

- (c) make and issue general rules for regulating the practice and proceedings of such courts.
- (d) prescribe forms for any proceedings in such courts, and for the mode of keeping any books, entries, or accounts by the officers of any such courts ; and
- (e) settle tables of fees to be allowed to the sheriffs, attorneys, and all clerks and officers of such courts.

Provided that all such rules, forms, and tables require the previous approval, in the province of Bengal of the Governor-General in Council, and in the province of Madras or Bombay or the North-Western Provinces of the local Government (a).

(a) As to the relations of the high courts to the subordinate courts. see further above, pp. 127, 136.

Exercise of jurisdiction by single judges or division courts [24 & 25 Vict. c. 104, ss. 13, 14.]

103.—(1) Subject to any law made by the Governor-General in Council, each high court may by its own rules provide as it thinks fit for the exercise, by one or more judges, or by division courts constituted by two or more judges of the high court, of the original and appellate jurisdiction vested in the court.

(2) The chief justice of each high court determines what judge in each case is to sit alone, and what judges of the court, whether with or without the chief justice, are to constitute the several division courts.

Power for Governor-General in Council to alter local limits of jurisdiction of high courts. [28 & 29 Vict. c. 15, ss. 3, 4, 6.]

104.—(1) (a) The Governor-General in Council may by order transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the high courts, and authorize any high court to exercise all or any portion of its jurisdiction in any part of British India not included within the limits for which the high court was established (b), and also to exercise any such jurisdiction in respect of Christian (c) subjects of His Majesty resident in any part of India outside British India (b).

(2) The Governor-General in Council must transmit to the Secretary of State an authentic copy of every order made under this section.

(3) His Majesty may signify, through the Secretary of State in Council, his disallowance of any such order, and such disallowance makes void and annuls the order as from the day on which the governor-general makes known by proclamation or by signification to his council that he has received notification of the disallowance, but no act done by any high court before such notification is invalid by reason only of such disallowance.

(4) Nothing in this section affects any power of the Governor-General in Council in legislative meetings.

(a) As to the object and construction of this section, see *Minutes by Sir H. S. Maine*, No. 45.

(b) For orders made under this provision, see *Notifications*, Nos. 178, 180, 181, of September 23, 1874; *Mayne, Criminal Law of India*, p. 258. It would seem that s. 3 of the Act of 1865 (reproduced by this provision) only empowered the governor-general to make an order transferring any territory from the jurisdiction of one court to the jurisdiction of another, and that the second branch of the section was only to enable the governor-general to authorize the court to which such transfer was made to exercise jurisdiction. If this is so, the Governor-General in Council could not either by order or legislation extend the local and personal jurisdiction of the high court at Allahabad over the province of Oudh, or authorize two of the judges of the high court to sit at Lucknow to try cases arising in Oudh, or empower the Chief Commissioner of Oudh to transmit cases from Oudh for trial at Allahabad by judges of the high court there.

(c) 'The comprehensive term "Christian" was doubtless used because it might be convenient to give a particular high court matrimonial and testamentary jurisdiction over all Christian subjects.' *Minutes by Sir H. S. Maine*, Nos. 44, 45.

(d) i.e. in Native States. See s. 124.

105.—(1) Subject to any law made by the Governor-General in Council (a), the governor-general and each of the governors of Madras and Bombay, and each of the ordinary and extraordinary members of their respective councils, is not—

(a) subject to the original jurisdiction of any high court by reason of anything counselled, ordered, or done by any of them, in his public capacity only; nor

(b) liable to be arrested or imprisoned in any suit or proceeding in any high court acting in the exercise of its original jurisdiction; nor

Exemption from jurisdiction of high court in public capacity. [13 Geo. III, c. 63, ss. 15, 17. 21 Geo. III, c. 70, s. 1. 37 Geo. III, c. 142.]

8 II.
39 & 40
Geo. III,
c. 79, s. 3.
4 Geo. IV,
c. 41, s. 7.]

(c) subject to the original criminal jurisdiction of any high court in respect of any misdemeanour at common law, or under any Act of Parliament, or in respect of any act which if done in England would have been a misdemeanour.

(2) The exemption under this section from liability to arrest and imprisonment extends also to the chief justices and other judges of the several high courts.

(a) The enactments reproduced by this section apply only to the original jurisdiction of the high courts, and are not excepted from the legislative power of the governor-general's council by 24 & 25 Vict. c. 67, s. 22. The exemptions from jurisdiction granted by 21 Geo. III, c. 70, and reproduced in this section, were granted in consequence of the proceedings in the Cossijurah case. See above, p. 54; Mayne, *Criminal Law of India*, p. 301; and *Jehangir v. Secretary of State for India*, 1 L. R. 27 Bom. 189.

Written
order by
governor-
general a
justifica-
tion for
any act
in any
court in
India.
[21 Geo.
III, c. 70,
ss. 2, 3, 4.]

106. Subject to any law made by the Governor-General in Council, the order in writing of the Governor-General in Council for any act is in any proceeding, civil or criminal, in any high court acting in the exercise of its original jurisdiction, a full justification of the act, except so far as the act extends to any [European] British subject of His Majesty (a); but nothing in this section exempts the governor-general, or any member of his council, or any person acting under their orders, from any proceedings in respect of any such act before any competent court in England.

(a) The expression in the Act of 1780 is 'British subjects,' which of course must be construed in the narrower sense. As to the circumstances out of which this enactment arose, see above, pp. 54 foll., and Mill's *British India*, iv. 373-375; Cowell's *Tagore Lectures*, p. 72; *Nuncomar and Impey*, ii. 189. As to the limitations formerly imposed on the powers of the Indian Governments in dealing with European British subjects, see *In re Ameer Khan*, 6 B. L. R. 446, and the notes on ss. 63 and 79 of this Digest. The enactments reproduced by this section do not apply to the Governments of Madras and Bombay. They are applied to the existing high courts by the conjoint operation of 39 & 40 Geo. III, c. 79, s. 3; 4 Geo. IV, c. 71, s. 7; and 24 & 25 Vict. c. 104, s. 11, but appear to affect only the original jurisdiction of the high courts.

Procedure
in case of
oppression,
&c.,

107.—(1) (a) Subject to any law made by the Governor-General in Council, if any person makes a complaint in writing, and on oath, to the high court at Calcutta of any

oppression or injury alleged to have been caused by any order of the governor-general, or any member of his council, and gives security to the satisfaction of the high court to prosecute his complaint by indictment, information, or action before a competent court in the United Kingdom within two years from the making of the same or from the return into the United Kingdom of the person or persons complained against, he is entitled to have a true copy of any order of which he complains produced before the high court, and authenticated by the court, and he and the persons against whom he complains may examine witnesses on the matter of the complaint.

(2) The high court must, if necessary, compel the attendance and examination of witnesses in any such case in the same manner as in other criminal or civil proceedings.

(3) Sections forty to forty-five of the East India Company Act, 1772, apply in the case of proceedings under this section as in the case of the proceedings referred to in those sections.

(a) The provision reproduced by this section has remained a dead letter from the date of its enactment, appears to be unnecessary, and could be repealed by Indian legislation. It does not apply to the Madras High Court, *Re Wallace*, 1. L. R. 8 Mad. 24.

The sections referred to in sub-section (3) give jurisdiction to the Court of King's Bench, now the High Court, and provide for the taking of evidence in India, and its admissibility in England.

Law to be administered.

108. Subject to any law made by the Governor-General in Council, the high courts, in the exercise of their original jurisdiction, shall, in matters of inheritance and succession to lands, rents, and goods, and in matters of contract and dealing between party and party, when both parties are subject to the same personal law or custom having the force of law, decide according to that personal law or custom, and when the parties are subject to different personal laws or custom having the force of law, decide according to the law or custom to which the defendant is subject.

by governor-general or his council.
[21 Geo. III, c. 70, ss. 5, 6.]

13 Geo. III, c. 63.

Law to be administered in cases of inheritance and succession.
[21 Geo. III, c. 70, s. 17.
37 Geo. III, c. 142, s. 13.]

This section reproduces the enactments marginally noted so far as they appear to represent existing law. The qualifying words at the beginning of the clause represent existing law, the enactments marginally noted being, under 24 & 25 Vict. c. 67, s. 22, capable of being altered by Indian legislation.

In Warren Hastings' celebrated plan for the administration of justice, proposed and adopted in 1772, when the East India Company first took upon themselves the entire management of their territories in India, the twenty-third rule specially reserved their own laws to the natives, and provided that 'Moulavies or Brahmins' should respectively attend the courts to expound the law and assist in passing the decree.

Subsequently, when the governor-general and council were invested by Parliament with the power of making regulations, the provisions and exact words of Warren Hastings' twenty-third rule were introduced into the first regulation enacted by the Bengal Government for the administration of justice. This regulation was passed on April 17, 1780.

