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TO

MY FATHER

ANANDA MOHAN BOSE

PREFACE.

The Government of India Act, 1919, and the various Rules and Regulations passed thereunder have introduced an entire change in the working constitution in India. An attempt has been made in this book to collect together within a short compass all the documents necessary for a proper study of the modern constitution. It is primarily intended for use of members of the Council of State, the Legislative Assembly and the Local Councils as well as for these actively engaged in politics. But students of political science and constitutional history will find it no less useful in considering the present development of the Indian constitution. The passages in the Report of the Joint Select Committee dealing with specific clauses have been distributed under the different sections instead of being printed in one place; so that, the reasons given by the Select Committee for additions and amendments are readily available. References, cross-references and notes and an exhaustive Index will, it is hoped, facilitate study. The book will be useful in all parts of India.

I have to acknowledge my great indebtedness for the constant help and encouragement I have received from Mr. Bhupendra Nath Basu. My best thanks are due to my esteemed friend Mr. Subodh Chandra Roy, Barrister-at-Law, who has given me invaluable assistance and suggestions in the preparation of the book.

The work has been compiled in a great hurry and mistakes and omissions will, I hope, be overlooked by the reader.

S. M. BOSE.

CALCUTTA,
January 28, 1921.

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CORRIGENDUM.

P. 80, notes to s. 37 (2), four lines from bottom :—for "reduced to 21 from 23" read "from 21 to 23."

P. 12 5*a*, l. 2 (order 25) :—for "adjustment" read "adjournment."

P. 172, l. 14 (Rules for conduct of legislative business) :—for "7" read '70."

ADDENDUM.

1. For "Backward Tract" [s. 15 (2) Act, 1919] cf. Notification No. 2G. of the Government of India in the Calcutta Gazette Extraordinary dated the 3rd January 1921, regarding Darjeeling and Chittagong Hill Tracts.

2. For Rules as to appointments in the Indian Civil Service (s. 37 Act, 1919) cf. the Resolution of the Government of India in the Gazette of India dated the 15th December 1920, Pt. IA, p. 892.

SOME IMPORTANT DATES.

August 20, 1917.—Announcement in the House of Commons by the Secretary of State for India.

April 22, 1918.—The Montagu-Chelmsford Report on Indian Constitional Reforms.

February 22, 1919.—Report of the Franchise Committee.

February 26, 1919.—Report of the Committee on Division of Function.

March 5, 1919.—First Despatch from the Government of India on Indian Constitutional Reforms.

April 16, 1919.—Fourth Despatch on Indian Constitutional Reforms (Division of Functions).

April 23, 1919.—Fifth Despatch on Indian Constitutional Reforms (Franchises).

November 17, 1919.—Joint Select Committee Report on the Government of India Bill.

December 23, 1919.—Government of India Act 1919 passed.

March 31, 1920.—Report of the Financial Relations Committee (Meston Committee).

July 6, 1920.—First Report of the Joint Select-Committee on the Draft Rules (Elections) under the Government of India Act. 1919.

August 10, 1920.—Second Report of the Joint Select Committee on the Draft Rules under the Government of India Act, 1919.

September 24, 1920.—The Indian Legislative Rules.

September 24, 1920.—Governor's Legislative Council Rules.

October , 1920.—The Devolution Act, 1920.

December 1, 1920.—Devolution Rules and other Rules sanctioned by Parliament.

December 10, 1920.—Bengal Legislative Council Standing Orders.

THE DECLARATION OF THE 20TH AUGUST, 1917.

"The policy of His Majesty's Government, with which the Government of India are in complete accord, is that of the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realization of responsible government in India as an integral part of the British Empire. They have decided that substantial steps in this direction should be taken as soon as possible, and that it is of the highest importance as a preliminary to considering what these steps should be that there should be a free and informal exchange of opinion between those in authority at Home and in India. His Majesty's Government have accordingly decided with His Majesty's approval, that I should accept the Viceroy's invitation to proceed to India to discuss these matters with the Viceroy and the Government of India, to consider with the Viceroy the views of local Governments, and to receive with him the suggestions of representative bodies and others.

"I would add that progress in this policy can only be achieved by successive stages. The British Government and the Government of India, on whom the responsibility lies for the welfare and advancement of the Indian peoples,, must be judges of the time and measure of each advance, and they must be guided by the co-operation received from those upon whom new opportunities of service will thus be conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility.

"Ample opportunity will be afforded for public discussion of the proposals which will be submitted in due course to Parliament"

GOVERNMENT OF INDIA ACT, 1919.

(9 & 10 Geo. 5, Ch. 101.)

ARRANGEMENT OF SECTIONS.

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Section.

1. Classification of central and provincial subjects.
2. Borrowing powers of local governments.
3. Revised system of local government in certain provinces.
4. Appointment of ministers and council secretaries.
5. Qualification of members of local executive councils.
6. Business of governor in council and governor with ministers.
7. Composition of governors' legislative councils.
8. Sessions and duration of governors' legislative councils.
9. Presidents of governors' legislative councils.
10. Powers of local legislatures.
11. Business and procedure in governors' legislative councils.
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15. Constitution of new provinces, etc.; and provision as to backward tracts.
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18. Council of State.
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21. Duration and sessions of Legislative Assembly and Council of State.
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ABBREVIATIONS.

Act.—Government of India Act (consolidated).

Act 1919.—Government of India Act, 1919.

Fn. Com. R.—The Functions Committee Report.

Fran. Com. R.—The Franchises Committee Report.

Jt. S. C. R. 1.—Joint Select Committee Report on the Government of India Bill.

Jt. S. C. R. 2.—Joint Select Committee (Second) Report on the Draft Rules under the Government of India Act.

M-C. R.—The Montagu-Chelmsford Report.

Mes. C. R.—Report of the Financial Relations Committee (Meston Committee).

GOVERNMENT OF INDIA ACT, 1919.

(9 & 10 Geo. 5, Ch. 101.)

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

(23*rd 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 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 :—

See M.-C. R. 6 and 7.

" 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, 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 and 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."—Jt. S. C. R. 1.

PART I.

LOCAL GOVERNMENTS.

Classification of central and provincial subjects.

1—(1) Provision may be made by rules under the Government of India Act, 1915, as amended by the Government of India (Amendment) Act, 1916 (which Act, as so amended, is in this Act referred to as " the principal Act ")—

(*a*) for the classification of subjects, in relation to the functions of government, as cen-

tral and provincial subjects, for the purpose of distinguishing 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;

(*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 the principal 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 government vested in the Gov-

ernor-General in Council under the principal Act shall, in relation to transferred subjects, be exercised only for such purposes as may be specified in rules made under that 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."

Sec. 45 A. Act; rules to be made by the Governor General with the sanction of the Secretary of State see Sec. 44 (s. 129 A. Act); for relaxation of control by the Secretary of State regarding transferred and subjects other than transferred see s. 33 (s. 19 A. Act).

"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 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 reserva-

tions in the text of the Franchise 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 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 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 shall 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 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 the 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."—Jt. S. C. R. 1.

For the scheme of dyarchy and distinction between reserved and transferred subject cf. M-C. R. 218—23, 238, 241; Fn. Com. R. 19-21, 23-24; for devolution of authority *re* provincial subjects and superintendence and control thereof by Governor-General, see M.-C. R. 212-13, 240, Fn. Com. R. 16-18, 22; for allocation of revenue for administration of transferred subjects, cf. M-C. R. 255-57; for settlement of doubts as to whether matter is provincial or transferred see M.-C. R. 221, 239-254, Fn. Com. R. 60.

cl. (1) (a) " Classification of subjects " see *Devolution Rules* (*Appendix A*) Rules 3-13; " Central subjects " see *ibid* R. 3, and list in schedule I, Part I; " Provincial subjects " see *ibid* list in schedule I part II.

Cl. (1) (b) " Devolution of authority in respect of provincial subjects " see *ibid* Rule 13; " Allocation of revenues " see *ibid* Rule 14.

Cl. (1) c) " Agency of local governments " see *ibid* Rules 46-48.

Cl. (1) (d) " Transferred subjects " see *ibid* Rules 6 and 8, and list in Schedule II and Rules in Schedule III; for allocation of revenues for administration of transferred subjects, see *ibid* rules 31—34.

Cl. (2) (*ii*) " Contributions payable by local governments " see *ibid* Rules 17-20.

Cl. (2) (*iii*) " Finance Department " see *ibid* Part III, Rules 36—45.

Cl. (2) (*iv*) " Exercise of authority over members of public services " see *ibid* Rules 10—12

Cl. (2) (*v*) For settlement of doubts *re* provincial subjects see *ibid* Rule 4; for settlement of doubts *re* transferred subjects see *ibid* Rule 9.

Cl. (3) " Powers of superintendence, etc. over local governments " see *ibid* Rule 49.

Borrowing powers of local governments.

2.—(1) The provision in sub-section (1) of section thirty of the principal Act, which gives power to local governments to raise money on real or personal estate within the limits of their respective governments by way of mortgage or otherwise, shall have effect as though that provision conferred a power on local governments to raise money on the security of their allocated revenues, and to make proper assurances for that purpose.

(2) Provision may be made by rules under the principal Act as to the conditions under which the power to raise loans on the security of allocated revenues shall be exercised.

(3) The provision in sub-section (1) of section thirty of the principal Act, which enables the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council of India to prescribe provisions or conditions limiting the power to raise money, shall cease to have effect as regards the power to raise money on the security ot allocated revenues.

Sec. 30(1A) Act; for power to make rules, see Sec. 44 (s. 129A, Act).

" This clause has been inserted to regularise the raising of loans by local Governments on the special security of their own provincial revenues."—Jt. S. C. R. 1.

For borrowing powers of local governments cf. M.-C. R. 111, 211; Fn. Com. R. 80.

For Rules *re* conditions under which a local government may raise loans, see *Local Government (Borrowing) Rules*— (*Appendix B*).

Revised system of local government in certain provinces.

3.—(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, shall each be governed, in relation to 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 " governor's provinces " and the two first-named presidencies are in this Act referred to as the presidencies of Bengal and Madras

(2) The provisions of section forty-six to fifty-one of the principal Act, as amended by this Act, shall apply to the United Provinces, the Punjab, Bihar and Orissa, the Central Provinces, and Assam, as they apply to the presidencies of Bengal, Madras, and Bombay: Provided that the governors of the said provinces shall be appointed after consultation with the Governor-General.

Sec. 46 (1) Act; Reserved and Transferred subjects defined s. 1(4) [45A (4) Act].

"The question has been raised as to the communications between the Governors of provinces and the Secretary of State. The question as to whether such communication 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 will 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 more 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."—Jt. S. C. R. 1.

For argument in favour of Governorship cf. M-C. R. 214.

For delegation of powers of control vested in the Governor General in Council by some laws see *Devolution Act* 1920.

Appointment of Minister and Council Secretaries.

4.—(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.

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 the principal 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 amongst 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.

Sec. 52 Act; Transferred subject defined s.1(1) (d) (s. 45A. Act); Minister not an official s. 14 (s. 80B. Act) Appointment of Minister engaged in trade s. 42 [s. 124(4) and Proviso. Act]. For power to

make rules see s. 44 (1) (s. 129A Act); for Council Secretary for Legislative Assembly s. 29 (s. 43A, Act); for rules regulating relation between Executive Council and Minister see s. 6(2) s. 49(2) Act.

" 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 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 role somewhat similar to that of the Parliamentary Under-Secretary in this country."—Jt. S. C. R. 1.

Cl. 3 " Temporary administration of transferred subjects " see *Transferred Subject (Temporary Administration) Rules (Appendix C).*

For relation of Governor to Minister cf. M-C. R. 218, 219, 221; Fn. Com. R. 60-63; for temporary administration owing to vacancy cf. Fn. Com. R. 60(8), 63(4); for council secretaries see M-C. R. 224. For rules for temporary administration of a transferred subject see *Transferred Subjects (Temporary Administration) Rules (Appendix C).*

Qualification of members of local executive councils.

5.—(1) The provision in section forty-seven of the principal Act, that two of the members of the executive council of the governor of a province must have been for at least twelve years in the service of the Crown in India, shall have effect as though " one " were substituted for " two," and the provision in that section that the Commander-in-Chief of His Majesty's Forces in India, if resident at Calcutta, Madras, or Bombay, shall, during his continuance there, be a member of the governor's council, shall cease to have effect.

(2) Provision may be made by rules under the principal 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 section forty-seven of the principal Act as amended by this section.

Sec. 47(2) and 47(3) Act.

" 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."—Jt. S. C. R. 1.

Business of governor in council and governor with ministers.

6.—(1) All orders and other proceedings of the government of the 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.

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 rules made under the prin-

cipal Act as amended by this Act shall, to the extent of that repugnancy, but not otherwise, be void.

Sec. 49 Act. Governor's province defined s. 3(1) (Sec. 41(1) Act); for relation of Governor to Minister, see s. 4 (s. 52 Act); for validity of order by Governor acting with minister see s. 16(3) (s. 52B. Act).

See *Instructions to Governors* (*Appendix K*).

" 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 last category the Committee 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. 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; member 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 members 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."—Jt. S. C. R. 1:

Composition of governors' legislative councils.

7.—(1) There shall be a legislative council in every governor's province, which shall consist of the members of the executive council and of the 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 attendence 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 seventy per cent. shall be elected members :

Provided that—

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

(*b*) the governor may, for the purposes 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 gov-

ernor 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 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 the principal 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.

Sec. 72A. Act. For power to make rules see s. 44(1) (s. 129A Act); for sessions and duration of council see s. 8 (72B. Act); for business and procedure in council cf. s. 11 (72D. Act); for powers of local Legislatures see s. 10 (80A. Act); for constitution of Lieutenant-Governor's Council see s. 76 Act.

"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, 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 dispro-

portionately 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 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-Brahmnis 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 de-

cision 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 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 six months' imprisonment should be a disqualification for five years from the date of the expiration of the sentence.

(*l*) The compromise suggested by the Franchise Committee in respect of the residential qualification of candidates for legislative councils whereby the restriction was to be imposed only in the provinces of Bombay, the Punjab, and the Central Provinces may be accepted.

(*m*) The recommendations of the Franchise Committee in respect of the proportionate representations of Mohammedans, based on the Lucknow compact, may be accepted.

Two further observations must be made on this question of franchise. It seems to the Committee that the principle of proportional representation may be found to be particularly applicable to the circumstances of India, and they recommend that this suggestion be fully explored, so that there may be material for consideration by the Statutory Commission when it sits at the end of ten years. Further it has been strongly represented to the Committee, and the Committee are themselves firmly convinced, that a complete and stringent Corrupt Practices Act should be passed and brought into operation before the first elections for the legislative councils. There is no such Act at present in existence in India, and the Committee are convinced that it will not be less required in India than it is in other countries."—Jt. S. C. R. 1.

For composition of Council see M-C. R. 225, 233; for designation of members and abolition of the term "Additional Members" see M-C. R. 234. For persons entitled to be called "Honorable"

see notification no. 4067 in the Gazette of India dated December 11, 1920, p. 2244. For system of election see M-C. R. 226; for communal electorate see M-C. R. 227-32.

Number of members of the Governor's Council fixed by notification No. 767-F in the Gazette of India Extraordinary dated July 29, 1920 :—

Madras.—98 elected and 29 nominated members of whom not more than 19 to be officials—total 117.

Bombay.—86 elected and 25 nominated member, of whom not more than 16 to be officials—total 111.

Bengal.—113 elected and 26 nominated members of whom not more than 18 to be officials—total 139.

United Provinces.—100 elected and 23 nominated members of whom not more than 16 to be officials—total 123.

Punjab.—71 elected and 22 nominated members of whom not more than 14 to be officials—total 93.

Central Provinces.—37 elected and 33 nominated member of whom not more than 8 to be officials—total 70.

Behar and Orissa.—76 elected and 27 nominated members of whom not more than 18 to be officials—total 103.

Assam.—39 elected and 14 nominated members of whom not more than 7 to be officials—totals 53.

For rules making provisions under Cl. (4) for the various governor's councils, see notification No. 767-F in the Gazette of India Extraordinary July 29, 1920. [Madras, pp. 791-813; Bombay, 814-836; Bengal, 837-860; United Provinces, 861-884; Punjab, 885-907; Behar and Orissa, 908-932; Central Provinces, 933-952; Assam, 953-971] corrected by notification No. 880-F in the Gazette of India Extraordinary, September 27, 1920.

Sessions and duration of governors' legislative councils.

8.—(1) Every governor's legislative council shall continue for three years from its first meeting :

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.

see s. 72 B. Act. For composition of council cf. s. 7 (s. 72A, Act); for business and procedure in Council see s. 11 (s. 72D. Act).

For power of dissolution see M-C. R. 254.

Presidents of governors' legislative councils.

9.—(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:

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 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 an Act of the local legislature.

Sec. 72-C. Act; for President of Legislative Assembly, s. 20 (s. 63 C. Act).

"The Committee have considered carefully the question who is to preside over the legislative councils in the provinces. They are of opinion that the Governor should not preside, and they advise that, for a period of four years, the President should be appointed by the Governor. Wherever possible it would be a great advantage if someone could be found for this purpose who had had parliamentary experience. The legislative council should itself elect a Vice-President, and at the end of four years the nominated President would disappear, and the President and Vice-President would be elected by the councils. The Committee attribute the greatest importance to this question of the Presidency of the legislative council. It will, in their opinion, conduce very greatly to the successful working of the new councils if they are imbued from the commencement with the spirit and conventions of parliamentary procedure as developed in the Imperial Parliament. The Committee will recur to this subject in dealing with the question of the President of the Legislative Assembly of India."—Jt. S. C. R. 1.

For proposal to make governor president cf. M-C. R. 236. Presumably a non-official President or Deputy President cannot be said to accept an office in the service of the Crown in India and so s. 14 will not apply to him.

Powers of local legislatures.

10.—(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 the principal 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 the principal Act to be, either in whole or in part, subject to legislation by the Indian legislature, 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 this Act by any authority in British India other than that local legislature, is declared by rules under the principal 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 this Act, which by

the provisions of that 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.

See s. 80A Act; for business and procedure in local council see s. 11 (s. 72D. Act); central and provincial subject defined s. 1(4) (s. 45A.(4) Act).

For Legislative devolution cf. M-C. R. 114-116, 212, 238, 240; Fn. Com. R. 14, 28-34, 39; for provincial taxation and finance cf. M-C. R. 110, 200-202, 210, 257, Fn. Com. R. 75-78. For power to impose a new tax under cl. (3) see *the Scheduled Taxes Rules* (*Appendix D*); for powers to alter, repeal the provisions of law, under cls. (h) and (i) see *the Local Legislatures* (*Previous Sanction*) *Rules* (*Appendix E*).

Business and procedure in governors' legislative councils.

11.—(1) Sub-sections (1) and (3) of section eighty of the principal Act (which relate to the classes of business which may be transacted at meetings of local legislative councils) shall cease to apply to a governor's legislative council, but the business and procedure in any such council shall be regulated in accordance with the provisions of this section.

(2) The estimated annual expenditure and reve-

nue 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, 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 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 the principal 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 the principal 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 the principal 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 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.

See s. 72D. Act; for powers of local councils see s. 10 (80A. Act); for return or reservation of Bills passed therein see s. 12 (81 A. Act); for provision in case of failure to pass legislation in reserved subjects see s. 30 (s. 72 E. Act); for certificate by Governor about Bills relating to reserved subjects see s. 13(1) (s. 72E(1) Act); for power to make rules see s. 44(1) (s. 129A. Act); for business and procedure in lieutenant-governor's council see s. 78 Act; for power of Governor-General to authorize expenditure in emergencies see s. 25(8) (Sec. 67A(8) Act); for analogous provisions *re* Indian Budget see s. 25 (s. 67A. Act).

" The Committee think that the provincial budget should be submitted to the vote of the legislative council, subject to the exemption from this process of certain charges of a special or recurring character which have been set out in the Bill. In cases where the council alter the provision for a transferred subject, the Committee consider that the Governor would be justified, if so advised by his ministers, in re-submitting the provision to the council for a review of their former decision; but they do not apprehend that any statutory prescription to that effect is required. Where the council have reduced a provision for a reserved subject which the Governor considers essential to the proper administration of the subject concerned, he will have a power of restoration. The Committee wish it to be perfectly clear that this power is real and that its exercise should not be regarded as unusual or arbitrary; unless the Governor has the right to secure supply for those services for which he remains responsible to Parliament, that responsibility cannot justly be fastened upon him.

Whenever the necessity for new taxation arises, as arise it must, the questions involved should be threshed out by both parts of the Government in consultation together, and it is especially important

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."—Jt. S. C. R. 1.

For rules regulating conduct of business and procedure in council see M-C. R. 236, *Legislative Council Rules* (*Appendix H*); for Budget procedure see M-C. R. 255-57, *Legislative Council Rules* (*Appendix H*) Rules 25-30; for Governor's certificate *re* Bills see M-C. R. 252, 254, Fn. Com. R. 57, *Legislative Council Rules* (*Appendix H*) Rule 21; for contribution payable by local government see M-C. R. 205-07, *Devolution Rules* (*Appendix A*) Rules 17-20.

Return and reservation of Bills.

12.—(1) Where a Bill has been passed by a local legislative council, the governor, lieutenant-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 the principal 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 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.

See s. 81A Act; for assent to Bill passed by local legislature see s. 81 Act; for return of Bill for reconsideration see M-C. R. 254; for reservation of Bills see Fn. Com. R. 36-37, 39 and *Reservation of Bills Rules* (*Appendix F*).

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

13.—(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 each House of Parliament for not less than eight days on which that House has sat.

Sec. 72E. Act; for Governor's certificate in case of demand *re* reserved subject see s. 11(2) (s. 72D(2) Act); for certificate by Governor-General see s. 26 (s. 67B. Act).

" 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 Parlihment. 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 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."—Jt. S. C. R. 1.

For Governor's certificate cf. M-C. R. 254; see *Legislative Council Rules* (*Appendix H.*) *Rule* 21; for Governor's responsibility under his instruction cf. Fn. Com. R. 58, 67; for Draft Instrument of Instructions see Appendix II to the Fourth Despatch of the Government of India (No. 3 of 1919); see *Instructions to Governors* (*Appendix K*).

Vacation of seats in local legislative councils.

14.—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 shall not be deemed to accept office on appointment as a minister.

See s. 80B. Act; official defined s. 46 (s. 134 Act); see the *Non-official (Definition) Rules* under notes to s. 46 below.

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

15.—(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, 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 the principal Act or 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) This Governor-General in Council may declare any territory in British India to be a "backward tract," and may, by notification, with such sanction as aforesaid, direct that the principal Act and 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 to give similar directions as respects any Act of the local legislature.

Sec. 52A. Act; for constitution of new Lieutenant-Governorship see s. 77 Act.

"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 *prima 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."—Jt. S. C. R. 1.

For Governor's province see M-C. R. 214; for "Backward Tract" see M-C. R. 199, 283.

Saving.

16.—(1) The validity of any order made or action taken after the commencement of this Act 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 this 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 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.

See s. 52B. Act.

(2) Nothing in 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 the principal 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 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.

See s. 84(2) Act; for Act made by Governor in case of failure of his council to pass Bill see s. 13 (72E Act).

(3) 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.

See s. 52B. Act; for validity of order of Government in Governor's Province cf. s. 6(1) (s. 49 Act).

PART II.

GOVERNMENT OF INDIA.

Indian legislature.

17.—Subject to the provisions of this Act, the Indian legislature shall consist of the Governor-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.

See s. 63 Act; for procedure in getting a Bill passed by both chambers see *Indian Legislative Rules* (*Appendix G.*) *Rules*, 25-31; for joint sitting in case of Bill passed by one Chamber and not by the other see s. 24(3) (s. 67(3) Act); *see Indian Legislative Rules* (*Appendix G.*) *Rules* 31-42; for assent by Governor-General to Bill passed by both chambers see s. 68 Act.

For consent to Bill by both chambers M-C. R. 279-81; for power of assent, reservation and disallowance see M-C. R. 283.

Council of State.

18.—(1) The Council of State shall consist of not more than sixty members nominated or elected in accordance with rules made under the principal 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.

Sec. 63A Act; for durations and sessions see s. 21 (s. 63D Act); for rules regarding its composition, etc. see s. 23.

"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 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."—Jt. S. C. R. 1.

For number, qualification and designation (" Honourable ") of members see M-C. R. 277-78: Notification No. 4067 in the Gazette of India, dated December 11, 1920, page 2244; there will be 33 elected members and 27 nominated members of whom not more than 20 to be officials and 1 from Berar, see *The Council of State Electoral Rules*. Notification No. 767-F in the Gazette of India Extraordinary, July 29, 1920, page 730.

Legislative Assembly.

19.—(1) The Legislative Assembly shall consist of members nominated or elected in accordance with rules made under the principal 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 the principal 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.

See s. 63B Act; for duration and sessions see s. 21 (s. 63D Act); for rules *re* its composition, etc. see s. 23 (s. 64 Act); for power to make rules see s. 44 (s. 129A Act).

" 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 direct 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."—Jt. S. C. R. 1.

For number, and designation of members see M-C. R. 273-74; for nominated members see M-C. R. 275; there will be 103 elected members and 41 nominated members of whom 26 to be officials and 1 from Berar, see *The Legislative Assembly Electoral Rules.* Notification No. 767-F in the Gazette of India Extraordinary, July 29, 1920 page 756.

President of Legislative Assembly.

20.—(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.

