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GOVERNMENT PRINTING, INDIA

1920

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**A Report prepared for presentation to
Parliament in accordance with the
requirements of the 26th Section of the
Government of India Act
(5 & 6 Geo. V., Chap. 61)**

BY

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Fellow of All Souls ;

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Government of India*



CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
1920

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FOREWORD.

THE year 1919 opened full of promise for India, as for the rest of the Empire. The British Commonwealth had emerged victorious from the greatest war of history, and India was proudly conscious that she had contributed not little to the achievement of that triumph. Her own position in the Commonwealth was higher than it had ever been before; the scheme of constitutional reform which was to put her upon the road to self-government was already in process of being translated from theory into practice. Plans for extensive commercial development seized upon the imagination of the educated and the moneyed classes, with the result that a great wave of industrial prosperity carried India on its crest to a level far higher than had ever been contemplated.

But as the year proceeded, the picture changed. The disastrous monsoon of 1918 began to produce its full effects in continued scarcity and steadily rising prices. The still unsatisfied political aspirations of the educated classes combined with the economic hardships borne by the poor, produced an atmosphere dangerous to the public peace. A spark ignited the train, and the result was the tragic explosion of March and April.

Nor was it only in domestic politics that storms suddenly gathered where calm had seemed to reign. The North-West Frontier, which during all the critical years of the war had remained so quiet, suddenly became a danger zone, at the very time when according to human calculation trouble might have been ruled out. Following upon the Afghan war came after-effects far more serious than the actual hostilities—a disturbed border which up to the moment of writing has not yet resumed its normal condition, and the nearer approach to India's frontier of the chaos which Bolshevism has brought to Central Asia.

Dark as in many respects has been its history, the year 1919 closed full of hope. Constitutional reforms on a generous scale have been sanctioned by Parliament. The gracious proclamation of His Majesty, with his message of sympathy for past unhappiness and of hope for future progress, acted at once as a stimulus to constructive constitutional activity, and as a call alike to his Indian and to his English subjects to co-operate whole-heartedly in fresh labours for India's welfare.

The country stands now on the threshold of a new era—an era which seems destined to witness her advance from the early difficulties and inevitable readjustment to a full realisation of her high destiny as an equal partner in the British Commonwealth.

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(Mostly Annual)

General.

Statistical Abstract relating to British India (Parliamentary paper).
Statistics of British India :—

- Vol. I.—Commercial.
- Vol. II.—Financial.
- Vol. III.—Public Health.
- Vol. IV.—Administrative and Judicial.
- Vol. V.—Educational.

Census Reports (Decennial), India, Provincial, and Native States.

Administration Reports : Madras, Bombay, United Provinces, Punjab, Bengal, Central Provinces and Berar, Burma, Bihar and Orissa, Assam, North-West Frontier Province, Delhi, Coorg, Andaman and Nicobar Island, Civil and Military Station of Bangalore, Ajmer-Merwara, Baluchistan Agency.

Legislation.

Acts of the Imperial and Provincial Legislative Councils.

Justice and Police.

Report on the Administration of Civil Justice for each Province.
Report on the Administration of Criminal Justice for each Province.
Report on Jails for each Province.
Reports on Police for each Province, and for Bombay Town and Island, Calcutta, and Rangoon.

Finance.

Finance and Revenue Accounts of the Government of India.
East India Financial Statement (Parliamentary Paper).
Return of Net Income and Expenditure for eleven years (Parliamentary Paper).
Accounts and Estimates : Explanatory Memorandum (Parliamentary Paper).
Home Accounts (Parliamentary Paper).
Loans raised in England (Half-yearly Parliamentary Paper).
Loans raised in India (Half-yearly Parliamentary Paper).
Mint Reports for Calcutta and Bombay.
Paper Currency Department Reports, India and Bombay.
Statistics compiled from the Finance and Revenue Accounts.

Land Revenue, etc.

Land Revenue Administration: Provincial Reports for Lower Provinces (Bengal), Bihar and Orissa, Assam, United Provinces, Bombay Presidency (including Sind), Punjab, Central Provinces and Berar, Burma, and Madras.

Report on Land Revenue Administration, Land Records, Settlement Operations, Alienation of Land Act, etc., for North-West Frontier Province.

Madras Survey, Settlement and Land Records Department Report.

Reports of Land Records Departments for Bombay, Burma, Bengal, United Provinces, and Punjab.

Report on Settlement Operations, Punjab.

Reports on Survey and Settlement Operations, Bengal, Bihar and Orissa and Assam.

Reports on Operations of the Land Records and Settlement Departments, Central Provinces and Berar.

Report of the Talukdari Settlement Officer, Bombay.

Provincial Reports on the Administration of Estates under the Court of Wards.

Report on the Punjab Canal Colonies.

Separate Revenue (Salt, Excise, etc.)

Salt Department Reports: Northern India, Madras, Bombay, Sind, Bengal, Burma, Bihar and Orissa.

Excise Report for each Province.

Report on the Operations of the Opium Department.

Stamp Department Report for each Province.

Registration Department Report for each Province.

Income Tax Report for each Province.

Agriculture and Veterinary.

Report on the Progress of Agriculture in India.

Report of the Agricultural Research Institute and College, Pusa.

Bulletins of the Agricultural Research Institute, Pusa, and of the Provincial Departments of Agriculture.

Memoirs of the Department of Agriculture.

Proceedings of the Board of Agriculture.

Agricultural Journal of India (quarterly).

Reports of the Department of Agriculture for each Province.

Reports on Agricultural Stations, Experimental Farms, and Botanic Gardens for each Province.

Season and Crop Report for each Province.

Agricultural Statistics of India.

Area and Yield of certain Principal Crops.

Report on Production of Tea in India.

Report on Tea Culture in Assam.

Reports of the Civil Veterinary Departments for each Province.

Statistics compiled from the Reports of the Provincial Civil Veterinary Departments.

Report of the Camel Specialist.

Report of the Imperial Bacteriologist (Veterinary).

Co-operative Societies.

- Statements showing Progress of the Co-operative Movement in India.
- Reports on Co-operative Societies for each Province.
- Reports of Conferences of Registrars of Co-operative Societies, India and Provincial.

Forests.

- Annual Return of Statistics relating to Forest Administration in British India.
- Report on Forest Administration for each Province.
- Reports of the Forest Research Institute and the Imperial Forest College, Dehra Dun.
- Quinquennial Forest Review.
- Indian Forest Memoirs.
- Indian Forest Records.
- Forest Bulletins.

Mineral Production and Inspection of Mines.

- Review of Mineral Production (in Records of Geological Survey).
- Report on Production and Consumption of Coal in India.
- Report of the Chief Inspector of Mines.

Trade and Manufactures.

- Annual Statements of Sea-borne Trade and Navigation, India and Provincial (Madras, Bombay, Sind, Bengal, Bihar and Orissa, Burma).
- Review of the Trade of India (Parliamentary Paper).
- Tables of the Trade of India (Parliamentary Paper).
- Provincial Reports on Maritime Trade and Customs (including working of Merchandise Marks Act) for Bengal, Bihar and Orissa, Bombay, Sind, Madras, and Burma.
- Accounts relating to the Sea-borne Trade and Navigation of British India (monthly and for calendar year).
- Accounts relating to the Trade by Land of British India with Foreign Countries (monthly).
- Annual Statement of Coasting Trade of British India.
- Report on the Trade and Navigation of Aden.
- Accounts of Trade carried by Rail and River in India.
- Report on Inland, Rail-borne, or Rail-and-River-borne Trade for each Province.
- External Land Trade Reports for Bengal, Bihar and Orissa, Assam, Burma, United Provinces, Punjab, North-West Frontier Province, Sind and British Baluchistan.
- Indian Trade Journal (weekly).
- Statistics relating to Joint-Stock Companies in British India and Mysore.
- Report on the working of the Indian Companies Act for each Province.
- Report on the working of the Indian Factories Act for each Province.
- Report of the Chief Inspector of Explosives.

Public Works.

- Administration Report on Railways.
- Reports on Public Works (Buildings and Roads) for Madras, Bombay, Punjab, North-West Frontier Province, and Burma.

Review of Irrigation.

Report on Irrigation Revenue for each Province (except Madras).
 Administrative Reports on Irrigation, Madras and Bombay.
 Report on Architectural Work in India.

Posts and Telegraphs.

Report on the Posts and Telegraphs of India.
 Report of Indo-European Telegraph Department.

Scientific Departments.

Report on the Operations of the Survey of India.
 Records of the Survey of India.
 Records and Memoirs of the Geological Survey of India.
 Report of the Indian Meteorological Department.
 Indian Weather Review, Annual Summary.
 Rainfall Data of India.
 Memoirs of the Indian Meteorological Department.
 Report of the Meteorologist, Calcutta.
 Report of the Director-General of Observatories.
 Memoirs and Bulletins of the Kodaikanal Observatory.
 Report of the Board of Scientific Advice.
 Report of the Archæological Survey of India, and Provincial Reports.
 Report and Records of the Botanical Survey.

Education.

Education Reports for India and each Province.
 Quinquennial Review of Education (Parliamentary Paper).

Local Self-Government.

Reports on Municipalities for each Province and for Calcutta, Bombay City
 Madras City, and Rangoon.
 Reports on District and Local Boards or Local Funds for each Province.
 Reports of Port Trusts of Calcutta, Bombay, Madras, Rangoon, Karachi, and
 Aden.

Medical, Sanitary, and Vital Statistics.

Report of the Sanitary Commissioner with the Government of India.
 Report on Sanitary Measures in India (Parliamentary Paper).
 Report of the Sanitary Commissioner for each Province.
 Vaccination Report for each Province.
 Report on Civil Hospitals and Dispensaries for each Province.
 Report on Lunatic Asylums for each Province.
 Report of the Chemical Examiner and Bacteriologist for each Province.
 Scientific Memoirs by Officers of the Medical and Sanitary Departments.
 Reports of the All-India Sanitary Conferences.
 Reports of the Imperial Malaria Conferences.
 Indian Journal of Medical Research (Quarterly).

Emigration and Immigration.

Calcutta Port Emigration Report.
Bengal Inland Emigration Report.
Assam Immigration Report.

Prices and Wages.

Prices and Wages in India.
Variations in Indian Price Levels.
Reports of Provincial Wage Censuses.

APPENDIX II.

Act No. XI of 1919.

[PASSED BY THE INDIAN LEGISLATIVE COUNCIL.]

(Received the assent of the Governor-General on the 21st March 1919.)

AN ACT TO COPE WITH ANARCHICAL AND REVOLUTIONARY CRIME.

WHEREAS it is expedient to make provision that the ordinary criminal law should be supplemented and emergency powers should be exercisable by the Government for the purpose of dealing with anarchical and revolutionary movements ;

And whereas the previous approval of the Secretary of State in Council has been accorded to the making of this law ; It is hereby enacted as follows :—

Short title, extent and duration. 1. (1) This Act may be called the Anarchical and Revolutionary Crimes Act, 1919 ;

(2) It extends to the whole of British India ; and

(3) It shall continue in force for three years from the date of the termination of the present war.