By section 27 of this regulation it was enacted 'that in all suits regarding inheritance, marriage, and caste, and other religious usages or institutions, the laws of the Koran with respect to Mahomedans, and those of the Shaster with respect to Gentoos, shall be invariably adhered to.' This section was re-enacted in the following year, in the revised Code, with the addition of the word 'succession.' Section 17 of the Act of 1781 constitutes the first express recognition of Warren Hastings' rule in the English Statute Law. Enactments to the same effect have since been introduced into numerous subsequent English statutes and Indian Acts,—see, for example, 37 Geo. III, c. 142, s. 13; Bombay Regulation IV of 1827, s. 26; Act IV of 1872, s. 5 (Punjab) as amended by Act XII of 1878; Act III of 1873, s. 16 (Madras); Act XX of 1875, s. 5 (Central Provinces); Act XVIII of 1876, s. 3 (Oudh); Act XII of 1887, s. 37 (Bengal, North-Western Provinces, and Assam); Act XI of 1889, s. 4 (Lower Burma). See also clauses 19 and 20 of the Charter of 1865 of the Bengal High Court, the corresponding clauses of the Madras and Bombay Charters, and clauses 13 and 14 of the Charter of the North-Western Provinces High Court.

The effect of 21 Geo. III, c. 70, s. 17, is explained in *Sarkies v. Prosonno Mayi Dasi*, I. L. R. 6 Cal. 794 (application for dower by the widow of an Armenian), and *Jagat Mohini Dasi v. Dwarkanath Beisakh*, I. L. R. 8 Cal. 582 (where it was held that there was no question of succession or inheritance).

The Indian Contract Act (IV of 1872) contains a saving (s. 2) for any statute, Act, or regulation not thereby expressly repealed. This saving has been held to include the enactment reproduced by this section, under which matters of contract are, within the presidency towns, but not elsewhere, directed to be regulated by the personal law of the party, and thus, paradoxically enough, certain rules of Hindu law have maintained their footing in the last part of British India where they might have been expected to survive. See *Nobin Chunder*

Bannerjee v. Romesh Chunder Ghose, I. L. R. 14 Cal. 781, where it was held that the custom of *damdapat* (*Law Quarterly Review* for 1896, p. 45) was still in force in Calcutta. If, however, any native law or custom is already inconsistent with the terms of the Contract Act, it would be held to be repealed. See *Madhub Chunder Poranamah v. Rajcoomar Doss*, 14 Beng. Law Rep. 76, p. 4.

The leading case on the extent to which English law has been introduced into India is the *Mayor of Lyons v. East India Company* (1836), reported 1 Moo. P. C. 176, and also, with useful explanatory and illustrative matter, 3 State Trials, N. S. 647. The Judicial Committee in this case laid down the principle that the general introduction of English law into a conquered or ceded country does not draw with it such parts as are manifestly inapplicable to the circumstances of the settlement, and decided in particular that the English law incapacitating aliens from holding real property to their own use and transmitting it by devise or descent had never been expressly introduced into Bengal, and that the Statute of Mortmain, 9 Geo. II, c. 36, did not apply to India. See also the famous judgement of Lord Stowell in *The Indian Chief*, (1800) 3 Rob. Adm. 12 at pp. 28, 29 (quoted below, p. 354); *Freeman v. Fairlie*, (1828) 1 Moo. Ind. App. 304, 2 State Trials, N. S. 1000; *Advocate-General of Bengal v. Ranee Surnomoye Dossee*, (1863) 2 Moo. P. C., N. S. 22 (law as to forfeiture for suicide); and *Ram Coomar Coondoo v. Chunder Canto Mookerjee*, (1876) L. R. 2 App. Cas. 186 (law as to maintenance and champerty). And as to the effect of successive charters in introducing English law into India, see above, p. 34; Morley's *Digest*, Introduction, pp. xi, xxiii; and Mr. Whitley Stokes' preface to the first edition of the older statutes relating to India (reprinted in the edition of 1881).

Advocate-General.

109.—(1) His Majesty may, by warrant under his Royal Sign Manual, appoint an advocate-general for each of the provinces of Bengal, Madras, and Bombay (a).

(2) The advocate-general for each of those provinces may take on behalf of His Majesty such proceedings as may be taken by His Majesty's Attorney-General in England (b).

(a) The advocate-general for Bengal is a law officer of the Government of India.

(b) See *Secretary of State for India v. Bombay Landing and Shipping Company*, 5 Bom. H. C. R. O. C. J., 42, and Act X of 1875, ss. 144, 146.

Appoint-
ment and
powers of
advocate-
general.
[53 Geo.
III, c. 155,
s. 111.
21 & 22
Vict. c.
106, s. 29.]

PART X.

ECCLESIASTICAL ESTABLISHMENT.

Jurisdiction
of Indian
bishops
[53 Geo
III, c. 155,
ss. 51, 52
3 & 4 Will
IV, c. 85,
ss. 92, 93,
94]

110.—(1) The bishops of Calcutta, Madras, and Bombay (*a*) have and may exercise such ecclesiastical jurisdiction and episcopal functions as His Majesty may, by letters patent, direct for the administering holy ceremonies, and for the superintendence and good government of the ministers of the Church of England within their respective dioceses.

(2) The Bishop of Calcutta is the metropolitan bishop in India, subject nevertheless to the general superintendence and revision of the Archbishop of Canterbury.

(3) Each of the bishops of Madras and Bombay is subject to the Bishop of Calcutta as such metropolitan, and must at the time of his appointment to his bishopric or at the time of his consecration as bishop take an oath of obedience to the Bishop of Calcutta in such manner as His Majesty by letters patent may be pleased to direct (*b*).

(4) His Majesty may, by letters patent, vary the limits of the dioceses of Calcutta, Madras, and Bombay.

[37 & 38
Vict. c. 77,
s. 13] (5) Nothing in this Digest or in any such letters patent as aforesaid prevents any person who is or has been bishop of any diocese in India from performing episcopal functions, not extending to the exercise of jurisdiction, in any diocese or reputed diocese at the request of the bishop thereof.

(*a*) The bishops of Calcutta, Madras, and Bombay are the only Indian bishops who are referred to in the Acts relating to India. Bishops have also been appointed, under letters patent or otherwise, for Chota Nagpore, Lahore, Lucknow, Rangoon, Tinnevely, and Travancore.

(*b*) As to these oaths, see 28 & 29 Vict. c. 122, and 31 & 32 Vict. c. 72, s. 14. Under 37 & 38 Vict. c. 77, s. 12, the archbishops of Canterbury or York may, in consecrating any person to the office of bishop for the purpose of exercising episcopal functions elsewhere than in England, dispense with the oath of due obedience to the archbishop.

Power to
admit to
holy
orders.

111.—(1) The Bishop of Calcutta may admit into the holy orders of deacon or priest any person whom he, on examination, deems duly qualified specially for the purpose of taking

on himself the cure of souls, or officiating in any spiritual capacity, within the limits of the diocese of Calcutta, and residing therein. [4 Geo. IV, c. 71, s. 6.]

(2) The deposit with the bishop of a declaration of such a purpose, and a written engagement to perform the same, signed by the person seeking ordination, is a sufficient title with a view to his ordination.

(3) It must be distinctly stated in the letters of ordination of every person so admitted to holy orders that he has been ordained for the cure of souls within the limits of the diocese of Calcutta only.

(4) Unless a person so admitted is a British subject, he is not required to take the oaths and make the subscriptions which persons ordained in England are required to take and make (a).

(a) The enactment reproduced by this section appears to apply only to the Bishop of Calcutta, and is probably unnecessary, as being covered by the general language of the letters patent enabling the Bishop of Calcutta to perform all the functions peculiar and appropriate to the office of bishop within the diocese of Calcutta.

112. If any person under the degree of bishop is appointed to the bishopric of Calcutta, Madras, or Bombay, being at the time of his appointment resident in India, the Archbishop of Canterbury, if so required to do by His Majesty by letters patent, may issue a commission under his hand and seal, directed to the two remaining bishops, authorizing and charging them to perform all requisite ceremonies for the consecration of the person so to be appointed. Consecration of person resident in India appointed to bishopric. [3 & 4 Will. IV, c. 85, s. 99.]

113.—(1) There may be paid to the bishops and archdeacons of Calcutta, Madras, and Bombay, out of the revenues of India, such salaries (a), commencing from the time at which they take upon themselves the execution of their office, and such [pensions (b) and] allowances as may be fixed by the Secretary of State in Council, but any power of alteration under this enactment shall not be exercised so as to impose any additional charge on the revenues of India. Salaries and allowances of bishops and archdeacons. [53 Geo. III, c. 155, ss. 49, 50. 4 Geo. IV, c. 71, ss. 3, 4, 5. 3 & 4

Will. IV, c. 85, ss. 90, 96, 97, 98, 100, 101, 5 & 6 Vict. c. 119, ss. 3, 4. (2) There are to be paid out of the revenues of India the expenses of visitations of the said bishops, and of the providing a suitable house for the residence of the Bishop of Calcutta (c), but no greater sum may be issued on account of those expenses than is allowed by the Secretary of State in Council.

