

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. <i>1444</i>	Press <i>MIS.</i>
<i>157-158</i>	
Dated <i>23rd November 1961.</i>	

83/83 (Bounded)

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
23rd November 1861.*

No. 157. Read the following letter from W. GREY, Esq., Secretary to the Government of India; to J. D. SIM, Esq., Secretary to the Government of Fort Saint George, dated Fort William, the 17th September 1861, No. 1,874.

Home Department.
Legislative.

I am directed to forward for the information of His Excellency the Governor of Madras in Council the accompanying copy(a) of a Despatch* received by the last Mail from the Secretary of State, together with a copy of the Act 24 and 25, Vic. C, 67, called the Indian Council's Act 1861, and I am to request with reference to the Provisions of Sections 35 and 37 of the Act that His Excellency in Council will be pleased to take into his early consideration the rules which he would propose for regulating the conduct of business of meetings of the Council for the Presidency of Madras for the purpose of making Laws and Regulations, and submit the same for the sanction of the Governor General in Council.

2. With respect to the time to be appointed for the first Meeting of the Council, I am instructed to invite an expression of the wishes of His Excellency in Council. It is the present intention of the Governor General in Council that the first Meeting of the Council of the Governor General for making Laws and Regulations under the new Act shall take place about the middle of December, and that the Council which is to be established for the Bengal Division of the Presidency of Fort William shall be assembled as nearly at the same time as may be found practicable.

3. The Governor General in Council will defer any remarks upon points of detail until he is in possession of the Rules for the conduct of business which may be prepared under the directions of His Excellency the Governor of Madras in Council, but there is one very material question adverted to by the Secretary of State in his Despatch, regarding which the Governor General in Council would be glad to be made acquainted with the views of the Government of Madras at the same time that the Rules are submitted for sanction. The point referred to is that mentioned in paragraph 21 of the Despatch in which Sir Charles Wood expresses a strong opinion that the Councils for making Laws and Regulations should not sit permanently, but should be called together by Summons to discuss projects of Law previously prepared under the directions of the Executive Government. The Government of Madras is requested to consider whether this course can be conveniently followed, and if so, to state at what season or seasons of the year and for what continuous period or periods it will be generally expedient that the Council should sit.

4. I am directed to request that the Governor in Council will submit a statement of the additional establishment which he may consider requisite for conducting the Legislative business of the Council. In doing this, His Excellency in Council will not fail to keep in mind the important point adverted to in the 19th paragraph of Sir Charles Wood's Despatch, having at the same time also a careful regard to the injunction to economy which is given in the 39th paragraph of the Despatch.

5. It will be observed from the 18th paragraph of Sir C. Wood's Despatch that it is contemplated that the Meetings of the Madras and Bombay Councils for the purpose of making Laws and Regulations should be open to the public.

No. 158. To the Secretary to the Government of India, Home Department, dated Fort Saint George, 23rd November 1861, No. 1,444.

With reference to your letter of the 17th September last, Home Department, No. 1,874, I am directed by His Excellency the Governor in Council to forward, for submission to the Government of India, the accompanying draft of Rules which have been drawn up as "Standing Orders," for regulating the conduct of business in the Madras Legislative Council.

2. These Rules have been prepared on the basis of the Standing Orders of the late Legislative Council of India, but have been made shorter and more simple. In the opinion of this Government, they provide sufficiently for all ordi-

From Secretary of State, to Government of India, 9th August 1861, paragraph 16.

Proceedings of the Madras Government, Judicial Department,
23rd November 1861.

nary cases, and for the general course of procedure to be followed. Their working can however only be tested by experience—but they can be added to, or modified hereafter, in such a manner as may in practice prove to be required.

3. The Government do not propose that the Council shall sit permanently, or throughout the year. This would be inconvenient and quite unnecessary in reference to the amount of business likely to come before it. Neither does it seem to them requisite to have any fixed times of Session. It would be preferable that the President should convene the Council whenever there may be any measure or set of measures on which legislation is required—that the Council should sit until those measures and any others which may be brought before it have been disposed of, and should then be adjourned until their action is again called for.

4. The Government would propose that the first Meeting of the Council should be fixed for Wednesday the 15th of January next.

5. As respects establishment, the Council must have a Clerk who will be their Chief Ministerial Officer, will record and report all their Proceedings, and assist the Members, both in and out of Session, in the preparation of the

From Secretary of State, to Government of India, 9th August 1861, paragraph 19.

Bills to be brought before it. It is of great importance to the well-being of the institution that this office should be ably filled, and consequently that such remuneration should be attached to it, as will secure the services of a man of character and ability. The Government consider that the salary should not be less than Rupees 1,000 per mensem. The establishment need not be large. The Government would give the Clerk an Office allowance of Rupees 300 per mensem and leave it to him to find his own servants. This sum should cover all expenses, that of printing excepted, which would be executed at the Government Press.

6. The Clerk should be empowered to frank correspondence on the Service of the Council.

7. In the concluding paragraph of your letter it is noted that it is the intention of the Secretary of State that the Meetings of the Madras Legislative Council should be open to the public. This Government would with all respect submit that such a course is not required by the "Indian Councils Act," and, in unison, as they believe, with the Government of Bombay, they would strongly deprecate it. It has been generally felt and admitted that the admission of the public to the debates of the Legislative Council of India was a mistake, and it would be much to be regretted if, in despite of past experience, this error should be repeated as respects the Councils now to be established. It is to be feared that the result would be, what it has already been, that in place of business-like discussions there would be oratorical displays, and addresses ad captandum, and that some of the Members would speak not to the Chair but to the public.

From Secretary of State, 9th August, paragraph 18.

for the consideration of measures of large and Imperial interest, it cannot be submitted to be requisite in the case of bodies convened for the despatch of merely local matters. The Government are clearly of opinion that if Bills be published as provided by Rule 35 immediately on their introduction, and if reports of the proceedings of the Council be duly and punctually published as provided by Rule 52, all will be done that is in any way needed for the despatch of business and for general information, and that it would be very inexpedient to go further.

8. I am desired to ask whether it be proposed that the "additional" Members of Council, shall, as has been the case with the Members of the Local Government in the late Legislative Council of India, be styled "Honorable," and whether any precedence is to be allowed them in Society.

9. I have also to inquire whether the additional Members on joining the Council are to take an oath, and if so, to request that the form of oath may be furnished.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

No. 1431.
To
The Deputy Auditor and Accountant
General Madras.

Financial Dept. Sir

I am directed by His Excellency in Council to communicate the following observations on the Statement, received from you, of transfers of grants within prescribed limits sanctioned by the Madras Government during the month of April 1864.

1st The first item in the Statement is "on account of purchase of land selected for the Court House and Jail at Tanjore," and is exhibited under F III "Law and Justice" but the transfer is disallowed as the payment is properly a charge of the Public Works Department, and you are requested to be especially careful not to charge against any other Budget heads any expense which is defrayable from the Public Works grant.

2nd Item No 3 is a transfer of 30000 Rs. from the Savings of 1863/64. under F III "Law & Justice" to the year 1864/65 to meet the "expenditure" during that year "on account of prisoners employed on the Lawrence Asylum Works." This also is disallowed as the Savings of 1863/64 cannot be availed of for fresh payments in 1864/65. It has not been explained why the transfer

transfer has been at all desired, for it does not seem to be necessary, if provision has been made in the Budget of 1864/65 for the diet and clothing of the prisoners employed on the Lawrence's Asylum Works, which items the term "expenditure" is here supposed to comprehend.

It is presumed that the value of the Arms &c. belonging to the late Rajah of Tanjore and selected for the Central Museum, which is referred to in Item No 4, is to be paid to the Tanjore Family, otherwise it is not understood, on what grounds the transfer is required.

The decision on Item No 1 applies also to Items Nos 6 and 8.

Item No 10 is a transfer of the savings of 1864/65 to meet the "Salary of Venkatasubrah to end of April" (1864). This is objectionable. If the transfer of the savings of a past year to meet the expenditure of a future year is inadmissible, the transfer of the savings of future year, which have no existence as yet in the present case, to cover a payment of a past year is doubly inadmissible.

The official designation of Venkatasubrah ought to have been given.

Item

6th Item No 14 is for meeting the ³excess above the estimate for the purchase of Stationery by the Inspector General of Ordnance and Magazines. It is presumed that the Officer referred to is the "Superintendent of Stationery".

7th The gratuity referred to in Item No 14 is a charge against F VII "Superannuations and retired allowances" &c. "not against F IX "Miscellaneous."

8th The Statement should have been examined and not simply forwarded to you.

Simla
The 14th July 1864 }

I have the honor to be
D^y C^y H^y Lushington
Secy to the Govt of India

(A true Copy)
W^m W^m H^y H^y
S^y Secy to the Govt of India

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India Office,
London, 9th August 1861.

Legislative,
No. 14.

To His Excellency The Right Honourable The Governor General of
India in Council.

MY LORD,

I herewith transmit a copy of the Act* recently passed by Parliament, to make better provision for the constitution of the Council of the Governor General of India, and other purposes; and in so doing, I take the opportunity of acknowledging the receipt of the letters noted in the margin, and, at the same time, of expressing my obligations for the valuable assistance I have derived from the several communications which I have received from your Lordship in Council, bearing on the important subjects for which provision is made by the Act.

2. In forwarding to your Lordship in Council the Act which brings to a close the labours of the present Legislative Council of India, it is due to that body that I should place upon record the high sense I entertain of the important services it has rendered, in the marked improvement which it has effected in the legislation of India. Since the year 1853, when the Council received its present constitution, it has had to deal with some of the most important questions which could have been submitted to the consideration of any legislative body. The projects of law laid before it have been carefully considered and ably discussed, and the result of its labours has been to place on the Statute Book of India a series of sound and judicious measures which eminently establish its claim to the gratitude of the country and the thanks of Her Majesty's Government.

3. The principal objects contemplated by the present Act are, to impart greater efficiency to the Government of India and to the Governments of the Presidencies of Madras and Bombay in the discharge of their executive functions; to prescribe the mode in which the power of making laws and regulations is henceforth to be exercised by the Council of the Governor General; to restore to the Councils of the subordinate Presidencies, at the same time that they are strengthened for the purpose, the power of legislation; to authorize the Governor General in Council, acting under the sanction of the Home Government, to confer upon Lieutenant Governors of Provinces the power of

* 24 and 25 Vic. Cap. 67.
Governor General's Letter, No. 2A, dated 15th January 1861.
Governor General's Letter, No. 2A, dated 23rd January 1861.
Letter from Government of India, Public Department, No. 10, dated 31st January 1861.

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making laws and regulations (with the aid of persons specially summoned for that purpose) for the Provinces which they respectively govern; and to provide for the temporary government of India, in the event of a vacancy in the Office of Governor General. To the most important provisions of the Act bearing on these several matters, I propose to refer more particularly in the sequel of this Despatch.

4. An important alteration has been made in the constitution of the Executive Council of the Governor General by the adoption of your Lordship's recommendation that power should be obtained from Parliament for the appointment by the Crown of two members (instead of one), one of whom shall be a barrister. Steps will be immediately taken for filling up the appointment thus created by the Act.

5. By the fourth Section of the present Act ordinary members of the Council continue to be ordinary members of Council under the Act. It is not my intention to deviate from the usual practice respecting the time for which a seat in Council has been held, and with respect to the members of the Council who will continue to hold their seats under the present Act, the term of five years will be reckoned from the time when they respectively first took their seats in Council. The question of the salaries of future members of Council will be considered by me in Council, and the result communicated to your Government.

6. Hitherto it has been the practice, on the occasion of the Governor General quitting the Presidency for any other part of India, to pass an Act providing for the exercise by him of executive powers during his absence. By Section 6 of the Act now forwarded, resort to legislation in such case is rendered unnecessary, and an order of the Governor General in Council is substituted for an Act of the Legislature.

7. The only other provision of the Act relating to the Executive Council of the Governor General to which I consider it necessary to advert is Section 8, which authorizes the Governor General, from time to time, to make rules and orders for the more convenient transaction of business in his Council. By the arrangement of the business already made by your Lordship in Council, a remedy has of late years been applied to the cumbrous mode of conducting business which formerly prevailed. The expediency of such arrangements, and of carrying them to such an extent as the Governor General may think desirable for the more convenient despatch of public business, is formally recognized by Section 8.

8. I need hardly impress upon your Lordship the necessity of caution in framing the rules and orders, so as not to exceed the limit of the discretion conferred upon the Governor General by this section of the Act. The object to be kept in view is the *more convenient transaction of business*. There is nothing in the provision of a nature to detract from the authority or responsibility of the Governor General, or of the Council.

9. I concur with your Lordship that, after the system of Departmental responsibility in the manner proposed shall have come into operation, the salaries of some of the Secretaryships of the Government of India will admit of reduction, and that those which now stand at 5,000*l.* per annum each might, on vacancies, reasonably be reduced to 4,000*l.* per annum.

10. Considerable discussion and interchange of opinion between Her Majesty's Government and your Lordship in Council has recently taken place, in regard to the best mode of conducting the legislation of India, and on this subject the Act contains some very important provisions. The power of legislation, taken away from the Councils of the subordinate Presidencies by the Act of 3d and 4th William IV., c. 85, is, to a great extent, to be restored to them, and new local legislatures are to be established in other parts of India. The legislative powers conferred on the Government of India by the above-mentioned Act are left unimpaired, but under the present Act are to be exercised, for the most part, in matters of general administration, and such as affect the interests of our Indian empire at large.

11. I proceed to notice some of the most important provisions by which these changes are to be affected.

12. In consequence of the repeal, by Section 2 of the present Act, of Section 22 of the Act of the 16th and 17th Vict., c. 93, the Legislative Councillors appointed under the repealed enactment will cease to hold office in the Council, on the present Act coming into operation. Provision is made by Section 10 for the appointment of other additional members to the Council of the Governor General, who are to be members only for the purpose of making laws and regulations. They are to be selected by the Governor General from the servants of the Government and from other residents in India, European and Native, from all parts of India, the only limitation on the power of selection being that not less than one half of the number nominated are to be persons not holding any office under Government.

13. The Imperial Legislature has by this Act provided, for the first time, for the admission of Europeans independent of the Government and of Natives of India to take part in the important work of legislating for India. I have no doubt this measure will be hailed with satisfaction throughout the country. I entertain as little doubt that your Lordship will be able to fill up these appointments with persons in every way qualified to give the Government important and valuable assistance in matters that may come before it, and I anticipate that the introduction of intelligent Native gentlemen into the Council will bring to its deliberations a knowledge of the wishes and feelings of the Native population, which cannot fail to improve the laws passed by the Council by adapting them to the wants of the great mass of the population of India.

14. I am quite aware that there cannot but be considerable difficulty in assembling, at any one place, official and non-official persons from distant

parts of India, who may bring to the Council of the Governor General the advantage of their knowledge of different parts of the country. The grant of legislative powers to Councils in other parts of India renders it less necessary to have such persons present in your Lordship's Council, where, at present, the whole legislation of India is concentrated; but, nevertheless, I think it most desirable that servants of the Government in the other Presidencies, and from the North-West and the Punjab, should be summoned to a body which is to legislate on matters affecting the whole of India; and I shall be glad to find that influential Native gentlemen from distant places have, even at some personal inconvenience to themselves, responded to the call of the head of the Government to take their places in the Council when legislating for the peace and good Government of their country.

15. To enable your Lordship the more readily to avail yourself of the services of such persons as occasion may require, as well as to obviate the necessity for issuing fresh summonses simultaneously for the whole number of additional Councillors on the expiration of the term of service of those first appointed, which the immediate nomination of the entire number will impose, I think it expedient that your Lordship should not summon at once the maximum number of members allowed by the Act, but appointing part of them at first, should leave the remaining number to be nominated at such times, and on such occasions, as your Lordship may think proper.

16. It will be the duty of your Lordship in Council to make, in the first instance, subject to subsequent alteration at meetings for the purpose of making laws and regulations, the rules for the conduct of business at such meetings. The experience of the past has shown, as it appears to me, that an error was committed in adopting numerous rules under the name of "Standing Orders," and thereby imparting to the proceedings of the Council a much more formal character than was contemplated by the Act of 1853. The rules of procedure at meetings for making laws and regulations should be few and simple, and the business should be conducted, agreeably to your Lordship's suggestions, much in the same way as in a committee or a commission. This is the more indispensable in the Council of the Governor General, as well as in those of the North-West and the Punjab, where Native gentlemen unacquainted with the English language may not improbably be present, and who will be prevented from taking their part in the business of the Council, unless some such arrangement be made.

17. No law, except one arising out of some pressing emergency should be passed without full opportunity for mature deliberation and discussion, and the intervals of discussion should be such as to allow the Members of Council adequate opportunity of reflection and inquiry.

18. As to the publicity which should attend the proceedings of the Councils at meeting for making laws and regulations, I concur very much in the remarks of your Lordship, in your letter of the 15th January last.

In the Local Councils of Calcutta, Madras, and Bombay, in which it is probable that all the members, including Natives, will speak the English language, I am not disposed to interfere with the present practice; but it may be necessary to vary the mode of publishing the reports of discussions, as suggested by your Lordship, in the Council of the Governor General, and of the North-West Provinces and the Punjab. Your Lordship has stated, in your Despatch of the 15th of January last, the evil which has been caused by the publication of speeches delivered in the Legislative Council, and the impression made by them on the Native population. Care should be taken, by an early publication of the views of the Government, to prevent the public mind being misled, and other means will probably occur to you for meeting this particular difficulty.

19. I think it of the highest importance that correct reports of the proceedings of the several Councils, under the authority of the Council itself, should be sent forth to the public, and I request that you will take into your consideration measures for ensuring this very desirable object.

20. You will transmit to me a copy of the rules as soon as you shall have prepared them.

21. I entertain a decided opinion that the Councils should not sit permanently for the purpose of making laws and regulations, but should be called together by summons from the head of the Government when projects of law, prepared by the proper officers under the supervision of the executive Government, are ready for discussion. It is probable that, by adopting this course, Bills will come before the Council better prepared than when hurriedly framed for a Council in session, and will be better considered by the Council when brought before them, and thus much unnecessary legislation will be avoided, and much public time saved. The adoption of this plan, moreover, will be necessary to secure for you the services of Native gentlemen at a distance, and of those persons whose time, like that of the members of the mercantile communities of the Presidency towns, is much occupied with their own private engagements.

22. You will observe that no provision is made for the appointment of a Vice-President at meetings for the purpose of making laws and regulations. In the absence of the Governor General and the President of the Council, the senior member of the Council will preside.

23. The additional Councillors provided for by the Act are to be called in to assist the Council of the Governor General in matters of legislation. Members of the Council will, of course, exercise their independent judgment in regard to matters brought before them, but the Council at its meetings for making laws and regulation is not to be a body separate and distinct from the Council of the Governor General. Petitions relating to legislative matters should be addressed to the Governor General, or Governor, or Lieutenant

Governor in Council, as the case may be; and, in recording its proceedings, each Council should be designated according to the form followed in the Act, and no other.

24. I may frankly state to your Lordship in Council that one object of Section 19 is to prevent the Legislature from interfering with the functions of the Executive Government, and occupying its time with matters which are not directly or immediately connected with the special duties assigned to it. The closing proviso of the section is in accordance with Lord Dalhousie's recommendation to the Council in his Minute of the 17th May 1854, and numbers 60 and 61 of the Standing Orders. This section renders unnecessary any separate reply to your letters in the Legislative Department, Nos. 6 and 7, dated respectively the 14th and 18th of March last.

25. Sections 20, 21, and 22 are re-enactments of former provisions, with such alterations as are rendered necessary by the changes effected by the present Act, and by the transfer of the Government of India from the East India Company to the Crown.

26. By Section 23 the Governor General of India is invested with a new and extraordinary power of making and promulgating ordinances in cases of emergency, on his own responsibility. It is due to the supreme authority in India, who is responsible for the peace, security, and good government of that vast territory, that he should be armed with this power, but it is to be called into action only on urgent occasions, the reasons for a resort to it should always be recorded, and these, together with the ordinance itself, should be submitted, without loss of time, for the consideration of Her Majesty's Government.

27. By Section 25 doubts are removed as to the validity of rules and regulations which have been passed by any of the Governments in India for the territories known as "Non-Regulation Provinces." You will observe, however, that henceforth legislative measures affecting any of the territories, Regulation or Non-Regulation, under the dominion of Her Majesty at the date of the passing of the Act, must be passed either by the Council of the Governor General or by that of the Government to which such territories may be subject.

28. It has been found necessary, on some occasions, to grant leave of absence for a short period on medical certificate to a member of the Executive Council, though he was not admitted by law to this privilege. This has now been sanctioned by Section 26, and by Section 27 the Governor General, or the Governor of a minor Presidency, as the case may be, is authorized, when no provisional appointment has been made from home, to make a temporary appointment to the office of Councillor, either on the occurrence of a vacancy or when the incumbent may be absent.

29. It is unnecessary for me to enter into any detail as to Sections 28 to 41, which, *mutatis mutandis*, contain, in regard to the Governments of

Madras and Bombay, the same provisions as have been enacted, in previous corresponding sections, in relation to the Supreme Government.

30. By Section 42, the power is conferred upon the Governor in Council (constituted as stated in Section 29), of each of those Presidencies, to make laws and regulations for the territories subject to his authority. Your Lordship will observe, however, that, while the power of legislation is, to a great extent, thus restored to the minor Presidencies, much greater control over the exercise of that power is given to the Governor General of India than was the case before the passing of the Act 3d and 4th William IV., c. 83. The rules for the conduct of business at meetings of the Councils for making laws and regulations are to be submitted for the sanction of the Governor General in Council,* and no law or regulation is to have validity until † sanctioned by the Governor General.†

31. It is advisable that the several Legislative Councils should undertake, as far as possible, the necessary legislative business for the territories under their respective jurisdictions. The circumstances of different parts of India are widely different, and may, even under the same general head of administration, require widely different measures of a practical character; and it will be no ground for condemning a measure on any particular subject passed for one Presidency that it differs, in some respects, from another measure on the same subject for another Presidency. There will, however, always remain some important subjects to which, for the most part, general legislation alone is applicable, and which should be reserved to be dealt with by the Council of the Governor General. Such are the subjects specified in Section 43 of the Act. If, however, it should appear to the Governor General more expedient that enactments on any of those subjects, so far as regards any Presidency or Lieutenant Governorship, may be more conveniently passed by the Governor or Lieutenant Governor in Council, legislation in regard to those subjects by the local legislature, with the previous sanction of the Governor General, is permitted by the terms of the section.

32. There is nothing in the terms of the section, or in any other part of the Act, which takes away from the Council of the Governor General the power of legislation in regard to all matters whatsoever connected with any part of Her Majesty's dominions in India, and it is possible that there may be other subjects than those enumerated which may be considered as properly coming within the cognizance of the highest legislative authority. The division of legislative measures into two classes will not be difficult, and, as a general rule, the supreme legislature should as little interfere with matters of local administration, as a local legislature should be permitted to interfere with those matters of general administration which are reserved to be dealt with by the Council of the Governor General.

