THE GOVERNMENT OF INDIA ACT.

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT.

THE GOVERNMENT OF INDIA ACT

with Rules and Notifications thereunder and Index.

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Introductory Note.

The present compilation consists of the Government of India Act and the Rules made thereunder as in force on the 1st December, 1924, with the exception of the Electoral Rules, the Rules of Legislative Business, the Standing Orders of the Legislative bodies and the Fundamental Rules.

2. The Government of India Act, 1915 (5 & 6 Geo. 5, c. 61) was a consolidating measure repealing and re-enacting the numerous Parliamentary Statutes relating to the administration of British India which had been passed between the years 1770 and 1912. This Act was amended in certain minor respects by the Government of India Amendment Act, 1916 (6 & 7 Geo. 5, c. 37) which also contained certain substantive provisions not incorporated in the principal Act. In 1919 the Act again underwent amendment by the passing of the Government of India Act, 1919 (9 & 10 Geo. 5, c. 101) which was enacted for the purpose of bringing into effect the Indian constitutional reforms based on what is commonly known as the Montagu-Chelmsford Report. Section 45 of the Act of 1919 provides that the amendments made by that Act and the Act of 1916 shall be incorporated in the text of the Government of India Act, 1915, and that that Act as so amended shall be known as the Government of India Act. The "Government of India Act" is thus not a separate Parliamentary enactment but a properly certified version of the Act of 1915 as subsequently amended.

This publication accordingly only reproduces those parts of the Acts of 1916 and 1919 which are substantive provisions not incorporated in the Government of India Act, including the preamble to the Act of 1919 which is based on the announcement made by His Majesty's Secretary of State for India in the House of Commons on the 20th August, 1917, declaring the new policy intended to be adopted in the development of self-governing institutions in British India.

3. Under

3. Under the Government of India Act many of the details requisite for carrying into effect the constitutional changes made by the Act are to be provided for by rules made under the Act. The rules so made have all been published in the Gazette of India and for the most part have been included in an India Office publication called "Rules under the Government of India Act" which was issued in 1921. The only rules which have not been included in this *volume are those mentioned in paragraph 1 which* are of considerable volume and have been published separately in convenient form.

REPORT FROM THE JOINT SELECT COMMITTEE OF THE HOUSE OF LORDS AND THE HOUSE OF COMMONS APPOINTED TO CONSIDER THE GOVERNMENT OF INDIA BILL.

ORDERED TO REPORT—

1. That the Committee have met and considered the said Bill and taken the evidence of a large number of witnesses, many of whom had come all the way from India for the purpose. A mass of telegrams and other communications has also been received. The list of witnesses and the telegrams have been printed as an appendix to the evidence. Written representations have not as a rule been printed. The Committee appreciate the advantage they have derived from being placed in full possession of the views of many persons who have given much thought to the political future of the country.

2. The Committee were not charged, as some have seemed to think, with the task of reporting on the state of India, or on the conduct of the administration in India, or even at large on the best form of government for India, but only with the duty of dealing with this Bill, which had been read a second time in the House of Commons, according to the well-known forms of Parliamentary procedure and with the rules and conventions arising out of it.

3. In the declaration made by His Majesty's Government on the 20th August, 1917, there is enunciated the problem for which the Bill endeavours to provide a solution. It is to design the first stage in a measured progress towards responsible government. Any such stage, if it is to be a real advance, must, as the Committee conceive it, involve the creation

creation of an electorate, and the bestowal of some share in the work and responsibilities of government on those whom the electorate chooses to represent its interests. In the present circumstances of India, the electorate must at the outset be small and the administrative experience of its representatives must be limited. Before, therefore, the policy of His Majesty's Government can be fulfilled the electorate must grow, and practical experience in the conduct of public affairs must be enlarged. During this period the guardianship of the peace of India cannot be withdrawn from the care of the official agency which Parliament at present charges with the duties of the administration, and the Committee regard it to be an essential feature of the policy of His Majesty's Government that, except in so far as he is released from responsibility by the changes made under this Bill, the Governor-General in Council should remain in undisturbed responsibility to Parliament and fully equipped with the necessary powers to fulfil that responsibility. But from the beginning the people must be given an opportunity, and all political wisdom points to its being a generous opportunity, of learning the actual business of government and of showing, by their conduct of it, to some future Parliament that the time has come for further extensions of power.

4. In the opinion of the Committee the plan proposed by the Bill is conceived wholly in this spirit, and interprets the pronouncement of the 20th August, 1917, with scrupulous accuracy. It partitions the domain of provincial government into two fields, one of which is made over to ministers chosen from the elected members of the provincial legislature while the other remains under the administration of a Governor-in-Council. This scheme has evoked apprehensions which are not unnatural in view of its novelty. But the Committee, after the most careful consideration of all suggested alternatives are of opinion that it is the best way of giving effect to the spirit of the declared policy of His Majesty's

Majesty's Government. Its critics forget that the announcement spoke of a substantial step in the direction of the gradual development of self-governing institutions with a view to the progressive realisation of responsible government and not of the partial introduction of responsible government; and it is this distinction which justifies the method by which the Bill imposes responsibility, both on Ministers to the legislative council and on the members of the legislative council to their constituents, for the results of that part of the administration which is transferred to their charge.

5. Having weighed the evidence and information before them, the Committee have made a number of changes in the Bill. Those of a more detailed or miscellaneous character are briefly discussed below under the clauses to which they relate. Those which are directed to the avoidance of the difficulties and dangers which have been pointed out, proceed on a simple and, in the Committee's opinion, an indefeasible theory. That theory the Committee think it desirable to state at once. Ministers who enjoy the confidence of a majority in their legislative council will be given the fullest opportunity of managing that field of government which is entrusted to their care. In their work they will be assisted and guided by the Governor, who will accept their advice and promote their policy whenever possible. If he finds himself compelled to act against their advice, it will only be in circumstances roughly analogous to those in which he has to override his executive council—circumstances which will be indicated in the Instrument of Instructions furnished to him on his appointment by His Majesty. On the other hand, in and for that field of government in which Parliament continues to hold him responsible, the provincial Governor-in-Council will remain equipped with the sure and certain power of fulfilling that responsibility. The Committee will indicate in the course of this Report how they visualise the relations between the two parts of the provincial government.

government, but they wish to place in the forefront of the Report their opinion that they see no reason why the relations should not be harmonious and mutually advantageous. They regard it as of the highest importance that the Governor should foster the habit of free consultation between both halves of his government, and indeed that he should insist upon it in all important matters of common interest. He will thus ensure that ministers will contribute their knowledge of the people's wishes and susceptibilities, and the members of his Executive Council their administrative experience, to the joint wisdom of the government. But while the Committee anticipate much advantage from amicable and, as far as possible, spontaneous association for purposes of deliberation they would not allow it to confuse the duties or obscure the separate responsibility which will rest on the two parts of the administration. Each side of the government will advise and assist the other; neither will control or impede the other. The responsibility for administrative and legislative action in their own field will be fixed beyond possibility of doubt on ministers and on the majorities of the provincial legislatures which support them; and they will be given adequate power to fulfil their charge. Similarly within that field for which he remains accountable to Parliament, the responsibility for action must be fixed on the Governor-in-Council, and he must possess unfailing means for the discharge of his duties. Finally, behind the provincial authorities stands the Government of India.

6. The change which this Bill will make in the political structure and life of India is very important. It marks a great step in the path of self-government, and it is a proof of the confidence reposed by His Majesty's Government in the loyalty, wisdom and capacity of our Indian fellow-subjects. At the same time it points to the desirability of keeping Parliament in closer touch with Indian affairs than has recently been possible. The Committee

mittee accordingly propose that a Standing Joint Committee should be appointed by both Houses of Parliament for that purpose. It should have no statutory functions, but a purely advisory and consultative status; and among its tasks is one of high importance, the consideration of amendments to rules made under this Bill. For the plan on which the Bill has been drafted, and in the opinion of the Committee rightly drafted, will necessitate the completion of some of its main provisions by a large number of rules and other documents which will have to be framed before the machinery established by the Bill can come into working order. Many of these rules and documents will be drafted in India for the approval of the Secretary of State. When they come to England, it may be found convenient that the present Committee be re-appointed to advise Parliament in regard to them.

7. The Committee will now proceed to indicate the nature of the changes they have made in the Bill, and also their suggestions for action to be taken under it, either in the framing of rules or by executive process hereafter.

Preamble.

The Preamble of the Bill, as drafted, was based on the announcement of His Majesty's Government in Parliament of the 20th August, 1917, and it incorporated that part of the announcement which pointed to the progressive realisation of responsible government in British India as an integral part of the Empire, and to the expediency of gradually developing self-governing institutions in India, and it referred to the granting to the Provinces of India of a large measure of independence of the Government of India. It did not, however, deal with those parts of the announcement which spoke of the increasing association of Indians in every branch of the administration, and declared that the progress of this policy could only be achieved by successive stages,

stages, and that Parliament, advised by His Majesty's Government and by the Government of India, on whom the responsibility lies for the welfare and advancement of the Indian people, must be the judge of the time and measure of each advance, and be guided by the co-operation received from those upon whom new opportunities of service are conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility.

The Committee have enlarged the preamble so as to include all parts of the announcement of the 20th August, 1917. Their reason for doing so is that an attempt has been made to distinguish between the parts of this announcement, and to attach a different value to each part according to opinion. It has been said, for instance, that whereas the first part is a binding pledge, the later part is a mere expression of opinion of no importance. But the Committee think that it is of the utmost importance, from the very inauguration of these constitutional changes, that Parliament should make it quite plain that the responsibility for the successive stages of the development of self-government in India rests on itself and on itself alone, and that it cannot share this responsibility with, much less delegate it to, the newly-elected legislatures of India.

They also desire to emphasize the wisdom and justice of an increasing association of Indians with every branch of the administration, but they wish to make it perfectly clear that His Majesty's Government must remain free to appoint Europeans to those posts for which they are specially required and qualified.

Part I.

Clause 1.—The Committee wish to take this opportunity of acknowledging the debt they owe to the work of the two Committees on Franchise and Functions presided over by Lord Southborough. If

If they are not able to accept all the conclusions of these Committees, and if they recommend some additional provisions to those included in those reports, it does not mean that they are not very sensible of the value of the work done, without which, indeed, this constitutional change could not have been effected.

The lists of central, provincial and transferred subjects included in the Functions Committee's report have been somewhat altered after consultation with the India Office (*see* Appendix F *to the Minutes of Evidence*); and as so amended they are accepted by this Committee, subject to certain general observations at the end of this Report. It must not, however, be concluded that these partitions of the functions of government are absolutely clear-cut and mutually exclusive. They must in all cases be read with the reservations in the text of the Functions Committee's report, and with due regard to the necessity for special procedure in cases where their orbits overlap.

The Committee have given much attention to the difficult question of the principle on which the provincial revenues and balances should be distributed between the two sides of the provincial governments. They are confident that the problem can readily be solved by the simple process of common sense and reasonable give-and-take, but they are aware that this question might, in certain circumstances, become the cause of much friction in the provincial government, and they are of opinion that the rules governing the allocation of these revenues and balances should be framed so as to make the existence of such friction impossible. They advise that, if the Governor, in the course of preparing either his first or any subsequent budget, finds that there is likely to be a serious or protracted difference of opinion between the executive council and his ministers on this subject, he should be empowered at once to make an allocation of revenue and balances between the reserved and transferred subjects, which should

should continue for at least the whole life of the existing legislative council. The Committee do not endorse the suggestion that certain sources of revenue should be allocated to reserved, and certain sources to transferred subjects, but they recommend that the Governor should allocate a definite proportion of the revenue, say, by way of illustration, two-thirds to reserved and one-third to transferred subjects, and similarly a proportion, though not necessarily the same fraction, of the balances. If the Governor desires assistance in making the allocation, he should be allowed at his discretion to refer the question to be decided to such authority as the Governor-General shall appoint. Further, the Committee are of opinion that it should be laid down from the first that, until an agreement which both sides of the Government will equally support has been reached, or until an allocation has been made by the Governor, the total provisions of the different expenditure heads in the budget of the province for the preceding financial year shall hold good.

The Committee desire that the relation of the two sides of the Government in this matter, as in all others, should be of such mutual sympathy that each will be able to assist and influence for the common good the work of the other, but not to exercise control over it. The budget should not be capable of being used as a means for enabling ministers or a majority of the legislative council to direct the policy of reserved subjects; but on the other hand the executive council should be helpful to ministers in their desire to develop the departments entrusted to their care. On the Governor personally will devolve the task of holding the balance between the legitimate needs of both sets of his advisers.

Clause 2.—This clause has been inserted to regularise the raising of loans by local governments on the special security of their own provincial revenues.

Clause 3.—The question has been raised as to the communications between the Governors of provinces

provinces and the Secretary of State. The question as to whether such communications shall in future take place, and as to the procedure to be adopted in them, may well be left to the Secretary of State. In the opinion of the Committee there is no cause at present for disturbing the existing position, except to the extent to which the Secretary of State relaxes his powers of direction and control over local governments. To that extent the Government of India should also withdraw from intervention; but India is not yet ripe for a true federal system, and the central government cannot be relegated to functions of mere inspection and advice. The Committee trust that there will be an extensive delegation, statutory and otherwise, to provincial governments of some powers and duties now in the hands of the Government of India; and they trust also that the control of that Government over provincial matters will be exercised with a view to preparing the provinces for the gradual transfer of power to the provincial government and legislature.

Clause 4.—The Committee are of opinion that the ministers selected by the Governor to advise him on the transferred subjects should be elected members of the legislative council, enjoying its confidence and capable of leading it. A minister will have the option of resigning if his advice is not accepted by the Governor; and the Governor will have the ordinary constitutional right of dismissing a minister whose policy he believes to be either seriously at fault or out of accord with the views of the legislative council. In the last resort the Governor can always dissolve his legislative council and choose new ministers after a fresh election; but if this course is adopted the Committee hope that the Governor will find himself able to accept such views as his new ministers may press upon him regarding the issue which forced the dissolution. The Committee are of opinion that in no province will there be need for less than two ministers, while in some provinces more will be required. In these circumstances

stances they think that it should be recognised from the commencement that ministers may be expected to act in concert together. They probably would do so; and in the opinion of the Committee it is better that they should, and therefore that the fact should be recognised on the face of the Bill. They advise that the status of ministers should be similar to that of the members of the executive council, but that their salaries should be fixed by the legislative council. Later on in this Report it will be suggested that Indian members of the Council of India in London should be paid a higher scale of remuneration than those members of the Council domiciled in the United Kingdom. The same principle might suggest to the legislative council that it was reasonable for the ministers of the provincial government domiciled in India to be paid on a lower scale of remuneration than the European members.

Provision has been made in this clause for the appointment, at the Governor's discretion, of non-official members of the legislative council to fill a rôle somewhat similar to that of the Parliamentary Under-Secretary in this country.

Clause 5.—The Committee are of opinion that the normal strength of an executive council, especially in the smaller provinces, need not exceed two members. They have not, however, reduced the existing statutory maximum of four; but if in any case the council includes two members with service qualifications, neither of whom is by birth an Indian, they think that it should also include two unofficial Indian members.

Clause 6.—The Committee desire at this point to give a picture of the manner in which they think that, under this Bill, the government of a province should be worked. There will be many matters of administrative business, as in all countries, which can be disposed of departmentally. But there will remain a large category of business, of the character which would naturally be the subject of Cabinet consultation. In regard to this category the Committee

mittee conceive that the habit should be carefully fostered of joint deliberation between the members of the executive council and the ministers, sitting under the chairmanship of the Governor. There cannot be too much mutual advice and consultation on such subjects; but the Committee attach the highest importance to the principle that, when once opinions have been freely exchanged and the last word has been said, there ought then to be no doubt whatever as to where the responsibility for the decision lies. Therefore, in the opinion of the Committee, after such consultation, and when it is clear that the decision lies within the jurisdiction of one or other half of the Government, that decision in respect of a reserved subject should be recorded separately by the executive council, and in respect of a transferred subject by the ministers, and all acts and proceedings of the government should state in definite terms on whom the responsibility for the decision rests. It will not always, however, be clear, otherwise than in a purely departmental and technical fashion, with whom the jurisdiction lies in the case of questions of common interest. In such cases it will be inevitable for the Governor to occupy the position of informal arbitrator between the two parts of his administration; and it will equally be his duty to see that a decision arrived at on one side of his government is followed by such consequential action on the other side as may be necessary to make the policy effective and homogeneous.

The position of the Governor will thus be one of great responsibility and difficulty, and also of great opportunity and honour. He may have to hold the balance between divergent policies and different ideals, and to prevent discord and friction. It will also be for him to help with sympathy and courage the popular side of his government in their new responsibilities. He should never hesitate to point out to ministers what he thinks is the right course or to warn them if he thinks they are taking the wrong course.

course. But if, after hearing all the arguments, ministers should decide not to adopt his advice, then in the opinion of the Committee, the Governor should ordinarily allow ministers to have their way, fixing the responsibility upon them, even if it may subsequently be necessary for him to veto any particular piece of legislation. It is not possible but that in India, as in all other countries, mistakes will be made by ministers, acting with the approval of a majority of the legislative council, but there is no way of learning except through experience and by the realisation of responsibility.

In the debates of the legislative council members of the executive council should act together and ministers should act together, but members of the executive council and ministers should not oppose each other by speech or vote; members of the executive council should not be required to support either by speech or vote proposals of ministers of which they do not approve, nor should ministers be required to support by speech or vote proposals of the executive council of which they do not approve; they should be free to speak and vote for each other's proposals when they are in agreement with them. All other official members of the legislative council should be free to speak and vote as they choose.

Clause 7.—The Committee have altered the first schedule to the Bill, so as to show only the total strength of the legislative council in each province. They have retained the provision, now in sub-clause (2), that at least 70 per cent. of the members shall be elected, and not more than 20 per cent. shall be officials. This general stipulation will govern the distribution of the seats in each province; but in certain respects the detailed arrangements will require further consideration, and proposals should be called for from the Government of India in regard to them. The points in question, as well as some disputable matters on which the Committee wish to endorse the proposals of the Franchise Committee's report,

report, are dealt with in the following recommendations :—

(*a*) The Committee regard the number of seats allotted to the rural population, as distinct from the urban, as disproportionately low and consider that it should receive a larger share of representation. They also think that an attempt should be made to secure better representation of the urban wage-earning class; and they are convinced that an effort should be made to remedy in part at least the present disparity between the size of the electorates in the different provinces. In all those matters no definite instructions need be given. The Government of India should be left a wide discretion in adjusting the figures, subject, however, to the understanding that the adjustment should be effected in all cases rather by enlargement than by diminution of the representation proposed in the Franchise Committee's report.

(*b*) The Committee are of opinion that the representation proposed for the depressed classes is inadequate. Within this definition are comprised, as shown in the report of the Franchise Committee, a large proportion of the whole population of India. They think that the Government of India should, as it advises, be instructed to give such classes a larger share of representation by nomination, regard being had to the numbers of depressed classes in each province, and after consultation with the Local Governments. This representation should, if necessary, be in addition to, but not in diminution of, the general electorate. Whenever possible, other persons than members of the Civil Services

Services should be selected to represent the depressed classes, but if a member of those services, specially qualified for this purpose, has to be appointed, his nomination should not operate to increase the maximum ratio of official seats.

(*c*) In the Madras Presidency the Committee consider that the non-Brahmins must be provided with separate representation by means of the reservation of seats. The Brahmins and non-Brahmins should be invited to settle the matter by negotiation among themselves; and it would only be, if agreement cannot be reached in that way, that the decision should be referred to an arbitrator appointed for the purpose by the Government of India.

(*d*) The Committee would recommend that similar treatment be accorded to the Mahrattas in the Bombay Presidency.

(*e*) The question whether women should or should not be admitted to the franchise on the same terms as men should be left to the newly elected legislative council of each province to settle by resolution. The Government of India should be instructed to make rules so that, if a legislative council so voted, women might be put upon the register of voters in that province. The Committee have not felt able to settle this question themselves, as urged by the majority of witnesses who appeared before them. It seems to them to go deep into the social system and susceptibilities of India, and, therefore, to be a question which can only, with any prudence, be settled in accordance with the wishes of Indians themselves as constitutionally expressed.

(*f*) The

(*f*) The Committee are of opinion that the franchise as settled by the rules to be made under this Act should not be altered for the first ten years, and that it should at present be outside the power of the Legislative Councils to make any alteration in the franchise. The recommendation, therefore, in respect of woman suffrage, is to be regarded as altogether exceptional, and as not forming any precedent in respect of proposals for other alterations.

(*g*) The special representation of landholders in the provinces should be reconsidered by the Government of India in consultation with the local governments.

(*h*) The franchise for the University seats should be extended to all graduates of over seven years' standing.

(*i*) The Government of India should be instructed to consult with the Government of Bengal in respect of the representation of Europeans in Bengal. It appears to the Committee that there are good reasons for a readjustment of that representation. The recommendations of the report of the Franchise Committee in respect of European representation in other provinces may be accepted.

(*j*) The question whether the rulers and subjects of Indian States may be registered as electors or may be elected to the legislative councils should be left to be settled in each case by the local government of the province.

(*k*) The Committee are of opinion that dismissal from the service of the Government in India should not be a disqualification for election, but that a criminal conviction entailing a sentence of more than

that in this matter both parts of the Government should, if possible, be in agreement when the proposals of the Government are laid before the legislature.

Clause 13.—The Committee have rejected the plan of Grand Committees as drafted originally in the Bill. They have done so because in their opinion the Grand Committee did not give the Governor the power of securing legislation in a crisis in respect of those matters for which he is held responsible, and because in respect of ordinary legislation about reserved subjects it perpetuated the system of securing legislation by what is known as the "official bloc," which has been the cause of great friction and heartburning. The responsibility for legislation on reserved subjects is with the Governor in Council, and, when the "official bloc" has been put into operation, it has been put into operation by him, and is merely an indirect way of asserting his responsibility. The Committee think it much better that there should be no attempt to conceal the fact that the responsibility is with the Governor in Council, and they recommend a process by which the Governor should be empowered to pass an Act in respect of any reserved subject, if he considers that the Act is necessary for the proper fulfilment of his responsibility to Parliament. He should not do so until he has given every opportunity for the matter to be thoroughly discussed in the legislative council, and as a sensible man he should, of course, endeavour to carry the legislative council with him in the matter by the strength of his case. But, if he finds that cannot be so, then he should have the power to proceed on his own responsibility. Acts passed on his sole responsibility should be reserved by the Governor-General for His Majesty's pleasure, and be laid before Parliament. His Majesty will necessarily be advised by the Secretary of State for India, and the responsibility for the advice to be given to His Majesty can only rest with the Secretary of State. But the Committee suggest that the Standing

Standing Committee of Parliament, whose appointment they have advised, should be specially consulted about Acts of this character. Provision, however, is made in the Bill for the avoidance of delay in case of a grave emergency by giving the Governor-General power to assent to the Act without reserving it, though this of course would not prevent subsequent disallowance by His Majesty in Council.

Clause 15.—The Committee have two observations to make on the working of this Clause. On the one hand, they do not think that any change in the boundaries of a province should be made without due consideration of the views of the legislative council of the province. On the other hand, they are of opinion that any clear request made by a majority of the members of a legislative council representing a distinctive racial or linguistic territorial unit for its constitution under this Clause as a sub-province or a separate province should be taken as a *primâ facie* case on the strength of which a commission of inquiry might be appointed by the Secretary of State, and that it should not be a bar to the appointment of such a commission of inquiry that the majority of the legislative council of the province in question is opposed to the request of the minority representing such a distinctive territorial unit.

Part II.

Clause 18.—As will be explained below, the Committee do not accept the device, in the Bill as drafted, of carrying government measures through the Council of State without reference to the Legislative Assembly, in cases where the latter body cannot be got to assent to a law which the Governor-General considers essential. Under the scheme which the Committee propose to substitute for this procedure, there is no necessity to retain the Council of State as an organ for government legislation. It should therefore be reconstituted from the commencement

mencement as a true Second Chamber. They recommend that it should consist of sixty members, of whom not more than twenty should be official members. The Franchise Committee advise that the non-official members should be elected by the same group of persons as elect the members of the Legislative Assembly and in the same constituencies. This is a plan which the Committee could, in no circumstances, accept. They hope and believe that a different system of election for the Council of State can be devised by the time the constitution embodied in this Bill comes into operation, and they recommend that the Government of India be enjoined forthwith to make suggestions accordingly, to which effect can be given without delaying the inauguration of the new constitution. If the advice of the Committee that it be re-appointed for the purpose of considering the rules to be framed under this Bill be approved, it should have an opportunity of considering the proposals made for the election of the Council of State.

Clause 19.—For the Legislative Assembly the Committee are equally unwilling to accept, as a permanent arrangement, the method of indirect election proposed in the report of the Franchise Committee. If by no other course it were possible to avoid delay in bringing the constitution enacted by the Bill into operation, the Committee would acquiesce in that method for a preliminary period of three years. But they are not convinced that delay would be involved in preparing a better scheme of election, and they endorse the views expressed by the Government of India in paragraph 39 of its despatch dealing with the subject. They accordingly advise that the Government of India be instructed at once to make recommendations to this effect at the earliest possible moment. These recommendations as embodied in draft rules would also be subject to examination by this Committee if re-appointed.

Clause 20.

Clause 20.—The Committee think that the President of the Legislative Assembly should for four years be a person appointed by the Governor-General. He should be qualified by experience in the House of Commons and a knowledge of Parliamentary procedure, precedents, and conventions. He should be the guide and adviser of the Presidents of the provincial councils, and he should be chosen with a view to the influence which it is hoped he would have on the whole history of Parliamentary procedure in India. He should be paid an adequate salary.

Clause 25.—This is a new provision for the submission of the Indian Budget to the vote of the Legislative Assembly, on the understanding that this body is constituted as a chamber reasonably representative in character and elected directly by suitable constituencies. The Committee consider it necessary (as suggested to them by the consolidated fund charges in the Imperial Parliament) to exempt certain charges of a special or recurring nature, which have been set out in the Bill, *e.g.*, the cost of defence, the debt charges and certain fixed salaries, from the process of being voted. But otherwise they would leave the Assembly free to criticise and vote the estimates of expenditure of the Government of India. It is not, however, within the scheme of the Bill to introduce at the present stage any measure of responsible government into the central administration, and a power must be reserved to the Governor-General in Council of treating as sanctioned any expenditure which the Assembly may have refused to vote if he considers the expenditure to be necessary for the fulfilment of his responsibilities for the good government of the country. It should be understood from the beginning that this power of the Governor-General in Council is real, and that it is meant to be used if and when necessary.

Clause 26.—For reasons which prompted their rejection of the process of certification by a Governor

Governor to a grand committee in a province, the Committee are opposed to the proposals in the Bill which would have enabled the Governor-General to refer to the Council of State, and to obtain by virtue of his official majority in that body, any legislation which the lower chamber refuse to accept, but which he regards as essential to the discharge of his duties. The Committee have no hesitation in accepting the view that the Governor-General in Council should in all circumstances be fully empowered to secure legislation which is required for the discharge of his responsibilities; but they think it is unworthy that such responsibility should be concealed through the action of a Council of State specially devised in its composition to secure the necessary powers. They believe that in such a case it would add strength to the Government of India to act before the world on its own responsibility. In order, however, that Parliament may be fully apprised of the position and of the considerations which led to this exceptional procedure, they advise that all Acts passed in this manner should be laid before Parliament, who would naturally consider the opinion of the standing committee already referred to.

Clause 28.—The recommendation of the Committee is that the present limitation on the number of the members of the Governor-General's Executive Council should be removed, that three members of that Council should continue to be public servants or ex-public servants who have had not less than ten years' experience in the service of the Crown in India; that one member of the Council should have definite legal qualifications, but that those qualifications may be gained in India as well as in the United Kingdom; and that not less than three members of the Council should be Indians. In this connection it must be borne in mind that the members of the Council drawn from the ranks of the public servants will, as time goes on, be more and more likely to be of Indian rather than of European extraction.

Clause 29.

Clause 29.—The Committee have inserted this provision to allow of the selection of members of the legislature who will be able to undertake duties similar to those of the Parliamentary Under-Secretaries in this country. It should be entirely at the discretion of the Governor-General to say to which departments these officers should be attached, and to define the scope of their duties.

PART III.

Clause 30.—The Committee think that all charges of the India Office, not being "agency" charges, should be paid out of moneys to be provided by Parliament.

Clause 31.—The Committee are not in favour of the abolition of the Council of India. They think that, at any rate for some time to come, it will be absolutely necessary that the Secretary of State should be advised by persons of Indian experience, and they are convinced that, if no such Council existed, the Secretary of State would have to form an informal one if not a formal one. Therefore, they think it much better to continue a body which has all the advantages behind it of tradition and authority, although they would not debar the re-adjustment of its work so as to make it possible to introduce what is known as the portfolio system. They think, also, that its constitution may advantageously be modified by the introduction of more Indians into it and by shortening of the period of the service upon it, in order to ensure a continuous flow of fresh experience from India and to relieve Indian members from the necessity of spending so long a period as seven years in England.

Clause 33.—The Committee have given most careful consideration to the relations of the Secretary of State with the Government of India, and through it with the provincial governments. In the relations of the Secretary of State with the Governor-General in Council the Committee are not

not of opinion that any statutory change can be made, so long as the Governor-General remains responsible to Parliament, but in practice the conventions which now govern these relations may wisely be modified to meet fresh circumstances caused by the creation of a Legislative Assembly with a large elected majority. In the exercise of his responsibility to Parliament, which he cannot delegate to any one else, the Secretary of State may reasonably consider that only in exceptional circumstances should he be called upon to intervene in matters of purely Indian interest where the Government and the Legislature of India are in agreement.

This examination of the general proposition leads inevitably to the consideration of one special case of non-intervention. Nothing is more likely to endanger the good relations between India and Great Britain than a belief that India's fiscal policy is dictated from Whitehall in the interests of the trade of Great Britain. That such a belief exists at the moment there can be no doubt. That there ought to be no room for it in the future is equally clear. India's position in the Imperial Conference opened the door to negotiation between India and the rest of the Empire, but negotiation without power to legislate is likely to remain ineffective. A satisfactory solution of the question can only be guaranteed by the grant of liberty to the Government of India to devise those tariff arrangements which seem best fitted to India's needs as an integral portion of the British Empire. It cannot be guaranteed by statute without limiting the ultimate power of Parliament to control the administration of India, and without limiting the power of veto which rests in the Crown; and neither of these limitations finds a place in any of the statutes in the British Empire. It can only therefore be assured by an acknowledgment of a convention. Whatever be the right fiscal policy for India, for the needs of her consumers as well as for her manufacturers, it is quite clear that she should have the same liberty to

to consider her interests as Great Britain, Australia, New Zealand, Canada and South Africa. In the opinion of the Committee, therefore, the Secretary of State should as far as possible avoid interference on this subject when the Government of India and its Legislature are in agreement, and they think that his intervention, when it does take place, should be limited to safeguarding the international obligations of the Empire or any fiscal arrangements within the Empire to which His Majesty's Government is a party.

The relations of the Secretary of State and of the Government of India with provincial governments should, in the Committee's judgment, be regulated by similar principles, so far as the reserved subjects are concerned. It follows, therefore, that in purely provincial matters, which are reserved, where the provincial government and legislature are in agreement, their view should ordinarily be allowed to prevail, though it is necessary to bear in mind the fact that some reserved subjects do cover matters in which the central government is closely concerned. Over transferred subjects, on the other hand, the control of the Governor-General in Council, and thus of the Secretary of State, should be restricted in future within the narrowest possible limits, which will be defined by rules under sub-clause 3 of Clause 1 of the Bill.

Rules under this clause will be subsidiary legislation of sufficient moment to justify their being brought especially to the notice of Parliament. The Secretary of State might conveniently discuss them with the Standing Committee whose creation has been recommended in this Report; and Parliament would no doubt consider the opinion of this body when the rules come, as it is proposed that they should do, for acceptance by positive resolution in both Houses. The same procedure is recommended by the Committee for adoption in the case of rules of special or novel importance under other clauses of the Bill. It must be for the Secretary of State to decide

decide which of the many rules that will fall to be drafted by the Government of India can be sufficiently dealt with by the ordinary process of lying on the table of Parliament for a certain number of days. In deciding this point, however, he may naturally have recourse to the advice of the Standing Committee, should it happen to be in session, and obtain their assistance in determining which rules deserved to be made the subject of the more formal procedure by positive resolution.

Clause 35.—This clause carries out the recommendation of Lord Crewe's Committee to appoint a High Commissioner for India, to be paid out of Indian revenues, who will perform for India functions of agency, as distinguished from political functions, analogous to those now performed in the offices of the High Commissioners of the Dominions.

PART IV.

Clause 36.—The Committee do not conceal from themselves that the position of the public services in working the new constitutions in the provinces will, in certain circumstances, be difficult. They are of opinion that these services have deserved the admiration and gratitude of the whole Empire. They know that some members of the services regard the wisdom of the proposed changes with grave misgiving, and that some fear that those changes will not tend to the welfare of the Indian masses. They are convinced, however, that the services will accept the changing conditions and the inevitable alteration in their own position, and devote themselves in all loyalty to making a success, so far as in them lies, of the new constitution.

In the provinces, officers serving in a reserved department will be controlled by the Governor in Council, and in a transferred department by the Governor acting with ministers, but in both cases alike the personal concurrence of the Governor should be regarded as essential in the case of all orders

orders of any importance prejudicially affecting the position or prospects of officers appointed by the Secretary of State.

The Committee think that every precaution should be taken to secure to the public servants the career in life to which they looked forward when they were recruited, and they have introduced fresh provisions into this clause to that end. If friction occurs, a re-adjustment of persons and places may often get over the difficulty, and the Governor must always regard it as one of his most important duties to establish a complete understanding between his ministers and the officers through whom they will have to work. But if there are members of the service whose doubts as to the changes to be made are so deeply-rooted that they feel they cannot usefully endeavour to take part in them, then the Committee think it would only be fair to those officers that they should be offered an equivalent career elsewhere, if it is in the power of His Majesty's Government to do so, or, in the last resort, that they should be allowed to retire on such pension as the Secretary of State in Council may consider suitable to their period of service.

PART V.

Clause 41.—The Committee are of opinion that the Statutory Commission should not be appointed until the expiration of ten years, and that no changes of substance in the constitution, whether in the franchise or in the lists of reserved and transferred subjects or otherwise, should be made in the interval. The Commission will be fully empowered to examine the working of the constitutions in all their details in the provinces, and to advise whether the time has come for full responsible government in each province, or in the alternative whether and to what extent the powers of self-government already granted should be extended, or modified, or restricted. It should be clearly understood, also, that the Commission should be empowered to examine into the working

working of the Government of India and to advise in respect of the Government of India no less than in respect of the provincial governments.

8. This concludes the Committee's specific recommendations on the Bill. There remain certain other topics which do not conveniently fall within any particular clause. The first of these is the treatment of Burma, and after hearing evidence the Committee have not advised that Burma should be included within the scheme. They do not doubt but that the Burmese have deserved and should receive a constitution analogous to that provided in this Bill for their Indian fellow-subjects. But Burma is only by accident part of the responsibility of the Governor-General of India. The Burmese are as distinct from the Indians in race and language as they are from the British.

9. Doubts have been expressed from several quarters questioning the financial adjustment proposed between the Central and Provincial Governments in India. Without expressing any opinion on this controversy, the Committee accept and endorse the recommendation of the Government of India that a fully qualified financial commission should be appointed to advise as to the principle on which contributions from the provincial governments to the Central Government should in future be adjusted.

10. The Committee think that it may often greatly assist the political education of India if standing committees of the legislative bodies are attached to certain departments of Government, but they only express this opinion on the understanding that the appointment of such committees, their composition, and the regulations which govern their procedure, shall be matters wholly and exclusively within the discretion of the Governor-General or of the Governor as the case may be.

11. The Committee are impressed by the objections raised by many witnesses to the manner in which

which certain classes of taxation can be laid upon the people of India by executive action without, in some cases, any statutory limitation of the rates and, in other cases, any adequate prescription by statute of the methods of assessment. They consider that the imposition of new burdens should be gradually brought more within the purview of the Legislature. And in particular, without expressing any judgment on the question whether the land revenue is a rent or tax, they advise that the process of revising the land revenue assessments ought to be brought under closer regulation by statute as soon as possible. At present the statutory basis for charging revenue on the land varies in different provinces; but in some at least the pitch of assessment is entirely at the discretion of the executive government. No branch of the administration is regulated with greater elaboration or care; but the people who are most affected have no voice in the shaping of the system, and the rules are often obscure and imperfectly understood by those who pay the revenue. The Committee are of opinion that the time has come to embody in the law the main principles by which the land revenue is determined, the methods of valuation, the pitch of assessment, the periods of revision, the graduation of enhancements, and the other chief processes which touch the well-being of the revenue payers. The subject is one which probably would not be transferred to ministers until the electorate included a satisfactory representation of rural interests, those of the tenantry as well as of the landlords; and the system should be established on a clear statutory basis before this change takes place.

12. The Committee have not hitherto touched on the subject of education in India, and it is far too large for them to make any attempt to deal with it adequately. They have accepted the recommendation of the Functions Committee that, subject to certain reservations about the Universities, the responsibility for the whole field of education in each province should be transferred to ministers. They attach

attach much importance, however, to the educational advancement of the depressed and backward classes, and they trust that the subject will receive special attention from ministers. They are also impressed by the advantage of Board such as Sir Michael Sadler has advised in Bengal, for the assistance of ministers in controlling the different grades of education, and they trust that ministers will see their way from the outset to constitute such Boards in every province. The Committee would similarly commend to ministers the advisability of creating local government departments in the provinces.

13. The Committee attach the greatest importance to the formation in each provincial government of a strong department of Finance which will serve both sides of the Government alike.

14. The Committee have been greatly struck by the earnest representations made to them by several witnesses, both of British and Indian birth, to the effect that the Government of India and the provincial governments must become more vocal, and put forth their view of what the good of India requires with more courage and more persistence than they have in the past. It has been represented to them that it will be of the utmost importance in the future that the Government of India and the provincial governments should have means of explaining to the people of India the reasons why things are done, the reasons which underlie decisions, and the arguments against proposals which they consider will be detrimental to the welfare of the country. It was represented to the Committee that at present, to a great extent, the case for the policy of the Government of India and of the provincial governments is unknown to the masses of Indians, whereas the case against that policy is becoming every day more widely disseminated by means of the vernacular press. They are glad to think that this opinion is also shared by the Secretary of State for India and the Viceroy. It is dealt with in paragraph

graph 329 of their report on Indian Constitutional Reforms.

15. In conclusion the Committee emphatically repudiate the suggestion that the changes in this Bill in the form of the provincial governments of India imply any condemnation of the present system of government in India. The Government of India has accomplished great things for India's good and one of its greatest services has been the introduction into India of a reign of law, to which the Government itself is as much subject as the people it governs. It is no reproach to it that in form it has been everywhere autocratic. So long as Parliament on the one hand did not bestow any form of constitutional self-government on any part of India, and on the other hand held the Government of India rigidly responsible to itself for its every action, it could not be otherwise in the provinces any more than at the central seat of government. But, whatever the form, the spirit of its being everywhere and always has been effort for the welfare of the masses of the people of India.

16. The Committee have directed the Minutes of Proceedings, together with Appendices, to be laid before both Houses of Parliament.

PROVISIONS OF THE GOVERNMENT OF INDIA (AMENDMENT) ACT, 1916, NOT INCORPORATED IN THE GOVERNMENT OF INDIA ACT.

THE GOVERNMENT OF INDIA (AMENDMENT) ACT, 1916.

(6 and 7 Geo. 5, Ch. 37.)

An Act to amend certain enactments relating to the Government of India, and to remove doubts as to the validity of certain Orders in Council made for India.

[*23rd August, 1916.*]

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 :—

* * * * *

Removal of doubts as to validity of Orders in Council under Foreign Jurisdiction Act.

5. An Order of His Majesty in Council heretofore or hereafter made under the Foreign Jurisdiction Act, 1890, empowering the Governor General of India in Council to make rules and orders in respect of courts or administrative authorities acting for any territory, shall not be invalid by reason only that it confers or delegates power to confer on courts or administrative authorities power to sit or act outside the territory in respect of which they have jurisdiction or functions, or that it confers or delegates power to confer appellate jurisdiction or functions on courts or administrative authorities sitting or acting outside the territory. 53 and 54 Vict., c. 37.

Transfer of India stock by deed

6. (*1*) India stock may, if registered for the time being as stock transferable by deed in manner provided by regulations made under this section, be transferred by deed.

(*2*) The

(2) The Banks of England and Ireland respectively, with the concurrence of the Secretary of State in Council, shall provide by regulations for a separate stock register being kept for India stock which is for the time being transferable by deed, for the conditions upon which stock is to be entered in or removed from that register, for the mode in which the transfer by deed is to be carried out, and for the payment of any fees in respect of the entry or removal of stock in or from the register and the carrying out of any transfer of stock by deed.

(3) The provisions of all enactments relating to India stock which are in force at the commencement of this Act shall apply to stock transferable by deed in pursuance of this section as they apply to stock transferable in the books of the Banks of England or Ireland, or of the Secretary of State in Council, except so far as express provisions is made to the contrary by this section or by the regulations made thereunder.

(4) No stamp duty shall be payable in respect of any deed of transfer of India stock or any dividend warrant or register certificate relating to India stock.

(5) In this section the expression "India stock" means any stock created and issued, whether before or after the commencement of this Act, by the Secretary of State in Council under the authority of Parliament.

Minor amendments, repeals, and saving.

7. * * * * *

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

(3) Nothing in this Act shall affect any right acquired before the commencement of this Act under any judgment or order of a court of competent jurisdiction.

8. (1) This

Short title, commencement, printing and construction.

8. *(1)* This Act may be cited as the Government of India (Amendment) Act, 1916, and the principal Act and this Act may be cited, together as the Government of India Acts, 1915 and 1916.

(2) This Act shall come into operation on the first day of September, one thousand nine hundred and sixteen.

[1]* * * * *

(4) A reference in any enactment, whether passed before or after the commencement of this Act, to the principal Act shall, unless the context otherwise requires, be construed to refer to that Act as amended by any enactment for the time being in force.

SCHEDULES.

Section 7 (2)

* * * * *

SECOND SCHEDULE.

Enactments repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
13 Geo. 3, c. 63 .	The East India Company Act, 1772.	Sections forty-two, forty-three and forty-five.
24 Geo. 3, sess. 2, c. 25	The East India Company Act, 1784.	The whole Act.
26 Geo. 3, c. 57 .	The East India Company Act, 1786.	The whole Act.
9 Geo. 4, c. 74 .	The Criminal Law (India) Act, 1828.	Section fifty-six, except so far as in force in the Straits Settlements.
* * *	* * * *	* * *

[1] Sub-section (3) was repealed by s. 45 of the Government of India Act, 1919 (9 and 10 Geo. 5, Ch. 101).

PROVISIONS OF THE GOVERNMENT OF INDIA ACT, 1919, NOT INCORPORATED IN THE GOVERNMENT OF INDIA ACT.

GOVERNMENT OF INDIA ACT, 1919.

(*9 and 10 Geo. 5, Ch. 101.*)

An Act to make further provision with respect to the Government of India.

[*23rd December, 1919.*]

WHEREAS it is the declared policy of Parliament to provide for the increasing association of Indians in every branch of Indian Administration, and for the gradual development of Self-Governing institutions, with a view to the progressive realisation of responsible government in British India as an integral part of the empire:

And whereas progress in giving effect to this policy can only be achieved by successive stages, and it is expedient that substantial steps in this direction should now be taken:

And whereas the time and manner of each advance can be determined only by Parliament, upon whom responsibility lies for the welfare and advancement of the Indian peoples:

And whereas the action of Parliament in such matters must be guided by the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility:

And whereas concurrently with the gradual development of self-governing institutions in the Provinces of India it is expedient to give to those Provinces in provincial matters the largest measure of independence of the Government of India, which is

is compatible with the due discharge by the latter of its own responsibilities:

Be it therefore 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.

* * * * *

Appointments to the Indian Civil Service.

37. * * * * *

5 & 6 Geo. 5, c. 87.

(*2*) The Indian Civil Service (Temporary Provisions) Act, 1915 (which confers power during the war and for a period of two years thereafter to make appointments to the Indian Civil Service without examination), shall have effect as though "three years" were substituted for "two years."

* * * * *

Amendments of principal Act to carry Act into effect, etc.

45. (*1*) The amendments set out in Parts I and II of the Second Schedule to this Act, being amendments to incorporate the provisions of this Act in the principal Act, and further amendments consequential on or arising out of those provisions, shall be made in the principal Act, and any question of interpretation shall be settled by reference to the principal Act as so amended. The provisions of the principal Act specified in Part III of that schedule, being provisions which are obsolete or unnecessary, or which require amendment in detail, are hereby repealed or modified, and shall be dealt with, in the manner shown in the second column of that schedule.

(*2*) Every enactment and word which is directed by the Government of India (Amendment) Act, 1916, or by this section and the Second Schedule to this Act, to be substituted for or added to any portion of the Government of India Act, 1915, shall form part of the Government of India Act, 1915, in the place assigned to it by the Government of India (Amendment) Act, 1916, or that schedule; and the Government of India Act, 1915, and all Acts, including this

this Act, which refer thereto, shall, after the commencement of this Act, be construed as if the said enactment or word had been enacted in the Government of India Act, 1915, in the place so assigned, and, where it is substituted for another enactment or word, had been so enacted in lieu of that enactment or word.

A copy of the Government of India Act, 1915, with the amendments, whether by way of substitution, addition or omission, required by the Government of India (Amendment) Act, 1916, and by this section and the Second Schedule to this Act, shall be prepared and certified by the Clerk of the Parliaments, and deposited with the Rolls of Parliament, and His Majesty's printer shall print, in accordance with the copy so certified, all copies of the Government of India Act, 1915, which are printed after the passing of this Act, and the Government of India Act, 1915, as so amended, may be cited as "The Government of India Act."

Sub-section (*3*) of section eight of the Government of India (Amendment) Act, 1916, is hereby repealed.

* * * * *

Short title, commencement, interpretation, and transitory provisions.

47. (*1*) This Act may be cited as the Government of India Act, 1919, and the principal Act, as amended by any Act for the time being in force, may be cited as the Government of India Act.

(*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 provisions of this Act, and for different parts of India.

On the dates appointed for the coming into operation of the provisions of this Act as respects any executive or legislative council all the members of the council then in office shall go out of office, but may, if otherwise qualified, be re-appointed, re-nominated or re-elected, as the case may be, in accordance

ance with the provisions of the principal Act as amended by this Act.

* * * * *

(5) If any difficulty arises as to the first establishment of the Indian legislature or any legislative council after the commencement of this Act or otherwise in first giving effect to the provisions of this Act, the Secretary of State in Council or the Governor-General in Council, as occasion may require, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

* * * * *

THE GOVERNMENT OF INDIA ACT.

(5 & 6 Geo. 5, Ch. 61; 6 & 7 Geo. 5, Ch. 37; and 9 & 10 Geo. 5, Ch. 101.)

ARRANGEMENT OF SECTIONS.

PART I.

HOME GOVERNMENT.

The Crown.

SECTION.

1. Government of India by the Crown.

The Secretary of State.

2. The Secretary of State.

The Council of India.

3. The Council of India.
4. *Seat in Council disqualification for Parliament.*
5. Duties of Council.
6. Powers of Council.
7. President and vice-president of Council.
8. Meetings of Council.
9. Procedure at meetings.
10. Committees of Council and business.

Orders and Communications.

11. Correspondence between Secretary of State and India.
12. *Omitted.*
13. *Omitted.*
14. *Omitted.*
15. Communication to Parliament as to orders for commencing hostilities.
16. *Omitted.*

Establishment of Secretary of State.

17. Establishment of Secretary of State.
18. Pensions and gratuities.

Military Appointments.

SECTION.

19. Military Appointments.

Relaxation of control of Secretary of State.

19A. Relaxation of control of Secretary of State

PART II.