43 Vict. c. 3, ss. 2, 3.] (a) As to the existing salaries, see note on s. 80.

(b) This statement of the law is not strictly accurate. Pensions, as distinguished from allowances, appear to be still paid under 4 Geo. IV, c. 71, s. 3, 6 Geo. IV, c. 85, s. 15, and 3 & 4 Will. IV, c. 85, s. 96, and not under 43 Vict. c. 3, s. 3. But it seems hardly worth while to reproduce here the specific provisions about bishops' pensions.

(c) The statutory obligation to provide a house for the Bishop of Calcutta is exhausted, but it may have been construed as including an obligation to maintain his house.

Furlough rules. [34 & 35 Vict. c. 62.] **114.** His Majesty may make such rules as to the leave of absence of the several Indian bishops on furlough or medical certificate as seem to His Majesty expedient.

Establishment of chaplains of Church of Scotland. [3 & 4 Will. IV, c. 85, s. 102.] **115.**—(1) Two of the chaplains appointed in each of the presidencies of Bengal, Madras, and Bombay must always be ministers of the Church of Scotland, and are entitled to have from the revenues of India such salary as is from time to time allotted to the military chaplains in the several presidencies.

(2) The ministers so appointed chaplains must be ordained and inducted by the presbytery of Edinburgh according to the forms and solemnities used in the Church of Scotland, and are subject to the spiritual and ecclesiastical jurisdiction in all things of the presbytery of Edinburgh, whose judgements are subject to dissent, protest, and appeal to the Provincial Synod of Lothian and Tweeddale and to the General Assembly of the Church of Scotland.

Saving as to grants to Christians. [3 & 4 Will. IV, c. 85, s. 102.] **116.** Nothing in this Digest prevents the Governor-General in Council from granting, with the sanction of the Secretary of State in Council, to any sect, persuasion, or community of Christians, not being of the Church of England or Church of Scotland, such sums of money as may be expedient for the purpose of instruction or for the maintenance of places of worship.

PART XI.

OFFENCES, PENALTIES, AND PROCEDURE.

- 117.** If any person holding office under the Crown in India does any of the following things ; that is to say,—
- (1) If he oppresses any of His Majesty's subjects (a) within his jurisdiction or in the exercise of his authority :
- (2) If (except in case of necessity, the burden of proving which shall be on him) he wilfully disobeys or wilfully omits, forbears, or neglects to execute any orders or instructions of the Secretary of State :
- (3) If he is guilty of any wilful breach of the trust and duty of his office and employment :
- (4) If, being the governor-general, or a governor, or a member of the council of the governor-general or of a governor, or being a person employed or concerned in the collection of revenue or the administration of justice, he is concerned in or has any dealings or transactions by way of traffic or trade in any part of India (b) [otherwise than as a shareholder in any joint-stock company or trading corporation] ;
- (5) If he accepts or receives for his own use, in the discharge of his office, any gift, gratuity, or reward, pecuniary or otherwise [except in accordance with rules made by the Secretary of State as to the receipt of presents], and except in the case of fees paid to barristers, physicians, surgeons, and chaplains in the way of their respective professions ;
- he is guilty of a misdemeanour.

Certain acts to be misdemeanours: Oppression. [10 Geo. III, c. 47, s. 4.] Wilful disobedience. [33 Geo. III, c. 52, s. 65, 3 & 4 Will. IV, c. 85, s. 80.] Breach of duty. [33 Geo. III, c. 52, s. 65, 3 & 4 Will. IV, c. 85, s. 80.] Trading. [33 Geo. III, c. 52, s. 137, 3 & 4 Will. IV, c. 85, s. 76.] Receiving presents. [13 Geo. III, c. 63, ss. 23, 24, 25. 33 Geo. III, c. 52, ss. 62, 64, 3 & 4 Will. IV, c. 85, s. 76.]

If a person is convicted of having accepted or received any such gift, gratuity, or reward, the court may order that the gift, gratuity, or reward, or any part thereof, be restored to the person who gave it, and that the whole or any part of any

fine imposed on the offender be paid or given to the prosecutor or informer, as the court may direct (c).

(a) The expression 'His Majesty's subjects' in the Act of 1770 (10 Geo. III, c. 47, s. 4) was used at a time when it was very doubtful how far the sovereignty of the British Crown extended over natives of India, at all events outside the presidency towns, and was possibly intended to be used in the narrower sense formerly attributed to the expression 'British subjects.' See note (c) on s. 63 above.

(b) The expression in the Act of 1793 (33 Geo. III, c. 52, s. 137) is 'within any of the provinces of India or other parts.'

(c) This section reproduces with as much exactness as seems practicable the several enactments noted in the margin. In many cases enactments dealing with the same offence use different language, and apply to different classes of persons. The provisions reproduced from 3 & 4 Will. IV, c. 85, cannot be altered by Indian legislation. See 24 & 25 Vict. c. 67, s. 22.

The words 'otherwise than as a shareholder in any joint-stock company or trading corporation,' and 'except in accordance with rules made by the Secretary of State as to the receipt of presents,' do not occur in the enactments reproduced, but represent the limitations placed in practice on the extremely general language of the enactments.

Similar prohibitions of trading or lending money are contained in enactments of the Indian legislatures. See, e.g., Act XV of 1848 (trading by officers of chartered courts); Act II of 1874, s. 10 (by administrator-general); Acts VII of 1878, s. 74, and XIX of 1881, s. 73 (by forest officers); Acts V of 1861, s. 10, XXIV of 1859, s. 19; Bombay Act VII of 1867, s. 11 (by police officers); Acts XI of 1876, s. 34, and V of 1879, s. 3 (by officers of presidency banks); Act XVIII of 1881, s. 155; Bombay Act V of 1879, s. 31; Madras Regulation I of 1803, s. 40; Madras Regulation II of 1803, s. 64; Bengal Regulation II of 1793, s. 18 (by revenue officers); Bengal Regulation XXXVIII of 1793, s. 2 (loans by civil servants).

As to the rules prohibiting the receipt of presents by governors of and servants of the Crown in British Colonies, see Todd, *Parliamentary Government in the British Colonies*, p. 153 (second edition).

Loans to
native
princes.
[37 Geo.
III, c. 142,
s. 28.]

118.—(1) If any British subject, without the previous consent in writing of the Secretary of State in Council or of the Governor-General in Council or of a local Government, by himself or another—

(a) lends any money or other valuable thing to any native prince in India; or

(b) is concerned in lending money to, or raising or procuring money for, any such native prince, or becomes security for the repayment of any such money; or

(c) lends any money or other valuable thing to any other person for the purpose of being lent to any such native prince ; or

(d) takes, holds, or is concerned in any bond, note, or other security granted by any such native prince for the repayment of any loan or money hereinbefore referred to, he is guilty of a misdemeanour.

(2) Every bond, note, or security for money, of what kind or nature soever, taken, held, or enjoyed, either directly or indirectly, for the use and benefit of any British subject, contrary to the intent of this section, is void (a).

(a) The enactment reproduced by this section was passed in 1797 to stop the scandals caused by the lending of money by European adventurers to native princes on exorbitant terms. See above, p. 71. The expression 'British subject,' as used in the Act of 1797, would doubtless be construed in its narrower sense, as not including natives of India.

119.—(1) If any person holding office under the Crown in India commits any offence referred to in this Digest, or any other crime or offence, the offence may, without prejudice to any other jurisdiction, be inquired of, heard, tried, and determined before His Majesty's High Court of Justice, and be dealt with as if committed in the county of Middlesex.

Prosecution of offences in England.
[10 Geo. III, c. 47, s. 4.
13 Geo. III, c. 63, s. 39.
21 Geo. III, c. 70, s. 7.]

(2) Every British subject is amenable to all courts of justice in Great Britain of competent jurisdiction to try offences committed in India for any offence committed within India and outside British India as if the offence had been committed within British India.

(3) Every prosecution in respect of any offence referred to in this section must be commenced within five years after the commission of the offence, or after the arrival in the United Kingdom of the person who committed the offence, whichever is later (a).

(a) This section is merely an imperfect attempt to reproduce several enactments of the eighteenth century which are still unrepealed, and which, though obsolete as respects procedure, may still be of importance with respect to jurisdiction. Section 67 of 33 Geo. III, c. 52, has been repealed as to Indian courts by Act XI of 1872, but is still unrepealed as to courts in the United Kingdom.

The limitation under 21 Geo. III, c. 70, s. 7 (which applies only to proceedings against the governor-general or a member of his council), is five years after commission of offence or arrest in England. The limitation under 33 Geo. III, c. 52, s. 141, is six years after commission of offence. There is a three years' limitation under 33 Geo. III, c. 52, s. 162, which is repealed as to British India by Act IX of 1871. But all these limitations are now affected by the Public Authorities Protection Act, 1893 (56 & 57 Vict. c. 61).