See s. 63C Act; for similar provisions regarding President and Deputy President of Governor's Legislative Councils s. 9 (s. 72C Act).

"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."—Jt. S. C. R. 1.

Presumably a non-official President or Deputy President cannot be said to accept office in the service of the Crown in India and so s. 22 will not apply to him.

Duration and sessions of Legislative Assembly and Council of State.

21.—(1) Every Council of State shall continue for five years, and every Legislative Assembly for three years, from its first meeting:

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.

See s. 63D Act; for duration of Council of State and Legislative Assembly see M-C. R. 278; for power of dissolution see M-C. R. 283; see the *Indian Legislative Rules* (*Appendix G*).

Membership of both chambers.

22.—(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.

(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.

See s. 63E Act; official defined s. 46 (s. 134 Act); proposal to make members of Governor-General's Executive Council to be members of *both* chambers see M-C. R. 282, see the *Non-official (Definition) Rules* under notes to s. 46 below.

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

23.—(1) Subject to the provisions of this Act, provision may be made by rules under the principal 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 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.

See s. 64 Act; for analogous provisions *re* the Governor's Legislative Council see s. 7(4)—s. 72A(4) Act; for power to make rules see s. 44—s. 129A Act.

For nominated members M-C. R. 275; for qualification of member of Council of State M-C. R. 278, Fran. C. R. 41; and of the Legislative Assembly see M-C. R. 273 Fran. C. R. 36; for [illegible]

tion of a ruling prince M-C. R. 278; see the *Council of State Electoral Rules* in the Gazette of India Extraordinary, July 29, 1920, pp. 729-55. See the *Legislative Assembly Electoral Rules, ibid* pp. 756-90.

Business and proceedings in Indian legislature.

24.—(1) Sub-sections (1) and (3) of section sixty-seven of the principal Act (which relate to the classes of business which may be transacted by the Indian legislative council) shall cease to have effect.

(2) Provision may be made by rules under the principal 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.

See s. 67(1) Act.

(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.

See s. 67(3) Act.

(4) Without prejudice to the powers of the Governor-General under section sixty-eight of the principal Act, the Governor-General may, where a Bill has been passed by both chambers of the Indian legislature, return the Bill for reconsideration by either chamber.

See s. 67(4) Act; for return for reconsideration of Bill passed by Local Council see s. 12—s. 81A Act.

(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.

See s. 67(5) Act.

(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 the principal 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 the principal Act shall, to the extent of that repugnancy but not otherwise, be void

See s. 67(6) Act.

(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.

See s. 67(7) Act; for analogous provisions in the case of Governor's Legislative Council see s. 11(7)—s. 72D (7) Act.

For rules regulating the course of business in the Indian Legislature see the *Indian Legislative Rules* (*Appendix G*), M-C. R. 286; for procedure of standing committees see M-C. R. 285; for amendment by one chamber of Bills passed by the other see *Indian Legislative Rules* (*Appendix G*) Rules 32-36; for joint sitting and conference of both chambers see *ibid* Rules 37-42. See *Standing Orders* (*appendix I.*)

Indian budget.

25.—(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 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 state-

ment 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 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 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.

See s. 67A Act; for provisions *re* Budget in Governor's Legislative Council see s. 11 cf. s. 72D Act; for Governor-General's certificate that Bill is essential for safety, etc. of British India see s. 26 cf. s. 67B Act; for certificate that a Bill affect the safety or tranquillity of British India see s. 27(2) cf. s. 67(2A) Act.

"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 whenever necessary."—Jt. S. C. R. 1.

For Governor-General's power in case of measures essential to the discharge of his responsibility or to the safely or tranquillity of India see M-C. R. 279-80; for Budget Procedure see *Indian Legislative Rules* (*Appendix G*) Rules 43-50.

Provision for case of failure to pass legislation.

26.—(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 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.

See s. 67B Act; for analogous case when the Governor certifies about a Bill relating to a reserved subject see s. 13—s. 72E Act; for power of Governor-General to assent to such Bill see s. 13(2)—s. 72E(2) Act; for his power to authorise expenditure in emergency see s 25(8)—s. 67A (8) Act.

"For reasons which prompted the rejection of the process of certification by a 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 regarded 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."—Jt. S. C. R. 1.

For certificate by Governor-General see M-C. R. 279, 281; cf. *Indian Legislative Rules* (*Appendix G*) Rule 21.

Supplemental provisions as to powers of Indian legislature.

27.—(1) In addition to the measures referred to in sub-section (2) of section sixty-seven of the principal Act, as requiring the previous sanction of the Governor-General, it shall not be

lawful without such previous sanction to introduce at any meeting of either chamber of the Indian legislature any measure—

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

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

(*c*) repealing or amending any Act or ordinance made by the Governor-General.

See s. 67(2) Act, " Provincial subject ' see s. 1(1)(a) Act.

(2) 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.

See s. 67(2A) Act; for certificate that the Bill is essential for safety, etc. of India see s. 26—s. 67B. Act.

For certificate by Governor-General see M-C. R. 279, 281; see *Indian Legislative Rules* (*Appendix* G) Rule 21.

Composition of Governor-General's executive council.

28.—(1) The provision in section thirty-six of the principal Act, imposing a limit on the number of members of the Governor-General's executive council, shall cease to have effect.

(2) The provision in section thirty-six of the principal Act as to the qualification of members of the council shall have effect as though the words " at the time of their appointment " were omitted, and as though after the word " Scotland " there were inserted the words " or a pleader of the High Court " and as though " ten years " were substituted for " five years."

See s. 36(3) Act.

(3) Provision may be made by rules under the principal Act as to the qualifications to be required in respect of members of the Governor-General's executive council, in any case where such provision is not made by section thirty-six of the principal Act as amended by this section.

See s. 36(5) Act.

(4) Sub-section (2) of section thirty-seven of the principal Act (which provides that when and so long as the Governor-General's executive council assembles in a province having a governor, the governor shall be an extraordinary member of the council) shall cease to have effect.

" 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 the 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." —Jt. S. C. R. 1.

For removal of limit on the number of members of the Governor-General's Executive Council see M-C. R. 271-72.

Appointment of council secretaries.

29.—(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 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.

Sec. 43A Act; for Council Secretary in Provincial Council see s. 4(4) —s. 52(4) Act.

" 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."—Jt. S. C. R. 1.

See M-C. R. 275. Presumably a non official Council Secretary cannot be said to accept office in the service of the Crown and so s. 22 will not apply to him. It is to be noted further, that this section says that the Council Secretary is to be a member of the Legislative Assembly.

PART III.

SECRETARY OF STATE IN COUNCIL.

Payment of salary of Secretary of State, etc., out of moneys provided by Parliament.

30.—The salary of the Secretary of State, the salaries of his under-secretaries, and any other expenses of his department may, notwithstanding anything in the principal Act, instead of being paid out of the revenues of India, be paid out of moneys provided by Parliament, and the salary of the Secretary of State shall be so paid.

See s. 2(3) Act.

"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."—Jt. S. C. R. 1.

See M-C. R. 294; under s. 47(2) this section has come into force from the 1st April, 1920 (cf. Notification No. 298-G in the Calcutta Gazette, April 14, 1920, Part IA page 369).

Council of India.

31.—The following amendments shall be made in section three of the principal Act in relation to the composition of the Council of India, the qualification, term of office, and remuneration of its members:—

(1) The provisions of sub-section (1) shall have effect as though "eight" and "twelve"

were substituted for " ten " and " fourteen " respectively, as the minimum and maximum number of members, provided that the council as constituted at the time of the passing of this Act shall not be affected by this provision, but no fresh appointment or reappointment thereto shall be made in excess of the maximum prescribed by this provision.

See s. 3(1) Act.

(2) The provisions of sub-section (3) shall have effect as if " one-half " were substituted for "nine," and " India " were substituted for " British India."

See s. 3(3) Act.

(3) In sub-section (4) " five years " shall be substituted for " seven years " as the term of office of members of the council, provided that the tenure of office of any person who is a member of the council at the time of the passing of this Act shall not be affected by this provision.

See s. 3(4) Act.

(4) The provisions of sub-section (8) shall cease to have effect and in lieu thereof the following provisions shall be inserted :

" There shall be paid to each member

of the Council of India the annual salary of twelve hundred pounds: 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."

See s. 3(8) Act.

(5) Notwithstanding anything in any Act or rules, where any person in the service of the Crown in India is appointed a member of the council before 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 be payable to him on completion of such period, be reckoned as service under the Crown in India whilst resident in India.

See s. 3(9) Act.

" 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."—Jt. S. C. R. 1.

See M-C. R 293.

Further provisions as to Council of India.

32.—(1) The provision in section six of the principal Act which prescribes the quorum for meetings of the Council of India shall cease to have effect, and the Secretary of State shall provide for a quorum by directions to be issued in this behalf.

(2) The provision in section eight of the principal Act relating to meetings of the Council of India shall have effect as though " month " were substituted for " week."

(3) Section ten of the principal Act shall have effect as though the words " all business of the council or committees thereof is to be transacted " were omitted, and the words " 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 " were inserted in lieu thereof.

Relaxation of control of Secretary State.

33.—The Secretary of State in Council may, notwithstanding anything in the principal 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 the principal Act, or otherwise, in such manner as may appear necessary or expedient in order to give effect to the purposes of this Act.

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.

See s. 19A Act: "Subjects other than transferred," *i.e.*, Central subjects and Provincial subjects, which are reserved, see s. 1(1)(a) and (4)—s. 45A Act; for power to make rules, see s. 44—s. 129A Act.

"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 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 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 not 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 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 laying 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." —Jt. S. C. R. 1.

See M-C. R. 260, 291-92.

The following Rule has been made by the Secretary of State under the provisions of section 33 of the Government of India Act, 1919.

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 Indian 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 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 Notification No. 835 G, in the Gazette of India, December*, 18, 1920).

" This rule [which as already stated i 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 large 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 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."—Jt. S. C. R. 2.

Correspondence between Secretary of State and India.

34.—So much of section five of the principal Act as relates to orders and communications sent to India from the United Kingdom and to orders made in the United Kingdom, and sections eleven, twelve, thirteen and fourteen of the principal Act, shall cease to have effect, and 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.

High Commissioner for India.

35.—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 the principal 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.

See s. 29A Act.

" 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."—Jt. S. C. R. 1.

See the *Order in Council*, dated the 13th August, 1920 (printed in the Gazette of India, October 2, 1920), making provisions for the appointment of a High Commissioner for India.

PART IV.

THE CIVIL SERVICES IN INDIA.

The civil services in India.

36.—(1) Subject to the provisions of the principal 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 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 this Act 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 this Act. 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 this Act, 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.

See s. 96B. Act.

" 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 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 readjustment 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."—Jt. S. C. R. 1.

For the Governor's duty to protect members of public services see M-C. R. 240, 325; Fn. Com. R. 64, 67, 70; *Instructions to Governors* (*Appendix K*) 7(4); for the case for increasing the Indian element in the public services and institution of recruitment in India, see M-C. R. 313, 316; for pay and pensions see M-C. R. 319-20.

Appointments to the Indian Civil Service.

37.—(1) Notwithstanding anything in section ninety-seven of the principal Act 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 section shall not have force until they have been laid for thirty days before both Houses of Parliament.

See s. 97(6) Act; for appointment in India to the I. C. S. of persons domiciled in British India see s. 99 Act.

(2) The Indian Civil Service (Temporary Provisions) Act, 1915 (*5 & 6 Geo. 5, c. 87*), (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."

For recruitment in India and percentage of appointments to be made in India see M-C. R. 316-17. Rules have recently been made by the Secretary of State regarding appointments to the Indian Civil Service. These may be summarised as follows:—

The open competitive examination in London will be the main but not the only channel of entry. It will be open to all, subject to the reservation that Indians successful in the examinations will not be allotted to Burma nor successful Burmans to India. The age limit is reduced to 21 from 23, but the probationary period of study for the final examination is extended to two years. The course of probation will include Law, Jurisprudence, the study of Indian languages, History and Economics.

The recommendation in the Montagu-Chelmsford report that the percentage of Indian recruitment should be one-third, rising by one-and-half per cent. annually for ten years to a maximum of forty-eight per cent. is adopted as an all round figure to cover the total Indian recruitment, which will be obtained chiefly in India by four methods; namely, separate competitive examination, nomination, promotion from the Provincial Civil Service, and appointment from the bar. The first of these will be the main source of Indian recruitment and will always exceed the nominations by over two-thirds. The age limit for the examination will be from 19 to 23. Successful candidates as well as nominated ones will come to Britain for two years' probation. The number of Indians to be recruited in India will be fixed yearly after taking account of the number recruited otherwise.

Public service commission.

38.—(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.

See s. 96C Act. First Despatch from the Government of India para 55.

Financial control.

39.—(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.

See s. 96D. Act; As to Auditor-General see Fn. Com. R. 73.

Rules under Part IV.

40.—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.

See s. 96E. Act; for other cases where a majority of votes is required see s. 9(1) Act, s. 21 Proviso, Act, s. 28(1) Act, s. 29(1) Act, s. 30(1) Act, s. 97(6) Act, and s. 99(2) Act.

PART V.

STATUTORY COMMISSION.

Statutory commission.

41.—(1) At the expiration of ten years after the passing of this Act 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.

See s. 84A Act.

"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 responsibile 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 of the Government of India and to advise in respect of the Government of India no less than in respect of the provincial governments."—Jt. S. C. R. 1.

See M-C. R. 288.

PART VI.

GENERAL.

Modification of s. 124 of principal Act.

42.—Notwithstanding anything in section one hundred and twenty-four of the principal 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.

See s. 124 Proviso Act.

Signification of Royal Assent.

43.—Any assent or disallowance by His Majesty, which under the principal Act is required to be signified through the Secretary of State in Council, shall as from the passing of this Act be signified by His Majesty in Council.

See s. 69 Act; cf. s. 12(3)—s. 81A. Act; cf. s. 13(2)—s. 72E(2) Act.

Power to make rules.

44.—(1) Where any matter is required to be prescribed or regulated by rules under the principal 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 or under the principal 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 Parlament 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 :

Provided that the Secretary of State may direct that any rules to which this section applies shall be laid in draft before both Houses of Parliament, and in such case the 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 rules may be made in the form in which they have been approved, and such rules on being so made shall be of full force and effect, and shall not require to be further laid before Parliament.

See s. 129A. Act; *e.g.*, regarding election and nomination to the Provincial Council under s. 7(4) cf. s. 72A. Act; rules regulating course of business there s. 11(5) [s. 72D.(5) Act]; rules *re* election and nomination to the Legislative Assembly and the Council of State s. 23 (s. 64 Act); rules regulating business and procedure in Indian legislature s. 24(2) [s. 67(1) Act].

Amendments of principal Act to carry Act into effect, &c.

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 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.

Definition of official.

46.—In this Act 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 or military service of the Crown in India :

Provided that rules under the principal Act may provide for the holders of such offices as may be specified in the rules not being treated for the purposes of the principal Act or this Act, or any of them, as officials.

See s. 134 Act; cf. s. 14 above (Act 1919); see Notification No. 614-G., dated the 9th September, 1920.

No. 614-G.—In exercise of the powers conferred by section 134 and 129-A 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 :—

1. (1) These rules may be called the Non-official (Definition) Rules.

(2) They shall come into force on a 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.

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.

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.

"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."—Jt. S. C. R. 2.

Short title, commencement, interpretation, and transitory provisions.

47.—(1) This Act may be cited as the Govenment 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 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 with the provisions of the principal Act as amended by this Act.

By Notification No. 828-G, (*see the Gazette of India Extraordinary, December*, 17, 1920.), under Sec. 47 (2), Government of India Act 1919, it is declared 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, on the date specified in the second column, and that the whole of said Act not in operation before the 3rd January, 1921, shall come into operation on that date.

Column I.	Column II.
The Presidency of Madras and the Central Provinces.	17th December, 1920.
The Province of Behar and Orissa.	29th December, 1920.

(3) 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 the principal Act, shall for all purposes be construed as references to the principal Act as amended by this Act, or the corresponding provision thereof.

(4) 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 the principal Act as amended by this Act.

Cls. (3) & (4), Sec. s. 130 New para 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.

Section 7.—First Schedule (*not printed here.*)

Section 45.—Second Schedule (*not printed here.*)

Section of Act.	Amendment.
Third Schedule.	The following Schedule shall be substituted for the Third Schedule (*Section* 98.) :—

THIRD SCHEDULE.

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, 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.

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.

SECTION.
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.

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.

SECTION.
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, etc., 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 Governor-General's Executive Council.

35. *Omitted.*
36. Members of council.
37. Rank and precedence of the Commander-in-Chief.
38. Vice-president of council.

SECTION.
39. Meetings.
40. Business of Governor-General in Council.
41. Procedure in case of difference of opinion.
42. Provision for absence of governor-general from meetings of council.
43. Powers of governor-general in absence from council.
43A. Appointment of council secretaries.

War and Treaties.

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

PART V.

LOCAL GOVERNMENTS.

General.

45. Relation of local Governments to Governor-General in Council.
45A. Classification of central and provincial subjects.

Governorships.

46. Local government in governors' provinces.
47. Members of governors' executive councils.
48. Vice-president of council.
49. Business of governor in council and governor with ministers.
50. Procedure in case of difference of opinion in executive council.
51. Provision for absence of governor from meetings of council.
52. Appointment of ministers and council secretaries.
52A. Constitution of new provinces, etc. and provision as to backward tracts.
52B Saving.

Lieutenant-Governorships and other Provinces.

SECTION.
53. Lieutenant-governorships.
54. Appointment, etc. of lieutenant-governors.
55. Power to create executive councils for lieutenant-governors.
56. Vice-president of lieutenant-governor's council.
57. Business of lieutenant-governor in Council.
58. Chief commissioners.
59. Power to place territory under authority of Governor-General in Council.

Boundaries.

60. Power to declare and alter boundaries of provinces.
61. Saving as to laws.
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PART VI.

INDIAN LEGISLATION.

The Indian Legislature.

63. Indian legislature.
63A. Council of State.
63B. Legislative Assembly.
63C. President of Legislative Assembly.
63D. Duration and sessions of Legislative Assembly and Council of State.
63E. Membership of both chambers.
64. Supplementary provisions as to composition of Legislative Assembly and Council of State.
65. Powers of Indian legislature.
66. Laws for the Royal Indian Marine Service.

SECTION.
67. Business and proceedings in Indian legislature.
67A. Indian budget.
67B. Provision for case of failure to pass legislation.
68. Assent of Governor-General to Bills.
69. Power of Crown to disallow Acts.
70. *Omitted.*

Regulations and Ordinances.

71. Power to make regulations.
72. Power to make ordinances in cases of emergency.

Local Legislatures.

(a) *Governors' Provinces.*

72A. Governors' legislative councils.
72B. Sessions and duration of governors' legislative councils.
72C. Presidents of governors' legislative councils.
72D. Business and procedure in governors' legislative councils.
72E. Provision for case of falure to pass legislation in governors' legislative councils.

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

73. Legislative councils of lieutenant-governors and chief commissioners.
74. *Omitted.*
75. *Omitted.*
76. Constitution of legislative councils of lieutenant-governors and chief commissioners.
77. Power to constitute local legislatures in lieutenant-governors' and chief commissioners' provinces.
78. Meetings of legislative councils of lieutenant-governors and chief commissioners.
79. *Omitted.*

SECTION.
80. Business at meetings of councils of lieutenant-governors and chief commissioners.

(c) *General.*

80A. Powers of local legislatures.
80B. Vacation of seats in local legislative councils.
80C. Financial proposals.
81. Assent to Bills.
81A. Return and reservation of Bills.
82. Power of Crown to disallow Acts of local legislatures.
83. *Omitted.*

Validity of Indian Laws.

84. Removal of doubts as to validity of certain Indian laws.

PART VIA.

STATUTORY COMMISSION.

84A. Statutory Commission.

PART VII.

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

85. Salaries and allowances of Governor-General and certain other officials in India.
86. Leave of absence to members of executive councils.
87. Provisions as to absence from India.
88 *Omitted.*

SECTION.
89. Power for Governor-General to exercise powers before taking seat.
90. Temporary vacancy in office of Governor-General.
91. Temporary vacancy in office of governor.
92. Temporary vacancy in office of member of an executive council.
93. Vacancies in legislative councils.
94. Leave.
95. Power to make rules as to Indian military appointments.
96. No disabilities in respect of religion, colour or place of birth.
96A. Qualification of rulers and subjects of certain states for office.

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THE CIVIL SERVICES IN INDIA.

96B. The civil services in India.
96C. Public service commission.
96D. Financial control.
96E. Rules under Part VIIA.

PART VIII.

THE INDIAN CIVIL SERVICE.

97. Rules for admission to the Indian Civil Service.
98. Offices reserved to the Indian Civil Service.
99. Power to appoint certain persons to reserved offices.
100. Power to make provisional appointments in certain cases.

PART IX.

THE INDIAN HIGH COURTS.

Constitution.

101. Constitution of high courts.
102. Tenure of office of judges of high courts.

SECTION.
103. Precedence of judges of high courts.
104. Salaries, &c., of judges of high courts.
105. Provision for vacancy in the office of chief justice or other judge.

Jurisdiction.

106. Jurisdiction of high courts.
107. Powers of high court with respect to subordinate courts.
108. Exercise of jurisdiction by single judges or division courts.
109. Power for Governor-General in Council to alter local limits of jurisdiction of high courts.
110. Exemption from jurisdiction of high court.
111. Written order by Governor-General justification for act in any court in India.

Law to be administered.

112. Law to be administered in cases of inheritance and succession.

Additional High Courts.

113. Power to establish additional high courts.

Advocate-General.

114. Appointment and powers of advocate-general.

PART X.

ECCLESIASTICAL ESTABLISHMENT.

115. Jurisdiction of Indian bishops.
116. *Repealed.*
117. Consecration of person resident in India appointed to bishopric.
118. Salaries and allowances of bishops and archdeacons.
119. Payments to representatives of bishops.
120. Pensions to bishops.
121. Furlough rules.

SECTION.
122. Establishment of chaplains of Church of Scotland.
123. Saving as to grants to Christians.

PART XI.

OFFENCES, PROCEDURE AND PENALTIES.

124. Certain acts to be misdemeanours: Oppression—Wilful disobedience—Breach of duty—Trading—Receiving presents.
125. Loans to princes or chiefs.
126. Carrying on dangerous correspondence.
127. Prosecution of offences in England.
128. Limitation for prosecutions in British India.
129. Penalties.

PART XII.

SUPPLEMENTAL.

129A. Provision as to rules.
130. Repeal.
131. Saving as to certain rights and powers.
132. Treaties, contracts and liabilities of East India Company.
133. Orders of East India Company.
134. Definitions.
135. Short title.

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SECOND SCHEDULE.—OFFICIAL SALARIES, &C.
THIRD SCHEDULE.—OFFICES RESERVED TO THE INDIAN CIVIL SERVICE.
FOURTH SCHEDULE.—ACTS REPEALED.
FIFTH SCHEDULE.—PROVISIONS OF THIS ACT WHICH MAY BE REPEALED OR ALTERED BY THE INDIAN LEGISLATURE.

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, (21 & 22 *Vict.*, *c.* 106.) 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.

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, (21 & 22 *Vict.*, *c.* 106.) had not been passed, might or should have been 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

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[1] These words were inserted by P . II of the Government of India Act, 1919.

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

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.]

See notes under s. 30 Act (1919).

The Council of India.

The Council of India.

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

[2][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.]

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

(3) Unless at the time of an appointment to fill a vacancy in the Council [3][one half] of the then existing members of the Council are persons who have served or resided in [*] [4]India for at least ten years,

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

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

[3] The word "one-half" was substituted for the word "nine" by Part II of Sch. II of the Government of India Act, 1919.

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

and have not last left [*] [1]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 [2][five] years :

[3][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

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1 The word "British" was omitted by Sch. I of the Government of India (Amendment) Act 1916.

2 The word "five" was substituted for "seven" by Part II of Sch. II of the Government of India Act, 1919

3 This proviso was inserted by *ibid.*

by His Majesty from his office on an address of both Houses of Parliament.

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

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.]

See notes under s. 31 Act. (1919).

Seat in Council disqualification for Parliament.

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

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[1] Sub-section (8) & (9) of section 3 were substituted for old sub-section (8) by Part II of Sch. II of the Government of India Act, 1919.

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]

Power 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 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

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[1] The remaining words were omitted by *ibid.*

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

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,

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[1] The word "month" was substituted for the word "week" by Part II of Sch. II of the Government of India Act, 1919.

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 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.
14. —[2]*Omitted.*

[1] These words were substituted for "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.

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

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 these 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 and 10 Geo. 5, Ch. 101. (*Government of India Act*, 1919.)

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.

Pension 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] * * * * In the appointment of officers 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

[1] Certain words were omitted by Part II of Sch. II of the Government of India Act, 1919.

military or civil service of the Crown or of the East India Company.

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.

Relaxation of control of Secretary of State.

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

[1] Section 19A was inserted by Part I of Sch. II of the Government of India Act, 1919.

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.]

See notes under Sec. 33 Act (1919.)

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, (21 & 22 *Vict.*, *c.* 106.) 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

(*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, (21 & 22 *Vict., c.* 106.) had not been passed; and

(*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 pro-

[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919.

perty 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, (21 & 22 *Vict.*, *c.* 106.) 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.

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, (21 & 22 *Vict.*, *c.* 106.) or this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council of India :

[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.]