THE REVENUES OF INDIA.

20. Application of revenues.
21. Control of Secretary of State over expenditure of revenues.
22. Application of revenues to military operations beyond the frontier.
23. Accounts of Secretary of State with Bank.
24. Powers of attorney for sale or purchase of stock and receipt of dividends.
25. Provision as to securities.
26. Accounts to be annually laid before Parliament.
27. Audit of Indian accounts in United Kingdom.

PART III.

PROPERTY, CONTRACTS AND LIABILITIES.

28. Power of Secretary of State to sell, mortgage and buy property.
29. Contracts of Secretary of State.
29A. High Commissioner for India.
30. Power to execute assurances, &c., in India.
31. Power to dispose of escheated property, &c.
32. Rights and liabilities of Secretary of State in Council.

PART IV.

THE GOVERNOR-GENERAL IN COUNCIL.

General Powers and Duties of Governor-General in Council.

33. Powers of control of Governor-General in Council.

The Governor-General.

34. The Governor-General.

The

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LOCAL LEGISLATURES.

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THE GOVERNMENT OF INDIA ACT.

(5 & 6 Geo. 5, Ch. 61; 6 & 7 Geo. 5, Ch. 37; and 9 & 10 Geo. 5, Ch. 101.)

An Act to consolidate enactments relating to the government of India.

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 :—

PART I.

HOME GOVERNMENT.

The Crown.

Government of India by the Crown.

1. The territories for the time being vested in His Majesty in India are governed by and in the name of His Majesty the King, Emperor of India, and all rights which, if the Government of India Act, 1858, had not been passed, might have been exercised by the East India Company in relation to any territories, may be exercised by and in the name of His Majesty as rights incidental to the government of India.

21 & 22 Vict., c. 106.

The Secretary of State.

The Secretary of State.

2. (*1*) Subject to the provisions of this Act, the Secretary of State has and performs all such or the like powers and duties relating to the government or revenues of India, and has all such or the like powers over all officers appointed or continued under this Act, as, if the Government of India Act, 1858, had not been passed, might or should have been exercised

21 & 22 Vict., c. 106.

exercised or performed by the East India Company, or by the Court of Directors or Court of Proprietors of that Company, either alone or by the direction or with the sanction or approbation of the Commissioners for the Affairs of India, in relation to that government or those revenues and the officers and servants of that Company, and also all such powers as might have been exercised by the said Commissioners alone.

(*2*) In particular, the Secretary of State may, subject to the provisions of this Act [1][or rules made thereunder], superintend, direct and control all acts, operations and concerns which relate to the government or revenues of India, and all grants of salaries, gratuities and allowances, and all other payments and charges, out of or on the revenues of India.

[2][(*3*) The salary of the Secretary of State shall be paid out of moneys provided by Parliament, and the salaries of his under-secretaries and any other expenses of his department may be paid out of the revenues of India or out of moneys provided by Parliament.]

The Council of India.

The Council of India.

3. (*1*) The Council of India shall consist of such number of members, not less than [3][eight] and not more than [3][twelve], as the Secretary of State may determine:

[4][Provided that the Council as constituted at the time of the passing of the Government of India Act, 1919, shall not be affected by this provision, but no fresh appointment or re-appointment thereto shall be made in excess of the maximum prescribed by this provision.]

9 and 10 Geo. 5, c. 101.

(*2*) The right of filling any vacancy in the Council shall be vested in the Secretary of State.

(*3*) Unless

[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] This sub-section was substituted by *ibid.*

[3] The words "eight" and "twelve" were substituted for the words "ten" and "fourteen" respectively by *ibid.*

[4] This proviso was added by *ibid.*

(3) Unless at the time of an appointment to fill a vacancy in the Council [1][one-half] of the then existing members of the Council are persons who have served or resided in [*][2] India for at least ten years, and have not last left [*][3] India more than five years before the date of their appointment, the person appointed to fill the vacancy must be so qualified.

(4) Every member of the Council shall hold office except as by this section provided, for a term of [4][five] years :

[5][Provided that the tenure of office of any person who is a member of the Council at the time of the passing of the Government of India Act, 1919, shall be the same as though that Act had not been passed.]

(5) The Secretary of State may, for special reasons of public advantage, re-appoint for a further term of five years any member of the Council whose term of office has expired. In any such case the reasons for the re-appointment shall be set forth in a minute signed by the Secretary of State and laid before both Houses of Parliament. Save as aforesaid, a member of the Council shall not be capable of re-appointment.

(6) Any member of the Council may, by writing signed by him, resign his office. The instrument of resignation shall be recorded in the minutes of the Council.

(7) Any member of the Council may be removed by His Majesty from his office on an address of both Houses of Parliament.

[6][(8) There shall be paid to each member of the Council of India the annual salary of twelve hundred pounds :

Provided

[1] The word " one-half " was substituted for the word " nine " by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The word " British " was omitted by *ibid.*

[3] The word " British " was omitted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[4] The word " five " was substituted for the word " seven " by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[5] This proviso was inserted by *ibid.*

[6] Sub-sections (8) and (9) of section 3 were substituted for old sub-section (8) by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Provided that any member of the Council who was at the time of his appointment domiciled in India shall receive, in addition to the salary hereby provided, an annual subsistence allowance of six hundred pounds.

Such salaries and allowances may be paid out of the revenues of India or out of moneys provided by Parliament.

(*9*) Notwithstanding anything in any Act or rule, where any person in the service of the Crown in India is appointed a member of the Council before the completion of the period of such service required to entitle him to a pension or annuity, his service as such member shall, for the purpose of any pension or annuity which would have been payable to him *on completion of such period, be reckoned as service* under the Crown in India whilst resident in India.]

Seat in Council disqualification for Parliament.

4. No member of the Council of India shall be capable of sitting or voting in Parliament.

Duties of Council.

5. The Council of India shall, under the direction of the Secretary of State, and subject to the provisions of this Act, conduct the business transacted in the United Kingdom in relation to the government of India and the correspondence with India.
* * *[1]

Powers of Council.

6. (*1*) All powers required to be exercised by the Secretary of State in Council, and all powers of the Council of India, shall be exercised at meetings of the Council at which [2][such number of members are present as may be prescribed by general directions of the Secretary of State].

(*2*) The Council may act notwithstanding any vacancy in their number.

President and vice-president of Council.

7. (*1*) The Secretary of State shall be the president of the Council of India, with power to vote.

(*2*) The

[1] The remaining words were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words "not less than five members are present" by *ibid.*

(2) The Secretary of State in Council may appoint any member of the Council to be vice-president thereof, and the Secretary of State may at any time remove any person so appointed.

(3) At every meeting of the Council the Secretary of State, or, in his absence, the vice-president, if present, or, in the absence of both of them, one of the members of the Council, chosen by the members present at the meeting, shall preside.

Meetings of Council.

8. Meetings of the Council of India shall be convened and held as and when the Secretary of State directs, but one such meeting at least shall be held in every [1][month].

Procedure at meetings.

9. (1) At any meeting of the Council of India at which the Secretary of State is present, if there is a difference of opinion on any question, except a question with respect to which a majority of votes at a meeting is by this Act declared to be necessary, the determination of the Secretary of State shall be final.

(2) In case of an equality of votes at any meeting of the Council, the person presiding at the meeting shall have a second or casting vote.

(3) All acts done at a meeting of the Council in the absence of the Secretary of State shall require the approval in writing of the Secretary of State.

(4) In case of difference of opinion on any question decided at a meeting of the Council, the Secretary of State may require that his opinion and the reasons for it be entered in the minutes of the proceedings, and any member of the Council, who has been present at the meeting, may require that his opinion, and any reasons for it that he has stated at the meeting, be also entered in like manner.

Committees of Council and business.

10. The Secretary of State may constitute committees of the Council of India for the more convenient transaction of business, and direct what departments

[1] The word "month" was substituted for the word "week" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

departments of business are to be under those committees respectively, and generally direct the manner in which [1][the business of the Secretary of State in Council or the Council of India shall be transacted, and any order made or act done in accordance with such direction shall, subject to the provisions of this Act, be treated as being an order of the Secretary of State in Council].

Orders and Communications.

Correspondence between Secretary of State and India.

[2][**11.** Subject to the provisions of this Act, the procedure for the sending of orders and communications to India and in general for correspondence between the Secretary of State and the Governor-General in Council or any local government shall be such as may be prescribed by order of the Secretary of State in Council.]

12.
13. } [2] *Omitted.*
14.

Communication to Parliament as to orders for commencing hostilities.

15. When any order is sent to India directing the actual commencement of hostilities by His Majesty's forces in India, the fact of the order having been sent shall, unless the order has in the meantime been revoked or suspended, be communicated to both Houses of Parliament within three months after the sending of the order, or, if Parliament is not sitting at the expiration of those three months, then within one month after the next meeting of Parliament.

16. [*Correspondence by Governor-General with Secretary of State.*] Omitted by Part III of Sch. II of 9 & 10 Geo. 5, Ch. 101.

Establishments

[1] These words were substituted for the words "all business of the Council or Committees thereof is to be transacted" by Part II of Schedule II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] Section 11 was substituted for old Sections 11 to 14 by Part I of Schedule II, *ibid.*

Establishment of Secretary of State.

Establishment of Secretary of State.

17. (*1*) No addition may be made to the establishment of the Secretary of State in Council, nor to the salaries of the persons on that establishment, except by an Order of His Majesty in Council, to be laid before both Houses of Parliament within fourteen days after the making thereof, or, if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

(*2*) The rules made by His Majesty for examinations, certificates, probation or other tests of fitness, in relation to appointments to junior situations in the civil service, shall apply to such appointments on the said establishment.

(*3*) The Secretary of State in Council may, subject to the foregoing provisions of this section, make all appointments to and promotions in the said establishment, and may remove any officer or servant belonging to the establishment.

Pensions and gratuities.

18. His Majesty may, by warrant under the Royal Sign Manual, countersigned by the Chancellor of the Exchequer, grant to any secretary, officer or servant appointed on the establishment of the Secretary of State in Council, such compensation, superannuation or retiring allowance, or to his legal personal representative such gratuity, as may respectively be granted to persons on the establishment of a Secretary of State, or to the personal representatives of such persons, under the laws for the time being in force concerning superannuations and other allowances to persons having held civil offices in the public service or to personal representatives of such persons.

Military Appointments.

Military appointments.

19. [1](*1*) The Commander-in-Chief of His Majesty's forces in India is appointed by His Majesty by warrant under the Royal Sign Manual.

(*2*)[2] * * * * In the appointment of officers to

[1] Sub-section (*1*) was inserted by s. 3 of the Government of India (Leave of Absence) Act, 1924 (14 & 15 Geo. 5, Ch. 28).

[2] Certain words were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

to His Majesty's army the same provision as heretofore, or equal provision, shall be made for the appointment of sons of persons who have served in India in the military or civil service of the Crown or of the East India Company.

Relaxation of Control of Secretary of State.

Relaxation of control of Secretary of State.

[1][**19A.** The Secretary of State in Council may, notwithstanding anything in this Act, by rule regulate and restrict the exercise of the powers of superintendence, direction and control vested in the Secretary of State and the Secretary of State in Council by this Act, or otherwise, in such manner as may appear necessary or expedient in order to give effect to the purposes of the Government of India Act, 1919.

Before any rules are made under this section relating to subjects other than transferred subjects, the rules proposed to be made shall be laid in draft before both Houses of Parliament, and such rules shall not be made unless both Houses by resolution approve the draft either without modification or addition, or with modifications or additions to which both Houses agree, but upon such approval being given the Secretary of State in Council may make such rules in the form in which they have been approved, and such rules on being so made shall be of full force and effect.

Any rules relating to transferred subjects made under this section shall be laid before both Houses of Parliament as soon as may be after they are made, and if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it praying that the rules or any of them may be annulled, His Majesty in Council may annul the rules or any of them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.]

PART

[1] Section 19A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

PART II.

THE REVENUES OF INDIA.

Application of revenues.

20. (*1*) The revenues of India shall be received for and in the name of His Majesty, and shall, subject to the provisions of this Act, be applied for the purposes of the government of India alone.

(*2*) There shall be charged on the revenues of India alone—

(*a*) all the debts of the East India Company; and

(*b*) all sums of money, costs, charges and expenses which, if the Government of India Act, 1858, had not been passed, would have been payable by the East India Company out of the revenues of India in respect of any treaties, covenants, contracts, grants or liabilities existing at the commencement of that Act; and 21 & 22 Vict., c. 106.

(*c*) All expenses, debts and liabilities lawfully contracted and incurred on account of the government of India; and

(*d*) all payments under this Act [1][except so far as is otherwise provided under this Act].

(*3*) The expression "the revenues of India" in this Act shall include all the territorial and other revenues of or arising in British India, and, in particular,—

(*i*) all tributes and other payments in respect of any territories which would have been receivable by or in the name of the East India Company if the Government of India Act, 1858, had not been passed; and 21 & 22 Vict., c. 106.

(*ii*) all

[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(*ii*) all fines and penalties incurred by the sentence or order of any court of justice in British India, and all forfeitures for crimes of any movable or immovable property in British India; and

(*iii*) all movable or immovable property in British India escheating or lapsing for want of an heir or successor, and all property in British India devolving as *bona vacantia* for want of a rightful owner.

(*4*) All property vested in, or arising or accruing from property or rights vested in, His Majesty under the Government of India Act, 1858, or this Act, or to be received or disposed of by the Secretary of State in Council under this Act, shall be applied in aid of the revenues of India.

21 & 22 Vict., c. 106.

Control of Secretary of State over expenditure of revenues.

21. [1][Subject to the provisions of this Act, and rules made thereunder], the expenditure of the revenues of India, both in British India and elsewhere, shall be subject to the control of the Secretary of State in Council, and no grant or appropriation of any part of those revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of the Government of India Act, 1858, or this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council of India:

21 & 22 Vict., c. 106.

[2][Provided that a grant or appropriation made in accordance with provisions or restrictions prescribed by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council shall be deemed to be made with the concurrence of a majority of such votes.]

Application of revenues to military

22. Except for preventing or repelling actual invasion of His Majesty's Indian possessions, or under

[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were added by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

under other sudden and urgent necessity, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defraying the expenses of any military operations carried on beyond the external frontiers of those possessions by His Majesty's forces charged upon those revenues. operations beyond the frontier.

23. (*1*) Such parts of the revenues of India as are remitted to the United Kingdom, and all money arising or accruing in the United Kingdom from any property or rights vested in His Majesty for the purposes of the government of India, or from the sale or disposal thereof, shall be paid to the Secretary of State in Council, to be applied for the purposes of this Act. Accounts of Secretary of State with Bank.

(*2*) All such revenues and money shall, except as by this section is provided, be paid into the Bank of England to the credit of an account entitled "The Account of the Secretary of State in Council of India".

(*3*) The money placed to the credit of that account shall be paid out on drafts or orders, either signed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, or signed by the accountant-general on the establishment of the Secretary of State in Council or by one of the two senior clerks in the department of that accountant-general and countersigned in such manner as the Secretary of State in Council directs; and any draft or order so signed and countersigned shall effectually discharge the Bank of England for all money paid thereon.

(*4*) The Secretary of State in Council may, for the payment of current demands, keep at the Bank of England such accounts as he deems expedient; and every such account shall be kept in such name and be drawn upon by such person, and in such manner, as the Secretary of State in Council directs.

(*5*) There shall be raised in the books of the Bank of England such accounts as may be necessary in respect

respect of stock vested in the Secretary of State in Council; and every such account shall be entitled "The Stock Account of the Secretary of State in Council of India".

(6) Every account referred to in this section shall be a public account.

Powers of attorney for sale of purchase of stock and receipt of dividends.

24. The Secretary of State in Council, by power of attorney executed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, may authorise all or any of the cashiers of the Bank of England—

(a) to sell and transfer all or any part of any stock standing in the books of the Bank to the account of the Secretary of State in Council; and

(b) to purchase and accept stock for any such account; and

(c) to receive dividends on any stock standing to any such account;

and, by any writing signed by two members of the Council of India and countersigned as aforesaid, may direct the application of the money to be received in respect of any such sale or dividend:

Provided that stock shall not be purchased or sold and transferred under the authority of any such general power of attorney, except on an order in writing directed to the chief cashier and chief accountant of the Bank of England, and signed and countersigned as aforesaid.

Provision as to securities.

25. All securities held by or lodged with the Bank of England in trust for or on account or on behalf of the Secretary of State in Council may be disposed of, and the proceeds thereof may be applied, as may be authorised by order in writing signed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, and directed

directed to the chief cashier and chief accountant of the Bank of England.

Accounts to be annually laid before Parliament.

26. (*1*) The Secretary of State in Council shall, within the first [1][twenty-eight days] during which Parliament is sitting next after the first day of May in every year, lay before both Houses of Parliament—

(*a*) an account, for the financial year preceding that last completed, of the annual produce of the revenues of India, distinguishing the same under the respective heads thereof, in each of the several provinces; and of all the annual receipts and disbursements at home and abroad for the purposes of the government of India, distinguishing the same under the respective heads thereof;

(*b*) the latest estimate of the same for the financial year last completed;

(*c*) accounts of all stocks, loans, debts and liabilities chargeable on the revenues of India at home and abroad, at the commencement and close of the financial year preceding that last completed, the loans, debts and liabilities raised or incurred within that year, the amounts paid off or discharged during that year, the rates of interests borne by those loans, debts and liabilities respectively, and the annual amount of that interest;

[2](*d*) * * * * *

(*e*) a list of the establishment of the Secretary of State in Council, and the salaries and allowances payable in respect thereof.

(*2*) If any new or increased salary or pension of fifty pounds a year or upwards has been granted or created

[1] These words were substituted for the words "fourteen days" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[2] Paragraph (*d*) was repealed by Sch. II, *ibid.*

created within any year in respect of the said establishment, the particulars thereof shall be specially stated and explained at the foot of the account for that year.

(3) The account shall be accompanied by a statement, prepared from detailed reports from each province, in such form as best exhibits the moral and material progress and condition of India.

Audit of Indian accounts in United Kingdom.

27. (1) His Majesty may, by warrant under His Royal Sign Manual, countersigned by the Chancellor of the Exchequer, appoint a fit person to be auditor of the accounts of the Secretary of State in Council, and authorise that auditor to appoint and remove such assistants as may be specified in the warrant.

(2) The auditor shall examine and audit the accounts of the receipt, expenditure and disposal in the United Kingdom of all money, stores and property applicable for the purposes of this Act.

(3) The Secretary of State in Council shall, by the officers and servants of his establishment, produce and lay before the auditor all such accounts, accompanied by proper vouchers for their support, and submit to his inspection all books, papers and writings having relation thereto.

(4) The auditor may examine all such officers and servants of that establishment, being in the United Kingdom, as he thinks fit, in relation to such accounts and the receipt, expenditure or disposal of such money, stores and property, and may for that purpose, by writing signed by him, summon before him any such officer or servant.

(5) The auditor shall report to the Secretary of State in Council his approval or disapproval of the accounts aforesaid, with such remarks and observations in relation thereto, as he thinks fit, specially noting cases (if any) in which it appears to him that any money arising out of the revenues of India has been appropriated to purposes other than those to which they are applicable.

(6) The auditor shall specify in detail in his reports all sums of money, stores and property which ought

ought to be accounted for, and are not brought into account, or have not been appropriated in conformity with the provisions of the law, or which have been expended or disposed of without due authority, and shall also specify any defects, inaccuracies or irregularities which may appear in the accounts, or in the authorities, vouchers or documents having relation thereto.

(*7*) The auditor shall lay all his reports before both Houses of Parliament, with the accounts of the year to which the reports relate.

(*8*) The auditor shall hold office during good behaviour.

(*9*) There shall be paid to the auditor and his assistants, out of the revenues of India, [1][or out of moneys provided by Parliament], such salaries as His Majesty, by warrant signed and countersigned as aforesaid, may direct.

(*10*) The auditor and his assistants (notwithstanding that some of them do not hold certificates from the Civil Service Commissioners) shall, for the purposes of superannuation [2][or retiring] allowance [2][and their legal personal representatives shall, for the purposes of gratuity], be in the same position as if [3][the auditor and his assistants] were on the establishment of the Secretary of State in Council.

PART III.

PROPERTY, CONTRACTS AND LIABILITIES.

Power of Secretary of State to sell, mortgage and buy property.

28. (*1*) The Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, sell and dispose of any real or personal estate for the time being vested in

[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 and 10 Geo. 5. Ch. 101).

[2] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 and 7 Geo. 5, Ch. 37).

[3] These words were substituted for the word "they" by *ibid.*

in His Majesty for the purposes of the government of India, and raise money on any such real [1][or personal] estate by way of mortgage [1][or otherwise], and make the proper assurances for any of those purposes, and purchase and acquire any property.

(*2*) Any assurance relating to real estate, made by the authority of the Secretary of State in Council, may be made under the hands and seals of [2][two] members of the Council of India.

(*3*) All property acquired in pursuance of this section shall vest in His Majesty for the purposes of the government of India.

Contracts of Secretary of State.

29. (*1*) [3][Subject to the provisions of this Act regarding the appointment of a High Commissioner for India,] the Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, make any contract for the purposes of this Act.

(*2*) Any contract so made may be expressed to be made by the Secretary of State in Council.

(*3*) Any contract so made which, if it were made between private persons, would be by law required to be under seal, may be made, varied or discharged under the hands and seals of two members of the Council of India.

(*4*) Any contract so made which, if it were made between private persons, would be by law required to be signed by the party to be charged therewith, may be made, varied or discharged under the hands of two members of the Council of India.

(*5*) Provided that any contract for or relating to the manufacture, sale, purchase or supply of goods, or for or relating to freightment or the carriage of goods, or to insurance, may, subject to such rules and restrictions as the Secretary of State in Council prescribes

[1] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1915 (*5 & 7 Geo. 5, Ch. 37*).
[2] This word was substituted for the word "three" by *ibid.*
[3] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

prescribes, be made and signed on behalf of the Secretary of State in Council by any person upon the permanent establishment of the Secretary of State in Council who is duly empowered by the Secretary of State in Council in this behalf. Contracts so made and signed shall be as valid and effectual as if made as prescribed by the foregoing provisions of this section. Particulars of all contracts so made and signed shall be laid before the Secretary of State in Council in such manner and form and within such times as the Secretary of State in Council prescribes.

(*6*) The benefit and liability of every contract made in pursuance of this section shall pass to the Secretary of State in Council for the time being.

[1][**29A.** His Majesty may by Order in Council make provision for the appointment of a High Commissioner for India in the United Kingdom, and for the pay, pension, powers, duties, and conditions of employment of the High Commissioner and of his assistants; and the Order may further provide for delegating to the High Commissioner any of the powers previously exercised by the Secretary of State or the Secretary of State in Council, whether under this Act or otherwise, in relation to making contracts, and may prescribe the conditions under which he shall act on behalf of the Governor-General in Council or any local government.] High Commissioner for India.

30. (*1*) The Governor-General in Council and any local government may, on behalf and in the name of the Secretary of State in Council, and subject to such provisions or restrictions as the Secretary of State in Council, with the concurrence of a majority of votes at a meeting of the Council of India, prescribes, sell and dispose of any real or personal estate whatsoever in British India, within the limits of their respective governments, for the time being vested in His Majesty for the purposes of the government of India, or raise money on any such Power to execute assurances, &c., in India.

[1] Section 29A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

such real [1][or personal] estate by way of mortgage, [1][or otherwise,] and make proper assurances for any of those purposes, and purchase or acquire any property in British India within the said respective limits, and make any contract for the purposes of this Act.

[2][(*1a*) A local government may on behalf and in the name of the Secretary of State in Council raise money on the security of revenues allocated to it under this Act, and make proper assurances for that purpose, and rules made under this Act may provide for the conditions under which this power shall be exercisable.]

(*2*) Every assurance and contract made for the purposes of [3][sub-section (*1*) of this section] shall be executed by such person and in such manner as the Governor-General in Council by resolution directs or authorises, and if so executed may be enforced by or against the Secretary of State in Council for the time being.

(*3*) All property acquired in pursuance of this section shall vest in His Majesty for the purposes of the government of India.

Power to dispose of escheated property, &c.

31. The Governor-General in Council, and any other person authorised by any Act passed in that behalf by the [4][Indian legislature] may make any grant or disposition of any property in British India accruing to His Majesty by forfeiture, escheat or lapse, or by devolution as *bona vacantia*, to or in favour of any relative or connection of the person from whom the property has accrued, or to or in favour of any other person.

32. (*1*) The

[1] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[2] Sub-section (*1a*) was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[3] These words and figure were substituted for the words "this section" by *ibid.*

[4] These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

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32. (*1*) The Secretary of State in Council may sue and be sued by the name of the Secretary of State in Council as a body corporate. Rights and liabilities of Secretary of State in Council.

(*2*) Every person shall have the same remedies against the Secretary of State in Council as he might have had against the East India Company if the Government of India Act, 1858, and this Act had not been passed. 21 & 22 Vict., c. 106.

(*3*) The property for the time being vested in His Majesty for the purposes of the government of India shall be liable to the same judgments and executions as it would have been liable to in respect of liabilities lawfully incurred by the East India Company if the Government of India Act, 1858, and this Act had not been passed. 21 & 22 Vict., c. 106.

(*4*) Neither the Secretary of State nor any member of the Council of India shall be personally liable in respect of any assurance or contract made by or on behalf of the Secretary of State in Council, or any other liability incurred by the Secretary of State or the Secretary of State in Council in his or their official capacity, nor in respect of any contract, covenant or engagement of the East India Company; nor shall any person executing any assurance or contract *on behalf of the Secretary of State in Council be* personally liable in respect thereof; but all such liabilities, and all costs and damages in respect thereof, *shall* be borne by the revenues of India.

PART IV.

The Governor-General in Council.

General Powers and Duties of Governor-General in Council.

33. [1][Subject to the provisions of this Act and rules made thereunder,] the superintendence, direction Powers of control of Governor.

[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

General in Council.

tion and control of the civil and military government of India is vested in the Governor-General in Council, who is required to pay due obedience to all such orders as he may receive from the Secretary of State.

The Governor-General.

The Governor General.

34. The Governor-General of India is appointed by His Majesty by warrant under the Royal Sign Manual.

The Governor-General's Executive Council.

35. [*Constitution of Governor-General's executive council.*] Omitted by Part II of Sch. II, 9 & 10 Geo. 5, Ch. 101.

Members of Council.

36. (*1*) The [1][*] members of the Governor-General's executive council shall be appointed by His Majesty by warrant under the Royal Sign Manual.

(*2*) The number of the [1][*] members of the council shall be [2][such as His Majesty think fit to appoint].

(*3*) Three at least of them must be persons who [3][****] have been for at least ten years in the service of the Crown in India, and one must be a barrister of England or Ireland, or a member of the Faculty of Advocates of Scotland, [4][or a pleader of a High Court] of not less than [5][ten] years' standing.

(*4*) If any [6][member of the council (other than the Commander-in-Chief for the time being of His Majesty's forces in India)] is at the time of his appointment

[1] The word "ordinary" was omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words "five," or if His Majesty thinks fit to appoint a sixth member, "six" by *ibid.*

[3] The words "at the time of their appointment" were omitted by *ibid.*

[4] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[5] This word was substituted for the word "five" by *ibid.*

[6] These words were substituted for the words "person appointed an ordinary member of the council" by *ibid.*

pointment in the military service of the Crown, he shall not, during his continuance in office as such member, hold any military command or be employed in actual military duties.

[1][(5) Provision may be made by rules under this Act as to the qualifications to be required in respect of the members of the Governor-General's executive council in any case where such provision is not made by the foregoing provisions of this section.]

Rank and precedence of Commander-in-Chief.

[2][**37.** If the Commander-in-Chief for the time being of His Majesty's forces in India is a member of the Governor-General's executive council he shall, subject to the provisions of this Act, have rank and precedence in the Council next after the Governor-General.]

Vice-president of Council.

38. The Governor-General shall appoint a member of his executive council to be vice-president thereof.

Meetings.

39. (*1*) The Governor-General's executive council shall assemble at such places in India as the Governor-General in Council appoints.

(*2*) At any meeting of the council the Governor-General or other person presiding and [3][one member of the council (other than the Commander-in-Chief)] may exercise all the functions of the Governor-General in Council.

Business of Governor-General in Council.

40. (*1*) All orders and other proceedings of the Governor-General in Council shall be expressed to be made by the Governor-General in Council, and shall be signed by a secretary to the Government of India, or otherwise, as the Governor-General in Council may direct [4][and when so signed shall not be called into question in any legal proceeding on the ground that they were not duly made by the Governor-General in Council.]

(*2*) The

[1] Sub-section (*5*) was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] Section 37 was substituted by *ibid.*

[3] These words were substituted for the words "one ordinary member of the council" by *ibid.*

[4] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(2) The Governor-General may make rules and orders for the more convenient transaction of business in his executive council, and every order made, or act done, in accordance with such rules and orders, shall be treated as being the order or the act of the Governor-General in Council.

Procedure in case of difference of opinion.

41. (1) If any difference of opinion arises on any question brought before a meeting of the Governor-General's executive council, the Governor-General in Council shall be bound by the opinion and decision of the majority of those present, and, if they are equally divided, the Governor-General or other person presiding shall have a second or casting vote.

(2) Provided that whenever any measure is proposed before the Governor-General in Council whereby the safety, tranquillity or interests of British India, or of any part thereof, are or may be, in the judgment of the Governor-General, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority present at a meeting of the council dissent from that opinion, the Governor-General may, on his own authority and responsibility, adopt, suspend or reject the measure, in whole or in part.

(3) In every such case any two members of the dissentient majority may require that the adoption, suspension or rejection of the measure, and the fact of their dissent, be reported to the Secretary of State, and the report shall be accompanied by copies of any minutes which the members of the council have recorded on the subject.

(4) Nothing in this section shall empower the Governor-General to do anything which he could not lawfully have done with the concurrence of his council.

Provision for absence of Governor.

42. If the Governor-General is obliged to absent himself from any meeting of the council, by indisposition

position or any other cause, [1][* * * *] the vice-president, or, if he is absent, the senior [2][member (other than the Commander-in-Chief)] present at the meeting, shall preside thereat, with the like powers as the Governor-General would have had if present: General from meetings of Council.

Provided that if the Governor-General is at the time resident at the place where the meeting is assembled, and is not prevented by indisposition from signing any act of council made at the meeting, the act shall require his signature; but, if he declines or refuses to sign it, the like provisions shall have effect as in cases where the Governor-General, when present, dissents from the majority at a meeting of the council.

43. (*1*) Whenever the Governor-General in Council declares that it is expedient that the Governor-General should visit any part of India unaccompanied by his executive council, the Governor-General in Council may, by order, authorize the Governor-General alone to exercise, in his discretion, all or any of the powers which might be exercised by the Governor-General in Council at meetings of the council.

(*2*) The Governor-General during absence from his executive council may, if he thinks it necessary, issue, on his own authority and responsibility, any order, which might have been issued by the Governor-General in Council, to any local government, or to any officers or servants of the Crown acting under the authority of any local government without previously communicating the order to the local government; and any such order shall have the same force as if made by the Governor-General in Council; but a copy of the order shall be sent forthwith to the Secretary of State and to the local government, with the reasons for making the order.

(*3*) The

[1] The words " and signifies his intended absence to the council " were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words " ordinary member " by Part II of Sch. II, *ibid.*

(*3*) The Secretary of State in Council may, by order, suspend until further order all or any of the powers of the Governor-General under the last foregoing sub-section; and those powers shall accordingly be suspended as from the time of the receipt by the Governor-General of the order of the Secretary of State in Council.

Appointment of council secretaries.

[1][**43A.** (*1*) The Governor-General may at his discretion appoint, from among the members of the Legislative Assembly, council secretaries who shall hold office during his pleasure and discharge such duties in assisting the members of his executive council as he may assign to them.

(*2*) There shall be paid to council secretaries so appointed such salary as may be provided by the Indian legislature.

(*3*) A council secretary shall cease to hold office if he ceases for more than six months to be a member of the Legislative Assembly.]

War and Treaties.

Restriction on power of Governor-General in Council to make war or treaty.

44. (*1*) The Governor-General in Council may not, without the express order of the Secretary of State in Council, in any case (except where hostilities have been actually commenced, or preparations for the commencement of hostilities have been actually made, against the British Government in India or against any prince or state dependent thereon, or against any prince or state whose territories His Majesty is bound by any subsisting treaty to defend or guarantee), either declare war or commence hostilities or enter into any treaty for making war against any prince or state in India, or enter into any treaty for guaranteeing the possessions of any such prince or state.

(*2*) In any such excepted case the Governor-General in Council may not declare war, or commence hostilities, or enter into any treaty for making war

[1] Section 43A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

war, against any other prince or state than such as is actually committing hostilities or making preparations as aforesaid, and may not make any treaty for guaranteeing the possessions of any prince or state except on the consideration of that prince or state actually engaging to assist His Majesty against such hostilities commenced or preparations made as aforesaid.

(3) When the Governor-General in Council commences any hostilities or makes any treaty, he shall forthwith communicate the same, with the reasons therefor, to the Secretary of State.

PART V.

LOCAL GOVERNMENTS.

General.

Relation of local governments to Governor-General in Council.

45. (1) [1][Subject to the provisions of this Act and rules made thereunder], every local government shall obey the orders of the Governor-General in Council, and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its opinion, to be reported to him, or as to which he requires information, and is under his superintendence, direction and control in all matters relating to the government of its province.

[2][(2)* * * * *]

(3) The authority of a local government is not superseded by the presence in its province of the Governor-General.

Classification of central and provincial subjects.

[3]**45A.** (1) Provision may be made by rules under this Act—

(a) for the classification of subjects, in relation to the functions of government, as central and provincial subjects, for the purpose

[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] Sub-section (2) was omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[3] Section 45A was inserted by Part I of Sch. II, *ibid.*

purpose of distinguishing the functions of local governments and local legislatures from the functions of the Governor-General in Council and the Indian legislature;

(*b*) for the devolution of authority in respect of provincial subjects to local governments, and for the allocation of revenues or other moneys to those governments;

(*c*) for the use under the authority of the Governor-General in Council of the agency of local governments in relation to central subjects, in so far as such agency may be found convenient, and for determining the financial conditions of such agency; and

(*d*) for the transfer from among the provincial subjects of subjects (in this Act referred to as " transferred subjects ") to the administration of the governor acting with ministers appointed under this Act, and for the allocation of revenues or moneys for the purpose of such administration.

(2) Without prejudice to the generality of the foregoing powers, rules made for the above-mentioned purposes may—

(i) regulate the extent and conditions of such devolution, allocation, and transfer;

(ii) provide for fixing the contributions payable by local governments to the Governor General in Council, and making such contributions a first charge on allocated revenues or moneys;

(iii) provide for constituting a finance department in any province, and regulating the functions of that department;

(iv) provide for regulating the exercise of the authority vested in the local government of a province over members of the public services therein;

provide

(v) provide for the settlement of doubts arising as to whether any matter does or does not relate to a provincial subject or a transferred subject, and for the treatment of matters which affect both a transferred subject and a subject which is not transferred; and

(vi) make such consequential and supplemental provisions as appear necessary or expedient:

Provided that, without prejudice to any general power of revoking or altering rules under this Act, the rules shall not authorise the revocation or suspension of the transfer of any subject except with the sanction of the Secretary of State in Council.

(*3*) The powers of superintendence, direction, and control over local governments vested in the Governor-General in Council under this Act shall, in relation to transferred subjects, be exercised only for such purposes as may be specified in rules made under this Act, but the Governor-General in Council shall be the sole judge as to whether the purpose of the exercise of such powers in any particular case comes within the purposes so specified.

(*4*) The expressions "central subjects" and "provincial subjects" as used in this Act mean subjects so classified under the rules.

Provincial subjects, other than transferred subjects, are in this Act referred to as "reserved subjects."]

Governorships.

Local government in governors' provinces.

46. [1][(*1*) The presidencies of Fort William in Bengal, Fort St. George, and Bombay, and the provinces known as the United Provinces, the Punjab, Bihar and Orissa, the Central Provinces, and Assam,[2] shall each be governed, in relation to reserved

[1] Sub-section 1 of section 46 was substituted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The province of Burma has since been constituted a governor's province, *vide* footnote 2 to s. 52A (*1*) on p. 80, *infra*.

reserved subjects, by a governor in council, and in relation to transferred subjects (save as otherwise provided by this Act) by the governor acting with ministers appointed under this Act.

The said presidencies and provinces are in this Act referred to as " governors' provinces " and the two first named presidencies are in this Act referred to as the presidencies of Bengal and Madras.]

[1][(2) The governors of the said presidencies are appointed by His Majesty by warrant under the Royal Sign Manual, and the governors of the said provinces shall be so appointed after consultation with the Governor-General.]

(3) The Secretary of State may, if he thinks fit, by order revoke or suspend, for such period as he may direct, the appointment of a council for any or all of [2][the governors provinces]; and whilst any such order is in force the governor of the [3][province] to which the order refers shall have all the powers of the governor thereof in council.

Members of governors' executive councils.

47. (1) The members of a governor's executive council shall be appointed by His Majesty by warrant under the Royal Sign Manual, and shall be of such number, not exceeding four, as the Secretary of State in Council directs.

(2) [4][One at least of them must be a person who at the time of his appointment has been] for at least twelve years in the service of the Crown in India.

[5][(3) Provision may be made by rules under this Act as to the qualifications to be required in respect of members of the executive council of the governor of a province in any case where such provision is not made by the foregoing provisions of this section.]

48. Every

[1] This sub-section was substituted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] Those words were substituted for the words " those presidencies " by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[3] This word was substituted for the word " presidency " by *ibid.*

[4] These words were substituted for the words " Two at least of them must be persons who at the time of their appointment have been " by *ibid.*

[5] This sub-section was substituted by *ibid.*

48. Every governor of a [1][province] shall appoint a member of his executive council to be vice-president thereof. Vice-president of council.

[2][**49.** (*1*) All orders and other proceedings of the government of a governor's province shall be expressed to be made by the government of the province, and shall be authenticated as the governor may by rule direct, so, however, that provision shall be made by rule for distinguishing orders and other proceedings relating to transferred subjects from other orders and proceedings. Business of governor in council and governor with ministers.

Orders and proceedings authenticated as aforesaid shall not be called into question in any legal proceeding on the ground that they were not duly made by the government of the province.

(*2*) The governor may make rules and orders for the more convenient transaction of business in his executive council and with his ministers, and every order made or act done in accordance with those rules and orders shall be treated as being the order or the act of the government of the province.

The governor may also make rules and orders for regulating the relations between his executive council and his ministers for the purpose of the transaction of the business of the local government:

Provided that any rules or orders made for the purposes specified in this section which are repugnant to the provisions of any other rules made under this Act shall, to the extent of that repugnancy, but not otherwise, be void.]

50. (*1*) If any difference of opinion arises on any question brought before a meeting of a governor's executive council, the governor in council shall be bound by the opinion and decision of the majority of those present, and if they are equally divided the governor or other person presiding shall have a second or casting vote. Procedure in case of difference of opinion in executive council.

(*2*) Provided

[1] *This word was substituted for the word "presidency" by Part II* of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5. Ch. 101).
[2] Section 49 was substituted by Part I, *ibid.*

(*2*) Provided that, whenever any measure is proposed before a governor in council whereby the safety, tranquillity or interests of his [1][province], or of any part thereof, are or may be, in the judgment of the governor, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority present at a meeting of the council dissent from that opinion, the governor may, on his own authority and responsibility, by order in writing, adopt, suspend or reject the measure, in whole or in part.

(*3*) In every such case the governor and the members of the council present at the meeting shall mutually exchange written communications (to be recorded at large in their secret proceedings) stating the grounds of their respective opinions, and the order of the governor shall be signed by the governor and by those members.

(*4*) Nothing in this section shall empower a governor to do anything which he could not lawfully have done with the concurrence of his council.

Provision for absence of governor from meetings of council.

51. If a governor is obliged to absent himself from any meeting of his executive council, by indisposition or any other cause, [2][***] the vice-president, or, if he is absent, the senior [3][*] member present at the meeting, shall preside thereat, with the like powers as the governor would have had if present:

Provided that if the governor is at the time resident at the place where the meeting is assembled, and is not prevented by indisposition from signing any act of council made at the meeting, the act shall require his signature; but, if he declines or refuses to sign it, the like provisions shall have effect as in cases

[1] This word was substituted for the word "presidency" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The words "and signifies his intended absence to the council" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[3] The word "civil" was omitted by *ibid.*

cases where the governor, when present, dissents from the majority at a meeting of the council.

[1][**52.** (*1*) The governor of a governor's province may, by notification, appoint ministers, not being members of his executive council or other officials, to administer transferred subjects, and any ministers so appointed shall hold office during his pleasure. Appointment of ministers and council secretaries.

There may be paid to any minister so appointed in any province the same salary as is payable to a member of the executive council in that province, unless a smaller salary is provided by vote of the legislative council of the province.

(*2*) No minister shall hold office for a longer period than six months, unless he is or becomes an elected member of the local legislature.

(*3*) In relation to transferred subjects, the governor shall be guided by the advice of his ministers, unless he sees sufficient cause to dissent from their opinion, in which case he may require action to be taken otherwise than in accordance with that advice:

Provided that rules may be made under this Act for the temporary administration of a transferred subject where, in cases of emergency, owing to a vacancy, there is no minister in charge of the subject, by such authority and in such manner as may be prescribed by the rules.

(*4*) The governor of a governor's province may at his discretion appoint from among the non-official members of the local legislature, council secretaries, who shall hold office during his pleasure and discharge such duties in assisting members of the executive council and ministers as he may assign to them.

There shall be paid to council secretaries so appointed such salary as may be provided by vote of the legislative council.

A council secretary shall cease to hold office if he ceases for more than six months to be a member of the legislative council.]

[**52A.** (*1*) The

[1] Section 52 was substituted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5. Ch. 101).

Constitution of new provinces, &c., and provision as to backward tracts.

[1][**52A.** (*1*) The Governor-General in Council may, after obtaining an expression of opinion from the local government and the local legislature affected, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute a new governor's province,[2] or place part of a governor's province under the administration of a deputy-governor to be appointed by the Governor-General, and may in any such case apply, with such modifications as appear necessary or desirable, all or any of the provisions of this Act relating to governors' provinces, or provinces under a lieutenant-governor or chief commissioner, to any such new province or part of a province.

(*2*) The Governor-General in Council may declare any territory in British India to be a "backward tract,"[3] and may, by notification, with such sanction as aforesaid, direct that this Act shall apply to that territory subject to such exceptions and modifications as may be prescribed in the notification.

Where the Governor-General in Council has, by notification, directed as aforesaid, he may, by the same or subsequent notification, direct that any Act of the Indian legislature shall not apply to the territory in question or any part thereof, or shall apply to the territory or any part thereof subject to such exceptions or modifications as the Governor-General thinks fit, or may authorise the governor in council

[1] Sections 52A and 52B were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The province of Burma was constituted a governor's province with effect from January 2, 1923; *vide* notification No. 225, dated October 7, 1921, in Gazette of India Extraordinary, 1921, p. 381, and notification No. 1192, dated January 2, 1923, in Gazette of India Extraordinary, 1923, p. 37 and on pp. 251 and 252, *infra*.

[3] For the territories declared to be "backward tracts" in Madras, Bengal, the Punjab, Bihar and Orissa and Assam, and for the exceptions and modifications subject to which the Government of India Act applies thereto, see respectively, notifications Nos. 1-G., 2-G., 3-G., 4-G. and 5-G., dated the 3rd January, 1921, Gazette of India Extraordinary, 1921, pp. 41, 42, 43, 44 and 45, respectively; for Bengal, *see* also notification No. F.—124, dated the 15th December, 1921, in Gazette of India, 1921, Part I, p. 1653, also pp. 253-258, *infra*.

For the modifications subject to which Act 5 of 1898 applies to the Agency Division of the Madras Presidency, a "backward tract" in that Presidency, *see notification* No. F—867, dated the 27th February, 1922, Gazette of India, 1922, Part I, p. 205, and also pp. 255-257, *infra*.

council to give similar directions as respects any Act of the local legislature.]

Geo. 5. [1][**52B.** (*1*) The validity of any order made or action taken after the commencement of the Government of India Act, 1919, by the Governor-General in Council or by a local government which would have been within the powers of the Governor-General in Council or of such local government if that Act had not been passed, shall not be open to question in any legal proceedings on the ground that by reason of any provision of that Act or this Act, or of any rule made by virtue of any such provision, such order or action has ceased to be within the powers of the Governor-General in Council or of the government concerned. Saving.

(*2*) The validity of any order made or action taken by a governor in council, or by a governor acting with his ministers, shall not be open to question in any legal proceedings on the ground that such order or action relates or does not relate to a transferred subject, or relates to a transferred subject of which the minister is not in charge.]

UNIVER LAW

Lieutenant-Governorships and other Provinces.

53. [2](*1*) [3][The province of] Burma is, subject to the provisions of this Act, governed by a lieutenant-governor [4][****]. Lieutenant-governorships.

(*2*) The Governor-General in Council may, by notification, with sanction of His Majesty previously signified by the Secretary of State in Council, constitute a new province under a lieutenant-governor.

54. (*1*) A

[1] *See* first footnote on p. 80, *supra*.

[2] This sub-section ceased to have effect from January 2, 1926, *i.e.*, the date from which the province of Burma was constituted a governor's province, *vide* notification No. 225, dated October 7, 1921 in Gazette of India Extraordinary, 1921, p. 381 and notification No. 1192, dated January 2, 1923, in Gazette of India Extraordinary 1923, p. 37, and on pp. 251-252, *infra*.

[3] These words were substituted for the words "Each of the following provinces, namely, those known as Bihar and Orissa, the United Provinces of Agra and Oudh, the Punjab and" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[4] The words "with or without an executive council" were omitted by *ibid*.

Appointment, &c., of lieutenant-governors.

54. (*1*) A lieutenant-governor is appointed by the Governor-General with the approval of His Majesty.

(*2*) A lieutenant-governor must have been, at the time of his appointment, at least ten years in the service of the Crown in India.

[1][(*3*) * * * * *.]

Power to create executive councils for lieutenant-governors.

55. (*1*) The Governor-General in Council, with the approval of the Secretary of State in Council, may, by notification, create a council in any province under a lieutenant-governor, for the purpose of assisting the lieutenant-governor in the executive government of the province, and by such notification—

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

(*b*) make provision for the appointment of temporary or acting members of the council during the absence of any member from illness or otherwise, [2][and for supplying a vacancy until it is permanently filled,] 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 by indisposition or any other cause:

Provided that, before any such notification is published, 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

[1] Sub-section (*3*) was omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were inserted by *ibid.*

shall be taken thereon, without prejudice to the making of any new draft.

(*2*) Every notification under this section shall be laid before both Houses of Parliament as soon as may be after it is made.

(*3*) Every member of a lieutenant-governor's executive council shall be appointed by the Governor-General, with the approval of His Majesty.

Vice-president of lieutenant-governor's council.

56. A lieutenant-governor who has an executive council shall appoint a member of the council to be vice-president thereof, and that vice-president shall preside at meetings of the council in the absence of the lieutenant-governor.

Business of lieutenant-governor in council.

57. A lieutenant-governor who has an executive council may, with the consent of the Governor-General in Council, make rules and orders for more convenient transaction of business in the council, and every order made, or act done, in accordance with such rules and orders, shall be treated as being the order or the act of the lieutenant-governor in council. [1][An order made as aforesaid shall not be called into question in any legal proceedings on the ground that it was not duly made by the lieutenant-governor in council.]

Chief commissioners.

58. Each of the following provinces, namely, those known as [2][* * *] the North-West Frontier Province, British Baluchistan, Delhi, Ajmer-Merwara, Coorg, and the Andaman and Nicobar Islands, is, subject to the provisions of this Act, administered by a chief commissioner.

Power to place territory under authority of Governor-General in Council.

59. The Governor-General in Council may, with the approval of the Secretary of State, and by notification, take any part of British India under the immediate authority and management of the Governor-General in Council, and thereupon give all necessary orders and directions respecting the administration of that part, by placing it under a chief commissioner or by otherwise providing for its administration.