The enactments reproduced run as follows :—

'If any person whatsoever employed by or in the service of the said united Company, in any civil or military station, office, or capacity whatsoever in the East Indies, or deriving or claiming any power, authority, or jurisdiction by or from the said united Company, shall, after the passing of this Act, be guilty of oppressing any of His Majesty's subjects beyond the seas within their respective jurisdictions, or in the exercise of any such station, office, employment, power, or authority derived or claimed by, from, or under the said united Company, or shall be guilty of any other crime or offence, such oppressions, crimes, and offences shall and may be inquired of, heard, and determined in His Majesty's Court of King's Bench in England; and such punishments shall be inflicted on such offenders as are usually inflicted for offences of the like nature committed in that part of Great Britain called England; and . . . the same and all other offences committed against this Act may be alleged to be committed, and may be laid, inquired of, and tried in the county of Middlesex' (10 Geo. III, c. 47, s. 4).

. . . 'If any governor-general, president, or governor or council of any of the said Company's principal or other settlements in India, or the chief justice, or any of the judges of the said Supreme Court of Judicature to be by the said new charter established, or of any other court in any of the said united Company's settlements, or any other person or persons who now are, or heretofore have been, employed by or in the service of the said united Company in any civil or military station, office, or capacity, or who have or claim, or heretofore have had or claimed, any power or authority or jurisdiction by or from the said united Company, or any of His Majesty's subjects residing in India, shall commit any offence against this Act, or shall have been or shall be guilty of any crime, misdemeanour, or offence committed against any of His Majesty's subjects, or any of the inhabitants of India, within their respective jurisdictions, all such crimes, offences, and misdemeanours may be respectively inquired of, heard, tried, and determined in His Majesty's Court of King's Bench, and all such persons so offending and not having been before tried for the same offence in India, shall, on conviction, in any such case as is not otherwise specially provided for by this Act, be liable to such fine or corporal punishment as the said court shall think fit; and, moreover, shall be liable at the discretion of the said court, to be adjudged to be incapable of serving the said united Company in any office, civil or military; and all and every such crimes, offences, and misdemeanours as aforesaid may be alleged

to be committed, and may be laid, inquired of, and tried in the county of Middlesex' (13 Geo. III, c. 63, s. 39).

'No prosecution or suit shall be carried on against the said governor-general, or any member of the council, before any court in Great Britain (the High Court of Parliament only excepted), unless the same shall be commenced within five years after the offence committed, or within five years after his arrival in England' (21 Geo. III, c. 70, s. 7).

'All His Majesty's subjects, as well servants of the said united Company as others, shall be and are hereby declared to be amenable to all courts of justice, both in India and Great Britain, of competent jurisdiction to try offences committed in India, for all acts, injuries, wrongs, oppressions, trespasses, misdemeanours, offences, and crimes whatever, by them or any of them done or to be done or committed in any of the lands or territories of any native prince or State, or against their persons or properties, or the persons or properties of any of their subjects or people, in the same manner as if the same had been done or committed within the territories directly subject to and under the British Government in India' (33 Geo. III, c. 52, s. 67).

'All penalties, forfeitures, seizures, causes of seizure, crimes, misdemeanours, and other offences, which shall arise or be incurred or made under or shall be committed against this Act, shall be sued for, prosecuted, examined, recovered, and adjudged in any of His Majesty's Courts of Record at Westminster, or in the Supreme Court of Judicature at Fort William in Bengal, or in one of the mayors' courts at Madras or Bombay respectively, in manner following; that is to say, all such pecuniary penalties, and all forfeitures of ships, vessels, merchandise and goods, shall and may be sued for, condemned, and recovered by action, bill, suit, or information, wherein no essoin, protection, wager of law, or more than one imparlance, shall be granted or allowed; and all such seizures, whether of any person or of any ships, vessels, merchandise and goods, and all causes of such seizures, shall be cognizable in such actions, suits, or prosecutions as shall bring into question or relate to the lawfulness or regularity of any such seizure; and all such offences as by this Act are not made punishable by pecuniary penalties or by any forfeiture of goods, but by fine or imprisonment, or both, or are hereby created, without providing any particular punishment, shall be prosecuted by indictment or information as misdemeanours, for breach thereof, and shall be punished by fine or imprisonment, or both, at the discretion of the court in which such prosecution shall, by virtue of this Act, be begun and carried on; and if such prosecution for a misdemeanour shall be in any of the said courts in the East Indies, and the person or persons prosecuted shall be there convicted, it shall be lawful for such court to order, as part or for the whole of the punishment, any such person or persons to be sent and conveyed to Great Britain' (33 Geo. III, c. 52, s. 140).

'Whenever any action, bill, suit, information, or indictment shall be brought or prosecuted in any of His Majesty's Courts of Record at Westminster, for any offence against this Act, whether for a penalty,

forfeiture, or misdemeanour, the offence shall be laid or alleged to have been committed in the city of London or county of Middlesex, at the option of the informer or prosecutor; and all actions, bills, suits, informations, and indictments for any offence or offences against this Act, whether filed, brought, commenced or prosecuted for a penalty or forfeiture, or for a misdemeanour, in any of His Majesty's Courts of Record at Westminster, or in the said Supreme Court, or any such mayor's court as aforesaid, shall be brought and prosecuted within six years next after the offence shall be committed, and a *capias* shall issue in the first process, and in the case of an offence hereby made punishable by any penalty or forfeiture, such *capias* shall specify the sum of the penalty or forfeiture sued for; and the person or persons sued or prosecuted for such penalty shall, on such *capias*, give to the person or persons to whom such *capias* shall be directed, sufficient bail or security, by natural-born subjects or denizens, for appearing in the court out of which such *capias* shall issue, at the day or return of such writ, to answer such suit or prosecution, and shall likewise, at the time of such appearance, give sufficient bail or security, by such persons as aforesaid, in the same court, to answer and pay all the forfeitures and penalties sued for, if he, she, or they shall be convicted of such offence or offences, or to yield his, her, or their body or bodies to prison; but if the prosecution shall be for any offence or offences against this Act punishable only as a misdemeanour, then the person or persons against whom such *capias* shall issue, being thereupon arrested, shall be imprisoned and bailable according to law as in other cases of misdemeanour' (33 Geo. III, c. 52, s. 141).

'All suits and prosecutions for anything done under or by virtue of this Act shall be commenced within the space of three years after the cause of complaint shall have arisen, or, being done in Great Britain, in the absence of any person beyond sea aggrieved thereby, then within the space of three years next after the return of such person to Great Britain' (33 Geo. III, c. 52, s. 162).

Provision
as to per-
sons sus-
pected of
dangerous
correspon-
dence.
[33 Geo.
III, c. 52,
ss. 45, 46.]

120.—(1) The Governor-General in Council and the Governors in Council of Madras and Bombay respectively may issue warrants for securing and detaining in custody any person suspected of carrying on mediately or immediately any illicit correspondence dangerous to the peace or safety of any part of British India with any prince, rajah, zemindar, or other person having authority in India, or with the commander, governor, or president of any factory or settlement established in India by a European power, or any correspondence contrary to the rules and orders of the Secretary of State or of the Governor-General in Council or Governor in Council.

(2) If on examination taken on oath in writing of any credible witness before the Governor-General in Council or the Governor in Council there appear reasonable grounds for the charge, the governor-general or governor may commit the persons suspected or accused to safe custody, and must within a reasonable time, not exceeding five days, cause to be delivered to him a copy of the charge or accusation on which he is committed.

(3) The person charged may deliver his defence in writing, with a list of such witnesses as he may desire to be examined in support thereof.

(4) The witnesses in support of the charge and of the defence must be examined and cross-examined on oath in the presence of the person accused, and their depositions and examination must be taken down in writing.

(5) If, notwithstanding the defence, there appear to the Governor-General in Council or Governor in Council reasonable grounds for the charge or accusation and for continuing the confinement, the person accused is to remain in custody until he is brought to trial in India or sent to England for that purpose.

(6) All such examinations and proceedings or attested copies thereof under the seal of the high court must be sent to the Secretary of State as soon as may be in order to their being produced in evidence on the trial of the person accused in the event of his being sent for trial to England.

(7) If any such person is to be sent to England the governor-general or governor, as the case may be, must cause him to be sent to England at the first convenient opportunity, unless he is disabled by illness from undertaking the voyage, in which case he must be so sent as soon as his state of health will safely admit thereof.

(8) The examinations and proceedings transmitted in pursuance of this section are to be deemed and received as evidence in all courts of law, subject to any just exceptions as to the competency of the witnesses (a).

(a) The provisions of the Act of 1793, reproduced by this section, have never been repealed. But no record has been found of any case in which they have been put into operation, and the cases which they were mainly designed to meet could probably be dealt with under other enactments. Powers of arrest and imprisonment for political offences are given by Bengal Regulation III of 1818, Madras Regulation II of 1819, Bombay Regulation XXV of 1827, Act XXXIV of 1850 (the State Prisoners Act, 1850), and Act III of 1858 (the State Prisoners Act, 1858). See *In the matter of Ameer Khan*, 6 Bengal Law Rep. 392. The Bombay Regulation was used in 1886 for the arrest of Dhuleep Singh at Aden, and has since (in 1897) been put in force in connexion with seditious proceedings at Poona.