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1 These words were inserted by Part II of Sch. II of the Government of India Act, 1919.

2 These words were added by Sch. I of the Government of India (Amendment) Act, 1916.

Application of revenues to military operations beyond the frontier.

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

Accounts of Secretary of State with Bank.

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.

(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 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 or 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 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 interest borne by those loans,

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[1] These words were substituted for the words "fourteen days" by Sch. I of the Government of India (Amendment) Act, 1916.

debts and liabilities respectively, and the annual amount of that interest;

[1](*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 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.

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[1] Paragraph (*d*) was repealed by Sch II of the Government of India (Amendment) Act, 1916.

(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 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 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.

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[1] These words were inserted by Part II of Sch. II of the Government of Indla Act, 1919.

[2] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916.

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

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 His Majesty for the purpose 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 purpose, 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

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[1] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916.

[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.

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 affreightment or the carriage of goods, or to insurance, may, subject to such rules and restrictions as the Secretary of State in Council 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.

High Commissioner for India.

[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.]

See notes under Sec. 35 Act (1919).

Powers to execute assurances, etc., in 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, pres-

1 Section 29A was inserted by Part I of Sch. II of the Government of India Act, 1919.

cribes, 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 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][(1*a*) 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.]

See notes under Sec. 2 Act (1919).

(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.

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[1] These words were inserted by Sch. I of the Governmet of India (Amendment) Act, 1916.

[2] Sub-section (1*a*) was inserted by Part II of Sch. II of the Government of India Act, 1919.

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

(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, etc.

31.—The Governor-General in Council, and any other person authorised by any Act passed in that behalf by the [1][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.

Rights and liabilities of Secretary of State in Council.

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.

(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, (21 & 22 *Vict.*, *c.* 106) and this Act had not been passed.

(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

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[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.

lawfully incurred by the East India Company if the Government of India Act, 1858, (21 & 22 *Vict., c.* 106.) and this Act had not been passed.

(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

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PART IV.

THE GOVERNOR-GENERAL IN COUNCIL.

General Powers and Duties of Governor-General in Council.

Powers of control of Governor-General in Council.

33.—[1][Subject to the provisions of this Act and rules made thereunder,] the superintendence, direction and control of the civil and military government of India is vested in the Governor-General in Council,

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[1] These words were inserted by Part II of Sch, II of the Government of India Act, 1919.

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 and 10 Geo. 5, Ch. 101. (*Government of India Act* 1919.)

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 thinks 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

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[1] The word "ordinary" was omitted by *ibid.*

[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.*

Advocates of Scotland, [1][or a pleader of a High Court] of not less than [2][ten] years' standing.

(4) If any [3][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 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.

[4][(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.]

See notes under Sec. 28 Act. (1919).

[5][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.]

Rank and precedence of Commander-in-Chief.

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1 These words were inserted by Part II of Sch II of the Government of India Act, 1919.

2 This word was substituted for the word " five " by *ibid.*

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

4 Sub-section (*5*) was inserted by *ibid.*

5 Section 37 was substituted by *ibid.*

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 [1][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 [2][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 Governor-General may make rules and orders for the more convenient transaction of business in his executive council, and every order made,

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

2 These words were inserted by Part II of Sch. II of the Government of India Act, 1919.

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-General from meetings of Council.

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

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.

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[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.

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

Powers of Governor-General in absence from 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 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.

[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.

Appointment of Council Secretaries.

(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.]

See notes under Sec. 29 Act. (1919).

War and Treaties.

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 com-

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

[1] Section 43A was inserted by Part I of Sch. II of the Government of India Act, 1919.

mence 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, 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

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[1] These words were inserted by Part II of Sch II of the Government of India Act, 1919.

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.

[1][* * * * *]

(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.

[2][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 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

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[1] Sub-section (2) was omitted by Part III of Sch. II of the Government of India Act, 1919.

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

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;

(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 sub-

jects, are in this Act referred to as "reserved subjects."]

See notes under Sec. 1. Act (1919).

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, shall each be governed, in relation to 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.]

See notes under s. 3 Act (1919).

[2][(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,

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1 Sub-section 1 of section 46 was substituted by Part I of Sch. II of the Government of India Act, 1919.

2 This sub-section was substituted by Part II of *ibid.*

by order revoke or suspend, for such period as he may direct, the appointment of a council for any or all of [1][the governors' provinces]; and whilst any such order is in force the governor of the [2][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) [3][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.

[4][(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.]

See notes under s. 5 Act (1919).

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1 These words were substituted for the words "those presidencies" by Part II of Sch. II of the Government of India Act, 1919.

2 This word was substituted for the word "presidency" by *ibid.*

3 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.*

4 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 governmen 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 :

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[1] This word was substituted for the word "Presidency" by *ibid.*

[2] Section 49 was substituted by Part I of *ibid.*

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.]

See notes under s. 6 Act (1919).

Procedure in case of difference of opinion in executive council.

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.

(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.

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1 This word was substituted for the word "presidency" by Part II of Sch. II of the Government of India Act, 1919.

(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, [1][***] the vice-president, or, if he is absent, the senior [2][*] 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 where the governor, when present, dissents from the majority at a meeting of the council.

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[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.

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

Appointment of ministers and council secretaries.

[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.

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

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1 Section 52 was substituted by Part I of Sch. II of the Government of India Act, 1919.

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.]

See notes under s. 4 Act (1919).

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, 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 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.

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1 Sections 52A and 52B were inserted by Part I of Sch. II of the Government of India Act, 1919.

(2) The Governor-General in Council may declare any territory in British India to be a "backward tract," 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 to give similar directions as respects any Act of the local legislature.]

See notes under s. 15 Act (1919).

[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

Saving.

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1 *See* foot-note on page 147 *supra*.

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.

(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 des not relate to a transferred subject, or relates to a transferred subject of which the minister is not in charge.]

See s. 16(1) and (3) Act (1919).

Lieutenant-Governorships and other Provinces.

Lieutenant-governorships.

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

(2) The 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.

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

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[1] These words were substituted for the words " Each of the following provinces, namely, those known as Bihar and Orissa, the Unitted Provinces of Agra and Oudh, the Punjab and " by Part II Sch. II of the Government of India Act, 1919.

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

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 lieutenant-governor being obliged to absent himself from his council by indisposition or any other cause :

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[1] Sub-section (*3*) was omitted by Part III of the Government of India Act, 1919.

[2] These words were inserted by Part III of Sch. II of *ibid.*

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 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 proving for its administration.

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

[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919.

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

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.

51. 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.

52.—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.

[1][63.– Subject to the provisions of this Act, the Indian legislature shall consist of the Governor-General and two chambers, namely, the Council of State and the Legislative Assembly.

Indian legislature.

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.]

See note under s. 17 Act (1919).

[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.

Council of State.

(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

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[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.

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.]

See notes under s. 19 Act (1919).

President of Legislative Assembly.

[1][63-C.—(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 per-

[1] *See* the foot-note on page 154 *supra*.

son 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.]

See notes under s. 20 Act (1919).

Duration and sessions of Legislative Assembly and Council of State.

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

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.

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[1] *See* the foot-note on page 154 *supra*.

(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.]

See notes under s. 21 Act (1919).

Membership of both chambers.

[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.

(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

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1 *See* the foot-note on page 154 *supra*.

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.]

See notes under s. 22 Act (1919).

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 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

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[1] *See* the foot-note on page 154 *supra*.

(*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 matter incidental or ancillary thereto; and

(*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.]

See notes under s. 23 Act (1919).

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

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[1] These words were substituted for "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919.

(*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 officers, soldiers [1][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 [1][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 [2][Indian legislature] has power to make laws.

(2) Provided that the [2][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 Indian (includ-

[1] The words were inserted by Part III of the Government of India Act, 1919.

[2] These words were substituted for the words "Governor General in Legislative Council" by Part II of Sch. II of *ibid.*

ing the Army Act, [1][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 [2][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

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1 These words were inserted by Part III of Sch II of the Government of India Act, 1919.

2 These words were substituted for the words "Governor General in Legislative Council" by Part II of *ibid.*

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 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

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[1] This sub-section was substituted by Part I of Sch. II of the Government of India Act, 1919.

any meeting of [1][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, [2][naval, or air] forces; or

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

[3][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 theGovernor-General.]

[4][(2)*a*) Where in either chamber of the Indian

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1 These words were substituted for the words "the Council" by Part II of Sch II of the Government of India Act, 1919.

2 These words were substituted for the words "or naval" by Part III of *ibid.*

3 These clauses were inserted by Part II of *ibid.*

4 Sub-section (2*a*) was inserted by Part II of *ibid.*

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.]

[1][(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 bothe 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.]

[1][(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

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[1] Sub-sections (3) (4) (5) (6) & (7) were substituted for sub-section (3) by Part I of Sch. II of the Government of India Act, 1919.

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.]

See notes under ss. 24 and 27 Act (1919).

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[1] See foot-note on page 165 *supra*.

Indian budget.

[1][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 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

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[1] Section 67A was inserted by Part I of Sch. II of the Government of India Act, 1919.

(*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 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 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 tranquility of British India or any part thereof.]

See notes under s. 25 Act, (1919).

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)

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[1] Section 67B was inserted by Part I of Sch. II of the Government of India Act, 1919.

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 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 forth-

with, and thereupon the Act shall have such force and effect as aforesaid, subject, however, to disallowance by His Majesty in Council.]

See notes under s. 26 Act, 1919).

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 the Governor-General has declared his assent thereto, or, in the case of [6][a Bill] reserved for the signification of His Majesty's pleasure, until His Majesty [7][in Council] has signified his assent [8][* * *], and that assent has been notified by the Governor-General.

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1 These words were substituted for the words "an Act" by Part II of Sch. II of the Government of India Act, 1919.

2 These words were subtituted 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 substituted for the words "an Act" by *ibid.*

7 These words were inserted by *ibid.*

8 The words "to the governor-general through the Secretary of State in Council" were omitted by *ibid.*

Power 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.

See s. 43 Act, (1919).

7.—[*Rules for conduct of legislative business*]—Omitted by Part II of Sch. II of 9 & 10 Geo. 5, Ch. 101. (*Government of India Act* 1919).

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.

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[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

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

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

(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 to which he has assented under this section.

[2][(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.

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[1] These words were substituted for the words "Governor-General in Legislative Council" by the Government of India Act, 1919.

[2] This sub-section was inserted by section 2 (1) of the Government of India (Amendment) Act, 1916.

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 [1][Indian legislature] but the power of making ordinances under this section is subject to the like restrictions as the power of the [1][Indian legislature] to make laws; and any ordinance made under this section is subject to the like disallowance as an Act passed by the [1][Indian legislature] and may be controlled or superseded by any such Act.

LOCAL LEGISLATURES.

(*a*) *Governor's Provinces.*

Composition of Governors' legislative councils.

[2][72A.—(1) There shall be a legislative council in every governor's province, which shall consist of the members of the executive council and of the 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.

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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.

2 Section 72A was inserted by Part I of *ibid.*

(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 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 purposes of any Bill introduced or proposed to be introduced in this 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 deem-

ed to be elected members of the legislative council of the Central Provinces.

(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.]

See notes under s. 7 Act (1919).

Sessions and duration of governors' legislative councils

[1][72B.—(1) Every governor's legislative council shall continue for three years from its first meeting:

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 gov-

[1] Sections 72B & 72C were inserted by Part I of Sch. II of the Government of India Act, 1919.

ernor 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.]

See notes under s. 8 Act (1919).

Presidents of governors' legislative councils.

[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 :

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

1 See foot note on page 177 *supra*.

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 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.]

See notes under s. 9 Act (1919).

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

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, 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

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1 Section 72D was inserted by Part 1 of Sch. II of Government of India Act, 1919.

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

(4) 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.

(5) 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.

(6) 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.

(7) 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 gov-

ernor, 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.

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

See notes under s. 11 Act (1919).

Provision for case of failure to pass legislation in governors' 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

[1] Section 72E was inserted by Part I of Sch. II of the Government of India Act, 1919.

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

See notes under s. 13 Act (1919).

(*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) * * * *

(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 [4][as hereinafter provided].

[5](4) * * * *

74. [*Constitution of legislative councils in Bengal, Madras and Bombay.*]—Omitted by Part II of Schedule II of 9 and 10 Geo. 5, Ch. 101. (*Government of India Act* 1919).

75. [*Meetings of legislative councils of Bengal, Madras and Bombay.*]—Omitted by Part II of Schedule II of 9 and 10 Geo. 5, Ch. 101. (*Government of India Act*, 1919).

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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.

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 of *ibid.*

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

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

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, 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 legis-

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1 This word was subetitnted for the word "Act" by Part II of Sch. II of the Government of India Act, 1919,

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.*

lative 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.

[1][(3*a*) Rules made under this section may provide for the final decision of doubts or disputes as to the validity of an election.]

[1][(3*b*) 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 alternation by the [2][Indian legislature or the local legislature] :

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 pro-

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[1] Sub-sections (3*a*) and (3*b*) were inserted by section 1 (2) of the Government of India (Amendment) Act, 1916.

[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.

vince, 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) [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

1 These words were inserted by Part II of Sch. II of the Government of India Act, 1919.

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, [1][or when questions are asked] the vice-president, or the member appointed to preside [2][* * * *].

[3][(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.]

[3][(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 and 10 Geo. 5, Ch. 101. (*Government of India Act*, 1919.)

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[1] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916

[2] 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.

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

Business at meetings of councils of lieutenant-governors and chief commissioners.

80. (1) At a meeting of a local legislative council [1][(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.

[2](2) * * * * *

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

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1 These words were inserted by Part II of Sch. II of the Government of India Act, 1919.

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

3 These words were inserted by *ibid.*

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

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1 These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916.

2 The word " governor " was omitted by Part II of Sch. II of the Government of India Act, 1919.

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 Part II of Sch. II of the Government of India Act, 1919.

any alteration so made may be disallowed by the Governor-General in Council, and if so disallowed shall have no effect.]

(*c*) *General.*

[1][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.

Powers of local legislatures.

(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-

1 Section 80A was inserted by Part I of Sch. II of the Government of India Act, 1919.

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 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 re-

pealed 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.]

See notes under s. 10 Act (1919).

Vacation of seats in local legislative council.

[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

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1 Sections 80B and 80C were inserted by Part I of Sch. II of the Government of India Act, 1919.

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

See notes under s. 14 Act (1919).

[1][80C. It shall not be lawful for any member of any local legislative council to introduce, without the 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.]

Financial proposals.

81. (1) When [2][A Bill] has been passed [3][by] 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].

Assent to Bills.

(2) If the governor, lieutenant-governor or chief commissioner withholds his assent from any such [5][Bill], the [5][Bill] [6][shall not become an Act].

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1 See foot-note p. 194 *Supra*.

2 These words were substituted for the words " an Act " by Part II of Sch. II of the Government of India Act, 1919.

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 of *ibid*.

5 This word was substituted for the word " Act " by Part II of *ibid*.

6 These words were substituted for the words " has no effect " by Part II of *ibid*.

(3) If the governor, lieutenant-governor or chief commissioner assents to any such [1][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.

Return and reservation of Bills.

[2][81A. (1) Where a Bill has been passed by a local legislative council, the governor, lieutenant-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 :—

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1 This word was substituted for the word "Act" by Part II of Sch. II of the Government of India Act, 1919.

2 Section 81A was inserted by Part I of *ibid.*

(*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 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.]

See notes under s. 12 Act. (1919).

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

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1 These words were substituted for the words " any such Act " by Part II of Sch. II of the Government of India Act 1919.

lawful for His Majesty [1][in Council] to signify [2][**] his disallowance of [3][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 and 10 Geo. 5, Ch. 101. (*Government of India Act*, 1919.)

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 [4][an Act of the Indian legislature] [5][or a local legislature], because it affects the prerogative of the Crown; or

(*b*) in the case of any law, because the requisite

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[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919.

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

[3] These words were substituted for the words "any such Act" by *ibid.*

[4] These words were substituted for the words "a law made by the Governor-General in Legislative Council" by *ibid.*

[5] These words were inserted by section 2 (2) of the Government of India (Amendment) Act, 1916.

proportion of [1][non-official members] was not complete at the date of its introduction into the council or its enactment; or

(*c*) in the case of [2][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.

[3][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.]

[4][(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 proceed-

1 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.

2 These words were substituted for the words " a law made by " by *ibid.*

3 These words were inserted by section 2 (*2*) of the Government of India (Amendment) Act, 1916.

4 This sub-section was inserted by Part I of Sch. II of the Government of India Act, 1919.

ings on the ground that the Act affects a provincial subject, or a central subject, as the case may be, and 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.]

See notes under s. 16 (2) Act. (1919).

PART VIA.

STATUTORY COMMISSION.

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

[1] Section 84A was inserted by Part I of Sch. II of the Government of India Act, 1919.

establishment of second chambers of the local legislature 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.]

See note under s. 41 Act. (1919).

PART VII.

SALARIES, LEAVE OF ABSENCE, VACATION OF OFFICE, APPOINTMENTS, &c.

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

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 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.]

Leave of absence to members of executive councils.

86. (1) The Governor-General in Council may grant to any of the [2][*] members of his executive council [3][(other than the Commander-in-Chief)], and a governor in council [4][and a lieutenant-governor in

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1 This proviso was inserted by Part III of Sch. II of the Government of India Act, 1919.

2 The word " ordinary " was omitted by Part II of *ibid.*

3 These words were inserted by *ibid.*

4 These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916.

council] may grant to any member of his executive council, leave of absence under medical certificate for a period not exceeding six months.

(2) Where a member of council obtains leave of absence in pursuance of this section, he shall retain his office during his absence, and shall on his return and resumption of his duties be entitled to reseive half his salary for the period of his absence; but if his absence exceeds six months his office shall become vacant.

Provisions as to absence from India.

87. (1) If the Governor-General, or a governor, or the Commander-in-Chief of His Majesty's forces in India, and, [1][save in the case of absence on special duty or on leave under a medical certificate] if any [2][*] member of the executive council of the Governor-General, [3][(other than the Commander-in-Chief)] or any member of the executive council of a governor [4][or of a lieutenant-governor] departs from India, intending to return to Europe, his office shall thereupon become vacant.

[5](2)—(5) * * * * *

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1 These words were substituted for the words "subject to the foregoing provisions of this Act as to leave of absence" by Part III of Sch. II of the Government of India Act, 1919.

2 The word "ordinary" was omitted by Part II of *ibid.*

3 These words were inserted by Part II of *ibid.*

4 These words were inserted by Part III of *ibid.*

5 Sub sections (2), (3), (4) and (5) were repealed by Sch. II of the Government of India (Amendment) Act, 1916.

88. [*Conditional appointments*]—Omitted by Pt. III of Sch. II of 9 and 10 Geo. 5, Ch. 101. (*Government of India Act*, 1919).

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 suceed, 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 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-pre-

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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.

2 The word "absolutely" was omitted by Part III of *ibid*.

3 These words were substituted for the words "that office" by Part III of *ibid*.

sident, 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

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1 These words were substituted for the words "ordinary member of the Council" by Part II of the Government of India Act, 1919.

2 The words "conditional or other" were omitted by Part III of *ibid.*

3 These words were inserted by Part II of *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.

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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.

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

3 The words "conditional or other" were omitted by Part III of *ibid.*

4 The word "ordinary" was omitted by Part II of *ibid.*

5 These words were inserted by *ibid.*

Temporary vacancy in office of governor.

91. (1) If a vacancy occurs in the office of governor when no [1][***] 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 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 [2][a member] of the executive council council of the Governor-General [3][(other than the Commander-in-Chief)], or a member of the executive council of a governor, and there is no [1][***] 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 ap-

1 The words "conditional or other" were omitted by Part III of Sch. II of the Government of India Act, 1919.

2 These words were substituted for the words "an ordinary member" by Part II of *ibid.*

3 These words were inserted by Part II of *ibid.*

pointed 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 [1][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, [3][or special duty] [4][***] 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.

(4) Until the return to duty of the member so incapable or absent, the person [5][**] 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 half the salary of the member of council whose place he fills, and also half the salary of any other office which he may hold, if he hold any

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1 These words were substituted for the words "any ordinary member" by Part II of Sch. II of the Government of India Act, 1919.

2 These words were inserted by *ibid.*

3 These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916.

4 Certain words were omitted by Part III of Sch. II of the Government of India Act, 1919.

5 The words " conditionally or " were omitted by *ibid.*

such office, the remaining half of such last-named salary being at the disposal of the Governor-General in Council or governor in council, as the case may be.

(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 Gov-

1 The words " under this Act " were omitted by Part II of Sch. II of the Government of India Act, 1919.

2 These words were substituted for the words " the Indian Legislative Council " by *ibid.*

ernor-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.

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

[1] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916.

[2] These words were substituted for the words "leave may be granted" by Sch. I of *ibid.*

in [1][military] offices under the Crown in India, and may reinstate [1][military] officers and servants suspended or removed by any of those authorities.

(2) Subject to such rules, all appointments to [1][military] offices and commands in India, and all [1][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.

[2][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, any named ruler or subject of any state in India shall be

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[1] This word was inserted by Part II of Sch II of the Government of India Act, 1919.

[2] Section 96A was inserted by section 3 of the Government of India (Amendment) Act, 1916.

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 VII A.

THE CIVIL SERVICES IN INDIA.

The civil services in India.

[1][96B. (1) Subject to the provision 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

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[1] Section 96B was inserted by Part I of Sch. II of the Government of India Act, 1919.

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 recuritment, their conditions of service, pay and allowances, and 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*and* 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.]

See notes under s. 36 Act (1919).

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

[1] Sections 96C and 96D were inserted by Part I of Sch. II of the Government of India Act, 1919.

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.]

See notes under s. 38 Act (1919).

Financial control.

[1][96D. 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

[1] See foot-note, page 215 *supra*.

or of the Government of India, according as the post is or is not under the control of a local government.]

See notes under s. 39 Act (1919).

[1][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.]

Rules under Part VII A.

See s. 40 Act (1919).

PART VIII.

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 [2][and of persons in respect of whom a declaration has been made under [3]section 96A of this Act] who are desirous of becoming candidates for appointment to the Indian Civil Service.

Rules for admission to the Indian Civil Service.

(2) The rules shall prescribe the age and qualifications of the candidates, and the subjects of examination.

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1 Section 96E was inserted by Part I of Sch. II of the Government of India Act, 1919.

2 These words were inserted by section 4 of the Government of India (Amendment) Act, 1916.

3 The words "Section 96A" were substituted for "the last foregoing section" by Part II of Sch. II of the Government of India Act, 1919.

[1][(2*a*) 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 persons only as are so certified may be appointed or admitted to the Indian Civil Service by the Secretary of State in Council.

[2][(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

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[1] This sub-section was inserted by section 4 of the Government of India (Amendment) Act, 1916.

[2] This sub-section was inserted by Part I of Sch. II of the Government of India Act, 1919.

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 beve been laid for thirty days before both Houses of Parliament.]

See notes under s. 37 Act (1919).

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 [1][''] 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

[1] The words "in British India" were repealed by Sch. I of the Government of India (Amendment) Act, 1916.

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 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, 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

(*d*) a person having been a pleader of a high court for a period of not less than ten years.

(4) Provided that not less than one-third of the judges of a hign 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 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, etc., 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 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 to 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 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 jurisdictions, 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

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1 This sub-section was inserted by Sch. I of the Government of India (Amendment) Act, 1916.

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 [1][law] 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

[1] This word was substituted for the word "Act" by Sch. I of the Government of India (Amendment) Act, 1916.

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 chief commissioner] and each of the members of [3][the executive council of the Governor-General or of a governor or lieutenant-governor] [4][and a minister appointed under this Act], shall not—

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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.

2 These words were inserted by *ibid.*

3 These words were substituted for the words " their respective executive councils " by *ibid.*

4 These words were inserted by Part II of Sch II of the Government of India Act, 1919.

(*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 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-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 form 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.]

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[1] This sub-section was added by Sch. I of the Government of India (Amendment) Act, 1916.

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

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1 These words were iuserted by Part III of Sch. II of the Government of India Act, 1919.

is subject to the Bishop of Calcutta as such Metropolitan, 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 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.

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[1] The words "and archdeacons" were omitted by Part III of Sch. II of the Government of India Act, 1919.

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

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 arch-

[1] These words were substituted for the words " Chancellor of the Exchequer " by Sch. I of the Government of India (Amendment) Act, 1916.

deacon for ten years, or one thousand pounds per annum if he has resided in India as Bishop of Calcutta [1][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

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[1] These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916.

[2] The words " to be paid quarterly " were repealed by *ibid.*

[3] The word " British " was repealed by *ibid.*

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

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.

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

(3) if he is guilty of any wilful breach of the trust and duty of his office; or

Breach of duty.

(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

Trading.

(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 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

Receiving presents.

[1] These words were inserted by Part II of Sch. II of the Government of India Act, 1919.

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.]

See notes under s. 42 Act (1919).

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[1] This Proviso was inserted by Part I of Sch. II of the Government of India Act, 1919.

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 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 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 pursance 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 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.

[1][129A.—(1) Where any matter is required to be prescribed or regulated by rules, under this Act and no special provison 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.

Provisions as to rules.

(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 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 anulled, 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.

Provided that the Secretary of State may direct that any rules to which this section applies shall be

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1 Section 129A was inserted by Part I of Sch. II of the Government of India Act, 1919.

laid in draft before both Houses of Parliament, and in such case the rules shall not be made unless both Houses by resolution approve the draft either without modification or addition, or with modifications and additions to which both Houses agree, but upon such approval being given, the rules may be made in the form in which they have been approved, and such rules on being so made shall be of full force and effect, and shall not require to be further laid before Parliament.]