33. By Sections 44 to 48 inclusive, the Governor General in Council is empowered to extend the provisions of the Act touching the making of laws

and regulations for the Presidencies of Madras and Bombay, to the Bengal Division of the Presidency of Fort William, to the North-West Provinces, the Punjab, and to any other Provinces which may hereafter be placed under a Lieutenant Governor under Section 46. Your Lordship in Council will decide upon the number of additional Councillors to be nominated by each Lieutenant Governor, which in no case should exceed the number allowed by the Act to the Governors of Madras and Bombay.

34. I gather from communications already received, that your Lordship will deem it expedient to give effect without delay to the provisions of the Act in Bengal, the North-West Provinces, and the Punjab. Her Majesty's Government are of opinion that, as regards the Bengal Division of the Presidency of Fort William, the change should be introduced with as little delay as possible; and I leave it to your Lordship to determine at what time you will take the same course as regards the North-West Provinces and the Punjab.

35. With reference to the foregoing remarks, I have now to request that your Lordship in Council will take immediate measures for placing the Council of the Governor General for making laws and regulations on the footing prescribed by the Act, and enter into communication with the Governments of Madras and Bombay respecting the adoption of the necessary measures for bringing the Act into operation in those Presidencies. When your measures shall be sufficiently matured to admit of practical effect being given to the provisions of the Act in your own Council, and in the Councils of the Governors of Madras and Bombay, you will announce the same by proclamation in the official Gazette of the several Presidencies, until which time the power of making laws and regulations will, under Section 16 of the Act, continue to be exercised by the Council of the Governor General as constituted by the Act of the 16th and 17th Vict. c. 95.

36. You will then take the necessary steps for extending such of its provisions as relate to the making of laws and regulations in the Presidencies of Madras and Bombay, to the Bengal Division of the Presidency of Fort William. It will be seen from Section 49 that the proclamation by the Governor General in Council for constituting any Council for the purpose of making laws and regulations must be transmitted to the Secretary of State for the previous sanction of the Crown. To this provision you will carefully adhere, forwarding the proclamation relating to the Bengal Division with as little delay as possible, and those relating to the North-West Provinces and the Punjab either with it, or at such future periods as your Lordship in Council may deem expedient.

37. With regard to Section 50, it is only necessary to observe that when no provisional successor to the office of Governor General shall be in India, any vacancy occurring in that office will, until the arrival of a successor appointed by Her Majesty, be supplied by one of the highest functionaries in

India holding office under the immediate appointment of the Crown, and until he assumes the function of Governor General the Government will be administered, as heretofore, by the senior ordinary member of Council, as would be done under the provisions of the 3rd and 4th William IV., c. 85, Sec. 62, if no provisional successor were on the spot.

38. Of the projects of law now under consideration, I am very anxious that the Code of Criminal Procedure should be passed before the present Act comes into operation. Of the rest, some have got to that stage which renders it advisable that they should be enacted by the legislature as at present constituted, while others, especially those of a local character, may be withdrawn, and re-introduced, if necessary, into the Councils, to which under the new system they will respectively belong.

39. Your Lordship in Council will impress upon the subordinate Governments the necessity of keeping the establishments required for conducting the legislative business of the Councils at as low a point as is consistent with efficiency.

40. It only remains for me, in conclusion, to express the great gratification I feel in being permitted to avail myself of your Lordship's assistance in giving effect, before you quit India, to the intentions of the Imperial Legislature. I look with great confidence to the advantage which will be derived from the commencement of the new system under your Lordship's directions. Your Lordship's experience in India, and the attention which you have given to this most important subject, render your Lordship most eminently fitted to give effect to the measures introduced by the Act for the Government and Legislation of India; and the successful accomplishment of this may be the last, though it will not be the least, of the services which you will have rendered to your Sovereign in that country.

I have the honor to be,
My Lord,
Your Lordship's most obedient, humble Servant,
(Signed) C. WOOD.



ANNO VICESIMO QUARTO & VICESIMO QUINTO

VICTORIÆ REGINÆ.

C A P. LXVII.

AN ACT TO MAKE BETTER PROVISION FOR THE CONSTITUTION OF THE COUNCIL OF THE GOVERNOR GENERAL OF *India*, AND FOR THE LOCAL GOVERNMENT OF THE SEVERAL PRESIDENCIES AND PROVINCES OF *India*, AND FOR THE TEMPORARY GOVERNMENT OF *India* IN THE EVENT OF A VACANCY IN THE OFFICE OF GOVERNOR GENERAL. [1st August 1861.]

WHEREAS it is expedient that the Provisions of former Acts of Parliament respecting the Constitution and Functions of the Council of the Governor General of *India* should be consolidated and in certain respects amended, and that Power should be given to the Governors in Council of the Presidencies of *Fort Saint George* and *Bombay* to make Laws and Regulations for the Government of the said Presidencies, and that Provision should be made for constituting the like Authority in other Parts of Her Majesty's *Indian* Dominions: Be it therefore declared and enacted by the Queen's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and

East India Council, &c.

Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title. 1. This Act may be cited for all Purposes as "The *Indian Councils Act, 1861.*"

Acts and Parts of Acts repealed. 2. Sections Forty, Forty-three, Forty-four, Fifty, Sixty-six, Seventy, and so much of Sections Sixty-one and Sixty-four as relates to Vacancies in the Office of ordinary Member of the Council of *India*, of the Act of the Third and Fourth Years of King *William* the Fourth, Chapter Eighty-five, for effecting an Arrangement with the *East India Company*, and for the better Government of Her Majesty's *Indian Territories*, till the Thirtieth Day of *April* One thousand eight hundred and fifty-four, Sections Twenty-two, Twenty-three, Twenty-four, and Twenty-six of the Act of the Sixteenth and Seventeenth Years of Her Majesty, Chapter Ninety-five, "to provide for the Government of *India*," and the Act of the Twenty-third and Twenty-fourth Years of Her Majesty, Chapter Eighty-seven, "to remove Doubts as to the Authority "of the Senior Member of the Council of the Governor General of "*India* in the Absence of the President," are hereby repealed, and all other Enactments whatsoever now in force with relation to the Council of the Governor General of *India*, or to the Councils of the Governors of the respective Presidencies of *Fort St. George* and *Bombay*, shall, save so far as the same are altered by or are repugnant to this Act, continue in force, and be applicable to the Council of the Governor General of *India* and the Councils of the respective Presidencies under this Act.

Composition of the Council of the Governor General of *India*. 3. There shall be Five ordinary Members of the said Council of the Governor General, Three of whom shall from Time to Time be appointed by the Secretary of State for *India* in Council, with the Concurrence of a Majority of Members present at a Meeting, from among such Persons as shall have been, at the Time of such Appointment in the Service in *India* of the Crown, or of the Company and the Crown, for at least Ten Years, and if the Person so appointed shall be in the Military Service of the Crown he shall not, during his Continuance in Office as a Member of Council, hold any Military Command, or be employed in actual Military Duties, and the remaining Two, One of whom shall be a Barrister or a Member of the Faculty of Advocates in *Scotland* of not less than Five Years Standing, shall be appointed from Time to Time by Her Majesty by Warrant under Her Royal Sign Manual; and it shall be lawful for the Secretary of State in Council

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to appoint the Commander-in-Chief of Her Majesty's Forces in *India* to be an extraordinary Member of the said Council, and such extraordinary Member of Council shall have Rank and Precedence at the Council Board next after the Governor General.

4. The present ordinary Members of the Council of the Governor General of *India* shall continue to be ordinary Members under and for the Purposes of this Act; and it shall be lawful for Her Majesty, on the passing of this Act, to appoint by Warrant as aforesaid an ordinary Member of Council, to complete the Number of Five hereby established; and there shall be paid to such ordinary Member, and to all other ordinary Members who may be hereafter appointed, such Amount of Salary as may from Time to Time be fixed for Members of the Council of the Governor General by the Secretary of State in Council, with the Concurrence of a Majority of Members of Council present at the Meeting; and all Enactments of any Act of Parliament, or Law of *India* respecting the Council of the Governor General of *India* and the Members thereof shall be held to apply to the said Council as constituted by this Act, except so far as they are repealed by or are repugnant to any Provisions of this Act.

5. It shall be lawful for the Secretary of State in Council, with the Concurrence of a Majority of Members present at a Meeting, and for Her Majesty, by Warrant as aforesaid, respectively, to appoint any Person provisionally to succeed to the Office of ordinary Member of the Council of the Governor General, when the same shall become vacant by the Death or Resignation of the Person holding the said Office, or on his Departure from *India* with Intent to return to *Europe*, or on any Event and Contingency expressed in any such Provisional Appointment, and such Appointment again to revoke; but no Person so appointed to succeed provisionally to such Office shall be entitled to any Authority, Salary, or Emolument appertaining thereto until he shall be in the actual Possession of such Office.

6. Whenever the said Governor General in Council shall declare that it is expedient that the said Governor General should visit any Part of *India* unaccompanied by his Council, it shall be lawful for the said Governor General in Council, previously to the Departure of the said Governor General, to nominate some Member of the said Council to be President of the said Council, in whom, during the Time of such Visit, the Powers of the said Governor General in Assemblies of the said

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Council shall be reposed, except that of assenting to or withholding his Assent from, or reserving for the Signification of Her Majesty's Pleasure, any Law or Regulation, as herein-after provided; and it shall be lawful in every such Case for the said Governor General in Council, by an Order for that Purpose to be made, to authorize the Governor General alone to exercise all or any of the Powers which might be exercised by the said Governor General in Council in every Case in which the said Governor General may think it expedient to exercise the same, except the Power of making Laws or Regulations.

Provision on
Absence of Go-
vernor General
from Meeting.

7. Whenever the Governor General, or such President so nominated as aforesaid, shall be obliged to absent himself from any Meeting of Council (other than Meetings for the Purpose of making Laws and Regulations, as herein-after provided,) owing to Indisposition or any other Cause whatsoever, and shall signify his intended Absence to the Council, then and in every such Case the senior Member for the Time being who shall be present at such Meeting shall preside thereat, in such Manner, and with such full Powers and Authorities during the Time of such Meeting, as such Governor General or President would have had in case he had been present at such Meeting: Provided always, that no Act of Council made at any such Meeting shall be valid to any Effect whatsoever unless the same shall be signed by such Governor General or President respectively, if such Governor General or President shall at the Time be resident at the Place at which such Meeting shall be assembled, and shall not be prevented by such Indisposition from signing the same: Provided always, that in case such Governor General or President, not being so prevented as aforesaid, shall decline or refuse to sign such Act of Council, he, and the several Members of Council who shall have signed the same, shall mutually exchange with and communicate in Writing to each other the Grounds and Reasons of their respective Opinions, in like Manner and subject to such Regulations and ultimate Responsibility as are by an Act of the Thirty-third Year of King George the Third, Chapter Fifty-two, Sections Forty-seven, Forty-eight, Forty-nine, Fifty, and Fifty-one, provided and described in Cases where such Governor General shall, when present, dissent from any Measure proposed or agitated in the Council.

Power of Go-
vernor General
to make Rules
for Conduct of
Business.

8. It shall be lawful for the Governor General from Time to Time to make Rules and Orders for the more convenient Transaction of Business in the said Council; and any Order made or Act done in accordance with such Rules and Orders (except as hereafter provided respecting Laws

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and Regulations) shall be deemed to be the Order or Act of the Governor General in Council.

9. The said Council shall from Time to Time assemble at such Place or Places as shall be appointed by the Governor General in Council within the Territories of India; and as often as the said Council shall assemble within either of the Presidencies of *Fort Saint George* or *Bombay*, the Governor of such Presidency shall act as an extraordinary Member of Council; and as often as the said Council shall assemble within any other Division, Province, or Territory having a Lieutenant Governor, such Lieutenant Governor shall act as an additional Councillor at Meetings of the Council, for the Purpose of making Laws and Regulations only, in manner herein-after provided.

Power to
Council to as-
semble at any
Place in India.

10. For the better Exercise of the Power of making Laws and Regulations vested in the Governor General in Council, the Governor General shall nominate, in addition to the ordinary and extraordinary Members above mentioned, and to such Lieutenant Governor in the Case aforesaid, such Persons, not less than Six nor more than Twelve in Number, as to him may seem expedient, to be Members of Council for the Purpose of making Laws and Regulations only, and such Persons shall not be entitled to sit or vote at any Meeting of Council, except at Meetings held for such Purpose: Provided that not less than One Half of the Persons so nominated shall be non-official Persons, that is, Persons who, at the Date of such Nomination, shall not be in the Civil or Military Service of the Crown in India, and that the Seat in Council of any non-official Member accepting Office under the Crown in India shall be vacated on such Acceptance.

Additional
Members
to be sum-
moned for the
Purpose of
making Laws
and Regula-
tions.

11. Every additional Member of Council so nominated shall be summoned to all Meetings held for the Purpose of making Laws and Regulations, for the Term of Two Years from the Date of such Nomination.

Additional
Members to be
appointed for
Two Years.

12. It shall be lawful for any such additional Member of Council to resign his Office to the Governor General, and on Acceptance of such Resignation by the Governor General such Office shall become vacant.

Resignation
of Additional
Members.

13. On the event of a Vacancy occurring by the Death, Acceptance of Office, or Resignation, accepted in manner aforesaid, of any such additional Member of Council, it shall be lawful for the Governor General to nominate any Person as additional Member of Council in his Place, who shall exercise the same Functions until the Termination

Power to fill
up Vacancy in
Number of
additional
Members.

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of the Term for which the additional Member so dying, accepting Office, or resigning was nominated: Provided always, that it shall not be lawful for him by such Nomination to diminish the Proportion of non-official additional Members herein-before directed to be nominated.

No Law to be invalid by reason of Number of non-official Members being incomplete.

14. No Law or Regulation made by the Governor General in Council, in accordance with the Provisions of this Act, shall be deemed invalid by reason only that the Proportion of non-official additional Members hereby provided was not complete at the Date of its Introduction to the Council or its Enactment.

Senior ordinary Member of Council to preside at Meetings for making Laws and Regulations in Absence of Governor General, &c. Quorum.

15. In the Absence of the Governor General and of the President, nominated as aforesaid, the senior ordinary Member of the Council present shall preside at Meetings of the Council for making Laws and Regulations; and the Power of making Laws and Regulations vested in the Governor General in Council shall be exercised only at Meetings of the said Council at which such Governor General or President, or some ordinary Member of Council, and Six or more Members of the said Council, (including under the Term Members of the Council such additional Members as aforesaid), shall be present; and in every Case of Difference of Opinion at Meetings of the said Council for making Laws and Regulations where there shall be an Equality of Voices, the Governor General, or in his Absence the President, and in the Absence of the Governor General and President such senior ordinary Member of Council there presiding, shall have Two Votes or the Casting Vote.

Governor General to appoint First Meeting for making Laws and Regulations.

16. The Governor General in Council shall, as soon as conveniently may be, appoint a Place and Time for the First Meeting of the said Council of the Governor General for making Laws and Regulations under this Act, and summon thereto as well the additional Councillors nominated by and under this Act as the other Members of such Council; and until such First Meeting the Powers now vested in the said Governor General of *India* in Council of making Laws and Regulations shall and may be exercised in like Manner and by the same Members as before the passing of this Act.

Power to appoint and adjourn Meetings for making Laws and Regulations.

17. It shall be lawful for the Governor General in Council from Time to Time to appoint all other Times and Places of Meeting of the Council for the Purpose of making Laws and Regulations under the Provisions of this Act, and to adjourn, or from Time to Time to authorize such President, or senior ordinary Member of Council in his

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Absence, to adjourn any Meeting for the Purpose of making Laws and Regulations from Time to Time and from Place to Place.

18. It shall be lawful for the Governor General in Council to make Rules for the Conduct of Business at Meetings of the Council for the purpose of making Laws and Regulations under the Provisions of this Act, prior to the First of such Meetings, but such Rules may be subsequently amended at Meetings for the purpose of making Laws or Regulations, subject to the Assent of the Governor General; and such Rules shall prescribe the Mode of Promulgation and Authentication of such Laws and Regulations: Provided always, that it shall be lawful for the Secretary of State in Council to disallow any such Rule, and to render it of no Effect.

Governor General to make Rules for Conduct of Business at such Meetings.

19. No Business shall be transacted at any Meeting for the Purpose of making Laws and Regulations, except as last herein-before provided, other than the Consideration and Enactment of Measures introduced into the Council for the Purpose of such Enactment; and it shall not be lawful for any Member or additional Member to make or for the Council to entertain any Motion, unless such Motion be for Leave to introduce some Measure as aforesaid into Council, or have reference to some Measure actually introduced thereinto: Provided always, that it shall not be lawful for any Member or additional Member to introduce, without the previous Sanction of the Governor General, any Measure affecting,—

Business to be transacted at such Meetings.

- 1st. The Public Debt or Public Revenues of *India*, or by which any Charge would be imposed on such Revenues:
- 2d. The Religion or Religious Rites and Usages of any Class of Her Majesty's Subjects in *India*:
- 3d. The Discipline or Maintenance of any Part of Her Majesty's Military or Naval Forces:
- 4th. The Relations of the Government with Foreign Princes or States.

20. When any Law or Regulation has been made by the Council at a Meeting for the Purpose of making Laws and Regulations as aforesaid, it shall be lawful for the Governor General, whether he shall or shall not have been present in Council at the making thereof, to declare that he assents to the same, or that he withholds his Assent from the same, or that he reserves the same for the Signification of the Pleasure of Her Majesty thereon; and no such Law or Regulation

Assent of Governor General to Laws made at such Meetings.

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shall have Validity until the Governor General shall have declared his Assent to the same, or until (in the Case of a Law or Regulation so reserved as aforesaid) Her Majesty shall have signified Her Assent to the same to the Governor General, through the Secretary of State for India in Council, and such Assent shall have been duly proclaimed by the said Governor General.

Power of the Crown to disallow Laws made at such Meetings. 21. Whenever any such Law or Regulation has been assented to by the Governor General, he shall transmit to the Secretary of State for India an authentic Copy thereof; and it shall be lawful for Her Majesty to signify, through the Secretary of State for India in Council, Her Disallowance of such Law; and such Disallowance shall make void and annul such Law from or after the Day on which the Governor General shall make known, by Proclamation or by Signification to his Council, that he has received the Notification of such Disallowance by Her Majesty.

Extent of the Powers of the Governor General in Council to make Laws and Regulations at such Meetings. 22. The Governor General in Council shall have Power at Meetings for the Purpose of making Laws and Regulations as aforesaid, and subject to the Provisions herein contained, to make Laws and Regulations for repealing, amending, or altering any Laws or Regulations whatever, now in force or hereafter to be in force in the Indian Territories now under the Dominion of Her Majesty, and to make Laws and Regulations for all Persons, whether British or Native, Foreigners or others, and for all Courts of Justice whatever, and for all Places and Things whatever within the said Territories, and for all Servants of the Government of India within the Dominions of Princes and States in Alliance with Her Majesty; and the Laws and Regulations so to be made by the Governor General in Council shall control and supersede any Laws and Regulations in anywise repugnant thereto which shall have been made prior thereto by the Governors of the Presidencies of *Fort Saint George* and *Bombay* respectively in Council, or the Governor or Lieutenant Governor in Council of any Presidency or other Territory for which a Council may be appointed, with Power to make Laws and Regulations, under and by virtue of this Act: Provided always, that the said Governor General in Council shall not have the Power of making any Laws and Regulations which shall repeal or in any way affect any of the Provisions of this Act:

Or any of the Provisions of the Acts of the Third and Fourth Years of King *William* the Fourth, Chapter Eighty-five, and of the Sixteenth and Seventeenth Years of Her Majesty, Chapter

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Ninety-five, and of the Seventeenth and Eighteenth Years of Her Majesty, Chapter Seventy-seven, which after the passing of this Act shall remain in force:

Or any Provisions of the Act of the Twenty-first and Twenty-second Years of Her Majesty, Chapter One hundred and six, entitled *An Act for the better Government of India*; or of the Act of the Twenty-second and Twenty-third Years of Her Majesty, Chapter Forty-one, to amend the same:

Or of any Act enabling the Secretary of State in Council to raise Money in the United Kingdom for the Government of *India*:

Or of the Acts for punishing Mutiny and Desertion in Her Majesty's Army or in Her Majesty's *Indian* Forces respectively; but subject to the Provision contained in the Act of the Third and Fourth Years of King *William* the Fourth, Chapter Eighty-five, Section Seventy-three, respecting the *Indian* Articles of War:

Or any Provisions of any Act passed in this present Session of Parliament, or hereafter to be passed, in anywise affecting Her Majesty's *Indian* Territories, or the Inhabitants thereof:

Or which may affect the Authority of Parliament, or the Constitution and Rights of the *East India* Company, or any Part of the unwritten Laws or Constitution of the United Kingdom of *Great Britain* and *Ireland*, whereon may depend in any Degree the Allegiance of any Person to the Crown of the United Kingdom, or the Sovereignty or Dominion of the Crown over any Part of the said Territories.

23. Notwithstanding anything in this Act contained, it shall be lawful for the Governor General, in Cases of Emergency, to make and promulgate from Time to Time Ordinances for the Peace and good Government of the said Territories or of any Part thereof, subject however to the Restrictions contained in the last preceding Section; and every such Ordinance shall have like Force of Law with a Law or Regulation made by the Governor General in Council, as by this Act provided, for the Space of not more than Six Months from its Promulgation, unless the Disallowance of such Ordinance by Her Majesty shall be earlier signified to the Governor General by the Secretary of State for *India* in Council, or unless such Ordinance shall be controlled or superseded by some Law or Regulation made

Governor General may make Ordinances having Force of Law in Cases of urgent Necessity.

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by the Governor General in Council at a Meeting for the Purpose of making Laws and Regulations as by this Act provided.

No Law, &c. invalid by reason of it affecting any prerogative of the Crown.

24. No Law or Regulation made by the Governor General in Council (subject to the Power of Disallowance by the Crown, as herein-before provided,) shall be deemed invalid by reason only that it affects the Prerogative of the Crown.

Laws made for the Non-Regulation Provinces declared valid.

25. Whereas Doubts have been entertained whether the Governor General of *India*, or the Governor General of *India* in Council, had the Power of making Rules, Laws, and Regulations for the Territories known from Time to Time as "Non-Regulation Provinces," except at Meetings for making Laws and Regulations, in conformity with the Provisions of the said Acts of the Third and Fourth Years of King *William* the Fourth, Chapter Eighty-five, and of the Sixteenth and Seventeenth Years of Her Majesty, Chapter Ninety-five, and whether the Governor, or Governor in Council, or Lieutenant Governor of any Presidency or Part of *India*, had such Power in respect of any such Territories: Be it enacted, That no Rule, Law, or Regulation which prior to the passing of this Act shall have been made by the Governor General, or Governor General in Council, or by any other of the Authorities aforesaid, for and in respect of any such Non-Regulation Province, shall be deemed invalid only by reason of the same not having been made in conformity with the Provisions of the said Acts, or of any other Act of Parliament respecting the Constitution and Powers of the Council of *India* or of the Governor General, or respecting the Powers of such Governors, or Governors in Council, or Lieutenant Governors as aforesaid.

Provision for Leave of Absence to an ordinary Member of Council.