PART XII.

SUPPLEMENTAL.

Savings.

Saving as
to certain
rights and
powers.
[3 & 4
Will. IV,
c. 85, s.
51.
24 & 25
Vict. c.
67, s. 52.]

121.—(1) Nothing in this Digest derogates from or interferes with the rights vested in His Majesty, or the powers vested in the Secretary of State in Council, in relation to the Government of British India, by any law in force at the passing of the Government of India Act, 1850.

(2) Nothing in this Digest affects the power of Parliament to control the proceedings of the Governor-General in Council or of any local Government, or to repeal or alter any law or regulation made by any authority in British India, or to legislate for British India and the inhabitants thereof (a).

(a) These savings, reproduced from the Acts of 1833 and 1861, are important as showing that the parliamentary enactments relating to India were never intended to be and cannot be construed as a complete code of the powers and rights exercisable by or with reference to the Government of India.

Treaties,
contracts,
and lia-
bilities of
East India
Company.
[21 & 22
Vict. c.
106, s. 67.]

122.—(1) All treaties made by the East India Company are, so far as they are in force, binding on His Majesty (a).

(2) All contracts made and liabilities incurred by the East India Company may, so far as they are still outstanding, be enforced by and against the Secretary of State in Council.

(a) A treaty, unless confirmed by legislation, cannot affect private rights of British subjects in times of peace. *Walker v. Baird*, [1892] A. C. 492, 496.

123. All orders, regulations, and directions lawfully made or given by the Court of Directors of the East India Company, or by the Commissioners for the Affairs of India, are, so far as they are in force, to be deemed to be orders, regulations, and directions made by the Secretary of State under the Government of India Act, 1858. Orders of East India Company. [21 & 22 Vict. c. 106, s. 59.]

Definitions.

124. In this Digest the following expressions, unless the contrary intention appears, have the meanings hereby respectively assigned to them ; namely,— Definitions.

- (1) The expression 'British India' means all territories and places within His Majesty's dominions which are for the time being governed by His Majesty through the Governor-General of India or through any governor or other officer subordinate to the Governor-General of India (*a*).
- (2) The expression 'India' means British India together with any territories of any native prince or chief under the suzerainty of His Majesty exercised through the Governor-General of India, or through any governor or other officer subordinate to the Governor-General of India (*a*).
- (3) The expression 'province' means any part of British India the executive government of which is administered by a Governor in Council, governor, lieutenant-governor, or chief commissioner (*b*).
- (4) The expression 'local Government' means a Governor in Council, lieutenant-governor, or chief commissioner (*c*).
- (5) The expression 'high court' means a court established for some part of British India by His Majesty's letters patent (*d*).
- (6) The expression 'Civil Service of India' means the service so designated in the rules now in force.
- (7) The expression 'office' includes place and employment.

52 & 53
Vict. c. 63. The Interpretation Act, 1889, applies to the construction of this Digest (e).

(a) The definitions of 'British India' and 'India' follow those adopted in the Interpretation Act, 1889 (52 & 53 Vict. c. 63, s. 18), and in the Indian General Clauses Act, 1897 (X of 1897, s. 3 (7), (27)).

British India corresponds to the territories which were in the Act of 1858 described as 'the territories in the possession of or under the government of the East India Company,' and which were then held by the Company in trust for the Crown.

Aden is part of British India, and is included in the Bombay presidency. See the Aden Laws Regulation, 1891 (II of 1891).

India, as distinguished from British India, includes also the territories of Native States, which used to be described in Acts of Parliament as 'the dominions of the princes and States of India in alliance with Her Majesty,' or in similar terms. See, e.g. 24 & 25 Vict. c. 67, s. 22; 28 & 29 Vict. c. 15, s. 3; 28 & 29 Vict. c. 17, s. 1; 53 & 54 Vict. c. 37, s. 15.

The expression 'suzerainty' is substituted by the Interpretation Act for the older expression 'alliance,' as indicating more accurately the relation between the rulers of these States and the British Crown as the paramount authority throughout India. It is a term which is perhaps incapable of precise definition, but which is usefully employed to indicate the political authority exercised by one State over another, and approximating more or less closely to complete sovereignty. See Holland's *Jurisprudence*, ed. 7, pp. 45, 347, and below, Chapter v.

The territories of the Native States are not part of the dominions of the King, but their subjects are, for international purposes, in the same position as British subjects. For instance, under the Foreign Jurisdiction Act, 1890 (53 & 54 Vict. c. 37, s. 15), where an order made in pursuance of the Act extends to persons enjoying His Majesty's protection, that expression is to be construed as including all subjects of the several princes and States in India. And it is possible that a subject of a Native State would not be held to be an 'alien' within the meaning of the Naturalization Act, 1870 (33 & 34 Vict. c. 14), so as to be capable of obtaining a certificate of naturalization under that Act.

The expression 'prince or chief' seems wide enough to include the ruler or head-man, by whatever name called, of any petty tribe or clan or group, however rudimentary may be its political organization. But of course political authority may be so widely distributed among head-men or elders, or members of the tribe or group, as to make the task of finding an individual or collective 'sovereign' very difficult. This difficulty is to some extent met by s. 2 of the Imperial Foreign Jurisdiction Act (53 & 54 Vict. c. 37).

It has sometimes been found difficult to determine whether a particular territory ought to be treated as part of British India, or of India in the wider sense, and questions have arisen as to the status of such

territories as Kathiawar, Cooch Behar, and the tributary mahals of Orissa. See *Empress v. Keshub Mahajan*, (1882) I. L. R. 8 Cal. 985, and *Re Bichitramund*, (1889) I. L. R. 16 Cal. 667. The position of Kathiawar was carefully considered in two cases which came together in 1905 before the Judicial Committee of the Privy Council, *Hemchand Devchand v. Azam Sakarlal Chhotamlal* and *The Taluka of Kotda Sangani v. The State of Gondal*. A. C. [1906] 212. Both these cases were, in effect, appeals from decisions of British political agents exercising jurisdiction in Kathiawar. It was decided (1) that Kathiawar is not as a whole within the King's dominions; (2) that the right of appeal to the King in Council from British courts exercising jurisdiction outside British dominions is not limited to British subjects; (3) that the question whether an appeal lies to the King in Council from the decision of a British political agent in Kathiawar depends on whether the jurisdiction exercised is political or judicial in its character. In the two cases in question the jurisdiction was held to be political, and the appeals were dismissed.

India in the wider sense would not include French or Portuguese territory.

The expression 'British India,' as defined above, includes the land down to low-water mark, and would ordinarily include the territorial waters of British India, though not the high seas beyond (*R. v. Edmonstone*, (1879) 7 Bom. Cr. Ca. 109). In 1871 the Bombay High Court held that the provisions of the Indian Penal Code applied to offences committed within a marine league of the shore of British India (*R. v. Kastya Rama*, 8 Bom. Cr. Ca. 63). But this decision is now affected by the Territorial Waters Jurisdiction Act, 1878 (41 & 42 Vict. c. 73), as to which see the note on s. 101.

For fiscal and protective purposes the Indian Legislature has made laws for Indian waters. See, e.g. the Transport of Salt Act, 1879 (XVI of 1879), and the Obstructions in Fairways Act, 1881 (XVI of 1881).

The settlements of Prince of Wales' Island, Singapore, and Malacca were, in pursuance of the Straits Settlements Act, 1866 (29 & 30 Vict. c. 115, s. 1), removed from British India and placed under the Colonial Office.

(b) 'Province' is defined in the Indian General Clauses Act (X of 1897, s. 3 (43)) as meaning the territories for the time being administered by any local Government.

(c) 'Local Government' is defined in the Indian General Clauses Act (X of 1897, s. 3 (29)) as meaning 'the person authorized by law to administer executive government in the part of British India in which the Act or regulation containing the expression operates,' and as including a chief commissioner.

There are at present thirteen local Governments in British India, namely, the Governor of Madras in Council; the Governor of Bombay in Council; the Lieutenant-Governor of Bengal; the Lieutenant-Governor of the United provinces of Agra and Oudh; the Lieutenant-Governor of

the Punjab; the Lieutenant-Governor of Burma; the Lieutenant-Governor of Eastern Bengal and Assam; the Chief Commissioner of the Central Provinces; the Chief Commissioner of British Baluchistan; the Chief Commissioner of Ajmere; the Chief Commissioner of Coorg; the Chief Commissioner of the North-West Frontier Province; and the Chief Commissioner of the Andaman Islands. Under Act V of 1868 the powers of a local Government for certain purposes may be delegated to the commissioner in Sindh.

(d) This definition only includes the chartered high courts at Calcutta, Madras, Bombay, and Allahabad. The definition in the Indian General Clauses Act (X of 1897, s. 3 (24)) is wider, and includes the various judicial commissioners and the chief court of the Punjab.

(e) In a Digest of this kind it seems convenient to adopt the same general rules of construction as are applied to recent Acts of Parliament. The application of the Interpretation Act makes the definitions of 'British India' and 'India,' strictly speaking, superfluous, but they are set out on account of their importance.