See notes under s. 44 Act (1919).

Repeal.

130.—The Acts specified in the Fourth Schedule to this Act are hereby repealed, to the extent mentioned in the third column of that Schedule :

Provided that this repeal shall not affect—

(*a*) the validity of any law, charter, letters patent, Order in Council, warrant, proclamation, notification, rule, resolution, order, regulation, direction or contract made, or form prescribed, or table settled, under any enactment hereby repealed and in force at the commencement of this Act, or

(*b*) the validity of any appointment, or any grant or appropriation of money or property made under any enactment hereby repealed, or

(*c*) the tenure of office, conditions of service,

terms of remuneration or right to pension of any officer appointed before the commencement of this Act.

[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.]

See s. 47 (3) and (4) Act (1919).

Savings.

Savings 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.

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[1] These paragraphs were inserted by Part I of Sch. II of the Government of India Act, 1919.

(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 [1][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 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.

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[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.

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,

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1 Paragraph (4) was substituted by Part II of Sch. II of the Government of India Act, 1919.

the lieutenant-governor or chief commissioner in legislative council];

(5) " office " includes place and employment;

(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.]

See notes under s. 46 Act (1919).

Short title.

[2][135.—This Act may be cited as the Government of India Act.]

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[1] This paragraph was inserted by Part I of Sch. II of the Government of India Act, 1919.

[2] Sec. 135 was substituted by Part II of *ibid.*

SCHEDULES.

[1]FIRST SCHEDULE. [s. 72A.]

Number of Members of Legislative Councils.

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

[1] This Schedule was substituted by Part I of Sch. II of the Government of India Act, 1919.

[1]SECOND SCHEDULE. [s. 85.]

Official Salaries, etc.

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.
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] This Schedule and Sch. III were substituted by Part II of Sch. II of the Government of India Act, 1919.

[1]THIRD SCHEDULE. [s. 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, 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.

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[1] See footnote, page 251 *Supra.*

FOURTH SCHEDULE. [s. 130.]

ACTS REPEALED.

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 forty-two, forty-three and forty-five.
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.
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.

Session and Chapter.	Short Title.	Extent of Repeal.
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.
23 & 24 Vict., c. 100. ...	The European Forces (India) Act, 1860.	The whole Act.
23 & 24 Vict., c. 102. ..	The Eost 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.

Session and Chapter.	Short Title.	Extent of Repeal.
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 Indian 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.
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.

Session and Chapter.	Short Title.	Extent of Repeal.
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. [s. 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.
110	Exemption from jurisdiction of high courts.
111	Written order by Governor-General in Council a justification for act in high court.

[1] This schedule was substituted by Sch. I of the Government of India (Amendment) Act, 1916.

[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.

Section.	Subject.
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.

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 enun-

ciated 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 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 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 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 informa-

tion 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, but they wish to place in the forefront of the Report their opinion that they see no rea-

son why the relations should not be harmonions 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 Counciltheir 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 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 rule 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.

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[*For remarks on the specific clauses of the Bill, see extracts under notes to the sections of the Act,* (1919).]

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 consitution 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 priciple on which contri-

butions 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 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 period 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 Function 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 much importance, however, to the educational advancement of the depressed and backward classes, and they trust that the subject will receive special atten-

tion from ministers. They are also impressed by the advantage of Boards 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 326 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.

17*th November*, 1919.

SECOND REPORT.

FROM THE JOINT SELECT COMMITTEE ON THE DRAFT RULES MADE UNDER THE GOVERNMENT OF INDIA ACT.

Ordered to Report—

1. That the Committee have met and concluded their consideration of the draft rules to be framed by the Government of India, and the Secretary of State for India in Council under the Government of India Act, 1919, which, under the provisions of that Act, require the approval of Parliament. The draft rules which are the subject of the present report are those provisionally presented to both Houses of Parliament in Command Paper 765, and the Committee understand that these drafts will now be reprinted with such modifications and amendments as are enumerated in this Report, and with certain further amendments recommended by the Government of India since the original drafts were framed, which the Committee have considered and approved. 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.

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[*For remarks on the draft rules, see extracts under notes to the* DEVOLUTION RULES (APPENDIX A) THE LOCAL GOVERNMENT (BORROWING) RULES (APPENDIX B), THE NON-OFFICIAL DEFINITION RULES, (*see under notes to s.* 46, *Act* 1919) *and the rule made under s.* 33 *regarding relaxation of control of the Secretary of State* (*see under notes to s.* 33, *Act* 1919)].

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 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.

10*th August*, 1920.

NOTE ON THE REPORT
OF THE
FINANCIAL RELATIONS COMMITTEE.

The authors of the M-C. R. urged the importance of entirely separating the resources of the central and local governments and they proposed the abolition of the system of divided heads. They advocated that certain heads of revenue should be handed over entirely to the central government and others to the provincial governments; but as this scheme would result in a large deficit in the Government of India's budget, it was proposed to meet this deficit by the levy of contribution from the provinces (see M-C. R. 200, 202, 203, 206 and 207). In fixing this levy, the authors of the report recommended an assessment in the ratio of the gross surplus which they estimated that each province would enjoy under the new allocation of resources. But it was admitted that some provinces would bear a very much heavier proportion of the cost of the central government than others and that this scheme would largely affirm existing inequalities. The Government of India in their First Despatch (para 61) urged the appointment of a committee on financial relation to advise on the subject. The Joint Select Committee accepted and endorsed their recommendation that a fully qualified financial commission should be appointed to advise as to the principle on which contributions from the local to the central govern-

ment should in future be adjusted (see Jt. S. C. R. I, 9). The Secretary of State accordingly appointed the Financial Relations Committee (popularly known as the Meston Committee) to advise mainly on :—

(*a*) the contributions to be paid by the various provinces to the central government for the financial year 1921-22; (*b*) the modifications to be made in the provincial contributions thereafter with a view to their equitable distribution until there ceases to be an all-India deficit; (*c*) the future financing of the provincial loan accounts. [Para 3].

The Committee made the report on the 31st March, 1920. We summarise here the main points :—

(1) The Committee accepted the recommendation in the M-C. R. (para 203) that the income-tax should go to the central exchequer. The needs of the central government in the near future were likely to be quite as great and to develop quite as rapidly, as those of the provinces (para 7).

(2) As regards general (*i.e.*, non-judicial) stamps, the Committee advised that they be made a provincial head throughout, so that the whole of the stamp revenue (general and judicial) would be provincial (para 8).

(3) As regards provincial contributions the Committee said :—

" We anticipate that the Government of India will direct its financial policy towards reducing those contributions with reasonable rapidity, and their ultimate cessation. We recognise that it would be imprudent on the part of the central government to give any guarantee of the precise pace of reduction; but we think that a formal enunciation of the general policy would go some way to allay apprehensions which have been expressed to us. Such a policy would clearly be subject to the important reservation mentioned in the report, by which the central government must remain empowered to levy special contributions, by way of temporary loan or otherwise, from the provinces in the event of any crisis of first importance." [Para 9].

(4) After examination of figures, the Committee found the deficit in the revenue of the central government to be 983 lakhs, which was to be distributed over the provinces (para 10).

(5) In fixing the ratio in which each of the nine provinces should contribute to

make up the deficit, the Committee laid down as a principle, the obligation to leave each province with a reasonable working surplus—a surplus to be calculated with relation to the general financial position of the province and the imminent claims upon its resources (para 11).

(6) The Committee suggested a departure from the basis of initial contribution proposed in the M-C. R.—the basis of realized surplus. They proposed, subject to the principle laid down in para 5 above, to assess the initial contributions on the increase of the spending power. For one of results of the introduction of the Reform Scheme would be that each one of the provinces would gain something in revenue, while some would gain very substantially. (Paras 12 and 14).

(7) On this basis, the Committee recommended the following fixed ratio of contributions (called the Standard Contribution) which would represent a standard and equitable distribution of the deficit :—

Madras—17 per cent. contribution to deficit, Bombay—13, Bengal—19, United Provinces—18, Punjab—9, Burma—6½, Be-

har and Orissa—10, Central Provinces—5 and Assam—2½. (Para 27).

(8) The Committee proposed that contributions should be made on the standard ratio to any deficit that there may be in the seventh year of contribution and that the process of transition from the initial to the standard should be continuous, beginning in the second year of contribution, and proceeding in six equal annual steps. In recommending this sliding scale of contribution, the Committee thought that it would avoid an immediate dislocation in the provincial budgets (para 28).

(9) As regards the provincial loan account, the Committee agreed that the provinces, should, for the future finance their own loan transactions, and that joint account of this nature between them and the central government should be wound up as quickly as possible.

The Jt. S. C. R. 2, dealt with the recommendation of the Mes. Com. R. in the remarks on Devolution Rules 14—18 (see Appendix A. pp. 10*a*—12*a*). The Joint Committee recognized the peculiar financial difficulties of the Presidency of Bengal which they commended to the special consideration of the Government of India.

APPENDIX A.

THE DEVOLUTION RULES

[*See the Gazette of India Extraordinary, December 16th*, 1920.]

Rule.

1. Short title and commencement.
2. Definitions.

PART I.—CLASSIFICATION OF SUBJECTS.

3. *Classification of subjects.*
4. Settlement of doubts *about provincial subject.*
5. Duty of local Government to supply information.
6. Transfer of subjects and revocation or suspension of transfer.
7. Settlement of doubts *about transferred subject.*
8. Transfer in consequence of legislation.
9. Matters affecting both reserved and transferred subjects.
10. Regulation of exercise of authority over members of public service.
11. Service in a department.
12. Employment of I. M. S. officers.
13. Devolution.

PART II—FINANCIAL ARRANGEMENTS.

14. Allocation of revenue.
15. *Allocation of Income-Tax.*
16. Payment of Government revenues into the public account.
17. Contributions by local governments in 1921-22.
18. Contributions in subsequent years.

19. Excess contributions in case of emergency.
20. Priority of Contributions.
21. Withdrawal of balances.
22. Interests on provincial balances.
23. Provincial Loan Acount.
24. Capital Expénditure on irrigation works.
25. Advances by the Government of India.
26. Priority of interest charges.
27. Powers of sanctioning transferred expenditure.
28. Delegation of powers of sanction.
29. Famine Insurance Fund.
30. Taxation and borrowing.
31. Allocation of revenues for the administration of transferred subjects.
32. Procedure in event of failure to agree.
33. Period of order of allocation.
34. Condition of order of allocation.
35. Preparation of budget in default of agreement or order of allocation.

PART III—FINANCE DEPARTMENT.

36. Finance department.
37. Functions of Finance Department.
38. Powers of Finance Department with reference to re-appropriation.
39. Matters to be referred to Finance Department.
40. Establishment charges.
41. Allowances and pay.
42. Grants and concessions.
43. Abandonment of revenue etc.
44. Disposal of reports by Finance Department.
45. Presumption of assent of Finance Department.

PART IV—AGENCY.

46. Agency employment of local governments.
47. Cost of agency establishments.
48. Distribution of cost of joint establishment.

PART V—LIMITATION OF CONTROL.

49. Limitation of control by Governor General in Council over transferred subjects.

SCHEDULE I.

Part I—Central Subjects.

Part II—Provincial Subjects.

SCHEDULE II.

List of Provincial Subjects for Transfer.

SCHEDULE III.

Rules relating to transferred subjects.

SCHEDULE IV.

Famine Insurance Fund.

NOTIFICATION.

Delhi, December 16, 1920.

No. 308-*S.*—In exercise of the powers conferred by sections 45-A and 129-A 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.

1. (1) These rules may be called the Devolution Rules.

(2) They shall come into force on a 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, and for different provisions of these rules.

Short title and commencement.

2. In these rules, unless there is anything repugnant in the subject or context,—

Definitions.

(*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 local Governments and local legislatures of Governors' provinces and of the province of Burma 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.

For Classification of subjects as "central" and "provincial" see S. 1. (1) (*a*) Act 1919 or S. 45 A, Act.

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.

See S. 1. (2) (*v*) Act 1919.

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 revocation 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 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 subject shall not be a transferred subject.

For revocation or suspension of transfer see S. 1. (2) Proviso—Act 1919.

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.

See S. 1. (2) (*v*) Act 1919.

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.

See S. 1. (2) (*v*) Act 1919.

"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." Jt. S. C. R. 2.

Regulation of exercise of authority over members of public services.

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 order for the posting of an officer of an all-India service shall be made without the personal concurrence of the Governor.

See S. 1. (2) (*iv*) Act 1919.

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.

"*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 the revenues to the provincial Government 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 for such alleviation they have been materially assisted by suggestions from the Council of India, a body to whose advice great weight attaches in as much as it is the authority charged by law with the res-

ponsibility 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 Committe 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 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." Jt. S. C. R. 2. *Re* separation of revenues and financial devolution see M-C. R. 200-03 ; *re* contribution by the provinces see *ibid* 205-07.

Allocation of revenue.

14. (1) The following sources of revenue shall, in the case of Governors' provinces and in the province of Burma, be allocated to the local Government as sources of provincial revenue, namely :—

(*a*) balances standing at the credit of the province at the time when the Act comes into force ;

(*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, 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*) 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.

For allocation of revenue see S. 1. (1) (*b*) Act 1919.

15. (1) There shall be allocated to each local Government a share in the income-tax collected under the Indian Income-tax Act, 1918, within its jurisdiction. The share so allocated shall be three pies on each rupee brought under assessment under the said Act in respect of which the income-tax assessed has been collected.

(2) In consideration of this allocation, each local Government shall make to the Governor General in Council a fixed annual assignment of a sum to be determined by the Governor General in Council as the equivalent of the amount which would have accrued to the local Government in the year 1920-21 (after deducting the provincial share of the cost of special income-tax establishments in that year) had the pie rate fixed under sub-rule (1) been applied in that year, due allowance being made for any abnormal delays in collection of the tax.

(3) The cost of special income-tax establishments employed within a province shall be borne by the local Government and the Governor General in Council in the proportions of 25 per cent. and 75 per cent. respectively.

It was originally proposed that the central government was to receive the whole of the Income-tax and the revenue from General Stamps : see M-C.R. 203 ; the Mes. C.R. accepted the proposal regarding the Income-tax (see Mes. C. R. 5-7), but suggested that the revenue from General Stamps should be provincialised ; see below Schedule I, Part II, 20.

Payment of Government revenue 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.

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 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

See S. 1. (2) (*ii*) ; Mes C. R. 17.

Contributions in subsequent years.

18. 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 Conucil 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 :—

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

The sliding scale of per cent. contributions to the deficit as recommended by Mes. C. R. 28, has not been accepted.

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.

See M-C. R. 207 ; Mes. C. R. 9 (last four lines).

Priority of contributions

20. The contributions and assignments 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 ensuring 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.

"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." Jt. S. C. R. 2.

Interests on provincial balances.

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.

Provincial Loan Account.

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 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.

It was proposed by the Mes. C. R. (see 31-33) that the provinces should now finance their own loan transactions and that each province should take over from the Government of India as large a part of its account as possible by the 1st April 1921 and the balance as soon as possible. It was further recommended that interest should be paid on the provincial balances.

Capital expenditure on irrigation work.

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

cipal Act as amended by this Act shall, to the extent of that repugnancy, but not otherwise, be void.

Sec. 49 Act. Governor's province defined s. 3(1) (Sec. 41(1) Act); for relation of Governor to Minister, see s. 4 (s. 52 Act); for validity of order by Governor acting with minister see s. 16(3) (s. 52B. Act).

See *Instructions to Governors* (*Appendix K*).

" 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 last category the Committee 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. 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; member 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 members 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."—Jt. S. C. R. 1.

Composition of governors' legislative councils.

7.—(1) There shall be a legislative council in every governor's province, which shall consist of the members of the executive council and of the 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

In the second place, they think 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*) of the Act. But some reservations are required. The Secretary of State in Council must retain control over expenditure 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 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 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 point to which the Parliamentary Commission would be likely to direct its attention."—Jt. S. C. R. 2.

Delegations 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 Schedule 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.

See M-C. R. 204.

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 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.

"*Rules* 30 *and* 31. Formal changes have been made in these rules."—Jt. S. C. R. 2.

Allocation of revenue 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.

See S. I. (1) (*d*) Act 1919 or S. 45 A, Act.

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.

See M-C. R. 221 ; *re* Budget Procedure see *ibid* 255-57.

"*Rules* 32 *and* 33 have been redrafted, 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."—Jt. S. C. R. 2.

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 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.

See S. 1. (2) (*iii*) Act 1919.

37. The Finance Department shall perform the following functions, namely :—

Functions of Finance Department.

(*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 shall prepare an estimate of the total receipts and disbursements of the pro-

vince 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 to be 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 methods of collection employed.

Powers of Finance Department with reference to re-appropriation.

38. (1) After grants have been voted by the Legislative Council—

(*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 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.

"A formal change has been made in this rule."—Jt. S. C. R. 2.

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, 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.

"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."—Jt. S. C. R. 2.

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.

See S. 1. (1) (c) Act 1919.

47. The cost of an establishment exclusively employed on the business of agency shall be a charge against all-India revenue.

Cost of agency establishments

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.

Distribution of cost of joint establishment.

"*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."—Jt. S. C. R. 2.

Part V.—Limitation of control.

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 in relation to transferred subjects be exercised only for the following purposes, namely:—

Limitation of control by Governor General in Council over transferred subjects.

(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 VIIA, or of any rules made by, or with the sanction of, the Secretary of State in Council.

See M-C. R. 240 : S. 1. (3) Act 1919.

"A clause has been added. identical in form, *mutatis mutandis*, with a clause added to the corresponding rule under section 33, in order to enable intervention in transferred administration for the purpose 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."—Jt. S. C. R. 2.

——:o:——

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 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 69-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 a central authority is declared by order of the Governor General in Council, made after consultation with the local Government or local Governments concerned, expedient in the public interest.

"The Committee have thought it desirable to insert the words "made after consultation with the local Government or local Governments," though they have little doubt that even were the words not inserted such consultation would invariably take place."—*Jt. S. C. R.* 2.

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 developemnt, 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 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 organisation.

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 inter-provincial, and declaration of laws in connection therewith.

43. Regulation of ceremonial, titles, orders, precedence, and civil unifrom.

44. Immovable 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 province for the purpose 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.

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, 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.

6. Public works 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 notification in the *Gazette of India*, remove any such monument from the operation of the 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 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 ; 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 durgs, 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.

17. Administration of justice, including constitution, powers, maintenance and organisation of courts of civil and 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, except such ports as may be declared by rule made by the Governor-General in Council or by or under Indian legislation to be major ports.

31. Inland waterways, 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*) control of motor vehicles ; subject to legislation by the Indian legislature as regards licenses 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 (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 72-A (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. 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. Matters pertaining to a central subject in respect of which powers have been conferred by or under any law upon a local Government.

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 within British India.	Ditto.

Column. I.	Column II.
5. Education, other than European and Anglo-Indian education, provided that—	All Governors' provinces.
(*a*) the following subjects shall be excluded, namely :—	
(*i*) the Benares Hindu 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 function 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	

Column. I.	Column. II.
organisation of secondary education in the Presidency of Bengal.	
6. Public Works 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 building ; 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 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 ;	

Column. I.	Column. II.
(*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, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insect 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.
9. Fisheries	All Governors' provinces, except Assam.

Column. I.	Column. II.
10. Co-operative Societies..	All Governors' provinces.
11. Forests, including preservation of game therein ; subject to legislation by the Indian legislature as regards disforestation of reserved forests.	Bombay.
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 licence 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 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.	Ditto.

	Column. I.	Column. II.
18.	Adulteration of food-stuffs and other articles; subject to legislation by the Indian legislature as regards import and export trade.	All Governors' provinces.
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.

SCHEDULE III.

(SEE RULE 27.)

Rule 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 attached to 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, or the increase of the maximum pay of a sanctioned permanent post to an amount exceeding Rs. 1,200 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 with pay exceeding Rs. 1,200 a month ;

(4) to the grant to any officer 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 ; 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 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 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.

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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	3,81,000
Burma	67,000
Bihar and Orissa	11,62,000
Central Provinces	47,26,000
Assam	10,000

2. The provision shall be made in the shape of a demand for a grant, and the estimates shall show, under the major

heads concerned, the method in which it is proposed to utilise the grant.

3. The grant shall not be expended save upon the relief of famine or upon the construction of protective irrigation works or other works for the prevention of famine. Any portion of the grant which is not so spent shall be transferred to the famine insurance fund of the province.

4. The famine insurance fund shall consist of the unexpended balances of the annual assignments for each year, transferred to the fund under paragraph 3 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 avergae 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 3 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, payment 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 or the famine insurance fund is one of the purposes specified in

paragraph 3 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.

"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."—Jt. S. C. R. 2

—o—

Under r. 1 (2), all the provisions of the rules except those contained in rules 14, 15, 16, 24, 27, 28, 29, 47, and 48 and Schedule III are declared in force :—

(1) in the Presidency of Madras and the Central Provinces, on the 17th December, 1920,

(2) in the Province of Bihar and Orissa, on the 29th December, 1920,

(3) 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 in the Gazette of India Extraordinary, December*, 17, 1920.)

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APPENDIX B.

THE LOCAL GOVERNMENT (Borrowing) RULES.

[*See the Gazette of India Extraordinary, December* 16, 1920.]

Rule.

1. Short Title and Commencement.
2. Purposes for which loans may be raised.
3. Sanction to Loans.
4. Priority.

No. 309-*S.*—In excercise of the powers conferred by section 30 (1A) and 129-A 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 Local Government (Borrowing) Rules.

(2) They shall come into force on a 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.

See S. 2 Act 1919 or S. 30 (1 A) Act.

2. A local Government may raise loans on the security of the revenues allocated to it for any of the following purposes, namely :—

Purposes for which loans may be raised.

(*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.

"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 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."—Jt. S. C. R. 2.

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.

——o——

Under r. 1 (2), these rules are declared in force :—

(1) in the Presidency of Madras, and the Central Provinces, on the 17th December, 1920.

(2) in the Province of Bihar and Orissa, on the 29th December, 1920.

(3) 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.* 315-*S. in the Gazette of India Extraordinary, December* 17, 1920.)

APPENDIX C.

THE TRANSFERRED SUBJECTS (Temporary Administration) RULES.

[*See the Gazette of India Extraordinary, December* 16, 1920.]

Rule.

1. Short Title and Commencement.
2. Vacancy in office of minister.
3. Certification of necessity.
4. Administration to be temporary.
5. Certification of legislation.

No. 810-*S.*—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 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 ministers.

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 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.

——o——

Under r. 1 (2), these rules are declared in force :—

(1) in the Presidency of Madras and the Central Provinces, on the 17th December, 1920,

(2) in the Province of Bihar and Orissa, on the 29th December, 1920.

(3) 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.* 316-*S. in the Gazette of India Extraordinary, December* 17, 1920.)

APPENDIX D.

THE SCHEDULED TAXES RULES.

[*See the Gazette of India Extraordinary, December* 16, 1920.]

Rule.

1. Short Title and Commencement.
2. Taxes which may be imposed for purposes of local Government.
3. Taxes which may be imposed for purposes of local authorities.
4. Additions to Schedules.

SCHEDULE I.
SCHEDULE II.

No. 311-*S.*—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 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.

——:o:——

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.
8. A terminal tax on goods imported into a local area in which an octroi was 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.

——o——

Under r. 1 (2), these rules have been declared in force :—

(1) in the Presidency of Madras and the Central Provinces, on the 17th December, 1920,

(2) in the Province of Bihar and Orissa, on the 29th December, 1920,

(3) 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.* 317-*S. in the Gazette of India Extraordinary, December* 17, 1920.)

APPENDIX E.

THE LOCAL LEGISLATURES (Previous Sanction) RULES.

[*See the Gazette of India Extraordinary, December* 16, 1920.]

Rule.

1. Short Title and Commencement.
2. Laws requiring previous sanction.

No. 312-*S.*—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 (*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 87 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 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 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 :—

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' Power 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.

Year.	No.	Short title.
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.

Year.	No.	Short title.
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 Seditious Meetings Act, 1911.
1912 ..	IV	The Indian Lunacy Act, 1912.
,, ..	V	The Provident Insurance Societies Act, 1912.

Year.	No.	Short title.
1912 ..	VI	The Indian Life Assurance Companies Act, 1912.
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 Loan Act, 1918.
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.

Under r. 1 (2), these rules are declared in force :—

(1) in the Presidency of Madras and the Central Provinces, on the 17th December, 1920.

(2) in the Province of Bihar and Orissa, on the 29th December, 1920.

(3) 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.* 318-*S. in the Gazette of India Extraordinary, December* 17, 1920.)

APPENDIX F.

THE RESERVATION OF BILLS RULES.

[*See The Gazette of India Extraordinary, December* 16, 1920.]

Rule.

1. Short Title and Commencement.
2. Bills which must be reserved.
3. Bills which may be reserved.

No. 313-*S.*—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 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, not having been previously sanctioned by the Governor-General, 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—

(*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

( ) 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 re-assessed 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, not having been previously sanctioned by the Governor-

General, 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—

(*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.

——o——

Under r. 1, (2), these rules are declared in force :—

(1) in the Presidency of Madras and the Central Provinces, on the 17th December, 1920,

(2) in the Province of Bihar and Orissa, on the 29th December, 1920,

(3) 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.* 319-*S. in the Gazette of India Extraordinary, December* 17, 1920.)

