

THE
GOVERNMENT OF INDIA

SUPPLEMENTARY CHAPTER

(INDIAN COUNCILS ACT, 1909)

BY

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CONTENTS

	PAGE
SUPPLEMENTARY CHAPTER ON THE INDIAN COUNCILS ACT, 1909	409
APPENDIX I: TEXT OF THE ACT	427
APPENDIX II: CONSTITUTION OF THE LEGISLATIVE COUNCILS	432
APPENDIX III: RULES OF BUSINESS OF NOVEMBER 15, 1909	436
APPENDIX IV: ADDENDA AND CORRIGENDA	450

GOVERNMENT OF INDIA

SUPPLEMENTARY CHAPTER

INDIAN COUNCILS ACT, 1909

THE Indian Councils Act, 1909 (9 Edw. VII, c. 4), the passage of which will always be associated with the name of Lord Morley of Blackburn, made important changes in the constitution and functions of the Indian legislative councils, and gave power to make changes in the executive governments of the Indian provinces.

The introduction of the measure was preceded by discussions and correspondence, which began in Lord Morley's first year of office as Secretary of State for India, and extended over a period of nearly three years.

In 1906 the Viceroy, Lord Minto, drew up a minute in which he reviewed the political situation in India, and pointed out how the growth of education, encouraged by British rule, had led to the rise of important classes claiming equality of citizenship, and aspiring to take a larger part in shaping the policy of the government.* He then appointed a committee of his council to consider the group of questions arising out of these novel conditions. From the discussion thus commenced was developed a tentative project of reform, which was outlined in a Home Department letter to local governments dated August 24, 1907. This letter, after having received approval by the Secretary of State in Council, was laid before Parliament, and was published in England and India¹. The local governments to whom it was addressed were instructed to consult important bodies and individuals representative of various classes of the community before

¹ East India (Advisory and Legislative Councils, &c.), 1907, Cd. 3710.

submitting their own conclusions to the Government of India. The replies were received in due course, and are to be found in the 'colossal blue books' appended to a letter from the Government of India, dated October 1, 1908, in which the situation is again reviewed, and revised proposals are formulated. The views of the Secretary of State on these proposals are expressed in a dispatch dated November 27, 1908¹, and were expounded by Lord Morley in a speech delivered in the House of Lords on December 17, 1908.

Reference was made to the subject in the King's speech which ushered in the session of 1909, and in the debates on the address in reply. The Bill embodying the proposals of the Government, so far as they required Parliamentary authority, was presented by Lord Morley on February 17, 1909, and was read a second time, after a debate of two days, on February 24. It passed through committee on March 4, and was considered on report, read a third time, and passed by the House of Lords on March 9. In the House of Commons the Bill was read a second time on April 1, was considered in committee on April 19, and on April 26 was considered on report, read a third time, and passed with amendments. The Commons' amendments were considered on May 4 and agreed to with an important modification which was accepted by the Commons. The Act thus passed received the Royal Assent on May 25, 1909.

The only important change in the Bill during its passage through Parliament related to the creation of executive councils for provinces under lieutenant-governors. Clause 3 of the Bill as introduced enabled the Governor-General in Council, with the approval of the Secretary of State in Council, by proclamation, to create an executive council for any such province. This clause was struck out by the House

¹ The letter of October 1, 1908, and the dispatch of November 27, 1908, are to be found in vol. i of the Blue Book entitled East India (Advisory and Legislative Councils, &c.), 1908, Cd. 4425. The replies from the Local Governments are embodied in separate volumes.

of Lords, restored by the House of Commons, and eventually agreed to in the modified form in which it now stands as s. 3 of the Act.

In the course of the debates on the Bill much was said about Lord Morley's announcement of his intention to appoint a native of India to a post on the Governor-General's council. This subject was not strictly relevant to the Bill, because, as was explained, the power of making these appointments is free from any restriction as to race, creed, or place of birth. Effect was given to Lord Morley's intention by the appointment of Mr. Sinha, in March, 1909, to the post of law member of the Governor-General's council. This appointment carried a step further the policy adopted in 1907, when two natives of India were placed on the Secretary of State's council. In pursuance of the same policy a native of India has been placed on the executive councils for Madras and Bombay respectively, and is to be placed on the new executive council for Bengal.

Under s. 1 of the Act the 'additional' members of the Indian legislative councils, i. e. those other than the members of the executive councils, must, instead of being all nominated, include elected members.

By s. 2 power is given to raise the number of members of the executive councils for Madras and Bombay to a maximum of four, of whom two at least must be persons who at the time of their appointment have been in the service of the Crown in India for at least twelve years.

Under s. 3 there is power to constitute an executive council for any province having a lieutenant-governor. But, except in the case of Bengal, the draft of any proclamation proposed to be made in pursuance of this power must be laid before each House of Parliament, and the proclamation may be disallowed in pursuance of an address from either House. The number of the executive council must not exceed four.¹

¹ An executive council of three members is being constituted for Bengal.

S. 4 requires the appointment of vice-presidents of the several councils.

By s. 5 the Governor-General in Council, the Governors in Council of Madras and Bombay, and the lieutenant-governors or lieutenant-governors in council of other provinces are required to make rules authorizing at any meeting of their respective legislative councils the discussion of the annual financial statement, and of any matter of general interest, and the asking of questions.

Under ss. 1 and 6 there is extensive power to make regulations for carrying the Act into effect.

And under s. 7 certain proclamations, regulations, and rules are required to be laid before Parliament when made.

It will be seen that the provisions of the Act of 1909 are, as is usual in Acts relating to India, couched in wide and general terms, leaving all details, and some important matters of principle, to be determined by regulations and rules made by the authorities in India.

The regulations and rules required to give effect in the first instance to the Act of 1909 are to be found in a Blue Book which was laid before Parliament in pursuance of s. 7 of the Act¹.

The Blue Book begins with a notification fixing November 15, 1909, as the date at which the provisions of the Act were to come into operation.

Then follow, under the headings Nos. II to IX, regulations and rules for the nomination and election of the members of the several legislative councils of India, other than those who are such members by virtue of being members of the executive councils. The regulations are, in the case of each council, of a general character, and relate to such matters as number, qualifications, term of office, and mode of filling vacancies. The rules, which are scheduled to the regulations, are more detailed, and prescribe the mode in which the several elections are to be made.

¹ East India (Executive and Legislative Councils) Regulations, &c., for giving effect to the Indian Councils Act, 1909 (1910, Cd. 4987).

In No. X are to be found important rules regulating the business of the Governor-General's legislative council, and relating to (1) the discussion of the annual financial statement, (2) the discussion of matters of general public interest, and (3) the asking of questions.

No. XI is a Home Department resolution of the Government of India, dated November 15, 1909, which describes in general terms the nature of the changes made by the Act of 1909, and the regulations under it, and has appended to it a table showing the constitutions of the several legislative councils.

The changes made in the legislative councils by the Act of 1909, and the regulations and rules under it, may be considered under the heads of (A) Constitution and (B) Functions.

A. CONSTITUTION

The constitution of the councils is changed in three respects :

1. Numbers ;
2. Proportion of official and non-official members ;
3. Methods of appointment or election.

1. *Numbers.* The Indian Councils Act, 1892, increased the size of the legislative councils constituted under the Act of 1861. The maximum of additional members was raised from 12 to 16 in the Governor-General's council, and from 8 to 20 in the Madras and Bombay councils. The limit of number of the Bengal council was raised to 20, that of the United (then North-Western) Provinces to 15. The Punjab and Burma obtained legislative councils in 1897, and Eastern Bengal and Assam in 1905, the maximum strength being fixed at 15 in the first two, and 20 in the third.

These numbers are now doubled or more than doubled. The additional members of the Governor-General's council are to be not more than 60, the additional members of the councils of Madras and Bombay, and the members of the councils of Bengal, the United Provinces, and Eastern Bengal and Assam are to be not more than 50. In Punjab and Burma the

maximum is raised to 30. In computing the number of members of the Governor-General's council, 8 must be added to the 'additional' members, namely, the 6 ordinary members of the executive council, the commander-in-chief, and the lieutenant-governor of the province in which the council sits. Similarly there are now on the Madras and Bombay legislative councils 4 ex-officio members, namely, in each case, the 3 members of the executive council and the advocate-general; and on the Bengal legislative council there will be the 3 ordinary members of the new executive council.

Thus the actual strength of the legislative councils under the new law is as follows:¹

<i>Legislative Council of—</i>	<i>Number under Regulations of 1909.</i>	<i>Maximum number under Act of 1909.</i>
India	68	68
Madras	48	54
Bombay	48	54
Bengal	53	53
United Provinces	48	50
Eastern Bengal and Assam	42	50
Punjab	26	30
Burma	17	30

2. Proportion of official and non-official members.

Under the Act of 1861 at least one-half of the additional members of the legislative councils of the Governor-General's council and of the councils of Madras and Bombay, and at least one-third of the members of the other legislative councils, must be non-official. An official majority was not required by statute, but in practice was always maintained before the Act of 1909, except in Bombay, where the official members had been for some years in a minority.