Definitions.
V of 1898.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

“ Chief Justice ” means the Judge of highest rank in a High Court ;

“ The Code ” means the Code of Criminal Procedure, 1898 ;

“ High Court ” means the highest Court of criminal appeal or revision for any local area ;

“ Scheduled offence ” means any offence specified in the Schedule.

(2) All words and expressions used in this Act and defined in the Code, and not hereinbefore defined shall be deemed to have the meanings respectively attributed to them in the Code.

PART I.

3. If the Governor-General in Council is satisfied that, in the whole or any part of British India, anarchical or revolutionary movements are being promoted, and that scheduled offences in connection with such movements are prevalent to such an extent that it is expedient in the interests of the public safety to provide for the speedy trial of such offences, he may, by notification in the Gazette of India, make a declaration to that effect, and thereupon the provisions of this Part shall come into force in the area specified in the notification.

4. (1) Where the Local Government is of opinion that the trial of any person accused of a scheduled offence should be held in accordance with the provisions of this Part, it may order any officer of Government to prefer a written information to the Chief Justice against such person.

Initiation of proceedings.

(2) No order under sub-section (1) shall be made in respect of, or be deemed to include, any person who has been committed under the Code for trial before a High Court or a Court of Session, but save as aforesaid, an order under that sub-section may be made in respect of any scheduled offence whether such offence was committed before or after the issue of the notification under section 3.

(3) The information shall state the offence charged and so far as known the name, place of residence, and occupation of the accused, and the time and place when and where the offence is alleged to have been committed and all particulars within the knowledge of the prosecution of what is intended to be proved against the accused.

(4) The Chief Justice may by order require any information to be amended so as to supply further particulars of the offence charged to the accused, and shall direct a copy of the information or the amended information, as the case may be, to be served upon the accused in such manner as the Chief Justice may direct.

5. Upon such service being effected, and on application duly made to him, the Chief Justice shall nominate three of the High Court Judges (hereinafter referred to as the Court) for the trial of the information, and shall fix a date for the commencement of the trial :

Constitution of Court. Provided that when the total number of Judges of the High Court does not exceed three, the Chief Justice shall nominate not more than two such Judges, and shall complete the Court by the nomination of one or, if necessary, two persons of either of the following classes, namely :—

- (a) persons who have served as permanent Judges of the High Court ; or
- (b) with the consent of the Chief Justice of another High Court, persons who are Judges of that High Court.

6. The Court may sit for the whole or any part of a trial at such place or places in the province as it may consider desirable :

Place of sitting.

Provided that if the Advocate-General certifies to the Court that it is in his opinion necessary in the interests of justice that the whole or any part of a trial shall be held at some place other than the usual place of sitting of the High Court, the Court shall, after hearing the accused, make an order to that effect, unless for reasons to be recorded in writing it thinks fit to make any other order. It shall not be necessary for the certificate of the Advocate-General to be supported by any affidavit, nor shall he be required to state the grounds upon which such certificate was given.

7. The provisions of the Code shall apply to proceedings under this Part, in so far as the said provisions are not inconsistent with the provisions of this Part, and such proceedings shall be deemed to be proceedings under the Code, and the Court shall have all the powers conferred by the Code on a Court of Session exercising original jurisdiction.

Application of Code of Criminal Procedure subject to this Part.

8. (1) The trial shall be commenced by the reading of the information, and thereafter the prosecutor shall state shortly by what evidence he expects to prove the guilt of the accused.

Trial.

(2) The Court shall then, subject to the provisions of this Part, in trying the accused, follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates.

9. If a charge is framed, the accused shall be entitled to ask for an adjournment for fourteen days, or any less period that he may specify, and the Court shall comply with his request, but, subject to the adjournment provided for by this section, the Court shall not

Adjournment.

be bound to adjourn any trial for any purpose, unless such adjournment is in its opinion necessary in the interests of justice.

10. The Court shall cause the evidence of each witness who is examined to be recorded in full in such manner as the Court may direct.

Record of evidence.

11. The Court, if it is of opinion that such a course is necessary in the public interest or for the protection of a witness, may prohibit or restrict in such way as it may direct the publication or disclosure of its proceedings or any part of its proceedings.

Prohibition or restriction of publication of reports of trial.

12. (1) No questions shall be put by the Court to the accused in the course of a trial under this Part until the close of the case for the prosecution. Thereafter, and before the accused enters on his defence, the Court shall inform the accused that he is entitled, if he so desires, to give evidence on oath on his own behalf, and shall at the same time inform him that if he does so he will be liable to cross-examination. Unless the accused then states that he desires to give evidence on oath, the Court may at any time thereafter question the accused generally on the case in accordance with the provisions of section 342 of the Code.

Examination of accused.

(2) If, when so called upon, the accused states that he desires to give evidence on oath, the Court shall not at any subsequent stage put any question to him :

Provided that if the accused does not so give evidence, then, after the witnesses for the defence have been examined, the Court may question the accused generally on the case in accordance with the provisions of the said section.

(3) The failure of the accused to give evidence on oath shall not be made the subject of any comment by the prosecution, nor shall the Court draw any inference adverse to the accused from such failure.

(4) If the accused gives evidence on oath, the following rules shall be observed, namely :—

(a) He may be asked any question in cross-examination notwithstanding that it would tend to criminate him as to the offence charged.

(b) He shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of, or has been charged with, any offence other than that with which he is then charged, or has a bad character, unless—

(i) proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence with which he is then charged, or

(ii) witnesses for the prosecution have been cross-examined with a view to establish his own good character, or he has given evidence of his good character or the nature or the conduct of the defence is such as to involve imputations on the character of the witnesses for the prosecution, or

(iii) he has given evidence against any other person charged with the same offence.

(c) Unless otherwise ordered by the Court, he shall give his evidence from the witness-box or other place from which the other witnesses give their evidence.

13. If the accused or any one of the accused calls and examines any witness, the right of final reply shall lie with the prosecution, but in all other cases with the accused :

Right of reply.

Provided that the examination of an accused as a witness shall not of itself confer the right of final reply on the prosecution.

14. In the event of any difference of opinion among the members of the Court, the opinion of the majority shall prevail.

Differences of opinion.

15. At any trial under this Part the accused may be charged with and convicted of any offence against any provision of the law which is referred to in the Schedule.

Accused may be convicted of any offence referred to in Schedule.

16. The Court may pass upon any person convicted by it any sentence authorised by law for the punishment of the offence of which such person is convicted, and no order of confirmation shall be necessary in the case of any sentence passed by it:

Sentence.

Provided that a sentence of death shall not be passed upon any accused person in respect of whose guilt there is a difference of opinion among the members of the Court.

17. The judgment of the Court shall be final and conclusive and, notwithstanding the provisions of the Code or of any other law for the time being in force, or of any thing having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence of the Court, and (no High Court shall have authority to revise any such order or sentence or to transfer any case from such Court, or to make any order under section 491 of the Code or have any jurisdiction of any kind in respect of any proceedings under this Part:)

Exclusion of interference of other criminal Courts.

Provided that nothing in this section shall be deemed to affect the powers of the Governor General in Council or of the Local Government to make orders under section 401 or section 402 of the Code in respect of any person sentenced by the Court.

Special rules of evidence. I of 1872.

18. (1) Notwithstanding anything to the contrary contained in the Indian Evidence Act, 1872, where—

- (a) the statement of any person has been recorded by a Magistrate, and such statement has been read over and explained to the person making it and has been signed by him, or
- (b) the statement of any person has been recorded by the Court, but such person has not been cross-examined,

such statement may be admitted in evidence by the Court if the person making the same is dead or cannot be found or is incapable of giving evidence, and it is established to the satisfaction of the Court that such death, disappearance or incapacity has been caused in the interests of the accused.

(2) Depositions recorded under section 512 of the Code may, in the circumstances specified in that section, be given in evidence at the trial of an accused under this Part.

19. In case of any reconstitution of the Court during the trial, the Court so reconstituted, shall if the accused so desires, re-call and re-hear any witness who has already given evidence in the case.

Re-call of witnesses on reconstitution of Court.

Power to make rules.

20. The Chief Justice may from time to time make rules providing for—

- (1) the appointment and powers of a President of the Court, and the procedure to be adopted to complete the Court in the event of any Judge of the Court being prevented from attending throughout the trial of an accused; and

- (2) any matters (including the intermediate custody of the accused and his release on bail) which appear to him necessary for carrying into effect or supplementing the provisions of this Part preliminary or ancillary to trials.

PART II.

21. If the Governor-General in Council is satisfied that anarchical or revolutionary movements which are, in his opinion, likely to lead to the commission of scheduled offences are being extensively promoted in the whole or any part of British India, he may, by notification in the Gazette of India, make a declaration to that effect, and thereupon the provisions of this Part shall come into force in the area specified in the notification.

22. (1) Where, in the opinion of the Local Government, there are reasonable grounds for believing that any person is or has been actively concerned in such area in any movement of the nature referred to in section 21, the Local Government may place all the materials in its possession relating to his case before a judicial officer who is qualified for appointment to a High Court and take his opinion thereon. If, after considering such opinion, the Local Government is satisfied that action under the provisions of this section is necessary, it may by order in writing containing a declaration to the effect that such person is or has been actively concerned in such area in any movement of the nature referred to in section 21 give all or any of the following directions, namely: that such person—

- (a) shall, within such period as may be specified in the order, execute a bond with or without sureties undertaking, for such period not exceeding one year as may be so specified, that he will not commit, or attempt or conspire to commit, or abet the commission of, any offence against any provision of the law which is referred to in the schedule;
- (b) shall notify his residence and any change of residence to such authority as may be so specified;
- (c) shall remain or reside in any area in British India so specified: Provided that, if the area so specified is outside the province, the concurrence of the Local Government of that area to the making of the order shall first have been obtained;
- (d) shall abstain from any act so specified which, in the opinion of the Local Government, is calculated to disturb the public peace or is prejudicial to the public safety; and
- (e) shall report himself to the officer in charge of the police-station nearest to his residence at such periods as may be so specified.

(2) Any order under clauses (b) to (e) of sub-section (1) may also be made to take effect upon default by the person concerned in complying with an order under clause (a) of that sub-section.

23. An order made under section 22 shall be served on the person in respect of whom it is made in the manner provided in the Code for service of summons, and upon such service such person shall be deemed to have due notice thereof.

24. The Local Government and every officer of Government to whom a copy of any order made under section 22 may be directed by, or under the general or special authority of, the Local Government, may use all means reasonably necessary to enforce compliance with the same.

25. An order made under section 22 shall only continue in force for a period of one month, unless it is extended by the Local Government as hereinafter provided in this Part.

Interim nature of order made by Local Government.

26. (1) When the Local Government makes an order under section 22, such Government shall, as soon as may be, forward to the investigating authority to be constituted under this Act a concise statement in writing setting forth plainly the grounds on which the Government considered it necessary that the order should be made, and shall lay before the investigating authority all material facts and circumstances in its possession relevant to the inquiry.