Boundaries.

[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The words "Assam, the Central Provinces" were omitted by *ibid.*

Boundaries.

Power to declare and alter boundaries of provinces.

60. The Governor-General in Council may, by notification, declare, appoint or alter the boundaries of any of the provinces into which British India is for the time being divided, and distribute the territories of British India among the several provinces thereof in such manner as may seem expedient, subject to these qualifications, namely :—

(*1*) an entire district may not be transferred from one province to another without the previous sanction of the Crown, signified by the Secretary of State in Council; and

(*2*) any notification under this section may be disallowed by the Secretary of State in Council.

Saving as to laws.

61. An alteration in pursuance of the foregoing provisions of the mode of administration of any part of British India, or of the boundaries of any part of British India, shall not affect the law for the time being in force in that part.

Power to extend boundaries of presidency towns.

62. The governor of Bengal in council, the governor of Madras in council, and the governor of Bombay in council may, with the approval of the Secretary of State in Council, and by notification, extend the limits of the towns of Calcutta, Madras and Bombay, respectively; and any Act of Parliament, letters patent, charter, law or usage conferring jurisdiction, power or authority within the limits of those towns respectively shall have effect within the limits as so extended.

PART VI.

INDIAN LEGISLATION.

The Indian Legislature.

Indian legislature

[1]**63.** Subject to the provisions of this Act, the Indian legislature shall consist of the Governor-General

[1] Sections 63, 63A, 63B, 63C, 63D, 63E, and 64 were substituted for sections 63 and 64 by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

General and two chambers, namely, the Council of State and the Legislative Assembly.

Except as otherwise provided by or under this Act, a Bill shall not be deemed to have been passed by the Indian legislature unless it has been agreed to by both chambers, either without amendment or with such amendments only as may be agreed to by both chambers.]

Council of State.

[1][**63A.** (*1*) The Council of State shall consist of not more than sixty members nominated or elected in accordance with rules made under this Act, of whom not more than twenty shall be official members.

(*2*) The Governor-General shall have power to appoint, from among the members of the Council of State, a president and other persons to preside in such circumstances as he may direct.

(*3*) The Governor-General shall have the right of addressing the Council of State, and may for that purpose require the attendance of its members.]

Legislative Assembly.

[1][**63B.** (*1*) The Legislative Assembly shall consist of members nominated or elected in accordance with rules made under this Act.

(*2*) The total number of members of the Legislative Assembly shall be one hundred and forty. The number of non-elected members shall be forty, of whom twenty-six shall be official members. The number of elected members shall be one hundred:

Provided that rules made under this Act may provide for increasing the number of members of the Legislative Assembly as fixed by this section, and may vary the proportion which the classes of members bear one to another, so, however, that at least five-sevenths of the members of the Legislative Assembly shall be elected members, and at least one-third of the other members shall be non-official members.

(*3*) The Governor-General shall have the right of addressing the Legislative Assembly, and may for that purpose require the attendance of its members.]

[**63C.** (*1*) There

[1] *See* the footnote on p. 84, *supra*.

President of Legislative Assembly.

[1][**63C.** (*1*) There shall be a president of the Legislative Assembly, who shall, until the expiration of four years from the first meeting thereof, be a person appointed by the Governor-General, and shall thereafter be a member of the Assembly elected by the Assembly and approved by the Governor-General:

Provided that, if at the expiration of such period of four years the Assembly is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the ensuing session.

(*2*) There shall be a deputy-president of the Legislative Assembly, who shall preside at meetings of the Assembly in the absence of the president, and who shall be a member of the Assembly elected by the Assembly and approved by the Governor-General.

(*3*) The appointed president shall hold office until the date of the election of a president under this section, but he may resign his office by writing under his hand addressed to the Governor-General, or may be removed from office by order of the Governor-General, and any vacancy occurring before the expiration of his term of office shall be filled by a similar appointment for the remainder of such term.

(*4*) An elected president and a deputy-president shall cease to hold office if they cease to be members of the Assembly. They may resign office by writing under their hands addressed to the Governor-General, and may be removed from office by a vote of the Assembly with the concurrence of the Governor-General.

(*5*) A president and deputy-president shall receive such salaries as may be determined, in the case of an appointed president by the Governor-General, and in the case of an elected president and a deputy-president by Act of the Indian legislature.]

63D. (*1*) Every

[1] *See* the footnote on p. 84, *supra*.

[1][**63D.** (*1*) Every Council of State shall continue for five years, and every Legislative Assembly for three years from its first meeting: Duration and sessions of Legislative Assembly and Council of State.

Provided that—

(*a*) either chamber of the legislature may be sooner dissolved by the Governor-General; and

(*b*) any such period may be extended by the Governor-General if in special circumstances he so thinks fit; and

(*c*) after the dissolution of either chamber the Governor-General shall appoint a date not more than six months, or, with the sanction of the Secretary of State, not more than nine months, after the date of dissolution for the next session of that chamber.

(*2*) The Governor-General may appoint such times and places for holding the sessions of either chamber of the Indian legislature as he thinks fit, and may also from time to time, by notification or otherwise, prorogue such sessions.

(*3*) Any meeting of either chamber of the Indian legislature may be adjourned by the person presiding.

(*4*) All questions in either chamber shall be determined by a majority of votes of members present other than the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

(*5*) The powers of either chamber of the Indian legislature may be exercised notwithstanding any vacancy in the chamber.]

[1][**63E.** (*1*) An official shall not be qualified for election as a member of either chamber of the Indian legislature, and, if any non-official member of either chamber accepts office in the service of the Crown in India, his seat in that chamber shall become vacant. Membership of both chambers.

(*2*) If an

[1] *See* the footnote on p. 84, *supra*.

(*2*) If an elected member of either chamber of the Indian legislature becomes a member of the other chamber, his seat in such first-mentioned chamber shall thereupon become vacant.

(*3*) If any person is elected a member of both chambers of the Indian legislature, he shall, before he takes his seat in either chamber, signify in writing the chamber of which he desires to be a member, and thereupon his seat in the other chamber shall become vacant.

(*4*) Every member of the Governor-General's executive council shall be nominated as a member of one chamber of the Indian legislature, and shall have the right of attending in and addressing the other chamber, but shall not be a member of both chambers.]

Supplementary provisions as to composition of Legislative Assembly and Council of State.

[1][**64.** (*1*) Subject to the provisions of this Act, provision may be made by rules under this Act as to—

(*a*) the term of office of nominated members of the Council of State and the Legislative Assembly, and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise; and

(*b*) the conditions under which and the manner in which persons may be nominated as members of the Council of State or the Legislative Assembly; and

(*c*) the qualification of electors, the constitution of constituencies, and the method of election for the Council of State and the Legislative Assembly (including the number of members to be elected by communal and other electorates) and any matters incidental or ancillary thereto; and

(*d*) the

[1] *See* the footnote on p. 84, *supra*.

(*d*) the qualifications for being or for being nominated or elected as members of the Council of State or the Legislative Assembly; and

(*e*) the final decision of doubts or disputes as to the validity of an election; and

(*f*) the manner in which the rules are to be carried into effect.

(*2*) Subject to any such rules, any person who is a ruler or subject of any state in India may be nominated as a member of the Council of State or the Legislative Assembly.]

Powers of Indian legislature.

65. (*1*) The [1][Indian legislature] has power to make laws—

(*a*) for all persons, for all courts, and for all places and things, within British India; and

(*b*) for all subjects of His Majesty and servants of the Crown within other parts of India; and

(*c*) for all native Indian subjects of His Majesty, without and beyond as well as within British India; and

(*d*) for the government of officers, soldiers, [2][airmen] and followers in His Majesty's Indian forces, wherever they are serving, in so far as they are not subject to the Army Act [2][or the Air Force Act]; and

(*e*) for all persons employed or serving in or belonging to the Royal Indian Marine Service; and

(*f*) for repealing or altering any laws which for the time being are in force in any part of British India or apply to persons for whom the [1][Indian legislature] has power to make laws.

(*2*) Provided

[1] These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were inserted by Part III, *ibid.*

(*2*) Provided that the [1][Indian legislature] has not, unless expressly so authorised by Act of Parliament, power to make any law repealing or affecting--

(*i*) any Act of Parliament passed after the year one thousand eight hundred and sixty and extending to British India (including the Army Act, [2][the Air Force Act] and any Act amending the same); or

(*ii*) any Act of Parliament enabling the Secretary of State in Council to raise money in the United Kingdom for the government of India;

and has not power to make any law affecting the authority of Parliament, 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 affecting the sovereignty or dominion of the Crown over any part of British India.

(*3*) The [1][Indian legislature] has not power, without the previous approval of the Secretary of State in Council, to make any law empowering any court, other than a high court, to sentence to the punishment of death any of His Majesty's subjects born in Europe, or the children of such subjects, or abolishing any high court.

Laws for the Royal Indian Marine Service.

66. (*1*) A law made under this Act for the Royal Indian Marine Service shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, that is to say, the high seas between the Cape of Good Hope on the West and the Straits of Magellan on the East, and any territorial waters between those limits.

(*2*) The

[1] These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The words were inserted by Part III, *ibid.*

(*2*) The punishments imposed by any such law for offences shall be similar in character to, and not in excess of, the punishments which may, at the time of making the law, be imposed for similar offences under the Acts relating to His Majesty's Navy, except that, in the case of persons other than Europeans or Americans, imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude.

Business and proceedings in Indian legislature.

67. [1][(*1*) Provision may be made by rules under this Act for regulating the course of business and the preservation of order in the chambers of the Indian legislature, and as to the persons to preside at the meetings of the Legislative Assembly in the absence of the president and the deputy-president; and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussion of, any subject specified in the rules.]

(*2*) It shall not be lawful, without the previous sanction of the Governor-General, to introduce at any meeting of [2][either chamber of the Indian legislature] any measure affecting—

(*a*) the public debt or public revenues of India or imposing any charge on the revenues of India; or

(*b*) the religion or religious rites and usages of any class of British subjects in India; or

(*c*) the discipline or maintenance of any part of His Majesty's military, [3][naval or air] forces; or

(*d*) the relations of the Government with foreign princes or states:

or any measure

[1] This sub-section was substituted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words "the Council" by Part II, *ibid.*

[3] These words were substituted for the words "or naval" by Part III, *ibid.*

[1][or any measure—

(*i*) regulating any provincial subject, or any part of a provincial subject, which has not been declared by rules under this Act to be subject to legislation by the Indian legislature; or

(*ii*) repealing or amending any Act of a local legislature; or

(*iii*) repealing or amending any Act or Ordinance made by the Governor-General.]

[2][(*2a*) Where in either chamber of the Indian legislature any Bill has been introduced, or is proposed to be introduced, or any amendment to a Bill is moved, or proposed to be moved, the Governor-General may certify that the Bill, or any clause of it, or the amendment, affects the safety or tranquillity of British India, or any part thereof, and may direct that no proceedings, or that no further proceedings, shall be taken by the chamber in relation to the Bill, clause, or amendment, and effect shall be given to such direction.]

[3][(*3*) If any Bill which has been passed by one chamber is not, within six months after the passage of the Bill by that chamber, passed by the other chamber either without amendments or with such amendments as may be agreed to by the two chambers, the Governor-General may in his discretion refer the matter for decision to a joint sitting of both chambers: Provided that standing orders made under this section may provide for meetings of members of both chambers appointed for the purpose, in order to discuss any difference of opinion which has arisen between the two chambers.]

[3][(*4*) Without prejudice to the powers of the Governor-General under section sixty-eight of this Act, the Governor-General may, where a Bill has been

[1] These clauses were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] Sub-section (2*a*) was inserted by Part II, *ibid.*

[3] Sub-sections (*3*), (*4*), (*5*), (*6*) and (*7*) were substituted for sub-section (*3*) by Part I, *ibid.*

been passed by both chambers of the Indian legislature, return the Bill for reconsideration by either chamber.]

[1][(5) Rules made for the purpose of this section may contain such general and supplemental provisions as appear necessary for the purpose of giving full effect to this section.]

[1][(6) Standing orders may be made providing for the conduct of business and the procedure to be followed in either chamber of the Indian legislature in so far as these matters are not provided for by rules made under this Act. The first standing orders shall be made by the Governor-General in Council, but may with the consent of the Governor-General be altered by the chamber to which they relate.

Any standing order made as aforesaid which is repugnant to the provisions of any rules made under this Act shall, to the extent of that repugnancy but not otherwise, be void.]

[1][(7) Subject to the rules and standing orders affecting the chamber there shall be freedom of speech in both chambers of the Indian legislature. No person shall be liable to any proceedings in any court by reason of his speech or vote in either chamber, or by reason of anything contained in any official report of the proceedings of either chamber.]

Indian budget.

[2][**67A.** (*1*) The estimated annual expenditure and revenue of the Governor-General in Council shall be laid in the form of a statement before both chambers of the Indian legislature in each year.

(*2*) No proposal for the appropriation of any revenue or moneys for any purpose shall be made except on the recommendation of the Governor-General.

(*3*) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating

[1] *See* the third footnote on p. 92.

[2] Section 67A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either chamber at the time when the annual statement is under consideration, unless the Governor-General otherwise directs:—

(*i*) interest and sinking fund charges on loans; and

(*ii*) expenditure of which the amount is prescribed by or under any law; and

(*iii*) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and

(*iv*) salaries of chief commissioners and judicial commissioners; and

(*v*) expenditure classified by the order of the Governor-General in Council as—

(*a*) ecclesiastical;

(*b*) political;

(*c*) defence.

(*4*) If any question arises as to whether any proposed appropriation of revenue or moneys does or does not relate to the above heads, the decision of the Governor-General on the question shall be final.

(*5*) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to heads of expenditure not specified in the above heads shall be submitted to the vote of the Legislative Assembly in the form of demands for grants.

(*6*) The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in any demand by a reduction of the whole grant.

(*7*) The demands as voted by the Legislative Assembly shall be submitted to the Governor-General in Council, who shall, if he declares that he is satisfied

fied that any demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, by the Legislative Assembly.

(*8*) Notwithstanding anything in this section the Governor-General shall have power, in cases of emergency, to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquillity of British India or any part thereof.]

Provision for case of failure to pass legislation.

[1][**67B.** (*1*) Where either chamber of the Indian legislature refuses leave to introduce, or fails to pass in a form recommended by the Governor-General, any Bill, the Governor-General may certify that the passage of the Bill is essential for the safety, tranquillity, or interests of British India or any part thereof, and thereupon—

(*a*) if the Bill has already been passed by the other chamber, the Bill shall, on signature by the Governor-General, notwithstanding that it has not been consented to by both chambers, forthwith become an Act of the Indian legislature in the form of the Bill as originally introduced or proposed to be introduced in the Indian legislature, or (as the case may be) in the form recommended by the Governor-General; and

(*b*) if the Bill has not already been so passed, the Bill shall be laid before the other chamber, and, if consented to by that chamber in the form recommended by the Governor-General, shall become an Act as aforesaid on the signification of the Governor-General's assent, or, if not so consented to, shall, on signature by the Governor-General, become an Act as aforesaid.

(*2*) Every

[1] Section 67B was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(*2*) Every such Act shall be expressed to be made by the Governor-General, and shall, as soon as practicable after being made, be laid before both Houses of Parliament, and shall not have effect until it has received His Majesty's assent, and shall not be presented for His Majesty's assent, until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat; and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the Indian legislature and duly assented to:

Provided that where in the opinion of the Governor-General a state of emergency exists which justifies such action, the Governor-General may direct that any such Act shall come into operation forthwith, and thereupon the Act shall have such force and effect as aforesaid, subject, however, to disallowance by His Majesty in Council.]

Assent of Governor-General to Bills.

68. (*1*) When [1][a Bill] has been passed [2][by both chambers of the Indian legislature], the Governor-General, [3][* * *] may declare that he assents to the [4][Bill], or that he withholds assent from the [4][Bill], or that he reserves the [4][Bill] for the signification of His Majesty's pleasure thereon.

(*2*) [5][A Bill passed by both chambers of the Indian legislature shall not become an Act] until the Governor-General has declared his assent thereto, or, in the case of [1][a Bill] reserved for the signification of His Majesty's pleasure, until His Majesty [6][in Council] has signified his assent [7][* * *] and

[1] These words were substituted for the words "an Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
[2] These words were substituted for the words "at a meeting of the Indian Legislative Council" by *ibid.*
[3] The words "whether he was or was not present in Council at the passing thereof" were omitted by *ibid.*
[4] This word was substituted for the word "Act" by *ibid.*
[5] These words were substituted for the words "An Act of the Governor-General in Legislative Council has not validity" by *ibid.*
[6] These words were inserted by *ibid.*
[7] The words "to the Governor-General through the Secretary of State in Council" were omitted by *ibid.*

and that assent has been notified by the Governor-General.

Powers of Crown to disallow Acts.

69. (*1*) When an Act of the [1][Indian legislature] has been assented to by the Governor-General, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty [2][in Council] to signify [3][* * *] his disallowance of any such Act.

(*2*) Where the disallowance of any such Act has been so signified, the Governor-General shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

70. [*Rules for conduct of legislative business*].—Omitted by Part II of Sch. II of 9 & 10 Geo. 5, Ch. 101.

Regulations and Ordinances.

Power to make regulations

71. (*1*) The local government of any part of British India to which this section for the time being applies may propose to the Governor-General in Council the draft of any Regulation for the peace and good government of that part, with the reasons for proposing the Regulation.

(*2*) Thereupon the Governor-General in Council may take any such draft and reasons into consideration; and when any such draft has been approved by the Governor-General in Council and assented to by the Governor-General, it shall be published in the Gazette of India, and in the local official gazette, if any, and shall thereupon have the like force of law and be subject to the like disallowance as if it were an Act of the [1][Indian legislature].

(*3*) The Governor-General shall send to the Secretary of State in Council an authentic copy of every Regulation

[1] These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were inserted by *ibid.*

[3] The words "through the Secretary of State in Council" were omitted by *ibid.*

Regulation to which he has assented under this section.

[1][(*3a*) A Regulation made under this section for any territory shall not be invalid by reason only that it confers or delegates power to confer on courts or administrative authorities power to sit or act outside the territory in respect of which they have jurisdiction or functions, or that it confers or delegates power to confer appellate jurisdiction or functions on courts or administrative authorities sitting or acting outside the territory.]

(*4*) The Secretary of State may, by resolution in council, apply this section to any part of British India, as from a date to be fixed in the resolution, and withdraw the application of this section from any part to which it has been applied.

Power to make Ordinances in case of emergency.

72. The Governor-General may, in cases of emergency, make and promulgate Ordinances for the peace and good government of British India or any part thereof, and any Ordinance so made shall, for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the [2][Indian legislature]; but the power of making Ordinances under this section is subject to the like restrictions as the power of the [2][Indian legislature] to make laws; and any Ordinance made under this section is subject to the like disallowance as an Act passed by the [2][Indian legislature], and may be controlled or superseded by any such Act.

Local Legislatures.

(*a*) *Governors' Provinces.*

Governors' legislative councils.

[3][**72A.** (*1*) There shall be a legislative council in every governor's province, which shall consist of the

[1] This sub-section was inserted by section 2 (1) of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[2] These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[3] Section 72A was inserted by Part I, *ibid.*

the members of the executive council and of members nominated or elected as provided by this Act.

The governor shall not be a member of the legislative council, but shall have the right of addressing the council, and may for that purpose require the attendance of its members.

(*2*) The number of members of the governors' legislative councils shall be in accordance with the table set out in the First Schedule to this Act; and of the members of each council not more than twenty per cent. shall be official members, and at least [1]seventy per cent. shall be elected members:

Provided that—

(*a*) subject to the maintenance of the above proportions, rules under this Act may provide for increasing the number of members of any council, as specified in that schedule; and

(*b*) the governor may, for the purpose of any Bill introduced or proposed to be introduced in his legislative council, nominate, in the case of Assam one person, and in the case of other provinces not more than two persons, having special knowledge or experience of the subject-matter of the Bill, and those persons shall, in relation to the Bill, have for the period for which they are nominated all the rights of members of the council, and shall be in addition to the numbers above referred to; and

(*c*) members nominated to the legislative council of the Central Provinces by the governor as the result of elections held in the Assigned Districts of Berar shall be deemed to be elected members of the legislative council of the Central Provinces.

(*3*) The powers

[1] In the case of the Legislative Council of Burma, this provision shall have effect as though 60 per cent. were substituted for 70 per cent.; see notification No. 225, dated October 7, 1921, in Gazette of India Extraordinary, 1921, p. 381, and at p. 251, *infra*.

(3) The powers of a governor's legislative council may be exercised notwithstanding any vacancy in the council.

(4) Subject as aforesaid, provision may be made by rules under this Act as to—

(*a*) the term of office of nominated members of governors' legislative councils, and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, resignation duly accepted, or otherwise; and

(*b*) the conditions under which and manner in which persons may be nominated as members of governors' legislative councils; and

(*c*) the qualification of electors, the constitution of constituencies, and the method of election for governors' legislative councils, including the number of members to be elected by communal and other electorates, and any matters incidental or ancillary thereto; and

(*d*) the qualifications for being and for being nominated or elected a member of any such council; and

(*e*) the final decision of doubts or disputes as to the validity of any election, and

(*f*) the manner in which the rules are to be carried into effect:

Provided that rules as to any such matters as aforesaid may provide for delegating to the local government such power as may be specified in the rules of making subsidiary regulations affecting the same matters.

(5) Subject to any such rules any person who is a ruler or subject of any State in India may be nominated as a member of a governor's legislative council.]

72B. (1) Every

[1][**72B.** (*1*) Every governor's legislative council shall continue for three years from its first meeting : Sessions and duration of governors' legislative councils.

Provided that—

(*a*) the council may be sooner dissolved by the governor; and

(*b*) the said period may be extended by the governor for a period not exceeding one year, by notification in the official gazette of the province, if in special circumstances (to be specified in the notification) he so think fit; and

(*c*) after the dissolution of the council the governor shall appoint a date not more than six months or, with the sanction of the Secretary of State, not more than nine months from the date of dissolution for the next session of the council.

(*2*) A governor may appoint such times and places for holding the sessions of his legislative council as he thinks fit, and may also, by notification or otherwise, prorogue the council.

(*3*) Any meeting of a governor's legislative council may be adjourned by the person presiding.

(*4*) All questions in a governor's legislative council shall be determined by a majority of votes of the members present other than the person presiding, who shall, however, have and exercise a casting vote in the case of an equality of votes.]

[1][**72C.** (*1*) There shall be a president of a governor's legislative council, who shall, until the expiration of a period of four years from the first meeting of the council as constituted under this Act, be a person appointed by the governor, and shall thereafter be a member of the council elected by the council and approved by the governor : Presidents of governors' legislative councils.

Provided that, if at the expiration of such period of four years the council is in session, the president then in office shall continue in office until the end of the

[1] Sections 72B & 72C were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

the current session, and the first election of a president shall take place at the commencement of the next ensuing session.

(*2*) There shall be a deputy-president of a governor's legislative council who shall preside at meetings of the council in the absence of the president, and who shall be a member of the council elected by the council and approved by the governor.

(*3*) The appointed president of a council shall hold office until the date of the first election of a president by the council under this section, but he may resign office by writing under his hand addressed to the governor, or may be removed from office by order of the governor, and any vacancy occurring before the expiration of the term of office of an appointed president shall be filled by a similar appointment for the remainder of such term.

(*4*) An elected president and a deputy-president shall cease to hold office on ceasing to be members of the council. They may resign office by writing under their hands addressed to the governor, and may be removed from office by a vote of the council with the concurrence of the governor.

(*5*) The president and the deputy-president shall receive such salaries as may be determined, in the case of an appointed president, by the governor, and in the case of an elected president or deputy-president, by Act of the local legislature.]

Business and procedure in governors' legislative councils.

[1][**72D.** (*1*) The provisions contained in this section shall have effect with respect to business and procedure in governors' legislative councils.

(*2*) The estimated annual expenditure and revenue of the province shall be laid in the form of a statement before the council in each year, and the proposals of the local government for the appropriation of provincial revenues and other moneys in any year shall be submitted to the vote of the council in the form of demands for grants. The council may assent,

[1] Section 72D was inserted by Part I of Sch. II of Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

assent, or refuse its assent, to a demand, or may reduce the amount therein referred to either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed :

Provided that—

(*a*) the local government shall have power, in relation to any such demand, to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, if the demand relates to a reserved subject, and the governor certifies that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subject; and

(*b*) the governor shall have power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the province, or for the carrying on of any department; and

(*c*) no proposal for the appropriation of any such revenues or other moneys for any purpose shall be made except on the recommendation of the governor, communicated to the council.

(*3*) Nothing in the foregoing sub-section shall require proposals to be submitted to the council relating to the following heads of expenditure :—

(*i*) contributions payable by the local government to the Governor-General in Council; and

(*ii*) interest and sinking fund charges on loans; and

(*iii*) expenditure of which the amount is prescribed by or under any law; and

(*iv*) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and

(*v*) salaries

(*v*) salaries of judges of the high court of the province and of the advocate-general.

If any question arises whether any proposed appropriation of moneys does or does not relate to the above heads of expenditure, the decision of the governor shall be final.

(*4*) Where any Bill has been introduced or is proposed to be introduced, or any amendment to a Bill is moved or proposed to be moved, the governor may certify that the Bill or any clause of it or the amendment affects the safety or tranquillity of his province or any part of it or of another province, and may direct that no proceedings or no further proceedings shall be taken by the council in relation to the Bill, clause or amendment, and effect shall be given to any such direction.

(*5*) Provision may be made by rules under this Act for the purpose of carrying into effect the foregoing provisions of this section and for regulating the course of business in the council, and as to the persons to preside over meetings thereof in the absence of the president and deputy-president, and the preservation of order at meetings; and the rules may provide for the number of members required to constitute a quorum and for prohibiting or regulating the asking of questions on and the discussion of any subject specified in the rules.

(*6*) Standing orders may be made providing for the conduct of business and the procedure to be followed in the council, in so far as these matters are not provided for by rules made under this Act. The first standing orders shall be made by the governor in council, but may, subject to the assent of the governor, be altered by the local legislatures. Any standing order made as aforesaid, which is repugnant to the provisions of any rules made under this Act, shall, to the extent of that repugnancy but not otherwise, be void.

(*7*) Subject to the rules and standing orders affecting the council, there shall be freedom of speech in the governors' legislative councils. No person shall

shall be liable to any proceedings in any court by reason of his speech or vote in any such council, or by reason of anything contained in any official report of the proceedings of any such council.]

Provision for case of failure to pass legislation in governors' legislative councils.

[1][**72E.** (*1*) Where a governor's legislative council has refused leave to introduce, or has failed to pass in a form recommended by the governor, any Bill relating to a reserved subject, the governor may certify that the passage of the Bill is essential for the discharge of his responsibility for the subject, and thereupon the Bill shall, notwithstanding that the council have not consented thereto, be deemed to have passed, and shall on signature by the governor become an Act of the local legislature in the form of the Bill as originally introduced or proposed to be introduced in the council or (as the case may be) in the form recommended to the council by the governor

(*2*) Every such Act shall be expressed to be made by the governor, and the governor shall forthwith send an authentic copy thereof to the Governor-General, who shall reserve the Act for the signification of His Majesty's pleasure, and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor-General, the Act shall have the same force *and effect as an Act passed by the local legislature* and duly assented to:

Provided that, where in the opinion of the Governor-General a state of emergency exists which justifies such action, he may, instead of reserving such Act, signify his assent thereto, and thereupon the Act shall have such force and effect as aforesaid, subject however to disallowance by His Majesty in Council.

(*3*) An Act made under this section shall, as soon as practicable after being made, be laid before each House of Parliament, and an Act which is required to be presented for His Majesty's assent shall not be so presented until copies thereof have been laid before

[1] Section 72E was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

before each House of Parliament for not less than eight days on which that House has sat.]

(b) Lieutenant-Governors' and Chief Commissioners' Provinces.

Legislative councils of lieutenant-governors and chief commissioners.

73. (*1*) For purposes of legislation, the council of [1][* * *] a lieutenant-governor having an executive council, shall consist of the members of his executive council [2][and of members nominated or elected as hereinafter provided].

[3](*2*) * * *

[4](*3*) The legislative council of a lieutenant governor not having an executive council, or of a chief commissioner, shall consist of members nominated or elected [2][as hereinafter provided].

[5](*4*) * * *

74. [*Constitution of legislative councils in Bengal, Madras and Bombay.*]—Omitted by Part II of Schedule II of 9 & 10 Geo. 5, Ch. 101.

75. [*Meetings of legislative councils of Bengal, Madras and Bombay.*]—Omitted by Part II of Schedule II of 9 & 10 Geo. 5, Ch. 101.

Constitution of legislative councils of lieutenant-governors and chief commissioners.

76. (*1*) The number of members nominated or elected to the legislative council of a lieutenant-governor or chief commissioner, the number of such members required to constitute a quorum, the term of office of such members, and the manner of filling 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

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[1] The words "a governor, or of" were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words "with the addition of members nominated or elected in accordance with rules made under this Act" by *ibid.*

[3] Sub-section (*2*) was omitted by Part III, *ibid.*

[4] These words were substituted for the words "in accordance with rules made under this Act" by Part II, *ibid.*

[5] Sub-section (*4*) was omitted by *ibid.*

shall, in the case of each such council, be such as may be prescribed by rules made under this [1][section].

[2][Provided that the number of members so nominated or elected shall not, in the case of the legislative council of a lieutenant-governor, exceed one hundred.]

(*2*) At least one-third of the persons so nominated or elected to the legislative council of a lieutenant-governor or chief commissioner must be [3][non-officials].

(*3*) The Governor-General in Council may, with the approval of the Secretary of State in Council, make rules as to the conditions under which and manner in which persons resident in India may be nominated or elected members of any of those legislative councils, and as to the qualifications for being, and for being nominated or elected, a member of any of those councils, and as to any other matter for which rules are authorised to be made under this section, and as to the manner in which those rules are to be carried into effect.

[4][(*3a*) Rules made under this section may provide for the final decision of doubts or disputes as to the validity of an election.]

[4][(*3b*) Subject to any rules made under this section, any person who is a ruler or subject of any state in India shall be eligible to be nominated a member of a legislative council.]

(*4*) All rules made under this section shall be laid before both Houses of Parliament as soon as may be after they are made, and those rules shall not be subject to repeal or alteration by the [5][Indian legislature or the local legislature].

77. (*1*) When

[1] This word was substituted for the word "Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] This proviso was substituted by *ibid.*

[3] This word was substituted for the words "persons not in the civil or military service of the Crown in India" by *ibid.*

[4] Sub-sections (*3a*) and (*3b*) were inserted by section 1 (*2*) of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[5] These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Power to constitute local legislatures in lieutenant-governors' and chief commissioners' provinces.

77. (*1*) When a new lieutenant-governorship is constituted under this Act, the Governor-General in Council may, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute the lieutenant-governor in legislative council of the province, as from a date specified in the notification, a local legislature for that province, and define the limits of the province for which the lieutenant-governor in legislative council is to exercise legislative powers.

(*2*) The Governor-General in Council may, by notification, extend the provisions of this Act relating to legislative councils of lieutenant-governors, subject to such modifications and adaptations as he may consider necessary, to any province for the time being under a chief commissioner.

Meetings of legislative councils of lieutenant-governors and chief commissioners.

78. (*1*) [A lieutenant-governor or a chief commissioner who has a legislative council may appoint such times and places for holding the sessions of his legislative council as he thinks fit, and may also, by notification or otherwise, prorogue the council, and any meeting of the legislative council of a lieutenant-governor or chief commissioner may be adjourned by the person presiding.] Every lieutenant-governor who has no executive council, and every chief commissioner who has a legislative council, shall appoint a member of his legislative council to be vice-president thereof.

(*2*) In the absence of the lieutenant-governor or chief commissioner from any meeting of his legislative council the person to preside thereat shall be the vice-president of the council, or, in his absence, the member of the council who is highest in official rank among those holding office under the Crown who are present at the meeting, or, during the discussion of the annual financial statement or of any matter of general public interest [or when questions are

[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

are asked,] the vice-president or the member appointed to preside [1][* * *].

[2][(3) All questions at a meeting of the legislative council of a lieutenant-governor or chief commissioner shall be determined by a majority of votes of the members present other than the lieutenant-governor, chief commissioner, or presiding member, who shall, however, have and exercise a casting vote in case of an equality of votes.]

[2][(4) Subject to rules affecting the council, there shall be freedom of speech in the legislative councils of lieutenant-governors and chief commissioners. No person shall be liable to any proceedings in any court by reason of his speech or vote in those councils, or by reason of anything contained in any official report of the proceedings of those councils.]

79. [*Powers of local legislatures.*]—Omitted by Part II of Sch. II of 9 & 10 Geo. 5, Ch. 101.

80. (*1*) At a meeting of a local legislative council [3][(other than a governor's legislative council)] no motion shall be entertained other than a motion for leave to introduce a measure into the council for the purpose of enactment, or having reference to a measure introduced or proposed to be introduced into the council for that purpose, or having reference to some rule for the conduct of business in the council, and no business shall be transacted other than the consideration of those motions or the alteration of those rules. Business at meetings of councils of lieutenant-governors and chief commissioners.

[4](*2*) * * * *

(*3*) Notwithstanding anything in the foregoing provisions of this section, the local government [5][of a province other than a governor's province] may, with the sanction of the Governor-General in Council,

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[1] The words "in accordance with rules made under this Act" were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] Sub-sections (*3*) and (*4*) were substituted for sub-section (*3*) by *ibid.*

[3] These words were inserted by *ibid.*

[4] Sub-section (*2*) was omitted by *ibid.*

[5] These words were inserted by *ibid.*

Council, make rules authorising, at any meeting of the local legislative council, the discussion of the annual financial statement of the local government, 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. Rules made under this sub-section for any council may provide for the appointment of a member of the council to preside at any such discussion [1][or when questions are asked] in the place of the [2][*] lieutenant governor or chief commissioner, as the case may be, and of the vice-president, and shall be laid before both Houses of Parliament as soon as may be after they are made, and shall not be subject to repeal or alteration by the [3][Indian legislature] or the local legislature.

[4][(*4*) The local Government of any province (other than a governor's province) for which a local legislative council is hereafter constituted under this Act shall, before the first meeting of that council, and with the sanction of the Governor-General in Council, make rules for the conduct of legislative business in that council (including rules for prescribing the mode of promulgation and authentication of laws passed by that council).]

[5][(*5*) The local legislature of any such province may, subject to the assent of the lieutenant-governor or chief commissioner, alter the rules for the conduct of legislative business in the local council (including rules prescribing the mode of promulgation and authentication of laws passed by the council), but any alteration so made may be disallowed by the Governor-General in Council, and, if so disallowed, shall have no effect.]

(c) General.

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[1] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5. Ch. 37).

[2] The word "governor" was omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[3] These words were substituted for the words "Governor-General in Legislative Council" by *ibid.*

[4] Sub section (*4*) was inserted by *ibid.*

[5] Sub section (*5*) was inserted by *ibid.*

(c) General.

Powers of local legislatures.

[**80A.** (*1*) The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province.

(*2*) The local legislature of any province may, subject to the provisions of the sub-section next following, repeal or alter as to that province any law made either before or after the commencement of this Act by any authority in British India other than that local legislature.

(*3*) The local legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law—

(*a*) imposing or authorising the imposition of any new tax unless the tax is a tax scheduled as exempted from this provision by rules made under this Act; or

(*b*) affecting the public debt of India, or the customs duties, or any other tax or duty for the time being in force and imposed by the authority of the Governor-General in Council for the general purposes of the government of India, provided that the imposition or alteration of a tax scheduled as aforesaid shall not be deemed to affect any such tax or duty; or

(*c*) affecting the discipline or maintenance of any part of His Majesty's naval, military, or air forces; or

(*d*) affecting the relations of the government with foreign princes or states; or

(*e*) regulating any central subject; or

(*f*) regulating any provincial subject which has been declared by rules under this Act to be, either in whole or in part, subject to legislation by the Indian legislature, in

[1] Section 80A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

in respect of any matter to which such declaration applies; or

(*g*) affecting any power expressly reserved to the Governor-General in Council by any law for the time being in force; or

(*h*) altering or repealing the provisions of any law which, having been made before the commencement of the Government of India Act, 1919, by any authority in British India other than that local legislature, is declared by rules under this Act to be a law which cannot be repealed or altered by the local legislature without previous sanction; or

(*i*) altering or repealing any provision of an Act of the Indian legislature made after the commencement of the Government of India Act, 1919, which by the provisions of such first-mentioned Act may not be repealed or altered by the local legislature without previous sanction:

Provided that an Act or a provision of an Act made by a local legislature, and subsequently assented to by the Governor-General in pursuance of this Act, shall not be deemed invalid by reason only of its requiring the previous sanction of the Governor-General under this Act.

(4) The local legislature of any province has not power to make any law affecting any Act of Parliament.]

Vacation of seats in local legislative councils.

[1][**80B.** An official shall not be qualified for election as a member of a local legislative council, and if any non-official member of a local legislative council, whether elected or nominated, accepts any office in the service of the Crown in India, his seat on the council shall become vacant:

Provided that, for the purposes of this provision, a minister shall not be deemed to be an official and a person

[1] Sections 80B and 80C were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

person shall not be deemed to accept office on appointment as a minister.]

[1][**80C.** *It shall not be lawful for any member of* Re
any local legislative council to introduce, without the pre
previous sanction of the governor, lieutenant-governor or chief commissioner, any measure affecting the public revenues of a province, or imposing any charge on those revenues.]

81. (*1*) When [2][a Bill] has been passed [3][by] Ass
a local legislative council, the governor, lieutenant-governor or chief commissioner [4][* * * *] may declare that he assents to or withholds his assent from the [5][Bill].

(*2*) If the governor, lieutenant-governor or chief commissioner withholds his assent from any such [6][Bill], the [7][Bill] [8][shall not become an Act].

(*3*) If the governor, lieutenant-governor or chief commissioner assents to any such [7][Bill], he shall forthwith send an authentic copy of the Act to the Governor-General, and the Act shall not have validity until the Governor-General has assented thereto and that assent has been signified by the Governor-General to, and published by, the governor, lieutenant-governor or chief commissioner.

(*4*) Where the Governor-General withholds his assent from any such Act, he shall signify to the governor, lieutenant-governor or chief commissioner in writing his reason for so withholding his assent.

[8][**81A.** (*1*) Where a Bill has been passed by a Re
local legislative council, the governor, lieutenant- res
governor of

[1] Sections 80B and 80C were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words "an Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[3] This word was substituted for the words "at a meeting of" by *ibid.*

[4] The words "whether he was or was not present in council at the passing of the Act" were omitted by Part III, *ibid.*

[5] This word was substituted for the word "Act" by Part II, *ibid.*

[6] These words were substituted for the words "has no effect" by *ibid.*

[7] This word was substituted for the word "Act" by *ibid.*

[8] Section 81A was inserted by Part I, *ibid.*

governor or chief commissioner may, instead of declaring that he assents to or withholds his assent from the Bill, return the Bill to the council for reconsideration, either in whole or in part, together with any amendments which he may recommend, or, in cases prescribed by rules under this Act, may, and if the rules so require, shall, reserve the Bill for the consideration of the Governor-General.

(*2*) Where a Bill is reserved for the consideration of the Governor-General, the following provisions shall apply :—

(*a*) The governor, lieutenant-governor or chief commissioner may, at any time within six months from the date of the reservation of the Bill, with the consent of the Governor-General, return the Bill for further consideration by the council with a recommendation that the council shall consider amendments thereto :

(*b*) After any Bill so returned has been further considered by the council, together with any recommendations made by the governor, lieutenant-governor or chief commissioner relating thereto, the Bill, if re-affirmed with or without amendment, may be again presented to the governor, lieutenant-governor or chief commissioner :

(*c*) Any Bill reserved for the consideration of the Governor-General shall, if assented to by the Governor-General within a period of six months from the date of such reservation, become law on due publication of such assent, in the same way as a Bill assented to by the governor, lieutenant-governor or chief commissioner, but if not assented to by the Governor-General within such period of six months, shall lapse and be of no effect unless

unless before the expiration of that period either—

(*i*) the Bill has been returned by the governor, lieutenant-governor or chief commissioner for further consideration by the council; or

(*ii*) in the case of the council not being in session, a notification has been published of an intention so to return the Bill at the commencement of the next session.

(*3*) The Governor-General may (except where the Bill has been reserved for his consideration), instead of assenting to or withholding his assent from any Act passed by a local legislature, declare that he reserves the Act for the signification of His Majesty's pleasure thereon, and in such case the Act shall not have validity until His Majesty in Council has signified his assent and his assent has been notified by the Governor-General.]

Power of Crown to disallow Acts of local legislatures

82. (*1*) When [1][an Act] has been assented to by the Governor-General, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty [2][in Council] to signify [3][* *] his disallowance of [1][the Act].

(*2*) Where the disallowance of [1][an Act] has been so signified, the governor, lieutenant-governor or chief commissioner shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

83. [*Rules for conduct of legislative business.*]—Omitted by Part II of Schedule II of 9 & 10 Geo. 5, Ch. 101.

Validity

[1] These words were substituted for the words "any such Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were inserted by *ibid.*

[3] The words "through the Secretary of State in Council" were omitted by *ibid.*

Validity of Indian Laws.

Removal of doubts as to validity of certain Indian laws.

84. (*1*) A law made by any authority in British India shall not be deemed invalid solely on account of any one or more of the following reasons :—

(*a*) in the case of [1][an Act of the Indian legislature] [2][or a local legislature], because it affects the prerogative of the Crown; or

(*b*) in the case of any law, because the requisite proportion of [3][non-official members] was not complete at the date of its introduction into the council or its enactment; or

(*c*) in the case of [4][an Act of] a local legislature, because it confers on magistrates, being justices of the peace, the same jurisdiction over European British subjects as that legislature, by Acts duly made, could lawfully confer on magistrates in the exercise of authority over other British subjects in the like cases.

[2][A law made by any authority in British India and repugnant to any provision of this or any other Act of Parliament shall, to the extent of that repugnancy, but not otherwise, be void.]

[2][(*2*) Nothing in the Government of India Act, 1919, or this Act, or in any rule made thereunder, shall be construed as diminishing in any respect the powers of the Indian legislature as laid down in section sixty-five of this Act, and the validity of any Act of the Indian legislature or any local legislature shall not be open to question in any legal proceedings on the ground that the Act affects a provincial subject or a central subject, as the case may be, and the

9 and 10 Geo. 5, c. 101.

[1] These words were substituted for the words "a law made by the Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were inserted by section 2 (*2*) of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[3] These words were substituted for the words "members not holding office under the Crown in India" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[4] These words were substituted for the words "a law made by" by *ibid.*

[5] This sub-section was inserted by Part I, *ibid.*

the validity of any Act made by the governor of a province shall not be so open to question on the ground that it does not relate to a reserved subject.]

PART VIA.

STATUTORY COMMISSION.

9 and 10 Geo. 5, c. 101.

Statutory commission.

[1][**84A.** (*1*) At the expiration of ten years after the passing of the Government of India Act, 1919, the Secretary of State with the concurrence of both Houses of Parliament shall submit for the approval of His Majesty the names of persons to act as a commission for the purposes of this section.

(*2*) The persons whose names are so submitted, if approved by His Majesty, shall be a commission for the purpose of inquiring into the working of the system of government, the growth of education, and the development of representative institutions, in British India, and matters connected therewith, and the commission shall report as to whether and to what extent it is desirable to establish the principle of responsible government, or to extend, modify, or restrict the degree of responsible government then existing therein, including the question whether the establishment of second chambers of the local legislatures is or is not desirable.

(*3*) The commission shall also inquire into and report on any other matter affecting British India and the provinces, which may be referred to the commission by His Majesty.]

PART VII.

SALARIES, LEAVE OF ABSENCE, VACATION OF OFFICE, APPOINTMENTS, ETC.

Salaries and allowances of Governor-General and certain other officials in India.

85. (*1*) There shall be paid to the Governor-General of India, and to the other persons mentioned in the Second Schedule to this Act, out of the revenues of India, such salaries, not exceeding in any

[1] *Section 84A* was inserted by *Part I of Sch. II of the Government of India Act, 1919* (9 & 10 Geo. 5, Ch. 101).

any case the maximum specified in that behalf in that Schedule, and such allowances (if any) for equipment and voyage, as the Secretary of State in Council may by order fix in that behalf, and, subject to or in default of any such order, as are payable at the commencement of this Act:

(*2*) Provided as follows:—

(*a*) an order affecting salaries of members of the Governor-General's executive council may not be made without the concurrence of a majority of votes at a meeting of the Council of India;

(*b*) if any person to whom this section applies holds or enjoys any pension or salary, or any office of profit under the Crown or under any public office, his salary under this section shall be reduced by the amount of the pension, salary or profits of office so held or enjoyed by him;

(*c*) nothing in the provisions of this section with respect to allowances shall authorise the imposition of any additional charge on the revenues of India.

(*3*) The remuneration payable to a person under this section shall commence on his taking upon himself the execution of his office, and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein:

[1][Provided that nothing in this sub-section shall apply to the allowances or other forms of profit and advantage which may have been sanctioned for such persons by the Secretary of State in Council.]

[**86.** (*1*) The

[1] This proviso was inserted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[1][**86.** (*1*) The Secretary of State in Council may grant to the Governor-General and, on the recommendation of the Governor-General in Council, to the Commander-in-Chief, leave of absence for urgent reasons of public interest, or of health or of private affairs. Power to grant leave of absence to Governor-General, etc.

(*2*) The Secretary of State in Council may, on the recommendation of the Governor-General in Council, grant to a Governor, and the Governor-General in Council, or a Governor in Council or a Lieutenant-Governor in Council, as the case may be, may grant to any member of his Executive Council (other than the Commander-in-Chief) leave of absence for urgent reasons of health or of private affairs.

(*3*) Leave of absence shall not be granted to any person in pursuance of this section for any period exceeding four months nor more than once during his tenure of office :

Provided that the Secretary of State in Council may, if he thinks fit, extend any period of leave so granted, but in any such case the reasons for the extension shall be set forth in a minute signed by the Secretary of State and laid before both Houses of Parliament.

(*4*) Where leave of absence is granted to any person in pursuance of this section, he shall retain his office during the period of leave as originally granted, or, if that period is extended by the Secretary of State in Council, during the period as so extended, but, if his absence exceeds that period, his office shall be deemed to have become vacant in the case of a person granted leave for urgent reasons of public interest as from the termination of that period and

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[1] Section 86 was substituted by s. 1 of the Government of India (Leave of Absence) Act, 1924 (14 & 15 Geo. 5, Ch. 28).

in any other case as from the commencement of his absence.

(5) Where a person obtains leave of absence in pursuance of this section, he shall be entitled to receive during his absence such leave-allowances as may be prescribed by rules made by the Secretary of State in Council, but, if he does not resume his duties upon the termination of the period of the leave, he shall, unless the Secretary of State in Council otherwise directs, repay, in such manner as may be so prescribed as aforesaid, any leave-allowances received under this sub-section.

(6) If the Governor-General or the Commander-in-Chief is granted leave for urgent reasons of public interest, the Secretary of State in Council may, in addition to the leave-allowances to which he is entitled under this section, grant to him such further allowances in respect of travelling expenses as the Secretary of State in Council may think fit.

(7) Rules made under this section shall be laid before both Houses of Parliament as soon as may be after they are made.]

Acting appointments during the absence of the Governor-General, etc., on leave.

[1][**87.** (1) Where leave is granted in pursuance of the foregoing section to the Governor-General, or to the Commander-in-Chief, or to a Governor, a person shall be appointed to act in his place during his absence, and the appointment shall be made by His Majesty by warrant under the Royal Sign Manual. The person so appointed during the absence of the Commander-in-Chief may, if the Commander-in-Chief was a member of the Executive Council of the Governor-General, be also appointed by the Gover-

nor-General

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[1] Section 87 was substituted by s. 1 of the Government of India (Leave of Absence) Act, 1924 (14 & 15 Geo. 5, Ch. 26).

nor-General in Council to be a temporary member of that Council.