26. It shall be lawful for the Governor General in Council, or Governor in Council of either of the Presidencies, as the Case may be, to grant to an ordinary Member of Council Leave of Absence, under Medical Certificate, for a Period not exceeding Six months; and such Member, during his Absence, shall retain his Office, and shall, on his Return and Resumption of his Duties, receive Half his Salary for the Period of such Absence, but if his Absence shall exceed Six Months, his Office shall be vacated.

Power of making temporary Appointments of Members of Council by Governor General or Governor of a Presidency.

27. If any Vacancy shall happen in the Office of an ordinary Member of the Council of the Governor General, or of the Council of either of the Presidencies, when no Person provisionally appointed to succeed thereto shall be then present on the Spot, then, and on every such Occasion, such Vacancy shall be supplied by the Appointment of

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the Governor General in Council, or the Governor in Council, as the Case may be; and until a Successor shall arrive the Person so nominated shall execute the Office to which he shall have been appointed, and shall have all the Powers thereof, and shall have and be entitled to the Salary and other Emoluments and Advantages appertaining to the said Office during his Continuance therein, every such temporary Member of Council foregoing all Salaries and Allowances by him held and enjoyed at the Time of his being appointed to such Office; and if any ordinary Member of the Council of the Governor General, or of the Council of either of the Presidencies, shall, by any Infirmary or otherwise, be rendered incapable of acting or of attending to act as such, or if any such Member shall be absent on Leave, and if any Person shall have been provisionally appointed as aforesaid, then the Place of such Member absent or unable to attend shall be supplied by such Person; and if no Person provisionally appointed to succeed to the Office shall be then on the Spot, the Governor General in Council, or Governor in Council, as the Case may be, shall appoint some Person to be a temporary Member of Council, and, until the Return of the Member so absent or unable to attend, the Person so provisionally appointed by the Secretary of State in Council, or so appointed by the Governor General in Council, or Governor in Council, as the Case may be, shall execute the Office to which he shall have been appointed, and shall have all the Powers thereof, and shall receive Half the Salary of the Member of Council whose Place he supplies, and also Half the Salary of his Office under the Government of *India*, or the Government of either of the Presidencies, as the Case may be, if he hold any such Office, the remaining Half of such last-named Salary being at the Disposal of the Government of *India*, or other Government as aforesaid: Provided always, that no Person shall be appointed a temporary Member of the said Council who might not have been appointed as herein-before provided to fill the Vacancy supplied by such temporary Appointment.

28. It shall be lawful for the Governors of the Presidencies of *Fort Saint George* and *Bombay* respectively from Time to Time to make Rules and Orders for the Conduct of Business in their Councils, and any Order made or Act done in accordance with such Directions (except as herein-after provided respecting Laws and Regulations) shall be deemed to be the Order or Act of the Governor in Council.

29. For the better Exercise of the Power of making Laws and Regulations herein-after vested in the Governors of the said Presidencies

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the Council of in Council respectively, each of the said Governors shall, in addition to the Members whereof his Council now by Law consists, or may consist, termed herein ordinary Members, nominate to be additional Members the Advocate General of the Presidency, or Officer acting in that Capacity, and such other Persons, not less than Four nor more than Eight in Number, as to him may seem expedient, to be Members of Council, for the Purpose of making Laws and Regulations only, and such Members shall not be entitled to sit or vote at any Meeting of Council, except at Meetings held for such Purpose; provided that not less than Half of the Persons so nominated shall be Non-official Persons, as herein-before described, and that the Seat in Council of any Non-official Member accepting Office under the Crown in India shall be vacated on such Acceptance.

30. Every additional Member of Council so nominated shall be summoned to all Meetings held for the Purpose of making Laws and Regulations for the Term of Two Years from the Date of such Nomination.

31. It shall be lawful for any such additional Member of Council to resign his Office to the Governor of the Presidency; and on Acceptance of such Resignation by the Governor of the Presidency such Office shall become vacant.

32. On the event of a Vacancy occurring by the Death, Acceptance of Office, or Resignation accepted in manner aforesaid, of any such additional Member of Council, it shall be lawful for the Governor of the Presidency to summon any Person as additional Member of Council in his Place, who shall exercise the same Functions until the Termination of the Term for which the additional Member so dying, accepting Office, or resigning was nominated: Provided always, it shall not be lawful for him by such Nomination to diminish the Proportion of Non-official Members herein-before directed to be nominated.

33. No Law or Regulation made by any such Governor in Council in accordance with the Provisions of this Act shall be deemed invalid by reason only that the Proportion of Non-official additional Members hereby established was not complete at the Date of its Introduction to the Council or its Enactment.

34. At any Meeting of the Council of either of the said Presidencies from which the Governor shall be absent, the senior Civil ordinary Member of Council present shall preside; and the Power of making Laws and Regulations hereby vested in such Governor in

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Council shall be exercised only at Meetings of such Council at which the Governor or some ordinary Member of Council, and Four or more Members of Council (including under the Term Members of Council such additional Members as aforesaid), shall be present; and in any Case of Difference of Opinion at Meetings of any such Council for making Laws and Regulations, where there shall be an Equality of Voices, the Governor, or in his Absence the senior Member then presiding, shall have Two Votes or the Casting Vote.

35. The Governor General in Council shall, as soon as conveniently may be, appoint the Time for the First Meeting of the Councils of Fort Saint George and Bombay respectively, for the Purpose of making Laws and Regulations under this Act, and the Governors of the said Presidencies respectively shall summon to such Meeting as well the additional Councillors appointed by and under this Act as the ordinary Members of the said Councils.

36. It shall be lawful for every such Governor to appoint all subsequent Times and Places of Meeting of his Council for the Purpose of making Laws and Regulations under the Provisions of this Act, and to adjourn or from Time to Time to authorize such senior ordinary Member of Council in his Absence to adjourn any Meeting for making Laws and Regulations from Time to Time and from Place to Place.

37. Previously to the First of such Meetings of their Councils for the Purpose of making Laws and Regulations under the Provisions of this Act, the Governors of the said Presidencies in Council respectively shall make Rules for the Conduct of Business at such Meetings, subject to the Sanction of the Governor General in Council; but such Rules may be subsequently amended at Meetings for the Purpose of making Laws and Regulations, subject to the Assent of the Governor: Provided always, that it shall be lawful for the Governor General in Council to disallow any such Rule, and render the same of no Effect.

38. No Business shall be transacted at any Meeting of the Council of either of the said Presidencies for the Purpose of making Laws and Regulations (except as last herein-before provided) other than the Consideration and Enactment of Measures introduced into such Council for the Purpose of such Enactment; and it shall not be lawful for any Member or additional Member to make, or for the Council to entertain, any Motion, unless such Motion shall be for Leave to introduce some Measure as aforesaid into Council, or have

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reference to some Measure actually introduced thereinto: Provided always, that it shall not be lawful for any Member or additional Member to introduce, without the previous Sanction of the Governor, any Measure affecting the Public Revenues of the Presidency, or by which any Charge shall be imposed on such Revenues.

Governors to
assent to Laws
and Regula-
tions of Presi-
dencies.

39. When any Law or Regulation has been made by any such Council at a Meeting for the Purpose of making Laws and Regulations as aforesaid, it shall be lawful for the Governor, whether he shall or shall not have been present in Council at such Meeting, to declare that he assents to, or withholds his Assent from, the same.

Governor General to
assent to Laws
and Regulations
of Presidencies.

40. The Governor shall transmit forthwith an authentic Copy of every Law or Regulation to which he shall have so declared his Assent to the Governor General, and no such Law or Regulation shall have Validity until the Governor General shall have assented thereto, and such Assent shall have been signified by him to and published by the Governor: Provided always, that in every Case where the Governor General shall withhold his Assent from any such Law or Regulation, he shall signify to the Governor in Writing his Reason for so withholding his Assent.

Power of the
Crown to dis-
allow Laws and
Regulations of
Presidencies.

41. Whenever any such Law or Regulation shall have been assented to by the Governor General, he shall transmit to the Secretary of State for *India* an authentic Copy thereof; and it shall be lawful for Her Majesty to signify, through the Secretary of State for *India* in Council, Her Disallowance of such Law or Regulation, and such Disallowance shall make void and annul such Law or Regulation from or after the Day on which such Governor shall make known by Proclamation, or by Signification to the Council, that he has received the Notification of such Disallowance by Her Majesty.

Extent of
Power of Go-
vernors of Pre-
sidencies in
Council to
make Laws
and Regula-
tions.

42. The Governor of each of the said Presidencies in Council shall have Power at Meetings for the Purpose of making Laws and Regulations as aforesaid, and, subject to the Provisions herein contained, to make Laws and Regulations for the Peace and good Government of such Presidency, and for that Purpose to repeal and amend any Laws and Regulations made prior to the coming into Operation of this Act by any Authority in *India*, so far as they affect such Presidency: Provided always, that such Governor in Council shall not have the Power of making any Laws or Regulations which shall in any way affect any of the Provisions of this Act, or of any other Act of Parliament in force, or hereafter to be in force, in such Presidency.

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43. It shall not be lawful for the Governor in Council of either of the aforesaid Presidencies, except with the Sanction of the Governor General, previously communicated to him, to make Regulations or take into consideration any Law or Regulation for any of the Purposes next herein-after mentioned; that is to say,

Governor of
Presidency, except with
sanction of
Governor Ge-
neral, not to
make or take
into considera-
tion certain
Laws or Regu-
lations.

1. Affecting the Public Debt of *India*, or the Customs Duties, or any other Tax or Duty now in force and imposed by the Authority of the Government of *India* for the general purposes of such Government:
2. Regulating any of the current Coin, or the Issue of any Bills, Notes, or other Paper Currency:
3. Regulating the Conveyance of Letters by the Post Office or Messages by the Electric Telegraph within the Presidency:
4. Altering in any way the Penal Code of *India*, as established by Act of the Governor General in Council, No. 42 of 1860:
5. Affecting the Religion or Religious Rites and Usages of any Class of Her Majesty's Subjects in *India*:
6. Affecting the Discipline or Maintenance of any Part of Her Majesty's Military or Naval Forces:
7. Regulating Patents or Copyright:
8. Affecting the Relations of the Government with Foreign Princes or States:

Provided always, that no Law, or Provision of any Law or Regulation which shall have been made by any such Governor in Council, and assented to by the Governor General as aforesaid, shall be deemed invalid only by reason of its relating to any of the Purposes comprised in the above List.

44. The Governor General in Council, so soon as it shall appear to him expedient, shall, by Proclamation, extend the Provisions of this Act touching the making of Laws and Regulations for the Peace and good Government of the Presidencies of *Fort Saint George* and *Bombay* to the *Bengal* Division of the Presidency of *Fort William*, and shall specify in such Proclamation the Period at which such Provisions shall take effect, and the Number of Councillors whom the Lieutenant Governor of the said Division may nominate for his Assistance in making Laws and Regulations; and it shall be further lawful for the Governor General in Council, from Time to Time and in his Discretion, by similar Proclamation to extend the same Provisions to

East India Council, &c.

the Territories known as the North-Western Provinces and the *Punjab* respectively.

Constitution
of such
Councils.

45. Whenever such Proclamation as aforesaid shall have been issued regarding the said Division or Territories respectively, the Lieutenant Governor thereof shall nominate, for his Assistance in making Laws and Regulations, such Number of Councillors as shall be in such Proclamation specified; provided that not less than One Third of such Councillors shall in every Case be non-official Persons, as herein-before described, and that the Nomination of such Councillors shall be subject to the Sanction of the Governor General; and provided further, that at any Meeting of any such Council from which the Lieutenant Governor shall be absent, the Member highest in official Rank among those who may hold Office under the Crown shall preside; and the power of making Laws and Regulations shall be exercised only at Meetings at which the Lieutenant Governor, or some Member holding Office as aforesaid, and not less than One Half of the Members of Council so summoned as aforesaid, shall be present; and in any Case of Difference of Opinion at any Meetings of such Council for making Laws and Regulations, where there shall be an Equality of Voices, the Lieutenant Governor, or such Member highest in official Rank as aforesaid then presiding, shall have Two Votes or the Casting Vote.

Power to
constitute
new Provinces
and appoint
Lieutenant
Governors.

46. It shall be lawful for the Governor General, by Proclamation as aforesaid, to constitute from Time to Time new Provinces for the Purposes of this Act, to which the like Provisions shall be applicable; and further to appoint from Time to Time a Lieutenant Governor to any Province so constituted as aforesaid, and from Time to Time to declare and limit the Extent of the Authority of such Lieutenant Governor, in like Manner as is provided by the Act of the Seventeenth and Eighteenth Years of Her Majesty, Chapter Seventy-seven, respecting the Lieutenant Governors of *Bengal* and the North-Western Provinces.

Power to
alter Boun-
daries of Pro-
vinces.

47. It shall be lawful for the Governor General in Council, by such Proclamation as aforesaid, to fix the Limits of any Presidency Division, Province, or Territory in *India* for the purposes of this Act, and further by Proclamation to divide or alter from Time to Time the Limits of any such Presidency, Division, Province, or Territory for the said Purposes: Provided always, that any Law or Regulation made by the Governor or Lieutenant Governor in Council of any Presidency, Division, Province, or Territory shall continue in force in any

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Part thereof which may be severed therefrom by any such Proclamation until superseded by Law or Regulation of the Governor General in Council, or of the Governor or Lieutenant Governor in Council of the Presidency, Division, Province, or Territory to which such Parts may become annexed.

48. It shall be lawful for every such Lieutenant Governor in Council thus constituted to make Laws for the Peace and good Govern-<sup>Former Pro-
visions of this
Act extended
to future
Councils.</sup>ment of his respective Division, Province, or Territory; and, except as otherwise herein-before specially provided, all the Provisions in this Act contained respecting the Nomination of additional Members for the Purpose of making Laws and Regulations for the Presidencies of *Fort Saint George* and *Bombay*, and limiting the Power of the Governors in Council of *Fort Saint George* and *Bombay*, for the Purpose of making Laws and Regulations, and respecting the Conduct of Business in the Meetings of such Councils for that Purpose, and respecting the Power of the Governor General to declare or withhold his Assent to Laws or Regulations made by the Governor in Council of *Fort Saint George* and *Bombay*, and respecting the Power of Her Majesty to disallow the same, shall apply to Laws or Regulations to be so made by any such Lieutenant Governor in Council.

49. Provided always, that no Proclamation to be made by the Governor General in Council under the Provisions of this Act, for the Purpose of constituting any Council for the Presidency, Division, Province, or Territories herein-before named, or any other Provinces,<sup>Previous
Assent of
the Crown
necessary to
give Validity
to any such
Proclamation.</sup>or for altering the Boundaries of any Presidency, Division, Province, or Territory, or constituting any new Province for the Purpose of this Act, shall have any Force or Validity until the Sanction of Her Majesty to the same shall have been previously signified by the Secretary of State in Council to the Governor General.

50. If any Vacancy shall happen in the Office of Governor General of *India* when no provisional Successor shall be in *India* to supply such Vacancy, then and in every such Case the Governor of the Presidency of *Fort Saint George* or the Governor of the Presidency of *Bombay* who shall have been first appointed to the Office of Governor by Her Majesty, shall hold and execute the said Office of Governor General of *India* and Governor of the Presidency of *Fort William* in *Bengal* until a Successor shall arrive, or until some Person in *India* shall be duly appointed thereto; and every such acting Governor General shall, during the Time of his continuing to

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act as such, have and exercise all the Rights and Powers of Governor General of *India*, and shall be entitled to receive the Emoluments and Advantages appertaining to the Office by him supplied, such acting Governor General foregoing the Salary and Allowances appertaining to the Office of Governor to which he stands appointed, and such Office of Governor shall be supplied for the Time during which such Governor shall act as Governor General, in the Manner directed in Section Sixty-three of the Act of the Third and Fourth Years of King *William* the Fourth, Chapter Eighty-five.

If it appears to Governor necessary to exercise Powers before taking his Seat in Council, he may make his Appointment, &c. known by Proclamation.

51. If, on such Vacancy occurring, it shall appear to the Governor, who by virtue of this Act shall hold and execute the said Office of Governor General, necessary to exercise the Powers thereof before he shall have taken his Seat in Council, it shall be lawful for him to make known by Proclamation his Appointment, and his Intention to assume the said Office of Governor General, and after such Proclamation, and thenceforth until he shall repair to the Place where the Council may assemble, it shall be lawful for him to exercise alone all or any of the Powers which might be exercised by the Governor General in Council, except the Power of making Laws and Regulations; and all Acts done in the Exercise of the said Powers, except as aforesaid, shall be of the same Force and Effect as if they had been done by the Governor General in Council; provided that all Acts done in the said Council after the Date of such Proclamation, but before the Communication thereof to such Council, shall be valid, subject nevertheless to Revocation or Alteration by such Governor who shall have so assumed the said Office of Governor General; and from the Date of the Vacancy occurring until such Governor shall have assumed the said Office of Governor General the Provisions of Section Sixty-two of the Act of the Third and Fourth Years of King *William* the Fourth, Chapter Eighty-five, shall be and the same are declared to be applicable to the Case.

Nothing in this Act shall derogate from the Powers of the Crown or Secretary of State for India in Council.

52. Nothing in this Act contained shall be held to derogate from or interfere with (except as herein-before expressly provided) the Rights vested in Her Majesty, or the Powers of the Secretary of State for *India* in Council, in relation to the Government of Her Majesty's Dominions in *India*, under any Law in force at the Date of the passing of this Act; and all Things which shall be done by Her Majesty, or by the Secretary of State as aforesaid, in relation to such Government, shall have the same Force and Validity as if this Act had not been passed.

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53. Wherever any Act or Thing is by this Act required or authorized to be done by the Governor General or by the Governors of the Presidencies of *Fort Saint George* and *Bombay* in Council, it is not required that such Act or Thing should be done at a Meeting for making Laws and Regulations, unless where expressly provided.

Meaning of Term "in Council."

54. Except as herein-before specially provided, this Act shall commence and come into operation as soon as the same shall have been published by the said Governor General in Council by Proclamation.

Time when Act shall come into operation.

in Council; if the Governor General should refuse his assent, the refusal will be communicated by the Governor General in Council to the Legislative Council.

13. Having now drawn attention to the leading principles which experience seems to show the necessity of observing in the future proceedings of the Legislative Council, I do not venture to engage in the minor details of procedure, such as the arrangement of daily business, the places of Members, the form in which motions and amendments are to be put, divisions, adjournments, and the like. These will be best left to the consideration of the Committee of Council.

14. There are two main points of detail, however, on which I think it right respectfully to advise the Council.

The one is, that communications between the Governor General in Council and the Legislative Council should be made by message, to be brought by a Member of the Council of India, and by a Member of the Legislative Council, respectively.

The other point on which I wish to advise is, that the Legislative Council should apply for the appointment of a distinct Officer of its own, to be called "The Clerk of Council," or by some similar name.

Even assuming that attendance on the Legislative Council should be considered to fall within the duties of the Secretary to Government in the Home Department, it would be absolutely impossible for that Officer, under the most favorable circumstances, to discharge adequately the duties of the Home Secretary and of Secretary in attendance on the Legislative Council and its several Committees. For this reason I conceive that the Legislative Council will find it indispensable to obtain the exclusive services of an Officer for itself. It will be very desirable to select one whose qualifications will fit him for the peculiar duties he will have to perform.

The appointment of such an Officer must rest with the Government, like the appointment of Clerk to the House of Lords and Clerk to the House of Commons; but there will be every desire on the part of the Governor General in Council to appoint such a person as will suit the wishes and purposes of the Legislative Council.

15. A petition, praying that the public may be allowed to be present at the debates of the Legislative Council, will be communicated to it by the Governor General in Council.

16. In conclusion I beg to give assurance of my readiness to afford any aid which it may be in my power to offer to the Legislative Council in their preliminary arrangements, either by conferring personally with their Committee, or in such other mode as they may point out.

DALHOUSIE.
17th May 1854.

STANDING ORDERS.*

INTERPRETATION.

I. In the following Orders the words
Legislative Council. "Legislative Council" shall be deemed to mean the Council of India, constituted according to the provisions of the 16th and 17th Vict. Cap. 95, for the purpose of making Laws; and the words "Governor General in Council" shall be deemed to mean the Governor General of India in Council not so constituted. The word "President" shall include the Vice-President of the Legislative Council when presiding at Meetings thereof in the absence of the Governor General, and also the Senior Member of the Council of India presiding at such Meetings in the absence of the Governor General and of the Vice-President.

BILL. The word "Bill" means a Draft Act before it is passed.

MEETINGS.

II. An ordinary Meeting of the Legislative Council shall be held Ordinary. on Saturday in each week at 11 o'clock in the forenoon, except during any definite period for which the said Council shall adjourn its Meetings.

III. Extraordinary Meetings of the said Extraordinary. Council may be called at any time by order of the Governor General of India or of the Governor General in Council, or in the absence of the Governor General from his Council, by order of the President in Council. In any such case the Members of the Legisla-

* Adopted by the Council on the 19th August 1854.

June 1/51.8
No 1585
1854

By Act 36 of the Council
the first adjournment to be
18th May 1854
The Secretary - Mr. St.
Mr. Com. at any time
in the Council
minutes

five Council shall be summoned by the Clerk of the Council to attend such extraordinary Meeting.

IV. The Legislative Council shall have power to adjourn its Meetings for any definite period, or to adjourn any Meeting, Debate, or Business to any future day, or to any part of the same day, to be fixed by the Council.

V. Any business of the day, not disposed of at the time of any adjournment of the Council, shall stand as Orders of the Day for the next day on which the Council shall meet, and, unless otherwise specially ordered by the Council, shall take priority of all business of a similar nature in such Orders.

VI. It shall not be necessary to summon the Members of the Legislative Council to attend any Meeting thereof, except an extraordinary Meeting called under the provisions of Rule III.

VII. If, at the time appointed for the holding of any Meeting of the Legislative Council, or if, at any time after the commencement of business, there be not present the quorum required by the Statute 16th and 17th of Vict. Chap. 95, Section 23 (that is to say the Governor General or Vice-President or some Ordinary Member of the Council of India in the chair, together with six other Members, of whom the Chief Justice, or other Judge of the Supreme Court, or the Fourth Ordinary Member of the Council of India shall be one,) the President may adjourn the Council to such time as he may think fit. In such case an entry shall be made in the Journal of the Council of the hour at which the adjournment takes place, and of the names of the Members present.

DEBATES.

VIII. The President shall have power to preserve order and regularity in the proceedings of the Council, and shall decide all disputed points of Order without debate, unless in any case the President think fit to refer the decision thereof to the Council.

IX. Any Member may notice a violation of Order, by rising in his place and addressing the President. In such

case he shall merely direct attention to the point complained of, and submit it to the decision of the President: and whenever a Member rises to Order, any Member who may be then speaking shall sit down until the point of Order shall have been decided.

X. If the President rise to speak to Order, Order he shall be heard in silence, and any Member who may be then speaking shall immediately sit down until the point of Order shall have been decided.

XI. A Member shall speak from his place, shall rise when he speaks, and shall address the President, or, in Committee of the whole Council, the "Chairman."