APPENDIX G.

THE INDIAN LEGISLATIVE RULES

[*See The Gazette of India Extraordinary, September* 27, 1920.]

Rule.

1. Short title and commencement.
2. Definitions.
3. Temporary Chairman of Legislative Assembly.
4. Power of persons presiding.
5. Appointment of the Secretary.
6. Allotment of time for non-official business and precedence of business.
7. Power to disallow questions.
8. Subject-matter of questions.
9. Questions regarding controversy between authorities.
10. Supplementary questions.
11. Motions for adjournments.
12. Restrictions on power to make motion.
13. Quorum.
14. Language of the Indian Legislature.
15. Decision on points of order.
16. Irrelevance or repetition.
17. Power to order withdrawal of member.
18. Publication of Bills.
19. Notice of motion for leave to introduce Bills.
20. Publication.
21. Effect of certification by Governor General.
22. Power to disallow resolution.

23. Restrictions on subjects for discussion.
24. Copy to Government.
25. Bills which have passed originating Chamber.
26. Notice.
27. Motion for consideration.
28. Discussion.
29. Reference to Select Committee.
30. Consideration and passing.
31. Bills passed in either Chamber without amendment.
32. Bills passed in either chamber with amendment.
33. Return of amended Bills to originating Chamber.
34. Appointment of time for consideration of amendments.
35. Procedure on consideration of amendment.
36. Procedure consequent on consideration of amendments.
37. Convening of joint sitting.
38. President and Procedure.
39. Effect of joint sitting.
40. Conferences.
41. Messages.
42. Joint Committees.
43. The Budget.
44. Demands for grants.
45. Stages of the Budget debate.
46. General discussion.
47. Voting of grants.
48. Motions at this stage.
49. Excess grants.
50. Supplementary or additional grants.
51. Constitution of Committee on Public Accounts.
52. Control of Committee on Public Accounts.

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NOTIFICATION.

No. 121.—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 the said Act confers powers for the making of rules thereunder for regulating the course of business in the Council of State and the Legislative Assembly ; and for matters incidental and consequential thereto ;

And whereas it is necessary, for the purpose of bringing into operation the provisions of the said Act in respect of such Council and Assembly on such date as may hereafter be appointed, to make such rules prior to the date on which these provisions will be brought into operation ;

And whereas a draft of such rules was laid before both Houses of Parliament and was duly approved by them with certain modifications and additions ;

Now, therefore, in exercise of the powers conferred by section 37 of the Interpretation Act, 1889, read with the rule-making powers under the said Act, the Governor General in Council is pleased with the sanction of the Secretary of State in Council to make the said rules in the form so approved, the same being as follows :—

1. (1) These rules may be called the Indian Legislative Rules.

Short title and commencement.

(2) They shall come into force on a date to be appointed by the Governor General in Council with the approval of the Secretary of State in Council.

2. In these rules, unless the context otherwise requires,—

Definitions.

"Assembly" means the Legislative Assembly ;

"Chamber" means a Chamber of the Indian Legislature ;

"Council" means the Council of State ;

"Finance Member" means the member of the Assembly appointed by the Governor General to perform the functions assigned to the Finance Member under these rules ;

"Gazette" means the Gazette of India ;

"member" means a member of either Chamber ;

"member of the Government" means a member of the Governor General's Executive Council, and includes any member to whom such member may delegate any function assigned to him under these rules ;

"resolution" means a motion for the purpose of discussing a matter of general public interest ;

"standing order" means a standing order of either Chamber :

"Secretary" means the Secretary to either Chamber, and includes any person for the time being performing the duties of the Secretary.

Temporary Chairman of Legislative Assembly

3. At the commencement of every Session, the President shall nominate from amongst the members of the Assembly a panel of not more than four Chairmen, any one of whom may preside over the Assembly in the absence of the President and Deputy President, when so requested by the President or, in his absence, by the Deputy President.

Power of persons presiding.

4. The Deputy President and any Chairman of the Assembly and any person appointed by the Governor General to preside over the Council in the absence of the President shall, when presiding over the Assembly or the Council, as the case may be, have the same powers as the President when so presiding, and all references to the President in these rules shall, in these circumstances, be deemed to be references to any such person so presiding.

Appointment of the Secretary.

5. The Secretary and such assistants of the Secretary as the Governor General considers to be necessary shall be appointed by order in writing by the Governor General and shall hold office during his pleasure.

Allotment of time for non-official business and precedence of business.

6. The Governor General, after considering the state of business of the Chamber, shall, at the commencement of each Session of that Chamber, allot as many days as are in his opinion compatible with the public interests for the business of non-official members in that Chamber, and may, from time to time during the Session, alter such allotment, and on these days such business shall have precedence. At all other times Government business shall have precedence.

Power to disallow questions.

7. The President may within the period of notice disallow any question or any part of a question on the ground that it relates to a matter which is not primarily the concern of the Governor General in Council, and, if he does so, the question or part of the question shall not be placed on the list of questions.

Subject-matter of questions.

8. (1) A question may be asked for the pupose of obtaining information on a matter of public concern within the special cognisance of the member to whom it is addressed :

Provided that no question shall be asked in regard to any of the following subjects, namely :—

(*i*) any matter affecting the relations of His Majesty's Government, or of the Governor General in Council, with any foreign State ;

(*ii*) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief, or to the administration of the territory of any such Prince or Chief ; and

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

(2) If any doubt arises whether any question is or is not within the restrictions imposed by sub-rule (1) the Governor General shall decide the point and his decision shall be final.

Questions regarding controversy between authorities.

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

Supplementary questions.

10. Any member may put a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given :

Provided that the President shall disallow any supplementary question if, in his opinion, it infringes the rules as to the subject-matter of questions.

Motions for adjournments.

11. A motion for an adjournment of the business of either Chamber for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the President.

Restrictions of power to make motion.

12. The right to move the adjournment of either Chamber for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions, namely :—

(*i*) not more than one such motion shall be made at the same sitting ;

(*ii*) not more than one matter can be discussed on the same motion, and the motion must be restricted to a specific matter of recent occurrence ;

(*iii*) the motion must not revive discussion on a matter which has been discussed in the same Session ;

(*iv*) the motion must not anticipate a matter which has been previously appointed for consideration, or with reference to which a notice of motion has been previously given ; and

(*v*) the motion must not deal with a matter on which a resolution could not be moved.

Quorum.

13. In the case of the Council the presence of at least fifteen members, and in the case of the Assembly the presence of at least twenty-five members, shall be necessary to constitute a meeting of the Council or of the Assembly for the exercise of its powers.

Language of the Indian Legislature

14. The business of the Indian legislature shall be transacted in English, provided that the President may permit any member unacquainted with English to address the Council in a vernacular.

Decision on points of order.

15. (1) The Present shall decide all points of order which may arise and his decision shall be final.

(2) Any member may at any time submit a point of order for the decision of the President, but in doing so shall confine himself to stating the point.

Irrelevance or repetition.

16. The President, after having called the attention of the Chamber to the conduct of a member who persists in

irrelevance or in tedious repetition either of his own arguments or of the arguments used by other members in debate, may direct him to discontinue his speech.

Power to order withdrawal of member.

17. (1) The President shall preserve order and have all powers necessary for the purpose of enforcing his decisions on all points of order.

(2) He may direct any member whose conduct is in his opinion grossly disorderly to withdraw immediately from the Chamber, and any member so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second time in the same Session, the President may direct the member to absent himself from the meetings of the Chamber for any period not longer than the remainder of the Session, and the member so directed shall absent himself accordingly.

(3) The President may, in the case of grave disorder arising in the Chamber, suspend any sitting for a time to be named by him.

Publication of Bills.

18. The Governor General may order the publication of any Bill (together with the Statement of Objects and Reasons accompanying it) in the Gazette, although no motion has been made for leave to introduce the Bill. In that case it shall not be necessary to move for

leave to introduce the Bill, and, if the Bill is afterwards introduced it shall not be necessary to publish it again.

Notice of motion for leave to introduce Bills.

19. (1) Any member, other than a member of the Government, desiring to move for leave to introduce a Bill shall give notice of his intention, and shall, together with the notice, submit a copy of the Bill and a full Statement of Objects and Reasons.

(2) If the Bill is a Bill which under the Government of India Act requires sanction, the member shall annex to the notice a copy of such sanction, and the notice shall not be valid until this requirement is complied with.

(3) If any question arises whether a Bill is or is not a Bill which requires sanction under the Government of India Act, the question shall be referred to the Governor General, and his decision on the question shall be final.

(4) The period of notice of a motion for leave to introduce a Bill under this rule shall be one month or, if the Governor General so directs, a further period not exceeding in all two months.

Publication.

20. As soon as may be after a Bill has been introduced, the Bill, unless it has already been published, shall be published in the Gazette.

21. If the Governor General certifies that a Bill or any clause of a Bill or any amendment to a Bill affects the safety or tranquillity of British India or any part thereof, and directs that no proceedings or no further proceedings shall be taken thereon, all notices of motions in connection with the subject-matter of the certificate shall lapse, and if any such motion has not already been set down on the list of business it shall not be so set down. If any such motion has been set down on the list of business, the President shall, when the motion is reached, inform the Chamber of the Governor General's action, and the Chamber shall forthwith without debate proceed to the next item of business.

Effect of certification by Governor General.

22. (1) The Governor General may within the period of notice disallow any resolution or any part of a resolution, on the ground that it cannot be moved without detriment to the public interest, or on the ground that it relates to a matter which is not primarily the concern of the Governor General in Council, and, if he does so, the resolution or part of the resolution shall not be placed on the list of business.

Power to disallow resolution.

(2) The Governor General may disallow on grounds as aforesaid any motion for adjournment under rule 11, notwithstanding the consent of the President, and if he does so the adjournment shall

not be permitted by the President and no further discussion of the motion shall take place.

Restrictions on subjects for discussion.

23. (1) Every resolution shall be in the form of a specific recommendation addressed to the Governor General in Council, and no resolution shall be moved in regard to any of the following subjects, namely :—

(*i*) Any matter affecting the relations of His Majesty's Government, or of the Governor General or the Governor General in Council, with any foreign State ;

(*ii*) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief ; and

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

(2) The decision of the Governor General on the point whether any resolution is or is not within the restrictions imposed by sub-rule (1) shall be final.

Copy to Government.

24. A copy of every resolution which has been passed by either Chamber shall be forwarded to the Governor Gene-

ral in Council, but any such resolution shall have effect only as a recommendation to the Governor General in Council.

Bills which have passed originating Chamber.

25. Every Bill which has been passed by the originating Chamber shall be sent to the other Chamber, and copies of the Bill shall be laid on the table at the next following meeting of that Chamber.

Notice.

26. At any time after copies have been laid on the table, any member acting on behalf of Government in the case of a Government Bill or, in any other case, any member may give notice of his intention to move that the Bill be taken into consideration.

Motion for consideration.

27. On the day on which the motion is set down in the list of business which shall, unless the President otherwise directs, be not less than three days from the receipt of the notice, the member giving notice may move that the Bill be taken into consideration.

Discussion

28. On the day on which such motion is made or on any subsequent day to which the discussion is postponed, the principle of the Bill and its general provisions may be discussed, but the details of the Bill must not be discussed further than is necessary to explain its principle.

Reference to Select Committee.

29. Any member may (if the Bill has not already been referred to a Select-Committee of the originating Chamber or to a Joint Committee of both Chambers, but not otherwise) move as an amendment that the Bill be referred to a Select Committee, and, if such motion is carried, the Bill shall be referred to a Select Committee, and the standing orders regarding Select Committees on Bills originating in the Chamber shall then apply.

Consideration and passing.

30. If the motion that the Bill be taken into consideration is carried, the Bill shall be taken into consideration, and the provisions of the standing orders of the Chamber regarding consideration of amendments to Bills and the subsequent procedure in regard to the passing of Bills shall apply.

Bills passed in either Chamber without amendment.

31. If the Bill is passed without amendment and the originating Chamber is the Legislative Assembly, a message shall be sent to the Legislative Assembly intimating that the Council of State have agreed to the Bill without any amendments. If the originating Chamber is the Council of State, the Bill with a message to the effect that the Legislative Assembly have agreed to the Bill without any amendments shall be sent to the Council of State.

32. If the Bill is passed with amendments, the Bill shall be returned with a massage asking the concurrence of the originating Chamber to the amendments.

Bills passed in either Chamber with amendment.

33. When a Bill which has been amended in the other Chamber is returned to the originating Chamber, copies of the Bill shall be laid on the table at the next following meeting of that Chamber.

Return of amended Bills to originating Chamber.

34. After an amended Bill has been laid on the table, any member acting on behalf of Government in the case of a Government Bill or, in any other case, any member after giving three days' notice, or with the consent of the President without notice, may move that the amendments be taken into consideration.

Appointment of time for consideration of amendments.

35. (1) If a motion that the amendments be taken into consideration is carried, the President shall put the amendments to the Chamber in such manner as he thinks most convenient for their consideration.

Procedure on consideration of amendment.

(2) Further amendments relevant to the subject-matter of the amendments made by the other Chamber may be moved, but no further amendment

shall be moved to the Bill, unless it is consequential upon, or an alternative to, an amendment made by the other Chamber.

Procedure consequent on consideration of amendments.

36. (1) If the Chamber agrees to the amendments made by the other Chamber, a message intimating its agreement shall be sent to that Chamber.

(2) If the Chamber disagrees with the amendments made by the other Chamber or any of them, the Bill with a message intimating its disagreement shall be sent to that Chamber.

(3) If the Chamber agrees to the amendments or any of them with further amendments or proposes further amendments in place of amendments made by the other Chamber, the Bill as further amended with a message to that effect shall be sent to the other Chamber.

(4) The other Chamber may either agree to the Bill as originally passed in the originating Chamber or as further amended by that Chamber, as the case may be, or may return the Bill with a message that it insists on an amendment or amendments to which the originating Chamber has disagreed.

(5) If a Bill is returned with a message intimating that the other Chamber insists on amendments to which the originating Chamber is unable to agree, that Chamber may either—

(*i*) report the fact of the disagreement to the Governor General, or

(*ii*) allow the Bill to lapse.

Convening of joint sitting.

37. A joint sitting of both Chambers shall be convened by the Governor General by notification in the Gazette.

President and procedure.

38. The President of the Council shall preside at a joint sitting and the procedure of the Council shall, so far as practicable, apply.

Effect of joint sitting.

39. The members present at a joint sitting may deliberate and shall vote together upon the Bill as last proposed by the originating Chamber and upon amendments, if any, which have been made therein by one Chamber and not agreed to by the other, and any such amendments which are affirmed by a majority of the total members of the Council and the Assembly present at such sitting shall be taken to have been carried; and if the Bill with the amendments, if any, is affirmed by a majority of the members of the Council and the Assembly present at such sitting, it shall be deemed to have been duly passed by both Chambers.

Conferences

40. (1) If both Chambers agree to a meeting of members for the purpose of discussing a difference of opinion

which has arisen between the two Chambers a conference shall be held.

(2) At a conference each Chamber shall be represented by an equal number of members.

(3) The Conference shall determine its own procedure.

(4) The time and place of the Conference shall be fixed by the President of the Council.

Messages.

41. Messages between one Chamber and the other Chamber shall be conveyed by the Secretary of the one Chamber to the Secretary of the other, or in such other manner as the Chambers may agree.

Joint committees.

42. (1) If a resolution is passed in the originating Chamber recommending that a Bill should be committed to a joint committee of both Chambers a message shall be sent to the other Chamber to inform it of the resolution and to desire its concurrence in the resolution.

(2) If the other Chamber agrees, a motion shall be made in each Chamber nominating the members of that Chamber who are to serve on the Committee. On a joint committee equal numbers of members of each Chamber must be nominated.

(3) The Chairman of the committee shall be elected by the committee. He shall have only a single

vote, and, if the votes are equal, the question shall be decided in the negative.

(4) The time and place of the meeting of the committee shall be fixed by the President of the Council.

The Budget.

43. A statement of the estimated annual expenditure and revenue of the Governor General in Council (hereinafter referred to as "the Budget") shall be presented to each Chamber on such day or days as the Governor General may appoint.

Demands for grants.

44. (1) A separate demand shall ordinarily be made in respect of the grant proposed for each Department of the Government, provided that the Finance Member may in his discretion include in one demand grants proposed for two or more Departments, or make a demand in respect of expenditure which cannot readily be classified under patricular Departments.

(2) Each demand shall contain, first, a statement of the total grant proposed, and then a statement of the detailed estimate under each grant divided into items.

(3) Subject to these rules the Budget shall be presented in such a form as the Finance Member may consider best fitted for its consideration by the Assembly.

Stages of the Budget debate.

45. The Budget shall be dealt with by the Assembly in two stages, namely :—

(*i*) a general discussion ; and

(*ii*) the voting of demands for grants.

General discussion.

46. (1) On a day to be appointed by the Governor General subsequent to the day on which the Budget is presented and for such time as the Governor General may allot for this purpose, the Assembly shall be at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion shall be moved at this stage, nor shall the Budget be submitted to the vote of the Assembly.

(2) The Finance Member shall have a general right of reply at the end of the discussion.

(3) The President may, if the thinks fit, prescribe a time-limit for speeches.

Voting of grants.

47. (1) Not more than fifteen days shall be allotted by the Governor General for the discussion of the demands of the Governor General in Council for grants.

(2) Of the days so allotted, not more than two days shall be allotted by the Governor General to the discussion of any one demand. As soon as the maximum limit of time for discussion is reached, the

President shall forthwith put every question necessary to dispose of the demand under discussion.

(3) On the last day of the allotted days at five o'clock, the President shall forthwith put every question necessary to dispose of all the outstanding matters in connection with the demands for grants

Motions at this stage.

48. (1) No motion for appropriation can be made except on the recommendation of the Governor General Communicated to the Assembly.

(2) Motions may be moved at this stage to omit or reduce any grant, but not to increase or alter the destination of a grant.

(3) When several motions relating to the same demand are offered, they shall be discussed in the order in which the heads to which they relate appear in the Budget.

Excess grants.

49. When money has been spent on any service for which the vote of the Assembly is necessary during any financial year in excess of the amount granted for that year, a demand for the excess shall be presented to the Assembly by the Finance Member and shall be dealt with in the same way by the Assembly as if it were a demand for a grant.

Supplementary or additional grants.

50. (1) An estimate shall be presented to the Assembly for a supplementary or additional grant when—

(*i*) the amount voted in the Budget of a grant is found to be insufficient for the purposes of the current year, or

(*ii*) a need arises during the current year for expenditure for which the vote of the Assembly is necessary upon some new service not contemplated in the Budget for that year.

(2) Supplementary or additional estimates shall be dealt with in the same way by the Assembly as if they were demands for grants.

Constitution of Committee on Public Accounts.

51. (1) As soon as may be after the commencement of each financial year, a Committee on Public Accounts shall be constituted for the purpose of dealing with the audit and appropriation accounts of the Governor General in Council and such other matters as the Finance Department may refer to the Committee.

(2) The Committee on Public Accounts shall consist of not more than twelve members including the Chairman, of whom not less than two-thirds shall be elected by the non-official members of the Assembly according to the principle of proportionate

representation by means of the single transferable vote. The remaining members shall be nominated by the Governor General.

(3) The Finance Member shall be Chairman of the Committee, and, in the case of an equality of votes on any matter, shall have a second or casting vote.

Control of Committee on Public Accounts.

52. (1) In scrutinising the audit and appropriation accounts of the Governor General in Council, it shall be the duty of the Committee to satisfy itself that the money voted by the Assembly has been spent within the scope of the demand granted by the Assembly.

(2) It shall be the duty of the Committee to bring to the notice of the Assembly—

(*i*) every re-appropriation from one grant to another grant ;

(*ii*) every re-appropriation within a grant which is not made in accordance with such rule as may be prescribed by the Finance Department ; and

(*iii*) all expenditure which the Finance Department has requested should be brought to the notice of the Assembly.

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APPENDIX H.

RULES FOR GOVERNOR'S LEGISLATIVE COUNCIL

[*See The Gazette of India Extraordinary, September* 27, 1920.]

Rule

1. Short title and Commencement.
2. Definitions.
3. Temporary Chairman.
4. Power of persons presiding.
5. Appointment of the Secretary.
6. Allotment of time for non-official business and precedence of business.
7. Power to disallow question.
8. Subject-matter of question.
9. Questions regarding controversy with higher authorities.
10. Supplementary questions.
11. Motions for adjournments.
12. Restrictions on power to make motion.
13. Quorum.
14. Language of the Council.
15. Decision on points of order.
16. Irrelevance or repetition.
17. Power to order withdrawal of member.
18. Publication of Bills.
19. Notice of motion for leave to introduce Bills.
20. Publication.
21. Effect of certification by Governor.

22. Power to disallow resolutions.
23. Restrictions on subjects for discussion.
24. Copy to Government.
25. The Budget.
26. Demands for grants.
27. Stages of the Budget-debate.
28. General discussions.
29. Voting of grants.
30. Motions at this stage.
31. Excess grants.
32. Supplementary or additional grants.
33. Constitution of Committee on Public Accounts.
34. Control of Committee on Public Accounts.

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 the said Act confers powers for the making of rules thereunder for regulating the course of business in the Legislative Council of the Governor of [ ]* ; and for matters incidental and consequential thereto ;

And whereas it is necessary for the purpose of bringing into operation the provisions of the said

* Here insert Madras, Bombay, Bengal, United Provinces, the Punjab, Behar and Orissa, Central Provinces and Berar or Assam, as the case may be.

Act in respect of such Council on such date as may hereafter be appointed to make such rules prior to the date on which these provisions will be brought into operation ;

And whereas a draft of such rules was laid before both Houses of Parliament and was duly approved by them with certain modifications and additions ;

Now, therefore, in exercise of the powers conferred by section 37 of the Interpretation Act, 1889, read with the rule-making powers under the said Act, the Governor General in Council is pleased with the sanction of the Secretary of State in Council to make the said rules in the form so approved, the same being as follows :—

1. (1) These rules may be called the [ ]* Legislative Council Rules.

Short title and commencement.

(2) They shall come into force on a date to be appointed by the Governor General in Council with the approval of the Secretary of State in Council.

Definitions.

2. In these rules—

"Council" means the Legislative Council of the Governor of [ ]* ;

*Here insert Madras, Bombay, Bengal United Provinces, the Punjab, Behar and Orissa, Central Provinces and Berar or Assam, as the case may be.

" Finance Member " means the member of the Council appointed by the Governor to perform the functions of the Finance Member under these rules ;

" Gazette " means the [ ] †

" member " means a member of the Council ;

" member of the Government " means a member of the Executive Council or a minister, and includes any member to whom such member may delegate any function assigned to him under these rules ;

" resolution " means a motion for the purpose of discussing a matter of general public interest ;

" standing order " means a standing order of the Council ; and

" Secretary " means a Secretary to the Council, and includes any person for the time being performing the duties of the Secretary.

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† Here insert Fort St. George Gazette, Bombay Government Gazette or the Sind official Gazette or both, Calcutta Gazette, United Provinces Government Gazette, the Punjab Government Gazette, Behar and Orissa Gazette or Central Provinces Gazette as the case may be.

3. At the commencement of every Session, the President shall nominate from amongst the members of the Council a panel of not more than four Chairmen, any one of whom may preside over the Council in the absence of the President and Deputy President, when so requested by the President or, in his absence, by the Deputy President.

Temporary Chairman.

4. The Deputy President and any Chairman of the Council shall, when presiding over the Council, have the same powers as the President when so presiding, and all references to the President in the rules and standing orders shall, in these circumstances, be deemed to be references to any such person so presiding.

Power of persons presiding.

5. The Secretary and such assistants of the Secretary as the Governor considers to be necessary shall be appointed by order in writing by the Governor and shall hold office during his pleasure.

Appointment of the Secretary.

6. The Governor, after considering the state of business of the Council, shall, at the commencement of each Session, allot as many days as are in his opinion compatible with the public interests for the business of non-official members in the Council and may from time to time during the Session alter

Allotment of time for non-official business and precedence of business.

such allotment, and on these days such business shall have precedence. At all other times Government business shall have precedence.

Power to disallow question.

7. The President may within the period of notice disallow any question or any part of a question on the ground that it relates to a matter which is not primarily the concern of the local Government, and, if he does so, the question or part of the question shall not be placed on the list of questions.

Subject matter of question.

8. (1) A question may be asked for the purpose of obtaining information on a matter of public concern within the special cognisance of the member to whom it is addressed :

Provided that no question shall be asked in regard to any of the following subjects, namely : -

(*i*) any matter affecting the relations of His Majesty's Government, or of the Government of India, or of the Governor or the Governor in Council, with any foreign State ;

(*ii*) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any

such Prince or Chief or to the administration of the territory of any such Prince or Chief ; and

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

(2) If any doubt arises whether any question is or is not within the restrictions imposed by sub-rule (1), the Governor shall decide the point and his decision shall be final.

Questions regarding controversy with higher authorities.

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

Supplementary questions.

10. Any member may put a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given :

Provided that the President shall disallow any supplementary question if, in his opinion, it infringes the rules as to the subject-matter of questions.

Motions for adjournments.