Under the regulations of 1909 there must be an official majority in the Governor-General's legislative council, and a non-official majority in all the other legislative councils.

¹ Excluding in each case the head of the Government, i.e. the Governor-General, Governor, or Lieutenant-Governor.

The existing proportions, as fixed by the regulations, are as follows :

<i>Legislative Council of—</i>	<i>Officials.</i>	<i>Non-Officials.</i>	<i>Majority</i>
India	36	32	<i>Official.</i> 4 <i>Non-official.</i> 6
Madras	20	26	10
Bombay	18	28	11
Bengal	20	31	6
United Provinces	20	26	6
Eastern Bengal and Assam	17	23	6
Punjab	10	14	4
Burma	6	9	3

These figures exclude in each case the head of the government, i. e. the Governor-General, Governor, or Lieutenant-Governor. They also leave out of account the two 'expert' members who may be appointed from time to time as occasion requires, and who may be either official or non-official.¹ Any alteration in the number of the executive council would affect the proportions.

It will be observed that these proportions are fixed by the regulations, not by statute. They were so fixed in pursuance of the policy announced by the Secretary of State, who was of opinion that while it was necessary to maintain an official majority in the Governor-General's council, this was not necessary or desirable in the case of the other councils. Refusal by the provincial councils to pass necessary legislation may be met by exercise of the power vested in the Governor-General's Council to legislate for any part of India. Undesirable legislation may be checked by the power of veto reserved to the head of the government.

3. *Methods of appointment or election.*

Under the Act of 1861 the 'additional' members of the legislative councils were nominated by the Governor-General, governor, or lieutenant-governor, the only restriction on his

¹ There is no provision for the appointment of experts, as such, on the Governor-General's legislative council, but experts could be placed on the Council, when occasion requires, under his powers of nominating members.

discretion being the requirement to maintain a due proportion of unofficial members.

By the Act of 1892 the nominations were required to be in accordance with regulations made by the Governor-General in council and approved by the Secretary of State. Under the regulations so made a certain number of these nominations had to be made on the recommendation of specified persons, bodies, and associations, the intention being to give a representative character to the persons so nominated. There was no obligation to accept the recommendation, but in practice it was never refused. In the case of other nominations regard was to be had to the due and fair representation of the different classes of the community¹. Under the Act of 1909 the additional members must include not only nominated members, but also members elected in accordance with regulations made under the Act, and the regulations of November, 1909, give effect to this requirement.

There is a separate set of regulations for every legislative council, and scheduled to each set are detailed rules as to the method of election.

The provisions of the regulations themselves are of a more general character, and those framed for the Governor-General's council may be treated as typical.

They begin by fixing the number of 'additional' members, classifying them as elected or nominated, describing in general terms the classes or bodies by whom the elected members are to be elected, and defining, by reference to the schedules, the constitution of the electorates and the method of election. The constitutions thus provided, both for the Governor-General's council and for the other legislative councils, will be found, in a tabular form, in an appendix to this chapter².

The substitution of a system of election for a system of nomination obviously involves the imposition of certain disqualifications for election. These disqualifications are laid

¹ See *Government of India*, pp. 115, 116, 119.

² Appendix II.

down for the Governor-General's council by Regulation IV, which provides that—

No person shall be eligible for election as a member of the council if such person

- (a) is not a British subject ; or
- (b) is a female ; or
- (c) has been adjudged by a competent civil court to be of unsound mind ; or
- (d) is under twenty-five years of age ; or
- (e) is an uncertificated bankrupt or an undischarged insolvent ; or
- (f) has been dismissed from the Government service ; or
- (g) has been sentenced by a criminal court to imprisonment for an offence punishable with imprisonment for a term exceeding six months, or to transportation, or has been ordered to find security for good behaviour under the Code of Criminal Procedure, such sentence or order not having subsequently been reversed, or remitted, or the offender pardoned ; or
- (h) has been debarred from practising as a legal practitioner by order of any competent authority ; or
- (i) has been declared by the Governor-General in Council to be of such reputation and antecedents that his election would, in the opinion of the Governor-General in Council, be contrary to the public interest.

But in cases (f) (g) (h) and (i) the disqualification may be removed by an order of the Governor-General in Council in that behalf.

Identical provisions are embodied in all the other sets of regulations, except that the powers exercisable by the Governor-General in Council may be exercised by the Governor in Council or Lieutenant-Governor.

The positive qualifications both of electors and of candidates are fixed by the scheduled rules, but by the regulations females, minors, and persons adjudged to be of unsound mind are disqualified from voting.

Every person elected or nominated must, before taking his seat, make an oath or affirmation of his allegiance to the Crown.

The ordinary term of office of an 'additional' member, whether nominated or elected, is three years. But official members and members nominated as being persons who have expert knowledge of subjects connected with proposed or pending legislation are to hold office for three years or such shorter period as the Governor-General may at the time of nomination determine. A member elected or nominated to fill a casual vacancy sits only for the unexpired portion of his predecessor's term. The effect of these provisions, which are repeated in substance in all the sets of regulations, is that for elected members of the legislative councils there must be a general election every three years.

The regulations provide for declaring seats vacant, for choice or determination of seat in case of a candidate elected by more than one electorate, and for the case of failure to elect.

An election is declared to be invalid if any corrupt practice is committed in connexion therewith by the candidate elected, and provision is made for the determination of disputes as to the validity of elections.

The tables in the appendix to this chapter, and, still more, the elaborate rules scheduled to the regulations under the Act of 1909, show the number and diversity of the electorates to the legislative councils, and the variety of methods adopted for constituting the electorates, and for regulating their procedure in elections. The object aimed at was to obtain, so far as possible, a fair representation of the different classes and interests in the country, and the regulations and rules were framed for this purpose in accordance with local advice, and with reference to the local conditions of each province. The consequent variety of the rules makes it impossible to generalize their provisions or to summarize their contents. All of them may be regarded as experimental, some of them are avowedly temporary and provisional. For instance, it has not yet been found practicable to constitute satisfactory

electorates (1) for the representatives of Indian commerce, except in the Bombay council, (2) for the representatives of the Punjab landholders and Muhammadans on the Governor-General's council, or (3) for the representative of the planting community on the Bengal council. Under the existing regulations each of these interests is represented by nominated members, but election is to be substituted for nomination as soon as a workable electorate can be formed.

The most difficult of the problems to be faced was the representation of Muhammadans, who claimed to be represented as a separate class or community. This problem has been attacked in various ways. One method adopted is a system of rotation. The representative of the Bombay landholders on the Governor-General's council was elected at the first, and is to be elected at the third and subsequent alternate elections, by the landholders of Sind, a great majority of whom are Muhammadans, while at other elections he is to be elected by the Sardars of Gujerat or the Sardars of the Deccan, a majority of whom are Hindus. In the Punjab the numbers of the Muhammadan and non-Muhammadan landholders are about equal, and the representative of this constituency is expected to be alternately a Muhammadan and a non-Muhammadan. When these two seats, the Bombay seat and the Punjab seat, are held by non-Muhammadans there are to be two members elected by special electorates consisting of Muhammadan landholders in the United Provinces and in Eastern Bengal and Assam respectively.

In some provinces there are special interests, such as the tea and jute industries in Eastern Bengal and Assam, and the planting communities in Madras and Bengal, for whom special provision has been made.

The representation of smaller classes and minor interests will have to be met by nomination, in accordance with the needs of the time and the importance of different claims.

Where the electorates are scattered, as in the case of the landholders and the Muhammadans, provision is made for the

preparation and publication of electoral rolls containing the names of all persons qualified to vote.

The qualifications prescribed for electors in the case of landholders and Muhammadans vary greatly from province to province. Landholders must usually possess a substantial property qualification. In some cases titles and honorary distinctions, fellowships of Universities, and pensions for public service are recognized as qualifications.

The qualifications for candidates are, as a rule, the same as those for electors, but in some cases, where such restrictions would be inappropriate, other qualifications are prescribed. Thus a person elected to the Governor-General's council by the unofficial members of a provincial council is required to have a place of residence within the province, and such practical connexion with the province as qualifies him to represent it. The election is either direct, or indirect through elected delegates. In some cases the electors or delegates vote at a single centre before a returning officer, in others they vote at different places before an attesting officer, who dispatches the voting paper to the returning officer.

In Bengal each delegate has a varying number of votes, the number depending in the case of district boards and municipalities on the income of these bodies, and in the case of the Muhammadan community on the strength and importance of the Muhammadan population of a district or group of districts. Elsewhere the same object has been attained by varying the number of delegates on like grounds, each delegate then having one vote.

The member of the Governor-General's council chosen to represent the Muhammadan community of Bombay is elected by the Muhammadan members of the Bombay council. The Government of India were assured that this method would secure better representation than election by delegates *ad hoc*.

