

No. 2.

THE AGENT-GENERAL to the COLONIAL TREASURER.

SIR,—

7, Westminster Chambers, London, S.W., 20th November, 1885.

I have to acknowledge the receipt of your letter of the 26th September on the subject of charging interest to capital during construction of public works of a reproductive character.

I shall do what I can to carry out your instructions, but you are not perhaps aware that the subject has already engaged very serious attention in the Imperial Parliament. A Standing Order prohibiting the payment of interest out of capital, in the case of railway companies in the United Kingdom, had been passed by both Houses of the Imperial Parliament, with the view of preventing evils which had been found inseparable from the great development of railway speculation, ending in the commercial panic of 1845. Attempts had, however, been made to evade the Standing Order, and in 1882 a Select Committee of the House of Commons took a good deal of evidence, and made a report, with the result that the Order was amended, permitting interest to be charged to capital in certain special cases. The question was debated in both Houses more than once, and a number of papers were published, which I am collecting for you, when I shall have the honour of writing to you again.

As regards your desire to obtain the opinions of Lord Iddesleigh and Mr. Gladstone, it would not only be out of the question to take any step for that purpose during the general election, but I do not think there would be any chance of my being able to approach either of those statesmen on such a subject during the political excitement that is sure to attend the opening of the new Parliament.

I have, &c.,

The Hon. the Colonial Treasurer, Wellington.

F. D. BELL.

No. 3.

THE AGENT-GENERAL to the COLONIAL TREASURER.

SIR,—

7, Westminster Chambers, London, S.W., 30th December, 1885.

I now beg leave to resume the subject of charging interest to capital during construction of reproductive public works.

I was very sorry to find, after sending off my letter of the 20th November, that I had used expressions implying that you were not yourself familiar with the discussions which had taken place upon the subject in the Imperial Parliament; for your own letter of the 26th September had, in fact, expressly referred to these, and had directed my attention to the special point of whether there might not be peculiar features to differentiate the case of undertakings by private companies from the case of public works constructed by a Government.

I am still engaged in making the inquiries you desired, but in the meantime I transmit to you the following papers: (1.) Standing Orders of the Lords (No. 128), and Commons (No. 167). (2.) Report of Select Committee of House of Commons in May, 1882. (3.) Debate in the House of Commons, 7th June, 1883, on Standing Order (No. 167), with leader from *Times* thereon. (4.) Debate in the House of Lords, 27th June, 1883, on proposed alteration of Standing Order (No. 128). (5.) Debate in the House of Commons, 2nd May, 1885, on the Regent's Canal Dock and Railway Bill. (6.) Division-list on the second reading in the House of Commons. (7.) Debate in the House of Lords, 8th July, 1885, on the same Bill. (8.) Clause 12 in the Bill as passed. (9.) Speeches and pamphlets.

These papers will serve to place clearly before you the circumstances under which the principle of charging interest to capital in certain cases has been recognized for private companies; and I beg permission to accompany them with some explanatory remarks, which may perhaps be found convenient for reference as a summary of what has been done in this country.

Before the passing of the Companies Clauses Act of 1845, payment of interest out of capital could only be made if specially allowed by the Act itself which sanctioned the undertaking. In 1837 there had been three such Acts, seven in 1844, twenty-six in 1845, and ninety-two in 1846. In 1847, new Standing Orders were passed by both Houses prohibiting the practice altogether owing to the calamities that had followed upon the railway mania of that time; and the Companies Act of 1882 provided that no dividends should be paid except out of profits actually earned.

In the session of 1882, however, the House of Commons appointed a Select Committee to consider and report whether Standing Order 167, which contained the prohibition in that House, might not be modified; and on the 19th May the Committee made their report, together with the evidence they had taken.

The Standing Order had practically been evaded by various contrivances, one of them originating in a conflict between the Standing Order and the Companies Acts. If a company went to Parliament for a private Bill, they were met by the prohibition of the Standing Order; but if they registered themselves under the Companies Acts they could make a "regulation" for paying interest out of capital, and then go to the Board of Trade for a provisional order confirming it. This provisional order had to be itself confirmed; but, if it was confirmed, parliamentary sanction was indirectly given to what could not be done directly by private Bill. A variety of other expedients had been resorted to for evading the prohibition, the commonest, perhaps, being that of getting a contractor to finance the undertaking, under an engagement to pay interest on capital during construction; but one of these expedients, in a railway case, led to an action before the Master of the Rolls, which resulted in an injunction prohibiting the payment, whereupon special clauses had to be inserted in new Bills.

The Select Committee said they had found a good deal of difference of opinion on the subject among people best qualified to judge: but, on the whole, while allowing that much might be said in favour of maintaining the old Standing Order, they recommended its relaxation on the following