XII. The President or the Chairman of a Committee may propose or speak upon a question, rising, but without leaving the Chair.

XIII. If two or more Members rise to speak at the same time, the President shall call on the Member entitled, in his opinion, to pre-audience.

XIV. A Member shall not be allowed to read his speech, but he may refresh his memory by referring to notes, and he may read, as part of his speech, passages from books or papers cited in support of his argument.

XV. A Member may ask a question of another Member, but such question must be confined to matters immediately connected with the business of the Legislative Council, and must be asked in a manner which does not involve argument or inference.

XVI. The answer to such question must be confined to the points contained in the question, with such explanation only as will render the answer intelligible.

XVII. No Member shall be heard except upon a question before the Council, or upon a question intended to be proposed by himself, or in explanation, or when he rises upon a point of Order, or to ask or answer a question in the manner above-mentioned.

XVIII. In discussing a question no Member shall be allowed to speak more than once, except in explanation or when in Committee, and except the mover of an original

question, who shall be allowed to speak once to the question and close the debate with a reply.

XIX. The use of measured and courteous language shall be observed by every Member.

XX. No Member in debate shall allude to another Member by name.

XXI. Whilst any debate or business is going on, it shall not be interrupted by conversation or noise; but this Order is not intended to prohibit an expression of assent in the course of a debate.

PETITIONS.

XXII. Petitions to the Legislative Council must relate to matters connected with the business of the Council. Every petition shall be superscribed "To the Honorable the Legislative Council of India," and shall be dated and signed by the petitioner or petitioners. It shall be in respectful and temperate language, and shall conclude with a distinct prayer.

XXIII. Every petition will be received as the petition of the person or persons only by whom it is actually signed.

XXIV. All petitions shall be transmitted to the Clerk of the Council.

XXV. The Clerk shall make an abstract of every petition so received.

XXVI. If in the judgment of the Clerk the petition be framed in conformity with Order No. XXII, he shall bring the petition under the consideration of the Council by reading the abstract thereof, and the prayer or the substance of the prayer of the petition; whereupon such petition shall be deemed to have been received by the Council.

XXVII. If in the judgment of the Clerk the petition be not framed in conformity with Order No. XXII, or if he have reason to doubt the authenticity of any signature thereto, he shall certify the same on the back of the petition, and shall report the fact to the Council; in which case the petition shall not be received by the Council except upon the motion of a Member.

XXVIII. Any petition received by the Council may, upon the motion of a Member, be disposed of in one or more of the following ways:—

1. It may be ordered to be printed.
2. It may be referred to the Select Committee sitting on any Bill to which it relates.
3. It may be referred for report to a Select Committee to be appointed specially for that purpose.
4. If no motion be made upon such a petition, the petition shall be laid upon the table, and afterwards deposited by the Clerk amongst the Records of the Council.

XXIX. If a Bill be pending peculiarly affecting private interests, and any person whose interests are so affected apply by petition to be heard by himself or his Counsel upon the subject of the Bill, an Order may be made upon the motion of a Member, allowing the petitioner to be so heard either before the Select Committee on the Bill or before a Committee of the whole Council, provided the petition be received by the Clerk of the Council before the Report of the Select Committee on the Bill shall have been presented. In no other case or manner shall any stranger be heard by himself or by his Counsel.

XXX. Ordinarily no reply will be sent to a petitioner. But the Clerk of the Council may be ordered to make such special communication to a petitioner as the Council may direct.

PROJECTS OF LAWS.

XXXI. If a Draft or project of a Law be proposed by the Governor or Governor in Council of a Presidency, or by the Lieutenant-Governor of a Lieutenant-Governorship, the fact shall be reported to the Council by the Clerk, and the Draft or project shall, together with any annexures thereto, be printed and recorded. If within four weeks from the day of such report being made, no Member shall make any motion upon the subject, it shall be the duty of the Member nominated by the Governor of such Presidency, or by the Lieutenant-Governor of such Lieutenant-Governorship, to bring the same before the Council, either

LL. If a question involve several points, the Council may, upon motion, order it to be divided before it is put to the vote, so that each point may be determined separately.

LII. If, upon a question being proposed, no debate arise, or, upon the conclusion of a debate, if any arise, the President shall put the question to the vote by saying—"The question is that" (reading the question).

LIII. When the question has been put, the President shall take the sense of the Council by voices, and thereafter, if required, by division.

LIV. When the sense of the Council is taken by voices, the President, after he shall have put the question, shall say—"As many as are of that opinion say 'Aye' as many as are of the contrary opinion say 'No.'" He shall then declare which party has, in his judgment, the majority. His decision shall be final, unless any Member call for a division of the Council, by saying "Divide."

LV. When the sense of the Council is taken by division, the Clerk shall call the names of the Members in the inverse order of Precedence, and record the votes of every Member. If there should be an equality of voices the President shall have two votes, or the casting vote. After the votes shall have been counted, the President shall declare how the question has been carried.

BILLS.

LVI. Any Member may at an ordinary Meeting of the Council move the first reading of a Bill.

LVII. Notice of such intended motion shall be given by the mover, either at a previous Meeting of the Council, or by sending the notice in writing to the Clerk of the Council two clear days before the day fixed for making the intended motion.

LVIII. The motion of which notice has been so given, shall be inserted by the Clerk in the Orders of the Day for the day appointed.

LIX. Upon moving the first reading of a Bill the mover shall state the object and intention of the measure, and the reasons upon which it is founded, and shall deliver to the Clerk of the Council the Bill which he proposes to be read, with a brief abstract of each Section or Clause in the margin thereof, and also a statement, signed by himself and annexed thereto, of such object and reasons, and any extracts of correspondence or documents which may be necessary for a right understanding of the Bill.

LX. Upon such motion no discussion shall be permitted, and the Bill shall be read a first time without question, unless the Bill relate to the public finances, to the constitution of the Army or Navy, or to the relations of the British Government with Foreign States, or shall affect the religious rites or usages of the natives of India.

LXI. If the Bill relate to any of the matters mentioned in the last preceding Order, notice of such intended motion must be given at an ordinary Meeting of the Council, at least one week before the motion shall be made; and the question shall not be proposed by the President unless the motion be seconded.

LXII. On the first reading of a Bill the Clerk of the Council shall read only the title of it. The Bill with its annexures shall be printed, and a copy shall be sent by the Clerk of the Council to each Member.

LXIII. After a Bill shall have been read a first time, notice may be given of a day on which the second reading of the Bill will be moved.

LXIV. When a motion for the second reading of a Bill shall have been made, the President shall propose the question—"That this Bill be now read a second time;" upon which a debate may be taken only upon the general merits and principles of the Bill.

LXV. If the motion for the second reading of a Bill be carried, the title only of the Bill shall be read. Thereafter, upon motion made, the Bill shall be referred to a Select Committee of the Council, of which the mover shall be the Chairman.

LXVI. After the Bill shall have been read a second time and referred to a Select Committee, it shall be published in the *Calcutta Gazette* for general information; unless the special instruction provided for by Order No. LXX shall have been given to the Committee, immediately after its appointment.

LXVII. All written communications on the subject of Bills published for general information shall be addressed to the Clerk of the Council, who shall cause the same, and also all such petitions as shall be ordered by the Council to be referred to the Select Committee on the Bill, to be printed, and a copy thereof to be forthwith laid before such Select Committee and to be sent to each Member of the Council.

LXVIII. The Select Committee shall take into consideration the Bill, and all such written communications, and also all such petitions as shall be referred to them, and shall prepare a Report thereon, and shall in such Report propose any amendments of the Bill which they may think expedient. A copy of the Bill signed by the Select Committee shall be annexed to the Report, written or printed in such a manner as to distinguish the amendments, if any, proposed by the Select Committee, from the Bill as published.

LXIX. As soon as the Report of the Select Committee is ready, it shall be presented to the Council. Provided that such Report shall not be presented before the expiration of the following periods respectively, viz.:

1. If the Bill relate to any part of the territories subordinate to the Presidency of Bengal, eight weeks from the date of the first publication.
2. In all other cases, twelve weeks from the date of the first publication.

LXX. Any Member, however, may move a special instruction to the Select Committee immediately after its appointment, directing it to submit forthwith a preliminary Report, suggesting any alterations which it may deem expedient to make in the Bill previous to the publication thereof in the *Calcutta Gazette*. If such preliminary Report of the

Committee the Bill published LXXI.

Report of Committee sent.

may be given moved that a Committee Bill LXXII.

Report to printed.

to such Report Bill be proposed by the Clerk LXXIII.

Committee of whole Council.

leave the Committee shall proceed to which it was LXXIV.

tee. Provide instruct the in any amendments been recommended will the in that amendments make any Bill or in the LXXV.

think fit.

Proceedings of Committee of the whole Council.

separately, con

* This Order of the Committee of the whole Council on 1854. It original "If the motion whole Council on shall leave the Committee shall to Council. The Council the Bill, and may part of the Bill or may think fit."

† This Order is ratification of the whole 1854, by the Council by the Select Committee and before the word Order.

LL. If a question involve several points, the Council may, upon motion, order it to be divided before it is put to the vote, so that each point may be determined separately.

LII. If, upon a question being proposed, no debate arise, or, upon the conclusion of a debate, if any arise, the President shall put the question to the vote by saying—"The question is that" (reading the question).

LIII. When the question has been put, the President shall take the sense of the Council by voices, and thereafter, if required, by division.

LIV. When the sense of the Council is taken by voices, the President, after he shall have put the question, shall say—"As many as are of that opinion say 'Aye'; as many as are of the contrary opinion say 'No.'" He shall then declare which party has, in his judgment, the majority. His decision shall be final, unless any Member call for a division of the Council, by saying "Divide."

LV. When the sense of the Council is taken by division, the Clerk shall call the names of the Members in the inverse order of Precedence, and record the votes of every Member. If there should be an equality of voices the President shall have two votes, or the casting vote. After the votes shall have been counted, the President shall declare how the question has been carried.

BILLS.

LVI. Any Member may at an ordinary Meeting of the Council move the first reading of a Bill.

LVII. Notice of such intended motion shall be given by the mover, either at a previous Meeting of the Council, or by sending the notice in writing to the Clerk of the Council two clear days before the day fixed for making the intended motion.

LVIII. The motion of which notice has been so given, shall be inserted by the Clerk in the Orders of the Day for the day appointed.

LIX. Upon moving the first reading of a Bill the mover shall state the object and intention of the measure, and the reasons upon which it is founded, and shall deliver to the Clerk of the Council the Bill which he proposes to be read, with a brief abstract of each Section or Clause in the margin thereof, and also a statement, signed by himself and annexed thereto, of such object and reasons, and any extracts of correspondence or documents which may be necessary for a right understanding of the Bill.

LX. Upon such motion no discussion shall be permitted, and the Bill shall be read a first time without question, unless the Bill relate to the public finances, to the constitution of the Army or Navy, or to the relations of the British Government with Foreign States, or shall affect the religious rites or usages of the natives of India.

LXI. If the Bill relate to any of the matters mentioned in the last preceding Order, notice of such intended motion must be given at an ordinary Meeting of the Council, at least one week before the motion shall be made; and the question shall not be proposed by the President unless the motion be seconded.

LXII. On the first reading of a Bill the Clerk of the Council shall read only the title of it. The Bill with its annexures shall be printed, and a copy shall be sent by the Clerk of the Council to each Member.

LXIII. After a Bill shall have been read a first time, notice may be given of a day on which the second reading of the Bill will be moved.

LXIV. When a motion for the second reading of a Bill shall have been made, the President shall propose the question—"That this Bill be now read a second time;" upon which a debate may be taken only upon the general merits and principles of the Bill.

LXV. If the motion for the second reading of a Bill be carried, the title only of the Bill shall be read. Thereafter, upon motion made, the Bill shall be referred to a Select Committee of the Council, of which the mover shall be the Chairman.

LXVI. After the Bill shall have been read a second time and referred to a Select Committee, it shall be published in the *Calcutta Gazette* for general information; unless the special instruction provided for by Order No. LXX shall have been given to the Committee, immediately after its appointment.

LXVII. All written communications on the subject of Bills published for general information shall be addressed to the Clerk of the Council, who shall cause the same, and also all such petitions as shall be ordered by the Council to be referred to the Select Committee on the Bill, to be printed, and a copy thereof to be forthwith laid before each Select Committee and to be sent to each Member of the Council.

LXVIII. The Select Committee shall take into consideration the Bill, and all such written communications, and also all such petitions as shall be referred to them, and shall prepare a Report thereon, and shall in such Report propose any amendments of the Bill which they may think expedient. A copy of the Bill signed by the Select Committee shall be annexed to the Report, written or printed in such a manner as to distinguish the amendments, if any, proposed by the Select Committee, from the Bill as published.

LXIX. As soon as the Report of the Select Committee is ready, it shall be presented to the Council. Provided that such Report shall not be presented before the expiration of the following periods respectively, viz. :—

1. If the Bill relate to any part of the territories subordinate to the Presidency of Bengal, eight weeks from the date of the first publication.

2. In all other cases, twelve weeks from the date of the first publication.

LXX. Any Member, however, may move a special instruction to the Select Committee immediately after its appointment, directing it to submit forthwith a preliminary Report, suggesting any alterations which it may deem expedient to make in the Bill previous to the publication thereof in the *Calcutta Gazette*. If such preliminary Report of the

Committee the Bill shall be published for general information.

LXXI. Report of Select Committee sent.

may be given moved that a Committee Bill.

LXXII. Report to be printed.

to such Report of the Bill be proposed by the Clerk of the Council.

LXXIII. Committee of the whole Council.

leave the Chairman of the Council.

proceed to consider the Bill in the form in which it was referred to the Select Committee.

Provided that the Council may instruct the Committee to be present in any amendment to be passed by the Committee will then in that amended Bill or in the

think fit.

LXXIV. Proceedings of Committee of the whole Council.

separately, con

ing a Bill in Committee of the whole Council, title, preamble, and Section or Clause of Bill, shall be considered with the first Section

as settled in Committee on the 14th October

follows :—

into Committee of the whole Council, the President shall leave the Chairman of the Council. The Committee shall then proceed with any amendments in any part thereof, which they may think fit."

† This Order is amended in Committee of the whole Council on the 14th October 1854, by the words "as reported by the Select Committee and before the word Order."

adopted by the Council, and accordingly, and information.

The Report of the Select Committee shall be presented to the Council, it shall be laid upon the table after which notice shall be given to resolve itself into a whole Council on the

Report of the Select Committee shall be printed, and also a copy thereof, and also a copy of the amendments of the Report, shall be sent to each Member of the Council.

motion for going into Committee of the whole Council on the Bill be carried, the Chairman of the Council shall place at the table of the Council the Bill in the form in which it was referred to the Select Committee.

Provided that the Council may instruct the Committee to be present in any amendment to be passed by the Committee will then in that amended Bill or in the

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follows :—

into Committee of the whole Council, the President shall leave the Chairman of the Council. The Committee shall then proceed with any amendments in any part thereof, which they may think fit."

† This Order is amended in Committee of the whole Council on the 14th October 1854, by the words "as reported by the Select Committee and before the word Order."

Order.

XCVIII. The quorum of Members necessary for a Committee of the whole Council is the same as that required for the Council itself as specified in Standing Order No. VII.

XCIX. If at any time during the sitting of a Committee a quorum of Members be not present, the Chairman shall suspend the business until a quorum of Members be present, shall adjourn the Committee to such time as he may think fit.

C. In Committees of the whole Council the Chair shall be taken by the Governor General, or in his absence by the Vice-President of the Legislative Council, or, in the absence of the Governor General and also of such Vice-President, by the Senior Ordinary Member of the Council of India then present.

CI. Members shall address themselves to the Chairman of the Council, and may speak more than once. In all other respects, except in provision to the contrary is made in the Orders, the proceedings in a Committee of the whole Council shall be conducted in the same manner as proceedings of the Council sitting; and the Chairman of the Committee shall have the power for keeping order and deciding questions of order in Committee, as the President of the Council has in Council.

CII. The Chairman of the Committee of the Council has two votes, a casting vote, in all cases of the Committee in which there is an equality of votes.

CIII. A Committee of the whole Council may adjourn its sittings or may adjourn any debate or business; and upon such adjournment, the Council shall resume its sitting, unless it has been adjourned.

CIV. As soon as business before the Committee shall have been disposed of, the Chairman shall put the question—“That the proceedings of the Committee be reported to the Council; whereupon the Council shall resume its sitting, unless it shall have been adjourned.”

SELECT COMMITTEES.

CV. Select Committees may be appointed by the Council for any purpose, and shall ordinarily consist of three Members, of whom the mover shall be one, but in special cases the Council may appoint a larger or a smaller number not exceeding five.

CVI. The majority of the Members of a Select Committee shall form a quorum, and, except when otherwise provided by these Orders, shall appoint its Chairman.

CVII. If a Chairman of a Select Committee do not attend a Meeting of the Select Committee, the Senior Member present shall take the Chair for that Meeting.

CVIII. Every Report of a Select Committee shall be signed by the Members thereof, or by a majority of such Members.

CIX. The Council may appoint a Select Committee to inquire into, and report upon, and if necessary, to consolidate, the Law upon any particular subject, and to prepare a Bill or Bills for such purpose.

CX. The Chairman shall have power to convene Meetings of the Select Committee, and the Committee shall have power from time to time to adjourn its Meetings.

CXI. Minutes of the proceedings of the Select Committee shall be kept and signed by the Chairman.

ORDER OF BUSINESS.

CXII. A List of business to be transacted at each ordinary Meeting of the Council, shall be prepared by the Clerk from the Journals, and from notices duly given. Such list shall be called “The Orders of the Day.”

Business shall be transacted in the following order:—

Order of Business. After the President shall have taken the Chair, Petitions shall be presented—Projects of Law and other communications received by the Clerk, and requiring to be reported to the Council, shall be reported—questions may be asked—and notices of motions may be given.

Page 28 before 41801
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Thereafter the Council will proceed to the Orders of the Day under the following heads:—

1. Reports of Select Committees.
2. First Readings.
3. Second Readings.
4. Third Readings.
5. Committees of the whole Council.
6. Reports of Committees of the whole Council.
7. Motions.

When the Orders of the Day shall have been disposed of, motions without notice may be made, and further notices of motions may be given.

CXIII. Any motion may be made regarding an Order of the Day, but no motion shall be allowed regarding any Order of the Day, after the next Order of the Day shall have been called on.

MESSAGES FROM AND TO THE GOVERNOR GENERAL.

CXIV. Whenever the President shall announce a Message from the Governor General, or from the Governor General in Council, the business before the Legislative Council shall be suspended. The Message shall be delivered, and having been read by the President, shall be taken into consideration immediately.

CXV. All communications from the Legislative Council to the Governor General, or to the Governor General in Council, shall be made by Message, to be taken by a Member of the Legislative Council.

BOOKS AND RECORDS.

CXVI. A Journal shall be kept, in which all the proceedings of the Legislative Council shall be fairly entered. The Journal shall be submitted after each Meeting to the President thereof, for his confirmation and signature, and when so signed, shall be the Record of the Proceedings of the Legislative Council.

CXVII. A similar Journal shall be kept of the proceedings of the Committees of the whole Council, which shall be confirmed and signed by the Chairman of each Meeting. The Journal when so signed, shall be the Record of the Proceedings of such Committees.

CXVIII. All documents ordered to be printed or recorded shall be referred to in the Journal, and, after being identified by the signature of the Clerk on the original documents, shall be kept with the Records.

CXIX. A Register shall be kept of all petitions received by the Council, in which shall be entered the date of receipt by the Clerk, a general designation of the petitioners, the object of the petition, the manner in which it has been disposed of, and the date of disposal.

CXX. A Register and Index of all letters received and despatched shall be kept.

CLERK OF THE COUNCIL.

CXXI. In addition to the other duties specially required by these Orders, it shall be the duty of the Clerk of the Council—

1. To take charge of all the Records of the Council.
2. To keep the Books of the Council.
3. To prepare the Orders of the Day before each ordinary Meeting, and to send a copy thereof to each Member not later than the day next before that fixed for the Meeting.
4. To keep a Minute Book, in which he shall enter at the time all the Proceedings of the Council and of the Committees of the whole Council in the order in which they occur, and the names of the Members present thereat.
5. To superintend the printing of all papers ordered to be printed.
6. To make out weekly a List of all Select Committees sitting.
7. To assist the Council and all Committees in such manner as they may order; and to assist any Member in framing a Bill which he proposes to introduce.
8. To write all letters ordered by the Council or by any Committee thereof to be written.
9. To transmit to the Secretary to the Government of India in the Home Department a copy of each entry in the Journals, as soon as it has been signed by the President or Chairman.
10. To transmit to the said Secretary, as soon as any Bill is passed or thrown out, copies, authenticated by his signature, of the Bill, and of all recorded documents relating thereto.

CXXII. It shall be the duty of the Clerk of the Council, after the passing of a Bill, to revise and complete the marginal notes thereof.

CXXIII. All acts which the Clerk of the Council is required to do, may be done by the Clerk Assistant of the Council.

CXXIV. As soon as a Select Committee upon any Bill or subject is appointed, the Committee shall nominate one of the Clerks to be Clerk to the Committee on such Bill or subject, who shall attend to all the business of the Committee until its Report is presented, and who shall superintend the printing of the Report and of all the papers appended thereto.

SUSPENSION OF STANDING ORDERS.

CXXV. The Council may suspend all or any of the Standing Orders, and any Committee of the whole Council may suspend any Standing Order, so far as it relates to business then before such Committee. Provided that no motion for such suspension shall be proposed from the Chair unless it shall be seconded. Such suspension ought to be rarely had recourse to, and never without cogent reasons given, to the satisfaction of the Council.

CXXVI. Any Member voting against such suspension may record his dissent and the reasons thereof, and any Member voting for such suspension may record his assent and the reasons thereof. Provided that such recorded dissent or assent be given in at the next ordinary Meeting of the Council.

SPECIAL STANDING ORDER.

CXXVII. Any Draft Act, which, prior to the 20th of May 1854, was read in Council and published for general information by order of the Governor General of India in Council, may, upon motion, be referred to a Select Committee, or may be taken into consideration by a Committee of the whole Council; and such Committees shall proceed respectively in the manner prescribed in the general Standing Orders: after which the Council may proceed in the manner

prescribed in the general Standing Orders in respect to Bills settled in Committee.

STRANGERS.*

CXXVIII. Strangers may be admitted into the Council Chamber during the sittings of the Council and Committees of the whole Council, and seats shall be provided for their accommodation.

CXXIX. Any Member may, at any time after the President has taken the chair, move that strangers be excluded; whereupon strangers shall immediately withdraw. If the motion be negatived, strangers shall be re-admitted: if the motion be carried, they shall not be re-admitted during that sitting, unless a motion for their re-admission be carried.

CXXX. The President of the Council may give eight orders of admission for each sitting of the Council, each order admitting one person; and each Member may give one such order of admission.

CXXXI. Accommodation shall be provided for an official reporter, who shall be appointed by the Council, and shall furnish a copy of his report to any of the daily papers published in Calcutta that may require it.