The procedure for voting is generally similar to that prescribed by the English Ballot Act. But in some cases, such as the elections by the corporations of the presidency towns,

the chambers of commerce and the trade associations, the voting is regulated by the procedure usually adopted by these bodies for the transaction of their ordinary business.

B. FUNCTIONS

The functions of the legislative councils fall into three divisions, (a) legislative, (b) deliberative, and (c) interrogatory.

(a) *Legislative*

The Act of 1909, and the regulations under it, make no alteration in the legislative functions and powers of the provincial councils. These are still mainly regulated by the Act of 1861¹.

(b) *Deliberative*

Between 1861 and 1892 the powers of the legislative councils were confined strictly to legislation². The Act of 1892 introduced non-legislative functions by empowering the head of the government in every case to make rules authorizing the discussion of the annual financial statement, provided that no member might propose a motion or divide the council. Under this power one or two days were allotted annually in every council to the discussion of a budget already settled by the executive government.

The Act of 1909 repealed the provisions of the Act of 1892 on this point and required rules to be made authorizing at any meeting of the legislative councils the discussion of the annual financial statement and of any matter of general public interest.³

The rules made under this direction introduce two important changes—

(i) The discussion of the budget is to extend over several days, it takes place before the budget is finally settled, and members have the right to propose resolutions and to divide the council upon them ;

¹ See Digest, ss. 63-67, 76-78.

² See Digest, ss. 64, 77.

³ 9 Edw. VII, c. 4, s. 5.

(ii) At meetings of the legislative councils matters of general public importance may be discussed, and divisions may be taken on resolutions proposed by members.

In each case the resolutions are to take the form of recommendations to the Government, and the Government is not bound to act upon them.

The rules framed for the Governor-General's council are printed in the Blue Book of 1910¹, and are of such interest and importance as to justify their reproduction in an appendix to this chapter². It may be useful to summarize here some of their leading provisions.

Financial Statement or Budget. The rules distinguish between the financial statement and the budget. The first means the preliminary financial estimates of the Governor-General in Council for the financial year next following. The second means the financial statement as finally settled by the Governor-General in Council. On a day appointed in each year by the Governor-General, the financial statement, with an explanatory memorandum, is to be presented to the council by the finance member, and a printed copy is to be supplied to each member. No discussion takes place on this day.

The first stage of discussion takes place on a subsequent day after the finance member has made any explanations he thinks necessary. On this day any member may move any resolution entered in his name in the list of business relating to any alteration in taxation, new loan or additional grant to local governments proposed or mentioned in the financial statement or explanatory memorandum³, and a discussion takes place on any resolution so moved.

The second stage of discussion begins after these resolutions have been disposed of. The member of council in charge of a department explains the head or heads of the financial state-

¹ 1910, Cd. 4987.

² Appendix III. The rules for the other councils are not included in the Blue Book, but are framed on similar lines.

ment relating to his department, and resolutions may then be moved and discussed.

The range of discussion is subject to important restrictions. There is a schedule to the rules defining which heads of the financial statement are open to or are excluded from discussion. Among the excluded heads are military, political, and purely provincial affairs, under the heading 'revenue', stamps, customs, assessed taxes, and courts, and, under the heading 'expenditure', assignments and compensations, interest on debt, ecclesiastical expenditure, and state railways. Besides these the rules themselves exclude from discussion any of the following subjects :

- (a) Any subject removed from the discussion of the Governor-General's legislative council by s. 22 of the Indian Act, 1861¹.
- (b) Any matter affecting the relations of His Majesty's Government or of the Governor-General in Council with any Foreign State or any Native State in India ; or
- (c) any matter under adjudication by a court of law having jurisdiction in any part of His Majesty's dominions.

Any resolution moved must comply with the following conditions :

- (a) It must be in the form of a specific recommendation addressed to the Governor-General in Council ;
- (b) it must be clearly and precisely expressed and must raise a definite issue ;
- (c) it must not contain arguments, inferences, ironical expressions, or defamatory statements, nor refer to the conduct or character of persons except in their official or public capacity ;
- (d) it must not challenge the accuracy of the financial statement ;
- (e) it must be directly relevant to some entry in the financial statement.

¹ i. e. matters which the Governor-General in Council has not power to repeal or affect by any law. See Digest, s. 63.

Two clear days' notice of any resolution must be given. The president may disallow any resolution or part of a resolution without giving any reason other than that in his opinion it cannot be moved, or that it should be moved in a provincial council, and his decision cannot be challenged.

The budget as finally settled must be presented to the council on or before March 24 by the finance member, who then describes any changes made in the figures of the financial statement, and explains why any resolutions passed by the council have not been accepted. No discussion takes place on this day, but on a subsequent day there is to be a general discussion at which observations may be made, but resolutions may not be moved. Nor is the budget as a whole to be submitted to the vote of the council.

Many of the rules for regulating procedure in debate are of a kind with which members of the House of Commons are familiar, but some of them present distinctive features. No speech may exceed fifteen minutes, except those of the mover and the member in charge, who may speak for thirty minutes. Any member may send his speech in print to the secretary not less than two clear days before the day fixed for the discussion of a resolution, with as many copies as there are members, and one copy is to be supplied to every member. Any such speech may at the discretion of the president be taken as read.

Matters of general public interest. Discussions on these matters must be raised by resolution, and must take place after all the other business of the day has been concluded. The general rules regulating the form of the resolutions, and the discussions upon them, are, in the main, the same as those for the discussion of resolutions on the financial statement, the chief difference being that the range of discussions is wider and that amendments are allowed. The only subjects specifically excluded from discussion are those belonging to the three classes mentioned above in connexion with the financial statement, namely, matters for which the councils cannot

legislate, matters relating to foreign and native States, and matters under adjudication by a court of law. But the president has the same discretionary power of disallowing resolutions as he has in the case of resolutions on the financial statement.

The right to move amendments on resolutions is made subject to restrictions which are intended to provide safeguards against abuse of the right. Fifteen days' notice of a resolution is required, and priority depends on the time of receipt. When a question has been discussed, or a resolution has been disallowed or withdrawn, no resolution or amendment raising substantially the same question may be moved within one year.

(c) *Interrogatory*

Since 1892 members of the legislative councils have had the right to ask questions under conditions and restrictions prescribed by rules. This right is now enlarged by allowing a member to put a supplementary question 'for the purpose of further elucidating any matter of fact regarding which a request for information has been made in his original question.' But the president may disallow a supplementary question, and the member to whom it is addressed may decline to answer it without notice. The rules which now govern the asking of questions in the Governor-General's council are printed in the Blue Book of 1910, and are to be found in Appendix III to this chapter.

The quorum for the transaction of business, legislative or other, at meetings of the Governor-General's legislative council is fixed by one of the Regulations of November 15, 1909, for the constitution of that council. Regulation XIII provides that, in addition to the Governor-General, President, Vice-President, or other member appointed to preside, there must be present fifteen or more members of the council, of whom eight at least must be additional members. There are similar provisions in the regulations for the other councils.

APPENDIX I

INDIAN COUNCILS ACT, 1909

[9 EDW. VII. CH. 4.]

An Act to amend the Indian Councils Acts, 1861 and 1892, and the Government of India Act, 1833.

[May 25, 1909.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1.—(1) The additional members of the councils for the purpose of making laws and regulations (hereinafter referred to as Legislative Councils) of the Governor-General and of the Governors of Fort Saint George and Bombay, and the members of the Legislative Councils already constituted, or which may hereafter be constituted, of the several Lieutenant-Governors of Provinces, instead of being all nominated by the Governor-General, Governor, or Lieutenant-Governor in manner provided by the Indian Councils Acts, 1861 and 1892, shall include members so nominated and also members elected in accordance with regulations made under this Act, and references in those Acts to the members so nominated and their nomination shall be construed as including references to the members so elected and their election.

Amend-
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constitu-
tion of
Legis-
lative
Councils.

24 & 25
Vict. c. 67.
55 & 56
Vict. c. 14.

(2) The number of additional members or members so nominated and elected, the number of such members required to constitute a quorum, the term of office of such members and the manner of filling up casual vacancies occurring by reason of absence from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise, shall, in the case of each such council, be such as may be prescribed by regulations made under this Act :

Provided that the aggregate number of members so nominated and elected shall not, in the case of any Legislative Council mentioned in the first column of the First Schedule to this Act, exceed the number specified in the second column of that schedule.

2.—(1) The number of ordinary members of the councils of the Governors of Fort Saint George and Bombay shall be such number not exceeding four as the Secretary of State in Council may from time to time direct, of whom two at least shall be

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Councils of Governors of Fort Saint George and Bombay. Power to constitute provincial executive councils.

persons who at the time of their appointment have been in the service of the Crown in India for at least twelve years.

(2) If at any meeting of either of such councils there is an equality of votes on any question the Governor or other person presiding shall have two votes or the casting vote.