(2) The investigating authority shall then hold an inquiry *in camera* for the purpose of ascertaining what, in its opinion, having regard to the fact and circumstances adduced by the Government, appears against the person in respect of whom the order has been made. Such authority shall in every case allow the person in question a reasonable opportunity of appearing before it at some stage in its proceedings and shall, if he so appears, explain to him the nature of the charge made against him and shall hear any explanation he may have to offer, and shall make such further investigation (if any) as appears to such authority to be relevant and reasonable :

Provided that—

(a) nothing in this sub-section shall be deemed to entitle the person whose case is before the investigating authority to appear or to be represented before it by pleader, nor shall the Local Government be so entitled :

(b) the investigating authority shall not disclose to the person in question any fact the communication of which might endanger the public safety or the safety of any individual :

(c) if the person in question requests the investigating authority to secure the attendance of any person or the production of any document or thing such authority shall, unless for reasons to be recorded in writing it deems it unnecessary so to do, cause such person to attend or such document or thing to be produced, and for that purpose shall have all the powers conferred on a District Magistrate in respect of those matters by the Code.

(3) Subject to the provisions of sub-section (2) the inquiry shall be conducted in such manner as the investigating authority considers best suited to elicit the facts of the case ; and in making the inquiry, such authority shall not be bound to observe the rules of the law of evidence.

(4) Any statement made to an investigating authority by any person other than the person whose case is under investigation shall be deemed to be information given to a public servant within the meaning of section 182 of the Indian Penal Code.

XLV of 1860.

(5) On the completion of the inquiry, the investigating authority shall report in writing to the Local Government the conclusions at which it has arrived, and shall adduce reasons in support thereof. In so reporting the investigating authority shall state whether or not, in its opinion, the person whose case is under investigation is or has been actively concerned in any movement of the nature referred to in section 21.

(6) If the investigating authority has not completed the inquiry within the period for which the duration of the order is limited by section 25, such authority may recommend to the Local Government that the period of duration of the order shall be extended for such period as it may consider necessary, and on such a recommendation the Local Government may extend the duration of the order accordingly

27. (1) On receipt of the report of the investigating authority, the Local Government may discharge the order made under section 22, or may make any order which is authorised by that section :

Disposal of report of investigating authority.

Provided that—

- (a) any order so made shall recite the conclusions of the investigating authority as reported by that authority ; and
- (b) a copy of such order shall be furnished to the person in respect of whom it is made.

(2) No order made under sub-section (1) shall continue in force for more than one year from the date of the order made under section 22.

(3) On the expiry of an order made under sub-section (1), the Local Government may, if it is satisfied that such a course is necessary in the interests of the public safety, again make in respect of the person to whom such order related any order which is authorised by section 22 :

Provided that, before an order is made under this sub-section, a copy of the order which it is proposed to make shall be furnished to the person concerned, who may submit to the Local Government a representation in regard to such order. Any such representation shall be forwarded by the Local Government to the investigating authority for inquiry and report, and such authority, after inquiry conducted in accordance with the provisions of section 26, shall report thereon, and the Local Government shall consider such report :

Provided further that no order made under this sub-section shall continue in force for more than a year from the date on which it was made.

(4) Any order made under this section may at any time be discharged or may be altered by the substitution of any other order authorised by section 22 :

Provided that no such alteration shall have the effect of prolonging the period for which such order would have been in force.

(5) The provisions of section 24 shall apply to the enforcement of orders made under this section.

28. If any person fails to comply with, or attempts to evade, any order (other than an order to furnish security) made under section 22 or section 27, he shall, on conviction by a Magistrate, be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to five hundred rupees, or with both.

Penalty for disobedience to order.

29. The provisions of section 514 of the Code shall apply to bonds executed under the provisions of this Part, with this modification that the powers conferred by that section on the court shall be exercisable by any District Magistrate or Chief Presidency Magistrate, on application made on behalf of the Local Government.

Provisions as to bonds.

30. (1) As soon as may be after a notification has been issued bringing this Part into force, the Local Government shall appoint one or more investigating authorities for the purposes of this Part, and may appoint additional investigating authorities when necessary.

Investigating authorities.

(2) Every investigating authority shall be appointed by order in writing, and shall consist of three persons, of whom two shall be persons having held judicial office not inferior to that of a District and Sessions Judge, and one shall be a person not in the service of the Crown in India.

(3) The Local Government may by like order appoint persons to fill casual vacancies occurring by reason of death, resignation of office or otherwise on any investigating authority, but in so doing shall observe the provisions of sub-section (2).

31. (1) The Local Government shall by order in writing appoint such persons as it thinks fit to be Visiting Committees to report upon the welfare and treatment of persons under restraint under this Part, and shall by rules prescribe the functions which those Committees shall exercise :

Provided that, in making such rules, provision shall be made for periodical visit to persons under restraint under the provisions of this Part :

Provided further that a person in respect of whom an order has been made under section 22 or section 27 requiring him to abstain from any specified act or to report himself to the police shall not be deemed to be under restraint for the purposes of this section.

(2) All rules made under sub-section (1) shall be published in the local official Gazette, and on such publication shall have effect as if enacted in this Part.

32. (1) The Local Government may make rules prescribing the authorities before whom and the manner in which bonds under this Part shall be executed, and providing for the procedure to be followed regarding the notification or residence and reports to the police by persons in respect of whom orders have been made under section 22 or section 27.

(2) All rules made under sub-section (1) shall be published in the local official Gazette, and on such publication shall have effect as if enacted in this Part.

PART III.

33. If the Governor General in Council is satisfied that in the whole or any part of British India anarchical or revolutionary movements are being promoted and that scheduled offences in connection with such movements are prevalent to such an extent as to endanger the public safety, he may, by notification in the Gazette of India, make a declaration to that effect, and thereupon the provisions of this Part shall come into force in the area specified in the notification.

34. (1) Where, in the opinion of the Local Government, there are reasonable grounds for believing that any person has been or is concerned in such area in any scheduled offence, the Local Government may place all the materials in its possession relating to his case before a judicial officer who is qualified for appointment to a High Court and take his opinion thereon. If after considering such opinion the Local Government is satisfied that such action is necessary, it may make in respect of such person any order authorised by section 22, and may further by order in writing direct—

- (a) the arrest of any such person without warrant ;
- (b) the confinement of any such person in such place and under such conditions and restrictions as it may specify :

Provided that no such person shall be confined in that part of a prison or other place which is used for the confinement of convicted criminal prisoners as defined in the Prisons Act, 1894 ; and

- (c) the search of any place specified in the order which, in the opinion of the Local Government, has been, is being, or is about to be used by any such person for any purpose connected with any anarchical or revolutionary movement.

(2) The arrest of any person in pursuance of an order under clause (a) of sub-section (1) may be effected at any place where he may be found by any police-officer or by any other officer of Government to whom the order may be directed.

(3) An order for confinement under clause (b) or for search under clause (c) of sub-section (1) may be carried out by any officer of Government to whom the order may be directed, and such officer may use all means reasonably necessary to enforce the same.

35. Any person making an arrest in pursuance of an order under clause (a) of sub-section (1) of section 34 shall forthwith report the fact to the Local Government and, pending receipts of the orders of the Local Government, may by order in writing commit any person so arrested to such custody as the Local Government may by general or special order specify in this behalf :

Arrest.

Provided that no person shall be detained in such custody for a period exceeding seven days unless the Local Government so directs, and in no case shall such detention exceed fifteen days.

36. An order for the search of any place issued under the provisions of clause (c) of sub-section (1) of section 34 shall be deemed to be a search warrant issued by the District Magistrate having jurisdiction in the place specified therein, and shall be sufficient authority for the seizure of anything found in such place which the person executing the order has reason to believe is being used, or is likely to be used, for any purpose prejudicial to the public safety, and the provisions of the Code, so far as they can be made applicable, shall apply to searches made under the authority of any such order and to the disposal of any property seized in any such search.

Search.

37. Where an order (other than an order for arrest or search) has been made under section 34, the provisions of sections 23 to 27 shall apply in the same way as if the order were an order made under section 22, save that, on receipt of the report of the investigating authority, the Local Government may, subject to the conditions prescribed by section 27, make any order which is authorised by section 34, and sections 23 to 27 and 29 to 32 shall be deemed to be included in this Part.

38. If any person fails to comply with, or attempts to evade, any order made under section 34 or section 37 other than an order to furnish security, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Application of Part II, procedure.

Penalty for disobedience to orders under this Part.

PART IV.

39. (1) On the expiration of the Defence of India (Criminal Law Amendment) Act, 1915, every person in respect of whom an order under rule 3 of the Defence of India (Consolidation) Rules, 1915, was in force immediately before the expiration of that Act, and who has in the opinion of the Local Government been concerned in any scheduled offence, shall be deemed to be a person resident in an area in which a notification under section 21 is in force, and the provisions of Part II shall apply to every such person accordingly ; and every person who is on such expiration in confinement in accordance with the provisions of the Bengal State Prisoners Regulation, 1818, shall be deemed to be a person resident in an area in which a notification under section 33 is in force, and the provisions of Part III shall apply to every such person accordingly :

Persons already under executive control.

IV of 1915.

III of 1818.

Provided that, within one month from the expiration of the Defence of India (Criminal Law Amendment) Act, 1915, the Local Government may, subject to the conditions prescribed in the first proviso to sub-section (3) of section 27 as made applicable by section 37, make any order of restraint which is authorised by Part III in respect of any person who is in confinement in accordance with the provisions of the said Regulation, and if such an order is so made it shall be deemed to be an order made under sub-section (3) of section 27 as made applicable by section 37, and the provisions of that Part regarding such an order shall apply accordingly.

(2) On the expiration of the Ingress into India Ordinance, 1914, as continued in force by the Emergency Legislation Continuance Act, 1915, any person in respect of whom an order was in force immediately before such expiration under section 2 of that Ordinance read with clause (b) or clause (c) of sub-section (2) of section 3 of the Foreigners Ordinance, 1914, shall be deemed to be a person resident in an area in which a notification under section 21 is in force, and the provisions of Part II shall apply to every such person accordingly :

Provided that, within one month from the expiration of the Ingress into India Ordinance, 1914, the Local Government may, subject to the conditions prescribed in the first proviso to sub-section (3) of section 27, make any order of restraint which is authorised by that Part in respect of any such person, and if such an order is so made it shall be deemed to be an order made under sub-section (3) of section 27, and the provisions of that Part regarding such an order shall apply accordingly.

PART V.

40. When a notification issued under section 3 or section 21 or section 33 is cancelled, such cancellation shall not affect any trial, investigation or order commenced or made under this Act, and such trial, investigation or order may be continued or enforced, and on the completion of any such investigation, any order which might otherwise have been made may be made and enforced, as if such notification had not been cancelled.

41. (1) An order made under Part II or Part III, directing a person to remain or reside in any area in British India outside the area in which such Part is in force, shall be as valid, and enforceable in like manner, as if such Part were in force throughout British India.