(*2*) The person so appointed shall, until the return to duty of the permanent holder of the office, or, if he does not return, until a successor arrives, hold and execute the office to which he has been appointed and shall have and may exercise all the rights and powers thereof and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing the emoluments and advantages (if any) to which he was entitled at the time of his being appointed to that office.

(*3*) When during the absence on leave of the Governor-General a Governor is appointed to act in his place, the provisions of this section relating to the appointment of a person to act in the place of a Governor to whom leave of absence has been granted in pursuance of the foregoing section shall apply in the same manner as if leave of absence had been so granted to the Governor.]

88. [*Conditional appointments.*]—Omitted by Pt. III of Sch. II of 9 & 10 Geo. 5, Ch. 101.

Power for Governor General to exercise powers before taking seat.

89. (*1*) If any person [1][***] appointed [2][*] to [3][the office of Governor-General] is in India on or after the event on which he is to succeed, and thinks it necessary to exercise the powers of Governor-General before he takes his seat in council, he may make known by notification his appointment and his intention to assume the office of Governor-General.

(*2*) After

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[1] The words "entitled under a conditional appointment to succeed to the office of Governor-General or" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The word "absolutely" was omitted by *ibid.*

[3] These words were substituted for the words "that office" by *ibid.*

(*2*) After the notification, and thenceforth until he repairs to the place where the council may assemble, he may exercise alone all or any of the powers which might be exercised by the Governor-General in Council.

(*3*) All acts done in the Council after the date of the notification, but before the communication thereof to the Council, shall be valid, subject, nevertheless, to revocation or alteration by the person who has so assumed the office of Governor-General.

(*4*) When the office of Governor-General is assumed under the foregoing provision, the vice-president, or, if he is absent, the senior [1][member of the council (other than the Commander-in-Chief)] then present, shall preside therein, with the same powers as the Governor-General would have had if present.

Temporary vacancy in office of Governor-General

90. (*1*) If a vacancy occurs in the office of Governor-General when there is no [2][***] successor in India to supply the vacancy, the governor [3][of a presidency] who was first appointed to the office of governor [3][of a presidency] by His Majesty shall hold and execute the office of Governor-General until a successor arrives or until some person in India is duly appointed thereto.

(*2*) Every such acting Governor-General, while acting as such, shall have and may exercise all the rights and powers of the office of Governor-General, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing the salary and allowances appertaining to his office of governor; and his office of governor shall be supplied, for the time during which he acts as Governor-General, in the manner directed by this Act with respect to vacancies in the office of governor.

(*3*) If, on the vacancy occurring, it appears to the governor, who by virtue of this section holds and executes

[1] These words were substituted for the words "ordinary member of the Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The words "conditional or other" were omitted by Part III, *ibid.*

[3] These words were inserted by Part II, *ibid.*

executes the office of Governor-General, necessary to exercise the powers thereof before he takes his seat in council, he may make known by notification his appointment, and his intention to assume the office of Governor-General, and thereupon the provisions of [1][section eighty-nine of this Act] [2][***] shall apply.

(*4*) Until such a governor has assumed the office of Governor-General, if no [3][***] successor is on the spot to supply such vacancy, the vice-president, or, if he is absent, the senior [4][*] member of the executive council [5][(other than the Commander-in-Chief),] shall hold and execute the office of Governor-General until the vacancy is filled in accordance with the provisions of this Act.

(*5*) Every vice-president or other member of Council so acting as Governor-General, while so acting, shall have and may exercise all the rights and powers of the office of Governor-General, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing his salary and allowances as member of council for that period.

Temporary vacancy in office of governor.

91. (*1*) If a vacancy occurs in the office of governor when no [3][***] successor is on the spot to supply the vacancy, the vice-president, or, if he is absent, the senior member of the governor's executive council, or, if there is no council, the chief secretary to the local government, shall hold and execute the office of governor until a successor arrives, or until some other person on the spot is duly appointed thereto.

(*2*) Every such acting governor shall, while acting as such, be entitled to receive the emoluments and advantages appertaining to the office of governor, foregoing the salary and allowances appertaining

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[1] These words were substituted for the words "this Act" by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The words "respecting the assumption of the office by a person conditionally appointed to succeed thereto" were omitted by *ibid.*

[3] The words "conditional or other" were omitted by *ibid.*

[4] The words "ordinary" was omitted by Part II, *ibid.*

[5] These words were inserted by *ibid.*

taining to his office of member of council or secretary.

Temporary vacancy in office of member of an executive council.

92. (*1*) If a vacancy occurs in the office of [1][a member] of the executive council of the Governor-General [2][(other than the Commander-in-Chief)], or a member of the executive council of a governor, and there is no [3][***] successor present on the spot, the Governor-General in Council, or governor in council, as the case may be, shall supply the vacancy by appointing a temporary member of council.

(*2*) Until a successor arrives, the person so appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing all emoluments and advantages to which he was entitled at the time of his being appointed to that office.

(*3*) If [4][a member] of the executive council of the Governor-General [2][(other than the Commander-in-Chief)] or any member of the executive council of a governor is, by infirmity or otherwise, rendered incapable of acting or of attending to act as such, or is absent on leave [5][or special duty,] [6][***] 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.

[7](*4*) Until the return to duty of the member so incapable or absent, the person temporarily appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing the emoluments and advantages

[1] These words were substituted for the words "an ordinary member" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were inserted by *ibid.*

[3] The words "conditional or other" were omitted by Part III, *ibid.*

[4] These words were substituted for the words "any ordinary member" by Part II, *ibid.*

[5] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[6] Certain words were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[7] Sub-sections (*4*) and (*4A*) were substituted by s. 2 of the Government of India (Leave of Absence) Act, 1924 (14 & 15 Geo. 5, Ch. 28).

vantages (if any) to which he was entitled at the time of his being appointed to that office.

(*4a*) When a member of an Executive Council is by infirmity or otherwise rendered incapable of acting or attending to act as such and a temporary member of council is appointed in his place, the absent member shall be entitled to receive half his salary for the period of his absence.]

(*5*) Provided as follows:—

(*a*) no person may be appointed a temporary member of council who might not have been appointed [1][***] to fill the vacancy supplied by the temporary appointment; and

(*b*) if the Secretary of State informs the Governor-General that it is not the intention of His Majesty to fill a vacancy in the Governor-General's executive council, no temporary appointment may be made under this section to fill the vacancy, and if any such temporary appointment has been made before the date of the receipt of the information by the Governor-General, the tenure of the person temporarily appointed shall cease from that date.

Vacancies in legislative councils.

93. (*1*) A nominated or elected member of [2][either chamber of the Indian legislature] or of a local legislative council may resign his office to the Governor-General or to the governor, lieutenant-governor or chief commissioner, as the case may be, and on the acceptance of the resignation the office shall become vacant.

(*2*) If for a period of two consecutive months any such member is absent from India or unable to attend to the duties of his office, the Governor-General, governor, lieutenant-governor or chief commissioner, as the case may be, may, by notification published in the government gazette, declare that the seat in council of that member has become vacant.

94. Subject

[1] The words "under this Act" were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words "the Indian Legislative Council" by ibid.

Leave.

94. Subject to the provisions of this Act, the Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, make rules as to the absence on leave [1][or special duty] of persons in the service of the Crown in India, and the terms as to continuance, variation or cessation of pay, salary and allowances on which any such [2][absence may be permitted].

Power to make rules as to Indian military appointments.

95. (*1*) The Secretary of State in Council, with the concurrence of a majority of votes at a meeting of the Council of India, may make rules for distributing between the several authorities in India the power of making appointments to and promotions in [3][military] offices under the Crown in India, and may reinstate [3][military] officers and servants suspended or removed by any of those authorities.

(*2*) Subject to such rules, all appointments to [3][military] offices and commands in India, and all [3][military] promotions, which, by law, or under any regulations, usage or custom, are, at the commencement of this Act, made by any authority in India, shall, subject to the qualifications, conditions and restrictions then affecting such appointments and promotions, respectively, continue to be made in India by the like authority.

No disabilities in respect of religion, colour or place of birth.

96. No native of British India, nor any subject of His Majesty resident therein, shall, by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any office under the Crown in India.

Qualification of rulers and subjects of certain states for office.

[4][**96A.** Notwithstanding anything in any other enactment, the Governor-General in Council, with the approval of the Secretary of State in Council, may, by notification, declare that, subject to any conditions or restrictions prescribed in the notification

[1] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[2] These words were substituted for the words "leave may be granted" by *ibid.*

[3] This word was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[4] Section 96A was inserted by section 3 of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

tion, any named ruler or subject of any state in India shall be eligible for appointment to any civil or military office under the Crown to which a native of British India may be appointed, or any named subject of any state, or any named member of any independent race or tribe, in territory adjacent to India, shall be eligible for appointment to any such military office.]

PART VIIA.

THE CIVIL SERVICES IN INDIA.

The civil services in India.

[1][**96B.** (*1*) Subject to the provisions of this Act and of rules made thereunder, every person in the civil service of the Crown in India holds office during His Majesty's pleasure, and may be employed in any manner required by a proper authority within the scope of his duty, but no person in that service may be dismissed by any authority subordinate to that by which he was appointed, and the Secretary of State in Council may (except so far as he may provide by rules to the contrary) reinstate any person in that service who has been dismissed.

If any such person appointed by the Secretary of State in Council thinks himself wronged by an order of an official superior in a governor's province, and on due application made to that superior does not receive the redress to which he may consider himself entitled, he may, without prejudice to any other right of redress, complain to the governor of the province in order to obtain justice, and the governor is hereby directed to examine such complaint and require such action to be taken thereon as may appear to him to be just and equitable.

(*2*) The Secretary of State in Council may make rules for regulating the classification of the civil services in India, the methods of their recruitment, their conditions of service, pay and allowances, and discipline

[1] Section 96B was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

discipline and conduct. Such rules may, to such extent and in respect of such matters as may be prescribed, delegate the power of making rules to the Governor-General in Council or to local governments, or authorise the Indian legislature or local legislatures to make laws regulating the public services:

Provided that every person appointed before the commencement of the Government of India Act, 1919, by the Secretary of State in Council to the civil service of the Crown in India shall retain all his existing or accruing rights, or shall receive such compensation for the loss of any of them as the Secretary of State in Council may consider just and equitable.

(*3*) The right to pensions and the scale and conditions of pensions of all persons in the civil service of the Crown in India appointed by the Secretary of State in Council shall be regulated in accordance with the rules in force at the time of the passing of the Government of India Act, 1919. Any such rules may be varied or added to by the Secretary of State in Council and shall have effect as so varied or added to, but any such variation or addition shall not adversely affect the pension of any member of the service appointed before the date thereof.

Nothing in this section or in any rule thereunder shall prejudice the rights to which any person may, or may have, become entitled under the provisions in relation to pensions contained in the East India Annuity Funds Act, 1874. 37 & 38 Vict., c. 12.

(*4*) For the removal of doubts, it is hereby declared that all rules or other provisions in operation at the time of the passing of the Government of India Act, 1919, whether made by the Secretary of State in Council or by any other authority, relating to the civil service of the Crown in India, were duly made in accordance with the powers in that behalf, and are confirmed, but any such rules or provisions may be revoked, varied or added to by rules or laws made under this section.] 9 & 10 Geo. 5, c. 101.

[1][96C. (*1*) There

Public service commission.

[1][**96C.** (*1*) There shall be established in India a public service commission, consisting of not more than five members, of whom one shall be chairman, appointed by the Secretary of State in Council. Each member shall hold office for five years, and may be re-appointed. No member shall be removed before the expiry of his term of office, except by order of the Secretary of State in Council. The qualifications for appointment, and the pay and pension (if any) attaching to the office of chairman and member, shall be prescribed by rules made by the Secretary of State in Council.

(*2*) The public service commission shall discharge, in regard to recruitment and control of the public services in India, such functions as may be assigned thereto by rules made by the Secretary of State in Council.]

Financial control.

[1][**96D.** (*1*) An auditor-general in India shall be appointed by the Secretary of State in Council, and shall hold office during His Majesty's pleasure. The Secretary of State in Council shall, by rules, make provision for his pay, powers, duties, and conditions of employment, or for the discharge of his duties in the case of a temporary vacancy or absence from duty.

(*2*) Subject to any rules made by the Secretary of State in Council, no office may be added to or withdrawn from the public service, and the emoluments of no post may be varied, except after consultation with such finance authority as may be designated in the rules, being an authority of the province or of the Government of India, according as the post is or is not under the control of a local government.]

Rules under Part VII A.

[2][**96E.** Rules made under this Part of this Act shall not be made except with the concurrence of the majority of votes at a meeting of the Council of India.]

PART VIII.

[1] Sections 96C and 96D were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
[2] Section 96E was inserted by *ibid.*

PART VIII.

THE INDIAN CIVIL SERVICE.

Rules for admission to the Indian Civil Service.

97. (*1*) The Secretary of State in Council may, with the advice and assistance of the Civil Service Commissioners, make rules for the examination, under the superintendence of those Commissioners, of British subjects [1][and of persons in respect of whom a declaration has been made under [2]section 96A of this Act,] who are desirous of becoming candidates for appointment to the Indian Civil Service.

(*2*) The rules shall prescribe the age and qualifications of the candidates, and the subjects of examination.

[3][(*2a*) The admission to the Indian Civil Service of a British subject who or whose father or mother was not born within His Majesty's dominions shall be subject to such restrictions as the Secretary of State in Council, with the advice and assistance of the Civil Service Commissioners, may think fit to prescribe, and all such restrictions shall be included in the rules.]

(*3*) All rules made in pursuance of this section shall be laid before Parliament within fourteen days after the making thereof, or, if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

(*4*) The candidates certified to be entitled under the rules shall be recommended for appointment according to the order of their proficiency as shown by their examination.

(*5*) Such

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[1] These words were inserted by section 4 of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[2] The words, figures and letter "section 96A of this Act" were substituted for the words "the last foregoing section" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[3] This sub-section was inserted by section 4 of the Government of India (Amendment) Act, 1916 (6 and 7 Geo. 5, Ch. 37).

(5) Such persons only as are so certified may be appointed or admitted to the Indian Civil Service by the Secretary of State in Council.

[1][(6) Notwithstanding anything in this section, the Secretary of State may make appointments to the Indian Civil Service of persons domiciled in India, in accordance with such rules as may be prescribed by the Secretary of State in Council with the concurrence of the majority of votes at a meeting of the Council of India.

Any rules made under this sub-section shall not have force until they have been laid for thirty days before both Houses of Parliament.]

Offices reserved to the Indian Civil Service.

98. Subject to the provisions of this Act all vacancies happening in any of the offices specified or referred to in the Third Schedule to this Act, and all such offices which may be created hereafter, shall be filled from amongst the members of the Indian Civil Service.

Power to appoint certain persons to reserved offices.

99. (1) The authorities in India, by whom appointments are made to offices in the Indian Civil Service, may appoint to any such office any person of proved merit and ability domiciled in British India and born [2][***] of parents habitually resident in India and not established there for temporary purposes only, although the person so appointed has not been admitted to that service in accordance with the foregoing provisions of this Act.

(2) Every such appointment shall be made subject to such rules as may be prescribed by the Governor-General in Council and sanctioned by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council of India.

(3) The Governor-General in Council may, by resolution, define and limit the qualification of persons who may be appointed under this section, but every resolution made for that purpose shall be subject

[1] This sub-section was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] The words "in British India" were repealed by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

subject to the sanction of the Secretary of State in Council, and shall not have force until it has been laid for thirty days before both Houses of Parliament.

Power to make provisional appointments in certain cases.

100. (*1*) Where it appears to the authority in India by whom an appointment is to be made to any office reserved to members of the Indian Civil Service, that a person not being a member of that service ought, under the special circumstances of the case, to be appointed thereto, the authority may appoint thereto any person who has resided for at least seven years in India and who has, before his appointment, fulfilled all the tests (if any) which would be imposed in the like case on a member of that service.

(*2*) Every such appointment shall be provisional only, and shall forthwith be reported to the Secretary of State, with the special reasons for making it; and, unless the Secretary of State in Council approves the appointment, with the concurrence of a majority of votes at a meeting of the Council of India, and within twelve months from the date of the appointment intimates such approval to the authority by whom the appointment was made, the appointment shall be cancelled.

PART IX.

THE INDIAN HIGH COURTS.

Constitution.

Constitution of high courts.

101. (*1*) The high courts referred to in this Act are the high courts of judicature for the time being established in British India by letters patent.

(*2*) Each high court shall consist of a chief justice and as many other judges as His Majesty may think fit to appoint: Provided as follows:—

(*i*) the Governor-General in Council may appoint persons to act as additional judges of any high court, for such period

period, not exceeding two years, as may be required; and the judges so appointed shall, whilst so acting, have all the powers of a judge of the high court appointed by His Majesty under this Act;

(*ii*) the maximum number of judges of a high court including the chief justice and additional judges shall be twenty.

(*3*) A judge of a high court must be—

(*a*) a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland, of not less than five years' standing; or

(*b*) a member of the Indian Civil Service of not less than ten years' standing, and having for at least three years served as, or exercised the powers of, a district judge; or

(*c*) a person having held judicial office, not inferior to that of a subordinate judge or a judge of a small cause court, for a period of not less than five years; or

[1][(*d*) a person who has been a pleader of one of the high courts referred to in this Act, or of any court which is a high court within the meaning of clause (24) of section 3 of the Act of the Indian legislature known as the General Clauses Act, 1897, for an aggregate period of not less than ten years.]

(*4*) Provided that not less than one-third of the judges of a high court, including the chief justice but excluding additional judges, must be such barristers or advocates as aforesaid, and that not less than one-third must be members of the Indian Civil Service.

(*5*) The high court for the North-Western Provinces may be styled the high court of judicature at Allahabad, and the high court at Fort William in

[1] This clause was substituted by the Indian High Courts Act, 1922 (12 & 13 Geo. 5, Ch. 20).

in Bengal is in this Act referred to as the high court at Calcutta.

Tenure of office of judges of high courts.

102. (*1*) Every judge of a high court shall hold his office during His Majesty's pleasure.

(*2*) Any such judge may resign his office, in the case of the high court at Calcutta, to the Governor-General in Council, and in other cases to the local government.

Precedence of judges of high courts.

103. (*1*) The chief justice of a high court shall have rank and precedence before the other judges of the same court.

(*2*) All the other judges of a high court shall have rank and precedence according to the seniority of their appointments, unless otherwise provided in their patents.

Salaries, &c., of judges of high courts.

104. (*1*) The Secretary of State in Council may fix the salaries, allowances, furloughs, retiring pensions and (where necessary) expenses for equipment and voyage, of the chief justices and other judges of the several high courts, and may alter them, but any such alteration shall not affect the salary of any judge appointed before the date thereof.

(*2*) The remuneration fixed for a judge under this section shall commence on his taking upon himself the execution of his office, and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein.

(*3*) If a judge of a high court dies during his voyage to India, or within six months after his arrival there, for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, such a sum of money as will, with the amount received by or due to him at the time of his death on account of salary, make up the amount of one year's salary.

(*4*) If a judge of a high court dies while in possession of his office and after the expiration of six months from his arrival in India for the purpose of

of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, over and above the sum due to him at the time of his death, a sum equal to six months' salary.

Provision for vacancy in the office of chief justice or other judge.

105. (*1*) On the occurrence of a vacancy in the office of chief-justice of a high court, and during any absence of such a chief justice the Governor-General in Council in the case of the high court at Calcutta, and the local government in other cases, shall appoint one of the other judges of the same high court to perform the duties of chief justice of the court, until some person has been appointed by His Majesty to the office of chief justice of the court, and has entered on the discharge of the duties of that office, or until the chief justice has returned from his absence, as the case requires.

(*2*) On the occurrence of a vacancy in the office of any other judge of a high court, and during any absence of any such judge, or on the appointment of any such judge to act as chief justice, the Governor-General in Council in the case of the high court at Calcutta, and the local government in other cases, may appoint a person, with such qualifications as are required in persons to be appointed to the high court, to act as a judge of the court; and the person so appointed may sit and perform the duties of a judge of the court, until some person has been appointed by His Majesty to the office of judge of the court, and has entered on the discharge of the duties of the office, or until the absent judge has returned from his absence, or until the Governor-General in Council or the local government, as the case may be, sees cause to cancel the appointment of the acting judge.

Jurisdiction.

Jurisdiction of high courts.

106. (*1*) The several high courts are courts of record and have such jurisdiction, original and appellate, including admiralty jurisdiction in respect of offences committed on the high seas, and all such powers and authority over or in relation to the administration

administration of justice, including power to appoint clerks and other ministerial officers of the court, and power to make rules for regulating the practice of the court, as are vested in them by letters patent, and, subject to the provisions of any such letters patent, all such jurisdiction, powers and authority as are vested in those courts respectively at the commencement of this Act.

[1][(1*a*) The letters patent establishing or vesting jurisdiction, powers or authority in a high court may be amended from time to time by His Majesty by further letters patent.]

(*2*) The high courts have not and may not exercise any original jurisdiction in any matter concerning the revenue, or concerning any act ordered or done in the collection thereof according to the usage and practice of the country or the law for the time being in force.

Powers of high court with respect to subordinate courts.

107. Each of the high courts has superintendence over all courts for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say,—

(*a*) call for returns;

(*b*) direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction;

(*c*) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts;

(*d*) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts; and

(*e*) settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts:

Provided that such rules, forms and tables shall not be inconsistent with the provisions of any [2][law] for

[1] This sub-section was inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[2] This word was substituted for the word "Act" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

for the time being in force, and shall require the previous approval, in the case of the high court at Calcutta, of the Governor-General in Council, and in other cases of the local government.

Exercise of jurisdiction by single judges or division courts.

108. (*1*) Each high court may, by its own rules, provide as it thinks fit for the exercise, by one or more judges, or by division courts constituted by two or more judges, of the high court, of the original and appellate jurisdiction vested in the court.

(*2*) The chief justice of each high court shall determine what judge in each case is to sit alone, and what judges of the court, whether with or without the chief justice, are to constitute the several division courts.

Power for Governor-General in Council to alter local limits of jurisdiction of high courts.

109. (*1*) The Governor-General in Council may, by order, transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the high courts, and authorise any high court to exercise all or any portion of its jurisdiction in any part of British India not included within the limits for which the high court was established, and also to exercise any such jurisdiction in respect of [1][any British subject for the time being within] any part of India outside British India.

(*2*) The Governor-General in Council shall transmit to the Secretary of State an authentic copy of every order made under this section.

(*3*) His Majesty may signify, through the Secretary of State in Council, his disallowance of any such order, and such disallowance shall make void and annul the order as from the day on which the Governor-General notifies that he has received intimation of the disallowance, but no act done by any high court before such notification shall be deemed invalid by reason only of such disallowance.

Exemption from jurisdiction of high courts.

110. (*1*) The Governor-General, each governor, [2][lieutenant-governor and chief commissioner], and each

[1] These words were substituted for the words "Christian subjects of His Majesty resident in" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[2] These words were inserted by *ibid.*

each of the members of [1][the executive council of the Governor-General or of a governor or lieutenant-governor,] [2][and a minister appointed under this Act], shall not—

(*a*) be subject to the original jurisdiction of any high court by reason of anything counselled, ordered or done by any of them in his public capacity only; nor

(*b*) be liable to be arrested or imprisoned in any suit or proceeding in any high court acting in the exercise of its original jurisdiction; nor

(*c*) be subject to the original criminal jurisdiction of any high court in respect of any offence not being treason or felony.

(*2*) The exemption under this section from liability to arrest and imprisonment shall extend also to the chief justices and other judges of the several high courts.

Written order by Governor-General justification for act in any court in India.

111. The order in writing of the Governor-General in Council for any act shall, in any proceeding, civil or criminal, in any high court acting in the exercise of its original jurisdiction, be a full justification of the act, except so far as the order extends to any European British subject; but nothing in this section shall exempt the Governor-General, or any member of his executive council, or any person acting under their orders, from any proceedings in respect of any such act before any competent court in England.

Law to be administered.

Law to be administered in cases of inheritance and succession.

112. The high courts at Calcutta, Madras and Bombay, in the exercise of their original jurisdiction in suits against inhabitants of Calcutta, Madras or Bombay, as the case may be, shall, in matters of inheritance and succession to lands, rents and goods, and

[1] These words were substituted for the words "their respective executive councils" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[2] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

and in matters of contract and dealing between party and party, when both parties are subject to the same personal law or custom having the force of law, decide according to that personal law or custom, and, when the parties are subject to different personal laws or customs having the force of law, decide according to the law or custom to which the defendant is subject.

Additional High Courts.

Power to establish additional high courts.

113. His Majesty may, if he sees fit, by letters patent, establish a high court of judicature in any territory in British India, whether or not included within the limits of the local jurisdiction of another high court, and confer on any high court so established any such jurisdiction, powers and authority as are vested in or may be conferred on any high court existing at the commencement of this Act; and, where a high court is so established in any area included within the limits of the local jurisdiction of another high court, His Majesty may, by letters patent, alter those limits, and make such incidental, consequential and supplemental provisions as may appear to be necessary by reason of the alteration.

Advocate-General.

Appointment and powers of advocate-general.

114. (*1*) His Majesty may, by warrant under His Royal Sign Manual, appoint an advocate-general for each of the presidencies of Bengal, Madras and Bombay.

(*2*) The advocate-general for each of those presidencies may take on behalf of His Majesty such proceedings as may be taken by His Majesty's Attorney-General in England.

[1][(*3*) On the occurrence of a vacancy in the office of advocate-general or during any absence or deputation of an advocate-general, the Governor-General in Council in the case of Bengal, and the local government in other cases, may appoint a person to act as advocate-

[1] This sub-section was added by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

advocate-general; and the person so appointed may exercise powers of an advocate-general until some person has been appointed by His Majesty to the office and has entered on the discharge of his duties, or until the advocate-general has returned from his absence or deputation, as the case may be, or until the Governor-General in Council or the local government, as the case may be, cancels the acting appointment.]

PART X.

ECCLESIASTICAL ESTABLISHMENT.

Jurisdiction of Indian bishops.

115. (*1*) The bishops of Calcutta, Madras and Bombay have and may exercise within their respective dioceses such episcopal functions, and such ecclesiastical jurisdiction for the superintendence and good government of the ministers of the Church of England therein, as His Majesty may, by letters patent, direct. [1][His Majesty may also, by letters patent, make such provision as may be deemed expedient for the exercise of the episcopal functions and ecclesiastical jurisdiction of the bishop during a vacancy of any of the said sees or the absence of the bishop thereof.]

(*2*) The bishop of Calcutta is the metropolitan bishop in India, subject nevertheless to the general superintendence and revision of the Archbishop of Canterbury; [1][and as metropolitan shall have, enjoy, and exercise such ecclesiastical jurisdiction and functions as His Majesty may, by letters patent, direct. His Majesty may also, by letters patent, make such provision as may be deemed expedient for the exercise of such jurisdiction and functions during a vacancy of the see of Calcutta or the absence of the bishop.]

(*3*) Each of the bishops of Madras and Bombay is subject to the bishop of Calcutta as such metropolitan

[1] These words were inserted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

politan, and must, at the time of his appointment to his bishopric, or at the time of his consecration as bishop, take an oath of obedience to the bishop of Calcutta, in such manner as His Majesty, by letters patent, may be pleased to direct.

(4) His Majesty may, by letters patent, vary the limits of the dioceses of Calcutta, Madras and Bombay.

(5) Nothing in this Act or in any such letters patent as aforesaid shall prevent any person who is or has been bishop of any diocese in India from performing episcopal functions, not extending to the exercise of jurisdiction, in any diocese or reputed diocese at the request of the bishop thereof.

116. [*Power to admit to holy orders.*]—Rep. by Sch. II of 6 & 7 Geo. 5, Ch. 37.

Consecration of person resident in India appointed to bishopric.

117. If any person under the degree of bishop is appointed to the bishopric of Calcutta, Madras or Bombay, being at the time of his appointment resident in India, the Archbishop of Canterbury, if so required to do by His Majesty by letters patent, may issue a commission under his hand and seal, directed to the two remaining bishops, authorising and charging them to perform all requisite ceremonies for the consecration of the person so to be appointed.

Salaries and allowances of bishops and archdeacons.

118. (1) The bishops [1][**] of Calcutta, Madras and Bombay are appointed by His Majesty by letters patent, [2][and the archdeacons of those dioceses by their respective diocesan bishops], and there may be paid to them, or to any of them, out of the revenues of India, such salaries and allowances as may be fixed by the Secretary of State in Council; but any power of alteration under this enactment shall not be exercised so as to impose any additional charge on the revenues of India.

(2) The remuneration fixed for a bishop or archdeacon under this section shall commence on his taking

[1] The words "and archdeacons" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).
[2] These words were inserted by *ibid.*

taking upon himself the execution of his office, and be the whole profit or advantage which he shall enjoy from his office during his continuance therein, and continue so long as he exercises the functions of his office.

(*3*) There shall be paid out of the revenues of India the expenses of visitations of the said bishops, but no greater sum may be issued on account of those expenses than is allowed by the Secretary of State in Council.

Payments to representatives of bishops.

119. (*1*) If the bishop of Calcutta dies during his voyage to India for the purpose of taking upon himself the execution of his office, or if the bishop of Calcutta, Madras or Bombay dies within six months after his arrival there for that purpose, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, such a sum of money as will, with the amount received by or due to him at the time of his death on account of salary, make up the amount of one year's salary.

(*2*) If the bishop of Calcutta, Madras or Bombay dies while in possession of his office and after the expiration of six months from his arrival in India for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, over and above the sum due to him at the time of his death, a sum equal to six months' salary.

Pensions to bishops.

120. His Majesty may, by warrant under the Royal Sign Manual, countersigned by the [1][Secretary of State], grant, out of the revenues of India, to any bishop of Calcutta a pension not exceeding fifteen hundred pounds per annum if he has resided in India as bishop of Calcutta, Madras or Bombay or archdeacon for ten years, or one thousand pounds per annum

[1] These words were substituted for the words "Chancellor of the Exchequer" by Sch. 1 of the Government of India (Amendment) Act, 1915 (5 & 7 Geo. 5, Ch. 37).

annum if he has resided in India as bishop of Calcutta, [2][*Madras or Bombay*] for seven years, or seven hundred and fifty pounds per annum if he has resided in India as bishop of Calcutta, [1][Madras or Bombay] for five years, or to any bishop of Madras or Bombay a pension not exceeding eight hundred pounds per annum [2][***] if he has resided in [3][*] India as such bishop for fifteen years.

Furlough rules.

121. His Majesty may make such rules as to the leave of absence of the bishops of Calcutta, Madras and Bombay on furlough or medical certificate as seem to His Majesty expedient.

Establishment of chaplains of Church of Scotland.

122. (*1*) Two members of the establishment of chaplains maintained in each of the presidencies of *Bengal, Madras and Bombay must always be* ministers of the Church of Scotland, and shall be entitled to have, out of the revenues of India, such salary as is from time to time allotted to the military chaplains in the several presidencies.

(*2*) The ministers so appointed chaplains must be ordained and inducted by the presbytery of Edinburgh according to the forms and solemnities used in the Church of Scotland, and shall be subject to the spiritual and ecclesiastical jurisdiction in all things of the presbytery of Edinburgh, whose judgments shall be subject to dissent, protest and appeal to the Provincial Synod of Lothian and Tweeddale and to the General Assembly of the Church of Scotland.

Saving as to grants to Christians.[1]

123. Nothing in this Act shall prevent the Governor-General in Council from granting, with the sanction of the Secretary of State in Council, to any sect, persuasion or community of Christians, not being of the Church of England or Church of Scotland, such sums of money as may be expedient for the purpose of instruction or for the maintenance of places of worship.

PART XI.

[1] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).
[2] The words "to be paid quarterly" were repealed by *ibid.*
[3] The word "British" was repealed by *ibid.*

PART XI.

OFFENCES, PROCEDURE AND PENALTIES.

Certain acts to be misdemeanours;

124. If any person holding office under the Crown in India does any of the following things, that is to say—

Oppression;

(1) if he oppresses any British subject within his jurisdiction or in the exercise of his authority; or

Wilful disobedience;

(2) if (except in case of necessity, the burden of proving which shall be on him) he wilfully disobeys, or wilfully omits, forbears or neglects to execute, any orders or instructions of the Secretary of State; or

Breach of duty;

(3) if he is guilty of any wilful breach of the trust and duty of his office; or

Trading;

(4) if, being the Governor-General, or a governor, lieutenant-governor or chief commissioner, or a member of the executive council of the Governor-General or of a governor or lieutenant-governor, [1][or being a minister appointed under this Act], or being a person employed or concerned in the collection of revenue or the administration of justice, he is concerned in, or has any dealings or transactions by way of trade or business in any part of India, for the benefit either of himself or of any other person, otherwise than as a shareholder in any joint-stock company or trading corporation; or

Receiving presents.

(5) if he demands, accepts or receives, by himself or another, in the discharge of his office, any gift, gratuity or reward pecuniary or otherwise, or any promise of the same, except in accordance with such

[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

such rules as may be made by the Secretary of State as to the receipt of presents, and except in the case of fees paid or payable to barristers, physicians, surgeons and chaplains in the way of their respective professions,

he shall be guilty of a misdemeanour; and if he is convicted of having demanded, accepted or received any such gift, gratuity or reward, the same, or the full value thereof, shall be forfeited to the Crown, and the court may order that the gift, gratuity or reward, or any part thereof, be restored to the person who gave it, or be given to the prosecutor or informer, and that the whole or any part of any fine imposed on the offender be paid or given to the prosecutor or informer, as the court may direct:

[1][Provided that notwithstanding anything in this Act, if any member of the Governor-General's executive council or any member of any local government was at the time of his appointment concerned or engaged in any trade or business, he *may, during the term of his office with the sanction* in writing of the Governor-General, or, in the case of ministers, of the governor of the province, and in any case subject to such general conditions and restrictions as the Governor-General in Council may prescribe, retain his concern or interest in that trade or business, but shall not, during that term, take part in the direction or management of that trade or business.]

Loans to princes or chiefs.

125. (*1*) If any European British subject, without the previous consent in writing of the Secretary of State in Council or of the Governor-General in Council or of a local government, by himself or another,—

(*a*) lends any money or other valuable thing to any prince or chief in India; or

(*b*) is

[1] This Proviso was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(*b*) is concerned in lending money to, or raising or procuring money for, any such prince or chief, or becomes security for the repayment of any such money; or

(*c*) lends any money or other valuable thing to any other person for the purpose of being lent to any such prince or chief; or

(*d*) takes, holds, or is concerned in any bond, note or other security granted by any such prince or chief for the repayment of any loan or money hereinbefore referred to;

he shall be guilty of a misdemeanour.

(*2*) Every bond, note, or security for money, of what kind or nature soever, taken, held or enjoyed, either directly or indirectly, for the use and benefit of any European British subject, contrary to the intent of this section, shall be void.

Carrying on dangerous correspondence.

126. (*1*) If any person carries on, mediately or immediately, any illicit correspondence, dangerous to the peace or safety of any part of British India, with any prince, chief, land-holder or other person having authority in India, or with the commander, governor, or president of any foreign European settlement in India, or any correspondence contrary to the rules and orders of the Secretary of State or of the Governor-General in Council or a governor in council, he shall be guilty of a misdemeanour, and the Governor-General or governor may issue a warrant for securing and detaining in custody any person suspected of carrying on any such correspondence.

(*2*) If, on examination taken on oath in writing of any credible witness before the Governor-General in Council or the governor in council, there appear reasonable grounds for the charge, the Governor-General or governor may commit the person suspected or accused to safe custody, and shall, within a reasonable time, not exceeding five days, cause to be delivered to him a copy of the charge on which he is committed.

(*3*) The

(*3*) The person charged may deliver his defence in writing, with a list of such witnesses as he may desire to be examined in support thereof.

(*4*) The witnesses in support of the charge and of the defence shall be examined and cross-examined on oath in the presence of the person charged, and their depositions and examination shall be taken down in writing.

(*5*) If, notwithstanding the defence, there appear to the Governor-General in Council or governor in council reasonable grounds for the charge and for continuing the confinement, the person charged shall remain in custody until he is brought to trial in India or sent to England for trial.

(*6*) All such examinations and proceedings, or attested copies thereof under the seal of the high court, shall be sent to the Secretary of State as soon as may be, in order to their being produced in evidence on the trial of the person charged in the event of his being sent for trial to England.

(*7*) If any such person is to be sent to England, the Governor-General or governor, as the case may be, shall cause him to be so sent at the first convenient opportunity, unless he is disabled by illness from undertaking the voyage, in which case he shall be so sent as soon as his state of health will safely admit thereof.]

(*8*) The examinations and proceedings transmitted in pursuance of this section shall be received as evidence in all courts of law, subject to any just exceptions as to the competency of the witnesses.

Prosecution of offences in England.

127. (*1*) If any person holding office under the Crown in India commits any offence under this Act, or any offence against any person within his jurisdiction or subject to his authority, the offence may, without prejudice to any other jurisdiction, be inquired of, heard, tried and determined before His Majesty's High Court of Justice, and be dealt with as if committed in the county of Middlesex.

(*2*) Every

(2) Every British subject shall be amenable to all courts of justice in the United Kingdom of competent jurisdiction to try offences committed in India, for any offence committed within India and outside British India, as if the offence had been committed within British India.

Limitation for prosecutions in British India.

128. Every prosecution before a high court in British India in respect of any offence referred to in the last foregoing section must be commenced within six years after the commission of the offence.

Penalties.

129. If any person commits any offence referred to in this Act he shall be liable to such fine or imprisonment or both as the court thinks fit, and shall be liable, at the discretion of the court, to be adjudged to be incapable of serving the Crown in India in any office, civil or military; and, if he is convicted in British India by a high court, the court may order that he be sent to Great Britain.

PART XII.

SUPPLEMENTAL.

Provisions as to rules.

[1][**129A.** (1) Where any matter is required to be prescribed or regulated by rules under this Act, and no special provision is made as to the authority by whom the rules are to be made, the rules shall be made by the Governor-General in Council, with the sanction of the Secretary of State in Council, and shall not be subject to repeal or alteration by the Indian legislature or by any local legislature.

(2) Any rules made under this Act may be so framed as to make different provision for different provinces.

(3) Any rules to which sub-section (1) of this section applies shall be laid before both Houses of Parliament as soon as may be after they are made, and

[1] Section 129 A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[1][Any reference in any enactment, whether an Act of Parliament or made by any authority in British India, or in any rules, regulations or orders made under any such enactment, or in any letters patent or other document, to any enactment repealed by this Act, shall for all purposes be construed as references to this Act, or to the corresponding provision thereof.]

[1][Any reference in any enactment in force in India, whether an Act of Parliament or made by any authority in British India, or in any rules, regulations, or orders made under any such enactment, or in any letters patent or other document, to any Indian legislative authority, shall for all purposes be construed as references to the corresponding authority constituted by this Act.]

Savings.

Saving as to certain rights and powers

131. (*1*) Nothing in this Act shall derogate from any rights vested in His Majesty, or any powers of the Secretary of State in Council, in relation to the government of India.

(*2*) Nothing in this Act shall affect the power of Parliament to control the proceedings of the Governor-General in Council, or to repeal or alter any law made by any authority in British India, or to legislate for British India and the inhabitants thereof.

(*3*) Nothing in this Act shall affect the power of the [2][Indian legislature] to repeal or alter any of the provisions mentioned in the Fifth Schedule to this Act, or the validity of any previous exercise of this power.

Treaties, contracts and liabilities of East India Company.

132. All treaties made by the East India Company, so far as they are in force at the commencement of this Act, are binding on His Majesty, and all contracts made and liabilities incurred by the East India Company may, so far as they are outstanding

[1] These paragraphs were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

standing at the commencement of this Act, be enforced by and against the Secretary of State in Council.

Orders of East India Company.

133. All orders, regulations and directions lawfully made or given by the Court of Directors of the East India Company, or by the Commissioners for the affairs of India, are, so far as they are in force at the commencement of this Act, deemed to be orders, rules and directions made or given by the Secretary of State under this Act.

Definitions.

134. In this Act, unless the context otherwise requires,—

(1) " Governor-General in Council " means the Governor-General in executive council;

(2) " governor in council " means a governor in executive council;

(3) " lieutenant-governor in council " means a lieutenant-governor in executive council;

[1][(4) " local government " means, in the case of a governor's province, the governor in council or the governor acting with ministers (as the case may require), and, in the case of a province other than a governor's province, a lieutenant-governor in council, lieutenant-governor or chief commissioner;

" local legislative council " includes the legislative council in any governor's province, and any other legislative council constituted in accordance with this Act;

" local legislature " means, in the case of a governor's province, the governor and the legislative council of the province, and, in the case of any other province, the lieutenant-governor or chief commissioner in legislative council];

(5) " office " includes place and employment;

(6) " province "

[1] Paragraph (4) was substituted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(6) " province " includes a presidency; and

(7) references to rules made under this Act include rules or regulations made under any enactment hereby repealed, until they are altered under this Act.

[1][The expressions " official " and " non-official," where used in relation to any person, mean respectively a person who is or is not in the civil and military service of the Crown in India :

Provided that rules under this Act may provide for the holders of such offices as may be specified in the rules not being treated for the purposes of this Act, or any of them, as officials.]

Short title.

[2][**135.** This Act may be cited as the Government of India Act.]

SCHEDULES.

Section 72A.

[3]FIRST SCHEDULE.

NUMBER OF MEMBERS OF LEGISLATIVE COUNCILS.[4]

Legislative Council.	Number of Members.
Madras	118
Bombay	111
Bengal	125
United Provinces	118
Punjab	83
Bihar and Orissa	98
Central Provinces	70
Assam	53

SECOND SCHEDULE.

[1] This paragraph was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] Sec. 135 was substituted by Part II, *ibid.*

[3] This Schedule was substituted by Part I, *ibid.*

[4] On the constitution of the Province of Burma as a governor's province, the number of members of the Legislative Council of Burma was fixed at 92 and the First Schedule is to have effect accordingly, *see* notification No. 225, dated October 7, 1921, in Gazette of India Extraordinary, 1921, p. 361, and at p. 251, *infra*.

[1]SECOND SCHEDULE.

Section 85.

[2] OFFICIAL SALARIES, &c.

Officer.	Maximum Annual Salary.
Governor-General of India . .	Two hundred and fifty-six thousand rupees.
Governor of Bengal, Madras, Bombay and the United Provinces.	One hundred and twenty-eight thousand rupees.
Commander-in-Chief of His Majesty's forces in India.	One hundred thousand rupees.
[2] Governor of the Punjab, and Bihar and Orissa.	One hundred thousand rupees.
Governor of the Central Provinces .	Seventy-two thousand rupees.
Governor of Assam	Sixty-six thousand rupees.
Lieutenant-Governor . . .	One hundred thousand rupees.
Member of the Governor-General's Executive Council (other than the Commander-in-Chief).	Eighty thousand rupees.
Member of the executive council of the governor of Bengal, Madras, Bombay, and the United Provinces.	Sixty-four thousand rupees.
Member of the executive council of the governor of the Punjab and Bihar and Orissa.	Sixty thousand rupees.
Member of the executive council of the governor of the Central Provinces.	Forty-eight thousand rupees.
Member of the executive council of the governor of Assam.	Forty-two thousand rupees.

[1]THIRD SCHEDULE.

Section 98.

OFFICES RESERVED TO THE INDIAN CIVIL SERVICE.

A.—*Offices under the Governor-General in Council.*

1. The offices of secretary, joint secretary, and deputy secretary in every department except the Army,

[1] This Schedule was substituted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

[2] On the constitution of the province of Burma as a governor's province, the pay of the Governor and the members of the executive council was fixed at Rs. 1,00,000 and Rs. 60,000 per annum respectively, and the Second Schedule is to have effect accordingly, *vide* notification No. 225, dated October 7, 1921, in Gazette of India Extraordinary, 1921, p. 381, and at p. 251, *infra*.

Army, Marine, Education, Foreign, Political, and Public Works Departments: Provided that if the office of secretary or deputy secretary in the Legislative Department is filled from among the members of the Indian Civil Service, then the office of deputy secretary or secretary in that department, as the case may be, need not be so filled.

2. Three offices of Accountants General.

B.—*Offices in the provinces which were known in the year 1861 as "Regulation Provinces".*

The following offices, namely:—

1. Member of the Board of Revenue.
2. Financial Commissioner.
3. Commissioner of Revenue.
4. Commissioner of Customs.
5. Opium Agent.
6. Secretary in every department except the Public Works or Marine Departments.
7. Secretary to the Board of Revenue.
8. District or sessions judge.
9. Additional district or sessions judge.
10. District magistrate.
11. Collector of Revenue or Chief Revenue Officer of a district.

Section 130.

FOURTH SCHEDULE.

ACTS REPEALED.[1]

Session and Chapter.	Short Title.	Extent of Repeal.
10 Geo. 3, c. 47 .	The East India Company Act, 1770.	The whole Act.
13 Geo. 3, c. 63 .	The East India Company Act, 1772.	The whole Act, except sections[2] forty-two, forty-three and forty-five.

21 Geo. 3, c. 70

[1] For other Acts which have been repealed or partly repealed, *see* Sch. II of the Government of India (Amendment) Act, 1916 (6 and 7 Geo. 5, Ch. 37).

[2] These three sections were repealed by *ibid.*

Session and Chapter.	Short Title.	Extent of Repeal.
21 Geo. 3, c. 70 .	The East India Company Act, 1780.	The whole Act, except section eighteen.
26 Geo. 3, c. 57 .	The East India Company Act, 1786.	Section thirty-eight.[1]
33 Geo. 3, c. 52 .	The East India Company Act, 1793.	The whole Act.
37 Geo. 3, c. 142 .	The East India Act, 1797	The whole Act, except section twelve.
39 & 40 Geo. 3, c. 79	The Government of India Act, 1800.	The whole Act.
53 Geo. 3, c. 155 .	The East India Company Act, 1813.	The whole Act.
55 Geo. 3, c. 84 .	The Indian Presidency Towns Act, 1815.	The whole Act.
4 Geo. 4, c. 71 .	The Indian Bishops and Courts Act, 1823.	The whole Act.
6 Geo. 4, c. 85 .	The Indian Salaries and Pensions Act, 1825.	The whole Act.
7 Geo. 4, c. 56 .	The East India Officers' Act, 1826.	The whole Act.
3 & 4 Will. 4, c. 85 .	The Government of India Act, 1833.	The whole Act, except section one hundred and twelve.
5 & 6 Will. 4, c. 52 .	The India (North-West Provinces) Act, 1835.	The whole Act.
7 Will. 4 and 1 Vict., c. 47.	The India Officers' Salaries Act, 1837.	The whole Act.
5 & 6 Vict., c. 119 .	The Indian Bishops Act, 1842.	The whole Act.
16 & 17 Vict., c. 95 .	The Government of India Act, 1853.	The whole Act.
17 & 18 Vict., c. 77 .	The Government of India Act, 1854.	The whole Act.
21 & 22 Vict., c. 106.	The Government of India Act, 1858.	The whole Act, except section four.
22 & 23 Vict., c. 41 .	The Government of India Act, 1859.	The whole Act.