3.—(1) It shall be lawful for the Governor-General in Council, with the approval of the Secretary of State in Council, by proclamation, to create a council in the Bengal Division of the Presidency of Fort William for the purpose of assisting the Lieutenant-Governor in the executive government of the province, and by such proclamation—

(a) to make provision for determining what shall be the number (not exceeding four) and qualifications of the members of the council; and

(b) to make provision for the appointment of temporary or acting members of the council during the absence of any member from illness or otherwise, and for the procedure to be adopted in case of a difference of opinion between a Lieutenant-Governor and his council, and in the case of equality of votes, and in the case of a Lieutenant-Governor being obliged to absent himself from his council from indisposition or any other cause.

(2) It shall be lawful for the Governor-General in Council, with the like approval, by a like proclamation to create a council in any other province under a Lieutenant-Governor for the purpose of assisting the Lieutenant-Governor in the executive government of the province: Provided that before any such proclamation is made a draft thereof shall be laid before each House of Parliament for not less than sixty days during the session of Parliament, and, if before the expiration of that time an address is presented to His Majesty by either House of Parliament against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft.

(3) Where any such proclamation has been made with respect to any province the Lieutenant-Governor may, with the consent of the Governor-General in Council, from time to time make rules and orders for the more convenient transaction of business in his council, and any order made or act done in accordance with the rules and orders so made shall be deemed to be an act or order of the Lieutenant-Governor in Council.

(4) Every member of any such council shall be appointed by the Governor-General, with the approval of His Majesty, and shall, as such, be a member of the Legislative Council of the Lieutenant-Governor, in addition to the members nominated by the Lieutenant-Governor and elected under the provisions of this Act.

Appointment of

4. The Governor-General, and the Governors of Fort Saint George and Bombay, and the Lieutenant-Governor of every pro-

vince respectively shall appoint a member of their respective Vice-Presidents. councils to be Vice-President thereof, and, for the purpose of temporarily holding and executing the office of Governor-General or Governor of Fort Saint George or Bombay and of presiding at meetings of Council in the absence of the Governor-General, Governor, or Lieutenant-Governor, the Vice-President so appointed shall be deemed to be the senior member of Council and the member highest in rank, and the Indian Councils Act, 1861, and sections sixty-two and sixty-three of the Government of India Act, 1833, shall have effect accordingly.

3 & 4
Will. IV,
c. 85.
Power to
extend
business
of Legisla-
tive
Councils.

5.—(1) Notwithstanding anything in the Indian Councils Act, 1861, the Governor-General in Council, the Governors in Council of Fort Saint George and Bombay respectively, and the Lieutenant-Governor or Lieutenant-Governor in Council of every province, shall make rules authorizing at any meeting of their respective legislative councils the discussion of the annual financial statement of the Governor-General in Council or of their respective local governments, as the case may be, and of any matter of general public interest, and the asking of questions, under such conditions and restrictions as may be prescribed in the rules applicable to the several councils.

(2) Such rules as aforesaid may provide for the appointment of a member of any such council to preside at any such discussion in the place of the Governor-General, Governor, or Lieutenant-Governor, as the case may be, and of any Vice-President,

(3) Rules under this section, where made by a Governor in Council, or by a Lieutenant-Governor, or a Lieutenant-Governor in Council, shall be subject to the sanction of the Governor-General in Council, and where made by the Governor-General in Council shall be subject to the sanction of the Secretary of State in Council, and shall not be subject to alteration or amendment by the Legislative Council of the Governor-General, Governor, or Lieutenant-Governor.

6. The Governor-General in Council shall, subject to the approval of the Secretary of State in Council, make regulations as to the conditions under which and manner in which persons resident in India may be nominated or elected as members of the Legislative Councils of the Governor-General, Governors, and Lieutenant-Governors, and as to the qualifications for being, and for being nominated or elected, a member of any such council, and as to any other matter for which regulations are authorized to be made under this Act, and also as to the manner in which those regulations are to be carried into effect. Regulations under this section shall not be subject to alteration or amendment by the Legislative Council of the Governor-General.

Power to
make
regula-
tions.

7. All proclamations, regulations, and rules made under this Act, other than rules made by a Lieutenant-Governor for the more convenient transaction of business in his council, shall be

Laying of
proclama-
tions, &c.,

before
Parlia-
ment.

laid before both Houses of Parliament as soon as may be after they are made.

Short title,
construc-
tion, com-
mence-
ment, and
repeal.

8.—(1) This Act may be cited as the Indian Councils Act, 1909, and shall be construed with the Indian Councils Acts, 1861 and 1892, and those Acts, the Indian Councils Act, 1869, the Indian Councils Act, 1871, the Indian Councils Act, 1874, the Indian Councils Act, 1904, and this Act may be cited together as the Indian Councils Acts, 1861 to 1909.

32 & 33
Vict. c. 98.
33 & 34
Vict. c. 34-
37 & 38
Vict. c. 91.
4 Edw.
VII, c. 26.

(2) This Act shall come into operation on such date or dates as the Governor-General in Council, with the approval of the Secretary of State in Council, may appoint, and different dates may be appointed for different purposes and provisions of this Act and for different councils.

On the date appointed for the coming into operation of this Act as respects any Legislative Council, all the nominated members of the council then in office shall go out of office, but may, if otherwise qualified, be renominated or be elected in accordance with the provisions of this Act.

(3) The enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

SCHEDULES

FIRST SCHEDULE

Section 1.

MAXIMUM NUMBERS OF NOMINATED AND ELECTED MEMBERS OF LEGISLATIVE COUNCILS

<i>Legislative Council.</i>	<i>Maximum Number.</i>
Legislative Council of the Governor-General	60
Legislative Council of the Governor of Fort St. George	50
Legislative Council of the Governor of Bombay	50
Legislative Council of the Lieutenant-Governor of the Bengal Division of the Presidency of Fort William	50
Legislative Council of the Lieutenant-Governor of the United Provinces of Agra and Oudh	50
Legislative Council of the Lieutenant-Governor of the Province of Eastern Bengal and Assam	50
Legislative Council of the Lieutenant-Governor of the Province of the Punjab	30
Legislative Council of the Lieutenant-Governor of the Province of Burma	30
Legislative Council of the Lieutenant-Governor of any Province which may hereafter be constituted	30

SECOND SCHEDULE

ENACTMENTS REPEALED

Section 2.

<i>Session and Chapter.</i>	<i>Short Title.</i>	<i>Extent of Repeal.</i>
24 & 25 Vict. c. 67.	The Indian Councils Act, 1861.	<p>In section ten, the words 'not less than six nor more than twelve in number'.</p> <p>In section eleven, the words 'for the term of two years from the date of such nomination'.</p> <p>In section fifteen, the words from 'and the power of making laws and regulations' to 'shall be present'.</p> <p>In section twenty-nine, the words 'not less than four nor more than eight in number'.</p> <p>In section thirty, the words 'for the term of two years from the date of such nomination'.</p> <p>In section thirty-four, the words from 'and the power of making laws and regulations' to 'shall be present'.</p> <p>In section forty-five, the words from 'and the power of making laws and regulations' to 'shall be present'.</p>
55 & 56 Vict. c. 14.	The Indian Councils Act, 1892.	<p>Sections one and two.</p> <p>In section four, the words 'appointed under the said Act or this Act' and paragraph (2).</p>

APPENDIX II

CONSTITUTION OF THE LEGISLATIVE COUNCILS UNDER THE REGULATIONS OF NOVEMBER 1909

INDIA

Ex-officio

The six ordinary members of the Governor-General's Council, the Commander-in-Chief, and the Lieutenant-Governor of the province in which the council sits 8

Additional

Nominated members, of whom not more than twenty-eight must be officials¹, and of whom three, being non-officials, shall be selected respectively from the landholders of the Punjab², the Muhammadans of the Punjab, and the Indian commercial community. 35

Elected members, elected by

- (a) the provincial legislative councils and the district councils and municipal committees in the Central Provinces³ 12
- (b) the landholders of Madras, Bombay, Bengal, Eastern Bengal and Assam, the United Provinces, the Punjab, and the Central Provinces 6
- (c) the Muhammadans of Madras, Bombay, Bengal, Eastern Bengal and Assam, and the United Provinces 5
- (d) the Chambers of Commerce, Calcutta and Bombay 2

e — 25

Total 68

or, including the Governor-General 69

¹ Eight of these are to be officials representing provinces.

² In the second, fourth, and succeeding alternate elections, two of the nominated seats will be transferred to the elective list, and will be filled by special electorates consisting of Muhammadan landholders in Eastern Bengal and Assam, and in the United Provinces respectively. See par. 5 of the Home Department resolution of November 15, 1909.

³ These elections are made by the unofficial members of the councils. There is no legislative council for the Central Provinces.