11. A motion for an adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the President.

Restrictions on power to make motion

12. The right to move the adjournment of the Council for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions, namely :—

(*i*) not more than one such motion shall be made at the same sitting ;

(*ii*) not more than one matter can be discussed on the same motion, and the motion must be restricted to a specific matter of recent occurrence ;

(*iii*) the motion must not revive discussion on a matter which has been discussed in the same Session ;

(*iv*) the motion must not anticipate a matter which has been previously appointed for consideration, or with reference to which a notice of motion has been previously given ; and

(*v*) the motion must not deal with a matter on which a resolution could not be moved.

13. The presence of at least [ ]‡ members shall be necessary to constitute a meeting of the Council for the exercise of its powers.

Quorum.

14. The business of the Council shall be transacted in English, but any member who is not fluent in English may address the Council in any recognised vernacular of the Province, provided that the President may call on any member to speak in any language in which he is known to be proficient.

Language of the Council.

15. (1) The President shall decide all points of order which may arise, and his decisions shall be final.

Decision on points of order.

(2) Any member may at any time submit a point of order for the decision of the President, but in doing so shall confine himself to stating the point.

16. The President, after having called the attention of the Council to the conduct of a member who persists in irrelevance or in tedious repetition either of his own

Irrelevance or repetition.

‡ Here insert 30 in the case of Madras, 25 in the case of Bombay, Bengal and the United Provinces, 15 in the case of the Punjab, 25 in the case of Behar and Orissa, 20 in the case of the Central Provinces and Berar, and 12 in the case of Assam.

arguments or of the arguments used by other members in debate, may direct him to discontinue his speech.

Power to order withdrawal of member.

17. (1) The President shall preserve order and have all powers necessary for the purpose of enforcing his decisions on all points of order.

(2) He may direct any member whose conduct is in his opinion grossly disorderly to withdraw immediately from the Council, and any member so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second time in the same Session, the President may direct the member to absent himself from the meetings of the Council for any period not longer than the remainder of the Session, and the member so directed shall absent himself accordingly.

(3) The President may in the case of grave disorder arising in the Council suspend any sitting for a time to be named by him.

Publication of Bills.

18. The Governor may order the publication of any Bill (together with the Statements of Objects and Reasons accompanying it) in the Gazette, although no motion has been made for leave to introduce the Bill. In

that case it shall not be necessary to move for leave to introduce the Bill, and, if the Bill is afterwards introduced, it shall not be necessary to publish it again.

Notice of motion for leave to introduce Bills.

19. (1) Any member, other than a member of the Government, desiring to move for leave to introduce a Bill shall give notice of his intention, and shall, together with the notice, submit a copy of the Bill and a full Statement of Objects and Reasons.

(2) If the Bill is a Bill which, under the Government of India Act, requires sanction, the member shall annex to the notice a copy of such sanction, and the notice shall not be valid until this requirement is complied with.

(3) If any question arises whether a Bill is or is not a Bill which requires sanction under the Government of India Act, the question shall be referred to the authority which would have power to grant the sanction if it were necessary, and the decision of that authority on the question shall be final.

(4) The period of notice of a motion for leave to introduce a Bill under this rule shall be as follows, namely :—

(*a*) if the Bill relates to a transferred subject—fifteen days ;

(*b*) if the Bill relates to a reserved subject—one month or, if the Governor so directs, a further period not exceeding in all two months.

Publication.

20. As soon as may be after a Bill has been introduced, the Bill, unless it has already been published, shall be published in the Gazette.

Effect of certification by Governor.

21. If the Governor certifies that a Bill or any clause of a Bill or any amendment to a Bill affects the safety or tranquillity of a Province or any part thereof, and directs that no proceedings or no further proceedings shall be taken thereon, all notices of motions in connection with the subject-matter of the certificate shall lapse, and if any such motion has not already been set down on the list of business it shall not be so set down. If any such motion has been set down on the list of business, the President shall, when the motion is reached, inform the Council of the Governor's action, and the Council shall forthwith without debate proceed to the next item of business.

Power to disallow resolution.

22. (1) The Governor may within the period of notice disallow any resolution or any part of a resolution, on the ground that it cannot be moved without detriment

to the public interest, or on the ground that it relates to a matter which is not primarily the concern of the local Government, and if he does so the resolution or part of the resolution shall not be placed on the list of business.

(2) The Governor may disallow on grounds as aforesaid any motion for adjournment under rule 11, notwithstanding the consent of the President, and if he does so the adjournment shall not be permitted by the President and no further discussion of the motion shall take place.

Restrictions on subjects for discussion.

23. (1) Every resolution shall be in the form of a specific recommendation addressed to the Government, and no resolution shall be moved in regard to any of the following subjects, namely :—

(*i*) any matter affecting the relations of His Majesty's Government, or of the Government of India, or of the Governor or the Governor in Council, with any foreign State ;

(*ii*) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any

such Prince or Chief or to the administration of territory of any such Prince or Chief; and

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

(2) The decision of the Governor on the point whether any resolution is or is not within the restrictions imposed by sub-rule (1) shall be final.

Copy to Government.

24. A copy of every resolution which has been passed by the Council shall be forwarded to the Government, but any such resolution shall have effect only as a recommendation to the Government.

The Budget.

25. A statement of the estimated annual expenditure and revenue of the Province (hereinafter referred to as "the Budget") shall be presented to the Council on such day as the Governor may appoint.

Demands for grants.

26. (1) A separate demand shall ordinarily be made in respect of the grant proposed for each Department of the Government, provided that the Finance Member may in his discretion include in one demand grants proposed for two or more Departments, or make a

demand in respect of expenditure, such as Famine Relief and Insurance and Interest, which cannot readily be classified under particular Departments. Demands affecting reserved and transferred subjects shall, so far as may be possible, be kept distinct.

(2) Each demand shall contain, first, a statement of the total grant proposed, and then a statement of the detailed estimate under each grant divided into items.

(3) Subject to these rules, the Budget shall be presented in such a form as the Finance Member may consider best fitted for its consideration by the Council.

Stages of the Budget debate

27. The Budget shall be dealt with by the Council in two stages, namely :—

(*i*) a general discussion ; and

(*ii*) the voting of demands for grants.

General discussions.

28. (1) On a day to be appointed by the Governor subsequent to the day on which the Budget is presented and for such time as the Governor may allot for this purpose, the Council shall be at liberty to discuss

the Budget as a whole or any question of principle involved therein, but no motion shall be moved at this stage, nor shall the Budget be submitted to the vote of the Council.

(2) The Finance Member shall have a general right of reply at the end of the discussion.

(3) The President may, if he thinks fit, prescribe a time-limit for speeches.

Voting of grants.

29. (1) Not more than twelve days shall be allotted by the Governor for the discussion of the demands of the local Government for grants.

(2) Of the days so allotted, not more than two days shall be allotted by the Governor to the discussion of any one demand. As soon as the maximum limit of time for discussion is reached, the President shall forthwith put every question necessary to dispose of the demand under discussion.

(3) On the last day of the allotted days at 5 o'clock, the President shall forthwith put every question necessary to dispose of all the outstanding matters in connection with the demands for grants.

Motions at this stage.

30. (1) No motion for appropriation can be made except on the recommendation of the Governor communicated to the Council.

(2) Motions may be moved at this stage to omit or reduce any grant or any item in a grant, but not to increase or alter the destination of a grant.

(3) When several motions relating to the same demand are offered, they shall be discussed in the order in which the heads to which they relate appear in the Budget.

(4) No motion shall be made for the reduction of a grant as a whole until all motions for the omission or reduction of definite items within that grant have been discussed.

Excess grants.

31. When money has been spent on any service for which the vote of Council is necessary during any financial year in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Council by the Finance Member and shall be dealt with in the same way by the Council as if it were a demand for a grant.

Supplementary or additional grants.

32. (1) An estimate shall be presented to the Council for a supplementary or additional grant when—

(*i*) the amount voted in the Budget of a grant is found to be insufficient for the purposes of the current year, or,

(*ii*) a need arises during the current year for expenditure for which the vote of the Council is necessary upon some new service not contemplated in the Budget for that year.

(2) Supplementary or additional estimates shall be dealt with in the same way by the Council as if they were demands for grants.

Constitution of Committee on Public Accounts.

33. (1) As soon as may be after the commencement of each financial year, a Committee on Public Accounts shall be constituted for the purpose of dealing with the audit and appropriation accounts of the Province and such other matters as the Finance Department may refer to the Committee.

(2) The Committee on Public Accounts shall consist of such number of members as the Governor may direct, of whom not less than two-thirds shall be elected by the non-official members of the Council according to the principle of proportionate representation by means of the single transferable vote. The remaining members shall be nominated by the Governor.

(3) The Finance Member shall be Chairman of the Committee, and, in the case of an equality of votes on any matter, shall have a second or casting vote.

Control of Committee on Public Accounts

34. (1) In scrutinising the audit and appropriation accounts of the Province, it shall be the duty of the Committee to satisfy itself that the money voted by the Council has been spent within the scope of the demand granted by the Council.

(2) It shall be the duty of the Committee to bring to the notice of the Council—

(*i*) every re-appropriation from one grant to another grant ;

(*ii*) every re-appropriation within a grant which is not made in accordance with the rules regulating the functions of the Finance Department, or which has the effect of increasing the expenditure on an item the provision for which has been specially reduced by a vote of the Council : and

(*iii*) all expenditure which the Finance Department has requested should be brought to the notice of the Council.

APPENDIX I.

(*a*) THE LEGISLATIVE ASSEMBLY STANDING ORDERS.

ORDER.

1. Short title.
2. Definitions.

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3. Summoning of Assembly.
4. Termination of Sessions.
5. Election of Deputy President.
6. Time of Meeting.
7. Arrangement of business.
8. List of business.
9. Business outstanding at end of day.
10. Time for questions.
11. Giving of notice by members.
12. Giving of notice to members.

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13. Notice of questions.
14. Matters to which questions must relate.
15. Form and contents of questions.
16. President to decide admissibility of questions.
17. List of questions.
18. Questions how put.
19. Answers to withdrawn questions.
20. Prohibition of discussion on questions or answers.

III.—MOTIONS FOR ADJOURNMENT FOR PURPOSE OF DEBATE.

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28. Explanations.
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64. Amendments.
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74. Communications to the Governor-General.
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SCEDULE I.

Ballot Procedure for Determining Relative Precedence of Non-official Bills and Resolutions.

No. 166.—In pursuance of section 67, sub-section (6) of the Government of India Act, the Governor-General in Council is pleased to make the following first standing orders for the Legislative Assembly :—

Short Title.

1. These standing orders may be called the Legislative Assembly Standing Orders.

Definitions.

2. In these standing orders, unless the context otherwise requires,—

" Assembly " means the Legislative Assembly;

" Chamber " means a chamber of the Indian Legislature;

" Council " means the Council of State;

" Finance Member " means the member of the Assembly appointed by the Governor General to perform the functions of the Finance Member under the rules or these standing orders;

" Gazette " means the Gazette of India;

" member " means a member of the Assembly;

" Member of the Government " means a Member of the Governor General's Executive Council, and includes any member to whom such Member may delegate any function assigned to him under the rules or standing orders;

" notification " means a notification in the Gazette;

" President " includes the Deputy President or a Chairman of the Assembly when such Deputy President or Chairman is for the time being presiding over the Assembly;

" resolution " means a motion for the purpose of discussing a matter of general public interest;

" rules " means the Indian Legislative Rules made under section 67 of the Government of India Act; and

" Secretary " means the Secretary of the Assembly, and includes any person for the time being authorised by the Secretary, subject to the control of the President, to perform all or any of the duties of the Secretary.

1.—*Sessions of the Assembly, election of Deputy President, arrangement of business and giving of Notices.*

Summoning of Assembly.

3. (1) The Governor General shall by notification appoint the date and place for a session of the Assembly.

(2) The Secretary shall issue a summons to each member for the date and place so appointed.

(3) After the commencement of a session, the Assembly shall sit on such days as the President, having regard to the state of business of the Assembly, may from time to time direct.

4. On the termination of a session :—

Termination of session.

(1) all pending notices shall lapse, and fresh notice must be given for the next session.

(2) Bills which have been introduced shall be carried over to the pending list of business of the next session :

Provided that, if the member in charge of a Bill makes no motion in regard to the same during two complete sessions, the Bill shall lapse, unless the *Assembly*, on a motion by that member in the next session, makes a special order for the continuance of the Bill.

5. (1) After the members have been sworn in at the beginning of each new Assembly, the Assembly shall elect one of its members to be a Deputy President.

Election of Deputy President.

(2) Every member who wishes to propose a member for election must—

(1) ascertain previously that the member is willing to serve if elected, and

(2) hand to the President a notice containing the name of the member he desires to propose signed by himself and some other member as seconder.

(3) The President shall read out to the Assembly the names of the candidates, together with those of their proposers and seconders, and if only one person has been proposed for election, shall declare that person duly elected. If more than one person has been

proposed, the Assembly shall then proceed to vote on the question by ballot, and the President shall declare the person who receives the majority of the votes to be duly elected. The ballot shall be held in such manner as the President may direct.

(4) If a vacancy in the office of Deputy President occurs during the life of an Assembly, or if the Governor-General withholds his approval to any election, a fresh election shall be held in accordance with the procedure hereinbefore mentioned: Provided that a member whose election has not been approved by the Governor-General shall not be proposed as a candidate during the continuance of that Assembly.

Time of meeting.

6. The meetings of the *Assembly* shall (subject to the direction of the Governor-General) ordinarily commence at 11 A.M. and ordinarily terminate at 4 p.m.

Arrangement of business.

7. (1) At times when Government business has precedence, the Secretary shall arrange that business in such order as the Governor-General in Council may direct.

(2) The relative precedence of notices of Bills and resolutions given by non-official members shall be determined by ballot in accordance with the procedure set out in Schedule I;

Provided that the President may from time to time make such variations in the said procedure as he may consider necessary or convenient.

(3) Bills introduced by non-official members shall be arranged in such order as to give priority to the Bills most advanced, that is to say, in the following order, namely :—

(*i*) Bills which have reached a stage at which the next motion is a motion that the Bill be passed;

(*ii*) Bills which have reached a stage at which the next motion is a motion that the Bill be taken into consideration;

(*iii*) Bills in regard to which the next stage is the presentation of the report of the Select Committee.

(4) The relative precedence of other non-official Bills which have been introduced but which have not been proceeded with as far as any of the stages set out above shall be determined by ballot to be held at such time and in such manner as the President may determine :

Provided that any such Bills remaining over from the last session shall have priority in the order of the date of their introduction.

List of business.

8. (1) A list of business for the day shall be prepared by the Secretary, and a copy thereof shall be made available for the use of every member.

(2) Save as otherwise provided in the rules or these standing orders no business not included in the

list of business for the day shall be transacted at any meeting without the leave of the President.

(3) No business requiring notice shall be set down for a day earlier than the day after that on which the period of the notice necessary for that class of business expires.

Business outstanding at end of day.

9. All business appointed for any day and not disposed of on that day shall stand over until the next day of the session available for business of the class to which it belongs, or until such other day in the session so available as the member in charge may desire, but non-official business so standing over shall have no priority on such day unless it has been commenced, in which case it shall only have priority over non-official business fixed for that day.

Time for questions.

10. The first hour of every meeting shall be available for the asking and answering of questiosn.

Giving of notice by members.

11. (1) Every notice required by the rules or these standing orders shall be given in writing addressed to the Secretary, and shall be left at the Notice office which shall be open for this purpose between the hours of 11 A.M. and 3 P.M. on every day except Sunday or a public holiday.

(2) Notices left when the office is closed shall be treated as given on the next open day.

12. (1) The Secretary shall make every effort to circulate to each member a copy of every notice or other paper which is, by these standing orders, required to be made available for the use of members.

Giving of notice to members.

(2) A notice or other paper shall be deemed to have been made available for the use of every member if a copy thereof is deposited in such manner and in such place as the President may, from time to time, direct.

II.—Questions.

13. Unless the President with the consent of the Member of the Government whose department is concerned otherwise directs, not less than ten clear days' notice of a question shall be given.

Notice of questions.

14. (1) A question addressed to a Member of the Government must relate to the public affairs with which he is officially connected, or to a matter of administration for which he is responsible.

Matters to which questions must relate.

(2) A question addressed to a non-official member must relate to some Bill, resolution or other matter connected with the business of the *Assembly* for which that member is responsible.

15. In order that question may be admissible, it must satisfy the following conditions, namely :—

Form and contents of questions.

(1) it shall not bring in any name or statement not strictly necessary to make the question intelligible;

(2) if it contains a statement by the member himself, he shall make himself responsible for the accuracy of the statement;

(3) it shall not contain arguments, inferences, ironical expressions or defamatory statements;

(4) it shall not ask for an expression of opinion or the solution of a hypothetical proposition;

(5) it may not be asked as to the character or conduct of any person except in his official or public capacity; and

(6) it shall not be of excessive length.

President to decide admissibility of questions.

16. The President shall decide whether a question is or is not admissible under these standing orders, and may disallow any questions when in his opinion it is an abuse of the right of questioning or calculated to obstruct or prejudicially affect the procedure of the *Assembly*, or is in contravention of these standing orders, and shall disallow any question if it infringes the rules as to the subject-matter of questions.

List of questions.

17. Questions, which have not been disallowed, shall be entered in the list of questions for the day and shall be called, if

the time made available for questions permits, in the order in which they stand in the list before any other business is entered upon at the meeting.

Questions how put.

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

Answers to withdrawn questions.

19. If on a question being called it is not put or the member in whose name it stands is absent, the President, at the request of the member to whom the question is addressed, may direct that the answer to it be given on the ground of public interest.

Prohibition of discussion on questions or answers.

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

III.—Motions for Adjournment for purposes of Debate.

Time of asking leave for motion for adjournment.

21. Leave to make a motion for an adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance must be asked for after questions and before the list of business for the day is entered upon.

Method of asking leave.

22. The member asking for leave must, before the commencement of the sitting of the day, leave with the Secretary a written statement of the matter proposed to be discussed.

23. If the President is of opinion that the matter proposed to be discussed is in order, he shall read the statement to the Assembly and ask whether the member has the leave of the Assembly to move the adjournment. If objection is taken, the President shall request those members who are in favour of leave being granted to rise in their places, and if not less than twenty-five members rise accordingly, the President shall intimate that leave is granted and that the motion will be taken at 4 p.m. If less than twenty-five members rise, the President shall inform the member that he has not the leave of the Assembly.

Procedure to be followed.

24. (1) On a motion to adjourn for the purpose of discussing a definite matter of urgent public importance, the only question that may be put shall be "That the *Assembly* do now adjourn;" provided that if the debate is not concluded by 6 P.M., it shall automatically terminate and no question shall be put.

Limitation of time of discussion.

(2) No speech during the debate shall exceed fifteen minutes in duration.

IV.—General Rules of Procedure.

25. If the President on a count at any time during a meeting ascertain that twenty-five members are not present, he shall adjourn the Assembly till the next day on which it ordinarily sits.

Adjournment for failure of quorum.

26. The members shall sit in such order as the President may appoint.

Seating of members.

27. A member desiring to make any observations on any matter before the Assembly shall speak from his place, shall rise when he speaks, and shall address the President. At any time if the President rises, any member speaking shall resume his seat.

Members to rise when speaking.

28. When, for the purposes of explanation during discussion or for any other sufficient reason, any member has occasion to ask a question of another member on any matter than then under the consideration of the *Assembly* he shall ask the question through the President.

Explanations.

29. (1) The matter of every speech shall be strictly relevant to the matter before the *Assembly*.

Limitations on debate.

(2) A member while speaking shall not—

(*i*) refer to any matter of fact on which a judicial decision is pending;

(*ii*) make a personal charge against a member;

(*iii*) make use of offensive expressions regarding the conduct of the Indian or any local Legislature;

(*iv*) reflect upon the conduct of His Majesty the King or the Governor-General or any Governor (as distinct from the Governments of which they are respectively the

heads) or any Court of Law in the exercise of its judicial functions;

(*v*) utter treasonable, seditious or defamatory words; or

(*vi*) use his right of speech for the purpose of wilfully and persistently obstructing the business of the *Assembly*.

Motions.

30. (1) A matter requiring the decision of the *Assembly* shall be brought forward by means of a question put by the President on a motion proposed by a member.

(2) Votes may be taken by voices or division, and shall be taken by division if any member so desires. The President shall determine the method of taking votes by division.

(3) The result of a division shall be announced by the President and shall not be challenged.

Repetition of motions.

31. A motion must not raise a question substantially indentical with one on which the *Assembly* has given a decision in the same session.

Order of speeches and right of reply.

32. (1) After the member who moves has spoken other members may speak to the motion in such order as the President may call upon them. If any member who is so called upon does not speak, he shall not be entitled, except by the permission of the President, to speak to the motion at any later stage of the debate.

(2) Except in the exercise of a right of reply or as otherwise provided by the rules or these standing orders, no member shall speak more than once to any motion except with the permission of the President, for the purpose of making a personal explanation, but in that case no debatable matter may be brought forward.

(3) A member who has moved a motion may speak again by way of reply, and if the motion is moved by a non-official member, the Member of the Government to whose Department the matter relates shall have the right of speaking (whether he has previously spoken in the debate or not)after the mover has replied.

(4) The President may in all cases address the *Assembly* before putting a question to the vote.

Rules as to amendments.

33. (1) An amendment must be relevant to, and within the scope of, the motion to which it is proposed.

(2) An amendment may not be moved which has merely the effect of a negative vote.

(3) An amendment on a question must not be inconsistent with a previous decision on the same question given at the same stage of any Bill or other matter.

(4) The President may refuse to put an amendment which is in his opinion frivolous.

Closure.

34. (1) At any time after a motion has been made any member may move " That the question be now put," and, unless it appears to the President that the motion is an abuse of the rules or these standing orders, or an infringement of the right of reasonable debate, the President shall then put the motion "That the question be now put."

(2) At any time after a motion has been made in respect of a Bill promoted by a Member of the Government, that Member may request the President to put the question, and unless it appears to the President that the request is an abuse of the rules or these standing orders, or an infringement of the right of reasonable debate, the President shall then put the question.

(3) Where a motion is made under sub-rule (1) or a request is made under sub-rule (2), the motion or the question, as the case may be, shall be put without amendment or debate.

Strangers.

35. The admission to the *Assembly* Chamber of—

(1) visitors to the Visitors' gallery,

(2) representatives of the Press to the Press gallery and

(3) officials to the Official gallery,

during the sittings of the *Assembly* shall be regulated

in accordance with orders made by the President with the approval of the Governor-General.

Power to order withdrawal of strangers.

36. The President, whenever he thinks fit, may order the Visitors' or Press gallery to be cleared.

V.—Introduction of Bills.

Motion for leave to introduce.

37. If a motion for leave to introduce a Bill is opposed, the President after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may without further debate put the question.

VI.—Motions after Introduction.

Motions after introduction.

38. (1) When a Bill is introduced, or on some subsequent occasion, the member in charge may make one of the following motions in regard to his Bill, namely :—

(*a*) that it be taken into consideration by the *Assembly* either at once or at some future day to be then specified; or

(*b*) that it be referred to a Select Committee composed of such members of the Assembly as he may name in his motion; or

(*c*) that it be circulated for the purpose of eliciting opinion thereon;

Provided that no such motion shall be made until after copies of the Bill have been made available for

the use of members, and that any member may object to any such motion being made unless copies of the Bill have been so made available for three days before the day on which the motion is made and such objection shall prevail, unless the President in the exercise of his power to suspend this standing order, allows the motion to be made.

(2) A motion recommending that a Bill should be committed to a Joint Committee of both Chambers may be moved at any stage at which a motion for the reference of the Bill to a Select Committee may be moved.

Discussion of principle of Bills.

39. (1) On the day on which any such motion is made, or on any subsequent day to which the discussion thereof is postponed, the principle of the Bill and its general provisions may be discussed, but the details of the Bill must not be discussed further than is necessary to explain its principle.

(2) At this stage no amendments to the Bill may be moved, but—

(*a*) if the member in charge moves that his Bill be taken into consideration, any member may move as an amendment that the Bill be referred to a Select Committee or be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion, or

(*b*) if the member in charge moves that his Bill

be referred to a Select Committee, any member may move as an amendment that the Bill be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion.

(3) When a motion that a Bill be circulated for the purpose of eliciting opinion thereon is carried, and the Bill is circulated in accordance with that direction and opinions are received thereon, the member in charge, if he wishes to proceed with his Bill thereafter, must move that the Bill be referred to a Select Committee, unless the President, in the exercise of his power to suspend this standing order, allows a motion to be made that the Bill be taken into consideration.

VII.—Select Committees.

Composition of Select Committees.

40. (1) The Member of the Government to whose department the Bill relates, the member who introduced the Bill and the Law Member of the Governor-General's Executive Council, if he is a member of the Assembly, shall be members of every Select Committee.

(2) The other members of the Committee shall be appointed by the Assembly when the motion that the Bill be referred is made, or at any subsequent meeting:

Provided that, if the Law member is not a member of the Assembly, the Deputy President or one of

the Chairmen of the Assembly shall be appointed a member of the Committee.

(3) The Law Member or, if the Law Member is not a member of the Assembly, the Deputy President, if he is a member of the Committee, and if the Deputy President is not a Member of the Committee then a Chairman of the Assembly shall be chairman of the Committee, and if two or more Chairmen of the Assembly are members of the Committee, then the person whose name appears first in the panel of such Chairmen shall be chairman of the Committee. In the case of an equality of votes the chairman shall have a second or casting vote.

(4) A Select Committee may hear expert evidence and representatives of special interests affected by the measure before them.