ADMISSION OF CERTAIN PRIVILEGED PERSONS.†

CXXXII. Subject to the rules applicable to the admission of strangers, a Governor of a Presidency, a Lieutenant Governor of a Lieutenant Governorship, a Member of the Council of any Presidency, and a Judge of any of Her Majesty's Supreme Courts may be admitted, without an order, into the Council Chamber during the sittings of the Council and Committees of the whole Council. Seats shall be provided for the accommodation of such visitors.

PUBLICATION OF PRINTED PAPERS.‡

CXXXIII. Except in the cases specified in Order No. CXXXIV next following, the Clerk of the

* Adopted on the 9th December 1854.
† Adopted on the 31st March 1855.
‡ Adopted on the 31st March 1855.

Council shall cause to be printed a certain number (to be fixed from time to time by the Standing Orders Committee) of spare copies of every paper ordered by the Council to be printed; and shall deliver them to some Book-seller or Publisher in Calcutta, who will engage to sell them to the public at such fixed rates as may from time to time be determined by the Standing Orders Committee. The price at which each printed copy of every such paper is to be sold, shall be printed upon the outer sheet or cover thereof.

CXXXIV. When any paper, ordered by the Council to be printed, may appear to the Clerk of the Council, by reason of its containing matter reflecting upon the character of individuals, or for any other reason, unfit for publication, either wholly or in part, it shall be the duty of the Clerk of the Council, before causing such paper to be printed, to bring the subject to the notice of the Standing Orders Committee. Thereupon the Committee shall give such directions concerning the printing or publication of the paper as to them may seem fit; and report thereon to the Council.

THE LEGISLATIVE COUNCIL.

The first Meeting of the Legislative Council was held on Saturday the 20th May 1854.

PRESENT:

The Most Noble the Governor General, President.
Hon. Sir Lawrence Peel, Hon. B. Peacock,
Hon. J. A. Doria, Hon. Sir James Colville,
Hon. Colonel Low, and
Hon. J. P. Grant, A. J. M. Mills, Esq.

The Officiating Secretary in the Home Department read Sections XXII to XXVI of the Act of Parliament, 16 and 17 Vic. c. 95, constituting the Legislative Council of India, and relating to other matters connected therewith.

Also the Proclamation of the Governor General in Council, appointing this day for the first Meeting of the Legislative Council.

The new Members, Sir Lawrence Peel, Sir James Colville, and Mr. Mills, were then sworn in.

The PRESIDENT opened the Meeting by laying upon the table a Minute by the Governor General, dated the 17th May 1854, generally concurred in by the Members of the Supreme Council; the Standing Orders of the Supreme Council in the Legislative Department; and the Minutes written by Members of the Supreme Government on the subject in 1835—as also a draft body of Standing Orders, recently prepared, showing the various provisions which are made in the Standing Orders of some of the Colonial Legislatures in relation to questions likely to fall under the consideration of the Council.

Mr. PEACOCK moved that a Committee, consisting of Sir Lawrence Peel, Mr. Grant, Mr. Mills, and the Mover, be appointed to consider what should be the Standing Orders of the Legislative Council.

Motion carried.

The Council adjourned till Saturday next.

Saturday, May 27, 1854.

PRESENT:

The Most Noble the Governor General, President.
Hon. Sir Lawrence Peel, Hon. B. Peacock,
Hon. J. A. Doria, Hon. Sir James Colville,
Hon. Colonel Low, and
Hon. J. P. Grant, A. J. M. Mills, Esq.

The PRESIDENT laid upon the table a Resolution of Government in the Home Department, transferring to the Council all the Legislative business pending before the Government of India on the 20th May 1854; and drew attention to a letter from the Honorable the Court of Directors, No. 15, dated 5th April 1854, desiring to be informed of the progress made towards the completion of the Penal Code.

Mr. PEACOCK moved that the several matters of business pending before the Government of India in the Legislative Department be referred to a Select Committee, consisting of Mr. Grant, Mr. Mills, and the Mover, in order that the same may be classified for the purpose of being distributed among the several Members of the Legislative Council.

Motion carried.

The Officiating Secretary in the Home Department was then directed to read the Despatch from the Honorable Court dated 5th April 1854.

Mr. PEACOCK moved that the Despatch in question be referred to the above

named Committee, in order that they may report thereon and on the answer to be given thereto.

The motion having been, by permission, withdrawn—MR. GRANT moved that the above Despatch be taken into Consideration this day week.

Motion carried.

The Council adjourned.

Saturday, June 3, 1854.

PRESENT:

The Most Noble the Governor General, *President*.
Hon. J. A. Dorin, A. J. M. Mills, Esq.,
Hon. Colonel Low, D. Elliott, Esq.,
Hon. J. P. Grant, A. Malet, Esq.,
Hon. B. Peacock, and
Hon. Sir James Colville, C. Allen, Esq.

Letters from the Governments of Fort St. George, Bombay, and the North-Western Provinces, signifying the appointment of Mr. Daniel Elliott, Mr. Arthur Malet, and Mr. Charles Allen, to be Members of the Legislative Council, for the Presidencies of Madras and Bombay and for the Lieutenant Governorship of the North-Western Provinces respectively, were read by the Secretary in the Foreign Department in attendance, and the new Members were duly sworn in.

The unavoidable absence of Sir Lawrence Peel, Vice-President of the Council, was notified and ordered to be recorded.

MR. PEACOCK reported the progress made by the Select Committee appointed to consider what should be the Standing Orders of the Legislative Council; and stated that the said Standing Orders, as prepared by the Committee, would be laid on the table at the next ensuing Meeting of the Council.

MR. PEACOCK moved that the Penal Code prepared by the Indian Law Commissioners be referred to a Select Committee, consisting of Mr. Grant, Sir James Colville, Mr. Mills, Mr. Elliott, and the Mover, in order that they may make such amendments therein as they may think necessary, and report thereon to the Council.

Agreed to.

Moved by the same that the Despatch from the Honorable Court of Directors, No. 15, dated 5th April 1854, be referred to the above named Committee, in order that they may report what answer shall be given thereto.

Motion carried.

The Council adjourned.

Saturday, June 10, 1854.

PRESENT:

The Most Noble the Governor General, *President*.
Hon. Sir Lawrence Peel, Hon. Sir James Colville,
Hon. J. A. Dorin, A. J. M. Mills, Esq.,
Hon. Colonel Low, D. Elliott, Esq.,
Hon. J. P. Grant, A. Malet, Esq., and
Hon. B. Peacock, C. Allen, Esq.

MR. PEACOCK presented the Report of the Select Committee appointed to consider what should be the Standing Orders of the Legislative Council, together with a draft of the Standing Orders proposed by them.

SIR JAMES COLVILLE moved that the above Report and Orders, together with the Minute of the Most Noble the Governor General therein referred to, be printed.

Agreed to.

MR. DORIN moved that, on Saturday the 8th of July next, the Council do resolve itself into a Committee to consider and settle the Standing Orders proposed by the Select Committee, and that in the meantime the said Orders take effect as the Standing Orders of the Legislative Council.

Agreed to.

MR. GRANT moved that the Council do send a copy of the Report of the Committee upon the Standing Orders to the Governor General in Council; and do ask His Lordship in Council, with reference to the recommendations of that Committee, to provide for the Council such Establishment of Clerks and other persons and such accommodation for the Office and Records of the Council as to His Lordship in Council may seem fit.

Agreed to.

Moved by the same that Mr. Dorin be instructed to deliver the said copies of the Report and Standing Orders and to carry the said Message.

Agreed to.

SIR LAWRENCE PEEL gave notice that he would, on Saturday next, move the first reading of three Bills, divided into three for convenience, but connected in subject, namely:—

A Bill "for the further improvement of the Law of Evidence;"

A Bill "for the further improvement of the Law;" and

A Bill "for the further improvement of the Procedure of Her Majesty's Supreme Courts."

The Council adjourned.

The Indian Council's Act 1861.

The memorandum of the points contained in the Letter from the Government of India. Home Department Legislative
Dated 17th September, 1861. No. 1874. which require to be considered.

1st Para
Secs. 35 & 37 of the Act.
24 & 25. Sec. 67.

Notes: These Rules should be as simple as possible, & the business should be conducted much in the same way as in a committee of the House of Commons. Sec. 16 of Secs. of State's Despatches 9 August, 1861.

2nd Para

Rules to be submitted for the sanction of the Govt. of India for regulating the proceedings of business at the meetings of the Council for making Laws & Regulations for this Presidency.

2nd The expression of the wishes of Govt. requested in regard to the time to be appointed for the first meeting of the Council. It is the present intention of the Govt. of

The meeting of the Council of India, that it shall take place about the middle of December next.

Para.

3 With reference to the Secretary of State's strong opinion that the Council should not sit permanently, but should be called together by summons to discuss projects of Law previously prepared, Lord requested to consider

whether this course can be conveniently followed & if so, to state at what seasons of the year & for what continuous period the Council should sit.

Lord requested to state the additional Establishment

Establishment necessary for conducting the Legislative business of the Council - such Establishment to be on as low a scale as is consistent with efficiency & also to keep in mind the important point that correct reports of the proceedings of the Council should be sent forth to the public.

5 Para

5 Meetings of the Council should be open to the Public.

Para

[Signature]

Memorandum of the points contained
in the letter from the Govt
of India, regarding the
Indian Councils Act 1861,
which require to be considered

20.11.1861
The Secretary to the Govt.
of India, London. 7th Dec 61
My dear Sir,
I have the honor to acknowledge the receipt of your letter of the 11th inst. in relation to the proposed alterations in the Indian Councils Act 1861. I have the honor to inform you that the Government have decided to refer the proposed alterations to the Indian Councils for their consideration. I have the honor to inform you that the Government have decided to refer the proposed alterations to the Indian Councils for their consideration. I have the honor to inform you that the Government have decided to refer the proposed alterations to the Indian Councils for their consideration.

out by the time as what would
be likely to answer the purpose.
and would be adopted at
Bombay. Sir William thought it
very desirable that our present
rules, and mode of proceed-
-ing should be as nearly as
may be assimilated to the one of
Bombay - and as you will
be by the way on the basis of
this paper he would be
pleased if you would consult

the members of the Comtee. - Jan. 29
drafted set of rules, forwarded on
them date for hand for Comi-
-tee on our return to
Madras.

I have made a few notes
on some of the rules of the Com-
-tee of the Comtee of the Comtee.

Yours very truly
J. P. M.

Notes of the Honble Mr Freere
regarding the general Rules
& mode of procedure proposed
to be adopted at Bombay, under
the Indian Council's Act
1861 - & also Notes by H. C. the
Governor & the Chief Secy
to Govt.

From A. KINLOCH FORBES, ESQ.,
Acting Secretary to the Government of Bombay,
To W. GREY, ESQ.,
Secretary to the Government of India,
Dated Bombay Castle, ~~17~~ November 1861.

SIR,

I AM directed to acknowledge the receipt of your letter No. 1875, dated the 17th ultimo, on the subject of the "Indian Council's Act 1861," and, as required in the 1st paragraph, am directed to submit, for the sanction of His Excellency the Governor General in Council, the accompanying copy of Rules which the Honorable the Governor in Council would propose for regulating the conduct of business at meetings of the Legislative Council for Bombay.

2. With respect to the time to be appointed for the first meeting of the Council, I am directed to state that it is the wish of His Excellency the Governor in Council that it should take place on or about Monday the 16th December, provided the sanction of His Excellency the Governor General in Council to the Rules now submitted be received in time to admit of such meeting.

3. His Excellency the Governor General in Council will perceive from these Rules, that the Governor in Council of Bombay entirely agrees with the Secretary of State, that the sittings of the Council should not be permanent, but is of opinion that they should be held in December and July, seasons of the year at which all Natives and non-official Members are generally the least engaged upon their own private affairs, and seasons at which the Council could generally meet with convenience to all parties in Bombay, or at one time in Guzerat, and at the other in the Deccan.

4. As requested in the 4th paragraph of your letter, I am directed to state that His Excellency in Council is of opinion that, as the sittings of the Council will not be permanent, and ought not, for reasons I shall mention hereafter, to be open to the public, the Peons, Chobdars and Ferashes, who now attend the meetings of Council, will suffice for the Legislative Council also, and that a Clerk of the Council, with an allowance for such Establishment as he may require, is the only additional Establishment that will be requisite for conducting the Legislative business of the Council.

5. The Government of Bombay are of opinion that the Clerk of the Council should be a Lawyer, but as the sittings of the Council will not be permanent, he need not give up his practice, and that under these circumstances a salary of Rupees 1,000, one thousand, per mensem ought to secure the services of a person in every way qualified for the appointment.

6. The Honorable the Governor in Council does not propose to appoint a Clerk Assistant, but has provided that the occasional absence of the Clerk should be supplied by one of the Secretaries to Government, or the Under Secretary, or by the Judicial Secretary's Assistant.

7. As the duties of the Legislative Council are restricted by Section 38 of the Act, and all petitions must come through the Governor in Council, the Clerk will not require any Translators, and Government are of opinion that a sum of Rupees 2,400, two thousand and four hundred, per annum, which might, if found necessary, be increased to Rupees 3,600, three thousand and six hundred, per annum, would be sufficient to enable the Clerk to find such Establishment as he would require for the work of the Council.

8. With reference to the 29 Section of the Act, I am directed to state that, in addition to the Advocate General, it is the intention of Government to nominate as additional Members the Commissioner of Customs, two Merchants (European or Native), and one other Native gentleman; and as it can hardly be expected that non-official gentlemen will gratuitously give their time and attention, and on some occasions leave their homes in order to legislate for the country, Government propose to allow each non-official Member Rupees 1,000, one thousand, with travelling allowance when necessary for the Session, which, if not an adequate remuneration, would be a fitting acknowledgment of his services.

9. As connected with the nomination of additional Members, I am directed to remark that the Act makes no provision for any oath or affirmation being administered to them. It appears that in the Legislative Council of Calcutta new Members, not being Members of the Governor General's Council, were sworn in on taking their seats in the Legislative Council, and I am, therefore, directed to request that this Government may be furnished with a copy of the Oath then administered.

10. With reference to the 5th paragraph of your letter, and the 18th of Sir C. Wood's Despatch, I am directed to state that His Excellency the Governor in Council is of opinion that the Native gentlemen and Merchants who at present may be the best qualified to assist the Council in framing Laws are not necessarily those who have received an English education, or have any acquaintance with the English language. In order to afford to such Members every facility for expressing their ideas in English with such limited fluency as they may be masters of, or in their own vernacular if they prefer it, and also with a view to remove

temptations to indulge in displays of oratory, to the hindrance of the business which is to be disposed of within the brief period prescribed for the Session, His Excellency in Council considers it desirable that the proceedings of the Council should be carried on in the form adopted by Committees, rather than in set and formal speeches, and that its meetings should not, for some time to come—say a period of two years—be open to the public. The provisions which have been made that all Bills should be published with a preface, and particulars stating the circumstances which have called for their enactment, that all Members may record the reasons for their assent or dissent from any measure, and that the proceedings shall be published in the *Government Gazette*, appear to His Excellency in Council to have secured to each individual Member the fullest independence of opinion and power of expressing it, and to the public full cognizance of the motives and actions of the Council.

11. To go beyond this to the extent of excluding the public only when any member of the Council was not a competent English scholar, would, if practicable, be invidious, while to admit them under all circumstances would be to impose an embarrassing restraint on Members knowing little or nothing of English, and to incur, at times, the risk of the very serious evils pointed out by the Right Honorable the Governor General to the Secretary of State in Council, and adverted to in paragraph 18 of the Despatch received in reply.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) A. Kinloch Forbes

BOMBAY CASTLE, }
15 November 1861. }

Acting Secretary to Government.

27

RULES FOR REGULATING THE CONDUCT OF BUSINESS AT MEET-
INGS OF THE LEGISLATIVE COUNCIL FOR THE PRESIDENCY
OF BOMBAY.

1. THE Ordinary Sessions of the Legislative Council of Bombay will commence on the 15th December and 15th July in each year, and will not be protracted beyond six weeks, except with the express sanction of His Excellency the Governor.

2. Extraordinary Sessions will be called by His Excellency the Governor whenever projects of Laws which call for early discussion are ready to be laid before the Council, and the Session will be closed so soon as the work for which the Council was summoned is disposed of.

3. When an Extraordinary Session has been summoned, the ensuing Ordinary Session may be dispensed with.

4. The Legislative Council when in Session will meet at 11 o'clock in the forenoon.

5. The Legislative Council has power to adjourn its meeting for any definite period within the Session, or to adjourn any meeting or business to any future day, or any part of the same day, to be fixed by the Council. Provided that any Member of the Council may propose the adjournment of any particular subject then under consideration, but the President alone shall propose the adjournment of the meeting.

6. Any business of the day not disposed of at the time of any adjournment of the Council shall stand for disposal on the next day on which the Council shall meet, and, unless otherwise specially ordered, shall take priority of all other business on that day.

7. It shall only be necessary to summon the Members of the Legislative Council to attend the first meeting of the Sessions.

8. If at any time appointed for the holding of any meeting of the Legislative Council, or if at any time after the commencement of business, the quorum required by 24 and 25 Vic., Chap. 67, Sect. 34, (that is to say, the Governor or some Ordinary Member of Council and four Members,) be not present, the President, if the Governor or Ordinary Member of Council be present, may adjourn the Council until such time as he may think fit. But in their absence the Clerk shall make an entry in the Journal of the Council of the names of the Members present, and the meeting shall be thereby adjourned until summoned to meet within one week by order of the Governor, to be notified to the Clerk of the Council.

9. The President shall have power to preserve order and regularity in the proceedings of the Council, and shall decide all disputed points of order without debate.

10. The use of measured and courteous language shall be observed by every Member.

11. As the business of the Council is by Statute 24 and 26 Vic., Chap. 67, Sec. 38, restricted to the purpose of making Laws and Regulations, and to the consideration and enactment of measures introduced into the Council or that purpose, every Bill or project of Law will be printed with the preface

hereinafter referred to, and circulated to the Members of the Council, and also published in the *Government Gazette* at least one week before it is brought on for discussion.

12. The Bill or project of Law will have a preface signed by the Secretary to Government in the Department to which the Bill refers, stating the object and intention of the measure, the reasons upon which it is founded, and any extracts of correspondence and abstract of the general reasons which may be necessary for a right understanding of the Bill.

13. On a project of Law being brought on for consideration in the Council, the title, preamble, and each section or clause of the Bill shall be considered separately, in such order as the President may think best.

14. Amendments may be proposed by Members of the Council on any parts of the Bill.

15. If an important amendment of a Bill be made, any Member may move that it be reprinted as amended and recirculated, and that final consideration of it be adjourned to a day to be fixed by the President.

16. On a Bill being passed, the President, if he be the Governor, shall sign a Certificate at the foot of the Bill in the following form:—

This Bill was passed in the Legislative Council of Bombay on the day of _____, and I assent thereto (or withhold my assent therefrom).

President.

In the event of the Governor not being present, the President shall sign the Certificate, omitting the clause of assent or dissent, and shall lay the Bill before the Governor for his decision, and the Bill as disposed of by the Governor shall be printed in the *Government Gazette*.

17. After a Bill has been passed or thrown out at any stage, any Member present and voting for the passing or throwing out of the Bill may record his assent and his reasons of assent, and any other Member voting on the same side may affix his signature thereto for all or any of the reasons specified therein, or may add additional reasons.

18. Similar power and privilege is extended to Members dissenting from the passing or throwing out of a Bill. Provided that no Member be allowed to record his assent or dissent unless he give notice of his intention to do so at the meeting at which the Bill was passed or thrown out, and that no dissent shall be recorded unless delivered to the Clerk within 4 days, and no assent unless delivered within 8 days after the meeting at which notice of the intention to record such assent or dissent was given.

19. A list of business to be transacted at each meeting of the Council shall be prepared by the Clerk.

20. Business shall be transacted in the following order after the President has taken the chair:—

The Clerk shall present any petitions referred to the Council by the Government.

Projects of Laws and any communications received by him from Government.

After that the Council will proceed to consider the Bill or project of Law for that day's discussion, and any Member may then move for leave to introduce any measure which he may be competent so to introduce, or if desiring to introduce a measure which he is not competent to introduce without sanction shall apply for sanction through the Judicial Secretary to introduce it.

21. Communications from the Governor when present, or in his absence made by a Member of Council, will be received at any time, the business then under discussion being postponed for that purpose.

22. When the whole of the business for the day is disposed of, or when there is more business before the Council than they can dispose of on that day, the President will declare the meeting adjourned to the next or some other convenient day.

23. All communications from the Legislative Council to the Governor, or Governor in Council when the Governor is absent from a meeting, shall be made by the Senior Civil Ordinary Member of Council present at that meeting.

24. A Journal shall be kept in which all the proceedings of the Legislative Council shall be fairly entered. The Journal shall be submitted after each meeting to the President thereof for his confirmation and signature, and when so signed shall be the record of the proceedings of the Legislative Council.

25. All documents ordered to be printed or recorded shall be referred to in the Journal, and, after being identified by the signature of the Clerk on the original document, shall be kept with the records.

26. The Clerk of the Council must be present at every meeting of the Council, but in the event of his unavoidable absence his place will be supplied by the Secretary to Government in the Judicial Department, or by his Assistant, or by some other Secretary to Government, or Under Secretary.

27. The Clerk shall take charge of all the records of the Council.

Keep the Journal of the Council.

Keep a Minute Book, in which he shall enter at the time all the Proceedings of the Council in the order in which they occur, and the names of the Members present.

Prepare for and superintend the printing of all Acts and papers ordered to be printed.

Assist at all times the Council and individual Members, not only in framing Bills, but in all other work connected with their duty.

Write all letters ordered by the Council.

28. The Clerk shall transmit to the Secretary to Government in the Judicial Department copies of every Bill passed or thrown out, authenticated by his signature, and accompanied by all recorded documents relating thereto.

29. Petitions relating to Legislative matters preferred by private persons must be addressed to the Governor in Council, and will be sent to the Clerk of the Council, to be laid before the Legislative Council by his orders. Petitions in the Vernacular sent to the Legislative Council will always be accompanied by translations made by the Oriental Translator to Government, and ordinarily no reply will be sent to a petition by the Legislative Council. But with the sanction or permission of the Governor in Council, the Clerk of the Council may be ordered to make such special communication to the Petitioner as the Council may direct.

(Signed) A. Kinloch Forbes.
actg Secy to Govt

tive Council shall be summoned by the Clerk of the Council to attend such extraordinary Meeting.

IV. The Legislative Council shall have power to adjourn its Meetings for any definite period, or to adjourn any Meeting, Debate, or Business to any future day, or to any part of the same day, to be fixed by the Council.

V. Any business of the day, not disposed of at the time of any adjournment of the Council, shall stand as Orders of the Day for the next day on which the Council shall meet, and, unless otherwise specially ordered by the Council, shall take priority of all business of a similar nature in such Orders.

VI. It shall not be necessary to summon the Members of the Legislative Council to attend any Meeting thereof, except an extraordinary Meeting called under the provisions of Rule III.