[1] The whole Act has been repealed—*See* Sch. II of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

Session and Chapter.	Short Title.	Extent of Repeal.
23 & 24 Vict., c. 100.	The European Forces (India) Act, 1860.	The whole Act.
23 & 24 Vict., c. 102.	The East India Stock Act, 1860.	The whole Act, except section six.
24 & 25 Vict., c. 54 .	The Indian Civil Service Act, 1861.	The whole Act.
24 & 25 Vict., c. 67 .	The Indian Councils Act, 1861.	The whole Act.
24 & 25 Vict., c. 104.	The Indian High Courts Act, 1861.	The whole Act.
28 & 29 Vict., c. 15 .	The Indian High Courts Act, 1865.	The whole Act.
28 & 29 Vict., c. 17 .	The Government of India Act, 1865.	The whole Act.
32 & 33 Vict., c. 97 .	The Government of India Act, 1869.	The whole Act.
32 & 33 Vict., c. 98 .	The Indian Councils Act, 1869.	The whole Act.
33 & 34 Vict., c. 3 .	The Government of India Act, 1870.	The whole Act.
33 & 34 Vict., c. 59 .	The East India Contracts Act, 1870.	The whole Act.
34 & 35 Vict., c. 34 .	The Indian Councils Act, 1871.	The whole Act.
34 & 35 Vict., c. 62 .	The Indian Bishops Act, 1871.	The whole Act.
37 & 38 Vict., c. 3 .	The East India Loan Act, 1874.	Section fifteen.
37 & 38 Vict., c. 77 .	The Colonial Clergy Act, 1874.	Section thirteen.
37 & 38 Vict., c. 91 .	The Indian Councils Act, 1874.	The whole Act.
43 Vict., c. 3 . .	The India Salaries and Allowances Act, 1880.	The whole Act.
44 & 45 Vict., c. 63 .	The India Office Auditor Act, 1881.	The whole Act.
47 & 48 Vict., c. 38 .	The Indian Marine Service Act, 1884.	Sections two, three, four and five.

Session and Chapter.	Short Title.	Extent of Repeal.
55 & 56 Vict., c. 14 .	The Indian Councils Act, 1892.	The whole Act.
3 Edw. 7, c. 11 .	The Contracts (India Office) Act, 1903.	The whole Act.
4 Edw. 7, c. 26 .	The Indian Councils Act, 1904.	The whole Act.
7 Edw. 7, c. 35 .	The Council of India Act, 1907.	The whole Act.
9 Edw. 7, c. 4 . .	The Indian Councils Act, 1909.	The whole Act.
1 & 2 Geo. 5, c. 18 .	The Indian High Courts Act, 1911.	The whole Act.
1 & 2 Geo. 5, c. 25 .	The Government of India Act Amendment Act 1911.	The whole Act.
2 & 3 Geo. 5, c. 6 .	The Government of India Act, 1912.	The whole Act.

[1]FIFTH SCHEDULE.

Sec. 131(3).

PROVISIONS OF THIS ACT WHICH MAY BE REPEALED OR ALTERED BY THE [2][INDIAN LEGISLATURE].

Section.	Subject.
62	Power to extend limits of presidency towns.
106	Jurisdiction, powers and authority of high courts.
108(1)	Exercise of jurisdiction of high court by single judges or division courts.
109	Power for Governor-General in Council to alter local limits of jurisdiction of high courts, etc.

[1] This Schedule was substituted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

[2] These words were substituted for the words "Governor General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Section.	Subject.
110	Exemption from jurisdiction of high courts.
111	Written order by Governor-General in Council a justification for act in high court.
112	Law to be administered in cases of inheritance, succession, contract and dealing between party and party.
114(2)	Powers of advocate-general.
124(1)	Oppression.
124(4)—so far as it relates to persons employed or concerned in the collection of revenue or the administration of justice.	Trading.
124(5)—so far as it relates to persons other than the Governor-General, a governor, or a member of the Executive Council of the Governor-General or of a governor.	Receiving presents.
125	Loans to princes or chiefs.
126	Carrying on dangerous correspondence.
128	Limitation for prosecutions in British India.
129	Penalties.

FIRST REPORT FROM THE SELECT COMMITTEE APPOINTED TO JOIN WITH A COMMITTEE OF THE HOUSE OF COMMONS TO REVISE THE DRAFT RULES MADE UNDER THE GOVERNMENT OF INDIA ACT.

ORDERED TO REPORT—

That the Committee have met and concluded their consideration of those of the draft rules[1] framed by the Government of India to give effect to the provisions of the Government of India Act, 1919, which relate to the composition of and elections to the new Legislative Councils and to the regulation of their procedure. The enactment of these rules is a matter of urgency, and the Committee have reserved for a separate report[2] their observations on the remaining rules under the Act.

PART I.—GENERAL.

1. The Committee desire in the forefront of their Report to express their appreciation of the great care and ability which are displayed in the drafts, and of the remarkable expedition with which this heavy task has been achieved by the Government of India and the Local Governments. As will be seen from the Report the Committee have made but few alterations in the rules as drafted by the authorities in India, and they desire to record their considered opinion that the rules, with these few alterations, are an accurate, but at the same time liberal, interpretation both of the general recommendations contained in their Report on the Bill and of the intentions of Parliament in framing the Act.

2. The Committee have taken no further oral evidence in connection with these rules, but they have had before them many communications forwarded by various individuals and associations interested in the subject, and have taken them into their consideration. They were placed so fully into possession of all classes of opinion on the general principles

[1] This refers to the rules mentioned in paragraph 1 of the introductory note which have not been printed in this publication.
[2] *Page* 179, *infra*.

principles at issue in their consideration of the Bill, that the hearing of further evidence on the matters arising out of the rules would have served no useful purpose, more especially as the rules so largely represent the conclusions on the main points of principle which the Committee themselves put forward in their Report on the Bill, and on which their views remained unchanged; for the drafting of these rules, though it raised broad issues of great importance, is, in the main, a matter of detail, and the Committee are satisfied that in the working out of these details the Local Governments and the Government of India have omitted consideration of no claim, interest or argument which was relevant to a decision.

3. The Committee consider it unnecessary to explain at length or in detail the scope or substance of the rules generally, which to a large extent are based, as they have already observed, upon recommendations made in their Report on the Bill. Their remarks will be confined to an explanation of the changes which they have made in the rules as drafted by the Government of India, and to a brief statement of the reasons for them. The Committee understand that the draft rules as provisionally presented to Parliament have been reprinted as amended by themselves, with the addition of a number of amendments (chiefly of a technical nature) recommended by the Government of India since the drafts were framed, and they recommend that the drafts in this revised form should receive the assent of Parliament at the earliest possible date, in order that arrangements for holding elections to the new Council may be set in train in due time.

PART II.—ELECTORAL RULES FOR PROVINCIAL COUNCILS.[1]

4. Reservation of Seats for non-Brahmans in Madras and Mahrattas in Bombay.—The communities concerned having failed to arrive at agreement

[1] These rules have been published separately.

ment by mutual consent, this question was remitted in accordance with the Committee's recommendation to arbitration by independent persons appointed by the Government of India. The awards of the arbitrators have been embodied in the rules. The Committee recognise (as was inevitable from the nature of the conflicting claims made) that these awards have not satisfied all parties, but they consider that the awards are in substance eminently reasonable, and they attach importance to the recognition of the principle that the award of an arbitrator must be treated as final. They would have greatly preferred for this reason to leave the awards unchanged, but they have felt it impossible to disregard the considered opinion of the Bombay Government that in one respect the Mahratta award should be amended, namely, the proposed reservation for Mahrattas of one of the two seats assigned to a Non-Muhammadan constituency described as Bombay City South. The Bombay Government do not regard the Mahrattas in this constituency as sufficiently numerous to justify the allocation to that community of one of these two seats, and fear that the effect of reservation in this constituency will inevitably be to prejudice the chances of the important and influential Parsi community in Bombay City. The Committee have decided therefore to omit this one seat from the list of eight seats proposed for reservation in the Bombay Presidency, thereby reducing the number of reserved seats to seven. In other respects they uphold the awards in both cases.

5. The Committee have further considered the method proposed by the Government of India for working the reservation of seats, and the objections advanced—particularly by Madras Non-Brahmans—against this proposal. They endorse the proposals of the Government of India. The Committee's intention in recommending the reservation of seats for the Non-Brahman and Mahratta communities was to ensure that (granted sufficient candidates were forthcoming

forthcoming) there should be at least as many Non-Brahman (or Mahratta) representatives returned by a constituency as there were seats reserved. The claim advanced by Non-Brahmans that, should a Non-Brahman head the poll in a two-member constituency in which one seat is reserved, the "reserved" seat should remain reserved for a second Non-Brahman, and that the latter should be elected to it in preference to a Brahman candidate who was second in the poll, is entirely inconsistent with the Committee's intentions.

6. **Representation of Wage-Earners.**—In response to the Committee's recommendation that an effort should be made to secure the better representation of the wage-earning classes, the Government of India in drafting the rules included provision for the creation of a special constituency in Calcutta consisting of workers in factories in receipt of wages between Rs. 25 and Rs. 35 a month, and in Bombay City, for the enfranchisement in the ordinary City Constituencies of workers in textile factories in receipt of a monthly wage of not less than Rs. 40 a month. It was estimated that these measures would have enfranchised some 40,000 workers in all. The Committee have given their best consideration to the observations of the Government of India and of the Bombay and Bengal Governments on these proposals. They agree with these authorities that in the present state of labour organisation in India no other scheme than that presented for their consideration would in practice be workable, but that an extension of this scheme to other localities would be impracticable. They further agree that the proposals as they stand represent a very incomplete and, in theory, wholly indefensible solution of the problem, and they cannot disguise from themselves the danger that even this limited experiment would result in an administrative breakdown. They feel, moreover, no assurance that it would result in securing for labour the best and most useful representatives available. They have decided

decided therefore without hesitation, though with some regret, that it would be impolitic to persist in an experiment which those best qualified to judge regard with considerable misgivings, and they have therefore added to the list of seats to be filled by nomination on the Bengal Legislative Council the two seats which it was proposed to assign to a labour constituency, and have provided that the persons to be nominated to fill these seats shall be chosen as representing labour interests. The scheme for the Bombay Council already provided a nominated seat to be allotted to a labour representative. The abandonment of the proposal, therefore, to enfranchise wage-earners in the Bombay City constituencies necessitates no change in the distribution of seats, since there is no certainty that a labour vote in Bombay City would have secured the return of a candidate specially qualified to represent that interest.

In arriving at this decision the Committee share the belief of the Government of India that the steady rise in prosperity of manual workers in India, and the rapid improvement of their housing conditions, will automatically and without undue delay result in qualifying the great majority of their numbers for an ordinary vote in the ordinary constituencies. No other solution than this could be regarded as satisfactory.

7. Restrictions on Candidature.—The rules as drafted by the Government of India require that candidates for "general" constituencies shall be registered as electors in a general constituency. In some provinces the candidate must be registered as an elector in the constituency for which he proposes to stand. In others he must, if not registered as an elector in that constituency, be registered in another of the same communal description as that for which he proposes to stand. The Committee recognise the force of the arguments in favour of securing some real connection with, and knowledge of his constituency on the part of a candidate, and also that it is

is a logical corollary on the system of communal representation that the candidate should be of the same community as those whose interests he seeks to voice. But so long as these two conditions are fulfilled in those provinces to which importance is attached to them, the Committee see no reason to exclude from candidature for general constituencies those who are registered as electors in special constituencies. They recommend therefore that any person who is registered as an elector in any constituency in his province should, subject in certain cases to fulfilment of residential and communal tests, be eligible to be elected by any general constituency. They have redrafted the Rule (6) for each Council accordingly, and in doing so have given effect to the desire expressed by the Government of Bihar and Orissa, since the draft rules were originally framed, that the communal test should apply in that province also, as in all others with the exceptions of the United Provinces and Assam.

8. **Rules Relating to Corrupt Practices.**—The Committee endorse these rules as in the main a satisfactory fulfilment of the policy they recommended in their Report on the Bill, and they note that the Government of India intend to introduce in the next session of their Legislature the Bill which is required to supplement their provisions. In four respects they have made changes in these rules.

(*a*) While agreeing with the Government of India that it is impracticable at the outset in the absence of any data to lay down a limit to election expenditure by candidates which would work fairly and adequately in every constituency with their very varied conditions, they think that the absence of such limits cannot remain a permanent feature of the rules, and that limits can and should be laid down as the result of experience gained at the first elections. They have accordingly added a rule giving power to the Governor-General

General in Council to prescribe limits after the first election, and have made, by a consequential addition to the list in Schedule IV, the non-observance of limits so laid down a "corrupt practice," commission of which will render an election void.

(*b*) The Committee have supplied an omission which in their view rendered the Government of India's draft defective, by including as a "corrupt practice" the employment of paid canvassers in excess of a maximum which they trust will be rigidly limited.

(*c*) The Committee have redrafted Rule 2 of Schedule IV, Part I of the rules, in a manner which accords more closely than the original draft with the terms of the English law.

(*d*) A slight change has been made in Rule 32, rendering ex-Judges of High Courts eligible to be appointed Commissioners to inquire into disputed elections and thereby extending the field of choice.

9. The second proviso to Rule 7 for all Councils carries out the recommendation of the Committee in connection with the Bill relating to Women's Franchise. Without in any way modifying their views on this subject, the Committee think it essential that a constitutional change of this importance should be effected only as the result of a genuine and considered opinion of the majority of the Council, and they have therefore provided that before a resolution on the subject can be moved, the mover must give not less than one month's notice of his intention to move.

10. The Committee are glad to observe that the rules in a few selected constituencies contain provision for election by the system of proportional representation. They do not question the decision of the Government of India that a wider extension of the

the system is at the outset impracticable, but they think it possible that experience may show that an extension is both feasible and desirable before the next revision of these Rules as the result of the Parliamentary Commission contemplated by the Act. They have therefore added a provision to Rule 13 for all Councils enabling (but not requiring) a Local Government to extend the system if a resolution (safeguarded in the same manner as in the case of Women's Franchise) is carried in the Council recommending an extension.

11. A change has been made in the definition of "European" throughout the rules, which gives the word a somewhat less restricted meaning.

12. This concludes the list of changes in rules affecting all Councils. The following changes relate only to the provinces mentioned:—

(*a*) *Madras and Assam.—Rule 5 (3) (b).*—The Committee have added words at the end of this rule, enabling (but not requiring) the Governor to make rules in accordance with which the communities specified in the rule as to be represented by nomination may select persons from whom the Governor may make his choice. A similar provision was made in the Indian Councils Act of 1892, which may be said to have initiated the process of election to legislatures in India, and the Committee think that such a provision, if the Governor finds it possible to act upon it, may pave the way for election proper by educating backward communities in the advantages and responsibilities it involves.

(*b*) *Rule 4 (Madras).*—A formal change has been made in this rule.

(*c*) *Bengal.*—The Bengal Government have agreed to the splitting up of many of the plural member constituencies proposed for

for that province into single member constituencies, with a view to securing smaller areas and closer contact between voters and candidates, and to the renaming of certain constituencies so as to avoid the use of letters of the alphabet. Schedule 1 for this province has been amended accordingly.

(*d*) *European and Anglo-Indian representation on the Bengal Council.*—While fully conscious of the importance of the interests of the non-official European Community in Bengal generally and particularly in Calcutta, and of the necessity for allowing adequate representation to the Community on the new Legislature, the Committee are inclined to think the proposal to allot so many as 21 elected seats to Europeans and Anglo-Indians out of a total of 115 elected seats is excessive. The Franchise Committee proposed 15 seats for Europeans and Anglo-Indians out of a total of 100 elected seats. It appears to the Committee that this is a reasonable proportion and that an allotment of 18 seats to these communities on the larger Council now contemplated should amply satisfy all requirements. They have accordingly reduced the 3 seats proposed for Anglo-Indians to 2, the 4 seats proposed for the European Constituency consisting of the Presidency and Burdwan Divisions to 3, and the two seats proposed for the Calcutta Trades Associations to 1. In allocating the 3 seats thus obtained they have adopted the suggestion of the Government of India, namely, that one seat should be added to each of the three following constituencies: the Bengal National Chamber of Commerce, the Hooghly-Howrah Non-Muhammadan

Non-Muhammadan Constituency, and the Rangpur Non-Muhammadan Constituency.

(*e*) *Rule III for all provinces other than Madras, Bombay, and Bengal.*—A formal change has been made in this rule for all provinces other than the three Presidencies, which leaves the number of members of the Executive Council unspecified.

(*f*) *Punjab.*—The Committee have thought it desirable to increase slightly the number of seats proposed to be allotted to the Punjab Legislative Council with two objects, firstly, to increase the representation of the Sikh community, and, secondly, to provide separate representation for the cities of Lahore and Amritsar. For these purposes the Committee, after consulting the Government of India and the Punjab Government, have provided six additional seats, two of which will be allotted to Sikhs, one to Hindus, and three to Muhammadans, this latter number being required in order to preserve the proportions laid down by the Lucknow Compact. There will now be two separate constituencies for each of the cities of Lahore and Amritsar, each returning two members, and the Sikhs inhabiting urban areas will return a member separate from those inhabiting rural areas.

The reasons which have led the Committee to make these changes are their desire to accord as favourable treatment as is possible to the claims which have been advanced on behalf of the Sikhs, to correct the position, which they feel to be anomalous, that the capital city of the province, and a city of such importance as Amritsar, should lack separate representation, and also because they consider that the

the strength of the Punjab Council can with advantage be approximated more nearly to that of the Councils of the other major provinces.

PART III.—ELECTORAL RULES FOR THE INDIAN LEGISLATURE.[1]

13. **Restrictions on Candidature.**—In the case of the Legislative Assembly, the Committee have made the same alteration in Rule 6, which regulates the conditions of candidature, as they have made for the provincial legislature so as to render eligible for election by a general constituency in any province any person who is registered as an elector in any constituency in that province (whether "general" or "special") prescribed for the provincial legislature. But they think it unnecessary to maintain for either chamber of the Central Legislature any residential restriction other than residence within the province. The arguments in favour of residential restrictions for the Provincial Legislature do not, it appears to them, apply to the central body. In the latter, what is required primarily is representation of provincial interests as a whole, and not, as in the provincial Councils, representation of the interests of particular areas of a province.

The Committee's re-draft of Rule 6 for the Council of State differs in form from that for the Legislative Assembly, but the effect will be the same in both cases—namely, to require only that a candidate shall be a resident of his province.

14. **Corrupt Practices.—Women's Franchise and Proportional Representation.**—Changes have been made in the rules for the Indian Legislature similar to those described in paragraphs 8, 9 and 10. But with regard to women's franchise the Committee have thought it desirable to safeguard their original intention that the decision of this question for each province

[1]These rules have been published separately.

province should rest with the provincial legislature, and they have accordingly provided that a resolution by either Chamber of the Indian Legislature in favour of enfranchising women as voters for that Chamber shall have effect in a province only if the province has itself already taken this step for its own Council.

15. **Representation of Delhi.**—The Committee felt great difficulty in agreeing to the proposal of the Government of India that the Province of Delhi should be represented on the Legislative Assembly by means of occasional nomination. They realise that it is impossible to allot seats on the Assembly to all the minor provinces, but they think that there are two circumstances which give Delhi peculiar claims. In the first place, Delhi is now the capital of India, and, apart from that, holds a very important position amongst the cities of Upper India by reason of its commercial interests. In the second place, the constitution of the area contained in the city and neighbourhood of Delhi as a separate province has necessarily involved the loss by its inhabitants of representation on any provincial Council. It is impossible to provide such representation now on the Punjab Provincial Council, and the Committee recommend, in view of all circumstances, that the proposal of the Franchise Committee should be adopted, and that an elective seat should be added to the Legislative Assembly, to be filled by a constituency consisting of the inhabitants of the Delhi Province with the requisite qualifications. They have, therefore, embodied in the rules detailed amendments with which they have been furnished by the Government of India in order to give effect to these recommendations.

16. A formal change has been made in Rule 3 for the Legislative Assembly in order to bring its provisions into conformity with section 19 (2)[1] of the Act of 1919.

[1] S. 65B (2) of the Government of India Act.

PART IV.—RULES FOR THE CONDUCT OF LEGISLATIVE BUSINESS IN PROVINCIAL COUNCILS AND THE INDIAN LEGISLATURE.[1]

17. These rules will be supplemented in matters of detail by Standing Orders which the legislatures themselves will have power to alter. The Committee have concerned themselves only with the rules under section 11 (5)[2] of the Act which require the approval of Parliament and once framed will not be alterable without such approval.

The Committee think it desirable that a Governor's intervention in the proceedings of his Legislative Council should be confined to cases in which control by the executive (which for these purposes the Governor must represent) is essential, having regard to the fact that the Government will not command a majority in any Council, or to cases in which the President will not be in a position to give the requisite ruling. In all other cases they think that the last word should lie with the President of the Council. Following this principle they have substituted the word "President" for "Governor" in rules 3, 7 and 11. But with regard to the last-mentioned rule, they think it necessary to retain for the Governor the power proposed by the Government of India to disallow a motion for adjournment even though it may have received the consent of the President, and of the Council, if time permits of reference to the Governor before the adjournment takes place and if the Governor is of opinion that the proposed discussion cannot take place without detriment to the public interest. They have accordingly added a second paragraph to rule 22 to secure this power. The power to curtail public discussion in these newly constituted legislative bodies will obviously call for great discrimination in its use if it is not to prejudice their success, and to result, not in closing discussion, but in transferring it to less appropriate channels

[1] These rules have been published separately.
[2] S. 72D (5) of the Government of India Act.

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The Committee wish it to be understood that the observations contained in paragraphs 1 and 2 of their first Report apply equally to the present drafts, and that, as in the case of the drafts to which that Report related, their remarks are confined to the few changes which they have effected. In all other respects the Committee accept the drafts as framed by the Government of India.

PART I.—RULES UNDER SECTION 1.[1]

2. *Rule 9.*—In sub-rule (*1*) of this rule the Committee have inserted the words "the member of" before "the Executive Council," where the latter words first occur, and in sub-rule (*2*) they have inserted "or ministers" after the word "minister".

The disagreement with which the rule is intended to deal, will, in most cases, be in origin a difference of opinion between two Departments, over one of which a Member of Council, and over the other of which a Minister presides. The rule as drafted by the Government of India correctly recognises the corporate responsibility of Ministers and of the Executive Councillors for the purposes of discussion, but the Committee think it important that when the decision is left to the Ministerial portion of the Government the corporate responsibility of Ministers should not be obscured. They do not intend to imply that, in their opinion, in every case in which an order is passed in a transferred department the order should receive the approval of all the Ministers; such a procedure would obviously militate against the expeditious disposal of business, and against the accepted canons of departmental responsibility. But in cases which are of sufficient importance to have called for discussion by the whole Government, they are clearly of opinion that the final decision should be that of one or other portion of the Government as a whole.

Rules 14,

[1] See the Devolution Rules made under s. 45A of the Government of India Act, at p. 185, *infra*.

Rules 14, 15, 16, 17 and 18.—Realising as they do the extent to which the success of the Reforms scheme will depend upon a satisfactory solution of the difficult question of the allocation of revenues to the provincial Governments and to the Central Government respectively, the Committee have given most anxious consideration to the proposals made to this end in the Report of the Financial Relations Committee appointed by the Secretary of State for India, and to the opinions of the various Local Governments on this Report which have been laid before them. The Committee recognise the intricacy of the problem with which the Financial Relations Committee had to deal, and the difficulty, amounting almost to impossibility, of arriving at any solution which was likely to be acceptable to all Local Governments. The proposals made by Lord Meston's Committee, and embodied in these rules, have met with a varied reception. They are endorsed by the Government of India, and some Local Governments are content with the contributions proposed for them, while others dislike the ultimate standards; but certain provinces, particularly the three presidencies, are dissatisfied with the treatment of their own claims, and the Government of Bombay contest not only the amount of their contribution, but also the allocation of the heads of revenue on which the whole scheme is based. The Committee see no reason to differ from the fundamental features of the proposals, and they are definitely opposed to provincialising the taxation of income. They believe that such dissatisfaction as the proposals have aroused is inevitable in distributing resources between a central and provincial governments, and that the impossibility of removing by a stroke of the pen inequalities which are the result of long-standing and historical causes has been overlooked. None the less the Committee would be glad, on grounds of policy, to alleviate the disappointment caused by the restraints which the system of contribution lays on the employment by the provinces of their revenues. In searching

ing for such alleviation they have been materially assisted by suggestions from the Council of India, a body to whose advice great weight attaches inasmuch as it is the authority charged by law with the responsibility of controlling the revenues of India. Accepting the more important of these suggestions the Committee are of opinion :—

(1) *That there should be granted to all provinces* some share in the growth of revenue from taxation on incomes so far as that growth is attributable to an increase in the amount of income assessed. (The manner in which this share is to be assessed and its extent are stated in the new rule 15 which the Committee have inserted, and it may be explained here that the figure 400 lakhs in that rule represents approximately 25 per cent. of the gross revenue estimated to accrue from Income Tax and Super-Tax collected by provincial agency in the year 1920-21.)

(2) *That in no case should the initial contribution* payable by any province be increased, but that the gradual reduction of the aggregate contribution should be the sole means of attaining the theoretical standards recommended by the Financial Relations Committee in paragraph 27 of their Report. (The manner in which this is to be effected is expressed in the revised rule 18 which the Committee have substituted for the original rule based upon the proposals of the Financial Relations Committee.)

The acceptance of this latter proposal emphasises the intention, that the contributions from the Provinces to the Central Government should cease at the earliest possible moment. The Committee attach great importance to the fulfilment of this intention, and they are convinced that the opposition which the proposals of the Financial Relations Committee have evoked

evoked would be much diminished if it becomes possible for the Government of India to take steps to ensure the abolition of the contributions within a reasonably short period. They trust that the Government of India and the Secretary of State in Council will, in regulating their financial policy, make it their constant endeavour to render the Central Government independent of provincial assistance at the earliest possible date.

The Committee desire to add their recognition of the peculiar financial difficulties of the Presidency of Bengal, which they accordingly commend to the special consideration of the Government of India.

Rule 21.—The Committee have substituted the phrase "in the financial interests of India as a whole" for "in order to preserve the financial stability of India" as a preferable description of the circumstances in which the rule is to be applied. Without in any way wishing to facilitate interference on the part of the Government of India with the freedom of a provincial Government to dispose of its balances as it thinks best—a power which is intended to be used, and which the Committee feel sure will be used, only in exceptional circumstances—they think it undesirable that the description of the circumstances which justify its application should be such as might cause undue apprehension, and possibly adversely affect the money market.

Rules 27 and 28 and Schedule III.—The Committee have recast these rules and the Schedule referred to in them, and have introduced changes both of form and substance. In order to describe the effect of the rules as amended by the Committee, they think it desirable to state certain general propositions on which they have proceeded.

In the first place, they regard it as essential to draw a clear distinction between the powers of the provincial Government to sanction and incur expenditure on transferred subjects, and its powers in relation to expenditure on reserved subjects.

In

In the second place, they think that it is unnecessary and undesirable to prescribe by statutory rules under the Act of 1919 the extent to which the Secretary of State in Council is prepared to delegate to provincial Governments his powers of control over expenditure on reserved services. Such delegation has always in the past been effected by orders of the Secretary of State in Council made in virtue of the powers conferred by the proviso to section 21 of the Act of 1915, and the Committee recommend that this practice should be continued under the new regime. When the Act of 1919 comes into operation an order under section 21 of the earlier Act would necessarily assume an entirely new complexion, in view of the large measure of control over appropriations for reserved services vested by the new Act in the provincial Legislative Councils, and such an order might by its provisions well recognise the principles to which the Committee alluded in their observations on clause 33 in their Report on the Bill. Thus the Secretary of State in Council might in some cases permit the Governors in Council to dispense with his previous sanction to proposed appropriations for new reserved expenditure if a resolution approving the same had been passed by the Legislative Council. But whatever arrangement of this kind the Secretary of State in Council might think fit to make, the result would be a mere delegation of the Secretary of State's statutory powers of control, and his responsibility to Parliament would and must remain undiminished.

The Committee have therefore confined the scope of the present rules to expenditure on transferred subjects. It is the clear intention of the Act of 1919 that expenditure on transferred subjects shall, with the narrowest possible reservations, be within the exclusive control of the provincial legislatures and subject to no higher sanction save such as is reserved to the Governor by section 11 (2) (*b*)[1] of the Act. But some reservations are required. The Secretary of State in Council must retain control over expenditure

[1] S. 72D (2) (*b*) of the Government of India Act.

ture on transferred subjects, which is likely to affect the prospects or rights of the all-India Services, which he recruits and will continue to control, and he must retain power to control the purchase of stores in the United Kingdom. But subject to these limitations Ministers should be as free as possible from external control, and the control to be exercised over expenditure on transferred subjects should be exercised by the provincial legislature, and by that body alone.

Lastly, the Committee have omitted that portion of the Government of India's draft rule in Schedule III which embodied what have been described as "canons of financial propriety," not because they do not attach the greatest importance to the observance of these principles by all authorities entrusted with the expenditure of public funds, from Ministers and Executive Councillors downwards, but because they think that it would be constitutionally impossible for the Secretary of State in Council to take power, in the rules which he is to frame under section 33[1] of the Act, to intervene in the administration of transferred subjects for the purpose of securing compliance with these canons, and that it would be inappropriate to lay down conditions in these rules which, so far as Ministers are concerned, there will be no power to enforce. They recommend, therefore, that the substance of these rules should be enacted as part of the rules to be framed by the Secretary of State in Council under section 39[2] of the Act for the purpose of prescribing the duties of the Auditor-General, that the duty should be specifically laid upon that authority of conducting his audit with reference to these canons, and that any breach which he detects should be brought promptly to the notice of the Local Government and of the Committee of Public Accounts. It will then be the duty of the Legislative Council to rectify irregularities of this description, and the manner in which notice has been taken of reports of the Auditor-General will be an obvious

[1] S. 19A of the Government of India Act.
[2] S. 96D, *ibid.*

obvious point to which the Parliamentary Commission would be likely to direct its attention.

Rules 30 and 31.—Formal changes have been made in these rules.

Rules 32 and 33 have been re-drafted, on the recommendation of the Government of India, so as to enable the Governor to cancel an order of allocation before the end of the normal period of its expiry should the disagreement which necessitated the order have been dissolved, or should his Ministers and Members of the Executive Council have devised by mutual consent a method of allocation which they prefer to that in force.

Rule 40.—A formal change has been made in this rule.

Rule 44.—The Committee have inserted at the end of the first sentence the words " for the orders of the Local Government " with a view to securing to the Finance Department that its advice shall be considered by the Governor in Council or the Governor and Ministers, as the case may be, before a decision is taken which may involve disregard of that advice.

Rule 48 has been slightly expanded so as to provide for settlement, in case of disagreement between the Government of India and the provincial Government.

Rule 49.—A clause has been added, identical in form, *mutatis mutandis*, with a clause added to the corresponding rule under Section 33,[1] in order to enable intervention in transferred administration for the purposes of carrying out the provisions of the Act relating to the office of High Commissioner, the control of provincial borrowing, the regulation of the services, the duties of the Audit Department, and for the enforcement of certain rules which are intended to place restrictions on the freedom of Ministers, such as the rules requiring the employment of officers of the Indian Medical Service and the rules contained in Schedule III.

Schedule I,

[1] S. 19A of the Government of India Act.

Schedule I, paragraph 20.—The Committee have thought it desirable to insert the words "made after consultation with the Local Government or Local Governments concerned," though they have little doubt that even were the words not inserted such consultation would invariably take place.

Schedule IV, Rule 10.—The Committee have omitted the forms appended to this rule as originally drafted and have made a consequential change in the wording of the rule. It appears to them unnecessary and undesirable to stereotype in statutory rules forms of which the details may well require periodical modification in the light of experience.

RULES UNDER SECTION 2.[1]

3. The Committee have recast rules 2 and 3 of these rules in order—

(1) to provide a more elastic specification of the purposes for which loans may be raised;

(2) to differentiate loans raised in India from those raised in the United Kingdom for the purpose of prescribing the sanctioning authority, and

(3) to enable the Government of India or the Secretary of State, as the case may be, to retain control over the effective rate of interest to be charged and the amount and form of the issue.

The reason which has influenced the Committee in deciding upon these last two provisions is that in the case of loans to be raised in India the retention of control over provincial borrowing is in their view essential in the interests not only of the Central Government, but also of the provinces themselves (*e.g.*, to prevent unrestricted provincial competition). Similar considerations are applicable to the sterling borrowing operation of the provinces, and, apart from

[1] See the Local Government (Borrowing) Rules, made under s. 30 (*7a*) of the Government of India Act at p. 183, *infra*.

from this, the Committee consider that the experience of the Secretary of State in Council in the London market is such that the chances of success of provincial loans in London will be for the present much greater if they are launched with his authority, and on his advice.

Rules under section 46.[1]

4. These rules have been forwarded by the Government of India since the original drafts were provisionally presented to Parliament, and the Committee consider them the most appropriate solution of the problem they are intended to solve—namely, the settlement of the somewhat complicated question whether the large class of persons such as village officials, government pleaders, law lecturers, etc., who though in receipt of fees or small allowances from the Government are not whole-time Government servants, are to be regarded as officials for the purposes of the Act.

Rule under section 33.[2]

5. This rule (which as already stated is exactly parallel with the corresponding rule (49) under section 1) is confined to relaxation of the Secretary of State's control over transferred subjects, and the Committee consider that no statutory divestment of control, except over the transferred field, is either necessary or desirable. It is open to the Secretary of State to entrust larger powers, administrative and financial, to the Governor-General in Council and the provincial Governors in Council, and he will no doubt be largely influenced in deciding whether or not to require reference to himself in any given case, or whether to interpose his orders when reference has been made, by the attitude of provincial public

[1] See the Non-Official [Definition] Rules, made under s. 134 of the Government of India Act at p. 248, *infra*.

[2] See the rule made under s. 33 of the Government of India Act, 1919, which corresponds to s. 19A of the Government of India Act at p. 183, *infra*.

public opinion as expressed in the Legislative Council. But these matters cannot be regulated by statutory rules, and any authority which the Secretary of State may decide to pass on to the official governments in India will be a mere delegation of his own authority and responsibility, for the exercise of which in relation to central and reserved subjects he must remain accountable to Parliament.

GENERAL.

6. This concludes the Committee's observations on the draft rules. In the course of their deliberations they have, however, considered at the request of the Government of India, two cognate matters which call for some comment. In their Report on the Bill the Committee expressed the opinion that it would be a great advantage if, wherever possible, the Presidents of provincial Legislative Councils (who for the first four years are to be nominated) were persons with Parliamentary experience. The Government of India and the Local Governments have given full consideration to this suggestion, and their views have been laid before the Committee. The consensus of opinion is that there would be great practical difficulties involved in carrying out the suggestion, and the Committee are prepared to defer to this opinion. They are glad, however, to learn that it is intended to give effect to their recommendation in this respect as regards the President of the Legislative Assembly.

7. The second matter which has been brought to the Committee's notice is the desire that they should reconsider the recommendation made in their Report on the Bill, that if a provincial Executive Council contains two members with service qualifications, neither of whom is by birth an Indian, it should also contain two non-official Indian members. The Committee have given their best consideration to the arguments upon which this request was based, but they see no reason to change their opinion. They recognise

recognise that this decision may involve a slightly greater man-power in the Government than present statistics would strictly justify, but they have little doubt that the increase of work arising out of the new legislative bodies will be such as to render past experience a doubtful guide as to the volume of business likely to fall upon the executive, and in any case they think it of more importance that as many Indian gentlemen as possible should obtain experience inside the Government, than that the salaries of a few of them should be economised.

10th August 1920.

RULES UNDER THE GOVERNMENT OF INDIA ACT.

RELAXATION OF THE POWERS OF SUPERINTENDENCE, DIRECTION AND CONTROL VESTED IN THE SECRETARY OF STATE FOR INDIA.

(*Rule under section 19A of the Government of India Act.*)

No. 835-G., dated the 14th December, 1920.—The following rule made by the Secretary of State for India in Council under the provisions of section 33 of the Government of India Act, 1919, is published for general information:—

The powers of superintendence, direction and control vested in the Secretary of State and the Secretary of State in Council under the Act or otherwise shall, in relation to transferred subjects, be exercised only for the following purposes, namely:—

(1) to safeguard the administration of central subjects;

(2) to decide questions arising between two provinces, in cases where the provinces concerned fail to arrive at an agreement;

(3) to safeguard Imperial interests;

(4) to determine the position of the Government of India in respect of questions arising between India and other parts of the British Empire; and

(5) to safeguard the due exercise and performance of any powers and duties possessed by or imposed on the Secretary of State or the Secretary of State in Council, under or in connection with or for the purposes of the following provisions of the Act, namely, section 29A, section 30 (1A), Part VII A, or of any rules made by or with the sanction of the Secretary of State in Council.

[*See* Gazette of India, 1920, Part I, p. 2291.]

THE LOCAL GOVERNMENT (BORROWING) RULES.

[*Rules under section 30 (1A) of the Government of India Act.*]

No. 309-S., dated the 16th December, 1920.—In exercise of the powers conferred by sections 30 (*1A*) and 129A of the Government

Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules, the same having been approved by both Houses of Parliament:—

Short title and commencement.

1. (*1*) These rules may be called the Local Government (Borrowing) Rules.

(*2*) They shall come into force on a [1]date to be appointed by the Governor General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

Purposes for which loans may be raised.

2. A local Government may raise loans on the security of the revenues allocated to it for any of the following purposes, namely:—

(*a*) to meet capital expenditure on the construction or acquisition (including the acquisition of land, maintenance during construction and equipment) of any work or permanent asset of a material character in connection with a project of lasting public utility, provided that

(*i*) the proposed expenditure is so large that it cannot reasonably be met from current revenues; and

(*ii*) if the project appears to the Governor General in Council unlikely to yield a return of not less than such percentage as he may from time to time by order prescribe, arrangements are made for the amortisation of the debt;

(*b*) to meet any classes of expenditure on irrigation which have under rules in force before the passing of the Act been met from loan funds;

(*c*) for the giving of relief and the establishment and maintenance of relief works in times of famine or scarcity;

(*d*) for the financing of the Provincial Loan Account; and

(*e*) for the repayment or consolidation of loans raised in accordance with these rules or the repayment of advances made by the Governor General in Council.

3. (*1*) No

[1] These rules came into force in the Presidency of Madras and the Central Provinces on the 17th December, 1920; in the Province of Bihar and Orissa on the 29th December, 1920; and in the Presidencies of Bombay and Bengal, the United Provinces, and the Provinces of the Punjab, Burma and Assam on the 3rd January, 1921; see Gazette of India, Extraordinary, dated the 17th December, 1920, p. 1136.

Sanction to Loans.

3. (*1*) No loan shall be raised by a local Government without the sanction (in the case of loans to be raised in India) of the Governor General in Council, or (in the case of loans to be raised outside India) of the Secretary of State in Council, and in sanctioning the raising of a loan the Governor General in Council or the Secretary of State in Council, as the case may be, may specify the amount of the issue and any or all of the conditions under which the loan shall be raised.

(*2*) Every application for the sanction of the Secretary of State required by this rule shall be transmitted through the Governor General in Council.

Priority.

4. Every loan raised by a local Government in accordance with these rules shall be a charge on the whole of the revenues allocated to the local Government, and all payments in connection with the service of such loans shall be made in priority to all payments by the local Government other than the payments of—

(*i*) the fixed provincial contribution payable to the Governor General in Council,

(*ii*) interest due on sums advanced to the local Government by the Governor General in Council from the revenues of India, and

(*iii*) interest due on all loans previously raised by the local Government.

[*See* Gazette of India, Extraordinary, 1920, p. 1129.]

THE DEVOLUTION RULES.

(*Rules under section 45A of the Government of India Act.*)

No. 308-S., dated the 16th December, 1920.—In exercise of the powers conferred by sections 45A, and 129A, of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules, the same having been approved by both Houses of Parliament:—

Short title and commencement.

1. (*1*) These rules may be called the Devolution Rules.

(*2*) They shall come into force on a date[1] to be appointed by the Governor General in Council, with the approval of the

[1]All the provisions of these rules except those contained in rules 14, 15, 16, 24, 27, 28, 29, 47 and 48 and Schedule III, came into force in the Presidency of Madras and the Central Provinces on the 17th December, 1920; in the Province of Bihar and Orissa on the 29th December, 1920; and in the Presidencies of Bombay and Bengal, the United Provinces and the provinces of the Punjab, Burma and Assam on the 3rd January, 1921, see Notification No. 314-S., dated the 17th December, 1920 in Gazette of India, Extraordinary, dated the 17th December, 1920, page 1135.

The rules mentioned above and Schedule III came into force on the 1st April, 1921, *see* Notification No. 19-S., dated the 24th March, 1921 in Gazette of India, 1921, Part I, page 474.

the Secretary of State in Council, and different dates may be appointed for different parts of India, and for different provisions of these rules.

Definitions.

2. In these rules, unless there is anything repugnant in the subject or context,—

(*a*) "all-India revenues" means such portion of the revenues of India as is not allocated to local Governments under these rules;

(*b*) "Schedule" means a Schedule to these rules;

(*c*) "the Act" means the Government of India Act.

Part I.—Classification of subjects.

3. (*1*) For the purpose of distinguishing the functions of the local Governments and local legislatures of Governors' provinces[1] * * * from the functions of the Governor General in Council and the Indian legislature, subjects shall in those provinces be classified in relation to the functions of Government as central and provincial subjects in accordance with the lists set out in Schedule I.

(*2*) Any matter which is included in the list of provincial subjects set out in Part II of Schedule I shall, to the extent of such inclusion, be excluded from any central subject of which, but for such inclusion, it would form part.

Settlement of doubts.

4. Where any doubt arises as to whether a particular matter does or does not relate to a provincial subject, the Governor General in Council shall decide whether the matter does or does not so relate, and his decision shall be final.

Duty of local Government to supply information.

5. The local Government shall furnish to the Governor General in Council from time to time such returns and information on matters relating to the administration of provincial subjects as the Governor General in Council may require and in such form as he may direct.

Transfer of subjects and revocations or suspension of transfer.

6. The provincial subjects specified in the first column of Schedule II shall, in the Governors' provinces shown against each subject in the second column of the said Schedule, be transferred subjects; provided that the Governor General in Council may, by notification in the *Gazette* of

[1] Consequent on the constitution of Burma as a Governor's Province, the words "and of the province of Burma" were omitted by Notification No. 512-V., dated the 2nd January, 1923; *see* Gazette of India, Extraordinary, 1923, p. 43.

of India, with the previous sanction of the Secretary of State in Council, revoke or suspend for such period as he may consider necessary the transfer of any provincial subject in any province, and upon such revocation or during such suspension the subjects shall not be a transferred subject.

Settlement of doubts.

7. If any doubt arises as to whether any matter relates to a reserved or to a transferred subject, the Governor shall decide the question, and his decision shall be final.

Transfer in consequence of legislation.

8. Where an Act of the Legislative Council of a Governor's province confers on local authorities powers of the management of matters relating to reserved subjects, those matters shall, to the extent of the powers conferred by such legislation, be deemed in that province to form part of the transferred subject of local self-government.

Matters affecting both reserved and transferred subjects.

9. (*1*) When a matter appears to the Governor to affect substantially the administration both of a reserved and of a transferred subject, and there is disagreement between the member of the Executive Council and the minister concerned as to the action to be taken, it shall be the duty of the Governor, after due consideration of the advice tendered to him, to direct in which department the decision as to such action shall be given: provided that, in so far as circumstances admit, important matters on which there is such a difference of opinion shall before the giving of such direction be considered by the Governor with his Executive Council and his ministers together.

(*2*) In giving such a direction as is referred to in sub-rule (*1*), the Governor may, if he thinks fit, indicate the nature of the action which should in his judgment be taken, but the decision shall thereafter be arrived at by the Governor in Council or by the Governor and minister or ministers, according as the department to which it has been committed is a department dealing with reserved or a department dealing with transferred subjects.

Regulation of exercise of authority over members of public service

10. The authority vested in the local Government over officers of the public services employed in a Governor's province, shall be exercised in the case of officers serving in a department dealing with reserved subjects by the Governor in Council, and in the case of officers serving in a department dealing with transferred subjects by the Governor acting with the minister in charge of the department: provided that—

(*a*) no order affecting emoluments or pensions, no order of formal censure, and no order on a memorial shall be passed to the disadvantage of an officer of an all-India or provincial service without the personal concurrence of the Governor; and

(*b*) no

(*b*) no order for the posting of an officer of an all-India service shall be made without the personal concurrence of the Governor.

Service in a department.

11. If an officer performs duties both in a department dealing with reserved subjects and in a department dealing with transferred subjects, the Governor shall decide in which department he shall be deemed to be serving.

Employment of I. M. S. officers.

12. A local Government shall employ such number of Indian Medical Service officers in such appointments and on such terms and conditions as may be prescribed by the Secretary of State in Council.

Devolution.

13. Subject to the provisions of these rules, provincial subjects shall be administered by the local Government. But, save in the case of transferred subjects, nothing in these rules shall derogate from the power of superintendence, direction, and control conferred on the Governor General in Council by the Act.

Part II.—Financial arrangements.

Allocation of revenue.

14. (*1*) The following sources of revenue shall, in the case of Governors' provinces[1] * * * be allocated to the local Government as sources of provincial revenue, namely:—

(*a*) balance standing at the credit of the province at the time when the Act comes into force;

[2][(*b*) receipts accruing in respect of provincial subjects,]

(*c*) a share (to be determined in the manner provided by rule 15) in the growth of revenue derived from income-tax collected in the province, so far as that growth is attributable to an increase in the amount of income assessed;

(*d*) recoveries of loans and advances given by the local Government and of interest paid on such loans;

(*e*) payments made to the local Government by the Governor General in Council or by other local Governments

[1] Consequent on the constitution of Burma as a Governor's Province, the words " and in the province of Burma " were omitted by Notification No. 519-V., dated the 2nd January, 1923; *see* Gazette of India, Extraordinary, 1923, p. 43.

[2] This clause was substituted by Notification No. F.-447-23, dated 19th November, 1924; *see* Gazette of India, 1924, Part I, p. 1021.

Governments, either for services rendered or otherwise;

(*f*) the proceeds of any taxes which may be lawfully imposed for provincial purposes;

(*g*) the proceeds of any loans which may be lawfully raised for provincial purposes; and

(*h*) [1]any other sources which the Governor General in Council may by order declare to be sources of provincial revenue.

(*2*) The revenues of Berar shall be allocated to the local Government of the Central Provinces as a source of provincial revenue. This allocation shall be subject to the following conditions, namely,—

(*i*) that the local Government of the Central Provinces shall be responsible for the due administration of Berar; and

(*ii*) that if in the opinion of the Governor General in Council provision has not been made for expenditure necessary for the safety and tranquillity of Berar, the allocation shall be terminated by order of the Governor General in Council, or diminished by such amount as the Governor General in Council may by order in writing direct.

[2][15. (*1*) Whenever the assessed income of any year subsequent to the year 1920-21 exceeds in any Governor's Province or in the Province of Burma the assessed income of the year 1920-21, there shall be allocated to the local Government of that Province an amount calculated at the rate of three pies in each rupee of the amount of such excess.

(*2*) In this rule "the assessed income" of any year (other than the year 1920-21) means the amount of income brought under assessment under the Indian Income-tax Act, 1918, in that year in respect of which income-tax is collected, whether in that year or thereafter:

Provided

[1] Fees charged in respect of the grant or renewal of licenses under the Indian Arms Rules, 1920, are a source of provincial revenue, *see* Notification No. 546-A., dated the 21st July, 1921, in Gazette of India, 1921, Part I, page 985. Any deposit other than personal deposit which has been made with Government before the 1st of April, 1923, and which lapses or has lapsed to Government after 31st March, 1921, is a source of provincial revenue; *see* Gazette of India, 1922, Part I, p. 1192.

[2] This rule was substituted by Notification No. 318-F., dated the 13th October, 1921; *see* Gazette of India, 1921, Part I, p. 1406.

Provided that the assessed income of any year subsequent to the year 1920-21 shall not include income in respect of which no share of the tax collected would have been credited to Provincial revenues if such income had accrued and been brought under assessment in the year 1920-21.

(*3*) The assessed income of the year 1920-21 shall be such amount as the Governor General in Council, after making due allowance for arrears caused by any abnormal delays in the collection of the tax, may determine as the amount of income brought under assessment under the Indian Income-tax Act, 1918, in that year in respect of which income-tax is collected. It shall not include income in respect of which no share of the tax collected was credited to Provincial revenues.]

[1][Provided that where in any year subsequent to the year 1920-21 the income derived from any business is for any reason assessed to income-tax in a province other than that in which it was assessed in that year, the assessed income of the year 1920-21 of such first-mentioned Province shall be increased, and that of the other Province shall be decreased, by the amount of the income of the business brought under assessment in that year on which income-tax was collected.]