(5) Where the Law Member or the Member of the Governor-General's Executive Council in charge of the department to which the Bill relates is not a Member of the Assembly, he shall have the right of attending at, and taking part in the deliberations of meetings of the Select Committee, but shall not be a member of the Committee.

Reports by Select Committee.

41. (1) After publication in the Gazette of a Bill as required by the rules the Select Committee to which the Bill has been referred shall make a report thereon.

(2) Such report shall be made not sooner than three months from the date of the first publication of

the Bill in the Gazette, unless the *Assembly* orders the report to be made sooner :

Provided that the time-limit referred to in this sub-rule shall not apply in the case of Bills imposing taxation.

(3) Reports may be either preliminary or final.

(4) The Select Committee shall, in their report state whether or not, in their judgment the Bill has been so altered as to require re-publication, whether the publication directed by the rules has taken place, and the date on which the publication has taken place.

(5) If any member of a Select Committee desires to record a minute of dissent on any point, he must sign the report, stating that he does so subject to his minute of dissent, and must at the same time hand in his minute.

Presentation of report.

42. (1) The report of the Select Committee on a Bill shall be presented to the *Assembly* by the member in charge of the Bill.

(2) In presenting a report the member in charge shall, if he makes any remarks, confine himself to a brief statement of fact, but there shall be no debate at this stage.

Printing and publication of reports.

43. (1) The Secretary shall cause every report of a Select Committee to be printed, and a copy of the report shall be made available for the use of every

Member of the *Assembly*. The report, with the amended Bill, shall be published in the Gazette.

(2) If any member is unacquainted with English, the Secretary shall also, if requested, cause the report to be translated for his use into such vernacular language as the President may direct.

Procedure after presentation of report.

44. (1) After the presentation of the final report of a Select Committee on a Bill, the member in charge may move—

(*a*) that the Bill as reported by the Select Committee be taken into consideration :

Provided that any member of the *Assembly* may object to its being so taken into consideration if a copy of the report has not been made available for the use of members for seven days, and such objection shall prevail, unless the President, in the exercise of his power to suspend this standing order, allows the report to be taken into consideration; or

(*b*) that the Bill as reported by the Select Committee be re-committed either—

(*i*) without limitation, or

(*ii*) with respect to particular clauses or amendments only, or

(*iii*) with instructions to the Select Committee to make some particular or additional provision in the Bill; or

(*c*) that the Bill as reported by the Select Committee be re-circulated for the purpose of obtaining further opinion thereon.

(2) If the member in charge moves that the Bill be taken into consideration, any member may move as an amendment that the Bill be re-committed or re-circulated for the purpose of obtaining further opinion thereon.

VIII.—Consideration, Amendment and Passing of Bills.

Proposal of amendments.

45. When a motion that a Bill be taken into consideration has been carried, any member may propose an amendment of the Bill.

Notice of amendments.

46. (1) If notice of a proposed amendment has not been given two clear days before the day on which the Bill is to be considered, any member may object to the moving of the amendment, and such object shall prevail, unless the President, in the exercise of his power to suspend this standing order, allows the amendment to be moved.

(2) The Secretary shall, if time permits, cause every notice of a proposed amendment to be printed, and a copy thereof to be made available for the use of every member.

(3) If any member present is unacquainted with English, the Secretary shall also, if requested, cause

every such notice to be translated for his use into such vernacular language as the President may direct.

Order of amendments.

47. Amendments shall ordinarily be considered in the order of the clauses of the Bill to which they respectively relate; and in respect of any such clause a motion shall be deemed to have been made "That this clause stand part of the Bill."

Submission of Bills clause by clause.

48. Notwithstanding anything in these standing orders it shall be in the discretion of the President, when a motion that a Bill be taken into consideration has been carried, to submit the Bill, or any part of the Bill, to the *Assembly* clause by clause. When this procedure is adopted, the President shall call each clause separately, and, when the amendments relating to it have been dealt with, shall put the question: "That this clause (or, *as the case may be*, that this clause as amended) stand part of the Bill."

Passing of Bills.

49. (1) When a motion that a Bill be taken into consideration has been carried and no amendment of the Bill is made, the member in charge may at once move that the Bill be passed.

(2) If any amendment of the Bill is made, any member may object to any motion being made, on the same day, that the Bill be passed, and such objection shall prevail, unless the President, in the exercise of

his power to suspend this standing order, allows the motion to be made.

(3) Where the objection prevails, a motion that the Bill be passed may be brought forward on any future day.

(4) To such a motion no amendment may be moved which is not either formal or consequential upon an amendment made after the Bill was taken into consideration.

Withdrawal of Bills.

50. The member who has introduced a Bill may may at any stage of the Bill move for leave to withdraw the Bill; and if such leave is granted, no further motion may be made with reference to the Bill.

Authentication of Bills.

51. When a Bill is passed by the *Assembly*, a copy thereof shall be signed by the President.

Submission of Bills to Governor General.

52. When a Bill which has been passed by the Council is passed by the Assembly, the Secretary shall send the copy of the Bill signed by the President to the Secretary of the Council for submission to the Governor-General.

Re-consideration by the Assembly of Bills passed by both Chambers.

53. When a Bill which has been passed by both Chambers is returned by the Governor General for re-consideration by the Assembly, the point or points referred for re-consideration shall be put before the Assembly by the Pre-

sident, and shall be discussed and voted upon in the same manner as amendments to a Bill, or in such other way as the President may consider most convenient for their consideration by the Assembly.

IX.—Amendment of Standing Orders.

Notice of proposal to amend standing orders.

54. (1) Unless the President otherwise directs, not less than ten clear days' notice of a motion for leave to amend the standing orders shall be given, and the notice shall be accompanied by a draft of the proposed amendments.

(2) The motion shall be set down for such day as the President may direct.

Procedure.

55. When the motion is reached, the President shall read the draft amendments and ask whether the member has the leave of the Assembly. If objection is taken, the Predent shall request those members who are in favour of leaving being granted to rise in their places, and if not less than twenty-five members rise accordingly, the President shall intimate that the member has the leave of the Assembly. If less than twenty-five members rise, the President shall inform the member that he has not the leave of the Assembly.

Reference to Select Committee.

56. (1) Where a member has the leave of the Assembly to proceed, he shall move that the draft amendments be referred to a Select Committee.

(2) If that motion is carried, the draft amendments shall be referred to a Select Committee of which the President shall be chairman, and the Deputy-President shall be a member. The remaining members, who shall be seven in number, shall be selected by the Assembly by means of the single transferable vote in accordance with the regulations framed in this behalf by the President.

Subsequent procedure.

57. After a draft has been referred to a Select Committee, the procedure in regard to Bills similarly committed shall, as far as may be, be followed with such variations as the President may consider necessary or convenient.

X.—Resolutions.

Notice of resolutions.

58. A member, who wishes to move a resolution, shall give fifteen clear days' notice of his intention, and shall, together with the notice, submit a copy of the resolution which he wishes to move :

Provided that the President, with the consent of the Member of the Government to whose Department the resolution relates, may allow it to be entered on the list of business with shorter notice than fifteen days.

Form and contents of resolutions.

59. Subject to the restrictions contained in the rules and to the provisions of these standing orders, any member may move a resolution relating to a matter of general public interest:

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

(a) it shall be clearly and precisely expressed and shall raise a definite issue; and

(b) it shall not contain arguments, inferences, ironical expressions or defamatory statements, nor shall it refer to the conduct or character of persons except in their official or public capacity.

Admissibility of resolutions.

60. The President shall decide on the admissibility of a resolution and may disallow any resolution when in his opinion it does not comply with these standing orders, and shall disallow any resolution if it infringes the rules as to the subject-matter of resolutions.

Motion and withdrawal of resolutions.

61. (1) A member in whose name a resolution stands on the list of business shall, when called on, either—

(a) withdraw the resolution, in which case he shall confine himself to a mere statement to that effect; or

(*b*) move the resolution, in which case he shall commence his speech by a formal motion in the terms appearing on the list of business.

(2) If the member when called on is absent, the resolution standing in his name shall be deemed to have been withdrawn.

Duration of speeches.

62. No speech on a resolution, except with the permission of the President, shall exceed fifteen minutes in duration :

Provided that the mover of a resolution, when moving the same and the Member of the Government to whose department the resolution relates when speaking for the first time, may speak for thirty minutes.

Limits of discussion.

63. The discussion of a resolution shall be strictly limited to the subject of the resolution.

Amendments.

64. After a resolution has been moved, any member may, subject to the rules and standing orders relating to resolutions, move an amendment to the resolution.

Notice of amendments.

65. (1) If notice of such amendment has not been given two clear days before the day on which the resolution is moved, any member may object to the moving of the amendment, and such objection shall prevail, unless the President, in the exercise of his

power to suspend this standing order, allows the amendment to be moved.

(2) The Secretary shall, if time permits, cause every amendment to be printed, and a copy thereof to be made available for the use of every member.

Withdrawal of resolutions.

66. (1) A member who has moved a resolution or an amendment to a resolution shall not withdraw the same except by leave of the *Assembly*.

(2) No discussion shall be permitted on a motion for leave to withdraw except with the permission of the President.

Order of amendments.

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

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

Division of resolution.

68. When any resolution involving several points has been discussed, it shall be in the discretion of the President to divide the resolution, and put each or any point separately to the vote as he may think fit.

69. If a resolution which has been admitted is not discussed during the session, it shall be deemed to have been withdrawn.

Resolutions not discussed.

70. (1) When a resolution has been moved no resolution or amendment raising substantially the same question shall be moved within one year.

Effect of motion and disallowances.

(2) When a resolution has been disallowed under the rules or these standing orders, or has been withdrawn with the leave of the Assembly, no resolution raising substantially the same question shall be moved during the same session.

XI.—The Budget.

71. There shall be no discussion of the Budget on the day on which it is presented to the Assembly.

Budget not to be discussed on presentation.

72. Notice of a motion to omit or reduce any grant shall be given two days before the day appointed for the discussion of such grant.

Notice of motions.

73. If the Governor General in Council declares that he is satisfied that any demand which has been refused or reduced by the Assembly is essential to the discharge of his responsibilities and acts as if such demand had been assented to, or if the Governor General, in case of emergency, authorises such expenditure as in his opinion is necessary for the safety

Restoration of grants.

or tranquillity of British India or any part thereof, the Finance Member shall, as soon as may be thereafter, lay on the table of the Assembly a statement showing the action so taken by the Governor General in Council or the Governor General, as the case may be, but no motion shall be made in regard to that action, nor shall the statement be discussed.

XII.—Communications between Governor General and the Assembly and Report of Proceedings of the Assembly.

Communications to the Governor General.

74. Communications from the Assembly to the Governor General shall be made—

(1) by formal address, after motion made and carried in the Assembly; and

(2) through the President.

Report of proceedings.

75. The Secretary shall cause to be prepared a full report of the proceedings of the Assembly at each of its meetings, and shall, as soon as practicable, publish it in such form and manner as the Governor General may, from time to time, direct.

SCHEDULE I.

[*See standing order* 7 (2).]

BALLOT PROCEDURE FOR DETERMINING RELATIVE PRECEDENCE OF NON-OFFICIAL BILLS AND RESOLUTIONS.

1. For the first two days of the session, whether the *Assembly* actually meets or not, there will be

kept in the *Assembly* office under the control of the Secretary a numbered list. On this list and during those days and at hours when the office is open, any member who wishes in the current session to give notice or has given notice of a Bill or resolution may have his name entered once only on the list against a number.

2. On the third day a ballot will be held in the Committee-room before the Secretary at which any member who wishes to attend may do so.

3. Papers with numbers corresponding to those against which entries have been made on the numbered list will be placed in a box.

4. A clerk will take out at hazard from the box one of the papers and the Secretary will call out from the list the corresponding name, which will then be entered on a priority list. This procedure will be carried out till all the numbers have been drawn.

5. Priority on the list will entitle the member to have set down in the order of his priority either a Bill or a resolution but not both, of which he has either given notice or of which he may give notice on the day after the ballot, on any day in the month in which the session commences available for the disposal of non-official business after the necessary notice for the Bill or the resolution, as the case may be, has expired.

6. A member may select, subject to the priorities of the list, any day allotted for the disposal of

non-official business. But he or some other member authorised by him, must state there and then at the time of the ballot the Bill or resolution that he wishes to have set down and the date on which he wishes it set down and, if he has not already given notice, must do so on the day next following, or he will lose all priority.

7. To determine the priority of non-official business during the remainder of the session ballots shall be held for such days and on such occasions as the President may from time to time appoint, and due notice shall be given to members of any proposed ballot. Subsequent ballots shall be taken in accordance with the procedure hereinbefore set out.

APPENDIX I.

(*b*) THE COUNCIL OF STATE STANDING ORDERS.

[*See Gazette of India December* 18, 1920, *Part I, pp.* 2270—78.]

The 16*th December*, 1920.

No. 165.—In pursuance of section 67, sub-section (6) of the Government of India Act, the Governor General in Council is pleased to make the following first standing orders for the Council of State :—

Short title.

1. These standing orders may be called the Council of State Standing Orders.

Definitions.

2. In these standing orders, unless the context otherwise requires ;—

" Assembly " means the Legislative Assembly ;

" Chairman of the Council " means any person appointed under section 63A of the Government of India Act to preside over the Council in the absence of the President ;

" Chamber " means a Chamber of the Indian Legislative ;

" Council " means the Council of State ;

" Gazette " means the Gazette of India ;

" Member " means a member of the Council ;

" Member of the Government " means a Member of the Governor General's Executive Council, and includes any member

to whom such Member may delegate any function assigned to him under the rules or standing orders;

" notification " means a notification in the Gazette;

" President " includes any Chairman of the Council for the time being presiding over the Council;

" resolution " means a motion for the purpose of discussing a matter of general public interest;

" rules " means the Indian Legislative Rules made under section 67 of the Government of India Act; and

" Secretary " means the Secretary of the Council, and includes any person for the time being authorised by the Secretary, subject to the control of the President, to perform all or any of the duties of the Secretary.

I.—Sessions of the Council, Arrangement of Business and giving of Notices.

Summoning of Council.

3. (1) The Governor General shall by notification appoint the date and place for a session of the Council.

(2) The Secretary shall issue a summons to each member for the date and place so appointed.

(3) After the commencement of a session, the

Council shall sit on such days as the President, having regard to the state of business of the Council, may from time to time direct.

4. Termination of Session [*same as O.* 4, *Legislative Assembly Standing Orders* (*L. A. S. O.*) *substituting* " *Council* " *for* " *Assembly* "].

5. Time of meeting [*same as O.* 6, *L. A. S. O. substituting* " *Council* " *for* " *Assembly* "].

6. Arrangement of business [*same as O.* 7, *L. A. S. O.*].

7. List of business [*same as O.* 8, *L. A. S. O.*].

8. Business outstanding at end of day [*same as O.* 9, *L. A. S. O.*].

9. Time for questions [*same as O.* 10, *L. A. S. O.*].

10. Giving of notice by members [*same as O.* 11, *L. A. S. O.*].

11. Giving of notice to members [*same as O.* 12, *L. A. S. O.*].

II.—QUESTIONS.

12. Notice of questions [*same as O.* 13, *L. A. S. O.*].

13. Matters to which questions must relate [*same as O.* 14, *L. A. S. O., substituting* " *Council* " *for* " *Assembly* "].

14. Form and contents of questions [*same as O.* 15, *L. A. S. O.*].

15. President to decide admissibility of ques-

tions [*same as O. 16, L. A. S. O., substituting "Council" for "Assembly"*].

16. List of questions [*same as O. 17, L. A. S. O.*].

17. Questions how put [*same as O. 18, L. A. S. O.*]

18. Answers to withdrawn questions. [*Same as O. 19, L. A. S. O.*]

19. Prohibition of discussion on questions on answers. [*Same as O. 20, L. A. S. O.*]

III.—Motions for Adjournment for purposes of Debate.

20. Time of asking leave for motion for adjournment. [*Same as O. 21, L. A. S. O.*]

21. Method of asking leave. [*Same as O.22, L. A. S. O.*]

22. If the President is of opinion that the matter proposed to be discussed is in order, he shall read the statement to the Council and ask whether the member has the leave of the Council to move the adjournment. If objection is taken, the President shall request those members who are in favour of leave being granted to rise in their places, and if not less than fifteen members rise accordingly, the President shall intimate that leave is granted and that the motion will be taken at 4 P.M. If less than fifteen members rise, the President shall inform the member that he has not the leave of the Council.

Precedure to be followed.

23. Limitation of time of discussion. [*Same as O. 24, L. A. S. O., substituting "Council" for "Assembly."*]

IV.—General Rules of Procedure.

Adjournment for failure of quorum.

24. If the President on a count at any time during a meeting ascertains that fifteen members are not present, he shall adjourn the Council till the next day on which it ordinarily sits.

25. Sitting of members. [*Same as O. 26, L. A. S. O.*]

26. Members to rise when speaking. [*Same as O. 27, L. A. S. O.*]

27. Explanations. [*Same as O. 28, L. A. S. O. substituting "Council" for "Assembly."*]

28. Limitations on debate. [*Same as O. 29, L. A. S. O., substituting "Council" for "Assembly."*]

29. Motions. [*Same as O. 30, L. A. S. O., substituting "Council" for "Assembly."*]

30. Repetition of motions. [*Same as O. 31, L. A. S. O., substituting "Council" for "Assembly."*]

31. Order of speeches and right of reply. [*Same as O. 32, L. A. S. O., substituting "Council" for "Assembly."*]

32. Rules as to amendments. [*Same as O. 33, L. A. S. O.*]

33. Closure. [*Same as O. 34, L. A. S. O.*]

34. Strangers. [*Same as O. 35, L. A. S. O., substituting "Council" for "Assembly."*]

35. Power to order withdrawal of strangers. [*same as O.* 36, *L. A. S. O.*]

V.—Introduction of Bills.

36. Motion for leave to introduce [*same as O.* 37, *L. A. S. O.*]

VI.—Motions after Introduction.

37. Motions after introduction [*same as O.* 38, *L. A. S. O.*] *substituting "Council" for "Assembly."*]

38. Discussion of principle of Bills [*same as O.* 39, *L. A. S. O.*]

VII.—Select Committees.

Composition of Select Committees

39. (1) The Member of the Government to whose department the Bill relates, the member who introduced the Bill and the Law Member of the Governor-General's Executive Council, if he is a member of the Council, shall be members of every Select Committee.

(2) The other members of the Committee shall be appointed by the Council when the motion that the Bill be referred is made, or at any subsequent meeting:

Provided that, if the Law Member is not a member of the Council, one of the Chairmen of the Council shall be appointed a member of the Committee.

(3) The Law Member or, if the Law Member is not a member of the Council, a Chairman of the

Council, shall be chairman of the Committee, and if two or more Chairmen of the Council are members of the Committee, then the person whose name appears first in the panel of such Chairmen shall be chairman of the Committee. In the case of an equality of votes, the chairman shall have a second or casting vote.

(4) A Select Committee may hear expert evidence and representatives of special interests affected by the measure before them.

(5) Where the Law Member or the Member of the Governor-General's Executive Council in charge of the department to which the Bill relates is not a member of the Council, he shall have the right of attending at, and taking part in the deliberations of, meetings of the Select Committee, but shall not be a member of the Committee.

40. Reports by Select Committee [*same as* O. 41, *L. A. S. O., substituting "Council" for "Assembly."*]

41. Presentation of report [*same as O.* 42, *L. A. S. O., substituting "Council" for "Assembly."*]

42. Printing and publication of reports [*same as O.* 43, *L. A. S. O., substituting "Council" for "Assembly."*]

43. Procedure after presentation of report [*same as O.* 44, *L. A. S. O., substituting "Council" for "Assembly."*]

VIII.—Consideration, Amendment and Passing of Bills.

44. Proposal of amendment [*same as O.* 45, *L. A. S. O.*]

45. Notice of amendments [*same as O.* 46, *L. A. S. O.*]

46. Order of amendments [*same as O.* 47, *L. A. S. O.*]

47. Submission of the Bills clause by clause [*same as O.* 48, *L. A. S. O., substituting "Council" for "Assembly."*]

48. Passing of Bills [*same as O.* 49, *L. A. S. O.*]

49. Withdrawal of Bills [*same as O.* 50, *L. A. S. O.*]

50. Authentication of Bills [*same as O.* 51, *L. A. O. substituting "Council" for "Assembly."*]

Submission of Bills to Governor General.

51. When a Bill has been passed by both Chambers, a copy thereof shall in all cases be submitted to the Governor-General by the Secretary.

Re-consideration by the Council of Bills passed by both Chambers.

52. When a Bill which has been passed by both Chambers is returned by the Governor-General for re-consideration by the Council, the point or points referred for re-consideration shall be put before the Council by the President, and shall be discussed and voted upon in the same manner as amendments to a Bill, or in such other way as the Pre-

sident may consider most convenient for their consideration by the Council.

IX.—Amendment of Standing Orders.

53. Notice of proposal to amend standing orders [*same as O.* 54, *L. A. S. O.*]

Procedure.

54. When the motion is reached, the President shall read the draft amendments and ask whether the member has the leave of the Council. If objection is taken, the President shall request those members who are in favour of leave being granted to rise in their places, and if not less than fifteen members rise accordingly, the President shall intimate that the member has the leave of the Council. If less than fifteen members rise, the President shall inform the member that he has not the leave of the Council.

Reference to Select Committee.

55. (1) When a member has the leave of the Council to proceed, he shall move that the draft amendments be referred to a Select Committee.

(2) If that motion is carried, the draft amendments shall be referred to a Select Committee of which the President shall be chairman, and one of the Chairmen of the Council, to be nominated by the President, shall be a member. The remaining members, who shall be seven in number, shall be selected by the Council by means of the single transferable vote in accordance with the regulations framed in this behalf by the President.

56. Subsequent procedure [*same as O.* 57, *L. A. S. O.*]

X.—Resolution.

57. Notice of resolution [*same as O.* 58, *L. A. S. O.*]

58. Form and contents of resolutions [*same as O.* 59, *L. A. S. O.*]

59. Admissibility of resolutions [*same as O.* 60, *L. A. S. O.*]

60. Motion and withdrawal of resolutions [*same as O.* 61, *L. A. S. O.*]

61. Duration of speeches [*same as O.* 62, *L. A. S. O.*]

62. Limits of discussion [*same as O.* 63, *L. A. S. O.*]

63. Amendments [*same as O.* 64, *L. A. S. O.*]

64. Notice of amendments [*same as O.* 65, *L. A. S. O.*]

65. Withdrawal of resolutions [*same as O.* 66, *L. A. S. O., substituting "Council" for "Assembly."*]

66. Order of amendments [*same as O.* 67, *L. A. S. O., substituting "Council" for "Assembly."*]

67. Division of resolution [*same as O.* 68, *L. A. S. O.*]

68. Resolutions not discussed [*same as O.* 69, *L. A. S. O.*]

69. Effect of motion and disallowance [*same as O.* 70, *L. A. S. O.*]

XI.—The Budget.

70. There shall be no discussion of the Budget, as such, after it has been presented to the Council, nor shall it be put to the vote of the Council.

Budget not to be discussed.

XII.—Communications between Governor-General and the Council and Report of Proceedings of the Council.

71. Communications from the Council to the Governer-General shall be made—

Communications to the Governor General.

(1) by formal address after motion made and carried in the Council; and

(2) through the President.

72. The Secretary shall cause to be prepared a full report of the proceedings of the Council at each of its meetings, and shall, as soon as practicable, publish it in such form and manner as the Governor-General may, from time to time, direct.

Report of proceedings.

SCHEDULE I.

[*See Standing Order* 6 (2).]

BALLOT PROCEDURE FOR DETERMINING RELATIVE PRECEDENCE OF NON-OFFICIAL BILLS AND RESOLUTIONS.

[*same as Schedule I, L. A. S. O., rules* 1—7, *substituting in rule* 1 " *Council* " *for* " *Assembly.*"]

APPENDIX J.

THE BENGAL LEGISLATIVE COUNCIL STANDING ORDERS.

[*See The Calcutta Gazette, December* 15, 1920, *Part III, pages* 61—71.]

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Notification No. 1451L., dated 10th December, 1920.—In exercise of the power conferred by section 11(6) of the Government of India Act, 1919 (9 and 10 Geo. 5, Ch. 101), the Governor in Council is pleased to make the following standing orders for the conduct of business and the procedure to be followed in the Bengal Legislative Council.

Standing Orders for the conduct of business in the Bengal Legislative Council.

CHAPTER I.

PRELIMINARY.

Short Title.

1. These standing orders may be called the Bengal Legislative Council Standing Orders.

Definitions.

2. In these standing orders unless there is anything repugnant in the subject or context—

(1) " budget " means the statement of the estimated annual expenditure and revenue of the Province of Bengal;

(2) " Council " means the Legislative Council of the Governor of Bengal;

(3) " Finance Member " means the member of Council appointed by the Governor to perform the functions of the Finance member;

(4) " member " means a member of the Council;

(5) " member of Government " means a member of the Executive Council, or a Minister, and includes any member to whom such member of Government may delegate any function assigned to him under these standing orders;

(6) " motion " means a proposal made by a member for the consideration of the Council relating to any matter which may be discussed by the Council, and includes an amendment;

(7) " President " means—

(*a*) the President of the Council, or

(*b*) in the absence of such President, the Deputy President of the Council, or

(*c*) in the absence of the President and Deputy President, the Chairman requested by the President or, in his absence, by the Deputy President, to preside;

(8) " resolution " means a motion for the purpose of discussing a matter of general public interest;

(9) " rule " means a rule of the Council;

(10) " Secretary " means a Secretary to the Council, and includes any person for the time being performing the duties of the Secretary;

(11) " select committee " means a committee appointed by the Council to consider or take evidence upon any bill, or any proposed amendments to standing orders, and to report their opinion for the information and assistance of the Council;

(12) " session " means the whole period, from the time when the Council is assembled to the time when it is prorogued; and

(13) " standing order " means a standing order of the Council.

