nizámat Fund, which must be recouped by a competent deduction from the Nawáb Názim's income during his life. They will gain by the Government entering upon the management of this income, for which the time has fully arrived. And they will be protected from the risk of future encroachments by the disability under which the Nawáb Názim will labour of incurring fresh debts, a disability which I admit is dishonourable to him, but which has become necessary for the public welfare.

“I trust the Council will think that I have assigned sufficient reasons for the measure which I asked leave to introduce.”

The Motion was put and agreed to.

ADMINISTRATOR GENERAL'S ACT AMENDMENT BILL.

The Hon'ble MR. HOBHOUSE moved that the Bill to amend Act XXIV of 1867 (the Administrator General's Act) be referred back to the Select Committee, and that the Hon'ble Mr. Bayley be added thereto.

The Motion was put and agreed to.

The Council then adjourned to Thursday, the 2nd October 1873.

S I M L A ,
The 18th September 1873. }

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