(2) An order made under clause (a) of sub-section (1) of section 34 for the arrest of any person may be executed at any place in British India outside the area in which Part III is in force, and the same procedure shall be followed as if Part III was in force throughout British India :

Provided that, if the arrest is made outside the province of the Local Government which made the order, the report required by section 35 shall be made to that Local Government, and the maximum period of detention limited by the proviso to that section shall be extended to twenty-one days.

42. No order under this Act shall be called in question in any Court, and no suit or prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Orders under this Act not to be called in question by the Courts.

43. All powers given by this Act shall be in addition to and not in derogation of any other powers conferred by or under any enactment, and all such powers may be exercised in the same manner and by the same authority as if this Act had not been passed.
- Powers of Act to be cumulative.

THE SCHEDULE.

(See section 2)

- (1) Any offence under the following sections of the Indian Penal Code namely :
—sections 121, 121-A, 122, 123, 124, 131 and 132.
XLV of 1860.
- (2) Any of the following offences if in the opinion of Government such offence is connected with any anarchical or revolutionary movement namely :—
- (a) any offence under sections 124-A, 148, 153-A, 302, 304, 326, 327, 329, 332, 333, 385, 386, 387, 392, 394, 395, 396, 397, 398, 399, 400, 401, 402, 431, 435, 436, 437, 438, 440, 454, 455, 457, 458, 459, 460, and 506 of the Indian Penal Code ;
XLV of 1860.
- (b) any offence under the Explosive Substances Act, 1908 ;
VI of 1908.
- (c) any offence under section 20 of the Indian Arms Act, 1878.
XI of 1878.
- 3) Any attempt or conspiracy to commit or any abetment of any of the above offences

APPENDIX III.

Report from the Joint Select Committee of the House of Lords and the House of Commons appointed to consider the Government of India Bill.

ORDERED TO REPORT—

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

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

3. In the declaration made by His Majesty's Government on the 20th August, 1917, there is enunciated the problem for which the Bill endeavours to provide a solution. It is to design the first stage in a measured progress towards responsible government. Any such stage, if it is to be a real advance, must, as the Committee conceive it, involve the creation of an electorate, and the bestowal of some share in the work and responsibilities of government on those whom the electorate chooses to represent its interests. In the present circumstances of India, the electorate must at the outset be small and the administrative experience of its representatives must be limited. Before, therefore, the policy of His Majesty's Government can be fulfilled the electorate must grow, and practical experience in the conduct of public affairs must be enlarged. During this period the guardianship of the peace of India cannot be withdrawn from the care of the official agency which Parliament at present charges with the duties of the administration, and the Committee regard it to be an essential feature of the policy of His Majesty's Government that, except in so far as he is released from responsibility by the changes made under this Bill, the Governor-General in Council should remain in undisturbed responsibility to Parliament and fully equipped with the necessary powers to fulfil that responsibility. But from the beginning the people must be given an opportunity, and all political wisdom points to its being a generous opportunity, of learning the actual business of government and of showing, by their conduct of it, to some future Parliament that the time has come for further extensions of power.

4. In the opinion of the Committee the plan proposed by the Bill is conceived wholly in this spirit, and interprets the pronouncement of the 28th 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 adminis-

tration 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 information before them, the Committee have made a number of changes in the Bill. Those of a more detailed or miscellaneous character are briefly discussed below under the clauses to which they relate. Those which are directed to the avoidance of the difficulties and dangers which have been pointed out, proceed on a simple and, in the Committee's opinion, an indefeasible theory. That theory the Committee think it desirable to state at once. Ministers who enjoy the confidence of a majority in their legislative council will be given the fullest opportunity of managing that field of government which is entrusted to their care. In their work they will be assisted and guided by the Governor, who will accept their advice and promote their policy whenever possible. If he finds himself compelled to act against their advice, it will only be in circumstances roughly analogous to those in which he has to override his executive council—circumstances which will be indicated in the Instrument of Instructions furnished to him on his appointment by His Majesty. On the other hand, in and for that field of government in which Parliament continues to hold him responsible, the provincial Governor-in-Council will remain equipped with the sure and certain power of fulfilling that responsibility. The Committee will indicate in the course of this Report how they visualise the relations between the two parts of the provincial government, but they wish to place in the forefront of the Report their opinion that they see no reason why the relations should not be harmonious and mutually advantageous. They regard it as of the highest importance that the Governor should foster the habit of free consultation between both halves of his government, and indeed that he should insist upon it in all important matters of common interest. He will thus ensure that ministers will contribute their knowledge of the people's wishes and susceptibilities, and the members of his Executive Council their administrative experience, to the joint wisdom of the government. But while the Committee anticipate much advantage from amicable and, as far as possible, spontaneous association for purposes of deliberation, they would not allow it to confuse the duties or obscure the separate responsibility which will rest on the two parts of the administration. Each side of the government will advise and assist the other ; neither will control or impede the other. The responsibility for administrative and legislative action in their own field will be fixed beyond possibility of doubt on ministers and on the majorities of the provincial legislatures which support them ; and they will be given adequate power to fulfil their charge. Similarly within that field for which he remains accountable to Parliament, the responsibility for action must be fixed on the Governor-in-Council, and he must possess unfailing means for the discharge of his duties. Finally, behind the provincial authorities stands the Government of India.

6. The change which this Bill will make in the political structure and life of India is very important. It marks a great step in the path of self-government and it is a proof of the confidence reposed by His Majesty's Government in the

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

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

PREAMBLE.

The Preamble of the Bill, as drafted, was based on the announcement of His Majesty's Government in Parliament of the 20th August, 1917, and it incorporated that part of the announcement which pointed to the progressive realisation of responsible government in British India as an integral part of the Empire, and to the expediency of gradually developing self-governing institutions in India, and it referred to the granting to the Provinces of India of a large measure of independence of the Government of India. It did not, however, deal with those parts of the announcement which spoke of the increasing association of Indians in every branch of the administration, and declared that the progress of this policy could only be achieved by successive stages, and that Parliament, advised by His Majesty's Government and by the Government of India, on whom the responsibility lies for the welfare and advancement of the Indian people, must be the judge of the time and measure of each advance, and be guided by the co-operation received from those upon whom new opportunities of service are conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility.

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

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

PART I.

Clause 1.—The Committee wish to take this opportunity of acknowledging the debt they owe to the work of the two Committees on Franchise and Functions presided over by Lord Southborough. If they are not able to accept all the conclusions of these Committees, and if they recommend some additional provisions to those included in those reports, it does not mean that they are not very sensible of the value of the work done, without which, indeed, this constitutional change could not have been effected.

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

The Committee have given much attention to the difficult question of the principle on which the provincial revenues and balances should be distributed between the two sides of the provincial governments. They are confident that the problem can readily be solved by the simple process of common sense and reasonable give-and-take, but they are aware that this question might, in certain circumstances, become the cause of much friction in the provincial government, and they are of opinion that the rules governing the allocation of these revenues and balances should be framed so as to make the existence of such friction impossible. They advise that, if the Governor, in the course of preparing either his first or any subsequent budget, finds that there is likely to be a serious or protracted difference of opinion between the executive council and his ministers on this subject, he should be empowered at once to make an allocation of revenue and balances between the reserved and transferred subjects, which should continue for at least the whole life of the existing legislative council. The Committee do not endorse the suggestion that certain sources of revenue should be allocated to reserved, and certain sources to transferred subjects, but they recommend that the Governor should allocate a definite proportion of the revenue, say, by way of illustration, two-thirds to reserved and one-third to transferred subjects, and similarly a proportion, though not necessarily the same fraction, of the balances. If the Governor desires assistance in making the allocation, he should be allowed at his discretion to refer the question to be decided to such authority as the Governor-General shall appoint. Further, the Committee are of opinion that it should be laid down from the first that, until an agreement which both sides of the Government will equally support has been reached, or until an allocation has been made by the Governor, the total provisions of the different expenditure heads in the budget of the province for the preceding financial year shall hold good.

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

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

Clause 3.—The question has been raised as to the communications between the Governors of provinces and the Secretary of State. The question as to whether such communications shall in future take place, and as to the procedure to be adopted in them, may well be left to the Secretary of State. In the opinion of the Committee there is no cause at present for disturbing the existing position, except to the extent to which the Secretary of State relaxes his powers of direction and control over local governments. To that extent the Government of India 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 mere inspection and advice. The Committee trust that there will be an extensive delegation, statutory and otherwise, to provincial governments of some powers and duties now in the hands of the Government of India; and they trust also that the control of that Government over provincial matters will be exercised with a view to preparing the provinces for the gradual transfer of power to the provincial government and legislature.

Clause 4.—The Committee are of opinion that the ministers selected by the Governor to advise him on the transferred subjects should be elected members of the legislative council, enjoying its confidence and capable of leading it. A minister will have the option of resigning if his advice is not accepted by the Governor; and the Governor will have the ordinary constitutional right of dismissing a minister whose policy he believes to be either seriously at fault or out of accord with the views of the legislative council. In the last resort the Governor can always dissolve his legislative council and choose new ministers after a fresh election; but if this course is adopted the Committee hope that the Governor will find himself able to accept such views as his new ministers may press upon him regarding the issue which forced the dissolution. The Committee are of opinion that in no province will there be need for less than two ministers, while in some provinces more will be required. In these circumstances they think that it should be recognised from the commencement that ministers may be expected to act in concert together. They probably would do so; and in the opinion of the Committee it is better that they should, and therefore that the fact should be recognised on the face of the Bill. They advise that the status of ministers should be similar to that of the members of the executive council, but that their salaries should be fixed by the legislative council. Later on in this Report it will be suggested that Indian members of the Council of India in London should be paid a higher scale of remuneration than those members of the Council domiciled in the United Kingdom. The same principle might suggest to the legislative council that it was reasonable for the ministers of the provincial government domiciled in India to be paid on a lower scale of remuneration than the European members.

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

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

Clause 6.—The Committee desire at this point to give a picture of the manner in which they think that, under this Bill, the government of a province should be worked. There will be many matters of administrative business, as in all countries,

which can be disposed of departmentally. But there will remain a large category of business, of the character which would naturally be the subject of Cabinet consultation. In regard to this category the Committee 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; members of the executive council should not be required to support either by speech or vote proposals of ministers of which they do not approve, nor should ministers be required to support by speech or vote proposals of the executive council of which they do not approve; they should be free to speak and vote for each other's proposals when they are in agreement with them. All other official members of the legislative council should be free to speak and vote as they choose.