SUPPLEMENTAL NOTES.

1. *Omissions from Digest.*

The following enactments have not been reproduced in this Digest, on the ground of either never having come into operation, or having ceased through change of circumstances to be in operation:—

The power given by 13 Geo. III, c. 63, s. 9, for the Governor-General in Council to suspend the Government of Madras or Bombay in case of disobedience.

The express grant by 21 Geo. III, c. 70, s. 17, of jurisdiction over all inhabitants of Calcutta.

The saving in 21 Geo. III, c. 70, s. 18, for the rights of fathers of Hindu and Mahomedan families and rules of caste.

The procedure under 24 Geo. III, sess. 2, c. 25, ss. 66 and 77, for constituting a special court for the trial of Indian offenders. This machinery has never been put into force.

The provisions in 33 Geo. III, c. 52, s. 41, as to the duty of local Governments in the case of conflict between the orders of the Governor-General in Council and the orders of the Directors of the East India Company.

The provision in 33 Geo. III, c. 52, s. 70, as to forfeiture of office after absence for five years.

The requirement in 37 Geo. III, c. 142, to send to the Board for Affairs of India the forms and rules made in India as to process in the recorders' courts.

The enactments in 53 Geo. III, c. 155, ss. 42, 43, as to the control of the India Board over colleges and seminaries in India, and as to the provision to be made for public education in India.

The provision in 53 Geo. III, c. 155, ss. 85, 86, as to the precedence of civil servants.

The provisions in 6 Geo. IV, c. 85, s. 5, as to the payments to be made in the case of judges and bishops.

The provision in 3 & 4 Will. IV, c. 85, for dividing the Presidency of Fort William into two presidencies.

The provision in section 56 of the same Act for the government of Bengal by a Governor in Council.

The express power given by section 86 of the same Act to hold land in India.

2. Powers of Governor-General to grant Military Commissions.

Questions have sometimes been raised as to the power of the governor-general, either alone or in council, to grant military commissions, with command over officers and men of the regular forces, and as to the effect of commissions so granted, and as the answer to the question depends on a series of enactments and other documents, it seems worth while to state it somewhat fully.

Before the passing of the Government of India Act, 1858 (21 & 22 Vict. c. 106), the Governor-General in Council granted commissions to officers of the troops of the East India Company.

The power to grant such commissions may be presumed to have been derived from the charters and Acts relating to the East India Company.

According to Sir George Chesney (*Indian Polity*, 3rd edition, ch. xii), the first establishment of the Company's Indian army may be considered to date from 1748, when a small body of sepoys was raised at Madras, after the example set by the French, for the defence of that settlement, during the course of the war which had broken out four years previously between France and England. At the same time a European force was raised, formed of such sailors as could be spared from the ships on the coast, and of men smuggled on board the Company's vessels in England by the crimps. An officer (Major Lawrence) was appointed by a commission from the Company to command their forces in India.

In 1754 an Act (27 Geo. II, c. 9) was passed for punishing mutiny and desertion of officers and men in the service of the United Company of Merchants of England trading to the East Indies, and for the punishment of offences committed in the East Indies, and at the island of St. Helena. This Act recites that for the safety and protection of their settlements, and for the better carrying on of their trade, the East India Company, at their own costs and charges, do maintain and keep a military force for the garrison and defence of their settlements, factories, and places, and that it is requisite for the retaining of such forces in their duty that an exact discipline be observed, and that soldiers who shall mutiny or stir up sedition, or shall desert the Company's service, shall be brought to a more exemplary and speedy punishment than the

usual forms of law allow. The Act then proceeds to make officers and soldiers of the Company's forces subject to punishment by court-martial for military offences, and authorizes the grant of a commission or warrant under the King's Royal Sign Manual, by virtue of which the Court of Directors of the Company may authorize their president and council to appoint courts-martial.

The Act does not, in so many words, give the Company power to grant commissions; and Brougham, in the course of his argument in the case of *Bradley v. Arthur* (2 State Trials, N.S. p. 190), comments on the avoidance of the word 'commission' in the statute. The expression used is 'that if any person *being mustered or in pay as an officer*, or who is or shall be enlisted, or in the Company's pay as a soldier,' does so and so, he is to be tried by court-martial.

The statement that the word 'commission' does not appear in the statute is not strictly accurate, for it is used in section 5; but there is nothing to show that the commissions there referred to are commissions in the army of the East India Company.

Nor does Brougham appear to have been accurate in saying that the Act was a temporary Act annually renewed. It appears to have been a permanent Act, but ceased to have any operation after the abolition of the East India Company's army, and was formally repealed by the Statute Law Revision Act of 1867.

There appear to have been always doubts as to the exact status conferred by military commissions in the Company's army. In 1796 Lord Cornwallis was appointed commander-in-chief as well as Governor-General of India, and was thus invested with the supreme military as well as the supreme authority. One of the objects with which this combination of powers was conferred on him was to enable him to remove or mitigate the jealousies and friction between the King's officers and the Company's officers, and with this object he granted, in 1788 or 1789, brevet commissions in the royal service to all the Company's officers, with dates corresponding to their substantive commissions (*Cornwallis Correspondence*, 2nd edition, vol. ii. p. 428; Chesney, *Indian Polity*, ch. xii). This arrangement, according to Sir G. Chesney, was continued until the abolition of the Company's government in 1858, brevet commissions being granted under powers delegated for that purpose by the Crown to the Commander-in-Chief in India. Without such brevet commission it is at least doubtful whether officers of the Company's forces could have exercised any command over officers or soldiers of the regular forces.

By the Government of India Act, 1858 (21 & 22 Vict. c. 106), the government of India was transferred to the Crown. But by s. 30 of that Act it was provided that all appointments to offices, commands, and employments in India, and all promotions which by law or under regulations, usage, or custom were then made by any authority in India, should continue to be made in India by the like authority and subject to the qualifications, conditions, and restrictions then affecting such appointments respectively.

The Act 23 & 24 Vict. c. 100 (1860), after reciting that 'it is not expedient that a separate European force should be continued for the local service of Her Majesty in India,' enacted that 'so much of the Act of Parliament of the twenty-second and twenty-third of Her Majesty, chapter twenty-seven, intituled 'An Act to repeal the thirty-first section of sixteen and seventeen Victoria, chapter ninety-five, and to alter the limit of the number of European troops to be maintained for local service in India,' and of any former Act or Acts of Parliament as renders it lawful for the Secretary of State in Council from time to time to give such directions as he may think fit for raising such number of European forces as he may judge necessary for the Indian Army of Her Majesty, is hereby repealed.' This Act received the Royal Assent on August 20, 1860.

Sir Charles Wood, when Secretary of State for India, by his Dispatch, No. 461, dated December 16, 1862, informed the governor-general that local commissions should in all practicable cases be bestowed by the field-marshal commanding-in-chief on the recommendation of the Government of India preferred through the Secretary of State, but that in any case commissions which the Government of India might consider it necessary to bestow without previous reference should be subject to the confirmation of the Crown applied for through the same channel.

Sir Charles Wood, by his Dispatch, No. 351, dated November 16, 1864, informed the Government of India that, in view of royal commissions being granted to all officers of Her Majesty's Indian forces and staff corps, the issue of commissions either by local Governments or by the commander-in-chief was unnecessary.

The Indian Volunteers Act, 1869 (XX of 1869), which is amended by Act X of 1896, provides for the formation and dissolution and for the good order and discipline of volunteer corps in India. The Act is silent as to the grant of commissions to volunteer officers, but provides (s. 14) that the commissions are to cease on retirement or dismissal. In practice, however, commissions to officers of volunteers under this Act are signed either by the governor-general or by the Governor-General in Council. Members of a corps of volunteers under the Indian Act are, on being called out for duty, subject, by virtue of s. 8 of that Act, to military law under the Army Act, and by virtue of s. 177 of the Army Act would be so subject, whether within or without the limits of India.

The regular forces are under the command of the Crown, and the military rank and military powers of command of officers of the regular forces depend solely on commissions from the Crown, issued in accordance with the provisions of 25 & 26 Vict. c. 4.

The commission of a commander-in-chief usually authorizes him to grant commissions until the pleasure of the Crown is signified, and sometimes gives him absolute powers to grant commissions. Commissions so granted are granted by a military and not by a civil authority, and by virtue of express authority from the King. The commander-

in-chief in India is not at present authorized by his commission to sign commissions on behalf of the King.

Before 1871 commissions to officers of the auxiliary forces in the United Kingdom were granted by the lieutenants of counties in England and Scotland and by the Lord Lieutenant in Ireland. The power to grant these commissions was given by statute, and the rank and powers of command of the commissioned officers were also regulated by statute (see, e.g. 26 & 27 Vict. c. 65, s. 5). Without such a statutory provision they would have had no command over the regular forces. But by s. 6 of the Regulation of the Forces Act, 1871 (34 & 35 Vict. c. 86), it was enacted that all officers in the militia, yeomanry, and volunteers of England, Scotland, and Ireland should hold commissions from Her Majesty, to be prepared, authenticated, and issued in the manner in which commissions of officers in Her Majesty's land forces are prepared, authenticated, and issued according to any law or custom for the time being in force. Accordingly all such commissions are now granted directly or indirectly by the Crown.