MADRAS

Ex-officio

Members of the executive council	3
Advocate-General	1

Additional

Nominated members, of whom not more than sixteen are to be officials, and one is to be a representative of Indian commerce	23
--	----

Nominated experts, who may be either officials or non-officials	2
---	---

Elected members, elected by

(a) The Corporation of Madras	1
(b) Municipalities and district boards	8
(c) The University	1
(d) The landholders	4
(e) The planting community	1
(f) Muhandmadans	2
(g) The Madras Chamber of Commerce	1
(h) The Madras Trades Association	1

— 19

Total 48

or, including the Governor 49

BOMBAY

Ex-officio

Members of the executive council	3
Advocate-General	1

Additional

Nominated members, of whom not more than fourteen are to be officials	21
---	----

Nominated experts, who may be either officials or non-officials	2
---	---

Elected members, elected by

(a) The Corporation of Bombay	1
(b) Municipalities	4
(c) District Boards	4
(d) The University	1
(e) The landholders	3
(f) Muhammadans	4
(g) The Bombay Chamber of Commerce	1
(h) The Karachi Chamber of Commerce	1
(i) The Millowners' Associations of Bombay and Ahmadabad	1
(j) The Indian commercial community	1

— 21

Total 48

or, including the Governor 49

BENGAL

Ex-officio

Members of the executive council	3
--	---

Additional

Nominated members, not more than seventeen to be officials, and one to be a representative of the planting community and one of Indian commerce	22
Nominated experts, who may be either officials or non-officials	2

Elected members, elected by

(a) The Corporation of Calcutta	1
(b) Municipalities	6
(c) District Boards	6
(d) The University	1
(e) The landholders	5
(f) Muhammadans	4
(g) The Bengal Chamber of Commerce	2
(h) The Calcutta Trades Association	1
	— 26

Total	53
-----------------	----

or, including the Lieutenant-Governor	54
---	----

UNITED PROVINCES

Nominated members; not more than twenty to be officials, and one to be a representative of Indian commerce	26
--	----

Nominated experts, who may be officials or non-officials	2
--	---

Elected members, elected by

(a) Large municipalities in rotation	4
(b) District boards and smaller municipalities	8
(c) Allahabad University	1
(d) The landholders	2
(e) Muhammadans	4
(f) The Upper India Chamber of Commerce	1
	— 20

Total	48
-----------------	----

or, including the Lieutenant-Governor	49
---	----

EASTERN BENGAL AND ASSAM

Nominated members ; not more than seventeen to be officials, and one to be a representative of Indian commerce	22
Nominated experts, who may be either officials or non-officials	2
Elected members, elected by	
(a) Municipalities	3
(b) District and local boards	5
(c) The landholders	2
(d) Muhammadans	4
(e) The tea interest	2
(f) The jute interest	1
(g) The Commissioners of the Port of Chittagong	1
	— 18
	—
Total	42
or, including the Lieutenant-Governor	43

PUNJAB

Nominated members, not more than ten to be officials	19
Nominated experts, who may be either officials or non-officials	2
Elected members, elected by	
(a) The Punjab Chamber of Commerce	1
(b) The Punjab University	1
(c) Municipal and Cantonment Committees	3
	— 5
	—
Total	26
or, including the Lieutenant-Governor	27

BURMA

Nominated officials	6
Nominated non-officials	
(a) To represent the Burmese population	4
(b) To represent the Indian and Chinese communities	2
(c) To represent other interests	2
Nominated experts, who may be either officials or non-officials	2
Elected by the Burma Chamber of Commerce	1
	—
Total	17
or, including the Lieutenant-Governor	18

APPENDIX III

RULES OF BUSINESS OF NOVEMBER 15, 1909

The 15th November, 1909.

No. 23.—In exercise of the powers conferred by section 5 of the Indian Councils Act, 1909, the Governor-General in Council has, with the sanction of the Secretary of State for India in Council, made the following rules authorizing, at any meeting of the Legislative Council of the Governor-General, the discussion of the annual financial statement of the Governor-General in Council.

RULES FOR THE DISCUSSION OF THE ANNUAL FINANCIAL STATEMENT IN THE LEGISLATIVE COUNCIL OF THE GOVERNOR-GENERAL

DEFINITIONS

1. In these rules—

(1) 'President' means—

(a) the Governor-General, or

(b) the President nominated by the Governor-General in Council under section 6 of the Indian Councils Act, 1861, or

(c) the Vice-President appointed by the Governor-General under section 4 of the Indian Councils Act, 1909, or

(d) the Member appointed to preside under rule 27 ;

(2) 'Member in charge' means the Member of the Council of the Governor-General to whom is allotted the business of the Department of the Government of India to which the subject under discussion belongs, and includes any Member to whom such Member in charge may delegate any function assigned to him under these rules ;

(3) 'Finance Member' means the Member in charge of the Finance Department of the Government of India ;

(4) 'Secretary' means the Secretary to the Government of India in the Legislative Department, and includes the Deputy-Secretary and every person for the time being exercising the functions of the Secretary ;

(5) 'Financial Statement' means the preliminary financial estimates of the Governor-General in Council for the financial year next following ; and

(6) 'Budget' means the Financial Statement as finally settled by the Governor-General in Council.

A.—THE FINANCIAL STATEMENT

General order of discussion

2.—(1) On such day as may be appointed in this behalf by the Governor-General, the Financial Statement with an explanatory memorandum shall be presented to the Council every year by the Finance Member, and a printed copy shall be given to every Member.

(2) No discussion of the Financial Statement shall be permitted on such day.

3.—(1) On such later day as may be appointed in this behalf by the Governor-General, the first stage of the discussion of the Financial Statement in Council shall commence.

(2) On this day, after the Finance Member has stated any changes in the figures of the Financial Statement which circumstances may since have rendered necessary and has made any explanations of that Statement which he may think fit, any Member shall be at liberty to move any resolution entered in his name in the list of business relating to any alteration in taxation, any new loan or any additional grant to Local Governments proposed or mentioned in such Statement or explanatory memorandum, and the Council shall thereupon proceed to discuss each such resolution in the manner hereinafter prescribed.

4.—(1) The second stage of the discussion of the Financial Statement shall commence as soon as may be after all the resolutions which may be moved as aforesaid have been disposed of.

(2) In this stage each head or group of heads specified in the statement contained in the Schedule appended to these rules as being open to discussion, shall be considered separately according to such grouping as the Member in charge may determine.

(3) The consideration of a particular head or group of heads shall be introduced by the Member in charge with such explanations, supplementing the information contained in the Financial Statement, as may appear to him to be necessary.

(4) Any Member shall then be at liberty to move any resolution relating to any question covered by any such head or group of heads which may be entered in his name in the list of business, and the Council shall thereupon proceed to discuss every such resolution in the manner hereinafter prescribed.

Subjects excluded from discussion

5. No discussion shall be permitted in regard to any of the following subjects, namely :—

- (a) any subject removed from the cognizance of the Legislative Council of the Governor-General by section 22 of the Indian Councils Act, 1861¹; or

¹ See Digest, s. 63.

- (b) any matter affecting the relations of His Majesty's Government or of the Governor-General in Council with any Foreign State or any Native State in India ;
or
- (c) any matter under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.

Resolutions

6. No resolution shall be moved which does not comply with the following conditions, namely :—

- (a) it shall be in the form of a specific recommendation addressed to the Governor-General in Council ;
- (b) it shall be clearly and precisely expressed and shall raise a definite issue ;
- (c) it shall not contain arguments, inferences, ironical expressions or defamatory statements, nor shall it refer to the conduct or character of persons except in their official or public capacity ;
- (d) it shall not challenge the accuracy of the figures of the Financial Statement ; and
- (e) it shall be directly relevant to some entry in the Financial Statement.

7. A Member, who wishes to move a resolution, shall give notice in writing to the Secretary at least two clear days before the commencement of the stage of the discussion to which the resolution relates, and shall together with the notice submit a copy of the resolution which he wishes to move.

8. The President may disallow any resolution or part of a resolution without giving any reason therefor other than that in his opinion it cannot be moved consistently with the public interests or that it should be moved in the Legislative Council of a Local Government.

9.—(1) No discussion in Council shall be permitted in respect of any order of the President under rule 8.

(2) A resolution that has been disallowed shall not be entered in the proceedings of the Council.

10. Resolutions admitted by the President shall be entered in the list of business in such order as he may direct.

Discussion of Resolutions

11.—(1) After the mover of a resolution has spoken, other Members may speak to the motion in such order as the President may direct, and thereafter the mover may speak once by way of reply.

(2) No Member other than the mover and the Member in charge shall speak more than once to any motion except with the

permission of the President for the purpose of making an explanation.

12. No speech, except with the permission of the President, shall exceed fifteen minutes in duration :

Provided that the mover of a resolution, when moving the same, and the Member in charge may speak for thirty minutes.

13. The discussion of a resolution shall be limited to the subject of the resolution, and shall not extend to any matter as to which a resolution may not be moved.

14. A Member who has moved a resolution may withdraw the same unless some Member desires that it be put to the vote.

15. When, in the opinion of the President, a resolution has been sufficiently discussed, he may close the discussion by calling upon the mover to reply and the Member in charge to submit any final observations which he may wish to make :

Provided that the President may in all cases address the Council before putting the question to the vote.

16. If any resolution involves many points, the President at his discretion may divide it, so that each point may be determined separately.