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

wish to endorse the proposals of the Franchise Committee's report, are dealt with in the following recommendations :—

- (a) The Committee regard the number of seats allotted to the rural population, as distinct from the urban, as disproportionately low and consider that it should receive a larger share of representation. They also think that an attempt should be made to secure better representation of the urban wage-earning class ; and they are convinced that an effort should be made to remedy in part at least the present disparity between the size of the electorates in the different provinces. In all those matters no definite instructions need be given. The Government of India should be left a wide discretion in adjusting the figures, subject, however, to the understanding that the adjustment should be effected in all cases rather by enlargement than by diminution of the representation proposed in the Franchise Committee's report.
- (b) The Committee are of opinion that the representation proposed for the depressed classes is inadequate. Within this definition are comprised, as shown in the report of the Franchise Committee, a large proportion of the whole population of India. They think that the Government of India should, as it advises, be instructed to give such classes a larger share of representation by nomination, regard being had to the numbers of depressed classes in each province, and after consultation with the Local Governments. This representation should, if necessary, be in addition to, but not in diminution of, the general electorate. Whenever possible, other persons than members of the Civil Services should be selected to represent the depressed classes, but if a member of those services, specially qualified for this purpose, has to be appointed, his nomination should not operate to increase the maximum ratio of official seats.
- (c) In the Madras Presidency the Committee consider that the non-Brahmins must be provided with separate representation by means of the reservation of seats. The Brahmins and non-Brahmins should be invited to settle the matter by negotiation among themselves ; and it would only be, if agreement cannot be reached in that way, that the decision should be referred to an arbitrator appointed for the purpose by the Government of India.
- (d) The Committee would recommend that similar treatment be accorded to the Mahrattas in the Bombay Presidency.
- (e) The question whether women should or should not be admitted to the franchise on the same terms as men should be left to the newly elected legislative council of each province to settle by resolution. The Government of India should be instructed to make rules so that, if a legislative council so voted, women might be put upon the register of voters in that province. The Committee have not felt able to settle this question themselves, as urged by the majority of witnesses who appeared before them. It seems to them to go deep into the social system and susceptibilities of India, and, therefore, to be a question which can only, with any prudence, be settled in accordance with the wishes of Indians themselves as constitutionally expressed.
- (f) The 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 recommenda-

tion, 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.

Clause 9.—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.

Clause 11.—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.

Clause 13.—The Committee have rejected the plan of Grand Committees as drafted originally in the Bill. They have done so because in their opinion the Grand Committee did not give the Governor the power of securing legislation in a crisis in respect of those matters for which he is held responsible, and because in respect of ordinary legislation about reserved subjects it perpetuated the system of securing legislation by what is known as the "official bloc," which has been the cause of great friction and heartburning. The responsibility for legislation on reserved subjects is with the Governor in Council, and, when the "official bloc" has been put into operation, it has been put into operation by him, and is merely an indirect way of asserting his responsibility. The Committee think it much better that there should be no attempt to conceal the fact that the responsibility is with the Governor in Council, and they recommend a process by which the Governor should be empowered to pass an Act in respect of any reserved subject, if he considers that the Act is necessary for the proper fulfilment of his responsibility to Parliament. He should not do so until he has given every opportunity for the matter to be thoroughly discussed in the legislative council, and as a sensible man he should, of course, endeavour to carry the legislative council with him in the matter by the strength of his case. But, if he finds that cannot be so, then he should have the power to proceed on his own responsibility. Acts passed on his sole responsibility should be reserved by the Governor-General for His Majesty's pleasure, and be laid before Parliament. His Majesty will necessarily be advised by the Secretary of State for India, and the responsibility for the advice to be given to His Majesty can only rest with the Secretary of State. But the Committee suggest that the Standing Committee of Parliament, whose appointment they have advised, should be specially consulted about Acts of this character. Provision, however, is made in the Bill for the avoidance of delay in case of a grave emergency by giving the Governor-General power to assent to the Act without reserving it, though this of course would not prevent subsequent disallowance by His Majesty in Council.

Clause 15.—The Committee have two observations to make on the working of this Clause. On the one hand, they do not think that any change in the boundaries of a province should be made without due consideration of the views of the

legislative council of the province. On the other hand, they are of opinion that any clear request made by a majority of the members of a legislative council representing a distinctive racial or linguistic territorial unit for its constitution under this Clause as a sub-province or a separate province should be taken as a *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.

PART II.

Clause 18.—As will be explained below, the Committee do not accept the device in the Bill as drafted, of carrying government measures through the Council of State without reference to the Legislative Assembly, in cases where the latter body cannot be got to assent to a law which the Governor-General considers essential. Under the scheme which the Committee propose to substitute for this procedure there is no necessity to retain the Council of State as an organ for government legislation. It should therefore be reconstituted from the commencement as a true Second Chamber. They recommend that it should consist of sixty members, of whom not more than twenty should be official members. The Franchise Committee advise that the non-official members should be elected by the same group of persons as elect the members of the Legislative Assembly and in the same constituencies. This is a plan which the Committee could, in no circumstances, accept. They hope and believe that a different system of election for the Council of State can be devised by the time the constitution embodied in this Bill comes into operation, and they recommend that the Government of India be enjoined forthwith to make suggestions accordingly, to which effect can be given without delaying the inauguration of the new constitution. If the advice of the Committee that it be re-appointed for the purpose of considering the rules to be framed under this Bill be approved, it should have an opportunity of considering the proposals made for the election of the Council of State.

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

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

Clause 25.—This is a new provision for the submission of the Indian Budget to the vote of the Legislative Assembly, on the understanding that this body is

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

Clause 26.—For reasons which prompted their rejection of the process of certification by a Governor to a grand committee in a province, the Committee are opposed to the proposals in the Bill which would have enabled the Governor-General to refer to the Council of State, and to obtain by virtue of his official majority in that body, any legislation which the lower chamber refuse to accept, but which he regards as essential to the discharge of his duties. The Committee have no hesitation in accepting the view that the Governor-General in Council should in all circumstances be fully empowered to secure legislation which is required for the discharge of his responsibilities; but they think it is unworthy that such responsibility should be concealed through the action of a Council of State specially devised in its composition to secure the necessary powers. They believe that in such a case it would add strength to the Government of India to act before the world on its own responsibility. In order, however, that Parliament may be fully apprised of the position and of the considerations which led to this exceptional procedure, they advise that all Acts passed in this manner should be laid before Parliament, who would naturally consider the opinion of the standing committee already referred to.

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

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

PART III.

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

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

Clause 33.—The Committee have given most careful consideration to the relations of the Secretary of State with the Government of India, and through it with the provincial governments. In the relations of the Secretary of State with the Governor-General in Council the Committee are not 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 no doubt consider the opinion of this body when the rules come, as it is proposed that they should do, for acceptance by positive resolution in both Houses. The same procedure is recommended by the Committee for adoption in the case of rules of special or novel importance under other clauses of the Bill. It must be for the Secretary of State to decide which of the many rules that will fall to be drafted by the Government of India can be sufficiently dealt with by the ordinary process of lying on the table of Parliament for a certain number of days. In deciding this point, however, he may naturally have recourse to the advice of the Standing Committee, should it happen to be in session, and obtain their assistance in determining which rules deserved to be made the subject of the more formal procedure by positive resolution.

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

PART IV.

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

In the provinces, officers serving in a reserved department will be controlled by the Governor in Council, and in a transferred department by the Governor acting with ministers, but in both cases alike the personal concurrence of the Governor should be regarded as essential in the case of all orders of any importance prejudicially affecting the position or prospects of officers appointed by the Secretary of State.

The Committee think that every precaution should be taken to secure to the public servants the career in life to which they looked forward when they were recruited, and they have introduced fresh provisions into this clause to that end. If friction occurs, a re-adjustment of persons and places may often get over the difficulty, and the Governor must always regard it as one of his most important duties to establish a complete understanding between his ministers and the officers through whom they will have to work. But if there are members of the service

whose doubts as to the changes to be made are so deeply-rooted that they feel they cannot usefully endeavour to take part in them, then the Committee think it would only be fair to those officers that they should be offered an equivalent career elsewhere, if it is in the power of His Majesty's Government to do so, or, in the last resort, that they should be allowed to retire on such pension as the Secretary of State in Council may consider suitable to their period of service.

PART V.

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

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

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

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

11. The Committee are impressed by the objections raised by many witnesses to the manner in which certain classes of taxation can be laid upon the people of India by executive action without, in some cases, any statutory limitation of the rates and, in other cases, any adequate prescription by statute of the methods of assessment. They consider that the imposition of new burdens should be gradually brought more within the purview of the Legislature. And in particular, without expressing any judgment on the question whether the land revenue is a rent or tax, they advise that the process of revising the land revenue assessments ought to be brought under closer regulation by statute as soon as possible. At present

the statutory basis for charging revenue on the land varies in different provinces ; but in some at least the pitch of assessment is entirely at the discretion of the executive government. No branch of the administration is regulated with greater elaboration or care ; but the people who are most affected have no voice in the shaping of the system, and the rules are often obscure and imperfectly understood by those who pay the revenue. The Committee are of opinion that the time has come to embody in the law the main principles by which the land revenue is determined, the methods of valuation, the pitch of assessment, the periods of revision, the graduation of enhancements, and the other chief processes which touch the well-being of the revenue payers. The subject is one which probably would not be transferred to ministers until the electorate included a satisfactory representation of rural interests, those of the tenantry as well as of the landlords ; and the system should be established on a clear statutory basis before this change takes place.

12. The Committee have not hitherto touched on the subject of education in India, and it is far too large for them to make any attempt to deal with it adequately. They have accepted the recommendation of the Functions Committee that, subject to certain reservations about the Universities, the responsibility for the whole field of education in each province should be transferred to ministers. They attach much importance, however, to the educational advancement of the depressed and backward classes, and they trust that the subject will receive special attention from ministers. They are also impressed by the advantage of Board such as Sir Michael Sadler has advised in Bengal, for the assistance of ministers in controlling the different grades of education, and they trust that ministers will see their way from the outset to constitute such Boards in every province. The Committee would similarly commend to ministers the advisability of creating local government departments in the provinces.

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

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

APPENDIX IV.

Government of India Act, 1919, (9 & 10 Geo. 5, Ch. 101.)

ARRANGEMENT OF SECTIONS.

PART I.

LOCAL GOVERNMENTS.

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.
12. Return and reservation of Bills.
13. Provision for case of failure to pass legislation in governors' legislative councils.
14. Vacation of seats in local legislative councils.
15. Constitution of new provinces, etc. ; and provision as to backward tracts.
16. Saving.

PART II.

GOVERNMENT OF INDIA.

17. Indian legislature.
18. Council of State.
19. Legislative Assembly.
20. President of Legislative Assembly.
21. Duration and sessions of Legislative Assembly and Council of State.
22. Membership of both chambers.
23. Supplementary provisions as to composition of Legislative Assembly and Council of State.
24. Business and proceedings in Indian legislature.
25. Indian budget.
26. Provision for case of failure to pass legislation.
27. Supplemental provisions as to powers of Indian legislature.
28. Composition of Governor-General's executive council.
29. Appointment of council secretaries.
30. Payment of salary of Secretary of State, etc., out of moneys provided by Parliament.

PART III.

SECRETARY OF STATE IN COUNCIL.

SECTION.

31. Council of India.
32. Further provisions as to Council of India.
33. Relaxation of control of Secretary of State.
34. Correspondence between Secretary of State and India.
35. High Commissioner for India.

PART IV.

THE CIVIL SERVICES IN INDIA.