VII. If, at the time appointed for the holding of any Meeting of the Legislative Council, or if, at any time after the commencement of business, there be not present the quorum required by the Statute 16th and 17th of Vict. Chap. 93, Section 23 (that is to say the Governor General or Vice-President or some Ordinary Member of the Council of India in the chair, together with six other Members, of whom the Chief Justice, or other Judge of the Supreme Court, or the Fourth Ordinary Member of the Council of India shall be one,) the President may adjourn the Council to such time as he may think fit. In such case an entry shall be made in the Journal of the Council of the hour at which the adjournment takes place, and of the names of the Members present.

DEBATES.

VIII. The President shall have power to preserve order and regularity in the proceedings of the Council, and shall decide all disputed points of Order without debate, unless in any case the President think fit to refer the decision thereof to the Council.

IX. Any Member may notice a violation of Order, by rising in his place and addressing the President. In such

case he shall merely direct attention to the point complained of, and submit it to the decision of the President: and whenever a Member rises to Order, any Member who may be then speaking shall sit down until the point of Order shall have been decided.

X. If the President rise to speak to Order he shall be heard in silence, and any Member who may be then speaking shall immediately sit down until the point of Order shall have been decided.

XI. A Member shall speak from his place, shall rise when he speaks, and shall address the President, or, in Committee of the whole Council, the "Chairman."

XII. The President or the Chairman of a Committee may propose or speak upon a question, rising, but without leaving the Chair.

XIII. If two or more Members rise to speak at the same time, the President shall call on the Member entitled, in his opinion, to pre-audience.

XIV. A Member shall not be allowed to read his speech, but he may refresh his memory by referring to notes, and he may read, as part of his speech, passages from books or papers cited in support of his argument.

XV. A Member may ask a question of another Member, but such question must be confined to matters immediately connected with the business of the Legislative Council, and must be asked in a manner which does not involve argument or inference.

XVI. The answer to such question must be confined to the points contained in the question, with such explanation only as will render the answer intelligible.

XVII. No Member shall be heard except upon a question before the Council, or upon a question intended to be proposed by himself, or in explanation, or when he rises upon a point of Order, or to ask or answer a question in the manner above-mentioned.

XVIII. In discussing a question no Member shall be allowed to speak more than once, except in explanation or when in Committee, and except the mover of an original

XIX. Upon what questions Members to be heard.

Members to be heard.

Members to be heard.

Members to be heard.

Members to be heard.

question, who shall be allowed to speak once to the question and close the debate with a reply.

XIX. The use of measured and courteous language shall be observed by every Member.

XX. No Member in debate shall allude to another Member by name.

XXI. Whilst any debate or business is going on, it shall not be interrupted by conversation or noise; but this Order is not intended to prohibit an expression of assent in the course of a debate.

PETITIONS.

XXII. Petitions to the Legislative Council must relate to matters connected with the business of the Council.

Every petition shall be superscribed "To the Honorable the Legislative Council of India," and shall be dated and signed by the petitioner or petitioners. It shall be in respectful and temperate language, and shall conclude with a distinct prayer.

XXIII. Every petition will be received as the petition of the person or persons only by whom it is actually signed.

XXIV. All petitions shall be transmitted to the Clerk of the Council.

XXV. The Clerk shall make an abstract of every petition so received.

XXVI. If in the judgment of the Clerk the petition be framed in conformity with Order No. XXII, he shall bring the petition under the consideration of the Council by reading the abstract thereof, and the prayer or the substance of the prayer of the petition; whereupon such petition shall be deemed to have been received by the Council.

XXVII. If in the judgment of the Clerk the petition be not framed in conformity with Order No. XXII, or if he have reason to doubt the authenticity of any signature thereto, he shall certify the same on the back of the petition, and shall report the fact to the Council; in which case the petition shall not be received by the Council except upon the motion of a Member.

XXVIII. Any petition received by the Council may, upon the motion of a Member, be disposed of in one or more of the following ways:—

1. It may be ordered to be printed.
2. It may be referred to the Select Committee sitting on any Bill to which it relates.

3. It may be referred for report to a Select Committee to be appointed specially for that purpose.

4. If no motion be made upon such a petition, the petition shall be laid upon the table, and afterwards deposited by the Clerk amongst the Records of the Council.

XXIX. If a Bill be pending peculiarly affecting private interests, and any person whose interests are so affected apply by petition to be heard by himself or his Counsel upon the subject of the Bill, an Order may be made upon the motion of a Member, allowing the petitioner to be so heard either before the Select Committee on the Bill or before a Committee of the whole Council, provided the petition be received by the Clerk of the Council before the Report of the Select Committee on the Bill shall have been presented. In no other case or manner shall any stranger be heard by himself or by his Counsel.

XXX. Ordinarily no reply will be sent to a petitioner. But the Clerk of the Council may be ordered to make such special communication to a petitioner as the Council may direct.

PROJECTS OF LAWS.

XXXI. If a Draft or project of a Law be proposed by the Governor or Governor in Council of a Presidency, or by the Lieutenant-Governor of a Lieutenant-Governorship, the fact shall be reported to the Council by the Clerk, and the Draft or project shall, together with any annexures thereto, be printed and recorded. If within four weeks from the day of such report being made, no Member shall make any motion upon the subject, it shall be the duty of the Member nominated by the Governor of such Presidency, or by the Lieutenant-Governor of such Lieutenant-Governorship, to bring the same before the Council, either

June 1/61.8
No 1585
From 25th June 1901

No.

FROM

W. GREY, ESQUIRE,
Secy. to the Govt. of India,

TO

A. KINLOCH FORBES, ESQUIRE,
Acting Secy. to the Govt. of Bombay.

SIR,

Dated Fort William, the 11th December 1861.

HONORARY DEPT. LEGISLATURE. YOUR letter No. 86, dated the 15th ultimo, submitting for the approval of the Government of India a draft of Rules for regulating the conduct of business at Meetings of the Legislative Council for Bombay having been considered by the Governor General in Council, I am directed to communicate the following observations.

2. With regard to the use of the term 'Legislative Council,' the Governor General in Council is desirous to draw attention to the concluding part of the 23rd paragraph of the Secretary of State's Despatch forwarded to you with my previous letter of September the 17th, in which a desire is expressed that each Council should be designated according to the form followed in the Act, and no other. The object of this is to prevent a recurrence of the inconvenience caused by so ordering the proceedings of the Council at its Meetings for making Laws and Regulations under the Act of 1853, as to make it appear as if, when so employed, it was an institution separate and distinct from the Governor General in Council. Throughout the Act 24 and 25 Vic., c. 67, it will be observed that the Council of the Governor General is the only form used to designate the Council whether in its executive capacity, or when assembled for making Laws and Regulations; and so also, the Council of the Governor, or the Council of the Presidency of Bombay, is used as signifying either the Council assembled for executive business, or the Council assembled, with the additional Members appointed thereto, at a Meeting for the purpose of making Laws and Regulations.

3. The Governor General in Council considers it of great importance that the object to which Sir Charles Wood has so pointedly drawn attention in the 23rd paragraph of his Despatch should be carefully borne in mind, and that no proceedings should be allowed, and no phraseology adopted which can give rise to the notion that the Council when sitting for the purpose of making Laws and Regulations is "a body separate and distinct from the Council of the Governor General," or Governor, as the case may be.

4. In the Rules to be adopted for the conduct of business at Meetings of the Governor General's Council for making Laws and Regulations, the word 'Council' will be invariably used without the addition of 'Legislative' or any other distinctive word, and the first Rule will recite that the word 'Council,' as used in the Rules, will mean the Council of the Governor General assembled for the purpose of making Laws and Regulations.

5. The Governor General in Council agrees with the Bombay Government that the Council should not sit permanently or throughout the year for the purpose of making Laws. The time or times of the year which it may be most convenient to appoint for Meetings of the Council for making Laws, as well as the period for which it should continue to sit, will probably be best ascertained by practical experiment, and may differ at each Presidency. At present His Excellency in Council proposes that the 15th of January should be fixed for the first Meeting of the Madras and Bombay Councils, but he will defer the formal appointment of the time under Section XXXV, until the receipt of the revised Rules for the conduct of business which this communication will render necessary.

6. The arrangement which is proposed in paragraphs 5 to 7 of your letter in regard to the appointment of a Clerk of the Council and his Establishment appears to the Governor General in Council moderate and reasonable. But I am desired to suggest for consideration, whether it is not on some accounts desirable, and especially for the more certain attainment of the object referred to in the 2nd and 3rd paragraphs of this letter, that the Legislative business of the Council should be attached, as was the case in the Government of India until the Act of 1853, to one of the Secretariat Departments, the Secretary of the Department being regarded as the Chief Officer of the Council. The Governor General in Council does not doubt that, in this case, an additional Officer should be appointed who shall be more especially charged with the conduct of the business at Meetings of the Council for making Laws, and he is disposed to agree with the Bombay Government in thinking it expedient that the person so appointed should be a Lawyer; but whether a Lawyer or not, he might be designated Under Secretary, or Assistant Secretary to Government in the Department to which the Legislative business is attached. By the Rules for the Governor General's Council, the Secretary to the Government of India in the Home Department, will be constituted the Chief Officer of the Council, and a separate Rule will authorize an Under or Assistant Secretary to do any act which the Secretary is required by the Rules to do. It is not intended to continue the designations of Clerk and Clerk Assistant in the Council of the Governor General, but there can of course be no objection, if the Bombay Government see any advantage in it, to these designations being adopted in the local Council, the Secretary to Government being in that case appointed Ex-officio Clerk of the Council, and his subordinate being designated Under Secretary (or Assistant Secretary) to Government and Ex-officio Clerk Assistant to the Council. Until the Council of the Governor General has begun to work, it is impossible to state with precision what actual part in the Legislative business will be taken by the Secretary to Government in the Home Department. Probably his attendance at the Meetings of the Council will be found necessary, as it is intended that the Under or Assistant Secretary should prepare, during the progress of each Meeting, a full report of the proceedings, including a summary of the observations of the Members,

and this is a duty which it is probable will fully occupy his attention. On the other hand, it will doubtless be made the duty of the Under or Assistant Secretary to attend upon all Select Committees, and to perform most if not all of the duties which are described in the 27th of the Bombay Rules.

7. The Governor in Council will determine whether or not it is desirable to adopt at Bombay an arrangement similar to that above described, keeping in mind that one of its principal objects is to preserve and mark the unity of the Council in its executive and legislative capacities, and to avoid any approach to the appearance of 'a separate and distinct' body for making Laws.

8. As regards the cost of the Establishment, it has occurred to the Governor General in Council that it might possibly be a suitable and at the same time an economical arrangement at Bombay to appoint the Solicitor to Government, with some moderate addition to his salary, as the Officer in special charge of the Legislative business of the Governor's Council, whether as Clerk of the Council, or as Under Secretary to Government. This will be regarded, however, simply as a suggestion for the consideration of His Excellency the Governor in Council, and not as a point on which the Government of India wishes to lay any stress.

9. With reference to the 8th paragraph of your letter, in which it is proposed to allow each Non-official Member a sum of 1,000 Rupees for the Session, together with travelling allowance, I am desired to state that the Governor General in Council will not object to this expenditure, if the Government of Bombay considers it necessary for the purpose of enabling Members to defray the expenses which they will incur in joining the Council. But the Governor General in Council considers it essential that whatever sum is allowed should be given specifically for that purpose, and should in no case assume the shape of a salary, or fee. In this view it will be obvious that the allowance should be restricted to those Non-official Members who are called upon to leave their homes in consequence of the Council being held in a locality distant from their ordinary place of residence, and to them the allowance should be made specifically on account of the travelling and other expenses which they may be obliged to incur. Thus guarded, the grant of an allowance to the Non-official Members will not trench upon the principle contemplated by the Legislature, namely that they shall be persons not holding office, and independent of the Government.

10. With reference to the 9th paragraph of your letter, I am desired to transmit a copy of the oaths which have been administered to the Legislative Members of the Governor General's Council under the Act of 1853. These oaths, with the alteration noted in red ink in the Councillor's oath, will be adopted for the additional Members of the Governor General's Council, with such further modification in the phraseology as may be necessary in the case of Native Members. These forms appear to the Governor General in Council to be quite suitable for the local Councils.

11. With regard to the important question adverted to in the 10th and 11th paragraphs of your letter, I am to state that the Governor General in Council desires to leave the final decision on this point, as well as on all other points which are left open by the Act of Parliament, to the judgment of His Excellency the Governor in Council. But the Governor General in Council would ask the careful consideration of the Bombay Government to the terms of Sir Charles Wood's Despatch, which certainly seem to signify an expectation that the public will be admitted to the Meetings of the local Councils of Bengal, Madras, and Bombay. The rules which have been framed for the conduct of business in the Governor General's Council will shew the Bombay Government what decision has been come to by the Government of India in the matter, and His Excellency in Council would advise a careful re-consideration of the subject before it is determined to conduct the business of the Bombay Council, when assembled for making Laws and Regulations, with closed doors. It is suggested by the 10th paragraph of your letter that the Council should be closed for the present, and be opened to the public, perhaps two years hence. If by this it is meant that the doors of the Council should now be closed, with an understanding that they will be opened to the public in two years' time, the Governor General in Council must state his opinion that such an arrangement is inadvisable. If the public are not at once to be admitted to the Meetings of the Council, that should be the definite rule and practice of the Council, leaving the question of a future change for consideration hereafter, unfettered by any sort of pledge, either expressed or implied.

12. The Governor General in Council will now offer such detailed remarks regarding the Rules submitted with your letter as have occurred to him upon a careful examination of them. But I am to observe that, except as regards any point on which the Rules as at present drawn may seem to be contrary to the intention of the Act of Parliament, it will entirely rest with His Excellency the Governor in Council at Bombay to act or not to act upon the suggestions thus made, as he may on full consideration deem most expedient.

13. The title of the Rules correctly follows the language of the Act, except in respect of the use of the term 'Legislative Council' already remarked upon. This may be altered to "Meetings of the Council of the Presidency of Bombay for the purpose of making Laws and Regulations," [or "Meetings of the Council of the Governor of Bombay for the purpose of making Laws and Regulations."] Throughout the Rules, the word 'Legislative' as applied to the Council should be expunged.

14. *Rule 5.*—With reference to this Rule, I am to suggest that it should be altered so as to conform to the 36th Section of the Act, which gives full and absolute power to the Governor either himself to adjourn, or to authorize the Senior Ordinary Member of the Council to adjourn any Meeting of the Council for making Laws. I am desired to draw attention to the manner in which this point is provided for in the 4th Rule for the Governor General's

Council, and by the construction given to the word 'President' in Rule 1. Rule 8 of the Bombay Rules may seem unnecessary if a Rule similar to the 4th Rule for the Governor General's Council be adopted.

15. *Rule 10.*—It will be observed that this provision is not included in the new draft of Rules for the Governor General's Council. Hoping that any such provision will be found superfluous, His Excellency in Council has thought it desirable to omit it.

16. *Rules 11 to 15.*—The Governor General in Council does not gather with certainty from these Rules what the exact process of passing a Bill through the Council is intended to be. Apparently a Bill may be brought forward for discussion one week after it is first printed and circulated to the Members of the Council, and then, it would seem, from Rules 13 to 15, that the general merits and principles of the Bill may be discussed, the Sections considered in detail, and, if no important amendment be carried, the Bill passed,—all at one sitting of the Council. If this be a correct statement of the possible operation of the Rules as they now stand, the Governor General in Council would very earnestly recommend that they should be essentially modified, for he is sure that satisfactory legislation would not be obtained by such a process. The experience of the Legislative Council under the Act of 1853 has shown conclusively that a Bill receives its best consideration at the hands of a Select Committee, and it has also been amply proved, if proof of such a point were needed, that amendments made at a Meeting of the whole Council, even though they be apparently of an immaterial character, are very likely to lead to contradictions and inconsistencies, and that a few days should therefore always elapse between the settlement of a Bill in detail by the full Council and the final passing of it, in order to give time for a careful comparison of newly introduced amendments with the older parts of the Bill, so that any oversights may be detected. The Governor General in Council is of opinion that the Rules of the Council should provide ample time not only for the discussion of the measures introduced, but also for their publication, so that the public may have full opportunity of submitting such representations to the Council regarding any pending measure as they may desire to make. If circumstances arise calling for more prompt legislation than the Rules permit, the emergency may be met by a suspension of the Rules. In support of the views here expressed as to the great advantage of Select Committees, and of allowing some little time to elapse between the settlement of a Bill in full Council and its final passing into law, the Governor General in Council would refer the Bombay Government to the 17th paragraph of Sir Charles Wood's Despatch cited on the margin.

"No law, except one arising out of some pressing emergency, should be passed without full opportunity for mature deliberation and discussion, and the intervals of discussion should be such as to allow the Members of Council adequate opportunity of reflection and enquiry."

17. In the draft of Rules prepared for the Council of the Governor General, a copy of which is enclosed in this communication, it will be seen

that provision is made for the separate discussion of the general principle of a Bill by the full Council, and that when the general principle is approved, the Bill with the statement of objects and reasons is then for the first time to be

* The 11th Rule of the Bombay Draft shows that the intention is to publish Bills before they are considered by the Council at all.

It does not appear, however, to the Governor General in Council that there is any advantage, and there are some obvious disadvantages in publishing a Bill before its general principle has been discussed and accepted by the Council.

published* for general information, and to be referred to a Select Committee for examination and revision in detail. It is further provided that ordinarily a Bill shall not be reported on by the Select Committee until a period of three months shall have elapsed. This period is doubtless longer than will be requisite for Bills before a local Council; but such time, the Governor General in Council thinks, should certainly be allowed as will leave the public no room to complain that they have not full opportunity of being heard regarding every law which is passed. I am further to point out that the provision in Rule 12, that the Bill will have a preface signed by the Secretary to Government in the Department to which the Bill refers, seems open to objection, as implying a restriction upon the discretion which, by the terms of the Act, is vested in every Member of the Council to move for leave to introduce any measure into the Council, not being a measure requiring the previous sanction of the Governor, or the Governor General.

18. Rule 16.—I am desired to suggest, in regard to this Rule, that the assent of the Governor to a Bill should in all cases be recorded separately from the Certificate by the President of the passing of the Bill, and that it should usually be given not at the time at which the Bill is passed, but subsequently. The assent is intended to be the deliberate and responsible act of the person filling the office of Governor, while the certificate is a mere formal record of a proceeding of the Council by the Officer who for the time is presiding over it. The form of assent used by the Governor General consists simply of the words "I assent to this Bill, — Viceroy and Governor General." These words are written by His Excellency at the foot of the Bill as finally revised and passed by the Council, and this copy of the Bill forms a permanent Record of the Council.

19. Rules 17 & 18.—It has not been thought necessary to include in the Rules for the Governor General's Council any provision for recording Dissents and Assents from or to a Bill passed by the Council. The power to do this has been exercised once only during the entire existence of the Council as established by the Act of 1853.

20. Rule 20.—The Governor General in Council would recommend the omission of the latter part of this Section, commencing with the words "or if desiring." The manner in which the previous sanction of the Governor should be obtained for the introduction of any measure of the class specified in Section XXXVIII of the Act should, he thinks, be regulated irrespectively of the Rules for the conduct of business at the Meetings of the Council.

Calcutta

37th

Dec 11/86

My dear Sir,
I send you a copy of the letter in answer to your letter of the 11th inst. The enclosed for the new Council. It is in most respects the same as that addressed to the Madras, but the enclosed

are a few points
wh. are not
admitted to in
the latter, &
which the Mad.
Gov. may possibly
like to know of.

See, for example,
pass 9 - last part of 17 -
18 - & 20 - also 23. -

If you are able
to return your
Rule of the Steamer
at the end of the
month, no time
shall be lost in settling
the appeal of the
G. in C. to them
& if necessary the
appeal shall be
telegraphed down.
Yours truly
Wm. T. [Signature]

W. H. P. G. with a
present, I believe
that the Council
should assemble
on or about the
15th of January. -

I trust you will have
been able to provide a
fair substitute for
Williamson. -

(7)

It will be seen that Rule 14 of the Draft of Rules for the Governor General's Council refers merely to the general power of Members under the Act to introduce measures before the Council. If a Member should move to introduce a measure which he is not competent under the Act to introduce, he would of course be at once checked by the President as being out of order.

21. *Rule 23.*—With respect to this Rule, I am to observe that any provision for communications being made by the *Legislative Council* to the *Governor in Council*, is entirely at variance with the object adverted to in the 2nd and 3rd paragraphs of this letter, and again in paragraphs 6 and 7. It does not either appear to the Governor General in Council that there is any necessity for making formal provision for communications being made by the *Council* to the *Governor*, more especially if the suggestion of this Government to appoint one of the Secretaries to Government as the Chief Officer of the Council when assembled for making Laws is adopted, for it will in that case naturally devolve upon this Officer to convey to the Governor any communication which, in the event of his absence from the Council, the Council may desire to make to him.

22. *Rules 26 & 28.*—These Rules will of course be altered if the plan, just adverted to, of appointing one of the Secretaries to Government to be the Chief Officer of the Council, is adopted; and in this case a Rule similar to Rule 33 of the draft of Rules for the Governor General's Council will be found convenient.

23. *Rule 29.*—After what has been already said, it will be obvious that this Rule requires alteration, and it is noticed only because it appears to show that the sense of the 23rd paragraph of Sir C. Wood's Despatch has not been correctly apprehended. It is clear from the general intention of that paragraph that the words 'Governor in Council' are not used,—as they are used in this 29th Rule,—to designate the Governor in Council as distinguished from the Legislative body; but that they are used to designate the Governor in Council in his united Executive and Legislative capacities, and that the object of the paragraph is simply to direct that petitions on Legislative matters shall not be addressed to the 'Legislative Council' as "a body separate and distinct" from the Governor in Council, but shall be addressed to the Governor in Council in the Legislative Department.

24. In submitting these observations on the Rules forwarded with your letter, I am desired to say that the Governor General in Council trusts they will be accepted by the Bombay Government in the spirit in which they are made. The draft of Rules drawn up for the Council of the Governor General is forwarded in order that the Bombay Government may fully apprehend the principles on which it is the intention of the Governor General in Council to commence the working of the new Council, but it is left entirely to the discretion of His Excellency the Governor in Council to decide to what extent

it is advisable that the same or similar provisions should be adopted for the working of the Bombay Council.

25. I am desired to request that a set of Rules, revised by His Excellency in Council after consideration of the suggestions made in this letter, may be forwarded for the sanction of the Governor General in Council with as little delay as possible.

I have the honor to be,
SIR,
Your most obedient servant,

Secy. to the Govt. of India.

No. 2 of 1862.

JUDICIAL DEPARTMENT.

FROM

THE ACTING SECRETARY TO THE GOVERNMENT OF BOMBAY,

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA
IN THE JUDICIAL DEPARTMENT,

Dated Bombay Castle, 3rd January 1862.

SIR,

I AM directed to acknowledge the receipt of your letter No. 2422, of the 11th ultimo, on the subject of the Legislative Department of this Government, and in enclosing, as directed in the last paragraph of your letter, a revised set of Rules for the conduct of business in Council when assembled for the purpose of making Laws, to communicate the following observations in explanation of the views of His Excellency the Governor in Council.