17.—(1) Every question shall be resolved in the affirmative or in the negative according to the majority of votes.

(2) Votes may be taken by voices or by division and shall be taken by division if any member so desires.

(3) The President shall determine the method of taking votes by division.

18.—(1) The President may assign such time as with due regard to the public interests he may consider reasonable for the discussion of resolutions or of any particular resolution.

(2) Every resolution which shall not have been put to the vote within the time so assigned shall be considered to have been withdrawn.

19. Every resolution, if carried, shall have effect only as a recommendation to the Governor-General in Council.

20. When a question has been discussed at a meeting of the Council, or when a resolution has been disallowed under rule 8 or withdrawn under rule 14, no resolution raising substantially the same question shall be moved within one year.

B.—THE BUDGET

21.—(1) On or before the 24th day of March in every year the Budget shall be presented to the Council by the Finance Member, who shall describe the changes that have been made in the figures of the Financial Statement, and shall explain why any resolutions passed in Council have not been accepted.

(2) A printed copy of the Budget shall be given to each Member.

22.—(1) The general discussion of the Budget in Council shall take place on such later day as may be appointed by the President for this purpose.

(2) At such discussion, any Member shall be at liberty to offer any observations he may wish to make on the Budget, but no Member shall be permitted to move any resolution in regard thereto, nor shall the Budget be submitted to the vote of the Council.

(3) It shall be open to the President, if he thinks fit, to prescribe a time limit for speeches.

23. The Finance Member shall have the right of reply, and the discussion shall be closed by the President making such observations as he may consider necessary.

C.—GENERAL

24.—(1) Every Member shall speak from his place, shall rise when he speaks and shall address the chair.

(2) At any time, if the President rises, any Member speaking shall immediately resume his seat. •

25.—(1) Any Member may send his speech in print to the Secretary not less than two clear days before the day fixed for the discussion of a resolution, with as many copies as there are Members, and the Secretary shall cause one of such copies to be supplied to every Member.

(2) Any such speech may at the discretion of the President be taken as read.

26.—(1) The President shall preserve order, and all points of order shall be decided by him.

(2) No discussion on any point of order shall be allowed unless the President thinks fit to take the opinion of the Council thereon.

(3) Any Member may at any time submit a point of order to the decision of the President.

(4) The President shall have all powers necessary for the purpose of enforcing his decisions.

27. The Governor-General may appoint a Member of the Council to preside in his place, or in that of the Vice-President, on any occasion on which the Financial Statement or the Budget or any portion thereof is discussed in the Council.

28. The President, for sufficient reason, may suspend any of the foregoing rules.

THE SCHEDULE

Heads open to or excluded from discussion under rule 4

REVENUE.		EXPENDITURE.	
Heads open to discussion.	Heads not open to discussion.	Heads open to discussion.	Heads not open to discussion.
I.—Land Revenue.	<i>IV.—Stamps.</i>	1.—Refunds and	2.—Assignments and Compensations.
II.—Opium.	<i>VII.—Customs.</i>	drawbacks.	13.—Interest on debt.
III.—Salt.	<i>VIII.—Assessed Taxes.</i>	3.—Land Revenue.	23.—Ecclesiastical.
V.—Excise.	<i>XI.—Tributes from Native States.</i>	4.—Opium.	25.—Political.
VI.—Provincial Rates.	<i>XVI-A.—Courts.¹</i>	5.—Salt.	27.—Territorial and Political Pensions.
IX.—Forests.	<i>XXXII.—Army.</i>	6.—Stamps.	38.—State Railways.
X.—Registration.	<i>XXXIII.—Marine.</i>	7.—Excise.	42.—Major Works. Interest on debt.
XII.—Interest.	<i>XXXIV.—Military Works.</i>	8.—Provincial Rates.	46.—Army.
XIII.—Post Office.	<i>All purely Provincial revenue and revenue accruing from divided heads in Provinces possessing Legislative Councils.</i>	9.—Customs.	46-A.—Marine.
XIV.—Telegraph.		10.—Assessed Taxes.	47.—Military Works and Defence.
XV.—Mint.		11.—Forests.	47-A.—Special Defence Charges. All statutory charges.
XVI-B.—Jails.		12.—Registration.	<i>All purely Provincial expenditure and expenditure accruing under divided heads in Provinces possessing Legislative Councils.</i>
XVII.—Police.		14.—Interest on other obligations.	
XIX.—Education.		15.—Post Office.	
XX.—Medical.		16.—Telegraphs.	
XXI.—Scientific & other Minor Departments.		17.—Mint.	
XXII.—Receipts in aid of Superannuation, &c.		18.—General Administration. ²	
XXIII.—Stationery and Printing.		19-A.—Courts of Law. ³	
XXIV.—Exchange.		19-B.—Jails.	
XXV.—Miscellaneous.		20.—Police.	
XXVI.—State Railways.		22.—Education.	
XXVIII.—Subsidized Companies.		24.—Medical.	
XXIX.—Irrigation, Major Works.		26.—Scientific and other Minor Departments.	
XXX.—Minor Works and Navigation.		28.—Civil Furlough and Absentee Allowances.	
XXXI.—Civil Works.		29.—Superannuation Allowances and Pensions.	
		30.—Stationery and Printing.	
		31.—Exchange.	
		32.—Miscellaneous.	

¹ Mainly Court-fees and fines.² These heads include certain statutory charges, which will be excluded from debate.³ This head deals purely with interest, sinking funds, and annuities.

GOVERNMENT OF INDIA

REVENUE.		EXPENDITURE.	
Heads open to discussion.	<i>Heads not open to discussion.</i>	Heads open to discussion.	<i>Heads not open to discussion.</i>
		33.—Famine Relief. 34.—Construction of Protective Railways. 35.—Construction of Protective Irrigation Works. 36.—Reduction or Avoidance of Debt. 40.—Subsidized Companies; Land, &c. 41.—Miscellaneous Railway Expenditure. 42.—Irrigation: Major Works—Working Expenses. 43.—Minor Works and Navigation. 45.—Civil Works. 48.—State Railways; Capital Expenditure not charged to Revenue. 49.—Irrigation Works; Capital Expenditure not charged to Revenue.	

The 15th November, 1909

No. 24.—In exercise of the powers conferred by section 5 of the Indian Councils Act, 1909, the Governor-General in Council has, with the sanction of the Secretary of State for India in Council, made the following rules authorizing at any meeting of the Legislative Council of the Governor-General the discussion of any matter of general public interest.

RULES FOR THE DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST IN THE LEGISLATIVE COUNCIL OF THE GOVERNOR-GENERAL

Definitions

1. In these rules—
 - (1) 'President' means—
 - (a) the Governor-General, or
 - (b) the President nominated by the Governor-General in Council under section 6 of the Indian Councils Act, 1861, or
 - (c) the Vice-President appointed by the Governor-General under section 4 of the Indian Councils Act, 1909, or
 - (d) the Member appointed to preside under rule 27 ;
 - (2) 'Member in charge' means the Member of the Council of the Governor-General to whom is allotted the business of the Department of the Government of India to which the subject under discussion belongs, and includes any Member to whom such Member in charge may delegate any function assigned to him under these rules ; and
 - (3) 'Secretary' means the Secretary to the Government of India in the Legislative Department, and includes the Deputy-Secretary and every person for the time being exercising the functions of the Secretary. °

Matters open to discussion

2. Any matter of general public interest may be discussed in the Council subject to the following conditions and restrictions.
3. No such discussion shall be permitted in regard to any of the following subjects, namely :—

- (a) any subject removed from the cognizance of the Legislative Council of the Governor-General by section 22 of the Indian Councils Act, 1861¹ ; or
- (b) any matter affecting the relations of His Majesty's Government or of the Governor-General in Council with any Foreign State or any Native State in India ; or
- (c) any matter under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.

¹ See Digest, s. 63.

Resolutions

4. Subject to the restrictions contained in rule 3, any Member may move a resolution relating to a matter of general public interest :

Provided that no resolution shall be moved which does not comply with the following conditions, namely :—

- (a) it shall be in the form of a specific recommendation addressed to the Governor-General in Council ;
- (b) it shall be clearly and precisely expressed and shall raise a definite issue ; and
- (c) it shall not contain arguments, inferences, ironical expressions or defamatory statements, nor shall it refer to the conduct or character of persons except in their official or public capacity.

5. A Member who wishes to move a resolution shall give notice in writing to the Secretary, at least fifteen clear days before the meeting of the Council at which he desires to move the same, and shall together with the notice submit a copy of the resolution which he wishes to move :

Provided that the President may allow a resolution to be moved with shorter notice than fifteen days, and may, in any case, require longer notice or may extend the time for moving the resolution.

6. (1) The Secretary shall submit every resolution of which notice has been given to him in accordance with rule 5 to the President, who may either admit it or, when any resolution is not framed in accordance with rule 4, cause it to be returned to the Member concerned for the purpose of amendment.