36. The civil services in India.
37. Appointments to the Indian Civil Service.
38. Public service commission.
39. Financial control.
40. Rules under Part IV.

PART V.

STATUTORY COMMISSION.

41. Statutory commission.

PART VI.

GENERAL.

42. Modification of s. 124 of principal Act.
43. Signification of Royal Assent.
44. Power to make rules.
45. Amendments of principal Act to carry Act into effect, etc.
46. Definition of official.
47. Short title, commencement, interpretation and transitory provisions.

SCHEDULES.

AN ACT TO MAKE FURTHER PROVISION WITH RESPECT TO THE GOVERNMENT OF INDIA.

[23rd December, 1919.]

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

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

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

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

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

PART I.

LOCAL GOVERNMENTS.

1. (1) Provision may be made by rules under the Government of India Act, by
 Classification of central and provincial subjects. 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 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 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 governments vested in the Governor-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."

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.

Borrowing powers of local governments.

(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 of allocated revenues.

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.

Revised system of local government in certain provinces.

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 sections 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.

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.

Appointment of ministers and council secretaries.

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

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

(3) In relation to transferred subjects, the governor shall be guided by the advice of his ministers, unless he sees sufficient cause to dissent from their opinion, in which case he may require action to be taken otherwise than in accordance with that advice: Provided that rules may be made under 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 among the non-official members of the local legislature council secretaries, who shall hold office during his pleasure, and discharge such duties in assisting members of the executive council and ministers, as he may assign to them.

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

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

5. (1) The provision in section forty-seven of the principal Act, that two of

Qualification of members of local executive councils.

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.

6. (1) All orders and other proceedings of the government of a governor's pro-

Business of governor in council and governor with ministers.

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

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.
- Composition of governors' legislative councils.**

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

(2) The number of members of the governors' legislative councils shall be in accordance with the table set out in the First Schedule to this Act; and of the members of each council not more than twenty per cent. shall be official members, and at least 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 governor as the result of elections held in the Assigned Districts of Berar shall be deemed to be elected members of the legislative council of the Central Provinces.
- (3) The powers 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.

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.

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:

Presidents of governors' legislative councils.

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

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.

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 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.

11. (1) Sub-sections (1) and (3) of section eighty of the principal Act (which

Business and procedure in
governors' legislative council.

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 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

- (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.

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 recon-

Return and reservation of Bills.

sideration, 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.

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.

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 :

Vacation of seats in local legislative councils.

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.

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.

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

(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 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.

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.

Saving.

(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.

(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.

PART II.

GOVERNMENT OF INDIA.

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.

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.

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

Council of State.

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.

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

Legislative Assembly.

(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, 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.

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.

President of Legislative 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

(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.

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.

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.

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.

24. (1) Sub-sections (2) 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.

Business and proceedings in Indian legislature.

(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.

(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.

(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.

(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.

(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.

(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.

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 statement is under consideration, unless the Governor-General otherwise directs—

- (i) interest and sinking fund charges on loans ; and
- (ii) expenditure of which the amount is prescribed by or under any law ; and
- (iii) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council ; and
- (iv) salaries of chief commissioners and judicial commissioners ; and
- (v) expenditure classified by the order of the Governor-General in Council as—

- (a) ecclesiastical ;
- (b) political ;
- (c) defence.

(4) If any question arises 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.

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—

Provision for case of failure to pass legislation.

- (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.

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—

Supplemental provisions as to powers of Indian legislature.

- (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.

(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.

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.

Composition of Governor-General's executive council.

(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."

(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.

(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.

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 the members of his executive council as he may assign to them.

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

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

PART III.

SECRETARY OF STATE IN COUNCIL.

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.

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 re-appointment thereto shall be made in excess of the maximum prescribed by this provision.

(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."

(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.

- (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.”

- (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.

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

Further provisions as to Council of India.

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.

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.

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 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.

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.

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.

PART IV.

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.

(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.

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.

Appointments to the Indian Civil Service.

Any rules made under this section shall not have force until they have been laid for thirty days before both Houses of Parliament.

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

5 and 6 Geo. 5. c. 87.

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.

Public service commission.

(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.

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.

Financial control.

(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.

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.

Rules under Part IV.

PART V.

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.

PART VI.

GENERAL.

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.

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.

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 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 :

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.

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.

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

(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.

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 :

Definition of official.

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.

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

Short title, commencement, interpretation, and transitory provisions.

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

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

(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 to 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 reference to the corresponding authority constituted by the principal Act as amended by this Act.

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

SCHEDULES.

* FIRST SCHEDULE.

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

† SECOND SCHEDULE.

PART I.

The provisions of this Act set out in the first column of the following table shall be incorporated in the principal Act in the manner shown in the second column of

* Section 7.

† Section 54.

that table, subject to the modifications specified in the third column of that table:—

TABLE.

Provision of Act.	Place and Method of Incorporation in the Principal Act.	Modifications.
Section 1 . . .	To be inserted as a new section (45A) after s. 45.	“ this Act ” to be substituted for “ the Government of India Act, 1915, “ principal Act,” for “ the principal Act,” and for “ that Act.”
Section 3 (1) . . .	To be substituted for s. 46 (1).	—
Section 4 . . .	To be substituted for s. 52.	“ this Act ” to be substituted for “ the principal Act.”
Section 6 . . .	To be substituted for s. 49.	“ any other rules made under this Act ” to be substituted for “ any rules made under the principal Act as amended by this Act.”
Sections 7, 8, 9 . . .	To be inserted as new sections (72A, 72B, and 72C), after s. 72.	“ this Act ” to be substituted for “ the principal Act.”
Section 10 . . .	To be inserted as a new section (80A) after s. 80.	“ this Act ” to be substituted for “ the principal Act;” “ the commencement of the Government of India Act, 1919.” to be substituted for “ the commencement of this Act ” and “ such first mentioned Act ” to be substituted for “ that Act ” in sub-section (3).
Section 11 . . .	To be inserted as a new section (72D) after s. 72C.	The following sub-section to be substituted for sub-section (1):— “ (1) The provisions contained in this section shall have effect with respect to business and procedure in governors’ legislative councils.” “ this Act ” to be substituted for “ the principal Act.”
Section 12 . . .	To be inserted as a new section (81A) after s. 81.	“ this Act ” to be substituted for “ the principal Act.”
Section 13 . . .	To be inserted as a new section (72E) after s. 72D.	—
Section 14 . . .	To be inserted as a new section (80B) after s. 80A.	The following new section to be inserted at the end thereof:—

Provision of Act.	Place and Method of Incorporation in the Principal Act	Modifications.
		<p>“30c. 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.”</p>
Section 15 . . .	To be inserted as a new section (52A) after s. 52.	“this Act” to be substituted for “the principal Act or this Act” and for “the principal Act and this Act.”
Section 16 (1) and (3).	To be inserted as a new section (52B) after s. 52A.	“the Government of India Act, 1919,” to be substituted for “this Act,” where those words first occur, and “that Act” to be substituted for “this Act,” where those words secondly occur, and “that Act or this Act” to be substituted for “this Act,” where those words thirdly occur.
Section 16 (2) . . .	To be inserted as a new sub-section (2) of s. 54.	“Nothing in the Government of India Act, 1919, or this Act” to be substituted for “Nothing in this Act” and “this Act” to be substituted elsewhere for “the principal Act.”
Sections 17-23 inclusive.	To be inserted as new sections in lieu of ss. 63 and 64, and numbered 63, 63A, 63B, 63C, 63D, 63E, and 64.	“this Act” to be substituted for “the principal Act.”
Section 24 (2) . . .	To be inserted as sub-section (1) of section 67 in lieu of the existing sub-section (1)	“this Act” to be substituted for “the principal Act.”
Section 24 (3)-(7).	To be inserted as sub-sections (3)-(7) of section 67 in lieu of the existing sub-section(3).	“this Act” to be substituted for “the principal Act.”
Sections 25 and 26	To be inserted as new sections (67A and 67B) after s. 67.	—
Section 29 . . .	To be inserted as a new section (43A) after s. 43.	—
Section 33 . . .	To be inserted as a new section (19A) after s. 19.	“this Act” to be substituted for “the principal Act” and “the Government of India Act, 1919,” to be substituted for “this Act.”

Provision of Act.	Place and Method of Incorporation in the Principal Act.	Modifications.
Section 34 . . .	To be inserted as a new section (11) in lieu of sections 1 to 14 inclusive.	For the words from the beginning of the section down to and including the words "effect and" there shall be substituted the words "Subject to the provisions of this Act."
Section 35 . . .	To be inserted as a new section (29A) after s. 29.	"this Act" to be substituted for "the principal Act."
Sections 36, 38, 39, and 40.	To be inserted as new sections (96B, 96C, 96D, and 96E) after section 96A, constituting a new Part (VIIA.) after Part VII.	"this Act" to be substituted for "the principal Act," and "the Government of India Act, 1919," to be substituted for "this Act," except in section 40.
Section 37 (1) . . .	To be inserted as a new sub-section (6) of s. 97.	"this section" to be substituted for "section ninety-seven of the principal Act," and "any rules made under this sub-section" to be substituted for "any rules made under this section."
Section 41 . . .	To be inserted as a new section (84A) after s. 84, constituting a new Part (VIA) after Part VI.	"the Government of India Act, 1919" to be substituted for "this Act."
Section 42 . . .	To be inserted as a proviso to s. 124.	"Provided that notwithstanding anything in this Act" to be substituted for "Notwithstanding anything in section one hundred and twenty-four of the principal Act."
Section 44 . . .	To be inserted as a new section (129A) at the beginning of Part XII.	"this Act" to be substituted for "the principal Act" and for "this Act or under the principal Act."
Section 46 . . .	To be inserted as a new paragraph at the end of s. 134.	"in this Act" to be omitted, and "this Act" to be substituted for "the Principal Act" and for "the principal Act or this Act."
Section 47 (3) and (4).	To be inserted as new paragraphs at the end of s. 130.	"this Act" to be substituted for "the principal Act" and for "the principal Act as amended by this Act."
First Schedule . . .	To be inserted in lieu of Schedule I.	

PART II.

The provisions of the principal Act specified in the first column of this table shall be amended in the manner shown in the second column.

TABLE.

