

ANNO VICESIMO QUARTO & VICESIMO QUINTO

VICTORIÆ REGINÆ.

****

CAP. 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 Temporal, and

Commons,

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Acts and Parts of Acts repealed.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"of the Senior Member of the Council of the Governor General "of *India* in the Absence of the President," are hereby repealed, and all other Enactments whatsoever now in force with relation to the Council of the Governor General of *India*, or to the Councils of the Governors of the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 Saint 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 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

Member of Council shall have Rank and Precedence at the Council Board next after the Governor General.

Present Members of Council to continue.

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 a 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.

Power of making provisional Appointments of Members of Council by Secretary of State.

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.

Provision on Absence of Governor General in other Parts of India.

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 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

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

Power to Council to assemble at any Place in India.

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

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.

Additional Members to be summoned for the Purpose of making Laws and Regulations.

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 appointed for Two Years.

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.

Resignation of additional Members.

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.

Power to fill up Vacancy in Number 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 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

14. No Law or Regulation made by the Governor General in Council, in accordance with the Provisions of this Act, shall be deemed

of non-official Members being incomplete.

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 Regulation.

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

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

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

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.

Business to be transacted 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,—

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.

Assent of Governor General to Laws made at such Meetings.

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 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

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 or 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 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

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.

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

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 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 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 Infirmity 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

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.

Power to Governors of Fort Saint George and Bombay to make Rules for the Conduct of Business.

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.

Power to summon additional Members to the Council of Fort Saint George and Bombay for the Purpose of making Laws and Regulations.

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

Additional Members to be appointed for Two Years.

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.

Resignation of additional Members.

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.

Power to fill up Vacancy in the Number of additional Members.

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

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.

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

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.

Senior Civil ordinary Member of Council to preside in Absence of Governor of Presidency.

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 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.

Governor General to fix First Meeting of Councils of Presidencies for making Laws and Regulations.

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.

Governors of Presidencies to appoint subsequent Meetings, and adjourn them.

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.

Governors to make Rules and Orders for Conduct of Business at such Meetings.

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

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.

Business to be transacted at such Meetings.

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 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 Regulations of Presidencies.

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 disallow 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 Governor of Presidency in Council to make Laws and Regulations.

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.

Governor of Presidency, except with Sanction of Governor General, not to make or take into consideration certain Laws or Regulations.

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,

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 may establish Councils for making Laws and Regulations in the Presidency of Fort William in Bengal, and in other Parts of India.

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 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.

47. It

Power to alter Boundaries of Provinces.

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 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.

Former Provisions of this Act extended to future Councils.

48. It shall be lawful for every such Lieutenant Governor in Council thus constituted to make Laws for the Peace and good Government 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.

Previous Assent of the Crown necessary to give Validity to any such Proclamation.

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, Provinces, or Territories herein-before named, or any other Provinces, 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.

Provision for the Supply of the Office of Governor General in certain Circumstances.

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

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 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.

Meaning of Term "in Council."

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.

Time when Act shall come into operation.

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.

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