(2) If the Member does not, within such time as the President may fix in this behalf, resubmit the resolution duly amended, the resolution shall be deemed to have been withdrawn.

7. The President may disallow any resolution or part of a resolution without giving any reason therefor other than that in his opinion it cannot be moved consistently with the public interests or that it should be moved in the Legislative Council of a Local Government.

8.—(1) No discussion in Council shall be permitted in respect of any order of the President under rule 6 or rule 7.

(2) A resolution which has been disallowed shall not be entered in the proceedings of the Council.

9. Resolutions admitted by the President shall be entered in the list of business for the day in the order in which they are received by the Secretary :

Provided that the President may give priority to any resolution which he may consider to be of urgent public interest, or postpone the moving of any resolution.

Discussion of Resolutions

10. The discussion of resolutions shall take place after all the other business of the day has been concluded.

11.—(1) After the mover of a resolution has spoken, other Members may speak to the motion in such order as the President may direct, and thereafter the mover may speak once by way of reply.

(2) No Member other than the mover and the Member in charge shall speak more than once to any motion, except, with the permission of the President, for the purpose of making an explanation.

12. No speech, except with the permission of the President, shall exceed fifteen minutes in duration :

Provided that the mover of a resolution, when moving the same, and the Member in charge may speak for thirty minutes.

13.—(1) Every Member shall speak from his place, shall rise when he speaks and shall address the chair.

(2) At any time, if the President rises, any Member speaking shall immediately resume his seat.

14.—(1) Any Member may send his speech in print to the Secretary not less than two clear days before the day fixed for the discussion of a resolution, with as many copies as there are Members, and the Secretary shall cause one of such copies to be supplied to each Member.

(2) Any such speech may at the discretion of the President be taken as read.

15. The discussion of a resolution shall be limited to the subject of the resolution, and shall not extend to any matter as to which a resolution may not be moved.

16. When a resolution is under discussion any Member may, subject to all the restrictions and conditions relating to resolutions specified in rules 3 and 4, move an amendment to such resolution :

Provided that an amendment may not be moved which has merely the effect of a negative vote.

17.—(1) If a copy of such amendment has not been sent to the Secretary at least three clear days before the day fixed for the discussion of the resolution, any Member may object to the moving of the amendment ; and such objection shall prevail unless the President in exercise of his power to suspend any of these rules allows the amendment to be moved.

(2) The Secretary shall, if time permits, cause every amendment to be printed and send a copy for the information of each Member.

18. A Member who has moved a resolution or an amendment of a resolution may withdraw the same unless some Member desires that it be put to the vote.

19. When, in the opinion of the President, a resolution and any amendment thereto have been sufficiently discussed, he may close the discussion by calling upon the mover to reply and the Member in charge to submit any final observations which he may wish to make :

Provided that the President may in all cases address the Council before putting the question to the vote.

20.—(1) When an amendment to any resolution is moved, or when two or more such amendments are moved, the President shall, before taking the sense of the Council thereon, state or read to the Council the terms of the original motion and of the amendment or amendments proposed.

(2) It shall be in the discretion of the President to put first to the vote either the original motion or any of the amendments which may have been brought forward.

21. If any resolution involves many points, the President at his discretion may divide it, so that each point may be determined separately.

22.—(1) Every question shall be resolved in the affirmative or in the negative according to the majority of votes.

(2) Votes may be taken by voices or by division and shall be taken by division if any Member so desires.

(3) The President shall determine the method of taking votes by division.

General

23.—(1) The President may assign such time as, with due regard to the public interests, he may consider reasonable for the discussion of resolutions or of any particular resolution.

(2) Every resolution which shall not have been put to the vote within the time so assigned shall be considered to have been withdrawn.

24. Every resolution, if carried, shall have effect only as a recommendation to the Governor-General in Council.

25. When a question has been discussed at a meeting of the Council, or when a resolution has been disallowed under rule 7 or withdrawn under rule 18, no resolution or amendment raising substantially the same question shall be moved within one year.

26.—(1) The President shall preserve order, and all points of order shall be decided by him.

(2) No discussion on any point of order shall be allowed unless the President thinks fit to take the opinion of the Council thereon.

(3) Any Member may at any time submit a point of order to the decision of the President.

(4) The President shall have all powers necessary for the purpose of enforcing his decisions.

27. The Governor-General may appoint a Member of the Council to preside in his place, or in that of the Vice-President, on any occasion on which a matter of general public interest is discussed in the Council.

28. The President, for sufficient reason, may suspend any of the foregoing rules.

The 15th November, 1909

No. 25.—In exercise of the power conferred by section 5 of the Indian Councils Act, 1909, the Governor-General in Council has, with the sanction of the Secretary of State for India in Council, made the following rules authorizing the asking of questions at any meeting of the Legislative Council of the Governor-General.

RULES FOR THE ASKING OF QUESTIONS IN THE LEGISLATIVE COUNCIL OF THE GOVERNOR-GENERAL

1. In these rules—

(1) 'President' means—

(a) the Governor-General, or

(b) the President appointed under section 6 of the Indian Councils Act, 1861, or

(c) the Vice-President appointed by the Governor-General under section 4 of the Indian Councils Act, 1909.

(2) 'Member in charge' means the Member of the Council of the Governor-General to whom is allotted the business of the Department of the Government of India to which the subject of the question belongs, and includes any Member to whom such Member in charge may delegate any function assigned to him under these rules; and

(3) 'Secretary' means the Secretary to the Government of India in the Legislative Department, and includes the Deputy-Secretary and every person for the time being exercising the functions of the Secretary.

2. Any question may be asked by any Member subject to the following conditions and restrictions.

3. No question shall be permitted in regard to any of the following subjects, namely:—

(a) any matter affecting the relations of His Majesty's Government or of the Governor-General in Council with any Foreign State or with any Native State in India, or

(b) any matter under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.

4. No question shall be asked unless it complies with the following conditions, namely :—

- (a) it shall be so framed as to be merely a request for information,
- (b) it shall not be of excessive length,
- (c) it shall not contain arguments, inferences, ironical expressions or defamatory statements, nor shall it refer to the conduct or character of persons except in their official or public capacity, and
- (d) it shall not ask for an expression of an opinion or the solution of a hypothetical proposition.

5. In matters which are or have been the subject of controversy between the Governor-General in Council and the Secretary of State or a Local Government no question shall be asked except as to matters of fact, and the answer shall be confined to a statement of facts.

6. A Member who wishes to ask a question shall give notice in writing to the Secretary at least ten clear days before the meeting of the Council at which he desires to put the question and shall, together with the notice, submit a copy of the question which he wishes to ask :

Provided that the President may allow a question to be put with shorter notice than ten days and may in any case require longer notice or may extend the time for answering a question.

7. (1) The Secretary shall submit every question of which notice has been given to him in accordance with rule 6 to the President, who may either allow it or, when any question is not framed in accordance with rules 4 and 5, cause it to be returned to the Member concerned for the purpose of amendment.

(2) If the Member does not, within such time as the President may fix in this behalf, resubmit the question duly amended, the question shall be deemed to have been withdrawn.

8. The President may disallow any question, or any part of a question, without giving any reason therefor other than that in his opinion it cannot be answered consistently with the public interests or that it should be put in the Legislative Council of a Local Government,

9. No discussion in Council shall be permitted in respect of any order of the President under rule 7 or rule 8.

10. Questions which have been allowed shall be entered in the list of business for the day and shall be put in the order in which they stand in the list before any other business is entered upon at the meeting.

11. Questions shall be put and answers given in such manner as the President may in his discretion determine.

12. Any Member who has asked a question may put a supplementary question for the purpose of further elucidating any

matter of fact regarding which a request for information has been made in his original question.

13. The Member in charge may decline to answer a supplementary question without notice, in which case the supplementary question may be put in the form of a fresh question at a subsequent meeting of the Council.

14. These rules, except rules 6 and 7, apply also to supplementary questions :

Provided that the President may disallow any supplementary question without giving any reason therefor.

15. The President may rule that an answer to a question in the list of business for the day shall be given on the ground of public interest even though the question may have been withdrawn.

16. No discussion shall be permitted in respect of any question or of any answer given to a question.

17. All questions asked and the answers given shall be entered in the proceedings of the Council :

Provided that no question which has been disallowed by the President shall be so entered.

18. The President may assign such time as, with due regard to the public interests, he may consider reasonable for the putting and answering of questions.