Section of Act.	Amendment.
2	<p>In sub-section (2) "or rules made thereunder" shall be inserted after "this Act."</p> <p>The following sub-section shall be substituted for sub-section (3) :—</p> <p>"(3) The salary of the Secretary of State shall be paid out of moneys provided by Parliament, and the salaries of his under-secretaries and any other expenses of his department may be paid out of the revenues of India or out of moneys provided by Parliament."</p>
3 (1)	<p>"eight" shall be substituted for "ten," and "twelve" shall be substituted for "fourteen," and the following words shall be inserted at the end of the sub-section :—</p> <p>"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."</p>
3 (3)	<p>"one-half" shall be substituted for "nine," and "India" shall be substituted for "British India."</p>
3 (4)	<p>"five years" shall be substituted for "seven years," and the following words shall be inserted at the end of the sub-section :—</p> <p>"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."</p>
3 (8)	<p>The following sub-sections shall be substituted for this sub-section :—</p> <p>"(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.</p> <p>(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."</p>
5	<p>The words of this section from and including the words "but every order" to the end of the section shall be omitted.</p>
6	<p>For "not less than five members are present" there shall be substituted "such number of members are present as may be prescribed by general directions of the Secretary of State."</p>

Section of Act.	Amendment.
8	For "week" there shall be substituted "month."
10	For "all business of the Council or committees thereof is to be transacted" there shall be substituted "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."
19	The words of this section from the beginning down to and including "Provided that" shall be omitted.
20 (2) (d)	After "under this Act" there shall be inserted "except so far as is otherwise provided under this Act."
21	At the beginning of this section there shall be inserted "Subject to the provisions of this Act and rules made thereunder."
27 (9)	After "revenues of India" there shall be inserted "or out of moneys provided by Parliament."
29	In sub-section (1) at the beginning there shall be inserted the words :— "Subject to the provisions of this Act regarding the appointment of a High Commissioner for India."
30	After sub-section (1) the following sub-section shall be inserted :— "(1A) A local Government may on behalf and in the name of the Secretary of State in Council raise money on the security of revenues allocated to it under this Act, and make proper assurances for that purpose, and rules made under this Act may provide for the conditions under which this power shall be exercisable." In sub-section (2) "sub-section (1) of this section" shall be substituted for "this section."
31	"Indian legislature" shall be substituted for "Governor-General in Legislative Council."
33	At the beginning of the section there shall be inserted "Subject to the provisions of this Act and rules made thereunder."
35	This section shall be omitted.
36	"ordinary" in sub-sections (1) and (2) shall be omitted. In sub-section (2) for the words from and including "five or" to the end of the sub-section there shall be substituted "such as His Majesty thinks fit to appoint." In sub-section (3) "at the time of their appointment" shall be omitted, after "Scotland" there shall be inserted "or a pleader of a High Court," and "ten" shall be substituted for "five." In sub-section (4) for "person appointed an ordinary member of the council" there shall be substituted "member of the council (other than the Commander-in-Chief for the time being of His Majesty's forces in India)." At the end of the section the following new sub-section shall be inserted :— "(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."

Section of Act.	Amendment.
37	The following section shall be substituted for section thirty-seven:— “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.”
39	In sub-section (2) for “one ordinary member of the council” there shall be substituted “one member of the council (other than the Commander-in-Chief).”
40	At the end of sub-section (1) there shall be inserted—“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.”
42	For “ordinary member” there shall be substituted “member (other than the Commander-in-Chief).”
45	At the beginning of the section there shall be inserted “Subject to the provisions of this Act and rules made thereunder.”
46	The following sub-section shall be substituted for sub-section (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.”
47	In sub-section (3) “the governors' provinces” shall be substituted for “those presidencies” and “province” shall be substituted for “presidency.”
47	In sub-section (2) “One at least of them must be a person who at the time of his appointment has been” shall be substituted for “Two at least of them must be persons who at the time of their appointment have been.”
48	The following sub-section shall be substituted for sub-section (3):— “(3) Provision may be made by rules under this Act as to the qualifications to be required in respect of members of the executive council of the governor of a province in any case where such provision is not made by the foregoing provisions of this section.”
48	“province” shall be substituted for “presidency.”
50 (2)	“province” shall be substituted for “presidency.”
53 (1)	For the words from the beginning down to “the Punjab and” (inclusive there shall be substituted “The province of,” and the words “with or without an executive council” shall be omitted.
57	At the end of the section there shall be inserted “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”
58	“Assam, the Central Provinces,” shall be omitted.
65	For “Governor-General in Legislative Council” there shall be substituted “Indian legislature.”

Section of Act.	Amendment.
67	<p>“either chamber of the Indian legislature” shall be substituted for “the council.”</p> <p>At the end of sub-section (2) the following shall be inserted—</p> <p>“or any measure—</p> <p>(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</p> <p>(ii) repealing or amending any Act of a local legislature; or</p> <p>(iii) repealing or amending any Act or ordinance made by the Governor-General.</p> <p>(2A) Where in either chamber of the Indian legislature any Bill has been introduced, or is proposed to be introduced, or any amendment to a Bill is moved, or proposed to be moved, the Governor-General may certify that the Bill, or any clause of it, or the amendment, affects the safety or tranquillity of British India, or any part thereof, and may direct that no proceedings, or that no further proceedings, shall be taken by the chamber in relation to the Bill, clause, or amendment; and effect shall be given to such direction.”</p>
68	<p>“Bill” shall be substituted for “Act” and “a Bill” for “an Act;” “by both chambers of the Indian legislature” shall be substituted for “at a meeting of the Indian Legislative Council,” and “whether he was or was not present in council at the passing thereof” shall be omitted.</p> <p>“A Bill passed by both chambers of the Indian legislature shall not become an Act” shall be substituted for “An Act of the Governor-General in Legislative Council has not validity.”</p> <p>“in Council” shall be inserted after “His Majesty” and “to the Governor-General through the Secretary of State in Council” shall be omitted.</p>
69	<p>“Indian legislature” shall be substituted for “Governor-General in Legislative Council;” “in Council;” shall be inserted after “His Majesty” and “through the Secretary of State in Council” shall be omitted.</p>
70	<p>This section shall be omitted.</p>
71 (2)	<p>“Indian legislature” shall be substituted for “Governor-General in Legislative Council.”</p>
72	<p>“Indian legislature” shall be substituted for “Governor-General in Legislative Council.”</p>
73	<p>In sub-section (1) “a governor or of” shall be omitted and “and of members nominated or elected as hereinafter provided” shall be substituted for “with the addition of members nominated or elected in accordance with rules made under this Act.”</p> <p>In sub-section (3) “as hereinafter provided” shall be substituted for “in accordance with rules made under this Act.”</p> <p>Sub-section (4) shall be omitted.</p>
74	<p>This section shall be omitted.</p>
75	<p>This section shall be omitted.</p>

Section of Act.	Amendment.
76	<p>In sub-section (1) "section" shall be substituted for "Act" and the following proviso shall be substituted for the existing proviso :— "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."</p> <p>In sub-section (2) "Non-officials" shall be substituted for "persons not in the civil or military service of the Crown in India."</p> <p>In sub-section (4) "Indian legislature or the local legislature" shall be substituted for "Governor-General in Legislative Council."</p>
78	<p>The following provision shall be inserted at the beginning of sub-section (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 a chief commissioner may be adjourned by the person presiding."</p> <p>In sub-section (2) "in accordance with rules made under this Act" shall be omitted.</p> <p>For sub-section (3) the following sub-sections shall be substituted :— "(3) All question 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.</p> <p>(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."</p>
79 80	<p>This section shall be omitted.</p> <p>In sub-section (1) after "local legislative council," there shall be inserted " (other than a governor's legislative council)."</p> <p>Sub-section (2) shall be omitted.</p> <p>In sub-section (3) after "local government" there shall be inserted "of a province other than a governor's province," the word "Governor," where it occurs immediately before the word "Lieutenant-Governor," shall be omitted, and "Indian legislature" shall be substituted for "Governor-General in Legislative Council."</p> <p>At the end of the section the following new sub-sections shall be inserted :— "(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).</p> <p>(5) The local legislature of any such province may, subject to the assent of the lieutenant-governor or chief commissioner, alter the rules for the conduct of legislative business in the local council (including rules prescribing the mode of promulgation and authentication of laws passed by the council) but any alteration so made may be disallowed by the Governor-General in Council, and if so disallowed shall have no effect."</p>

Section of Act.	Amendment.
81	Throughout sub-sections (1) and (2) and in sub-section (3) where it first occurs, for "Act," there shall be substituted "Bill" and in sub-section (1) "by" shall be substituted for "at a meeting of." For "an Act" there shall be substituted "a Bill," and for "has no effect" there shall be substituted "shall not become an Act."
82	For "any such Act" where those words occur for the first and third times, there shall be substituted "an Act," and for those words where they occur for the second time there shall be substituted "the Act." In sub-section (1) after "His Majesty" there shall be inserted "in Council" and the words "through the Secretary of State in Council" shall be omitted.
83	This section shall be omitted.
84	"an Act of the Indian legislature" shall be substituted for "a law made by the Governor-General in Legislative Council," and "non-official members" shall be substituted for "members not holding office under the Crown in India." In paragraph (c) "an Act of" shall be substituted for "a law made by."
85	In sub-section (1) "ordinary" shall be omitted, and after the words "Executive Council" where they first occur there shall be inserted the words "(other than the Commander-in-Chief)."
87	"ordinary" shall be omitted, and after "Governor-General," where it occurs for the second time, there shall be inserted "(other than the Commander-in-Chief)."
89	In sub-section (4) for "ordinary member of the council" there shall be substituted "member of the council (other than the Commander-in-Chief)."
90	In sub-section (1) after "Governor" there shall be inserted "of a presidency." In sub-section (4) "ordinary" shall be omitted, and after "executive council" there shall be inserted "(other than the Commander-in-Chief)."
92	"a member" shall be substituted for "an ordinary member" and for "any ordinary member," and after "executive council of the Governor-General" there shall be inserted "(other than the Commander-in-Chief)." In sub-section (5) (a) "under this Act" shall be omitted.
93 (1)	"either chamber of the Indian legislature" shall be substituted for "the Indian Legislative Council."
95	Before "offices" wherever that word occurs, before "officers," and before "promotions" where it occurs for the second time, there shall be inserted "military."
97	"Section 90 A of this Act" shall be substituted for "the last foregoing section."
110	In sub-section (1) after "Governor or Lieutenant-Governor" there shall be inserted "and a minister appointed under this Act."

Section of Act.	Amendment.
124	In sub-section (4) after "Lieutenant-Governor" where it secondly occurs, there shall be inserted "or being a minister appointed under this Act."
131	"Indian legislature" shall be substituted for "Governor-General in Legislative Council."
134 (4)	<p>The following paragraph shall be substituted for paragraph (4) :—</p> <p>"(4) "Local Government" means, in the case of a governor's province, 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.</p> <p>"Local legislative council" includes the legislative council in any governor's province, and any other legislative council constituted in accordance with this Act.</p> <p>"Local legislature" means, in the case of a governor's province, the governor and the legislative council of the province, and, in the case of any other province, the lieutenant-governor or chief commissioner in legislative council."</p>
135	<p>The following section shall be substituted for section 135 :—</p> <p>"135. This Act may be cited as the Government of India Act."</p>
Second Schedule.	The following Schedule shall be substituted for the Second Schedule :—
SECOND SCHEDULE.	
OFFICIAL SALARIES, ETC.	
<u>Officer.</u>	<u>Maximum Annual Salary.</u>
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.