2. His Excellency the Governor General in Council will observe that the instructions contained in the 2nd paragraph of your letter have been strictly followed, although this Government have not adopted the exact form of the rules of the Governor General in Council, as they observe that the definition in Rule No. 1 leads to some obscurity in Rule No. 18, in which the word "Council" occurs in one place as the "Council" defined in the first rule, and in another as the "Council" composed of the ordinary Members only. It might easily be corrected, but the difference in the rules, if they pretended to be similar, would be marked.

3. The remarks contained in the 6th paragraph of your letter are of much importance, and the instructions given with regard to the constitution of the Council shows the necessity of making the Legislative business a distinct department of the Government, but the exigency which requires that the different Departments should not be considered separate and distinct bodies offers an objection to the Secretary in the Legislative Department being any other than a Covenanted servant of Government, and the Honorable the Governor in Council must, therefore, abandon the idea of having a Solicitor Secretary in the Legislative Department, and the arrangements therefore proposed in the 5th to 7th paragraphs of my letter must be altered.

4. It is probable that by retaining Legislation as a Department of Government a great part of the sum suggested as pay for the Establishments (Rupees 2,400 or 3,600 per annum) may be saved, as the present Establishments in the Secretariat might, with a small increase, be able to conduct the work, but an Assistant Secretary will be required, and Rupees 1,250 per mensem, or Rupees 15,000 per annum, is the lowest salary that could be offered to him, and if, in addition to this, the Solicitor to Government, to whom the Acts might, when requiring professional assistance, be submitted, demands any additional allowance for the increased work thrown upon him, the expense of Establishment before suggested will be increased; but as that was considered moderate and reasonable, His Excellency the Governor in Council would hope that an Under Secretary on Rupees 1,250 per mensem, with such Establishment as may on trial be found necessary, will be sanctioned by the Governor General in Council, and if hereafter Government are obliged to pay for legal assistance application can be made for sanction of the expense in the usual form.

5. In carrying out the views expressed in the 9th paragraph of your letter, the Honorable the Governor in Council proposes, when appointing a non-official Member who is obliged to leave his home, to inform him that the Civil Pay Master has been directed to pass any Bill he may draw for a sum or sums not exceeding Rupees 1,000 to meet the expenses of his attendance at each Session of Council. This will leave it optional with the Member to draw the money or not, will prevent its appearing in any light as a fee or reward, and is, His Excellency in Council is satisfied, necessary to enable Sirdars, whose incomes are generally small, to visit Bombay or any place where the Council may be held, and where their expenses will certainly be great.

6. With reference to the 11th paragraph of your letter, I am directed to remark that His Excellency the Governor in Council never contemplated pledging themselves to open the doors of the Council Chamber at the expiration of two years. His Excellency in Council was satisfied that in such an assembly with closed doors the State might at once derive much advantage from the intelligence of well selected Natives, but that in a public Council the benefit would be far less if any at all was derived, though if they exercised their functions for a time in a closed Council the tendency would be to render an open Council after a time unobjectionable, and therefore two years were mentioned as showing the possibility of an open Council, not as offering a pledge to open it in that time.

7. His Excellency the Governor General in Council will observe that the Government of Bombay propose to adopt Rules 6 and 34 of those passed by the Governor General in Council, the former securing to all Members of Council the means of expressing their opinions without embarrassment, and the latter securing every wholesome publicity for those expressions. Beyond this His Excellency in Council is not prepared at present to go towards giving publicity to their consultations; and as the question has been left to the decision of the Government of Bombay, His Excellency in Council has determined to adhere to their former opinion, but no intimation of this decision to exclude the public will appear in the Rules, as His Excellency in Council thinks that at present it is better to preserve silence on the subject, and whenever the public are admitted, Rule 35 of those enclosed in your letter, and whatever other rules may be required, can be published as "Rules for the admission of the public to the Council Chamber," to which they appear more appropriately to belong than to the Rules for the conduct of the business of the Council.

8. Having thus explained the general principles which have guided this Government in adhering to or altering the Rules submitted with my former letter, I am directed to offer such remarks upon the details of the Rules as appear to be required by the 12th and following paragraphs of your letter.

9. His Excellency the Governor General in Council will observe that the title of the Rules has, as directed in the 13th paragraph of your letter, been corrected, and the word Legislative as applied to the Council everywhere been expunged from the Rules.

10. With reference to Rule 5, and the remarks contained in the 14th paragraph of your letter, I am directed to remark that Government desired carefully to abstain from making any rules upon points which appeared to them provided for in the Act of Parliament, and that viewing Section 36 of the Act as applying to summoning, and what is known in England as proroguing the Session of Council, Rule 5 was intended to provide for the daily adjournments of the Council while in Session, or, in other words, while the Act provided for the

Bombay 9 Jan.
H.

My dear Mr. Williams,

I only regret they have
from the Dept. (with that
no copy has been sent before
of new letter & amended
rules for Council in its
legislative capacity.

The letter we recd. from
Calcutta speaking in answer

My dear Dyall
Send you three or
four should not have
a copy - this an interesting
one now how -
Sincerely
M. J. Shaw

times and places of meetings of Council, the Rule applied to their daily sittings, which did not appear to be provided for in the Act.

11. Rule 10 has been omitted in deference to the suggestion made in paragraph 15 of your letter.

12. Rules 11 to 15, and the subject discussed in paragraph 16 of your letter, caused this Government much anxious consideration, and it was only after much deliberation that Government determined not to prescribe any exact process for passing a Bill, but to leave the procedure to the discretion of the President and to the exigencies of the case as they may arise. If the Council for making Laws was a large and representative body always in Session, or with comparatively protracted Sessions like those of Parliament, it might have been necessary, and would not have been inconvenient to have provided that a Bill should be read three times, and that there should be Select Committees and Committees of the whole Council. But as the Sessions of Council will be short, and the Council when all attend will consist of ten members only, four of whom (the ordinary members) will probably have considered most of the subjects for months before they are laid before the Council for purposes of legislation, it appeared to this Government that the principle of the Bill was likely to have received almost as much consideration as it ever would receive before it was brought forward, and the assembly being so small, five making a quorum, it might almost be considered to be always in Committee, while the length of the Session (six weeks) would either require that every Bill should be introduced within the first fortnight of the Session, or the rule would be that the standing rules should be set aside, and the exception become the general rule. In the present Rules, however, notice has been taken of Committees, to prevent its being imagined that the possibility of their existence was disregarded, and to them, when occasion requires it, Bills introduced by individual members might be referred. Rule No. 12 has been altered so as to adapt it to measures introduced by individual members.

13. • Rule 16 has been altered as suggested in the 18th paragraph of your letter.

14. In deference to the suggestion made in the 19th paragraph of your letter, Rules 17 and 18 have been struck out, and Rule 34 of those passed by the Governor General in Council has been adopted as Rule 23 of those now submitted. By this the power is secured to individual members of giving publicity to any emphatic assent to or dissent from any Bill, though His Excellency the Governor in Council is inclined to think that the power given by Rules 17 and 18 of those first submitted is more likely to be exercised or called for in a Council sitting with closed doors than in an open assembly like the late Legislative Council, and consequently that the experience of that Council might not be an infallible guide in these.

15. The suggestions contained in paragraphs 20 to 23 of your letter have, you will perceive, been adopted in every instance.

16. In conclusion, I am directed to enclose, for easy reference, a copy of the Rules submitted with my former letter, with the present alteration made in them in red ink.

BOMBAY CASTLE,
3rd January 1862.

I have the honor to be, &c.,
M. J. SHAW STEWART,
Acting Secretary to Government.

21

RULES FOR REGULATING THE CONDUCT OF BUSINESS BY THE
COUNCIL OF THE GOVERNOR OF BOMBAY AT MEETINGS OF
THAT COUNCIL HELD FOR THE PURPOSE OF MAKING LAWS
AND REGULATIONS.

1. The Ordinary Sessions of the Council of the Governor of Bombay for the purpose of making Laws will commence on the 15th December and 15th July in each year, and will not be protracted beyond six weeks, except with the express sanction of His Excellency the Governor.
2. Extraordinary Sessions will be called by His Excellency the Governor whenever projects of Laws which call for early discussion are ready to be laid before the Council, and the Session will be closed so soon as the work for which the Council was summoned is disposed of.
3. When an Extraordinary Session has been summoned, the ensuing Ordinary Session may be dispensed with.
4. The Council when in Session will meet at 11 o'clock in the forenoon.
5. The Council has power to adjourn its meeting for any definite period within the Session, or to adjourn any meeting or business to any future day, or any part of the same day, to be fixed by the Council. Provided that any Member of the Council may propose the adjournment of any particular subject then under consideration, or that the subject be referred to a Select Committee of the Council for enquiry or report, but the President alone shall propose the adjournment of the meeting.
6. Any business of the day not disposed of at the time of any adjournment of the Council shall stand for disposal on the next day on which the Council shall meet, and, unless otherwise specially ordered, shall take priority of all other business on that day.
7. With the exception provided in the following rule, it shall only be necessary to summon the Members of the Council to attend the first meeting of the Sessions.
8. If at any time appointed for the holding of any meeting of the Council, or if at any time after the commencement of the business, the quorum required by 24 and 25 Vic. Chap. 67, Sect. 34 (that is to say, the Governor or some ordinary Member of Council and four Members) be not present, the President, if the Governor or ordinary Member of Council be present, may adjourn the Council until such time as he may think fit. But in their absence the Secretary shall make an entry in the Journal of the Council of the names of the Members present, and the meeting shall be thereby adjourned, until summoned to meet within one week by order of the Governor.
9. The President shall preserve order and regularity in the proceedings of the Council, and decide all disputed points of order without debate.
10. A Member desiring to make any observations on any subject before the Council, shall address the President, but without rising from his chair.
11. As the business of the Council is, by Statute 24 and 25 Vic. Chap. 67, Section 38, restricted to the purpose of making Laws and Regulations, and that purpose, every Bill or project of Law will be printed, with the Preface hereinafter referred to, and a translation of both the Bill and Preface into Mahratta, Guzeratte and Canarese, and be circulated to the Members of the Council, and also published in the *Government Gazette* at least one week before it is brought on for discussion.

12. The Bill or project of Law will have a Preface signed by the Secretary to Government in the Department to which the Bill refers, if introduced by Government, or signed by the Mover if introduced by an individual Member, stating the object and intention of the measure, the reasons upon which it is founded, and any extracts of correspondence and abstract of the general reasons which may be necessary for a right understanding of the Bill.

13. On a project of Law being brought on for consideration in the Council, the title, preamble, and each Section or Clause of the Bill shall be considered separately, in such order as the President may think best.

14. Amendments may be proposed by Members of the Council on any parts of the Bill.

15. If an important amendment of a Bill be made, any Member may move that it be re-printed as amended and re-circulated, and that final consideration of it be adjourned to a day to be fixed by the President.

16. On a Bill being passed, the President shall sign a Certificate at the foot of the Bill in the following form:—

This Bill was passed at a Meeting of the Council of the Governor of Bombay on the day of President.

The Bill will then be laid before the Governor for the purposes required in Sections 39 and 40 of 24 and 25 Vic. Chap. 67, and, after it has been assented to by the Governor General, it shall be published in the *Government Gazette* under the signature of the Secretary.

17. After the passing of a Bill, the Secretary shall revise and complete the marginal notes of it.

18. A list of business to be transacted at each meeting of the Council shall be prepared by the Secretary.

19. Business shall be transacted in the following order after the President has taken the chair:—

New Members will be sworn in, or take the necessary affirmations.

The Secretary shall present any petitions which may have been received, projects of Laws, and any other communications.

The Council will then proceed to consider the Bill or project of Law for that day's discussion, and after that any Member may move for leave to bring forward any measure which he may be competent so to introduce. When the whole of the business for the day is disposed of, or when there is more business before the Council than they can dispose of on that day, the President will declare the meeting adjourned to the next or some other convenient day.

20. A journal shall be kept in which all the proceedings of the Council shall be fairly entered. The Journal shall be submitted after each meeting to the President thereof for his confirmation and signature, and when so signed shall be the record of the proceedings of the Council.

21. All documents ordered to be printed or recorded shall be referred to in the Journal, and, after being identified by the signature of the Secretary on the original document, shall be kept with the records.

22. A Secretary, Under Secretary, or Assistant Secretary, must be present at every meeting of the Council or of a Select Committee.

He shall take charge of the records of the Council.

Keep the Journal of the Council, and Select Committees.

Keep a Minute Book, in which he shall enter at the time all the proceedings of the Council or Committee in the order in which they occur, and the names of the Members present.

Prepare for and superintend the printing of all Acts and papers ordered to be printed.

Assist at all times the Council and individual Members, not only in framing Bills, but in all other work connected with their duty.

Write all letters ordered by the Council, or by the Select Committee.

23. A report of the proceedings of the Council at each of its meetings, including an abstract of the observations of the Members, shall be prepared by the Secretary, and published as soon as possible after the meeting.

24. Petitions relating to Legislative matters preferred by private persons must be addressed to the Governor in Council, and if in the Vernacular be accompanied by translations. Ordinarily no reply will be sent to a petition, but the Secretary may be ordered for special reasons to make such communication to the Petitioner as the Council may direct.

M. J. SHAW STEWART,
Acting Secretary to Government.

43
A Para: 1 of G. G.'s letter.
Sect: 35 of Act.

The first meeting of
Council might be held
on the 15th Dec: or soon
after.

B Sect: 37 of Act.

There will be no necessity
for reading Bills three
times, nor for committing
them.

C Bills introduced by Gov:
must be printed and
circulated to the Council
one week at least before
they are brought on for
discussion.

D Bills introduced on leave
by other members, must be
printed, and circulated one
fortnight at least before
they are brought on for
discussion.

E The same rules to be observed
as now obtain in Calcutta
with regard to introducing
members: if they now take
the oath of allegiance, they
should continue to do so; if
they are merely introduced,
introduction will be
sufficient.

F The Clerk of the Council

will read all Bills, and other papers, to be read in Council; will keep a record of the business transacted; will receive all petitions from the Secretary to the Govt or Govt to whom they must be addressed (para: 23), and present them with a report to the Council. Petitions in the vernacular, must be presented by the Clerk, with a translation -

The Clerk must prepare a record of the work to be laid before the Council at each sitting, and after that work is disposed of, members may move for leave to introduce a measure under Sect: 38 -

The President will declare the meeting adjourned, when the whole of the business laid before them, is disposed of; or when there is more business before them than they can dispose of on that day, he will adjourn the proceedings to another; but any member may propose that the consideration of any particular subject, then under discussion, be adjourned -

of letter from Secy
of State to Govt -
9 August 1867.

of the above letter

Para: 4 -

The Council will require a Clerk, who should be a lawyer; as the sittings are only sessional, he may receive not less than 500, nor more than 1000 Rupees per annum -

Translations might be made in the Translator's Office; some establishment of translators will be required; but if the work becomes too heavy, an increase to the translators establishment must be allowed -

For other work the Clerk should find his own salary; as the work is not continuous he may be allowed Rs: 2400 or Rs: 3600 per annum.

If the public are admitted to meetings of the Council no reports of proceedings will be required; but to meet the wishes expressed in the 18th and 19th paras: of Sir C. Woods letter it will be necessary that every Bill brought on for discussion in the Council, be prefaced by a report of the circumstances which call for the measure

9 August 1867

and the views of Govt. in introducing it, to prevent the possibility of the public mind being misled - *25 M*

If the Council meets with closed doors, the draft and preface to the bills, and a report of their proceedings, taken from the Clerk's record, but with no detail of speeches, should be published in the next gazette -

Sec 29 - *N*

The additional members for the present, should be the Advocate General, the legal Remembrancer, the Commissioner of Customs, one Merchant, & two Native gentlemen -

Letter para: 21. *O*

The sittings of the Councils for making laws should not be permanent; they should be summoned when projects of laws

are ready, and call for discussion;

or on the 15th Dec^r in Bombay,

and 15th July at Poona: Councils

summoned on the latter dates

should not sit longer than six

weeks: when summoned on

other occasions, they should be

dismissed as soon as the

work for which they are

summoned, is disposed of. *regular meeting kept*

The non official members *be dispensed with*

65
Summoned for making laws, will receive Rs: 1000 for each Session, but no travelling allowance, or further payment of expenses -

13/10/61

When for a day

allowance

200 per annum

It is a mistake to suppose that the
law is a mere collection of rules
to be applied mechanically to
the facts of a case. It is a system
of principles which guide the
judges in their decisions.
The law is a science which
has its own methods and its
own principles. It is a science
which is constantly developing
and which is constantly being
applied to new facts and new
situations.

The law is a science which has its own methods and its own principles. It is a science which is constantly developing and which is constantly being applied to new facts and new situations. The law is a science which has its own methods and its own principles. It is a science which is constantly developing and which is constantly being applied to new facts and new situations. The law is a science which has its own methods and its own principles. It is a science which is constantly developing and which is constantly being applied to new facts and new situations.

B - Common law.

The statute here attached
to will be analogous to
the "Statement of
Object and Reasons"
at present prefixed
to all drafts of bills
introduced into the
Legislative Council
of India.

D. The reason for this
distinction in point of
time is, that bills
introduced by the
Government will be well known to
all the members of the
Legislative Council before
they are introduced
to the Council.
This will not be the
case with private
bills, which will usually
be known only to the

member by whom they
may be passed &
consequently a longer
time will be required
for his introduction.

E. is an "introducing"
i.e. on first taking
the deal.

My impression is
that the members of
the present Council of
India - Legislature -
take no other but a
superior to the stand.
-ing order with
show -

H. The reason why the
power to adjourn meet-
ings will be vested in the
President - who will be
the Head of the Govt. or
in his absence some
member of it - is to
prevent to on the
part of any non official

68
member who if not
-paired might
from the adjournment
of a meeting by way
of embarrassing
the proceedings of the
Council.

J. is in the office of
the Translator to the
the Advocate general
how receives a paper
all round out of which
he finds his own inter-
-estment - So I
believe so some other
officers.

L. M. We are to hear
by and bye from Sir
George Clerk whether
it be his intention to
leave the meetings of
his Legislature Council
at Bombay open to
the public or not. If they

to open at Newbury. My
can hardly be closed
at Madras.

N. There are 14 men.
- has proposed for
Bourbon. One of
course will be diff.
- sent.

P It is now up to
me whether it was
intended that
non official members
should receive any
commencement for
the services.

See Rule 38 -
and Rule 29 -
and Rule 29 -

... will be put in test
in mind and on leaves
being from test for their
... on under P 26-
... Comm.

I have been thinking of you
 and how much I love you
 and how much I need you
 and how much I want you
 and how much I hope you
 will be happy and
 healthy and
 successful in
 all your
 undertakings.

hst

49

I have drawn up
the accompanying
rules from the
Colcutta Standing
Orders. There are
however some points
needing consideration.

I. The admission of persons to argue against a Bill which impairs their interests.

II. The intimation to be given to the public of proposed laws, so as to allow of their making their wishes known.

III. The admission
of strangers to the
Council.

We shall be obliged
to pay the salary
of the Clerk of the Council
and of his estate.
How to determine

When the Council is a
bit - as its sittings
certainly will not be
formal - by
whether it should have
fixed times of sitting
and was intended
at Hamburg - but
serious for. among
of 6 weeks each -
or should meet only
when convened to
continue sitting until
adjourned by the for. -
or whether it should
have stated sittings
of fixed duration, &
occasional sittings
for the purpose of any
particular business,
business.

We must settle
what are to be the
non official mem-
bers. Should their
names be con-
-sidered as the part of
business? If so it must

be for information only
as they have no power
to interfere in the
administration -
Should the non official
members be appointed
by the for. for
appointing the day
for the final meeting
of the Council?

His motion has
- been to get a good
clerk and for that
purpose to annex
a sufficient salary
to the office. He will
be the key stone of the
whole building.
Keep the record in order
about proceedings.
advise in drafting
letters. He should be
a lawyer. I do not
think that his salary
should be less than

Rs 1000 per month
but I am not clear
that he should
draw it from the
Bank Council
is not fitting as
when it is.

Notes of the Honble Mr. Spere
regarding the general Rules &
mode of procedure proposed to
be adopted at Bombay under
the Indian Councils Act 1861 -
& also Notes by His Excellency the
Governor, & the Chief Secretary
to Government.

Notes by the Hon'ble W. E. Greer

Notes by the Chief Secy. to Govt.

Notes by His Excellency the Governor

A - Para 1 of l. 2 letter - Sect. 35

The first meeting of the
-fil might be held on the 15
Dec or soon after.

B- Sect: 37 of Act.

There will be no necessity
for punishing Bells three times,
nor for committing them.

82 overnotes note

The sketch here alluded to will be analogous to the "Statement of objects & reasons" at present prefixed to all drafts of Acts introduced into the Legislative Council of India.

C — Bills introduced by Govt must be printed & circulated to the Council one week at least before they are brought on for discussion.

D— Bills introduced on leave
by other Members must be
printed, & circulated one
fortnight at least before they
are brought on for discussion.

2. The reason for this distinction in point of time is, that Bills introduced by Govt. will be well known to all the members of the Executive Govt. before they are circulated to the General Council - This will not be the case with private Bills - which will usually be known only to the member by whom they may be framed, & consequently a longer time will be required for their circulation.

E— The same rules to be observed as now obtain in Cabinet as regards introducing members - if they now take the oath of allegiance, they should continue to do so; if they are merely introduced, introduction will be sufficient -

E. On "introducing" in a first taking
their own
my imp
of the job
nature - taken
the Stand

members
dis - Seis
presence to
how

1 It would be better to get rid of the forms which would lead people to look upon the Council as in any way analogous to the House of Commons - therefore the printing & circulating the Bill might be taken as the first reading, & it would perhaps, with the Bill, be as well to circulate a sketch of the motives which have induced the Govt. Member to introduce it.

The Act/ Sect 38/ seems
to require a motion for
leave to introduce a
Bill but no other formalities

The members - or at least the new members here swear in at Calcutta.

Notes by the Honble Mr. Spence

Notes by the Chief Secy to Govt.

Notes by His Excellency the Governor

F - The Clerk of the Council will read all Bills & other papers, to be read in Council, will keep a record of the business transacted; will receive all petitions from the Secretary to Govt, or from whom they must be addressed (para 28) & present them with a report to the Council. Petitions in the Vernacular, must be presented by the Clerk, with a translation.

G - The Clerk must prepare a record of the work to be laid before the Council at each sitting, & after that work is disposed of, members may move for leave to introduce a measure under Sect 38.

H - The President will declare the meeting adjourned, when the whole of the business laid before them is disposed of, or when there is more business before them, they may dispose of on that day, he will adjourn the proceedings to another, but any member may propose that the consideration of any particular subject, then under discussion, be adjourned.

I - Para 6.
The Council will require a Clerk, who should be a lawyer; as the sittings are only occasional, he may receive not less than 500, nor more than 1,000 Rs per annum.

Letter from Secy of State to the Governor
General of August 1861.

Of the Indian Councils Act.
H. The reason why the power to adjourn meetings is to be vested in the President - who will be the Head of the Govt - or in his presence some member of it - is to prevent trouble on the part of any non-official member, who if cross-gained might move the adjournment of a meeting by way of embarrassing the proceedings of the Council.