CHAPTER II.

MEETINGS OF COUNCIL.

Notification and summons for meeting.

3. Whenever it appears to the Governor that the Council should assemble—

(*a*) he shall cause a notification to be published in the local official gazette, appointing the day, hour and place for a meeting of the Council, and

(*b*) the Secretary shall send to each Member a summons to attend the meeting.

CHAPTER III.

ELECTION OF DEPUTY PRESIDENT.

Election of Deputy President.

4. (1) After the members have been sworn in at the beginning of each new Council, the Council shall elect one of its members to be a Deputy President.

(2) Every member who wishes to propose a member for election must—

(*i*) ascertain previously that the member is willing to serve if elected, and

(*ii*) hand to the President a notice containing the name of the member whom he desires to propose signed by himself and some other member as seconder.

(3) The President shall read out to the Council the names of the candidates, together with those of their proposers and seconders, and if only one person has been proposed for election, shall declare that person duly elected. If more than one person has been proposed, the Council shall then proceed to vote on the question by ballot, and the President shall declare the person who receives the majority of the votes to be duly elected. The ballot shall be held in such manner as the President may direct.

(4) If a vacancy in the office of Deputy President occurs during the life of a Council or if the Governor withholds his approval to any election, a fresh election shall be held in accordance with the procedure hereinbefore mentioned: provided that a member whose election has not been approved by the Governor shall not be proposed as a candidate during the continuance of that Council.

CHAPTER IV.

SITTINGS OF THE COUNCIL AND ARRANGEMENT OF BUSINESS.

Sitting of the Council.

5. Whilst in session the Council shall meet at such hour as the Governor may appoint.

Business left over from session.

6. (1) On the termination of a session all pending notices shall lapse and fresh notice must be given for the next session.

(2) On the termination of a session Bills which have been introduced shall be carried over to the pending list of business of the next session :

Provided that if the Member in charge of a Bill makes no motion in regard to the same during two complete sessions the Bill shall lapse unless the Council on a motion by that member make a special order for the continuance of the Bill

Arrangement of business.

7. (1) At times when Government business has precedence the Governor may arrange that business in such order as he thinks fit

(2) The relative precedence of notices of Bills and resolutions given by non-official members shall from to time be determined by ballot, in such manner as the President may direct.

(3) Bills introduced by non-official members shall be arranged in such order as to give priority to the

Bills most advanced, that is to say, in the following order :—

(*i*) Bills which have reached a stage at which the next motion is a motion that the Bill be passed;

(*ii*) Bills at which the next stage is a motion that the Bill be taken into consideration;

(*iii*) Bills at which the next stage is the presentation of the report of the select committee.

(4) The relative precedence of other non-official Bills which have been introduced but which have not been proceeded with as far as the stages set out above shall be determined by ballot, in such manner as the President may direct.

List of business.

8. (1) A list of business for the day shall be prepared by the Secretary and shall be circulated to all members.

(2) No business not included in the list of business for the day shall be transacted at any meeting without the leave of the President.

Business outstanding at end of day.

9. All business appointed for any day and not disposed of on that day shall stand over until the next day of the session available for business of the class to which it belongs.

Time for questions.

10. The first hour of every meeting shall be available for the asking and answering of questions.

Giving of notice.

11. (1) Every notice required by the rules or standing orders shall be given in writing addressed to the Secretary and and may be left at the Council office which shall be open for this purpose between the hours of 11 and 3 o'clock on every day except Sunday or a public holiday, or may be posted.

(2) Notices left, or delivered by post, when the office is closed shall be treated as given on the next open day.

CHAPTER V.

QUESTIONS.

Notice of questions.

12. A member who wishes to ask a question shall give fifteen days' notice of his intention and shall, together with the notice, submit a copy of the question he wishes to ask :

Provided that the President may, with the consent of the member of the Government in charge of the Department to which the question pertains, allow a question to be put at shorter notice than fifteen days; or may extend the time for answering a question to a subsequent meeting.

Matters to which they must relate.

13. A question addressed to a member of the Government must relate to the public affairs with which he is officially connected, or to a matter of administration for which he is responsible.

14. In order that a question may be admissible it must satisfy the following conditions, namely :—

Form and contents of questions.

(1) it must not bring in any name or statement not strictly necessary to make the question intelligible;

(2) if it contains a statement, the member asking it must make himself responsible for the accuracy of the statement;

(3) it must not contain arguments, inferences, ironical expressions or defamatory statements;

(4) it must not ask for an expression of opinion or the solution of a hypothetical proposition;

(5) it must not be asked as to the character or conduct of any person except in his official or public capacity; and

(6) it must not be of excessive length.

15. The President shall decide on the admissibility of a question with reference to the provisions of order 14 and shall disallow any question when in his opinion it is an abuse of the right of questioning, or is in contravention of those provisions.

President to decide admissibility of question.

16. Questions, which have not been disallowed, shall be entered in the list of questions for the day, and shall be called

List of questions.

if the time made available for questions permits, in the order in which they stand in the list before any other business is entered upon at the meeting. Any questions left over owing to time not being available shall be postponed to the next meeting of the Council when they shall take precedence in the list.

Questions how put.

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

Answer to withdrawn questions.

18. The President, at the request of a member of the Government, may direct that an answer to a question may be given on the ground of public interest, even though the question is not put or the member in whose name it stands is absent.

Member may ask for notice of supplementary question.

19. The member of the Government to whom to whom a supplementary question is put may, if he is not prepared to give an answer immediately, ask for notice of the question, in which case the supplementary question shall be treated as a fresh question to be answered at a subsequent meeting of the Council.

Prohibition of discussion.

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

CHAPTER VI.

MOTIONS FOR ADJOURNMENT FOR PURPOSES OF DEBATE.

Time of asking leave.

21 Leave to move a motion for the adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance must be asked for after questions and before the list of business for the day is entered upon.

Method of asking leave.

22. The member asking leave must hand to the President a written statement of the matter proposed to be discussed and must annex thereto the consent of the President in writing to his motion.

Procedure to be followed.

23. If the President is of opinion that the matter proposed to be discussed is in order and if it has not been disallowed by the Governor under rule 22 (2), the President shall read the statement to the Council and ask whether the member has the leave of the Council. If no objection is taken, the President shall intimate the hour at which the motion will be taken. If objection is taken, he shall request those members who support the motion to rise in their places and if not less than thirty members rise accordingly, he shall similarly intimate the hour. If less than thirty members rise, the Presidents shall inform the member that he has not the leave of the Council.

24. (1) The debate on a motion to discuss a matter of urgent public importance if not earlier concluded shall automatically terminate at the end of two hours, and thereafter no question can be put.

Limitation of time of discussion.

(2) No speech during the debate shall exceed fifteen minutes in duration.

CHAPTER VII.

General Rules of Procedure.

25. If the President on a count at any time during a meeting ascertains that twenty-five members are not present he shall adjourn the Council till the next day, on which the Council ordinarily sits.

Adjournment for failure of quorum.

26. The members shall sit in such order as the President may appoint.

Members' places

Rules of Debate.

27. A member desiring to make any observations on any matter before the Council shall speak from his place, shall rise when he speaks, and shall address the President. At any time if the President rises, any member speaking shall immediately resume his seat.

Members to rise when speaking.

28. When, for the purpose of explanation during discussion or for any other sufficient reason, any member has occasion to ask a question of another member on any mat-

Explanations.

ter then under the consideration of the Council, he shall ask the question through the President.

Limitations on debate.

29. (1) The matter of every speech must be strictly relevant to the matter before the Council.

(2) A member while speaking must not—

(*i*) refer to any matter of fact on which a judicial decision is pending;

(*ii*) make a personal charge against a member;

(*iii*) use offensive expressions regarding the conduct of the Indian or any local Legislature;

(*iv*) reflect upon the conduct of His Majesty the King, or the Governor-General or any Governor or any Court of Justice;

(*v*) utter treasonable, seditious, or defamatory words; and

(*vi*) use his right of speech for the purpose of wilfully obstructing the business of the Council.

MOTIONS.

Motions.

30. (1) A matter requiring the decision of the Council is brought forward by means of a question put by the President on a motion proposed by a member.

(2) A member who wishes to move a motion (other than a motion for which a specified period is otherwise prescribed) shall give notice of his inten-

tion to the Secretary ten days before the meeting at which he intends to move the motion:

Provided that the President may, in his discretion, admit at any time any motion at shorter notice than that prescribed by any order, or may admit a motion without notice.

(3) Votes may be taken by voices, by show of hands, or by division, and shall be taken by division if any member so desires. The President shall determine the method of taking votes by division.

(4) The result of a division shall be announced by the President and shall not be challenged.

Admissibility of motions.

31. (1) Except as otherwise provided in the rules the President shall decide on the admissibility of a motion.

(2) The President may disallow any motion, when in his opinion it does not comply with the rules or standing orders.

Repetition of motions.

32. A motion must not raise a question substantially identical with one on which the Council has given a decision in the same session.

Identical motions.

33. Where substantially identical motions stand in the names of two or more members, the President shall decide whose motion shall be moved, and the other motions shall thereupon be deemed to be withdrawn.

Order of speeches, right of reply and explanations, time-limit of speeches.

34. (1) When any member has made a motion other members may speak to it in such order as the President may direct.

(2) Except in the exercise of a right of reply or as otherwise provided, no member shall speak more than once to any motion, except with the permission of the President, for the purpose of making a personal explanation, but in that case no debatable matter may be brought forward.

(3) A member who has moved a substantive motion may speak again by way of reply, and if the motion is moved by a non-official member, the member of the Government to whose department the matter relates shall have the right of speaking after the mover whether he has previously spoken in the debate or not.

(4) Except with the permission of the President no speech upon any motion shall exceed fifteen minutes in duration :

Provided that the mover of a motion when moving the same, and the member of Government in charge of the Department to which the motion relates, when speaking for the first time, may speak for thirty minutes.

Rules as to amendments.

35. (1) An amendment must be relevant to and within the scope of the question to which it is proposed.

(2) An amendment may not be moved which has merely the effect of a negative vote.

(3) After a decision has been given on an amendment to any part of a question, an earlier part shall not be amended.

(4) An amendment on a question must not be inconsistent with the previous decision on the same question given at the same stage of any Bill or motion.

(5) The President may refuse to put an amendment which is in his opinion frivolous.

Order of amendments.

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

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

Division of motions.

37. When any motion involving several points has been discussed, it shall be in the discretion of the President to divide the motion, and put each or any point separately to the vote as he may think fit

Withdrawal of motions.

38. (1) A member who has moved a motion shall not withdraw the same except by leave of the Council.

(2) No discussion shall be permitted on a request for leave to withdraw the except with the permission of the President.

If the leave of Council has been given to withdraw a motion to which an amendment has been proposed, the mover of the amendment may forthwith move the motion in its amended form.

CLOSURE.

Closure.

39. When any motion is under discussion any member may move " that the question be now put," and unless it appears to the President that the request is an abuse of the rules of the Council, or an infringement of the rights of reasonable debate, the question " that the question be now put," shall be put forthwith. There shall be no debate on such motion. If such motion be carried by the votes of at least two-thirds of the members present and voting, the question shall be put accordingly;

Provided that in the case of motions relating to a Bill relating to a reserved subject, the member in charge of the Bill may request the President to put the question, and the President, if similarly satisfied that the request is not an abuse of the rules of the Council, or an infringement of the rights of reasonable debate, shall then put the question forthwith without taking the vote of the Council.

SELECT COMMITTEES.

Select Committees.

40. (1) The member of the Government in charge of the Department to which a Bill relates and the member who introduced the Bill shall be members of every select committee.

(2) The other members of the committee shall be named in the motion proposing the appointment of the committee.

(3) The member of the Government in charge of the Department to which the Bill relates shall ordinarily be Chairman of the committee and in the case of an equality of votes, the Chairman shall have a second or casting vote.

(4) A select committee may hear expert evidence and representatives of special interests affected by the measure before them.

Proceedings of select committee to be treated as confidential.

41. All proceedings of a select committee shall be treated as confidential, and its recommendations shall not be disclosed until the report has been made available for the use of each member or has been published in the local official gazette.

CHAPTER VIII.

LEGISLATION.

Motion for leave to introduce a Bill.

42. (1) If a motion for leave to introduce a Bill is opposed, the President after permitting, if he thinks fit, a brief explanatory statement from the member

who moves and from the member who opposes the motion may without further debate put the question thereon.

(2) If such motion be carried, the Secretary shall read the title of the Bill, and the Bill shall thereupon be deemed to be introduced in Council.

(*a*) MOTIONS AFTER INTRODUCTION.

Motion after introduction.

43. When a Bill is introduced, or on some subsequent occasion, the member in charge may make one of the following motions in regard to the Bill, namely :—

(*a*) that it be taken into consideration by the Council either at once or at some future day to be then mentioned, or

(*b*) that it be referred to a select committee, or

(*c*) that it be circulated for the purpose of eliciting opinion thereon :

Provided that no such motion shall be made until after copies of the Bill have been made available for the use of members, and that any member may object to any such motion being made unless copies of the Bill have been so available for seven days before the motion is made, and such objection shall prevail unless the President in exercise of his power to suspend this order allows the motion to be made.

Discussion of Bills.

44 (1) On the day on which any such motion is made, or on any subsequent day to which the discussion is posptoned, the principle of the Bill and its gene-

ral provisions may be discussed, but the details of the Bill must not be discussed further than is necessary to explain its principle.

(2) At this stage no amendments to the Bill may be moved, but—

(*a*) if the member in charge moves that the Bill be taken into consideration, any member may move as an amendment that the Bill be referred to a select committee or be circulated for the purpose of eliciting opinion thereon before a date to be mentioned in the motion, or

(*b*) if the member in charge moves that the Bill be referred to a select committee, any member may move as an amendment that the Bill be circulated for the purpose of eliciting opinion.

(3) Where a motion that the Bill be circulated for the purpose of eliciting opinion is carried in the Council and the Bill is circulated in accordance with that direction and opinions have been received thereon before the date mentioned in the motion, the member in charge, if he wishes to proceed with the Bill thereafter, must move that the Bill be referred to a select committee, unless the President in the exercise of his power to suspend this order allows a motion to be made that the Bill be taken into consideration.

(*b*) REPORTS BY SELECT COMMITTEES.

Reports by select committee.

45. (1) When a Bill has been referred to a Select committee, the committee shall make a report thereon.

(2) Reports may be either preliminary or final.

(3) The select committee shall, in their report, state whether or not, in their judgment, the Bill has been so altered as to require re-publication, whether the publication directed by the rules or by the Council has taken place, and the date on which the publication has taken place, or, where publication in more than one language is ordered, the date on which the publication in each such language has taken place.

(4) If any member of a select committee desires to record a minute of dissent on any point, he must sign the majority report, stating that he does so subject to his dissent, and must at the same time hand in his minute.

(5) Every such minute of dissent must be confined to a discussion of matter contained in the report, and must be free from personal remarks.

Printting and publication of reports.

46. (1) The Secretary shall cause every report of a select committee to be printed, and a copy of the report shall be made available for the use of each member. The report, with the amended Bill, shall be published in the local official gazette:

(2) If any member is unacquainted with English, the Secretary shall also, if requested, cause the report to be translated for his use into such vernacular language as the President may direct.

Presentation of report and procedure after presennt-ation.

47. (1) Every report by a select committee on a Bill shall be presented to the Council by the Chairman of the Committee.

(2) In presenting a report the member in charge shall, if he makes any remarks, confine himself to a brief statement of fact.

(3) After the presentation of the final report, the member in charge may move—

(*i*) that the Bill as reported by the select committee be taken into consideration, but any member may object to its being so taken into consideration if a copy of the report has not been available for the use of members for seven days, and such objection shall prevail unless the President in exerciseof his power to suspend this order allows the report to be taken into consideration; or

(*ii*) that the Bill be re-committed either—

(*a*) without limitation, or

(*b*) with respect to particular clauses or amendments only, or

(*c*) with instructions to the select committee

to make some particular or additional provision in the Bill.

(4) If the member in charge moves that the Bill be taken into consideration, any member may move as an amendment that the Bill be re-committed.

(*c*) CONSIDERATION AND AMENDMENT OF BILLS.

Proposal of amendments.

48 When a motion has been agreed to by the Council that a Bill be taken into consideration, any member may propose an amendment of such Bill.

Notice of amendments.

49. (1) Any member who wishes to move an amendment to any Bill under the consideration of the Council shall send written notice thereof to the Secretary so as to reach him at least ten days before the first day on which the Bill is to be taken into consideration by the Council, and shall, together with the notice, send a copy of the amendment which he desires to move.

(2) The Secretary shall, if time permits, cause every notice of a proposed amendment to be printed, and a copy shall be made available for the use of each member.

(3) If any member present is unacquainted with English, the Secretary shall also, if requested, and if time permits, cause every such notice to be translated into such vernacular language as the President may direct.

Order of amendments.

50. Amendments shall ordinarily be considered in the order of the clauses to which they respectively relate.

Submission of Bill clause by clause.

51. Notwithstanding anything in the foregoing orders, it shall be in the discretion of the President, when a motion that a Bill be taken into consideration has been carried, to submit the Bill, or any part of the Bill, to the Council clause by clause. When this procedure is adopted, the President shall call each clause separately, and, when the amendments relating to it have been dealt with, shall put the question "that this clause or (as the case may be) this clause as amended, stand part of the Bill."

Passing of Bills.

52. (1) If no amendment be made when a motion that a Bill be taken into consideration has been agreed to by the Council, the Bill may at once be passed.

(2) If any amendment be made, any member may object to the passing of the Bill at the same meeting; and such objection shall prevail, unless the President, in exercise of his power to suspend this order, allows the motion that the Bill be passed to be made.

(3) Where the objection prevails, the Bill shall be brought forward again at a future meeting; and may then be passed with or without further amendment.

Formal revision of Bill and submission of it to President for authentication.

53. When a Bill is passed by the Council, the Secretary shall, if necessary, re-number the clauses, revise and complete the marginal notes thereof and make such purely formal consequential amendments therein as may be required, and a copy of the Bill shall be submitted to the President and shall be signed by him.

Assent to Bill and publication of Bill as Act.

54. (1) When a Bill as passed in Council has been signed by the President, it shall be submitted to the Governor for his assent, and if assented to by him, the Act shall be submitted to the Government of India for the assent of the Governor-General.

(2) If the Governor-General assents to an Act it shall be published in the local official gazette as an Act of the Governor in Council of Fort William in Bengal assented to by the Governor-General.

Procedure when Bill is returned by Governor for re-consideration.

55. When a Bill which has been passed is returned by the Governor to the Council for re-consideration, the point or points referred for re-consideration shall be put before the Council by the President, and shall be discussed and voted upon in the same manner as amendments to a Bill.

Withdrawal of Bill.

56. The member in charge of a Bill may at any stage of the Bill move that the Bill be withdrawn, and if such motion be carried, the Bill shall be withdrawn accordingly.

57. Communications on matters connected with any Bill before the Council must be addressed to the Secretary.

Communications as to Bills.

58. The Secretary shall, if time permits, cause such communication to be printed, and send a copy to each member, and shall also refer them to the select committee sitting on any Bill to which they may relate

Circulation of communications.

CHAPTER IX.

AMENDMENT OF STANDING ORDERS.

59. A motion for leave to amend the standing orders shall be set down for such day as the President may direct.

Notice of proposal to amend the standing orders.

60. When the motion is reached, the President shall read the draft amendments and ask whether the member has the leave of the Council. If objection is taken, the President shall request those members who support the motion to rise in their places and if not less than thirty members rise accordingly, the President shall intimate that the member has the leave of the Council. If less than thirty member rise, the President shall inform the member that he has not the leave of the Council.

Procedure.

61. When a member has the leave of the Council to proceed, the draft amendments shall be referred to a select committee of which the President

Reference to select committee.

shall be Chairman, and of which the Deputy President and a Chairman of the Council to be nominated by the President shall be members. The remaining members, who shall be seven in number, shall be selected by the Council by means of the single transferable vote in accordance with the regulations framed in this behalf by the President.

Subsequent procedure.

62. After a draft has been referred to a select committee the procedure in regard to Bills similarly committed shall, as far as may be, followed with such necessary alterations as to the form of the motions that may be made as the President may direct.

CHAPTER X.

RESOLUTIONS.

Notice of resolutions.

63. A member, who wishes to move a resolution, shall give twenty-one days' notice of his intention and shall, together with the notice, submit a copy of the resolution which he wishes to move;

Provided that the President with the consent of the member of the Government in charge of the Department concerned may allow a resolution to be entered on the list of business at shorter notice than twenty-one days.

Form and contents of resolution.

64. Subject to the restrictions contained in the rules and the provisions of the standing orders, any member may move a resolution relating to a matter of general public interest.

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

(*a*) it shall be clearly and precisely expressed and shall raise a definite issue; and

(*b*) it shall not contain arguments, inferences, ironical expressions or defamatory statements, nor shall it refer to the conduct or character of persons except in their official or public capacity.

Procedure on motion to withdraw.

65. (1) A member in whose name a resolution appears on the list of business shall, when called on, either—

(*a*) withdraw the resolution, in which case he shall confine himself to a mere statement to that effect but may make such brief statement of his reasons for withdrawal as he may consider necessary; or

(*b*) move the resolution, in which case he shall commence his speech by a formal motion in the terms appearing in the list of business.

(2) If the member when called on is absent, the

resolution standing in his name shall be considered to have been withdrawn :

Provided that the President, in his discretion, may allow another member to move such resolution, or may postpone it.

Limits of discussion.

66. The discussion of a resolution shall be strictly limited to the subject of the resolution.

Amendments.

67. When a resolution is under discussion, any member may, subject to all the rules and orders relating to resolutions, move an amendment to such resolution.

Notice of amendment.

68. (1) If a copy of such amendment has not been sent to the Secretary seven days before the day fixed for the discussion of the resolution, any member may object to the moving of the amendment, and such objection shall prevail, unless the President, in exercise of his power to suspend this order, allows the amendment to be moved.

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

CHAPTER XI.

FINANCIAL BUSINESS.

Discussion on budget.

69. No discussion of the budget shall take place on the day on which it is presented.

Method of election of members of the Committee on Public Accounts.

70. The President shall make regulations governing the method of election by single transferable vote of the members of the Committee on Public Accounts referred to in rule 33.

Restoration of grants by Local Government.

71. If the Local Government or the Governor exercises the power conferred by section 72D (2) provisos (*a*) and (*b*) of the Government of India Act, in regard to demands refused or reduced by the Council, the Finance Member shall, as soon as may be thereafter lay on the table of the Council a statement showing the action taken by the Local Government, together, in the case of action under section 72-D (2) proviso (*a*), with a copy of the certificate granted by the Governor, but no motion may be made in regard to that action.

CHAPTER XII.

COMMUNICATION BETWEEN GOVERNOR AND THE COUNCIL.

Communication with the Governor.

72. Communications from the Council to the Governor shall be made—

(1) by formal address, after motion made and carried in the Council; and

(2) through the President.

CHAPTER XIII.

MISCELLANEOUS.

Journal.

73. (1) The Secretary shall keep a journal in which a short record of the proceedings of the Council for each day shall be fairly entered.

(2) The journal shall be submitted after each meeting to the President for his confirmation and signature; and, when so signed, shall be the record of the proceedings of the Council.

Full report of proceedings.

74. (1) The Secretary shall also cause to be prepared a full report of the proceedings of the Council at each of its meetings and publish it as soon as practicable.

(2) He shall send a copy of such report to each member of the Council and to the Parmanent Under-Secretary of State for India.

Admission of strangers.

75. The admission to the Council Chamber of—

(1) visitors to the visitors' gallery;

(2) representatives of the Press to the Press gallery; and

(3) officials

during the sittings of Council shall be regulated in accordance with orders made by the President with the previous sanction of the Governor.

Power to order withdrawal of strangers.

76. The President, whenever he thinks fit, may order the galleries to be cleared.

APPENDIX K.

INSTRUCTIONS TO THE GOVERNOR OR ACTING GOVERNOR FOR THE TIME BEING OF THE PRESIDENCY OR PROVINCE OF—

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 (or Province) of—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 :—

1. You shall do all that lies in your power to maintain standards of good administration, to en-

courage religious toleration, co-operation, and goodwill among all classes and creeds, to ensure the probity of public finance and the solvency of the Presidency (or Province) 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.

2. 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 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.

3. In as much 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 (or Province) that so far as may be possible, the responsibility for each of these respective classes of matters may be kept clear and distinct.

4. 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 Councilors.

5. 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.

6. 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 (or Province) as expressed by their representatives therein.

7. 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 Pre-

sidency, (or Province) 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 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 enjoy-

ed, 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 (or Province) 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 (or Province) 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.

8. 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 (or Province) in such manner as you may think fit.

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[s. means section of the Government of India (consolidated) Act ; the notes to the coresponding section of the 1919 Act may be refered to ; n. after a page-reference means notes in small type printed on that page , s. o. means Standing Order.]

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