Payment of Government revenues into the public account.

16. All moneys derived from sources of provincial revenue shall be paid into the public account of which the Governor General in Council is custodian and credited to the Government of the province. The Governor General in Council shall have power, with the previous sanction of the Secretary of State in Council, to prescribe by general or special order the procedure to be followed in the payment of moneys into, and in the withdrawal, transfer and disbursement of moneys from, the public account, and for the custody of moneys standing in the account.

[2][Such orders may, to such extent and for such purposes as may be stipulated, delegate power to prescribe procedure for the said purposes to the Auditor General, the Controller of the Currency and to local Governments.]

Contributions by local Governments in 1921-22.

17. In the financial year 1921-22 contributions shall be paid to the Governor General in Council by the local Governments

[1] This proviso was added by Notification No. F.-318-II, dated the 15th November, 1922; *see* Gazette of India, 1922, Part I, p. 1341.

[2] These words were added by Notification No. 1-A., dated the 3rd January, 1922; *see* Gazette of India, 1922, Part I, p. 4.

ernments mentioned below according to the following scale :—

Name of Province.	Contributions (in lakhs of rupees).
Madras	348
Bombay	56
Bengal	63
United Provinces	240
Punjab	175
Burma	64
Central Provinces and Berar	22
Assam	15

[1][18. (*1*)] From the financial year 1922-23 onwards a total contribution of 983 lakhs, or such smaller sum as may be determined by the Governor General in Council, shall be paid to the Governor General in Council by the local Governments mentioned in the preceding rule. When for any year the Governor General in Council determines as the total amount of the contribution a smaller sum than that payable for the preceding year, a reduction shall be made in the contributions of those local Governments only whose last previous annual contribution exceeds the proportion specified below of the smaller sum so determined as the total contribution; and any reduction so made shall be proportionate to such excess :— Contributions in subsequent years.

Madras	17-90ths.
Bombay	13-90ths.
Bengal	19-90ths.
United Provinces	18-90ths.
Punjab	9-90ths.
Burma	6½-90ths.
Central Provinces and Berar	5-90ths.
Assam	2½-90ths.

(*2*) Notwithstanding

[1] Rule "18" was re-numbered "18 (*1*)" by Notification No. D.-3160, dated the 16th November, 1921; *see* Gazette of India, 1921, Part I, p. 1542.

[1][(2) Notwithstanding anything contained in sub-rule (1), the contribution payable thereunder by the local Government of Bengal in the financial years 1922-23, 1923-24 and 1924-25 shall be remitted by the Governor General in Council:

Provided that for the purposes of sub-rule (1)—

(a) the sum determined by the Governor General in Council as the total amount of the contribution for each of the said financial years shall include the contribution so remitted, and

(b) for the financial year 1925-26, the last previous annual contribution of the local Government of Bengal shall be deemed to be the remitted contribution for the year 1924-25.]

Excess contributions in case of emergency.

19. In cases of emergency, the local Government of any province may be required by the Governor General in Council, with the sanction of, and subject to the conditions approved by, the Secretary of State, to pay to the Governor General in Council a contribution for any financial year in excess of the amount required by the preceding rules in the case of that year.

Priority of contributions.

20. The contributions [2]* * * fixed under the preceding rules shall be a first charge on the allocated revenues and moneys of the local Governments concerned and shall be paid in such instalments, in such manner, and on such dates, as the Governor General in Council may prescribe.

Withdrawal of balances.

21. At any time when he considers this course to be essential in the financial interests of India as a whole, the Governor General in Council shall have power to require any local Government to which revenues have been allocated under these rules so to regulate its programme of expenditure as not to reduce the balance at its credit in the public account on a specified date or dates below a stated figure, and shall have power to take the necessary steps by the restriction of issues of moneys to secure this end. Subject to this power, those local Governments shall be at liberty to draw on their balances, provided that notice of the amount which they propose to draw during the ensuing financial year is given to the Governor General in Council before such date in each year as the Governor General in Council may by order fix.

22. Whenever

[1] This sub-rule was added by Notification No. D.-3160, dated the 16th November, 1921; *see* Gazette of India, 1921, Part I, p. 1542.

[2] The words "and assignments" were omitted by Notification No. 318-F., dated the 13th October, 1921; *see* Gazette of India, 1921, Part I, p. 1406.

22. Whenever the Governor General in Council has, on receipt of due notice of the intention of the local Government to draw on its balances, required it to reduce the extent of the proposed draft, he shall, at the end of the financial year in which the local Government is debarred from drawing, credit the local Government with interest on the amount which it was not permitted to draw. Such interest shall be a charge on the revenues of India, and shall be calculated at the average rate at which the Governor General in Council has borrowed money in the open market during the year by the issue of treasury bills. Interests on provincial balances.

23. Any moneys which, on the 1st day of April, 1921, are owed to the Governor General in Council on account of advances made from the provincial loan account of any province shall be treated as an advance to the local Government from the revenues of India, and shall carry interest at a rate calculated on the average rate carried by the total amount owed to the Governor General in Council on this account on the 31st March, 1921. The interest shall be payable upon such dates as the Governor General in Council may fix. In addition, the local Government shall pay to the Governor General in Council in each year an instalment in repayment of the principal amount of the advance, and this instalment shall be so fixed that the total advance shall, except where for special reasons the Governor General in Council may otherwise direct, be repaid before the expiry of twelve years. It shall be open to any local Government to repay in any year an amount in excess of the fixed instalment. Provincial loan account.

24. (*1*) The capital sums spent by the Governor General in Council upon the construction in the various provinces of productive and protective irrigation works and of such other works financed from loan funds as may from time to time be handed over to the management of local Governments shall be treated as advances made to the local Governments from the revenues of India. Such advances shall carry interest at the following rates, namely:— Capital expenditure on irrigation works.

(*a*) in case of outlay up to the end of the financial year 1916-17, at the rate of 3·3252 *per centum;*

(*b*) in the case of outlay incurred after the financial year 1916-17, at the average rate of interest paid by the Governor General in Council on loans raised in the open market since the end of that year.

(*2*) The interest shall be payable upon such debts as the Governor General in Council may fix.

25. The

Advances by the Government of India.

25. The Governor General in Council may at any time make to a local Government an advance from the revenues or moneys accruing to the Governor General in Council on such terms as to interest and repayment as he may think fit.

Priority of interest charges.

26. The payment of interest on loans and advances made under the three preceding rules and the repayment of the principal of an advance under rule 23, shall be a charge on the annual allocated revenues of the local Government and shall have priority over all other charges, save only contributions payable to the Governor General in Council.

Powers of sanctioning transferred expenditure

27. (*1*) The local Government of a Governor's province shall not, without the previous sanction of the Secretary of State in Council or of the Governor General in Council, as the case may be, include any proposal for expenditure on a transferred subject in a demand for a grant, if such sanction is required by the provisions of Schedule III to these rules.

(*2*) Subject to the provisions of sub-rule (*1*), the local Government of a Governor's province shall have power to sanction expenditure on transferred subjects to the extent of any grant voted by the Legislative Council.

(*3*) The local Government of a Governor's province shall have power to sanction any expenditure on transferred subjects which relates to the heads enumerated in section 72-D (*3*) of the Act, subject to the approval of the Secretary of State in Council or of the Governor General in Council if any such approval is required by any rule for the time being in force.

Delegation of powers of sanction.

28. (*1*) The powers of a local Government under the preceding rule to sanction expenditure, may be delegated by the local Government to an authority subordinate to it, after previous consultation with the Finance Department, to such extent as may be required for the convenient and efficient despatch of public business.

(*2*) Any sanction accorded under these rules shall remain valid for the specified period for which it is given, subject, in the case of voted expenditure, to the voting of grants in each year.

Famine Insurance Fund.

29. Each local Government mentioned in Schelule IV shall establish and maintain out of provincial revenues a famine insurance fund in accordance with the provisions of that Schedule, and such fund shall be controlled and administered as required by those provisions.

Taxation and borrowing.

30. All proposals for raising taxation or for the borrowing of money on the revenues of a province shall, in the case of a Governor's province, be considered by the Governor

Governor with his Executive Council and ministers sitting together, but the decision shall thereafter be arrived at by the Governor in Council, or by the Governor and minister or ministers, according as the proposal originates with the Governor in Council or the Governor and ministers.

Allocation of revenues for the administration of transferred subjects.

31. Expenditure for the purpose of the administration of both reserved and transferred subjects shall, in the first instance, be a charge on the general revenues and balances of each province, and the framing of proposals for expenditure in regard to transferred and reserved subjects will be a matter for agreement between that part of the government which is responsible for the administration of transferred subjects and that part of the government which is responsible for the administration of reserved subjects.

Procedure in event of failure to agree.

32. (*1*) If at the time of the preparation of the budget the Governor is satisfied that there is no hope of agreement within a reasonable time between the members of his Executive Council on the one hand and ministers on the other as to the apportionment of funds between reserved and transferred departments respectively, he may, by order in writing, allocate the revenues and balances of the province between reserved and transferred subjects, by specifying the fractional proportions of the revenues and balances which shall be assigned to each class of subject.

(*2*) An order of allocation under this rule may be made by the Governor either in accordance with his own discretion, or in accordance with the report of an authority to be appointed by the Governor General in this behalf on the application of the Governor.

Period of order of allocation.

33. Every such order shall (unless it is sooner revoked) remain in force for a period to be specified in the order, which shall be not less than the duration of the then existing Legislative Council, and shall not exceed by more than one year the duration thereof:

Provided that the Governor may at any time, if his Executive Council and ministers so desire, revoke an order of allocation or make such other allocation as has been agreed upon by them:

Provided, further, that if the order which it is proposed to revoke was passed in accordance with the report of an authority appointed by the Governor General, the Governor shall obtain the consent of the Governor General before revoking the same.

Condition of order of allocation.

34. Every order of allocation made under these rules shall provide that, if any increase of revenue accrues during the period of the order on account of the imposition of fresh taxation, that increase, unless the legislature otherwise

wise directs, shall be allocated in aid of that part of the Government by which the taxation is initiated.

Preparation of budget in default of agreement or order of allocation.

35. If at the time of the preparation of any budget no agreement or allocation such as is contemplated by these rules, has been arrived at, the budget shall be prepared on the basis of the aggregate grants respectively provided for the reserved and transferred subjects in the budget of the year about to expire.

Part III.—Finance Department.

Finance Department.

36. (*1*) There shall be in each Governor's province a Finance Department which shall be controlled by a member of the Executive Council.

(*2*) Immediately subordinate to the member there shall be a financial secretary, with whom shall be associated, if the ministers so desire, a joint secretary appointed by the Governor after consultation with the ministers.

(*3*) The joint secretary shall be specially charged with the duty of examining and dealing with financial questions arising in relation to transferred subjects and with proposals for taxation or borrowing put forward by any minister.

Functions of Finance Department.

37. The Finance Department shall perform the following functions, namely:—

(*a*) it shall be in charge of the account relating to loans granted by the local Government, and shall advise on the financial aspect of all transactions relating to such loans;

(*b*) it shall be responsible for the safety and proper employment of the famine insurance fund;

(*c*) it shall examine and report on all proposals for the increase or reduction of taxation;

(*d*) it shall examine and report on all proposals for borrowing by the local Government; shall take all steps necessary for the purpose of raising such loans as have been duly authorised; and shall be in charge of all matters relating to the service of loans;

(*e*) it shall be responsible for seeing that proper financial rules are framed for the guidance of other departments and that suitable accounts are maintained by other departments and establishments subordinate to them;

(*f*) it

(*f*) it shall prepare an estimate of the total receipts and disbursements of the province in each year, and shall be responsible during the year for watching the state of the local Government's balances;

(*g*) in connection with the budget and with supplementary estimates—

(*i*) it shall prepare the statement of estimated revenue and expenditure which is laid before the Legislative Council in each year and any supplementary estimates or demands for excess grants which may be submitted to the vote of the Council;

(*ii*) for the purpose of such preparation, it shall obtain from the departments concerned material on which to base its estimates, and it shall be responsible for the correctness of the estimates framed on the material so supplied;

(*iii*) it shall examine and advise on all schemes of new expenditure for which it is proposed to make provision in the estimates, and shall decline to provide in the estimates for any scheme which has not been so examined;

(*h*) on receipt of a report from an audit officer to the effect that expenditure for which there is no sufficient sanction is being incurred, it shall require steps to be taken to obtain sanction or that the expenditure shall immediately cease;

(*i*) it shall lay the audit and appropriation reports before the committee on public accounts, and shall bring to the notice of the committee all expenditure which has not been duly authorised and any financial irregularities;

(*j*) it shall advise departments responsible for the collection of revenue regarding the progress of collection and the method of collection employed.

38. (*1*) After grants have been voted by the Legislative Council— Powers of *Finance* Department with reference to re-appropriation.

(*a*) the Finance Department shall have power to sanction any re-appropriation within a grant from one major, minor or subordinate head to another;

(*b*) the

(*b*) the Member or Minister in charge of a department shall have power to sanction any re-appropriation within a grant between heads subordinate to a minor head which does not involve undertaking a recurring liability, provided that a copy of any order sanctioning such a re-appropriation shall be communicated to the Finance Department as soon as it is passed.

(*2*) The Finance Department shall have power to sanction the delegation by a Member or Minister to any officer or class of officers of the power of re-appropriation conferred on such Member or Minister by clause (*1*) (*b*) above.

(*3*) Copies of orders sanctioning any re-appropriation which does not require the sanction of the Finance Department shall be communicated to that department as soon as such orders are passed.

Matters to be referred to Finance Department.

39. No expenditure on any of the heads detailed in section 72-D (*3*) of the Act, which is in excess of the estimate for that head shown in the budget of the year, shall be incurred without previous consultation with the Finance Department.

Establishment changes.

40. No office may be added to, or withdrawn from, the public service in the province and the emoluments of no post may be varied except after consultation with the Finance Department; and, when it is proposed to add a permanent or temporary post to the public service, the Finance Department shall, if it thinks necessary, refer for the decision of the Audit Department the question whether the sanction of the Secretary of State in Council is, or is not, necessary.

Allowances and pay.

41. No allowance and no special or personal pay shall be sanctioned for any post or class of posts or for any Government servant without previous consultation with the Finance Department.

Grants and concessions.

42. No grant of land or assignment of land revenue, except when the grant is made under the ordinary revenue rules of the province, shall be given without previous consultation with the Finance Department; and no concession, grant or lease of mineral or forest rights, or right to water-power or of right-of-way or other easement, and no privilege in respect of such rights shall be given without such previous consultation.

Abandonment of revenue, etc.

43. No proposal involving an abandonment of revenue for which credit has been taken in the budget, or involving expenditure for which no provision has been made in the budget

budget, shall be submitted for the consideration of the local Government or the Legislative Council, nor shall any orders giving effect to such proposals issue, without a previous reference to the Finance Department.

Disposal of reports by Finance Department.

44. Every report made by the Finance Department on any matter on which it is required to advise or report under these rules shall be forwarded to the department concerned and shall, if the Finance Department so require, be submitted by the department concerned to the Governor for the orders of the local Government. The Governor may, if he thinks fit, direct that any such report shall be laid before the committee on public accounts.

Presumption of assent of Finance Department.

45. Wherever previous consultation with the Finance Department is required by these rules it shall be open to that department to prescribe, by general or special order, cases in which its assent may be presumed to have been given.

Part IV.—Agency.

Agency employment of local Governments.

46. The Governor General in Council may employ the agency of the Governor in Council of any province in the administration of central subjects in so far as such agency may be found convenient.

[1][46-A. Where, in respect of a central subject, powers have been conferred by or under any law upon a local Government, such powers shall be exercised by the Governor in Council.]

Cost of agency establishments.

[2][47. The cost of an establishment employed by the Governor in Council of any province exclusively on the administration of central subjects shall be a charge against all-India revenues.]

Distribution of cost of joint establishment.

48. If a joint establishment is employed upon the administration of central and provincial subjects, the cost of such establishment may be distributed in such manner as the Governor General in Council and the Governor in Council of the province concerned may agree, or, in the case of disagreement, in such manner as may be determined by the Secretary of State in Council.

Part V.—Limitation of control.

Limitation of control by Governor General in Council over transferred subjects.

49. The powers of superintendence, direction, and control over the local Government of a Governor's province vested in the Governor General in Council under the Act shall

[1] This rule was inserted by Notification No. F.-447-23, dated the 19th November, 1924; *see* Gazette of India, 1924, Part I, p. 1021.

[2] This rule was substituted by *ibid.*

shall in relation to transferred subjects be exercised only for the following purposes, namely:—

(1) to safeguard the administration of central subjects;

(2) to decide questions arising between two provinces, in cases where the provinces concerned fail to arrive at an agreement; and

(3) to safeguard the due exercise and performance of any powers and duties possessed by, or imposed on, the Governor General in Council under, or in connection with, or for the purposes of the following provisions of the Act, namely, section 29-A, section 30 (*1-A*), Part VII-A, or of any rules made by, or with the sanction of, the Secretary of State in Council.

SCHEDULE I.

(See Rule 3.)

Part I.—Central Subjects.

1. (*a*) Defence of India, and all matters connected with His Majesty's Naval, Military, and Air Forces in India, or with His Majesty's Indian Marine Service or with any other force raised in India, other than military and armed police wholly maintained by local Governments.

(*b*) Naval and military works and cantonments.

2. External relations, including naturalisation and aliens, and pilgrimages beyond India.

3. Relations with States in India.

4. Political charges.

5. Communications to the extent described under the following heads, namely:—

(*a*) railways and extra-municipal tramways, in so far as they are not classified as provincial subjects under entry 6 (*d*) of Part II of this Schedule;

(*b*) aircraft and all matters connected therewith; and

(*c*) inland waterways, to an extent to be declared by rule made by the Governor General in Council or by or under legislation by the Indian legislature.

6. Shipping and navigation, including shipping and navigation on inland waterways in so far as declared to be a central subject in accordance with entry 5 (*c*).

7. Light-houses (including their approaches), beacons, lightships, and buoys.

8. Port quarantine and marine hospitals.

9. Ports

9. Ports[1] declared to be major ports by rule made by the Governor General in Council or by or under legislation by the Indian legislature.

10. Posts, telegraphs and telephones, including wireless installations.

11. Customs, cotton excise duties, income-tax, salt, and other sources of all-India revenues.

12. Currency and coinage.

13. Public debt of India.

14. Savings Banks.

15. The Indian Audit Department and excluded Audit Departments, as defined in rules framed under section 96-D (*1*) of the Act.

16. Civil law, including laws regarding status, property, civil rights and liabilities, and civil procedure.

17. Commerce, including banking and insurance.

18. Trading companies and other associations.

19. Control of production, supply, and distribution of any articles in respect of which control by a central authority is declared by rule made by the Governor General in Council or by or under legislation by the Indian legislature to be essential in the public interest.

20. Development of industries, in cases where such development by central authority is declared[2] by order of the Governor General in Council, made after consultation with the local Government or local Governments concerned, expedient in the public interest.

21. Control of cultivation and manufacture of opium, and sale of opium for export.

22. Stores and stationery, both imported and indigenous, required for Imperial Departments.

23. Control of petroleum and explosives.

24. Geological survey.

25. Control of mineral development, in so far as such control is reserved to the Governor General in Council under rules made or sanctioned by the Secretary of State, and regulation of mines.

26. Botanical survey.

27. Inventions

[1] For rule declaring the ports of Calcutta, Bombay, Karachi, Aden, Rangoon and Madras to be major ports, *see* Notification No. 1169, dated the 19th February, 1921, in Gazette of India, 1921, Part I, p. 275.

[2] For declaration that the development by the Central Authority of the steel rail and railway wagon industries in certain provinces is expedient in the public interest, *see* Notification No. 39-T., dated 14th June, 1924, Gazette of India, 1924, Part I, p. 485.

27. Inventions and designs.

28. Copyright.

29. Emigration from, and immigration into, British India, and inter-provincial migration.

30. Criminal law, including criminal procedure.

31. Central police organization.

32. Control of arms and ammunition.

33. Central agencies and institutions for research (including observatories), and for professional or technical training or promotion of special studies.

34. Ecclesiastical administration, including European cemeteries.

35. Survey of India.

36. Archæology.

37. Zoological Survey.

38. Meteorology.

39. Census and statistics.

40. All-India services.

41. Legislation in regard to any provincial subject, in so far as such subject is in Part II of this Schedule stated to be subject to legislation by the Indian legislature, and any powers relating to such subject reserved by legislation to the Governor General in Council.

42. Territorial changes, other than intra-provincial, and declaration of laws in connection therewith.

43. Regulation of ceremonial, titles, orders, precedence, and civil uniform.

44. Immoveable property acquired by, and maintained at the cost of, the Governor General in Council.

45. The Public Service Commission.

46. All matters expressly excepted by the provisions of Part II of this Schedule, from inclusion among provincial subjects.

47. All other matters not included among provincial subjects under Part II of this Schedule.

Part II.—Provincial Subjects.

1. Local self-government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health, and other local authorities established in a province for the purpose of local self-government, exclusive of

of matters arising under the Cantonments Act, 1910; subject to legislation by the Indian legislature as regards—

(*a*) the powers of such authorities to borrow otherwise than from a provincial government, and

(*b*) the levying by such authorities of taxation not included in Schedule II to the Scheduled Taxes Rules.

2. Medical administration, including hospitals, dispensaries, and asylums, and provision for medical education.

3. Public health and sanitation and vital statistics; subject to legislation by the Indian legislature in respect to infectious and contagious diseases to such extent as may be declared by any Act of the Indian legislature.

4. Pilgrimages within British India.

5. *Education: provided that*—

(*a*) the following subjects shall be excluded, namely:—

(*i*) the Benares Hindu University, [the Aligarh Muslim University][1] and such other Universities constituted after the commencement of these rules as may be declared by the Governor General in Council to be central subjects, and

(*ii*) Chiefs' Colleges and any institution maintained by the Governor General in Council for the benefit of members of His Majesty's Forces or of other public servants or of the children of such members or servants; and

(*b*) the following subjects shall be subject to legislation by the Indian legislature, namely:—

(*i*) the control of the establishment and the regulation of the constitutions and functions of Universities constituted after the commencement of these rules, and

(*ii*) the definition of the jurisdiction of any University outside the province in which it is situated, and

(*iii*) for a period of five years from the date of the commencement of these rules, the Calcutta University, and the control and organization of secondary education in the Presidency of Bengal.

6. Public

[1]These words were inserted by Notification No. 11-S., dated the 10th February, 1921; see Gazette of India, 1921, Part I, page 216.

6. [1][Public works, other than those falling under entry 14 of this Part and included under the following heads, namely:—]

(*a*) construction and maintenance of provincial buildings used or intended for any purpose in connection with the administration of the province; and care of historical monuments, with the exception of ancient monuments as defined in section 2 (1) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under section 3 (1) of that Act; provided that the Governor General in Council may, by [2]notification in the *Gazette of India*, remove any such monument from the operation of this exception;

(*b*) roads, bridges, ferries, tunnels, ropeways, and causeways, and other means of communication, subject to such conditions as regards control over construction and maintenance of means of communication declared by the Governor General in Council to be of military importance, and as regards incidence of special expenditure connected therewith, as the Governor General in Council may prescribe;

(*c*) tramways within municipal areas; and

(*d*) light and feeder railways and extra-municipal tramways, in so far as provision for their construction and management is made by provincial legislation; subject to legislation by the Indian legislature in the case of any such railway or tramway which is in physical connection with a main line or is built on the same gauge as an adjacent main line.

7. Water-supplies, irrigation and canals, drainage and embankments; water storage and water power; subject to legislation by the Indian Legislature with regard to matters of inter-provincial concern or affecting the relations of a province with any other territory.

8. Land

[1] These words were substituted for the words "Public works included under the following heads, namely:—" by Notification No. F-975, dated the 22nd November, 1922; *see* Gazette of India, 1922, Part I, p. 1564.

[2] For removal of the Sidi Bazir's Minars and Tombs at Ahmedabad in the Bombay Presidency from the operation of the exception, *see* Notification No. 1555, dated 18th October, 1923, Gazette of India, 1923, Pt. I, p. 1351.

For removal of certain other ancient monuments, *see* Notification No. 2056, dated 24th December, 1923, Gazette of India, 1923, Pt. I, p. 1755, Notification No. 1680, dated 26th August, 1924, Gazette of India, 1924, Part I, p. 771, and Notification No. 1904, dated 1st October 1924, Gazette of India, 1924, Part I, p. 888.

8. Land revenue administration as described under the following heads, namely,—

(*a*) assessment and collection of land revenue;

(*b*) maintenance of land records, survey for revenue purposes, records-of-rights;

(*c*) laws regarding land tenures, relations of landlords and tenants, collection of rents;

(*d*) Courts of Wards, incumbered and attached estates;

(*e*) land improvement and agricultural loans;

(*f*) colonisation and disposal of Crown lands and alienation of land revenue; and

(*g*) management of Government estates.

9. Famine relief.

10. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests, and prevention of plant diseases; subject to legislation by the Indian Legislature in respect to destructive insects and pests and plant diseases to such extent as may be declared by any Act of the Indian Legislature.

11. Civil Veterinary Department, including provision for veterinary training, improvement of stock, and prevention of animal diseases; subject to legislation by the Indian Legislature in respect to animal diseases to such extent as may be declared by any Act of the Indian Legislature.

12. Fisheries.

13. Co-operative Societies.

14. Forests, including preservation of game therein [1][and all buildings and works executed by the Forest Department]; subject to legislation by the Indian Legislature as regards disforestation of reserved forests.

15. Land acquisition; subject to legislation by the Indian Legislature.

16. Excise, that is to say, the control of production, manufacture, possession, transport, purchase, and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and licence fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.

17. Administration of justice, including constitution, powers, maintenance and organisation of courts of civil and criminal

[1]These words were inserted by Notification No. F-975, dated the 22nd November, 1922; *see* Gazette of India, 1922, Part I, p. 1364.

criminal jurisdiction within the province; subject to legislation by the Indian Legislature as regards High Courts, Chief Courts, and Courts of Judicial Commissioners, and any courts of criminal jurisdiction.

18. Provincial law reports.

19. Administrators General and Official Trustees; subject to legislation by the Indian Legislature.

20. Non-judicial stamps, subject to legislation by the Indian Legislature, and judicial stamps, subject to legislation by the Indian Legislature as regards amount of court-fees levied in relation to suits and proceedings in the High Courts under their original jurisdiction.

21. Registration of deeds and documents; subject to legislation by the Indian Legislature.

22. Registration of births, deaths, and marriages; subject to legislation by the Indian Legislature for such classes as the Indian Legislature may determine.

23. Religious and charitable endowments.

24. Development of mineral resources which are Government property, subject to rules made or sanctioned by the Secretary of State, but not including the regulation of mines.

25. Development of industries, including industrial research and technical education.

26. Industrial matters included under the following heads, namely,—

(*a*) factories;

(*b*) settlement of labour disputes;

(*c*) electricity;

(*d*) boilers;

(*e*) gas;

(*f*) smoke nuisances; and

(*g*) welfare of labour, including provident funds, industrial insurance (general, health and accident), and housing;

subject as to heads (*a*), (*b*), (*c*), (*d*), and (*g*) to legislation by the Indian Legislature.

27. Stores and stationery, subject, in the case of imported stores and stationery, to such rules as may be prescribed by the Secretary of State in Council.

28. Adulteration of foodstuffs and other articles; subject to legislation by the Indian Legislature as regards import and export trade.

29. Weights and measures; subject to legislation by the Indian Legislature as regards standards.

30. Ports

30. Ports, except such ports as may be declared by rules made by the Governor General in Council or by or under Indian legislation to be major ports.

31. Inland water-ways, including shipping and navigation thereon so far as not declared by the Governor General in Council to be central subjects, but subject as regards inland steam-vessels to legislation by the Indian Legislature.

32. Police, including railway police; subject, in the case of railway police, to such conditions as regards limits of jurisdiction and railway contributions to cost of maintenance as the Governor General in Council may determine.

33. The following miscellaneous matters, namely,—

(*a*) regulation of betting and gambling;

(*b*) prevention of cruelty to animals;

(*c*) protection of wild birds and animals;

(*d*) control of poisons, subject to legislation by the Indian Legislature;

(*e*) [1][control of vehicles, subject, in the case of motor vehicles, to legislation by the Indian Legislature as regards licences valid throughout British India;] and

(*f*) control of dramatic performances and cinematographs, subject to legislation by the Indian Legislature in regard to sanction of films for exhibition.

34. Control of newspapers, books and printing presses; subject to legislation by the Indian Legislature.

35. Coroners.

36. Excluded areas.

37. Criminal tribes; subject to legislation by the Indian Legislature.

38. European vagrancy; subject to legislation by the Indian Legislature.

39. Prisons, prisoners (except State prisoners), and reformatories; subject to legislation by the Indian Legislature.

40. Pounds and prevention of cattle trespass.

41. Treasure trove.

42. Libraries

[1] This clause was substituted for the original clause (*e*) by Notification No. U-1780-C., dated 8th February, 1924—see Gazette of India, 1924, Pt. I, p. 141.

42. Libraries (except the Imperial Library) and *museums* (except the Indian Museum, the Imperial War Museum, and the Victoria Memorial, Calcutta) and Zoological Gardens.

43. Provincial Government Presses.

44. Elections for Indian and provincial Legislatures; subject to rules framed under sections 64 (*1*) and 72A (*4*) of the Act.

45. *Regulation of medical and other professional qualifications and standards*; subject to legislation by the Indian Legislature.

46. Local Fund Audit, that is to say, the audit by Government agency of income and expenditure controlled by local bodies.

47. Control, as defined by rule 10, of members of all-India and provincial services serving within the province; and control, subject to legislation by the Indian Legislature, of public services within the province other than all-India services.

48. Sources of provincial revenue, not included under previous heads, whether:—

(*a*) taxes included in the Schedules to the Scheduled Taxes Rules; or

(*b*) taxes not included in those Schedules, which are imposed by or under provincial legislation which has received the previous sanction of the Governor General.

49. Borrowing of money on the sole credit of the province; subject to the provisions of the Local Government (Borrowing) Rules.

50. Imposition by legislation of punishments by fine, penalty, or imprisonment for enforcing any law of the province relating to any provincial subject; subject to legislation by the Indian Legislature in the case of any subject in respect of which such a limitation is imposed under these rules.

51.[1] Any matter which, though falling within a central subject, is declared by the Governor General in Council to be of a merely local or private nature within the province.

52.

[1] For notification declaring that matters relating to the survey of minor air routes lying wholly within a single province and to the provision, maintenance and management of flying services, aerodromes and landing-places for aircraft on such routes are of merely local nature within the province concerned; see Notification No. 1702, dated the 5th March, 1921, in Gazette of India, 1921, Part I, page 341.

[1][52* * * * *]

SCHEDULE II.

(SEE RULE 6.)

List of Provincial Subjects for Transfer.

Column I.	Column II.
1. Local self-government—that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health, and other local authorities established in the province for purposes of local self-government, exclusive of matters arising under the Cantonments Act, 1910; subject to legislation by the Indian Legislature as regards (*a*) the powers of such authorities to borrow otherwise than from a provincial Government, and (*b*) the levying by such authorities of taxation not included in Schedule II to the Scheduled Taxes Rules.	All Governors' provinces.
2. Medical administration, including hospitals, dispensaries and asylums, and provision for medical education.	Ditto.
3. Public health and sanitation and vital statistics; subject to legislation by the Indian Legislature in respect to infectious and contagious diseases to such extent as may be declared by any Act of the Indian Legislature.	Ditto.
4. Pilgrimages	

For notification declaring the audit of certain local funds accounts in Assam as of a merely local nature, *see* Notification No. 536-A., dated the 20th July, 1921, *see* Gazette of India, 1921, Pt. I, p. 985 and as regards Burma, *see* Gazette of India, 1921, Part I, p. 1660.

For certain subjects declared to be of a local nature in all provinces, *see* Notification No. 942-A., dated the 21st December, 1921, Gazette of India, 1921, Pt. I, p. 1702.

For declaration that in every province having a legislative council, the preparation of the provincial Code is of merely local nature, *see* Notification No. 146, dated the 21st December, 1922, Gazette of India, 1922, Part I, p. 1523.

For declaration that expenditure incurred in the equipment of civil rallying posts, in connection with the internal security scheme, should be borne by the Provincial civil budget. *See* Notification No. 133, dated the 26th January, 1923, Gazette of India, 1923, Part I, p. 82.

For declaration that the law of succession to talukdari estates in the United Provinces is a matter of a merely local nature within those provinces, *see* Notification No. 1209-24, dated 26th June, 1924, Gazette of India, 1924, Part I, p. 566.

[1] Item 52 was cancelled by Notification No. F.-447-23, dated the 19th November, 1924, *see* Gazette of India, 1924, Part I, p. 1021.

42. Libraries (except the Imperial Library) and museums (except the Indian Museum, the Imperial War Museum, and the Victoria Memorial, Calcutta) and Zoological Gardens.

43. Provincial Government Presses.

44. Elections for Indian and provincial Legislatures; subject to rules framed under sections 64 (*1*) and 72A (*4*) of the Act.

45. Regulation of medical and other professional qualifications and standards; subject to legislation by the Indian Legislature.

46. Local Fund Audit, that is to say, the audit by Government agency of income and expenditure controlled by local bodies.

47. Control, as defined by rule 10, of members of all-India and provincial services serving within the province; and control, subject to legislation by the Indian Legislature, of public services within the province other than all-India services.

48. Sources of provincial revenue, not included under previous heads, whether:—

(*a*) taxes included in the Schedules to the Scheduled Taxes Rules; or

(*b*) taxes not included in those Schedules, which are imposed by or under provincial legislation which has received the previous sanction of the Governor General.

49. Borrowing of money on the sole credit of the province; subject to the provisions of the Local Government (Borrowing) Rules.

50. Imposition by legislation of punishments by fine, penalty, or imprisonment for enforcing any law of the province relating to any provincial subject; subject to legislation by the Indian Legislature in the case of any subject in respect of which such a limitation is imposed under these rules.

51.[1] Any matter which, though falling within a central subject, is declared by the Governor General in Council to be of a merely local or private nature within the province.

52.

[1]For notification declaring that matters relating to the survey of minor air routes lying wholly within a single province and to the provision, maintenance and management of flying services, aerodromes and *landing*-places for aircraft on such routes are of merely local nature within the province concerned; *see* Notification No. 1702, dated the 5th March, 1921, in Gazette of India, 1921, Part I, page 341.

[1][52* * * * *]

SCHEDULE II.

(SEE RULE 6.)

List of Provincial Subjects for Transfer.

Column I.	Column II.
1. Local self-government—that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health, and other local authorities established in the province for purposes of local self-government, exclusive of matters arising under the Cantonments Act, 1910; subject to legislation by the Indian Legislature as regards (*a*) the powers of such authorities to borrow otherwise than *from a provincial Government, and (b) the* levying by such authorities of taxation not included in Schedule II to the Scheduled Taxes Rules.	All Governors' provinces.
2. Medical administration, including hospitals, dispensaries and asylums, and provision for medical education.	Ditto.
3. Public health and sanitation and vital statistics; subject to legislation by the Indian Legislature in respect to infectious and contagious diseases to such extent as may be declared by any Act of the Indian Legislature.	Ditto.

4. *Pilgrimages*

For notification declaring the audit of certain local funds accounts in Assam as of a merely local nature, *see* Notification No. 536-A., dated the 20th July, 1921, *see* Gazette of India, 1921, Pt. I, p. 985 and as regards Burma, *see* Gazette of India, 1921, Part I, p. 1660.

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For declaration that in every province having a legislative council, the preparation of the provincial Code is of merely local nature, *see* Notification No. 146, dated the 21st December, 1922, Gazette of India, 1922, Part I, p. 1523.

For declaration that expenditure incurred in the equipment of civil rallying posts, in connection with the internal security scheme, should be borne by the Provincial civil budget. *See* Notification No. 133, dated the 26th January, 1923, Gazette of India, 1923, Part I, p. 82.

For declaration that the law of succession to taluqdari estates in the United Provinces is a matter of a merely local nature within those provinces, *see Notification No. 1209-24, dated 26th June, 1924, Gazette* of India, 1924, Part I, p. 566.

[1] Item 52 was cancelled by Notification No. F.-447-23, dated the 19th November, 1924, *see* Gazette of India, 1924, Part I, p. 1021.

Column I.	Column II.
4. Pilgrimages within British India . . .	All Governors' provinces.
[1][5(*l*)]. Education, other than European and Anglo-Indian education, provided that—	Ditto.
(*a*) the following subjects shall be excluded, namely :—	
(*i*) the Benares Hindu University, [2](the Aligarh Muslim University] and such other Universities constituted after the commencement of these rules as may be declared by the Governor General in Council to be central subjects, and	
(*ii*) Chiefs' Colleges and any institution maintained by the Governor General in Council for the benefit of members of His Majesty's Forces or of other public servants or of the children of such members or servants ; and	
(*b*) the following subjects shall be subject to legislation by the Indian Legislature, namely :—	
(*i*) the control of the establishment and the regulation of the constitutions and functions of Universities constituted after the commencement of these rules, and	
(*ii*) the definition of the jurisdiction of any University outside the province in which it is situated, and	
(*iii*) for a period of five years from the date of the commencement of these rules, the Calcutta University and the control and organisation of secondary education in the Presidency of Bengal.	
[(2). Subject to the provisos set out in clause (1) in so far as they are applicable, European and Anglo-Indian education].[3]	[4][Burma].

6. Public

[1] This item was re-numbered by Notification No. 519-V, dated the 2nd January, 1923; *see* Gazette of India, Extraordinary, 1923, p. 43.

[2] These words were inserted by Notification No. 11-S., dated the 10th February, 1921; *see* Gazette of India, 1921, Part I, page 215.

[3] This clause was added by Notification No. 519-V, dated the 2nd January, 1923, *see Gazette of India, Extraordinary, 1923, p.* 43.

[4] This word was inserted by *ibid.*

Column I.	Column II.
6. [1][Public Works, other than those falling under entry 11 of this part, and included under the following heads, namely] :—	All Governors' provinces except Assam.
(*a*) construction and maintenance of provincial buildings, other than residences of Governors of provinces, used or intended for any purpose in connection with the administration of the province on behalf of the departments of Government concerned, save in so far as the Governor may assign such work to the departments using or requiring such buildings; and care of historical monuments, with the exception of ancient monuments as defined in section 2 (1) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under section 3 (1) of that Act; provided that the Governor General in Council may, by notification[2] in the *Gazette of India*, remove any such monument from the operation of this exception;	
(*b*) roads, bridges, ferries, tunnels, ropeways and causeways, and other means of communication, subject to such conditions as regards control over construction and maintenance of means of communication declared by the Governor General in Council to be of military importance, and as regards incidence of special expenditure connected therewith, as the Governor General in Council may prescribe;	
(*c*) tramways within municipal areas; and	
(*d*) light and feeder railways and extra-municipal tramways, in so far as provision for their construction and management is made by provincial legislation; subject to legislation by the Indian legislature in the case of any such railway or tramway which is in physical connection with a main line or is built on the same gauge as an adjacent main line.	
7. Agriculture	

[1]These words were substituted for the words "Public works included under the following heads, namely:" by Notification No. F-975, dated the 22nd December, 1922; *see* Gazette of India, 1922, Part I, p. 1364.

[2] *See* the footnote to clause (*a*) of entry 6 in Part II of Sch. I, *supra*.

Column I.	Column II.
7. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases; subject to legislation by the Indian legislature in respect to destructive insects and pests and plant diseases to such extent as may be declared by any Act of the Indian legislature.	All Governors' provinces.
8. Civil Veterinary Department, including provision for veterinary training, improvement of stock, and prevention of animal diseases; subject to legislation by the Indian legislature in respect to animal diseases to such extent as may be declared by any Act of the Indian legislature.	Ditto.
Fisheries	All Governors' provinces except Assam.
10. Co-operative Societies	All Governors' provinces.
11. Forests, including preservation of game therein [1][and all buildings and works executed by the Forest Department]; subject to legislation by the Indian legislature as regards disforestation of reserved forests.	[Bombay and Burma.] [2]
12. Excise, that is to say, the control of production manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and license fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.	All Governors' provinces except Assam.
13. Registration of deeds and documents; subject to legislation by the Indian legislature.	All Governors' provinces.
14. Registration of births, deaths, and marriages; subject to legislation by the Indian legislature for such classes as the Indian legislature may determine.	Ditto.
15. Religious and charitable endowments . .	Ditto.
16. Development of industries, including industrial research and technical education.	Ditto.

17. Stores

[1] These words were inserted by Notification No. F-975, dated the 22nd December, 1922; *see* Gazette of India, 1922, Part I, p. 1364.

[2] These words were substituted for the word "Bombay" by Notification No. 519-V, dated the 2nd January, 1923; *see* Gazette of India, Extraordinary, 1923, p. 43.

Column I.	Column II
17. Stores and stationery required for transferred departments; subject, in the case of imported stores and stationery, to such rules as may be prescribed by the Secretary of State in Council.	All Governors' provinces.
18. Adulteration of food-stuffs and other articles; subject to legislation by the Indian legislature as regards import and export trade.	Ditto.
19. Weights and measures: subject to legislation by the Indian legislature as regards standards.	Ditto.
20. Libraries (other than the Imperial Library), Museums (except the Indian Museum, the Imperial War Museum, and the Victoria Memorial, Calcutta) and Zoological Gardens.	Ditto.
[1][*21. The following miscellaneous matters*, namely:— (*a*) regulation of betting and gambling; (*b*) prevention of cruelty to animals; (*c*) protection of wild birds and animals; (*d*) control of dramatic performances and cinematographs; subject to legislation by the Indian legislature in *regard to sanction of films for exhibition.*]	[*Burma.*]
[1][22. Pounds and prevention of cattle trespass.]	[Ditto.]

SCHEDULE III.

(See Rule 27.)

Rules relating to transferred Subjects.

1. The previous sanction of the Secretary of State in Council is necessary

(1) to the creation of any new or the abolition of any existing permanent post, or to the increase or reduction of the pay [2][drawn by the incumbent of

[1]These items were added by Notification No. 519-V, dated the 2nd January, 1923; *see* Gazette of India, Extraordinary, 1923, p. 43.

[2]These words were substituted for the words "attached to" by Notification No. F-1207, dated the 6th February, 1923; *see* Gazette of India, 1923, Part I, p. 126.

of] any permanent post, if the post in either case is one which would ordinarily be held by a member of an all-India service, or to the increase or reduction of the cadre of an all-India service;

(2) to the creation of a permanent post on a maximum rate of pay exceeding Rs. 1,200 a month, [1][or in Burma Rs. 1,250 a month] or the increase of the maximum pay of a sanctioned permanent post to an amount exceeding Rs. 1,200 a month [1][or in Burma Rs. 1,250 a month];

(3) to the creation of a temporary post with pay exceeding Rs. 4,000 a month, or to the extension beyond a period of two years of a temporary post [or deputation][2] with pay exceeding Rs. 1,200 a month [1][or in Burma Rs. 1,250 a month];

(4) to the grant to any [3][Government servant or to the family or other dependants of any deceased Government servant] of an allowance, pension, or gratuity which is not admissible under rules made or for the time being in force under section 96-B of the Act[4] [except in the following cases:—

(*a*) compassionate gratuities to the families of Government servants left in indigent circumstances subject to such annual limit as the Secretary of State in Council may prescribe; and

(*b*) pensions or gratuities to Government servants wounded or otherwise injured while employed in Government service or to the families of Government servants dying as the result of wounds or injuries sustained while employed in such service, granted in accordance with such rules as have been or may be laid down by the Secretary of State in Council in this behalf]; and

(5) to any expenditure on the purchase of imported stores or stationery otherwise than in accordance with such rules as may be made in this behalf by the Secretary of State in Council.

2. (*1*) Every application for the sanction of the Secretary of State in Council required by paragraph 1 shall be addressed

[1] These words were inserted by Notification No. F-1207, dated the 2nd January, 1923; *see* Gazette of India, Extraordinary, 1923, p. 44.
[2] These words were inserted by Notification No. F-1207, dated the 6th February, 1923; *see* Gazette of India, 1923, Part, I, p. 126.
[3] These words were substituted for the word "officer" by *ibid.*
[4] These words were inserted by *ibid.*

addressed to the Governor General in Council, who shall, save as hereinafter provided, forward the same with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the Local Government, to the Secretary of State in Council.

(2) If the application relates to—

(*a*) the grant in an individual case of any increase of pay; or

(*b*) the creation [1][or extension] of a temporary post,

the Governor General in Council may, at his discretion, on behalf of the Secretary of State in Council, sanction the proposal, or may, and if he dissents from the proposal, shall, forward the application with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the Local Government, for the orders of the Secretary of State in Council.

SCHEDULE IV.

(SEE RULE 29).

1. The Local Governments mentioned below shall, save as hereinafter provided, make in every year provision in their budgets for expenditure upon relief of, and insurance against, famine, of such amounts respectively (hereinafter referred to as the annual assignments) as are stated against each:—

	Rs.
Madras	6,61,000
Bombay	63,60,000
Bengal	2,00,000
United Provinces	39,60,000
Punjab	3,31,000
Burma	67,000
Bihar and Orissa	11,62,000
Central Provinces	47,26,000
Assam	10,000

[2][2. The annual assignment shall not be expended save upon the relief of famine or the construction of protective irrigation works or other works for the prevention of famine. Any portion of an assignment which is not so spent shall be transferred to the famine insurance fund of the province.

3. The local Government, in making provision in its budget for the annual assignment, shall include in demands for grants such portion of the assignment as is proposed to be

[1] These words were inserted by Notification No. D-2053, dated 15th July, 1924, *see* Gazette of India, 1924, Pt. I, p. 654.

[2] These two paragraphs were substituted by Notification No. 1079-F., dated the 12th April, 1922; *see* Gazette of India, 1922, Pt. I, p. 466.

be expended for the relief of famine or the construction of protective irrigation works or other works for the prevention of famine. The amount required, over and above the grants voted for the aforesaid purposes, to make up the total of the annual assignment shall not be included in a demand for a grant, but shall be provided in the shape of a lump sum allocated for transfer to the famine insurance fund.]

4. The famine insurance fund shall consist of the unexpended balances of the annual assignments for each year, transferred to the fund under paragraph [1][2] of this Schedule, together with any interest which may accrue on these balances.

5. The Local Government may, in any year when the accumulated total of the famine insurance fund of the province is not less than six times the amount of the annual assignment, suspend temporarily the provision of the annual assignment.

6. The famine insurance fund shall form part of the general balances of the Governor General in Council, who shall pay at the end of each year interest on the average of the balances held in the fund on the last day of each quarter. The interest shall be calculated at the average rate at which the Governor General in Council has during the year borrowed money by the issue of treasury bills. Such interest shall be credited to the fund.

7. The Local Government may at any time expend the balance at its credit in the famine insurance fund for any of the purposes specified in paragraph [1][2] of this Schedule.

8. Such balances may further be utilised in the grant of loans to cultivators, either under the Agriculturists' Loans Act, 1884, or for relief purposes. When such loans have been granted, payments of interest on loans and repayments of principal shall be credited to the fund as they occur, and irrecoverable loans written off shall form a final charge against the fund.

9. In case of doubt whether the purpose for which it is proposed to spend any portion of the annual assignment of the famine insurance fund is one of the purposes specified in paragraph [1][2] of this Schedule, the decision of the Governor shall be final.

10. The annual accounts of the annual assignments and of the fund shall be maintained in forms to be prescribed in this behalf by the Auditor General.

[*See* Gazette of India, Extraordinary, 1920, page 1115.]

The

[1] This figure was substituted for the figure "3" by Notification No. 1079-F., dated the 12th April, 1922; *see* Gazette of India, 1922, Part I, p. 466.

DELHI UNIV LAW LIBRARY

THE TRANSFERRED SUBJECTS (TEMPORARY ADMINISTRATION) RULES.