The Legi. Council may, I think, receive Petitions addressed to the Govt. v. Sect from 23 of English states letter.

G. If the Council sits on consecutive days, it will be difficult to prepare these records. A rule for the Council of business ordinarily with power for the Govt to deviate from it when necessary, would I think be more convenient.

H. The Act prescribes this v. Sect 36.

I. This need not be in the Rules.

Notes by the Honble. Mr. Fane

Notes by the Chief Secy. to Govt.

Notes by the Excellency the Governor

- J - Translations might be made in the Translator's Office, as no Establishment of Translators will be required; but if the work becomes too heavy, and increase to the Translator's Establishment must be allowed.
- K - For other work the Clerk should find his own establishment, as the work is not permanent, he may be allowed Rs. 2,400 per An. 3,600 per annum.
- L - If the public are admitted to meetings of the Council, no reports of proceedings will be required; but to meet the wishes expressed in the 18th & 19th Paras of Sir C. Wood's letter, it will be necessary that every Bill brought on for discussion in the Council be prefaced by a report of the circumstances which call for the measure & the views of Govt. in introducing it, to prevent the possibility of the public mind being misled.
- M - If the Council meets with closed doors, the draft & preface to the Bills, & a report of their proceedings, taken from the Clerk's record but with no detail of speeches should be published in the next Govt. Gazette.

- J - That is, in the Offices of the Translators to Govt.
- K - The Advocate General now receives a fixed allowance out of which he finds his own establishment - So I believe do some other officers.

7th August, 1868.

I. M. We are to hear by G. B. from Sir J. B. whether it be his intention to have the meetings of his Legislative Council at Bombay open to the public or not. If they be open at Bombay, they can hardly be closed at Madras.

J. A. S. O. will arrange this. It need not be in the rules.

H. D.

L. The draft rules do not provide for this subject which must first be decided.

Notes by the Honble Mr. Frere

Notes by the Chief Secy to Govt.

Notes by His Excellency the Governor

N — Sect. 29.
The additional members (for the present) should be the Advocate General, the Legal Remembrancer, the Commissioner of Customs, one Merchant, & two Native Gentlemen.

O — Section 21.
The sittings of the Council for making laws should not be permanent; they should be summoned when projects of laws are ready, & call for discussion; or on the 15 Decr: in Bombay, & 15 July at Poona, & on the 15th of each month at the latter place should not sit longer than six weeks: when summoned on other occasions, they should be dismissed as soon as the work, for which they are summoned, is disposed of, & the ensuing regular meeting might be dispensed with.

P — The non-official members summoned for making laws, will receive Rs. 1000 for each session, but no travelling allowances, or further payment of expenses.

N. There are the members proposed for Bombay. Ours of course will be different.

P. It is doubtful to me whether it was intended that the non-official members should receive any remuneration for their services.

* Two with us.

Better perhaps a daily allowance of 20 Rs: per diem.

Memorandum

The Rules adopted under the name of "Standing Orders" by the Legislative Council of India, & referred to in para 16 of the Despatch of the Secy. of State for India dated 9th August 1861. N^o 14 - are classified under the following heads -

- 1 Interpretation.
- 2 Meetings.
- 3 Debates.
- 4 Petitions.
- 5 Projects of Laws.
- 6 Motions.
- 7 Bills.
- 8 Committee of the whole Council.
- 9 Select Committees.
- 10 Order of business.
- 11 Messages from & to the Governor General.
- 12 Books & Records.

Clerk

- 13 Clerk of the Council
- 14 Suspension of Standing Orders.
- 15 Special Standing Order.
- 16 Strangers.
- 17 Admission of certain privileged persons.
- 18 Publication of printed papers.

"A complete copy of the
 "Standing Orders" with
 blank sheets tacked on,
 for any Notes the mem-
 bers of Govt. may desire
 to make, is put up."

2-1-77✓

Memorandum showing the Heads
under which are classified
the Rules adopted under
the name of "Standing
Orders" by the Legislative
Council of India -
and

a complete copy of the
"Standing Orders".

2. The Speaker when present shall
sit as President of the Council
at all meetings or adjourned
meetings - He alone when pre-
sent shall have the power to
adjourn meetings of the Council
at such time and place as he may
name or until further notice -
3. In the absence of the Speaker the
senior civil ordinary member of
the Council shall preside - The Speaker
may authorize such member to
adjourn any meeting at which he
may preside.

Standing Orders for regulating
the despatch of business in
the Madras Legislative Council

560
Rules of the Bombay
Council for making laws

Keep in
Office of

J. D. Gifford Esq
Chief Executive

2 P. Copies -
Per 23rd Nov 1861. Ind.
Oct 1861

W. H. Jackson

1297

189 Jours
Nº 4

Bombay
16th November 1861

On Her Majesty's Service only



J. Pycroft Esq.
Chief Secretary
Madras

per
justified 23rd Nov 61
as above

56 by
C. Pycroft Esq.
Chief Secretary
Madras

9127

Standing orders for regulating the despatch of business in
The Madras Legislative Council -

/Sect 35 of the Act/

Meeting of Council to be held
on Monday at 11 o'clock
Meetings.

We are asked to
do this. Sect 35 of the Act

* act as President of the Council
at all meetings or adjourned
meetings. He alone shall
have the power to

3. In the absence of the Governor
the Senior Civil Ordinary Member of
Council shall preside. The Governor
may authorize such Member to
adjourn any meeting at which
he may preside.

MR

Mr

the

The first meeting in Council
shall appoint the time
for the first meeting
of the Council.

1 The Governor shall
appoint ^{the} ~~all~~ times and
places of meeting of the
Legislative Council.

2 The Governor when
present shall ~~preside~~ ad-
journ meetings of the
Legislative Council to
such time and place
as he may name. or
until further notice.

The Governor may
authorize the Senior
Civil Ordinary Member
of Council present
to adjourn any such
meeting, as aforesaid,
in his absence.

4 Notice of all meet-
ings and adjournments
~~appointed as afore-~~
~~said~~, shall be given

to

to each Member of the
Legislative Council,
by the Clerk of the
Council.

~~The Governor when
present shall be Pres-
ident of all meet-
ings or adjourned
meetings of the
Legislative Council.~~

~~In the absence of
the Governor the Senior
Civil Ordinary Member of
Council shall pre-
side.~~

5. Any business not
disposed of at the
time of any adjourn-
ment shall on the
next meeting of the
Legislative Council
take priority of all
other business what-
ever at such next
meeting, unless
otherwise ^{specifically ordered} by the
Governor.

Quorum
Sect 34 of the Act.

60
If, at the time ap-
pointed for the
holding of any meet-
ing or adjourned
meeting, as aforesaid,
or if at any time
after the commence-
ment of business
at such meeting
there be not pre-
sent the quorum
required by Section
34 of the Indian
Council Act, (that
is to say, the Govern-
or or some ordi-
nary Member of
Council, and 4 or
more Members of
the Legislative Council),
then the Members
present shall, without
proceeding to business
of any kind, ad-
journ until again
summoned by the
Governor. In such
case an entry shall
be made in the
journal of the
Council.

Council by the Clerk
of the Council of the
hour at which the
adjournment ^{may have} taken
place and of their
names of the Mem-
bers present.

7. Every question before
the Council shall be
decided by a majori-
ty of votes.

8. In any case of
difference of opinion
at any meeting or
adjourned meeting of
the Legislative Council,
where there shall be
an equality of voices
the President shall
have two votes or the
casting vote.

Discussions.

61
9. The President shall
regulate the course
of business at each
meeting of the Legis-
lative Council, shall
preserve order and
regularity in the
proceedings of the
Council, and shall
decide all disputed
points of order with-
out debate.

10. Any Member may
notice a violation of
order by drawing
the attention of the
President to it. When
a Member thus ad-
dressing the President,
any other member
who may be then
speaking, shall cease
until the point of
order is settled.

11. The decision of
the President on a
point of order shall
be

be heard in silence and shall be final.

12. If two or more Members speak at the same time, the President shall decide which Member is entitled to pre-eminence, and such decision shall not be open to question.

13. No Member shall be allowed to speak except upon request made before the Council.

Rule 14

Petitions.

It here seems to be decided that the Petition must be laid before the President & can only be received by the Legislature from the Gov. or sent to the President.

They should be presented to the President & the Clerk of the Council.

14. Petitions to the Legislative Council must relate to some Bill or other business actually under the consideration of, or cognizable by, the said Council. Every such Petition shall be superscribed "To the Governor in Council and shall be placed and signed by the Petitioner or Petitioners. It shall be in respectful and temperate language and shall conclude with a distinct prayer.

15. All petitions as aforesaid shall be transmitted to the Clerk of the Council.

16. The Clerk shall make an abstract of every petition so received.

17. If, in the judgment of the Clerk, the petition be framed in conformity with Rule No. 14, he shall bring the petition under the consideration of the Council by reading the Abstract thereof, and the prayer or the substance of the prayer of the petition; whereupon such petition shall be deemed to have been received by the Council.

18. If in the judgment of the Clerk the petition be not framed in conformity with Rule No. 14, or if he have reason to doubt the authenticity of any signature thereto, he shall certify the same on the back of the petition, and shall report

report the fact to the Council; in which case the Petition shall be rejected by the Council, and the reasons of such rejection shall be communicated to, and the Petition returned to, the Petitioner or Petitioners.

19. Any Member may make a motion upon any Petition received, and not rejected as aforesaid. If no motion be made upon such a petition, a note of the fact shall be made by the Clerk on the Petition, and it shall be deposited amongst the records of the Council.

The next consideration.

20. If a Bill be pending peculiarly affecting private interests, and any person whose interests are so affected

affected apply by
petition to be heard
by himself or his coun-
sel upon the subject
of the Bill, an order
may be made upon
the motion of a Mem-
ber, allowing the pe-
titioner to be heard
at a stated time, pro-
vided the Petition be
received by the Clerk
of the Council before
the matter to which
the Petition relates has
been finally disposed
of by the Council.

21. In no other case
or manner shall
any stranger be heard
by himself or his coun-
sel. If the Petitioner
or his Counsel do not
appear at such stated
time, such case shall
lapse.

22. Any Member may
move that the hearing
of

62
of any Petitioner or
of his Counsel shall
cease if such Petitioner
or his Counsel be
unduly prolix or irre-
levant

Bills

Bills.

/These returns might
also be given to the
Clerk for circulation./

+ President to decide
by the majority of votes.

/These are the first Bills/

* These will be Government Bills
and as such will have been by
all members of Government before
being put into circulation, a shorter
time will therefore be needed for
their consideration than for that of
the Bills referred to in the next
article, which are private bills.
The same rule will be applied to
Bills introduced by other members.

/These are private
Bills/

23. Any member ^{wishing} intending
to introduce a Bill shall give
^{notice & give for leave to}
notice of such intention at a
meeting of the Council, and
shall deliver to the Clerk of the
Council the Bill which he
^{wishes}
wishes to introduce, with a brief
abstract of each section or clause
in the margin thereof, and also
a Statement ~~separately~~ ^{separately}
of the object and reasons of the
Bill. The motion for leave
shall be put to the vote by the +
24. Bills introduced by the
Governor or in his absence
by the Senior ordinary member
of Council, on his behalf, shall
be printed and circulated to the
Council by the Clerk of the
Council at least one week
before they are brought forward
for discussion by the Council.

25. Bills introduced by other
members shall be printed
and circulated as aforesaid
at

at least one fortnight before
they are brought forward
for discussion by the
Council. —

26. The Clerk of the Council
shall report the fact of such
circulation at the first meeting
of Council thereafter, and on the
~~motion of the Council or in~~
~~his absence of any other member~~
a day shall ^{there} be fixed by
the Council for the consideration
of such Bill. —

27. On the day so named the
Clerk of the Council by the direc-
tion of the President shall
read the Title of the Bill, and
the President shall there pro-
pose the Question: "That this
Bill be received; whereupon
the general merits and princi-
ples of the Bill and no more
may be discussed. —

If

~~The discussion at
this stage does not
go beyond the question
of having such a
law as that proposed.~~

~~of the Council~~
66

28. If the motion of the
President be carried, the Clerk
of the Council shall, by direction
of the President, proceed to read
the Title, Preamble & Substantive
Section and Clause
Seriatim, and each ^{Clause} of ~~them~~
in regular succession as they
stand in the Bill shall be
considered by the Council.

~~The discussion is
here limited to the
details of the Bill.~~

29. As each Section and
Clause is read, the President
shall propose the question:
"That this Section or Clause,
as the case may be, stand
part of the Bill." —

30. It shall then be open
to any Member to propose an
^{or the omission} amendment of the Section
or Clause, and if such
motion
amendment be seconded
by any other Member it shall
be put to the vote by the Presi-
dent.

31. If the Amendment be
carried

carried by a majority of votes the
Section or Clause shall be passed
as amended. ~~or rejected~~ omitted

32. If the ^{motion be rejected,} Amendment be lost
or if no ^{motion be made,} amendment be suggested,
the Section or Clause shall be
passed as originally proposed.

33. The same course shall be
followed with the Title & Preamble,
and the question shall then be put that this
Bill do pass.

34. No amendment of an ear-
lier part of a Bill shall be
proposed after the Council has
resolved upon a later part of
the Bill, unless an amendment
made in a later part of the Bill
shall have been carried, which
renders necessary an alteration
in the language of an earlier
part of the Bill.

35. All Bills received by the
Council under ^{with the Statement of} ~~only~~ 26
shall be published forthwith
for general information,
in the Official Gazette.

No Bill shall become
Law until at least one
month after it has been
published

published in the Official Gazette.

36. Any Member may record
his dissent from any Bill
or part of a Bill which has
been passed, with the reasons
for the same, provided he
give notice of his intention
of so doing, at the meeting
at which the Bill was passed,
and send his ^{dissent} recorded to the
Clerk within one week after
such meeting.

37. Any Member may in
like manner record his
assent to the Bill or
or part of a Bill when any
other Member has recorded
a dissent therefrom, and the
reasons of such assent sub-
ject to the provisions in ^{the preceding} Rule

38. Each Bill as finally sett-
led by the Council shall
be

This is the first inter-
mission to the Public

regulation to which he shall have declared his assent to the Governor General; and no such Law or Regulation shall have validity until the Governor General shall have assented thereto, and such assent shall have been signified by him to, and published by, the Governor in the official Gazette.

144. The fact of the assent or dissent of the Governor General with the reasons for the latter shall be communicated to the Council by the Governor personally or by letter, and shall be recorded in the Journal of the Council.

The

~~These powers are
vested by the
Law, & that
no discussion
can be allowed re
pecting them.~~ Her Majesty

~~This is to prevent Bills
being revised by any
determined Minister~~

145. The disallowance of any Law or Regulation, by Her Majesty shall in like manner be communicated, to, and recorded by, the Council.

146. It shall not be competent to any Member of the Council to make any motion upon or otherwise being under the consideration of the Council, the exercise by the Governor or the Governor General of their prerogative of disallowing a Bill by withholding their assent from it.

147. No Bill from which the Governor or Governor General has withheld his assent or which has been again disallowed by Her Majesty can be brought before the Council in any shape whatever without the written consent of the Governor, which consent shall be read to the Council by the Clerk when notice

notice of the introduction
of such Bill is made, and
shall be recorded in the Journal
of the Council.

48. No Member of the Council
shall move the introduction of
a Bill in any way affecting
the Public Revenues of the
Presidency, or by which any
charge shall be imposed
on such Revenues, or for
any of the purposes speci-
fied in Sec. 43* of the
Indian Council Act, without
first obtaining the sanction
of the Governor in writing,
such sanction shall be
first read at the Meeting
of the Council when
such motion is made,
and be recorded in
the Journal of the
Council.

Order of Business.

49. After the President
shall have taken the Chair,
petitions and other communi-
cations received by the Clerk
shall be reported, and notices
of Bills given by Members
intending to introduce them.
The Council shall then pro-
ceed to the disposal of the
business left unfinished
at the last meeting, unless
otherwise specially deter-
mined by the President.

* It will be for the Governor, to obtain
the necessary authority from the
Governor General, as provided
by the Act of the Indian Council.

This is for the Govt. inf.
by the sanction of
the Govt. first. See the
cases in Sec 43, before
he gives his consent.

Clerk of the Council

50. A Clerk shall be appointed to the Council by the Executive Government whose duties shall be—

1. To take charge of all the Records of the Council.
2. To keep the Books of the Council.—
3. To keep a Minute Book, in which he shall enter at the time all the Proceedings of the Council and of the Committees of the Council in the order in which they occur, and the names of the members present thereat.—
4. To Superintend the printing of all the papers ordered to be printed.—
5. To assist the Council and all Committees in such manner as they may order, and to assist any

any member in framing
a Bill which he proposes
to introduce. —

6. To write all letters ordered
by the Council ~~and by any~~
~~Committee thereof~~ to be
written. —

51. It shall be the
duty of the Clerk of the Council,
after the passing of a Bill,
to review and complete the
marginal notes thereof. —

Books and Records.

52. A Journal shall
be kept, in which all
the proceedings of the
Legislative Council shall
be fairly entered. The
Journal shall be sub-
mitted after each
Meeting to the President
thereof, for his confir-
mation and signature,
and when so signed,
shall be the Record of
the

Journals of Council.

Documents how recorded.

Register of Petitions.

72
the Proceedings of the
Legislative Council. The
proceedings of each meet-
ing of Council shall
be published in the
most official Gazette
after such Meeting
or as soon afterwards
as can conveniently
be arranged. —

53. All documents
ordered to be printed or
reproduced shall be
referred to in the Journal
and, after being identi-
fied by the signature of
the Clerk on the origi-
nal documents, shall
be kept with the Re-
cord. —

54. A Register shall
be kept of all Petitions
received by the Council, in
which shall be entered
the date of receipt by
the Clerk, a general
designation of the
Petitioner.

Books & Records.

These are the
Calcutta Rules.

- Journals of Council. } Rule CXVI.
- Documents kept } CXVIII.
- Register of Petitions - " - CXIX.
- Register of Letters - " - CXX.

Register of Letters.

55. A Register and
Index of all letters
received & despatched
shall be kept.

By Order.

Chiefly. to Govt.

Pro 12 Dec November 1861
Act 11/11/61

Draft
Standing Order
for regulating the
despatch of business
in
the Madras Legislative Council.

Diff. 23d
for the "Cavaria"

Int. Sept. 75

No. 1444

To The Secretary to the Govt. of India,
Home Department.

Sir, With reference to
your letter of the 14th
Sept. last, Home Department, 1861,
I am directed by His
Excellency the Governor
in Council to forward
for submission to the
Govt. of India, the ac-
companying draft
of rules which have
been drawn up as
"Standing Orders" for re-
gulating the conduct
of business in the
Madras Legislative
Council.

2. These rules have
been prepared on the
basis of the standing
orders of the late Le-
gislative Council
of India, but have
been

From Secy of State to
Govt of India 2 Aug
1861. para 16

been made shorter and more simple. In the opinion of this Govt., they provide sufficiently for all ordinary cases, and for the general powers of procedure to be followed. 20. Their working can however only be tested by experience - but they can be added to or modified hereafter in such a manner as may in practice prove to be required.

3. The Govt. do not propose that the Council shall sit permanently, or throughout the year. This would be inconvenient and quite unnecessary in reference to the amount of business likely to come before it. It rather seems to them requisite to have any fixed times of session. It would

be

be preferable that the President should convene the Council whenever there may be any measure or set of measures on which legislation is required - that the Council should sit until those measures and any others which may be brought before it have been disposed of, and should then be adjourned until their action is again called for.

4. The Govt. would propose that the first meeting of the Council should be fixed for Wednesday the 15th of January next.

5. As respects establishment, the Council must have a clerk who will be their chief Ministerial officer, will record

From Secy of State
Govt of India 9 Aug
1861 para 19

record and report all
their proceedings, and
assist the Members,
both in and out of
session, in the prepa-
ration of the bills to
be brought before it.
It is of great importance
to the well being of the
institution that this
office should be ably
filled, and consequent-
ly that such remunera-
tion should be at-
tached to it, as will
secure the services of
a man of character
and ability. The
Govt. consider that
the salary should not
be less than Rs. 1000
per annum. The
establishment need
not be large. The Govt.
would give the Clerk
an office allowance
of Rs. 300 per annum
and leave it to him
to find his own servants.

This

This sum should cover
all expenses, that
of printing accepted,
which would be ex-
pended at the Govt.
Press.

6. The Clerk should
be empowered to frank
correspondence on the
service of the Council.

7. In the concluding
paragraph of your
letter it is noted that
it is the intention of
the Secretary of State
that the Minutes of
the Madras Legisla-
tive Council should
be open to the public.
This Govt. would with
all respect submit
that such a course
is not required by the
Indian Council Act
and in union as
they

they believe with the
Govt. of Bombay they
would strongly depre-
-cate it. It has been
generally felt, and
admitted that the
admission of the
public to the debates
of the Legislative Coun-
-cil of India was a
mistake, and it
would be much to
be regretted if in des-
-pite of past expe-
-rience this error should
be repeated, as res-
-pects the Councils
now to be establish-
-ed. It is to be feared
that the result would
be, what it has al-
-ready been, that in
place of business
like discussion there
would be oratorical
displays and ad-
-dresses ad captandum
and that some of

From Secy of State
9 Aug 1858

78
the Members would
speak not to the Chair
but to the public. It
does not seem to be
intended that the
sittings of the New
Council of India should
be public, and if
this be not necessary
as regards assemblies
for the ^{consideration of} ~~debates on~~
~~some~~ measures of
large and Imperial
interest, it cannot
be submitted but
is requisite in the case
of bodies convened
for the dispatch of
merely local matters.
The Govt. are clearly
of opinion that if
bills be published as
provided by Rule 35 -
immediately on their
introduction and if
reports of the proceed-
-ings of the Council
be

be duly and punctually
published as provided
by Rule 52 - all
will be done that is
in any way needed
for the despatch of
business, and for ge-
neral information -
and that it would be
very inexpedient to
go further -

8. I am desirous to
ask whether it be
proposed that the
"additional" Members of the Council -
besides those belonging
to the Executive Govt.
shall, as has been the
case with the Mem-
bers of the Local Govt.
in the late Legislative
Council of India, be
styled "Honorable" &
whether any prece-
dence is to be allowed
them in Society -

Fort St. George
23rd Nov 1861

Fort St. George,
23rd Nov 1861.

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9. I have also to
inquire whether the ad-
ditional Members on
joining the Council are to
take an oath, & if so,
to request that the form
of oath may be fur-
nished.

Nov. 23rd Nov. 1861.

Ind. L. to Eng. 25th
August 2nd 10. 1862.

Received 1861 Dec 1st

N^o 1444

The Secretary to the Govt of
India, Home Department.

4-2-86-1

26/2/87

9-1-97.

15-2-97

3/8/98

Recd & Despatched 23 Nov. 1861.

6 Encl.

Answered 9th Dec. 1861

No 2404

Serial 2122.

28.6-4

22/3/17

4.3.24 II ✓

Submitted with observation
to Draft Rules for regulating the
conduct of business in the
Imperial Legislative Council.