The power of granting military commissions may be delegated by the Crown, but the power must apparently be given in express terms (see *Bradley v. Arthur*, 2 State Trials, N.S. 171), and it has been considered doubtful whether it could be given to a civilian (see Clode, *Military Forces of the Crown*, vol. ii. p. 72, and *Bradley v. Arthur*, 2 State Trials, N.S. 183, 196, 202-203). Certainly in India, down to 1859, all commissions giving command over the regular forces were given by the military authority—the commander-in-chief, and not the governor-general. However, Sir Bartle Frere, when High Commissioner for South Africa, was empowered by letters patent (dated October 10, 1878) to appoint any officer of the regular troops serving in South Africa to local and temporary rank and command therein, and by subsequent letters patent (dated March 22, 1879) to appoint any officer of the local forces serving in South Africa to local and temporary rank and command in the regular army. But this was a special appointment in time of war, and outside the colonial limits. 'Local forces' may have meant forces within ss. 175 (4) and 176 (3) of the Army Act, or colonial forces within s. 177 of the Army Act, or both. As to the powers ordinarily exercisable by colonial governors in military matters, see Todd, *Parliamentary Government in the British Colonies* (second edition), p. 41.

The existing Army Act (44 & 45 Vict. c. 58) does not confer on the Governor-General of India any power to grant commissions or recognize any such power. Indeed, the Act treats him throughout as a civil and not a military officer (see, e.g. ss. 54, 62, 65, 94, 130, 134, 169). If his commission were to confer on him the powers of a commander-in-chief, he might, no doubt, by virtue of those powers, grant military commissions such as were granted by Lord Cornwallis in his capacity of commander-in-chief; but otherwise he would appear not to have, by virtue of his office, power to grant any military command over officers of the regular forces.

In 1866 a provision was inserted in s. 52 of the Mutiny Act to the

effect that, notwithstanding anything in the Act 23 & 24th Vict. c. 100, any person authorized in that behalf in India might enlist and attest, within the local limits of his authority, any person desirous of enlisting in Her Majesty's Indian forces. This provision was re-enacted by s. 52 of each successive annual Mutiny Act, and was eventually reproduced by s. 180 (1) (h) of the existing Army Act, which provides that persons may be enlisted and attested in India for medical service or for other special service in Her Majesty's Indian forces for such periods, by such persons, and in such manner as may be from time to time authorized by the Governor-General of India. Enlistment is the process for taking men, not officers, into the army, and the section says nothing about the grant of commissions.

Section 71 of the Army Act enacts that 'for the purpose of removing doubts as to the powers of command vested or to be vested in officers and others belonging to Her Majesty's forces, it is hereby declared that Her Majesty may, in such manner as to Her Majesty may from time to time seem meet, make regulations as to the persons to be invested as officers, or otherwise; with command over Her Majesty's forces, or any part thereof, and as to the mode in which such command is to be exercised; provided that command shall not be given to any person over a person superior in rank to himself.' This provision was first enacted in 1881, when the old enactments as to the rank and command of officers of the military and other auxiliary forces were repealed, and its object was to provide for officers of the regular forces exercising command over officers of the auxiliary forces, and vice versa.

Under these circumstances it would appear that any forms of appointment, whether described as commissions or otherwise, granted by the governor-general or by the Governor-General in Council, could not confer the status and powers of command conferred by commissions under the signature of the King. No express power to grant such commissions is conferred on the governor-general by the existing form of his warrant of appointment.

SCHEDULES

FIRST SCHEDULE.

OFFICIAL SALARIES¹

| <i>Session and Chapter</i> | <i>Officer</i> | <i>Maximum Salary</i> |
|-------------------------------|---------------------------------------|------------------------------------|
| 3 & 4 Will IV, c 85, s 76 | Viceroy and Governor-General | 2,40,000 Sicca Rs — Rs 2,56,000 |
| 3 & 4 Will IV, c 85, s 76. | Governors of Madras and Bombay | 1,20,000 Sicca Rs — Rs 1,28,000 |
| 16 & 17 Vict c 95, s 35 | Commander-in-Chief | Rs 1,00,000 |
| 16 & 17 Vict c 95, s 35 | Lieutenant-Governor | Rs 1 00 000 |
| 3 & 4 Will IV, c 85, s 76 | Members of Governor General's Council | 96 000 Sicca Rs = Rs 1 22 400 |
| 3 & 4 Will IV, c 85, s 76. | Member of Council, Madras and Bombay | 60,000 Sicca Rs = Rs 64,000 |

SECOND SCHEDULE

OFFICES RESERVED TO THE CIVIL SERVICE OF INDIA

Secretaries, junior secretaries, and under secretaries to the several Governments in India, except the secretaries, junior secretaries, and under secretaries in the Military, Marine, and Public Works Departments

Accountant general
Civil auditor.
Sub-treasurer

Judicial

1. Civil and sessions judges, or chief judicial officers of districts in the provinces known as Regulation Provinces.

2. Additional and assistant judges in the said provinces.

3. Magistrates or chief magisterial officers of districts in the said provinces

¹ See s 80 of Digest

4. Joint magistrates in the said provinces
5. Assistant magistrates, or assistants to magistrates in the said provinces.

Revenue.

1. Members of the Board of Revenue in the presidencies of Bengal and Madras.
2. Secretaries to the said Boards of Revenue.
3. Commissioners of revenue, or chief revenue officers of divisions, in the provinces known as Regulation Provinces.
4. Collectors of revenue, or chief revenue officers of districts, in the said provinces.
5. Deputy or subordinate collectors where combined with the office of joint magistrate in the said provinces
6. Assistant collectors or assistants to collectors in the said provinces.
7. Salt agents.
8. Controller of salt chowkies
9. Commissioners of customs, salt, and opium
10. Opium agents¹

¹ See s. 93 of Digest. This is the schedule appended to the Act of 1861 (24 & 25 Vict. c. 54), but it has now become in some respects obsolete. For instance, the expression 'Regulation Provinces' is only intelligible by reference to a past state of things. It means practically the presidencies of Madras and Bombay, and the lieutenant-governorships of Bengal and the North-Western Provinces.

TABLE OF COMPARISON BETWEEN STATUTORY ENACTMENTS AND DIGEST

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
|------------------------------|--|--|
| 10 Geo. III, c. 47, §. 2. | The East India Company Act, 1770. Persons in service of Company transporting warlike stores. | Not reproduced. Appears to be virtually repealed by 33 Geo. III, c. 52, s. 146. |
| s. 3. | <i>Balloting by Court of Directors of East India Company.</i> | (Not reproduced. Repealed as to U. K. by S. L. R. Act ¹ , 1887. |
| s. 4. | Trial in England of Company's servants committing offences in India. | Extended by 13 Geo. III, c. 63, s. 39, to all offenders. Reproduced by ss. 117 (1), 119. |
| s. 5. | In action against East India Company, defendant may plead the general issue. | Not reproduced. Repealed as to U. K. by 56 & 57 Vict. c. 61 (Public Authorities Protection Act, 1893). |
| s. 6. | The Act to be a public Act. | Not reproduced. Repealed as to U. K. by S. L. R. Act, 1887. |
| s. 7. | In action against East India Company in England, defendant to give notice of substance of defence. | Not reproduced. Repealed as to U. K. by 56 & 57 Vict. c. 61. |
| 13 Geo. III, c. 63. | The East India Company Act, 1772. | |
| Preamble. | | |
| s. 1. | Number of directors of East India Company. | Not reproduced. Repealed as to U. K. by S. L. R. Act, 1887. |
| s. 2. | | |

¹ S. L. R. Act = Statute Law Revision Act. Acts under this name are periodically passed for the purpose of removing from the Statute Book enactments which have been virtually repealed or have otherwise ceased to be in force as law.