[*Rules under section 52 (3) of the Government of India Act.*]

No. 310-S., dated the 16th December, 1920.—Whereas by section 47 of the Government of India Act, 1919, it is provided that the said 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 whereas sub-section (*3*) of section 4 of the said Act confers power to make certain rules, and it is expedient for the purpose of bringing into operation the provisions of the said Act on such date as may hereafter be appointed to make such rules prior to the said date;

And whereas a draft of such rules was laid before both Houses of Parliament and was duly approved by them;

Now, therefore, in exercise of the powers conferred by section 37 of the Interpretation Act, 1889, read with the power conferred by sub-section (*3*) of section 4 of the Government of India Act, 1919, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the said rules in the form so approved, the same being as follows:—

Short Title and Commencement.

1. (*1*) These rules may be called the Transferred Subjects (Temporary Administration) Rules.

(*2*) They shall come into force on a date[1] to be appointed by the Governor General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

Vacancy in office of minister.

2. In cases of emergency where, owing to a vacancy, there is no minister in charge of a transferred subject, the Governor—

(1) shall, if another minister is available and willing to take charge of the subject, appoint such minister to administer the subject temporarily; or

(2) may, if the vacancy cannot be provided for in the manner aforesaid, himself temporarily administer the subject, and while so doing shall exercise in relation to such subject all such powers in addition

[1]These rules came into force in the Presidency of Madras and the Central Provinces on the 17th December, 1920; in the Province of Bihar and Orissa on the 29th December, 1920; and in the Presidencies of Bombay and Bengal, the United Provinces and the provinces of the Punjab and Assam on the 3rd January, 1921; *see* Gazette of India, Extraordinary, dated the 17th December, 1920, p. 1136; and in Burma on the 2nd January, 1923; *see* Gazette of India, Extraordinary, 1923, p. 44.

be expended for the relief of famine or the construction of protective irrigation works or other works for the prevention of famine. The amount required, over and above the grants voted for the aforesaid purposes, to make up the total of the annual assignment shall not be included in a demand for a grant, but shall be provided in the shape of a lump sum allocated for transfer to the famine insurance fund.]

4. The famine insurance fund shall consist of the unexpended balances of the annual assignments for each year, transferred to the fund under paragraph [1][2] of this Schedule, together with any interest which may accrue on these balances.

5. The Local Government may, in any year when the accumulated total of the famine insurance fund of the province is not less than six times the amount of the annual assignment, suspend temporarily the provision of the annual assignment.

6. The famine insurance fund shall form part of the general balances of the Governor General in Council, who shall pay at the end of each year interest on the average of the balances held in the fund on the last day of each quarter. The interest shall be calculated at the average rate at which the Governor General in Council has during the year borrowed money by the issue of treasury bills. Such interest shall be credited to the fund.

7. The Local Government may at any time expend the balance at its credit in the famine insurance fund for any of the purposes specified in paragraph [1][2] of this Schedule.

8. Such balances may further be utilised in the grant of loans to cultivators, either under the Agriculturists' Loans Act, 1884, or for relief purposes. When such loans have been granted, payments of interest on loans and repayments of principal shall be credited to the fund as they occur, and irrecoverable loans written off shall form a final charge against the fund.

9. In case of doubt whether the purpose for which it is proposed to spend any portion of the annual assignment of the famine insurance fund is one of the purposes specified in paragraph [1][2] of this Schedule, the decision of the Governor shall be final.

10. The annual accounts of the annual assignments and of the fund shall be maintained in forms to be prescribed in this behalf by the Auditor General.

[*See* Gazette of India, Extraordinary, 1920, page 1115.]

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[1] This figure was substituted for the figure "3" by Notification No. 1079-F., dated the 12th April, 1922; *see* Gazette of India, 1922, Part I, p. 466.

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THE TRANSFERRED SUBJECTS (TEMPORARY ADMINISTRATION) RULES.

[*Rules under section 52 (3) of the Government of India Act.*]

No. 310-S., dated the 16th December, 1920.—Whereas by section 47 of the Government of India Act, 1919, it is provided that the said 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 whereas sub-section (*3*) of section 4 of the said Act confers power to make certain rules, and it is expedient for the purpose of bringing into operation the provisions of the said Act on such date as may hereafter be appointed to make such rules prior to the said date;

And whereas a draft of such rules was laid before both Houses of Parliament and was duly approved by them;

Now, therefore, in exercise of the powers conferred by section 37 of the Interpretation Act, 1889, read with the power conferred by sub-section (*3*) of section 4 of the Government of India Act, 1919, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the said rules in the form so approved, the same being as follows:—

Short Title and Commencement.

1. (*1*) These rules may be called the Transferred Subjects (Temporary Administration) Rules.

(*2*) They shall come into force on a date[1] to be appointed by the Governor General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

Vacancy in office of minister.

2. In cases of emergency where, owing to a vacancy, there is no minister in charge of a transferred subject, the Governor—

(1) shall, if another minister is available and willing to take charge of the subject, appoint such minister to administer the subject temporarily; or

(2) may, if the vacancy cannot be provided for in the manner aforesaid, himself temporarily administer the subject, and while so doing shall exercise in relation to such subject all such powers in addition

[1]These rules came into force in the Presidency of Madras and the Central Provinces on the 17th December, 1920; in the Province of Bihar and Orissa on the 29th December, 1920; and in the Presidencies of Bombay and Bengal, the United Provinces and the provinces of the Punjab and Assam on the 3rd January, 1921; *see* Gazette of India, Extraordinary, dated the 17th December, 1920, p. 1136; and in Burma on the 2nd January, 1923; *see* Gazette of India, Extraordinary, 1923, p. 44.

addition to his own powers as Governor as he could exercise if he were the minister in charge thereof.

Certification of necessity.

3. In any case in which the Governor himself undertakes temporarily to administer a subject under these rules he shall certify that an emergency has arisen in which, owing to a ministerial vacancy, it is necessary for him so to do, and shall forthwith forward a copy of such certificate for the information of the Governor General in Council.

Administration to be temporary.

4. Such temporary administration by the Governor shall only continue until a minister has been appointed to administer the subject.

Certification of legislation.

5. The Governor shall not exercise in respect of such subject the powers conferred on him by section 72 E of the Government of India Act.

[*See* Gazette of India, Extraordinary, 1920, p. 1130.]

THE SCHEDULED TAXES RULES.

[*Rules under section 80A (3) (a) of the Government of India Act.*]

No. 311-S., dated the 16th December, 1920.—Whereas by section 47 of the Government of India Act, 1919, it is provided that the said 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 whereas clause (*a*) of sub-section (*3*) of section 10 of the said Act confers power to make certain rules, and it is expedient for the purpose of bringing into operation the provisions of the said Act on such date as may hereafter be appointed to make such rules prior to the said date;

And whereas a draft of such rules was laid before both Houses of Parliament and was duly approved by them;

Now, therefore, in exercise of the powers conferred by section 37 of the Interpretation Act, 1889, read with the power conferred by clause (*a*) of sub-section (*3*) of section 10 of the Government of India Act, 1919, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the said rules in the form so approved, the same being as follows:—

Short Title and Commencement.

1. (*1*) These rules may be called the Scheduled Taxes Rules.

(2) They shall come into force on a [1]date to be appointed by the Governor General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

Taxes which may be imposed for purposes of local Government.

2. The Legislative Council of a province may, without the previous sanction of the Governor General, make and take into consideration any law imposing, for the purposes of the local Government, any tax included in Schedule I to these rules.

Taxes which may be imposed for purposes of local authorities.

3. The Legislative Council of a province may, without the previous sanction of the Governor General, make and take into consideration any law imposing, or authorising any local authority to impose, for the purposes of such local authority, any tax included in Schedule II to these rules.

Additions to Schedules.

4. The Governor General in Council may at any time, by order, make any addition to the taxes enumerated in Schedules I and II to these rules.

Saving.

5. Nothing in these rules shall affect the right of a local authority to impose a tax without previous sanction or with the previous sanction of the local Government when such right is conferred upon it by any law for the time being in force.

SCHEDULE I.

1. A tax on land put to uses other than agricultural.

2. A tax on succession or on acquisition by survivorship in a joint family.

3. A tax on any form of betting or gambling permitted by law.

4. A tax on advertisements.

5. A tax on amusements.

6. A tax on any specified luxury.

7. A registration fee.

8. A stamp-duty other than duties of which the amount is fixed by Indian legislation.

SCHEDULE II.

[1] These rules came into force in the Presidency of Madras and the Central Provinces on the 17th December, 1920; in the Province of Bihar and Orissa on the 29th December, 1920; and in the Presidencies of Bombay and Bengal, the United Provinces and the Provinces of the Punjab, Burma and Assam on the 3rd January, 1921; *see* Gazette of India, Extraordinary, dated the 17th December, 1920, p. 1136.

SCHEDULE II.

(In this Schedule the word "tax" includes a cess, rate, duty or fee.)

1. A toll.

2. A tax on land or land values.

3. A tax on buildings.

4. A tax on vehicles or boats.

5. A tax on animals.

6. A tax on menials and domestic servants.

7. An octroi.

[1]8. A terminal tax on goods imported into or exported from, a local area, save where such tax is first imposed in a local area in which an octroi was not levied on or before the 6th July 1917.

9. A tax on trades, professions and callings.

10. A tax on private markets.

11. A tax imposed in return for services rendered, such as—

(*a*) a water rate,

(*b*) a lighting rate,

(*c*) a scavenging, sanitary or sewage rate,

(*d*) a drainage tax,

(*e*) fees for the use of markets and other public conveniences.

[*See* Gazette of India, Extraordinary, 1920, p. 1131.]

THE LOCAL LEGISLATURES (PREVIOUS SANCTION) RULES.

[*Rules under section 80A (3) (h) of the Government of India Act.*]

No. 312-S., dated the 16th December, 1920.—Whereas by section 47 of the Government of India Act, 1919, it is provided

[1] This entry was substituted for the original entry 8 by Notification No. 7, dated 24th January 1924—*see* Gazette of India, 1924, Pt. I, p. 89.

provided that the said 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 whereas clause (*h*) of sub-section (*3*) of section 10 of the said Act confers power to make certain rules, and it is expedient for the purpose of bringing into operation the provisions of the said Act on such date as may hereafter be appointed to make such rules prior to the said date;

And whereas a draft of such rules was laid before both Houses of Parliament and was duly approved by them;

Now, therefore, in exercise of the powers conferred by section 37 of the Interpretation Act, 1889, read with the power conferred by clause (*h*) of sub-section (*3*) of section 10 of the Government of India Act, 1919, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the said rules in the form so approved, the same being as follows:—

Short Title and Commencement.

1. (*1*) These rules may be called the Local Legislatures (Previous Sanction) Rules.

(*2*) They shall come into force on a [1]date to be appointed by the Governor General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

Laws requiring previous sanction.

2. A local legislature may not repeal or alter without the previous sanction of the Governor General—

(1) any law made by any authority in British India before the commencement of the Indian Councils Act, 1861; provided that the Governor General in Council may, by notification in the *Gazette of India*, declare[2] that this provision shall not apply to any such law which he may specify and, if he does so, previous sanction shall not thereafter be necessary to the alteration or repeal of that law; or

(2) any law specified in the Schedule to these rules or any law made by the Governor General in Council amending a law so specified.

SCHEDULE

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[1] These rules came into force in the Presidency of Madras and the Central Provinces on the 17th December, 1920, in the Province of Bihar and Orissa on the 29th December, 1920; and in the Presidencies of Bombay and Bengal, the United Provinces and the Provinces of the Punjab, Burma and Assam on the 3rd January, 1921; *see* Gazette of India, Extraordinary, dated the 17th December, 1920, p. 1136.

[2] For such declaration *see* Notification No. 1407, dated the 19th May, 1921, *infra*.

SCHEDULE.

Year.	No.	Short title.
1860	XLV	The Indian Penal Code.
1864	III	The Foreigners Act, 1864.
1865	III	The Carriers Act, 1865.
,,	X	The Indian Succession Act, 1865.
,,	XV	The Parsi Marriage and Divorce Act, 1865.
,,	XXI	The Parsi Intestate Succession Act, 1865.
1866	XXI	The Native Converts' Marriage Dissolution Act, 1866.
,,	XXVIII	The Trustees' and Mortgagees' Powers Act, 1866.
1867	XXV	The Press and Registration of Books Act, 1867.
1869	IV	The Indian Divorce Act, 1869.
1870	XXI	The Hindu Wills Act, 1870.
1872	I	The Indian Evidence Act, 1872.
,,	III	The Special Marriage Act, 1872.
,,	IX	The Indian Contract Act, 1872.
,,	XV	The Indian Christian Marriage Act, 1872.
1873	X	The Indian Oaths Act, 1873.
1874	III	The Married Women's Property Act, 1874.
,,	XIV	The Scheduled Districts Act, 1874.
,,	XV	The Laws Local Extent Act, 1874.
1875	IX	The Indian Majority Act, 1875.
1877	I	The Specific Relief Act, 1877.
1881	V	The Probate and Administration Act, 1881.
,,	XIII	The Fort William Act, 1881.
,,	XXVI	The Negotiable Instruments Act, 1881.
1882	II	The Indian Trusts Act, 1882.
,,	IV	The Transfer of Property Act, 1882.
,,	VII	The Powers-of-Attorney Act, 1882.
1889	IV	The Indian Merchandise Marks Act, 1889.
,,	VII	The Succession Certificate Act, 1889.
,,	XV	The Indian Official Secrets Act, 1889.
1890	VIII	The Guardians and Wards Act, 1890.
,,	IX	The Indian Railways Act, 1890.
1891	XVIII	The Banker's Books Evidence Act, 1891.
1895	XV	The Crown Grants Act, 1895.
1897	III	The Epidemic Diseases Act, 1897.
,,	X	The General Clauses Act, 1897.
,,	XIV	The Indian Short Titles Act, 1897.
1898	V	The Code of Criminal Procedure, 1898.
,,	IX	The Live-Stock Importation Act, 1898.
1899	IX	The Indian Arbitration Act, 1899.
1903	XIV	The Indian Foreign Marriage Act, 1903.
,,	XV	The Indian Extradition Act, 1903.
1908	V	The Code of Civil Procedure, 1908.
,,	IX	The Indian Limitation Act, 1908.
,,	XIV	The Indian Criminal Law (Amendment) Act, 1908.
,,	XV	The Indian Ports Act, 1908.
,,	XVI	The Indian Registration Act, 1908.
1909	III	The Presidency-towns Insolvency Act, 1909.
,,	IV	The Whipping Act, 1909.
,,	VII	The Anand Marriage Act, 1909.
1910	I	The Indian Press Act, 1910.
1911	X	The Prevention of Seditious Meetings Act, 1911.
1912	IV	The Indian Lunacy Act, 1912.
,,	V	The Provident Insurance Societies Act, 1912.
,,	VI	The Indian Life Assurance Companies Act, 1912.

Year.	No.	Short title.
1913 . .	VI	The Mussalman Wakf Validating Act, 1913.
,, . .	VII	The Indian Companies Act, 1913.
1914 . .	II	The Destructive Insects and Pests Act, 1914.
,, . .	III	The Indian Copyright Act, 1914.
,, . .	IX	The Local Authorities Loans Act, 1914.
1916 . .	XV	The Hindu Disposition of Property Act, 1916.
1917 . .	I	The Inland Steam Vessels Act, 1917.
,, . .	XXVI	The Transfer of Property (Validating) Act, 1917.
1918 . .	X	The Usurious Loans Act, 1918.
[1]1919 .	XI	The Anarchical and Revolutionary Crimes Act, 1919.
1920 . .	V	The Provincial Insolvency Act, 1920.
,, . .	X	The Indian Securities Act, 1920.
,, . .	XIV	The Charitable and Religious Trusts Act, 1920.

[*See* Gazette of India, Extraordinary, 1920, p. 1132.]

Enactments exempted from Local Legislatures (Previous Sanction) Rules.

No. 1407, dated the 19th May, 1921.- In pursuance of clause *(1)* of rule 2 of the Local Legislatures (Previous Sanction) Rules,[2] the Governor General in Council is pleased to declare that the provisions of that rule shall not apply to any of the enactments specified below:—

Year.	No.	Short title.
		MADRAS REGULATIONS.
1802	XXVI	The Madras Land Registration Regulation, 1802.
,,	XXIX	The Madras Karnams Regulation, 1802.
1816	XI	The Madras Village-police Regulation, 1816.
,,	XII	The Madras Village-lands Disputes Regulation, 1816.
1817	VII	The Madras Endowments and Escheats Regulation, 1817.
,,	VIII	The Madras Revenue Recovery (Military Proprietors) Regulation, 1817.
1821	IV	The Madras Village Police Regulation, 1821.

[1] The Anarchical and Revolutionary Crimes Act, 1919 (XI of 1919) has been repealed by the Special Laws Repeal Act, 1922 (IV of 1922).

[2] *Supra.*

Year.	No.	Short title.
		MADRAS REGULATIONS—*concld.*
1822	VII	The Madras Native Public Officers Regulation, 1822.
,,	IX	The Madras Revenue Malversation Regulation, 1822.
1823	III	The Madras Revenue Malversation (Amendment) Regulation, 1823.
1828	VII	The Madras Subordinate Collectors and Revenue Malversation (Amendment) Regulation, 1828.
1831	V	The Madras Stamp Penalties Regulation, 1831.
1832	III	The Madras Revenue Malversation (Amendment) Regulation, 1832.
		BOMBAY REGULATIONS.
1827	XII	[A Regulation for defining the duties and powers of Police-authorities.]
1830	XIII	[A Regulation vesting certain jagirdars, etc., with the power of deciding suits.]
		BENGAL REGULATIONS.
1793	XI	The Bengal Inheritance Regulation, 1793.
1795	XLIV	The Benares Inheritance Regulation, 1795.
1805	XIII	The Cuttack Police Regulation, 1805.
1810	XIX	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810.
1814	XXIX	The Bengal Ghatwali Lands Regulation, 1814.
1816	V	The Bengal Kanungos Regulation, 1816.
1817	XII	The Bengal Patwaris Regulation, 1817.
,,	XX	The Bengal Police Regulation, 1817.
1819	I	The Bengal Kanungos and Patwaris Regulation, 1819.
,,	II	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819.
1822	VII	The Bengal Land-revenue Settlement Regulation, 1822.
1823	VI	The Bengal Indigo Contracts Regulation, 1823.
1825	IX	The Bengal Land-revenue Settlement Regulation, 1825.

Year.	No.	Short title.
		BENGAL REGULATIONS—*concld.*
1825	XI	The Bengal Alluvion and Diluvion Regulation, 1825.
,,	XIII	The Bengal Land-revenue Settlement (Resumed Kanungos and Revenue-free Lands) Regulation, 1825.
,,	XIV	The Bengal Revenue-free Lands Regulation, 1825.
1828	III	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828.
,,	IV	The Bengal Land Revenue Settlement Regulations, 1828.
1830	V	The Bengal Indigo Contracts Regulation, 1830.
1831	XI	[A Regulation for vesting Tahsildars with the powers of Police officers.]
1833	IX	The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833.
		GENERAL ACTS.
1846	1	The Legal Practitioners Act, 1846.
1851	VIII	The Indian Tolls Act, 1851.
1853	XX	The Legal Practitioners Act, 1853.
1861	XVI	The Stage-Carriages Act, 1861.
		LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL.
1835	XIX	(An Act to appoint the Assistant Judge of the Zila Court of Puna to be Assistant to the Agent for Sardars in the Dekkhan.)
1836	X	The Bengal Indigo Contracts Act, 1836.
1837	XXXVI	The Madras Public Property Malversation Act, 1837.
1838	XVI	(An Act to declare that all suits in regard to tenures shall be brought in Civil and not Revenue Courts.)
,,	XIX	(An Act to make rules as to coasting and other vessel belonging to Her Majesty's subjects.)
1839	VII	The Madras Rent and Revenue Sales Act, 1839.
,,	XX	(An Act to prohibit the levy of haqqs, fees and customs.)
1840	VIII	The Madras Panchayats Act, 1840.

Year.	No.	Short title.
		LOCAL ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—*contd.*
1841	XII	The Bengal Land-revenue Sales Act, 1841.
1844	XIX	(An Act for abolishing town-duties, etc., within the Presidency of Bombay.)
1847	IX	The Bengal Alluvion and Diluvion Act, 1847.
1848	XX	The Bengal Landholders' Attendance Act, 1848.
1850	XXIII	The Calcutta Land-revenue Act, 1850.
,,	XXV	The Forfeited Deposits Act, 1850.
1851	XII	The Madras City Land-revenue Act, 1851.
1852	XI	(An Act for the adjudication of certain Titles to Estates claimed to be wholly or partially rent-free.)
1853	VI	The Rent Recovery Act, 1853.
,,	XI	(An Act to facilitate the removal of nuisances and encroachments below high-water mark in the Islands of Bombay and Kolaba.)
,,	XIX	The Recusant Witnesses Act, 1853.
1854	XVI	(An Act to amend the Bengal Regulation XI of 1831.)
,,	XXIV	The Malabar War-knives Act, 1854.
1855	XXXII	The Bengal Embankment Act, 1855.
1856	XII	The Civil Courts Amins Act, 1856.
,,	XVIII	The Calcutta Land-revenue Act, 1856.
,,	XX	The Bengal Chaukidari Act, 1856.
1857	IV	(An Act to amend the law relating to the duties payable on Tobacco.)
,,	VII	The Madras Uncovenanted Officers Act, 1857.
,,	XXI	The Howrah Offences Act, 1857.
1858	I	The Madras Compulsory Labour Act, 1858.
,,	XXXI	The Bengal Alluvial Land Settlement Act, 1858.
1859	V	The Bengal Ghatwali Lands Act, 1859.
,,	X	The Bengal Rent Act, 1859.
,,	XI	The Bengal Land-revenue Sales Act, 1859.

[*See* Gazette of India, 1921, Part I, p. 776.]

THE RESERVATION OF BILLS RULES.

(Rules under section 81A of the Government of India Act.)

No. 313-S., dated the 16th December, 1920.—Whereas by section 47 of the Government of India Act, 1919, it is provided that the said 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 whereas sub-section (*1*) of section 12 of the said Act confers power to make certain rules, and it is expedient for the purpose of bringing into operation the provisions of the said Act on such date as may hereafter be appointed to make such rules prior to the said date;

And whereas a draft of such rules was laid before both Houses of Parliament and was duly approved by them;

Now, therefore, in exercise of the powers conferred by section 37 of the Interpretation Act, 1889, read with the power conferred by sub-section (*1*) of section 12 of the Government of India Act, 1919, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the said rules in the form so approved, the same being as follows:—

Short Title and Commencement.

1. (*1*) These rules may be called the Reservation of Bills Rules.

(*2*) They shall come into force on a date[1] to be appointed by the Governor General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

Bills which must be reserved.

2. The Governor of any Governor's province shall reserve for the consideration of the Governor General any Bill, [2]* * * which has been passed by the Legislative Council of the province and is presented to the Governor for his assent, if the Bill appears to the Governor to contain provisions [3][in respect of which the Bill has not been previously sanctioned

[1]These rules came into force in the Presidency of Madras and the Central Provinces on the 17th December, 1920, in the Province of Bihar and Orissa on the 29th December, 1920; and in the Presidencies of Bombay and Bengal, the United Provinces and the Provinces of the Punjab and Assam on the 3rd January, 1921; *see* Gazette of India, Extraordinary, dated the 17th December, 1920, p. 1137; and in Burma on the 2nd January, 1923; *see* Gazette of India, Extraordinary, dated the 2nd January, 1923, p. 44.

[2]The words "not having been previously sanctioned by the Governor General" were omitted by Notification No. 142, dated the 8th December, 1921; *see* Gazette of India, 1921, Part I, p. 1631.

[3] These words were inserted by *ditto*.

sanctioned by the Governor General under sub-section (*3*) of section 80A of the Government of India Act]

(*a*) affecting the religion or religious rites of any class of British subjects in British India, or

(*b*) regulating the constitution or function of any University, or

(*c*) having the effect of including within a transferred subject matters which have hitherto been classified as reserved subjects, or

(*d*) providing for the construction or management of a light or feeder railway or tramway other than a tramway within municipal limits, or

(*e*) affecting the land revenue of a province either so as to—

(*i*) prescribe a period or periods within which any temporarily settled estate or estates may not be reassessed to land revenue, or

(*ii*) limit the extent to which the assessment to land revenue of such an estate or estates may be made or enhanced, or

(*iii*) modify materially the general principles upon which land revenue has hitherto been assessed,

if such prescription, limitation or modification appears to the Governor to be likely seriously to affect the public revenues of the province.

Bills which may be reserved.

3. The Governor of any Governor's province may reserve for the consideration of the Governor General any Bill, [1]* * * which has been passed by the Legislative Council of the province and is presented to the Governor for his assent,[2] [if any provisions of the Bill in respect of which it has not been previously sanctioned by the Governor General under sub-section (*3*) of section 80A of the Government of India Act, appear to the Governor]—

(*a*) to affect any matter wherewith he is specially charged under his Instrument of Instructions, or

(*b*) to affect any central subject, or

(*c*) to affect the interests of another province.

[*See* Gazette of India, Extraordinary, 1920, p. 1133.]

THE

[1] *See* footnote 2 on p. 227, *supra*.

[2] These words were substituted by Notification No. 142, dated the 8th December, 1921, *see* Gazette of India, 1921, Pt. I, p. 1631.

THE LEAVE OF ABSENCE ALLOWANCES (PROVISIONAL) RULES.

(Rules under section 86 (2) of the Government of India Act.)

No. F.-132-24, dated the 6th October, 1924.—In exercise of the powers conferred by sub-section (2) of section 86 of the Government of India Act and by section 2 of the Rules Publication Act, 1893, the Secretary of State for India in Council hereby makes the following Provisional Rules:—

1. (*1*) These rules may be called the Leave of Absence Allowances (Provisional) Rules.

(*2*) They shall be deemed to have come into force on the 2nd August, 1924.

2. When leave of absence is granted to any person in pursuance of the provisions of section 86 of the Government of India Act, there shall be paid to him by the Secretary of State in Council leave allowances during the period of his absence at the rates prescribed in the Schedule to these rules.

3. Subject to the provisions of Rule 4, leave allowances under these rules may be drawn under the conditions from time to time in force for the payment of Civil Leave Salary, or, in the case of the Commander-in-Chief, of Military Leave Pay.

4. Where payment of leave allowances under these rules is made in sterling the amount payable shall be the equivalent of the sum due in rupees at the current rate of exchange applicable to the due date, or, in the case of an advance, to the date of payment. No minimum rate of conversion shall be allowed.

5. Where leave allowances become repayable, repayment shall be made either in one sum within one month from the date of termination of the period of leave as sanctioned and subsequently extended, or in such number of equal monthly instalments not exceeding 36, payable on the first of each month, as the officer may elect. Where allowances paid in sterling

sterling are repaid in rupees or *vice versâ*, the sum repayable shall be the aggregate of the amounts paid converted at the current rate applicable to the date of termination of the period of leave as sanctioned and subsequently extended.

6. Notwithstanding anything contained in the foregoing rule, if any officer to whom leave allowances on vacation of office are due under the Fundamental Rules or under Military Rules becomes liable to repay leave allowance drawn under these rules, the paying authority may effect recovery by adjustment of the leave allowances due under the Fundamental Rules or under Military Rules, as the case may be, and (if necessary) of pension.

SCHEDULE.

Monthly Rates of Leave Allowances payable.

	Rs.	A.	P.
Governor-General	6,000	0	0
Commander-in-Chief and Governors (other than the Governors of the Central Provinces and Assam)	4,000	0	0
Governor of the Central Provinces	3,000	0	0
Governor of Assam	2,750	0	0
Member of the Governor-General's Executive Council	3,333	5	4
Member of the Executive Council of the Governor of Bengal, Madras, and Bombay, and the United Provinces	2,666	10	8
Member of the Executive Council of the Governor of the Punjab, Bihar and Orissa, and Burma	2,500	0	0
Member of the Executive Council of the Governor of the Central Provinces	2,000	0	0
Member of the Executive Council of the Governor of Assam	1,750	0	0

[*See* Gazette of India, 1924, Part I, p. 896.]

RULES REGARDING THE CIVIL SERVICES IN INDIA MADE BY THE SECRETARY OF STATE IN COUNCIL UNDER SECTION 96B (2) OF THE GOVERNMENT OF INDIA ACT.

No. F.—472-II-23, dated the 21st June, 1924.—The following rules made by the Secretary of State in Council under sub-section (2) of section 96B of the Government of India Act [1][*which apply only to Governors' provinces*] are published for general information. Rules XVI to XXIX and the entry in the Schedule of Provincial Services relating to Burma have effect from the 21st June, 1924. The remaining rules have been in operation with effect from varying dates since the 22nd December 1920.

Classification of Officers under Administrative Control of Local Governments.

I. Officers under the administrative control of Local Governments other than officers employed on the administration of central subjects and appointed by the Secretary of State or the Government of India, shall be classified in the following divisions, namely:—

(1) the all-India Services,

(2) the Provincial Services,

(3) the Subordinate Services,

(4) officers holding special posts.

Definition of all-India Services.

II. The all-India services shall consist of—

(*a*) all officers serving under Local Governments who are members of any of the following services—

(1) the Indian Civil Service,

(2) the Indian Police Service,

(3) the Indian Forest Service,

(4) the Indian Educational Service,

(5) the Indian Agricultural Service,

(6) the Indian Service of Engineers,

(7) the Indian Veterinary Service,

(8) the Indian Forest Engineering Service,

(9) officers of the Indian Medical Service in civil employ,

and any other service declared by the Secretary of State in Council to be an all-India Service;

(*b*) military

[1] These words were inserted by Notification No. F.-472-II-23, dated 17th July, 1924, see Gazette of India, 1924, Pt. I, p. 654.

(*b*) military officers and other officers holding posts borne on the provincial cadres of the above services.

Definition of Provincial Services.

III. (*1*) The provincial services shall consist of the services shown in the schedule to these rules, and any other service declared by the Local Government to be a provincial service.

(*2*) The services shown in the schedule shall include all appointments at present included in these services, and any appointments which a Local Government may add thereto:

Provided that if any service not included in the schedule to these rules is declared to be a provincial service, or if any appointment of a kind or class not at present included in a provincial service is added thereto, such declaration or addition shall be without prejudice to the rights and prospects of members of provincial services affected who were appointed before these rules were made.

Definition of Subordinate Services.

IV. The subordinate services shall consist of all minor administrative, executive and ministerial posts to which appointments are made by the Local Government or by an authority subordinate to the Local Government.

Special Posts.

V. Special posts shall include all posts of a special or technical character, not included in an all-India or provincial service, to which appointments are made by the Local Government or by any other authority on behalf of the Local Government and which are declared by the Local Government to be special posts.

Appointments to All-India Services.

[1][VI. All first appointments to an All-India Service, other than (*a*) appointments to the Indian Forest Service, or Indian Service of Engineers by promotion of officers belonging to some other service; (*b*) appointments made under the provisions of sections 99 and 100 of the Government of India Act; (*c*) appointments of officers seconded from military employ, shall be made by the Secretary of State in Council.]

VII. Save as provided in the rules or orders regulating the recruitment of the all-India services, no person may be appointed without the previous sanction of the Secretary of

[1] Rule VI was substituted for the original rule VI by Notification No. F.-313-24, dated the 9th October, 1924, *see* Gazette of India, 1924, Part I, p. 895.

of State in Council to any post borne on the provincial cadre of such service except a person who is either a member of such service or is already holding a post borne on the cadre of such service:

Provided that the Local Government may appoint a member of the Indian Civil Service to the post of Inspector-General of Police or to the post of Director of Agriculture.

Promotion of Officers of All-India Services.

VIII. The Local Government has authority to promote officers of an all-India service to any post borne on the provincial cadre of such service:

Provided that the prior approval of the Governor-General in Council is required to—

(1) the appointment of officers with less than 25 or 18 years' service respectively to the posts of Chief and Superintending Engineers in the province of Assam, and

(2) appointments except in the provinces of Madras and Bombay to the posts of—

(*a*) Chief Conservator of Forests, and

(*b*) Conservators of Forests.

Transfer of Officers of All-India Services.

IX. The power to transfer officers of an all-India service from any one post to any other post borne on the cadre of such service, or from any one part of the province to any other part, is vested in the Local Government, but may be delegated by the Local Government, subject to such conditions as it may prescribe, to any authority subordinate to it, or in the case of officers holding judicial posts, to a High Court or a Chief Court or the Court of a Judicial Commissioner.

Authority of Local Government over Officers of All-India Services.

X. A Local Government may for good and sufficient reasons—

(1) censure,

(2) reduce to a lower post,

(3) withhold promotion from, or

(4) suspend from his office

any officer of an all-India service:

Provided that no head of a department appointed with the approval of the Governor-General in Council shall be reduced to any lower post without the sanction of the Governor-General in Council.

Military Officers in Civil Employ.

XI. A military officer may not be reverted from his civil employment except under the orders of the Governor-General in Council.

Special Contracts.

XII. The sanction of the Secretary of State in Council is required to any terms in a special contract, by which any right, privilege or concession not admissible under these rules is secured to an officer.

Authority of Local Government over Officers of Provincial and Subordinate Services, and Officers holding Special Appointments.

XIII. Without prejudice to the provisions of any law for the time being in force, the Local Government may for good and sufficient reasons—

(1) censure,
(2) withhold promotion from,
(3) reduce to a lower post,
(4) suspend,
(5) remove, or
(6) dismiss

any officer holding a post in a provincial or subordinate service or a special appointment.

Procedure in cases of Dismissal, Removal or Reduction.

XIV. Without prejudice to the provisions of the Public Servants Inquiries Act, 1850, in all cases in which the dismissal, removal or reduction of any officer is ordered, the order shall, except when it is based on facts or conclusions established at a judicial trial, or when the officer concerned has absconded with the accusation hanging over him, be preceded by a properly recorded departmental enquiry. At such an enquiry a definite charge in writing shall be framed in respect of each offence and explained to the accused, the evidence in support of it and any evidence which he may adduce in his defence shall be recorded in his presence and his defence shall be taken down in writing. Each of the charges framed shall be discussed and a finding shall be recorded on each charge.

Delegation.

XV. A Local Government may delegate to any subordinate authority, subject to such conditions, if any, as it may prescribe, any of the powers conferred by Rule XIII, in regard to officers of the subordinate services:

1* * * * * *

Appeals.

XVI. Every officer against whom an order may be passed under Rules X, XIII and XV, and who thinks himself wronged thereby shall be entitled to prefer at least one appeal against such order.

XVII. Every officer being a member of an all-India service against whom an order may be passed under Rule X and who thinks himself wronged thereby may appeal to the Governor General in Council against such order, and if his appeal relates to an order such as is referred to in *sub-heads* (2), (3) and (4) of that rule and is rejected by the Governor General in Council may appeal to the Secretary of State in Council.

XVIII. Every officer being a member of a provincial service, or holding a special post as defined in Rule V, against whom an order may be passed under Rule XIII and who thinks himself wronged thereby may appeal to the Governor:

Provided that any officer to whom this rule applies, and who was appointed by the Secretary of State in Council before the commencement of the Government of India Act, 1919, may appeal against any order passed on appeal by the Governor under this rule to the Governor General in Council, and thereafter to the Secretary of State in Council, if his salary is not less than Rs. 500 a month:

Provided further that a further appeal under this rule shall lie to the Governor General from any Deputy Collector to whom, in virtue of section 4 of the Repealing and Amending Act, 1914, the provisions of section 25 of Bengal Regulation IX of 1833 apply.

XIX. Every officer being a member of a subordinate service against whom an order may be passed under Rule XIII by the local Government, or under Rule XV by the subordinate authority to whom the powers conferred under Rule XIII have been delegated and who thinks himself wronged thereby shall have the right of appeal to such authority as the local Government may by rule prescribe.

XX. No appeal shall lie against—

(*a*) the discharge of a person appointed by an authority in India on probation, if his discharge is ordered before the termination of his probation,

(*b*) the

[1] The proviso was omitted, *see* Notification No. F.-785-24, dated 25th September, 1924, in Gazette of India, 1924, Part I, p. 852.

(*b*) the dismissal or removal of a person appointed by an authority in India to hold a temporary appointment.

XXI. Every Government servant desiring to prefer an appeal shall do so separately.

XXII. Every appeal preferred under these rules shall contain all material statements and arguments relied on by the officer preferring the appeal, shall contain no disrespectful or improper language and shall be complete in itself. Every such appeal shall be submitted through the head of the office to which the officer belongs or belonged, and, if an appeal lies to the Governor General in Council or the Secretary of State in Council, through the local Government.

XXIII. Every appeal to the Governor General in Council, or the Secretary of State in Council, which is not withheld under these rules shall be forwarded by the local Government to the Governor General in Council with an expression of opinion; and every appeal to the Secretary of State in Council, which is not similarly withheld shall be transmitted by the Governor General in Council with an expression of his opinion and the opinion of the local Government:

Provided that appeals to the Secretary of State in Council presented through the Government of Madras, Bombay or Bengal, which are not withheld under these rules, shall be forwarded direct to the Secretary of State in Council by the local Government unless the appeal relates to a case which has previously been under the consideration of the Governor General in Council, in which case it shall be forwarded, in the first instance, to the Governor General in Council.

XXIV. Every appeal shall be preferred within six months after the date on which the officer preferring the appeal was informed of the orders against which he appeals:

Provided that the local Government, or the subordinate authority, or the Government of India may at their discretion for good cause shown extend the period to 12 months.

XXV. An appeal may be withheld—

(1) which is an appeal in a case in which under these rules no appeal lies,

(2) which does not comply with one or more of the provisions of Rule XXII

(3) which

(3) which does not comply with the provisions of Rule XXIV,

(4) which is a further appeal presented after a decision has been given by the appellate authority prescribed in these rules, and no new facts or circumstances are adduced which afford grounds for a reconsideration of the case:

Provided that in every case in which an appeal is withheld the officer preferring the appeal shall be informed of the fact and the reasons for it:

Provided further that subject to the conditions stated in Rules XXII and XXIV an appeal to the Secretary of State in Council by an officer appointed by him shall not be withheld when the appeal involves a question of the interpretation of the terms of an officer's engagement.

XXVI. No appeal shall lie against the withholding of an appeal by a competent authority:

Provided that an appeal withheld for failure to comply with the conditions stated in Rule XXII shall not be withheld if it is resubmitted in a form which complies with that rule.

XXVII. A list of appeals withheld under Rule XXV, with the reasons for withholding them, shall be forwarded quarterly to the Government of India, in the case of appeals to the Government of India or Secretary of State withheld by a local Government, and, in the case of appeals to the Secretary of State withheld by the Government of India, to the Secretary of State for India.

XXVIII. The Secretary of State may call for any appeal withheld by the local Government or the Government of India which under the rules may be made to him and may pass such orders as he considers fit: the Governor General in Council may send for an appeal withheld by the local Government which under the rules may be made to him, and may pass such orders as he considers fit.

XXIX. Notwithstanding anything contained in the foregoing rules any officer who immediately before the coming into operation of these rules had a right of appeal against a particular order passed by a local Government to the Governor General in Council and thereafter to the Secretary of State in Council and who had appealed against that order to the Governor General in Council before these rules came into operation may appeal against that order to the Governor General in Council and thereafter to the Secretary of State in Council.

(8) Sub-Registrars of the Bombay City.

(9) Non-medical Superintendents of Jails.

(10) Deputy Commissioners not belonging to the Indian Civil Service, Assistant Collectors and Officers of the rank of Senior grade Inspectors recruited by direct appointment of the Bombay Salt and Excise Department.

(11) Officers of and above the rank of Assistant Professors of the Bombay Civil Veterinary College and Deputy Veterinary Superintendents not being members of an all-India Service.

(12) Inspectors of Factories, steam boilers and smoke nuisances.

(13) Officers of and above the rank of Assistant Registrars and Special Auditors of Co-operative Societies.

(14) Deputy Sanitary Commissioners, Port Health Officers and Bacteriological officers (including officers in charge of sanitary laboratories) not belonging to the Indian Medical Service.

(15) Shipping and Deputy Shipping Masters.

(16) Deputy Political Agents.

(17) Commissioners and Collectors of Income Tax.

(18) Bombay Customs Service.

Bengal.

(1) Bengal Civil Service.

(2) Bengal Educational Service.

(3) Bengal Civil Medical Service.

(4) Bengal Police Service.

(5) Bengal Agricultural Service.

(6) Bengal Engineering Service.

(7) Bengal Forest Service.

(8) District Registrars.

(9) Bengal Excise Service, that is Prosecutors, Superintendents and Deputy Commissioners.

(10) Bengal Veterinary Service.

(11) Deputy Sanitary Commissioners not belonging to the Indian Medical Service.

(12) Bengal Pilot Service.

(13) Bengal Gardeners' Service.

(9) Superintendents of Excise and Salt.

(10) Deputy Sanitary Commissioners not belonging to the Indian Medical Service.

Central Provinces.

(1) Central Provinces Civil Service.

(2) Central Provinces Educational Service.

(3) Central Provinces Civil Medical Service.

(4) Central Provinces Police Service.

(5) Central Provinces Agricultural Service.

(6) Central Provinces Engineering Service.

(7) Central Provinces Forest Service.

(8) Deputy Directors of Land Records.

(9) The upper cadre of District Excise Officers.

(10) Deputy Superintendents of the Central Provinces Civil Veterinary Department.

(11) Collectors of Income-tax.

(12) Deputy Sanitary Commissioners not belonging to the Indian Medical Service.

Assam.

(1) Assam Civil Service.

(2) Assam Educational Service.

(3) Assam Civil Medical Service.

(4) Assam Police Service.

(5) Assam Agricultural Service.

(6) Assam Service of Engineers.

(7) Extra Deputy Conservators and Extra Assistant Conservators of Forests.

(8) Excise Superintendents.

(9) Deputy Superintendents, Assam Veterinary Department.

(10) Deputy Sanitary Commissioners not belonging to the Indian Medical Service.

Burma.

(1) Burma Civil Service.

(2) Burma Frontier Service.

(3) Burma Judicial Service.

(4) Burma Police Service.

(5) Burma Land Records Service.

(6) Burma

(6) Burma Forest Service.
(7) Burma Excise Service.
(8) Burma Agricultural Service.
(9) Burma Veterinary Service.
(10) Burma Civil Service, Co-operative Branch.
(11) Burma Educational Service.
(12) Civil Assistant Surgeons (including Burma Civil Surgeons).
(13) Burma Engineering Service.

[Gazette of India, 1924, Part I, p. 552.]

RULES REGARDING THE AUDITOR GENERAL IN INDIA MADE BY THE SECRETARY OF STATE IN COUNCIL UNDER SECTION 96D (*1*) OF THE GOVERNMENT OF INDIA ACT.

Resolution by the Secretary of State in Council.

In exercise of the powers conferred by section 96D (*1*) of the Government of India Act, the Secretary of State in Council, with the concurrence of the majority of votes at a meeting of the Council held on the 4th day of January 1921, hereby makes the following rules, which shall have effect from the said date:—

CHAPTER I.—DEFINITIONS.

1. In these rules—

(*a*) "*Accounts*" includes accounts of stores and stock, as well as accounts of money transactions;

(*b*) "*Audit Officer*" means any officer of the Indian Audit Department or of an excluded audit department who exercises audit functions;

(*c*) "*Excluded Audit Department*" means a department in charge of the accounts and audit of the transactions of the military departments in India, and any other specialised audit department which the Secretary of State in Council may declare to be excluded;

(*d*) "*Finance and Revenue Accounts of India*" means the accounts prescribed in section 26 of the Act;

(*e*) [1]["*Indian Audit and Accounts service*"] means that part of the department heretofore known as the Indian Finance Department, which is exclusively

[1] These words were substituted for the words "Indian Audit Department" by Notification No. 917-F. E., dated May 11, 1922; *see* Gazette of India, 1922, Part I, p. 571.

exclusively employed, otherwise than in an excluded audit department, on the compilation and audit of accounts of Government transactions in India; and it includes all specialised audit departments which have not been declared to be excluded;

(*f*) "*Principal Auditor*" means the head of an excluded audit department and, in the case of the Indian Audit Department, every head of an office of accounts and audit who is immediately subordinate to the Auditor-General;

(*g*) "*Specialised Audit Department*" means a department in charge of the accounts and audit of the transactions of a particular department of Government;

(*h*) "*The Act*" means the Government of India Act.

Chapter II.—Conditions of Employment.

Part I.—Pay and General.

2. The pay of the Auditor-General shall be Rs. 5,000 a month.

3. The Auditor-General, on vacating his office, shall not be eligible to hold any other post under the Crown in India.

Part II.—Leave.

4. The Auditor-General shall be entitled to leave on the conditions laid down in section 96B of the Act and the rules in force thereunder for other officers in the civil service of the Crown in India, or, if he was not, prior to his appointment, in the service of the Crown in India, on such conditions as may be prescribed at the time of his appointment by the Secretary of State in Council.

Part III.—Pension.

5. The Auditor-General's service for pension shall be calculated in accordance with the provisions of section 96B of the Act and the rules in force thereunder for other persons in the civil service of the Crown in India.

6. The amount of the Auditor-General's pension shall, if he was, prior to his appointment, in the service of the Crown in India, be calculated in accordance with the provisions of section 96B of the Act and the rules in force thereunder for the service to which he belonged, and otherwise in accordance with such terms as the Secretary of State in Council may fix in the case of each person appointed.

CHAPTER III.—PROVISION FOR A TEMPORARY VACANCY OR ABSENCE FROM DUTY.

7. In the case of a temporary vacancy in the post of Auditor-General, or of the absence of an Auditor-General from duty, the Governor-General in Council shall have power to appoint an officiating Auditor-General. The salary of such officer shall be fixed in accordance with the rules in force under section 96B of the Act regulating the salary of an officiating officer.

CHAPTER IV.—DUTIES AND POWERS.

Part I.—General.

8. Subject to any general or special orders of the Secretary of State in Council, the Auditor-General shall be—

(*i*) the final audit authority in India; and

(*ii*) responsible for the efficiency of the audit of expenditure in India from the revenues of India.

He shall further be, to the extent authorised by these rules, the administrative head of the [1][Indian Audit and Accounts service].

9. The Auditor-General shall have authority—

(*i*) to inspect, either personally or by his Deputy Auditors-General, any office of accounts and audit in India;

(*ii*) to arrange for test audit in any office of accounts and audit;

(*iii*) subject to any orders of the Secretary of State in Council prescribing the nature and extent of the audit to be applied to specified classes of expenditure, to frame rules [2][in all matters pertaining to audit], particularly in respect of the method and extent of audit and the raising and pursuance of objections;

(*iv*) to instruct the head of an excluded audit department to arrange for the submission of accounts to the Auditor-General in such form and at such time as the Auditor-General may prescribe; and

(*v*) to pass orders as regards the conduct of business within, and the administration, organisation, and discipline of, the offices of accounts and audit in India

[1] These words were substituted for the words "Indian Audit Department" by Notification No. 917-F. E., dated May 11, 1922; *see* Gazette of India, 1922, Part I, p. 571.

[2] These words were substituted by Notification No. 801-A., dated October 25, 1921; *see* Gazette of India, 1921, Part I, p. 1465.

India other than those which form part of an excluded audit department.

Part II.—Duties and Powers as regards Audit.

10. (*a*) The Auditor-General, without prejudice to his other audit functions, is responsible that audit is conducted with reference to the following canons, namely:—

(1) Every public officer should exercise the same vigilance in respect of expenditure incurred from Government revenues as a person of ordinary prudence would exercise in respect of the expenditure of his own money.

(2) Money borrowed on the security of allocated revenues should be expended on those objects only for which, as provided by rules made under the Act, money may be so borrowed. If the money is utilized on works which are not productive, arrangements should be made for the amortization of the debt.

(3) No authority should exercise its powers of sanctioning expenditure to pass an order which will be directly or indirectly to its own advantage.

(4) Government revenues should not be utilized for the benefit of a particular person or section of the community unless—

(*i*) the amount of expenditure involved is insignificant, or

(*ii*) a claim for the amount could be enforced in a court of law, or

(*iii*) the expenditure is in pursuance of a recognized policy or custom.

(5) No authority should sanction any expenditure which is likely to involve at a later date expenditure beyond its own powers of sanction.