Section of Act.	Amendment.
Third Schedule.	<p>The following Schedule shall be substituted for the Third Schedule* :—</p> <p style="text-align: center;">THIRD SCHEDULE.</p> <p style="text-align: center;">OFFICES RESERVED TO THE INDIAN CIVIL SERVICE.</p> <p style="text-align: center;"><i>A.—Offices under the Governor-General in Council.</i></p> <ol style="list-style-type: none"> 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. <p style="text-align: center;"><i>B.—Offices in the provinces which were known in the year 1861 as "Regulation Provinces."</i></p> <p>The following offices, namely :—</p> <ol style="list-style-type: none"> 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 Department. 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.
Fifth Schedule.	<p>"Indian legislature" shall be substituted in the heading for "Governor-General in Legislative Council."</p>

* Section 98.

NOTE.—In parts I and II of the Second Schedule to this Act references to any word or expression in any provision of the principal Act or this Act apply, unless the contrary is stated, to that word or expression wherever the word or expression occurs in that provision.

PART III.

Section of Act.	How dealt with.
16	To be omitted.
42	"and signifies his intended absence to the Council" shall be omitted.
45 (2)	To be omitted.
51	"and signifies his intended absence to the Council" and "civil" shall be omitted.
54 (3)	To be omitted.
55 (1)	In paragraph (b) after "illness or otherwise" there shall be inserted "and for supplying a vacancy until it is permanently filled"
65	In sub-section (1) (d) "airmen" shall be inserted after "soldiers" and "or the Air Force Act" shall be inserted after "the Army Act."
67	In sub-section (2) (i) "the Air Force Act" shall be inserted after "the Army Act"
67	"naval, or air" shall be substituted for "or naval"
73 (2)	To be omitted.
81	In sub-section (1) "whether he was or was not present in Council at the passing of the Act" shall be omitted.
85	The following proviso shall be inserted at the end of sub-section (3) :— "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."
87	For "subject to the foregoing provisions of this Act as to leave of absence" there shall be substituted "save in the case of absence on special duty or on leave under a medical certificate." After "council of a governor" there shall be inserted "or of a lieutenant-governor."
88	To be omitted.
89	"entitled under a conditional appointment to succeed to the office of Governor-General, or" and "absolutely" shall be omitted, and for "that office" there shall be substituted "the office of Governor-General."
90	In sub-section (1) "conditional or other" shall be omitted. In sub-section (3) for "this Act" there shall be substituted "section eighty-nine of this Act," and "respecting the assumption of the office by a person conditionally appointed to succeed thereto" shall be omitted. In sub-section (4) "conditional or other" shall be omitted.
91	In sub-section (1) "conditional or other" shall be omitted.
92	In sub-section (1) "conditional or other" shall be omitted. In sub-section (3) "then, if any person has been conditionally appointed to succeed to his office and is on the spot, the place of that member shall be supplied by that person, and if no person conditionally appointed to succeed to the office is on the spot" shall be omitted. In sub-section (4) "conditionally or" shall be omitted.

Section of Act.	How dealt with.
115	<p>At the end of sub-section (1) the following shall be inserted:— “ 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 ”</p> <p>At the end of sub-section (2) the following shall be inserted:— “ 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.”</p>
118	<p>In sub-section (1) “ and archdeacons ” shall be omitted, and after “ letters patent ” there shall be inserted “ and the archdeacons of those dioceses by their respective diocesan bishops.”</p>

APPENDIX V.

BY THE KING-EMPEROR.

Royal Proclamation.

“GEORGE V, by the grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas, King, Defender of the Faith, Emperor of India. To my Viceroy and Governor-General, to the Princes of Indian States, and to all my subjects in India, of whatsoever race or creed, greeting.

“1. Another epoch has been reached to-day in the annals of India. I have given my Royal Assent to an Act which will take its place among the great historic measures passed by the Parliament of this Realm for the better government of India and for the greater contentment of her people. The Acts of 1773 and 1784, were designed to establish a regular system of administration and justice under the Honourable East India Company. The Act of 1833 opened the door for Indians to public office and employment. The Act of 1858 transferred the administration from the Company to the Crown and laid the foundations of public life which exist in India to-day. The Act of 1861 sowed the seed of representative institutions, and the seed was quickened into life by the Act of 1909. The Act which has now become law entrusts the elected representatives of the people with a definite share in the Government and points the way to full responsible Government hereafter. If, as I confidently hope, the policy which this Act inaugurates should achieve its purpose, the results will be momentous in the story of human progress; and it is timely and fitting that I should invite you to-day to consider the past and to join me in my hopes of the future.

“2. Ever since the welfare of India was confided to us, it has been held as a sacred trust by Our Royal House and Line. In 1858 Queen Victoria of revered memory solemnly declared herself bound to her Indian subjects by the same obligations of duty as to all her other subjects; and she assured to them religious freedom and the equal and impartial protection of the law. In his message to the Indian people in 1903 my dear father, King Edward VII, announced his determination to maintain unimpaired the same principles of humane and equitable administration. Again in his Proclamation of 1908 he renewed the assurances which had been given 5 years before and surveyed the progress which they had inspired. On my accession to the throne in 1910 I sent a message to the Princes and peoples of India acknowledging their loyalty and homage and promising that the prosperity and happiness of India should always be to me of the highest interest and concern. In the following year I visited India with the Queen-Empress and testified my sympathy for her people and my desire for their well-being.

“3. While these are the sentiments of affection and devotion by which I and my predecessors have been animated, the Parliament and the people of this Realm and my officers in India have been equally zealous for the moral and material advancement of India. We have endeavoured to give to her people the many blessings which Providence has bestowed upon ourselves. But there is one gift which yet remains and without which the progress of a country cannot be consummated—the right of her people to direct her affairs and safeguard her interests. The defence of India against foreign aggression is a duty of common Imperial interest and pride. The control of her domestic concerns is a burden which India may legitimately aspire to take upon her own shoulders. The burden is too heavy

to be borne in full until time and experience have brought the necessary strength ; but opportunity will now be given for experience to grow and, for responsibility to increase with the capacity for its fulfilment.

"4. I have watched with understanding and sympathy the growing desire of my Indian people for representative institutions. Starting from small beginnings this ambition has steadily strengthened its hold upon the intelligence of the country. It has pursued its course along constitutional channels with sincerity and courage. It has survived the discredit which at times and in places lawless men sought to cast upon it by acts of violence committed under the guise of patriotism. It has been stirred to more vigorous life by the ideals for which the British Commonwealth fought in the Great War, and it claims support in the part which India has taken in our common struggles, anxiety and victories. In truth, the desire after political responsibility has its source at the roots of the British connection with India. It has sprung inevitably from the deeper and wider studies of human thought and history which that connection has opened to the Indian people. Without it the work of the British in India would have been incomplete. It was therefore with a wise judgment that the beginnings of representative institutions were laid many years ago. Their scope has been extended stage by stage until there now lies before us a definite step on the road to responsible Government.

"5. With the same sympathy and with redoubled interest I shall watch the progress along this road. The path will not be easy and in the march towards the goal there will be need of perseverance and of mutual forbearance between all sections and races of my people in India. I am confident that those high qualities will be forthcoming. I rely on the new popular assemblies to interpret wisely the wishes of those whom they represent and not to forget the interests of the masses who cannot yet be admitted to franchise. I rely on the leaders of people, the Ministers of the future, to face responsibility and endure misrepresentation, to sacrifice much for the common interest of the State, remembering that true patriotism transcends party and communal boundaries and, while retaining the confidence of the legislatures, to co-operate with my officers for the common good in sinking unessential differences and in maintaining the essential standards of a just and generous government. Equally do I rely upon my officers to respect their new colleagues and to work with them in harmony and kindness ; to assist the people and their representatives in an orderly advance towards free institutions ; and to find in these new tasks a fresh opportunity to fulfil, as in the past, their highest purpose of faithful service to my people.

"6. It is my earnest desire at this time that so far as possible any trace of bitterness between my people and those who are responsible for my government should be obliterated. Let those who in their eagerness for political progress have broken the law in the past respect it in the future. Let it become possible for those who are charged with the maintenance of peaceful and orderly government to forget the extravagances which they have had to curb. A new era is opening. Let it begin with a common determination among my people and my officers to work together for a common purpose. I therefore direct my Viceroy to exercise in my name and on my behalf my Royal clemency to political offenders in the fullest measure which in his judgment is compatible with the public safety. I desire him to extend it on this condition to persons who for offences against the State or under any special or emergency legislation are suffering imprisonment or restrictions upon their liberty. I trust that this leniency will be justified by the future conduct of those whom it benefits, and that all my subjects will so demean themselves as to render it unnecessary to enforce the laws for such offences hereafter.

"7. Simultaneously with the new constitutions in British India I have gladly assented to the establishment of a Chamber of Princes. I trust that its counsel may

be fruitful of lasting good to the Princes and the States themselves, may advance the interests which are common to their territories and to British India, and may be to the advantage of the Empire as a whole. I take the occasion again to assure the Princes of India of my determination ever to maintain unimpaired their privileges, rights and dignities.

“8. It is my intention to send my dear son, the Prince of Wales, to India next winter to inaugurate on my behalf the new Chamber of Princes and the new constitutions in British India. May he find mutual good will and confidence prevailing among those on whom will rest the future service of the country, so that success may crown their labours, and progressive enlightenment attend their administration. And, with all my people, I pray to Almighty God that by His Wisdom and under His guidance India may be led to greater prosperity and contentment, and may grow to the fullness of political freedom.”

APPENDIX VI.

Resolutions passed at the Moderates' Conference in Calcutta in connection with the Reforms.

The following Resolutions were unanimously passed by the Conference :—

RESOLUTION I.

This Conference begs to convey to His Majesty the King-Emperor its profound homage and sense of deep gratitude for the Proclamation of the 23rd December 1919, which opens a new era in the history of British India by inaugurating the beginnings of responsible Government. By the exercise of his Royal clemency in favour of political prisoners, by his deep sympathy with our political aspirations and by his confidence in our future, His Majesty has ensured an atmosphere of harmony and good-will which is bound to contribute to the successful working of the reforms.

* * * * *

RESOLUTION IV.

While regretting the omission to introduce some measure of responsibility in the central government this Conference welcomes the Government of India Act of 1919 as the first definite and substantial step towards the progressive realisation of responsible government. This Conference appeals to all sections of the community, European and Indian, officials and non-officials, whole-heartedly to co-operate for the successful working of the Act.

APPENDIX VII.

The following is the full text of the Resolution, as amended, which was passed at the Indian National Congress held at Amritsar in December, 1918 :—

- (a) That this Conference reiterates its declaration of last year that India is fit for full responsible Government and repudiates all assumptions and assertions to the contrary wherever made.
- (b) That this Conference adheres to the resolution passed at Delhi Congress regarding constitutional reforms and is of opinion that the Reforms Act is inadequate, unsatisfactory, and disappointing.
- (c) That this Congress further urges that Parliament should early take steps to establish full responsible Government in India in accordance with the principle of self-determination.
- (d) Pending such introduction, this Congress trusts that, so far as may be possible, they so work the reforms as to secure an early establishment of full Responsible Government, and this Congress offers thanks to the Right Honourable Mr. E. S. Montagu for his labours in connection with the reforms.

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