

Saturday, November 26, 1859

LEGISLATIVE COUNCIL  
OF  
INDIA

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P . L .

declare what its intention was when it passed the former Bill. It might be that the former Act was ambiguously worded, and that the Court were warranted in the construction which they had put upon it; or it might be that the words did not express the meaning which the Court had put upon them. It was not necessary to determine that question. If the construction which the Court had put upon the language of the Legislature was not in accordance with their meaning, surely it was competent to them to come forward and declare what their meaning was. Then he thought that if the Legislature were to declare their meaning, it was far better that they should do so now than three months hence."

There was no attempt to overrule any decision; there had in fact been no decision, but only an opinion expressed. Seeing that the question must arise, the Council were justified in saying "we never meant this, we never understood that the Court of Directors undertook to pay debts of this nature; therefore, if there is a probability of our intention being mistaken, we will make it clear." This was what the Chief Justice had thought fit to describe as "one of the grossest *ex post facto* character, and violating the first principles of legislation and of justice."

There was also some discussion as to the power to award costs against claimants. The Act therefore empowered the Supreme Court to award costs to either party. He did not wish to remark on the judgment of the Supreme Court without knowing certainly that such was the language which had been used. He would therefore move that His Excellency the Governor-General in Council be requested to obtain through the Madras Government a copy of the judgment, and that it be laid on the table.

SIR JAMES OUTRAM said, he should second that Motion, and if his Honorable colleagues would allow him, he desired for himself and on behalf of them to thank the Honorable and learned Vice-President for the earnest and able manner in which he had taken up the subject. He (Sir James Outram) thought that the Council had a right to demand explanation, and the withdrawal of the most unwarrantable and uncalled-for animadversions passed on this Council, should the Judge

really have expressed himself as represented.

The Motion was carried.

THE VICE-PRESIDENT moved that Sir James Outram be requested to take the above Message to the Governor-General in Council.

Agreed to.

#### STANDING ORDERS.

THE VICE-PRESIDENT moved that Sir James Outram be requested to take the Report on the practical working of the Standing Rules and Orders of the Legislative Council to the Governor-General in Council.

Agreed to.

The Council adjourned at  $\frac{1}{2}$  past 5 o'clock, on the Motion of Sir James Outram, to Saturday, the 12th of November next.

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*Saturday, November 12, 1859.*

PRESENT :

Archibald Sconce, Esquire.

No other Member of the Council was this-day present.

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*Saturday, November 19, 1859.*

PRESENT :

Archibald Sconce, Esquire.

No other Member of the Council was this-day present.

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*Saturday, November 26, 1859.*

PRESENT :

Archibald Sconce, Esquire.

No other Member of the Council was this-day present.