(6) The amount of allowances, such as travelling allowances, granted to meet expenditure of a particular type, should be so regulated that the allowances are not on the whole sources of profit to the recipients.

(*b*) The Auditor-General, or any principal auditor, should bring to the notice of the Governor-General in Council or the Local Government, as the case may be, any breach of one of these canons.

[1]11. * * * * *

12. The

[1] Rule 11 was cancelled with effect from 1st April, 1923, by a Resolution by the Secretary of State in Council, dated 31st July, 1923.

12. The Auditor-General shall, if so required by the Governor-General in Council,—

(*i*) arrange for the audit of the accounts of the receipts of revenue of any Government department, the accounts of any public or *quasi*-public body, or any other accounts, although they may not relate directly to the receipt and expenditure of Government moneys; and

(*ii*) arrange for the audit of stores or stock in the possession of an officer or a department of Government, and for the audit of grants of land and alienations of land revenue.

13. If the Auditor-General considers it desirable that the whole or any part of the audit applied to Government accounts, or to any other accounts which he is required to audit under Rule 11, shall be conducted in the offices in which these accounts originate, he may require that these accounts, together with all books, papers and writings having relation thereto shall at all convenient times be made available in those offices for inspection by his audit officers.

14. When an objection taken in the course of audit cannot be adjusted by a principal auditor in consultation with the authorities concerned, the Auditor-General may either instruct the principal auditor to withdraw the objection or require the Governor-General in Council or the Local Government concerned to obtain the requisite sanction, or, in default, to recover the amount under objection:

Provided that

[1][*i*] if the objection to any expenditure is based solely on the ground that such expenditure contravenes one of the canons set out in Rule 10 above the Auditor-General or principal auditor shall withdraw such objection at the request of the Finance Department of the Government concerned if the Finance Department states that the breach of the canon and the action taken thereon by the Government will be reported as soon as possible to the Committee on Public Accounts; [2][and

(*ii*) if the Governor General in Council or the Local Government, as the case may be, orders in writing that the recovery of the amount under objection shall be foregone the Auditor-General or Principal Auditor shall withdraw such objection, but may require that the action taken shall be reported to the Committee on Public Accounts.]

15. (*a*) The Auditor-General shall, on such dates as he may prescribe, obtain from each principal auditor and from any

[1] This figure (*i*) was inserted by Notification No. 801-A., dated the 25th October, 1921; see Gazette of India, 1921, Part I, p. 1465.

[2] This portion was added by *ibid.*

any officers of the [1][Indian Audit and Accounts Service] to whom he may entrust this duty, Audit and Appropriation Reports reviewing the results of the audit conducted by and under such officer during the past official year. Any officer of Government may be called upon to provide any information necessary for the preparation of these reports, which shall be in such form and shall deal with such matters as the Auditor-General may prescribe. On receipt of these reports the Auditor-General shall transmit them to the Governor-General in Council or to the Finance Department of the Local Government concerned with such comments as he may think fit.

(*b*) The Auditor-General shall forward to the Secretary of State through the Governor-General in Council the several reports dealing with the total expenditure in India in each year with his detailed comments on each report, and may also offer such further comments of a general nature as he may think fit.

16. (*a*) The Auditor-General may on his own motion, and shall on reference being made to him by the Governor-General in Council or by a Local Government, review any audit decision of any audit officer, and, if he thinks fit, overrule it.

(*b*) The Auditor-General may dispense with a previous reference to the Secretary of State in Council, otherwise required by the rules regarding sanction to expenditure from time to time in force, in cases where, in his opinion, the failure to obtain the sanction of the Secretary of State in Council involves a breach of the letter rather than of the spirit of the rules.

17. The Auditor-General shall have power to require that any books, papers or writings relating to the accounts audited by any audit department in India shall be sent for inspection by him or by any other officer of the [1][Indian Audit and Accounts Service] provided that—

(*i*) if the Governor-General in Council or the Local Government, as the case may be, certifies that the documents in question are secret, the Auditor-General or officer, as the case may be, shall accept, in lieu of such documents and as a correct account of the facts stated therein, a statement certified by the Governor-General in Council or the Local Government; and

(*ii*) if

[1] These words were substituted for the words "Indian Audit Department" by Notification No. 917-F. E., dated the 11th May 1922; *see* Gazette of India, 1922, Part I, p. 571.

(*ii*) if the documents are confidential, the officer to whom they are made over shall be responsible for preventing disclosure of their contents.

Part III.—Duties and Powers as regards Accounts.

18. The Auditor-General shall compile the Finance and Revenue Accounts of India in such form as may from time to time be prescribed by the Secretary of State in Council and shall send them to the Governor-General in Council for transmission to the Secretary of State in Council. He may call upon any Government officer to furnish any information in such form as may be required for the completion of these accounts.

19. The Auditor-General shall have power to prescribe the forms in which accounts shall be kept in audit offices: provided that no change which will affect the form of the Finance and Revenue Accounts shall be made without the previous sanction of the Secretary of State in Council.

[1][Minor changes of detail, such as the opening of new minor heads, alterations affecting minor or detailed heads, and the like, are not changes "affecting the form of the Finance and Revenue Accounts" within the meaning of this rule.]

20. If a doubt or a dispute arises as to the major head under which a particular minor head, or as to the minor head under which a particular detailed head should be included, it shall be decided by the Auditor-General.

21. The Auditor-General shall prepare in each year a review of the balances in the books maintained by the audit departments and shall send it to the Governor General in Council for submission to the Secretary of State in Council.

22. The Auditor-General shall have power to determine the form in which officers rendering accounts to the [2][Indian Audit and Accounts Service] shall render such accounts [3][and in which the initial accounts, from which the accounts so rendered are compiled or on which they are based, shall be maintained].

23. The Auditor-General shall supply, or shall arrange that officers subordinate to him supply, any information required by the Governor-General in Council or by a Local Government which can be derived from the accounts maintained in the offices under his control.

24. The

[1] These words were added by Notification No. 640-A., dated the 27th September, 1922; *see* Gazette of India, 1922, Part I, p. 1192.

[2] These words were substituted for the words "Indian Audit Department" by Notification No. 917-F. E., dated the 11th May, 1922; *see* Gazette of India, 1922, Part I, p. 571.

[3] These words were substituted by Notification No. 801-A., dated the 25th October, 1921; see Gazette of India, 1921, Part I, p. 1465.

24. The Auditor-General shall arrange that such assistance as may be required shall be rendered by the officers of the [1][Indian Audit and Accounts Service] to the Governor-General in Council, the Local Governments and other authorities in the preparation of their annual budget estimates.

Part IV.—Powers of Expenditure.

25. The Auditor-General shall exercise no powers of incurring expenditure without previous sanction other than such powers as may be delegated to him by the Governor-General in Council.

26. The Governor-General in Council shall arrange that sanctions to expenditure accorded by the Auditor-General shall be audited by some officer unconnected with the audit departments in India.

Part V.—Administrative Powers over the [1][Indian Audit and Accounts Service.]

27. The Auditor-General may—

(*i*) in the case of officers of the [1][Indian Audit and Accounts Service] of any class lower than Class I, transfer, suspend or degrade any such officer, withhold from him any increment or increments of pay, and grant him any leave that may be admissible under rule, and may delegate to any officer of the [1][Indian Audit and Accounts Service] the power of granting such leave;

(*ii*) in the case of officers in Class I, of the [1][Indian Audit and Accounts Service], grant any such officer any leave that may be admissible under rule, and subject to the control of the Governor-General in Council, transfer any such officer.

28. The Auditor-General may sanction the grant to any officer of the [1][Indian Audit and Accounts Service] of such pension as is admissible under section 96B of the Act and the rules in force thereunder.

29. The Auditor-General may dismiss from service any officer of the [1][Indian Audit and Accounts Service] other than an officer appointed thereto by the Secretary of State in Council or the Governor-General in Council.

[2]30. * * *

31. Nothing

[1] These words were substituted for the words "Indian Audit Department" by Notification No. 917-F. E., dated the 11th May, 1922; *see* Gazette of India, 1922, Part I, p. 570.

[2] Rule 30 was cancelled with effect from the 1st April, 1923, by a Resolution by the Secretary of State for India in Council, dated 31st July, 1923.

31. Nothing in this Part shall be deemed to affect any right of appeal which any officer of the [1][Indian Audit and Accounts Service] may possess under the Act or rules made thereunder or under any general or special orders of the Secretary of State in Council or the Governor-General in Council.

[*See* Gazette of India, 1921, Part I, p. 146.]

THE NON-OFFICIAL (DEFINITION) RULES.

(*Rules under section 134 of the Government of India Act.*)

No. 614-G., dated the 9th September, 1920.—In exercise of the powers conferred by sections 134 and 129A of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules:—

Short Title and Commencement.

1. (*1*) These rules may be called the Non-official (Definition) Rules.

(*2*) They shall come into force on a [2]date to be appointed by the Governor General in Council with the approval of the Secretary of State in Council and different dates may be appointed for different parts of India.

Certain persons not to be treated as officials for purposes of the Government of India Act.

2. The holder of any office in the civil or military service of the Crown, if the office is one which does not involve both of the following incidents, namely, that the incumbent

(*a*) is a whole-time servant of Government, and

(*b*) is remunerated either by salary or fees,

shall not be treated as an official for any of the purposes of the Government of India Act.

Decision of Governor General in Council to be final.

3. If any question arises, whether any officer is or is not a whole-time servant of Government for the purposes of rule 2, the decision of the Governor General in Council shall be final.

[*See* Gazette of India, 1920, Part I, p. 1743.]

He

[1] These words were substituted for the words "Indian Audit Department" by Notification No. 917-F. E., dated the 11th May 1922; *see* Gazette of India, 1922, Part I, p. 571.

[2] These rules came into force on the 1st October, 1920, *see* Gazette of India, 1920, Pt. I, p. 1870.

NOTIFICATIONS UNDER THE GOVERNMENT OF INDIA ACT.

NOTIFICATIONS BRINGING DIFFERENT PROVISIONS OF THE GOVERNMENT OF INDIA ACT, 1919, INTO FORCE.

No. 90-R., dated the 29th December, 1919.—In pursuance of sub-section (*2*) of section 47 of the Government of India Act, 1919, the Governor General in Council, with the approval of the Secretary of State in Council, is pleased to direct that the provisions of sections 31, 32 and 34 of the said Act together with such amendments set out in Part II of the Second Schedule of the said Act as incorporate, or are consequential on, or arise out of the said provisions shall come into operation on January 1, 1920.

[*See* Gazette of India, Extraordinary, 1919, p. 543.]

No. 298-G., dated the 3rd April, 1920.—In pursuance of sub-section (*2*) of section 47 of the Government of India Act, 1919, the Governor General in Council, with the approval of the Secretary of State in Council, is pleased to direct that the provisions of section 30 of the said Act shall come into operation with effect from April 1, 1920.

[*See* Gazette of India, Extraordinary, 1920, p. 413.]

No. 499-G., dated the 16th July, 1920.—In pursuance of sub-section (*2*) of section 47 of the Government of India Act, 1919, the Governor General in Council, with the approval of the Secretary of State in Council, is pleased to direct that on July 16, 1920, the following provisions of the said Act shall come into operation, namely:—

(*i*) section 28; and

(*ii*) section 45 and Part II of the Second Schedule so far as these provisions—

(*a*) give effect to such amendments in the Government of India Act, 1915, as amended by the Government of India (Amendment) Act, 1916, as are consequential on or arise out of the provisions of section 28; and

(*b*) substitute a new section 37 for the existing section 37 of the Government of India Act, 1915, as so amended.

[*See* Gazette of India, Extraordinary, 1920, p. 725.]

No. 506-G., dated the 17th July, 1920.—In pursuance of sub-section (*2*) of section 47 of the Government of India Act, 1919, the Governor General in Council, with the approval of the Secretary of State in Council, is pleased to direct that

that on July 17, 1920, the following provisions of the said Act shall come into operation, namely:—

(*i*) sections 1, 2, 33, 44 and 46; and

(*ii*) section 45 and Parts I and II of the Second Schedule so far as these provisions give effect to such amendments in the Government of India Act, 1915, as amended by the Government of India (Amendment) Act, 1916, as incorporate or are consequential on or arise out of the provisions of sections 1, 2, 33, 44 and 46.

[*See* Gazette of India, 1920, Pt. I, p. 1353.]

No. 629-G., dated the 29th July, 1920.—In pursuance of sub-section (*2*) of section 47 of the Government of India Act, 1919, the Governor General in Council, with the approval of the Secretary of State in Council, is pleased to direct that on July 29, 1920, the following provisions of the said Act shall come into operation, namely:—

(*i*) section 35; and

(*ii*) section 45 and Parts I and II of the Second Schedule so far as these provisions give effect to such amendments in the Government of India Act, 1915, as amended by the Government of India (Amendment) Act, 1916, as incorporate or are consequential on or arise out of the provisions of section 35.

[*See* Gazette of India, Extraordinary, 1920, p. 727.]

No. 772-G., dated the 1st December, 1920.—In pursuance of sub-section (*2*) of section 47 of the Government of India Act, 1919, the Governor General in Council, with the approval of the Secretary of State in Council, is pleased to direct that on December 1, 1920, the following provisions of the said Act shall come into operation, namely:—

(*i*) sections 17, 18, 19, 20, 21, 22, 23, 24 and 27; and

(*ii*) section 45 and Parts I, II and III of the Second Schedule so far as these provisions—

(*a*) give effect to such amendments in the Government of India Act, 1915, as amended by the Government of India (Amendment) Act, 1916, as incorporate or are consequential on or arise out of the provisions of sections 17, 18, 19, 20, 21, 22, 23, 24 and 27; and

(*b*) otherwise amend sections 65 and 67 of that Act.

[*See* Gazette of India, Extraordinary, 1920, p. 1071.]

No. 328-G.

Notifications bringing different provisions of the Government of India Act, 1919, into force.

No. 828-G., dated the 17th December, 1920.—In pursuance of sub-section (*2*) of section 47 of the Government of India Act, 1919, the Governor General in Council, with the approval of the Secretary of State in Council, is pleased to direct—

(1) that all the provisions of the said Act which have not previously come into operation shall come into operation in the parts of India specified in the first column of the schedule hereto annexed on the date specified in the corresponding entry in the second column thereof; and

(2) that the whole of the said Act not in operation before the 3rd day of January 1921, shall come into operation on that date.

SCHEDULE.

Column I.	Column II.
The Presidency of Madras, and the Central Provinces.	The 17th day of December, 1920.
The Province of Bihar and Orissa .	The 29th day of December, 1920.

[*See* Gazette of India, Extraordinary,' 1920, p. 1135.]

NOTIFICATIONS UNDER SECTION 52A OF THE GOVERNMENT OF INDIA ACT CONSTITUTING BURMA A GOVERNOR'S PROVINCE.

No. 225, dated the 7th October, 1921.—In exercise of the powers conferred by sub-section (*1*) of section 52A of the Government of India Act, the Governor General in Council, having obtained an expression of opinion from the local Government and the local legislature of Burma and with the sanction of His Majesty which has been signified by the Secretary of State in Council, hereby directs that the province of Burma shall be constituted a governor's province and that all the provisions of the said Act which relate to governor's provinces shall apply to the said province accordingly with the following modifications, namely:—

(*a*) sub-section (*2*) of section 72A of the said Act, (which relates amongst other things to the minimum percentage of elected members in the governors'

to appoint the second day of January 1923 as the date from which the said notification shall have effect in respect of all the provisions of the said Act.

[*See* Gazette of India, Extraordinary, 1923, p. 37.]

NOTIFICATION UNDER SECTION 59 OF THE GOVERNMENT OF INDIA ACT CONSTITUTING THE PARGANA OF MANPUR A CHIEF COMMISSIONERSHIP.

No. 310-I., dated the 11th June 1924.—In exercise of the powers conferred by section 59 of the Government of India Act, the Governor General in Council, with the approval of the Secretary of State for India, is pleased to issue the following Proclamation:—

PROCLAMATION.

The Pargana of Manpur shall on and from the 11th June 1924 be taken under the immediate authority and management of the Governor General of India in Council and formed into a Chief Commissionership, to be called the Chief Commissionership of the Pargana of Manpur. The Agent to the Governor General in Central India is hereby appointed to be the Chief Commissioner of the Pargana of Manpur with effect from that date and he will be the Local Government for the purpose of all enactments in force therein.

[Gazette of India, 1924, Pt. I, p. 483.]

NOTIFICATIONS UNDER SECTION 52A (2) DECLARING "BACKWARD TRACTS" IN DIFFERENT PROVINCES.

No. 1-G., dated the 3rd January 1921.—In exercise of the powers conferred by sub-section (2) of section 52A of the Government of India Act, the Governor General in Council is pleased to declare the territories in the presidency of Madras which are specified in the first column of the Schedule hereto annexed to be "backward tracts," and is further pleased, with the sanction of His Majesty which has been signified by the Secretary of State in Council, to direct that the said Act in its application to each of the said territories shall be subject to the exceptions and modifications specified in the corresponding entries in the second column of the said Schedule.

Further, in exercise of the like powers, the Governor General in Council is pleased to authorise the Governor of Madras

Madras in Council to direct that any Act of the local legislature of Madras shall not apply to the said territories or any part thereof, or shall apply thereto subject to such exceptions or modifications as the Governor may think fit.

SCHEDULE.

Territories.	Exceptions and modifications.
1. The Laccadive Islands including Minicoy.	1. The provisions of the Government of India Act which confer powers on the Indian legislature and on the local legislature of Madras to make laws, respectively, for British India and for the presidency of Madras shall not apply to these territories. 2. The provisions of the said Act which require proposals for expenditure by the Governor General in Council and by the local government of Madras to be submitted to the vote of the Legislative Assembly and the legislative council of the Governor of Madras, respectively, shall not apply to proposals for expenditure in these territories. 3. In lieu of the provisions of the said Act which enable rules to be made for prohibiting or regulating in either chamber of the Indian legislature the asking of questions on, and the discussion of, any subject specified in the rules, there shall be substituted a provision prohibiting the asking of questions on, and the discussion of, any subject relating to these territories; and the provisions of the said Act which enable rules to be made for prohibiting or regulating in local legislative councils the asking of questions on, and the discussion of, any subject specified in the rules shall be construed as if they prohibited the asking of questions on, and the discussion of, any subject relating to these territories in the legislative council of the Governor of Madras save with the sanction of the Governor. 4. Section 48 (7) of the said Act shall be construed, in its application to these territories as if the words "in relation to reserved subjects" and the words "and in relation to transferred subjects (save as otherwise provided by this Act) by the Governor acting with Ministers appointed under this Act" were omitted.

2. [The

Territories.	Exceptions and modifications.
2. [1][The Ganjam, Vizagapatam and Godavari Agencies of the Madras Presidency.]	1. The provisions of the said Act which confer powers on the Indian legislature and on the local legislature of Madras to make laws, respectively, for British India and for the presidency of Madras shall be construed as requiring those legislatures, when *making laws solely applicable to this territory* or any part thereof, *to* insert in every law so made a provision that such law shall come into operation only on such date and subject to such exceptions and modifications, if any, as the Governor General in Council or the Governor in Council, by notification in the Gazette of India or the local official gazette, as the case may be, may direct. 2 Section 46 (*1*) of the said Act shall be construed, in its application to this territory as if the words "in relation to reserved subjects" and the words "and in relation to transferred subjects (save as otherwise provided by this Act) by the Governor acting with Ministers appointed under this Act" were omitted.

[*See* Gazette of India, Extraordinary, 1921, p. 41.]

No. F.-567, dated the 27th February, 1922.—Whereas in exercise of the powers conferred by sub-section (*2*) of section 52-A of the Government of India Act the Governor General *in Council was pleased, in the Notification of the Government* of India in the Reforms Office, No. 1-G., dated the 3rd January 1921, to declare the [2][Ganjam, Vizagapatam and Godavari Agencies] of the Madras Presidency to be a "backward tract" and to direct that the said Act in its application to the said territories should be subject to certain exceptions and modifications;

Now therefore in exercise of the further powers conferred by the said sub-section, the Governor General in Council is pleased to direct that the Code of Criminal Procedure, 1898 (Act V of 1898), being an Act of the Indian Legislature shall apply to the said [Agencies] subject to such exceptions or modifications as the Governor General thinks fit.

[*See* Gazette of India, 1922, Part I, p. 205.]

No. F.-569

[1] This entry was substituted for the original entry by Notification No. F.-854-22, dated 17th January 1924—*see* Gazette of India, 1924, Pt. I, p. 46.

[2] These words were substituted by Notification No. F.-351-23, dated 17th January, 1924—*see* Gazette of India, 1924, Pt. I, p. 46.

"Backward Tracts" in different Provinces.

No. F.-567, dated the 27th February, 1922.—In exercise of the powers conferred by sub-section (2) of section 52-A of the Government of India Act, and with reference to the Notification of the Government of India in the Home Department, No. F.-567, dated the 27th February 1922, the Governor General is pleased to specify the modifications set forth in the annexed schedule as the modifications subject to which the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply to the [1][Ganjam, Vizagapatam and Godavari Agencies] of the Madras Presidency:

SCHEDULE.

1. In section 30 of the said Code after the words "in Sind" the words "in the Ganjam, Vizagapatam and Godavari Agencies of the Madras Presidency" shall be inserted.

2. In section 34 of the said Code for the word "seven" wherever it occurs the word "three" shall be substituted.

3. In sub-section (*1*) of section 190 of the said Code for the words "any Presidency Magistrate" the words "any Sessions Judge, Additional Sessions Judge, Presidency Magistrate" shall be substituted.

4. For sub-section (*1*) of section 192 of the said Code, the following sub-sections shall be substituted, namely:—

"192 (*1*) Any Sessions Judge or Additional Sessions Judge may transfer any case of which he has taken cognizance for inquiry or trial to any Magistrate in the Division who has jurisdiction to inquire into or try such case, and the Sessions Judge of any Division may so transfer any such case to any Additional Sessions Judge in the same Division who has jurisdiction to inquire into or try such case.

(*1A*) Any District Magistrate or Sub-divisional Magistrate may so transfer any such case to any Magistrate subordinate to him who has jurisdiction to inquire into or try such case."

5. In sub-section (*2*) of section 193 of the said Code, before the words "Additional Sessions Judges" the words "subject to the provisions of sub-section (*1*) of section 190" shall be inserted.

6. After

[1] These words and the Schedule were substituted by Notification No. F.-351—23, dated 26th January 1924—*see* Gazette of India, 1924, Pt. I, p. 105.

6. After section 205 of the said Code in Chapter XVII the following section shall be inserted, namely:—

"205A. Where a Sessions Judge or Additional Sessions Judge takes cognizance of an offence under section 190, he shall exercise the powers of a District Magistrate invested under section 30 with power to try as a Magistrate offences not punishable with death, and, so far as may be, shall follow the same procedure as such District Magistrate taking cognizance of an offence."

7. Section 266 of the said Code shall be numbered 266 (*1*) and after the said section as so numbered the following sub-section shall be inserted, namely:—

"(2) Nothing in this Chapter shall apply to trials before a Court of Session when the accused has not been committed to the Court by a Magistrate. Such trials shall be conducted in accordance with the provisions of Chapter XXI."

8. For section 268 of the said Code the following shall be substituted, namely:—

"268. All trials before a Court of Session shall be by jury or with the aid of assessors or without a jury and without the aid of assessors as the Court may decide. The Court shall, at the commencement of every trial, state by an order in writing the method of trial which it proposes to adopt."

9. Section 269 of the said Code shall be omitted.]

[*See* Gazette of India, 1922, Part I, p. 205.]

No. 2-G., dated the 3rd January, 1921.—In exercise of the powers conferred by sub-section (3) of section 52A of the Government of India Act, the Governor General in Council is pleased to declare the territories in the presidency of Bengal which are specified in the first column of the Schedule hereto annexed to be "backward tracts," and is further pleased, with the sanction of His Majesty which has been signified by the Secretary of State in Council, to direct that the said Act in its application to the said territories shall be subject to the exceptions and modifications specified in the second column of the said Schedule.

Further, in exercise of the like powers, the Governor General in Council is pleased to authorise the Governor of Bengal in Council to direct that any Act of the local legislature of Bengal shall not apply to the said territories, or any part thereof, or shall apply thereto subject to such exceptions or modifications as the Governor may think fit.

SCHEDULE.

SCHEDULE.

Territories.	Exceptions and modifications.
The Hill tracts of Chittagong, and the Darjeeling district.	1. The provisions of the Government of India Act which confer powers on the Indian legislature and on the local legislature of Bengal to make laws, respectively, for British India and for the presidency of Bengal— (*a*) shall not apply to the Hill tracts of Chittagong, and (*b*) shall be construed in their application to the Darjeeling district as requiring those legislatures, when making laws solely applicable to the said district or any part thereof, to insert in every law so made a provision that such law shall come into operation only on such date and subject to such exceptions and modifications, if any, as the Governor General in Council or the Governor in Council, by notification in the Gazette of India or the local official gazette, as the case may be, may direct. 2. The provisions of the said Act which require proposals for expenditure by the Governor General in Council and by the local government of Bengal to be submitted to the vote of the Legislative Assembly and of the legislative council of the Governor of Bengal, respectively, shall not apply to proposals for expenditure [1][declared by the Governor General or the Governor, as the case may be, to be for the purpose of the internal administration of] these territories. 3. In lieu of the provisions of the said Act which enable rules to be made for prohibiting or regulating in either chamber of the Indian legislature

[1]These words were substituted for the word "in" by Notification No. F-124, dated the 15th December, 1921; *see* Gazette of India, 1921, Part I, p. 1658.

Territories.	Exceptions and modifications.
	legislature the asking of questions on, and the discussion of, any subject specified in the rules, there shall be substituted a provision prohibiting the asking of questions on, and the discussion of, any subject relating to these territories ; and the provisions of the said Act which enable rules to be made for prohibiting or regulating in local legislative councils the asking of questions on, and the discussion of, any subject specified in the rules shall be construed as if they prohibited the asking of questions on, and the discussion of, any subject relating to those territories in the legislative council of the Governor of Bengal save with the sanction of the Governor. 4. Section 46 (*1*) of the said Act shall be construed, in its application to these territories as if the words "in relation to reserved subjects" and the words "and in relation to transferred subjects (save as otherwise provided by this Act) by the Governor acting with Ministers appointed under this Act" were omitted.

[*See* Gazette of India, Extraordinary, 1921, p. 42.]

No. 3-G., dated the 3rd January, 1921.—In exercise of the powers conferred by sub-section (*2*) of section 52A of the Government of India Act, the Governor General in Council is pleased to declare the territories in the province of the Punjab which are specified in the first column of the Schedule hereto annexed to be "backward tracts," and is further pleased, with the sanction of His Majesty which has been signified by the Secretary of State in Council, to direct that the said Act in its application to the said territories shall be subject to the exceptions and modifications specified in the second column of the said Schedule.

Further, in exercise of the like powers, the Governor General in Council is pleased to authorise the Governor of the Punjab in Council to direct that any Act of the local legislature of the Punjab shall not apply to the said territories or to any part thereof, or shall apply thereto subject to such exceptions or modifications as the Governor may think fit.

SCHEDULE.

SCHEDULE.

Territories.	Exceptions and modifications.
The scheduled districts of Spiti and Lahaul.	1. The provisions of the Government of India Act which confer powers on the Indian legislature and on the local legislature of the Punjab to make laws, respectively, for British India and for the province of the Punjab— (*a*) shall not apply to the scheduled district of Spiti, and (*b*) shall be construed, in their application to the scheduled district of Lahaul, as requiring those legislatures, when making laws solely applicable to the said district or any part thereof, to insert in every law so made a provision that such law shall come into operation only on such date, and subject to such exceptions and modifications, if any, as the Governor General in Council or the Governor in Council, by notification in the Gazette of India or the local official gazette, as the case may be, may direct. 2. The provisions of the said Act which require proposals for expenditure by the Governor General in Council and by the local government of the Punjab to be submitted to the vote of the Legislative Assembly and the legislative Council of the Governor of the Punjab, respectively, shall not apply to proposals for expenditure in these territories. 3. In lieu of the provisions of the said Act which enable rules to be made for prohibiting or regulating in either chamber of the Indian legislature the asking of questions on, and the discussion of, any subject specified in the rules, there shall be substituted a provision prohibiting the asking of questions on, and the discussion of, any subject relating to these territories; and the provisions of the said Act which enable rules to be

made

Territories.	Exceptions and modifications.
	made for prohibiting or regulating in local legislative councils the asking of questions on, and the discussion of, any subject specified in the rules shall be construed as if they prohibited the asking of questions on, and the discussion of, any subject relating to these territories in the legislative council of the Governor of the Punjab save with the sanction of the Governor.
	4. Section 46 (*1*) of the said Act shall be construed, in its application to these territories as if the words "*in relation to reserved subjects*" and the words "and in relation to transferred subjects (save as otherwise provided by this Act) by the Governor acting with Ministers appointed under this Act" were omitted.

[*See* Gazette of India, Extraordinary, 1921, p. 43.]

No. 4-G., dated the 3rd January, 1921.—In exercise of the powers conferred by sub-section (2) of section 52A of the Government of India Act, the Governor General in Council is pleased to declare the territories in the province of Bihar and Orissa which are specified in the first column of the Schedule hereto annexed to be "backward tracts," and is further pleased, with the sanction of His Majesty which has been signified by the Secretary of State in Council, to direct that the said Act in its application to each of the said territories shall be subject to the exceptions and modifications specified in the corresponding entries in the second column of the said Schedule.

Further, in exercise of the like powers, the Governor General in Council is pleased to authorise the Governor of Bihar and Orissa in Council to direct that any Act of the local legislature of Bihar and Orissa shall not apply to the said territories or to any part thereof, or shall apply thereto subject to such exceptions or modifications as the Governor may think fit.

SCHEDULE.

Territories.	Exceptions and modifications.
	and the words "and in relation to transferred subjects (save as otherwise provided by this Act) by the Governor acting with Ministers appointed under this Act" were omitted.
2. The Chota Nagpur Division, the district of Sambalpur and the district of the Santal Parganas.	The provisions of the said Act which confer powers on the Indian legislature and on the local legislature of Bihar and Orissa to make laws, respectively, for British India and for the province of Bihar and Orissa, shall be construed as requiring those legislatures, when making laws solely applicable to all or any of the territories specified in column 1, to insert in every law so made a provision that such law shall come into operation only on such date and subject to such exceptions and modifications, if any, as the Governor General in Council or the Governor in Council by notification in the Gazette of India or the local official gazette, as the case may be, may direct.

[*See* Gazette of India, Extraordinary, 1921, p. 44.]

No. 5-G., dated the 3rd January, 1921.—In exercise of the powers conferred by sub-section (*2*) of section 52A of the Government of India Act, the Governor General in Council is pleased to declare the territories in the province of Assam which are specified in the Schedule hereto annexed to be "backward tracts," and further, with the sanction of His Majesty which has been signified by the Secretary of State in Council, to direct that the said Act in its application to the said territories shall be subject to the exceptions and modifications specified in the second column of the said Schedule.

Further, in exercise of the like powers, the Governor General in Council is pleased to authorise the Governor of Assam in Council to direct that any Act of the local legislature of Assam shall not apply to the said territories or to any part thereof, or shall apply thereto subject to such exceptions or modifications as the Governor may think fit.

SCHEDULE.

"Backward Tracts" in different Provinces.

SCHEDULE.

Territories.	Exceptions and modifications.
1. The district of Angul . .	1. The provisions of the Government of India Act which confer powers on the Indian legislature and on the local legislature of Bihar and Orissa to make laws, respectively, for British India and for the *province of Bihar and Orissa* shall not apply to his territory.
	2. The provisions of the said Act which require proposals for expenditure by the Governor General in Council and by the local government of Bihar and Orissa to be submitted to the vote of the Legislative Assembly and the legislative council of the Governor of Bihar and Orissa, respectively, shall not apply to *proposals for expenditure in this* territory.
	3. In lieu of the provisions of the said Act which enable rules to be made for prohibiting or regulating in either chamber of the Indian legislature the asking of questions on, and the discussion of, any subject specified in the rules, there shall be substituted a provision prohibiting the asking of questions on, and the discussion of, any subject relating to this *territory; and the provisions of the said Act which enable rules to* be made for prohibiting or regulating in local legislative councils the asking of questions on, and the discussion of, any subject specified in the rules shall be construed as if they prohibited the asking of questions on, and the discussion of, any subject relating to this territory in the legislative council of the Governor of Bihar and Orissa, save with the sanction of the Governor.
	4. Section 46 (*1*) of the said Act shall be construed, in its application to this territory as if the words "in relation to reserved subjects"

2. The

Territories.	Exceptions and modifications.
	and the words "and in relation to transferred subjects (save as otherwise provided by this Act) by the Governor acting with Ministers appointed under this Act" were omitted.
2. The Chota Nagpur Division, the district of Sambalpur and the district of the Santal Parganas.	The provisions of the said Act which confer powers on the Indian legislature and on the local legislature of Bihar and Orissa to make laws, respectively, for British India and for the province of Bihar and Orissa, shall be construed as requiring those legislatures, when making laws solely applicable to all or any of the territories specified in column 1, to insert in every law so made a provision that such law shall come into operation only on such date and subject to such exceptions and modifications, if any, as the Governor General in Council or the Governor in Council by notification in the Gazette of India or the local official gazette, as the case may be, may direct.

[*See* Gazette of India, Extraordinary, 1921, p. 44.]

No. 5-G., dated the 3rd January, 1921.—In exercise of the powers conferred by sub-section (*2*) of section 52A of the Government of India Act, the Governor General in Council is pleased to declare the territories in the province of Assam which are specified in the Schedule hereto annexed to be "backward tracts," and further, with the sanction of His Majesty which has been signified by the Secretary of State in Council, to direct that the said Act in its application to the said territories shall be subject to the exceptions and modifications specified in the second column of the said Schedule.

Further, in exercise of the like powers, the Governor General in Council is pleased to authorise the Governor of Assam in Council to direct that any Act of the local legislature of Assam shall not apply to the said territories or to any part thereof, or shall apply thereto subject to such exceptions or modifications as the Governor may think fit.

SCHEDULE.

SCHEDULE.

Territories.	Exceptions and modifications.
1. The Garo Hills district. 2. The British portion of the Khasi and Jaintia Hills district other than the Shillong Municipality and Cantonment. 3. The Mikir Hills (in Nowgong and Sibsagar districts). 4. The North Cachar Hills (in the Cachar district). 5. The Naga Hills district. 6. The Lushai Hills district. 7. The Sadiya Frontier Tract. 8. The Balipara Frontier Tract. 9. The Lakhimpur Frontier Tract.	[1]The provisions of the said Act which confer powers on the Indian legislature and on the local legislature of Assam to make laws, respectively, for British India and for the province of Assam shall be construed as requiring those legislatures when making laws solely applicable to all or any of the territories specified in column 1, to insert in every law so made a provision that such law shall come into operation only on such date and subject to such exceptions and modifications, if any, as the Governor General in Council or the Governor in Council by notification in the Gazette of India or the local official Gazette, as the case may be, may direct.

[*See* Gazette of India, Extraordinary, 1921, p. 45.]

No. F.-20-A., dated the 1st October, 1922.—In exercise of the powers conferred by sub-section (2) of section 52-A, of the Government of India Act, the Governor General in Council is pleased to declare the territory in the province of Burma which is known as the Federated Shan States to be a "backward tract," and is further pleased, with the sanction of His Majesty which has been signified by the Secretary of State in Council, to direct that the said Act in its application to the said territory shall be subject to the modification[1] specified in the Schedule hereto annexed.

SCHEDULE.

In lieu of the provisions of the Government of India Act which enable rules to be made for the allocation of revenues or other moneys to local Governments there shall be substituted provisions to the effect that the revenues or other moneys accruing from the Federated Shan States which have been allocated to the local Government of Burma as a source of provincial revenue shall, with the exception of the tribute payable by the said States, cease to be so allocated and be allocated to the Lieutenant-Governor or Governor

[1]The Government of India Act in its application to the Federated Shan States is subject to further modification as contained in the Schedule to the Notification No. 20-A. 1, dated the 2nd January, 1923, *infra*.

Governor, as the case may be, of Burma for the purpose of the administration of the said States.

[*See* Gazette of India, 1922, Part I, p. 1212.]

No. 20-A.-1., dated the 2nd January, 1923.—Whereas in exercise of the powers conferred by sub-section (2) of section 52A of the Government of India Act, the Governor General in Council has been pleased to declare the territory in Burma known as the Federated Shan States to be a "backward tract";

And whereas the Governor General in Council has been further pleased, with the sanction of His Majesty signified by the Secretary of State in Council, to direct by a notification[1] issued on the 1st October 1922, that the said Act in its application to the said territory shall be subject to a specified modification;

And whereas by a notification[2] issued on the 7th October 1921, the Governor General in Council, with the sanction of His Majesty signified by the Secretary of State in Council, has directed that the province of Burma shall be constituted a governor's province and that all the provisions of the said Act which relate to governors' provinces with certain specified modifications shall apply to Burma;

And whereas by clause 2 of the said notification it was provided that the notification shall have effect from such date or dates as the Governor General in Council may appoint;

And whereas by a notification[3] issued on the 2nd day of January 1923 it has been appointed that the said notification applying the said provisions of the Act to Burma shall have effect from this date;

Now therefore in further exercise of the powers conferred by sub-section (2) of section 52A of the Government of India Act, the Governor General in Council is pleased, with the sanction of His Majesty which has been signified by the Secretary of State in Council, to direct that the said Act in its application to the said territory shall be subject to the further exceptions and modifications specified in the Schedule hereto annexed:

SCHEDULE.

Further exceptions and modifications—

1. The provisions of the Government of India Act which confer powers on the Indian legislature and on the local legislature

[1] *Supra*, p. 264.
[2] *Supra*, p. 251.
[3] *Supra*, p. 252.

legislature of Burma to make laws, respectively, for British India and for the province of Burma shall not apply to this territory.

2. The provisions of the said Act which require proposals for expenditure by the Governor General in Council and by the local Government of Burma to be submitted to the vote of the Legislative Assembly and of the Legislative Council of the Governor of Burma, respectively, shall not apply to proposals for expenditure in this territory.

3. In lieu of the provisions of the said Act which enable rules to be made for prohibiting or regulating in either chamber of the Indian legislature the asking of questions on, and the discussion of, any subject specified in the rules, there shall be substituted a provision prohibiting the asking of questions on, and the discussion of, any subject relating to this territory; and the provisions of the said Act which enable rules to be made for prohibiting or regulating in local legislative councils the asking of questions on, and the discussion of, any subject specified in the rules shall be construed as if they prohibited the asking of questions on, and the discussion of, any subject relating to this territory in the Legislative Council of the Governor of Burma save with the sanction of the Governor.

4. Sub-section (*1*) of section 46 of the said Act shall be construed, in its application to this territory as if it provided that the Federated Shan States shall be governed by the Governor of Burma, but that the amount of the tribute from time to time payable by the said States and the amount of the contribution from time to time payable to the said States from the provincial revenues of Burma shall be determined by the Governor of Burma in Council.

5. Sub-section (*1*) of section 49 of the said Act shall, in its application to this territory, be construed as if the references therein to the Government of the province were references to the Governor of Burma, and as if the words "so however that provision shall be made by rule for distinguishing orders and other proceedings relating to transferred subjects from other orders and proceedings" were omitted.

6. Sub-section (*2*) of section 52A of the said Act shall, in its application to this territory, be construed as if the reference therein to the Governor in Council were a reference to the Governor.

7. Clause (*4*) of section 134 of the said Act shall, in its application to this territory, be construed as if it provided that the expression "local government" in the said Act meant,

meant, in relation to the Federated Shan States, the Governor of Burma.

[*See* Gazette of India, Extraordinary, 1923, p. 37.]

No. 20-A.-II, dated the 2nd January, 1923.—In exercise of the powers conferred by sub-section (2) of section 52A of the Government of India Act, as modified in its application to the Federated Shan States by the notification of the Government of India in the Home Department No. 20-A. I., dated the 2nd day of January 1923, the Governor General in Council is pleased to authorise the Governor of Burma to direct that any Act of the local legislature of Burma, shall not apply to the Federated Shan States, or to any part thereof, or shall apply thereto, subject to such exceptions or modifications as the Governor may think fit.

[*See* Gazette of India, Extraordinary, 1923, p. 38.]

No. 20-A.-III, dated the 2nd January, 1923.—In exercise of the powers conferred by sub-section (2) of section 52A of the Government of India Act, the Governor General in Council is pleased to declare the territories in the province of Burma which are specified in the Schedule hereto annexed to be " backward tracts " and is further pleased, with the sanction of His Majesty which has been signified by the Secretary of State in Council, to direct that the said Act in its application to the said territories shall be subject to *the exceptions and modifications specified in the second* column of the said Schedule.

Further, in exercise of the like powers, the Governor General in Council is pleased to authorize the Governor of Burma in Council to direct that any Act of the local legislature of Burma shall not apply to the said territories, or to any part thereof, or shall apply thereto subject to such exceptions or modifications as the Governor may think fit.

SCHEDULE.

Territories.	Exceptions and modifications.
1. The Hill District of Arakan. 2. The Chin Hills district. 3. The Pakokku Hill Tracts. 4. The Somra Tract. 5. The Shan States of Hsawnghsup and Singkaling Hkamti.	1. The provisions of the Government of India Act which confer powers on the Indian legislature and on the local legislature of Burma to make laws, respectively, for British India and for the province of Burma shall not apply to these territories. 2. The provisions of the said Act which require proposals for expenditure by the

"Backward Tracts" in different Provinces.

Territories.	Exceptions and modifications.
6. The Hill-tracts of the Myitkyina, Bhamo and Katha districts. 7. The Putao district.	Governor General in Council and by the local Government of Burma to be submitted to the vote of the Legislative Assembly and the Legislative Council of the Governor of Burma, respectively, shall not apply to proposals for expenditure in these territories. 3. In lieu of the provisions of the said Act which enable rules to be made for prohibiting or regulating in either chamber of the Indian legislature the asking of questions on, and the discussion of, any subject specified in the rules, there shall be substituted a provision prohibiting the asking of questions on, and the discussion of, any subject relating to these territories; and the provisions of the said Act which enable rules to be made for prohibiting or regulating in local legislative councils the asking of questions on, and the discussion of, any subject specified in the rules, there shall be substituted a provision prohibiting the asking of questions on, and the discussion of, any subject relating to these territories in the Legislative Council of the Governor of Burma, save with the sanction of the Governor. 4. Sub-section (*1*) of section 46 of the said Act shall be construed, in its application to these territories as if the words "*in relation to reserved subjects*" and the words "and in relation to transferred subjects (save as otherwise provided by this Act) by the Governor *acting with Ministers appointed under* this Act" were omitted.

[*See* Gazette of India, Extraordinary, 1923, p. 38.]

No. 311-I., dated the 11th June, 1924.—In exercise of the powers conferred by sub-section (2) of section 52-A of the Government of India Act, the Governor-General in Council is pleased to declare the Pargana of Manpur to be a "backward tract", and is further pleased, with the sanction of His Majesty which has been signified by the Secretary of State in Council, to direct that the said Act in its application to the said Pargana shall be subject to the following exceptions and modifications, namely:—

The provisions of the Government of India Act which confer powers on the Indian Legislature to make laws for British India shall not apply to the said Pargana.

[*See* Gazette of India, 1924, pt. I., p. 484.]

GEORGE

INSTRUMENT OF INSTRUCTIONS TO GOVERNORS.

GEORGE R. I.

INSTRUMENT OF INSTRUCTIONS TO THE GOVERNOR OR ACTING GOVERNOR FOR THE TIME BEING OF THE PRESIDENCY OF FORT WILLIAM IN BENGAL.*

Whereas by the Government of India Act, provision has been made for the gradual development of self-governing institutions in British India with a view to the progressive realisation of responsible government in that country as an integral part of Our Empire;

And whereas it is Our will and pleasure that, in the execution of the Office of Governor in and over the Presidency of Fort William in Bengal, you shall further the purposes of the said Act, to the end that the institutions and methods of government therein provided shall be laid upon the best and surest foundations, that the people of the said presidency shall acquire such habits of political action and respect such conventions as will best and soonest fit them for self-government, and that Our authority and the authority of Our Governor-General in Council shall be duly maintained;

Now, therefore, We do hereby direct and enjoin you and declare Our will and pleasure to be as follows:—

I. You shall do all that lies in your power to maintain standards of good administration; to encourage religious toleration, co-operation and goodwill among all classes and creeds; to ensure the probity of public finance and the solvency of the presidency; and to promote all measures making for the moral, social, and industrial welfare of the people, and tending to fit all classes of the population without distinction to take their due share in the public life and government of the country.

II. You shall bear in mind that it is necessary and expedient that those now and hereafter to be enfranchised shall appreciate the duties, responsibilities and advantages which spring from the privilege of enfranchisement; that is to say, that those who exercise the power henceforward entrusted to them of returning representatives to the legislative council, being enabled to perceive the effects of their choice of a representative, and that those who are returned to

*Instructions in identical terms have been issued to the Governors of all the nine "Governors' Provinces."

to the council, being enabled to perceive the effects of their votes given therein, shall come to look for the redress of their grievances and the improvement of their condition to the working of representative institutions.

III. Inasmuch as certain matters have been reserved for the administration according to law of the Governor in Council, in respect of which the authority of Our Governor General in Council shall remain unimpaired, while certain other matters have been transferred to the administration of the Governor acting with a Minister, it will be for you so to regulate the business of the government of the presidency that, so far as may be possible, the responsibility for each of these respective classes of matters may be kept clear and distinct.

IV. Nevertheless, you shall encourage the habit of joint deliberation between yourself, your Councillors and your Ministers, in order that the experience of your official advisers may be at the disposal of your Ministers, and that the knowledge of your Ministers as to the wishes of the people may be at the disposal of your Councillors.

V. You shall assist Ministers by all the means in your power in the administration of the transferred subjects, and advise them in regard to their relations with the legislative council.

VI. In considering a Minister's advice and deciding whether or not there is sufficient cause in any case to dissent from his opinion, you shall have due regard to his relations with the legislative council and to the wishes of the people of the presidency as expressed by their representatives therein.

VII. But in addition to the general responsibilities with which you are, whether by statute or under this Instrument, charged, We do further hereby specially require and charge you:—

(1) to see that whatsoever measures are, in your opinion, necessary for maintaining safety and tranquillity in all parts of your presidency and for preventing occasions of religious or racial conflict, are duly taken, and that all orders issued by Our Secretary of State or by Our Governor General in Council on Our behalf to whatever matters relating are duly complied with.

(2) to take care that due provision shall be made for the advancement and social welfare of those classes amongst the people committed to your charge, who, whether on account of the smallness of their number or their lack of educational

or

or material advantages or from any other cause, specially rely upon Our protection, and cannot as yet fully rely for their welfare upon joint political action, and that such classes shall not suffer, or have cause to fear, neglect or oppression;

(3) to see that no order of your Government and no Act of your legislative council shall be so framed that any of the diverse interests of or arising from race, religion, education, social condition, wealth or any other circumstance, may receive unfair advantage, or may unfairly be deprived of privileges or advantages which they have heretofore enjoyed, or be excluded from the enjoyment of benefits which may hereafter be conferred on the people at large;

(4) to safeguard all members of Our services employed in the said presidency in the legitimate exercise of their functions, and in the enjoyment of all recognised rights and privileges, and to see that your Government order all things justly and reasonably in their regard, and that due obedience is paid to all just and reasonable orders and diligence shown in their execution;

(5) to take care that, while the people inhabiting the said presidency shall enjoy all facilities for the development of commercial and industrial undertakings, no monopoly or special privilege which is against the common interest shall be established, and no unfair discrimination shall be made in matters affecting commercial or industrial interests.

VIII. And We do hereby charge you to communicate these Our Instructions to the Members of your Executive Council and your Ministers and to publish the same in your presidency in such manner as you may think fit.

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[*The references are to pages. Where a Section or Schedule of the Government of India Act is referred to, its number is added in square brackets.*]

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