APPENDIX IV

ADDENDA AND CORRIGENDA ¹

in *The Government of India* (second edition)

- p. 14, line 6 from bottom. *For* February 14, 162 $\frac{3}{4}$, *read* February 4, 162 $\frac{3}{4}$.
- p. 108. *After* line 14 *insert* The Council of India Act, 1907 (7 Edw. VII, c. 35) modified the constitution of the Council of India.
As to the Indian Councils Act 1909 see the supplementary chapter.
- p. 109, lines 10–12. *For* ‘originally . . . reduced to ten,’ *read* ‘consisting of such number of members, not less than ten and not more than fourteen, as the Secretary of State may from time to time determine.’
- p. 109, line 14. *For* ten years *read* seven years.
- p. 109, lines 15–18. *Leave out* There . . . behaviour.
- p. 109, line 20. *For* ten years before *read* five years before.
- p. 114, line 3 from bottom. *Leave out* of two members *and insert* at present of three members, of whom two are.
- p. 114, note 8, *add* Under the Indian Councils Act, 1909, there is power to increase the number to four.
- p. 115, note 1, *add* Under the Indian Councils Act, 1909, there is power to constitute executive councils for lieutenant-governors.
- p. 115. *For the paragraph beginning* For legislative purposes, *substitute* The constitution of the Governor-General’s legislative council has been materially altered by the Indian Councils Act, 1909, and the regulations under it. Its existing constitution is described in the supplementary chapter.
- p. 116, line 19. *After* regulations *insert* But it is referred to in the Indian Councils Act, 1909, and is usually described as the legislative council of the Governor-General.
- p. 116, note 1, *add* By the regulations under the Indian Councils Act, 1902, the term of office is now ordinarily three years. See the supplementary chapter.

¹ Most of these additions and corrections are due to the passing of the Acts of 1907 and 1909 (7 Edw. VII; c. 35, 9 Edw. VII; c. 4):

- pp. 117, 118. *For the paragraph beginning* But under the Act *and ending the public interest substitute* But by the Indian Councils Act, 1909, and the rules made under it, powers are given to discuss and move resolutions on the annual financial statement, to move resolutions on matters of general public interest, and to ask questions, including supplementary questions. The new rules on these subjects are appended to the supplementary chapter.
- pp. 118, 119. *For the paragraphs beginning* The legislatures for Madras *and In the provinces, substitute* The constitutions of the local legislatures are now regulated by the Indian Councils Act, 1909, and the regulations under it, and are described in the supplementary chapter.
- p. 129, line 10 from bottom. *After* 1905 *insert* as modified in 1909.
- p. 133, line 14. *Before* shown *insert* usually.
- p. 133, last line. *For* Since 1871 *read* From 1871 to 1903.
- p. 134, line 1. *For* have been *read* were.
- p. 134, line 5. *For* is *read* was.
- p. 134, line 6. *After* province *insert* Since 1903 these quinquennial contracts have gradually been replaced by contracts on a quasi-permanent basis.
- p. 134, line 18. *Leave out the sentence beginning* The apportionment.
- p. 134, line 9 from bottom, *add as a footnote* Under the Indian Councils Act, 1909, there is power to create executive councils for lieutenant-governors. See the supplementary chapter.
- p. 146, s. 3 (1). *For* not more than . . . members *read* such number of members, not more than ten and not less than fourteen, as the Secretary of State may from time to time determine.
- p. 146. *In the marginal references to s. 3 leave out* 52 & 53 Vict. c. 5, *and add* 7 Edw. VII, c. 35.
- p. 146, s. 3 (3). *For* more than ten years *read* more than five years.
- p. 147, s. 3 (4). *For* ten *read* seven.
- p. 147. *Leave out* subs. (6).
- p. 147, s. 3 (9). *For* twelve hundred *read* one thousand.
- p. 148. *Add to the note (a) to s. 3 :* An Act of 1907 (7 Edw. VII, c. 35) repealed the Act of 1889 and made the provisions reproduced in subs. (1).
- p. 148. *Add to note (c)* The Act of 1876 was repealed by the Act of 1907.

- p. 178, s. 39, note (a) lines 6, 7, *leave out* Military Supply and *insert* Education.
- p. 179, s. 39. *For* note (b) *substitute* The military supply department and the office of the member in charge of that department have now been abolished. See East India (Army Administration), 1909, Cd. 4574. A sixth member, placed in charge of the subject of education, was added in 1910.
- p. 185, ss. 45, 46, *add to note (a) to each paragraph* Under the Indian Councils Act, 1909 (9 Edw. VII, c. 4, s. 4) the Governor-General must appoint a vice-president.
- p. 189, s. 51 (2). *For* three *read* four, *and after* State *insert* in Council.
- p. 189, s. 51 (3). *For* Every ordinary member of the said council must be a person who at the time of his appointment has *read* Two at least of the ordinary members of the said councils must be persons who at the time of their appointments have. *Add to the marginal references* 9 Edw. VII, c. 4, s. 2.
- p. 189, s. 51, note (b). *For* and is now two *read* the maximum was raised to four in 1909, and the number is now three.
- p. 190, s. 53, *add to note (a)* Under the Indian Councils Act, 1909 (9 Edw. VII, c. 4, s. 4) the Governors of Madras and Bombay must appoint vice-presidents of their councils.
- p. 191, s. 55, *add as a note to subsection (1)*: The Indian Councils Act, 1909 (9 Edw. VII, c. 4) gives power to constitute executive councils for assisting a lieutenant-governor in the executive government of his province (s. 3), and requires a lieutenant-governor to appoint a vice-president of his council (s. 4). An executive council is now being constituted for Bengal. See the supplementary chapter.
- p. 197, s. 60. The provisions of this section are extensively modified by the Indian Councils Act, 1909, and the regulations made under it. See the supplementary chapter.
- p. 198, s. 62, subs. (1). *After* president *insert* or vice-president.
- p. 198, s. 62. *Add as a footnote to subsection (1)*: The quorum at these legislative meetings is now fixed by one of the regulations (Reg. XIII) of November 15, 1909, made under the Indian Councils Act, 1909. See the supplementary chapter.
- p. 198, s. 62, subsection (2), lines 4, 5, *leave out* senior ordinary member of the Governor-General's council present *and insert* vice-president.

- p. 208, s. 64. s. 5 of the Indian Councils Act, 1909 (9 Edw. VII, c. 4), requires rules to be made for the conduct of non-legislative business at meetings of the Governor-General's legislative council, and the range of business at these meetings has been materially extended by the rules so made. See the supplementary chapter.
- p. 213, s. 71. The provisions of this section are extensively modified by the Indian Councils Act, 1909, and the regulations made under it. See the supplementary chapter.
- p. 215, s. 72 (2), lines 1 and 2. *Leave out* senior ordinary member *and insert* vice-president.
- p. 215, s. 72, *add to note (a)*: The Indian Councils Act, 1909, requires the appointment of a vice-president to take the place of the governor in his absence. See the supplementary chapter.
- p. 215, s. 73. The provisions of this section are extensively modified by the Indian Councils Act, 1909, and the regulations made under it. See the supplementary chapter.
- p. 218, s. 75. *Add as a note*: The Indian Councils Act, 1909, requires the appointment of a vice-president to take the place of the lieutenant-governor in his absence. See the supplementary chapter.
- p. 218, s. 75 (1), lines 2, 3, 4, *leave out* member of the council highest in official rank among those holding office under the Crown *and insert* vice-president of his council.
- p. 221, s. 77. The range of business at meetings of these legislative councils has been materially extended by s. 5 of the Indian Councils Act, 1909, and the rules made under it. See the supplementary chapter.
- p. 222, s. 78. *Add as a marginal note* (24 & 25 Vict. c. 67, s. 48).
- p. 227, s. 82, note (a), line 1. *After* s. 37 *add* the Act of 1793.
- p. 234, s. 88. *Add to note (a)*: The filling of vacancies is now regulated by the Regulations of November 15, 1909, made under the Indian Councils Act, 1909. See the supplementary chapter.
- p. 305. *Add to the remark in the third column against* s. 10 of the *Government of India Act, 1858*: Amended by 7 Edw. VII, c. 35, s. 2; *and to the remark against* s. 13 of the *same Act*: Amended by 7 Edw. VII, c. 35, s. 3.
- pp. 312, 313, 314, 315. *Add to the remarks in the third column against* ss. 10, 11, 15, 29, 30, 34, 45 of the *Indian Councils Act, 1861*: Repealed in part by 9 Edw. VII, c. 4, s. 8.
- p. 318. *Add to the remark in the third column against* s. 2 of the *Government of India Act, 1869*: Amended by 7 Edw. VII, c. 35, s. 4.

- p. 320. *For the remark in the third column against the Council of India Act, 1876, substitute Repealed by 7 Edw. VII, c. 35, s. 5.*
- p. 321. *For the remarks in the third column against the Council of India Reduction Act, 1889, substitute Repealed by 7 Edw. VII, c. 35, s. 5.*
- p. 321. *Add to the remarks in the third column against ss. 1 and 2 of the Indian Councils Act, 1892 : Repealed by 9 Edw. VII, c. 4, s. 8 ; and to the remark against s. 4 : Repealed in part by 9 Edw. VII, c. 4, s. 8.*
- p. 323, note 1, line 7 from bottom. *For for read from.*
- p. 329, line 12. *After enjoyment of insert their own.*
- p. 330, last line. *For 1853 read 1833.*
- p. 379, line 3 from bottom. *For 15 read 17.*
- p. 392, line 13. *For it may be doubted whether read the Secretary of State has been advised that,*