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
|------------------------------------|---|--|
| 13 Geo. III, c. 63, ss. 3-5. | Qualification for votes of proprietors of East India Company for election of directors, &c. | Not reproduced. Repealed as to U.K. by S.L.R. Act, 1887. |
| s. 6. | Oath to be taken by proprietors of East India Company on election of directors, &c. | |
| s. 7. | Government of Bengal vested in governor-general and four councillors. | Not reproduced. superseded by 3 & 4 Will. IV, c. 85, s. 39. |
| s. 8. | Difference of opinion in governor-general's council. | Reproduced by s. 44 (1). |
| s. 9. | President and Council of Madras, Bombay, and Ben- coolen— not to make war or treaty without orders of Governor-General in Council or East India Company. liable to suspension if they disobey. | Repealed in part, S.L.R. Act, 1892. Reproduced by s. 49 (2). Ben- coolen has been given to the Dutch. Modified by 33 Geo. III, c. 52, s. 43 The power for the Governor-General in Council to suspend a local Government in case of disobedience has been omitted as having been made unnecessary by change of circumstances. |
| | to obey orders of Governor-General in Council. | Reproduced by s. 49 (1). |
| | to keep Governor-General in Council informed of their proceedings. | Repealed by S.L.R. Act, 1892. |
| | Governor-General in Council—to obey orders of East India Company. | Reproduced by s. 36 (2). |
| | to correspond with East India Company. | Reproduced by s. 17. |
| | Court of Directors to send to Treasury copies of correspondence relating to revenues. | Repealed by S. R. L. Act, 1892. |
| s. 10. | Appointment of first Governor-General and members of his Council. | Not reproduced. Spent. Repealed in part, S. L. R. Act, 1892. |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
|---|---|---|
| 13 Geo III, c. 63, s. 10 (continued). | Appointment and removal of second Governor-General and members of his Council. | Not reproduced. Spent. Repealed in part, S. L. R. Act, 1892. |
| s. 11. | Provisions of section 10, when to take effect. | Spent. Repealed as to U. K. by S. L. R. Act, 1887. |
| s. 12. | Saving of power to make appointments. | Repealed, S. L. R. Act, 1892. |
| ss. 13, 14. | Constitution, powers, and jurisdiction of Supreme Court, Calcutta. | Reproduced by s. 101. The supreme courts were abolished, and their powers and jurisdiction vested in the high courts, by 24 & 25 Vict. c. 104, ss. 8, 9. S. 101 saves these powers and this jurisdiction. |
| s. 15. | Offences by Governor-General and members of his Council not triable by Supreme Court, Calcutta. | Reproduced by s. 105 (c). |
| s. 16. | Jurisdiction of Supreme Court, Calcutta, as to contracts. | Repealed by Indian Act XIV of 1870, and S. L. R. Act, 1892. |
| s. 17. | Governor-General, members of his Council, and judges of Supreme Court not to be arrested or imprisoned by that Court. | Reproduced by s. 105 (1) (b), and (2). |
| s. 18. | Appeal to King in Council. | Repealed, S. L. R. Act, 1892. |
| s. 19. | Charter of mayor's court, Calcutta. | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |
| ss. 20-22. | . | Repealed as to U. K. by S. L. R. Act, 1887. |
| s. 23. | Governor-General, his Council, and judges of Supreme Court, Calcutta, not to receive gifts. | Reproduced by s. 117 (5). The words as to a promise of a gift are omitted. S. 117 (5), following 3 & 4 Will. IV, c. 85, s. 76, is limited to the acceptance of gifts by an official in the discharge of his office. |
| s. 24. | No official to receive gift from native. | |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
|-------------------------------|--|---|
| 13 Geo. III. c. 63, s. 25. | Exception as to fees of barristers, &c. | Reproduced by s. 117 (5). |
| ss. 26-29. | | Repealed, 24 Geo. III, sess. 2, c. 25, s. 47, and 33 Geo. III, c. 52, s. 146. |
| ss. 30, 31. | | Repealed as to U. K. by S. L. R. Act, 1887. |
| s. 32. | | Repealed, 24 Geo. III, sess. 2, c. 25, s. 47, and 33 Geo. III, c. 52, s. 146. |
| s. 33. | Power of Indian courts to punish East India Company's servants for breach of trust, &c. | Not reproduced. Repealed, Indian Act XIV of 1870. |
| ss. 34, 35. | | Repealed as to U.K. by S.L.R. Act, 1887. |
| s. 36. | Power of Governor-General in Council to make laws. | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |
| s. 37. | Power of Crown to disallow such laws. | Not reproduced. Superseded by 24 & 25 Vict. c. 67, s. 21. |
| s. 38. | Governor-General, members of his Council, and judges of Supreme Court to be justices of the peace. | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |
| s. 39. | Trial of offences in England. | Reproduced by s. 119. |
| ss. 40, 41. | Procedure for obtaining evidence in India for criminal proceedings in the high court in England. | Left outstanding as belonging to the law of evidence. |
| s. 42. | Procedure for obtaining evidence in India for proceedings in Parliament against Indian offenders. | |
| s. 43. | Proceedings in Parliament against Indian offenders not to be discontinued by prorogation or dissolution of Parliament. | |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
|--|--|--|
| 13 Geo. III, c. 63, s. 44. | Procedure for obtaining evidence in India for civil proceedings in the high court in England. | Left outstanding as belonging to the law of evidence |
| s. 45 | Depositions in capital cases not allowed as evidence, except in proceedings in Parliament. | |
| s. 46 | Saving for privileges of East India Company. | Repealed, S. I. R. Act, 1892. |
| s. 47 | | Repealed as to U. K. by S. L. R. Act, 1887 |
| The East India Company Act, 1780. | | |
| 21 Geo. III. c. 70, s. 1 | Governor-General and his Council exempt from jurisdiction of Supreme Court, Calcutta, for official acts. | Reproduced by s. 105 (a) |
| ss. 2-4 | Written order by Governor-General in Council a justification for any act in any court in India. | Reproduced by s. 106. |
| s. 5 | Procedure in case of oppression, &c., by Governor-General or his Council | Reproduced by s. 107 (1) and (2) |
| s. 6 | Copies and depositions admissible in evidence. | Reproduced by s. 107 (3) |
| s. 7 | Limitation of prosecutions and suits against Governor-General and his Council. | Reproduced by s. 110 (3). The provision as to limitation of civil suits, and the exception as to Parliament, have not been expressly reproduced. |
| s. 8. | Supreme Court not to have jurisdiction in matters concerning the revenue. | Reproduced by s. 101 (3). |
| ss. 9, 10. | Exemption of certain classes of persons from jurisdiction of Supreme Court. | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
|--|---|---|
| 21 Geo. III, c. 70, ss. 11-16. | Registration of native servants of East India Company. | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |
| s. 17. | Jurisdiction of Supreme Court, Calcutta. Proviso as to native laws and usages. | Not reproduced. Saved by s. 101 (1). This section is reproduced by s. 108 so far as it appears to represent existing law. The express grant of jurisdiction over all inhabitants of Calcutta is omitted as no longer necessary. |
| s. 18. | Rights of fathers of Hindu and Mahomedan families, and rules of caste, preserved. | Omitted as unnecessary. May be, and has been to some extent, modified or superseded by Indian legislation. |
| ss. 19, 20. | Power for Supreme Court, Calcutta, to make rules as to process. | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |
| ss. 21, 22. | Judicial powers of Governor-General in Council. | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |
| s. 23. | Power of Governor-General in Council to frame regulations for provincial courts and councils. | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |
| s. 24. | No action for acts done by, or by order of, judicial officers. | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |
| ss. 25, 26. | Notice to judicial officer before prosecuting him. | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |
| ss. 27, 28. | | Repealed, S. L. R. Act, 1872. |
| 24 Geo. III, sess. 2, c. 25, ss. 1-63. | The East India Company Act, 1784. | Repealed, S. L. R. Act, 1872 |
| ss. 64, 65. | Procedure by information against British subjects guilty of extortion in East India. | Special procedure not reproduced. As to substance, see s. 119. |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
|---|---|---|
| 24 Geo. III, sess. 2, c. 25, ss. 66-77. | Prosecution of Indian offenders in Parliament. | Not reproduced. These sections contain an elaborate procedure for constituting a special court for the trial of Indian offenders. It was to consist of three judges, four peers, and six members of the House of Commons. See Mill, <i>British India</i> , iv. 407 seq. The machinery has never been put in force, and the whole of this set of provisions is practically obsolete. |
| ss. 78-82. | Evidence and limitation of proceedings in information under Act. | Not reproduced. Fall with foregoing provisions. |
| s. 83. | Saving for claims as to territorial acquisitions. | Not reproduced. Made unnecessary by transfer of government to the Crown. |
| ss. 84, 85. | Commencement of Act . . . Act to be public Act. | Repealed, S. L. R. Act, 1887. |
| 26 Geo. III, c. 57, ss. 1-28. | The East India Company Act, 1786. Prosecution of Indian offenders in Parliament | Not reproduced. These sections merely amend the machinery under Pitt's Act (24 Geo. III, sess. 2, c. 25). |
| s. 29. | | Repealed by S.L.R. Act, 1892 |
| s. 30. | Jurisdiction of governor's and mayor's court at Madras. | Jurisdiction continued by s. 101. Repealed by S. L. R. Act, 1892. |
| s. 31. | | Repealed by S. L. R. Act, 1872. |
| ss. 32-35. | | Repealed by 33 Geo. III, c. 52, s. 146. |
| ss. 36, 37. | | Repealed by S. L. R. Act, 1872. |
| s. 38. | Bonds executed in East Indies to be evidence in Britain, and vice versa. | Repealed as to British India by S. L. R. Act, 1892. |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
|-------------------------------------|--|---|
| 26 Geo. III, c. 57, s. 39. | . | Repealed by S. L. R. Act, 1892. |
| 33 Geo. III. c. 52, ss. 1-18. | The East India Company Act, 1793. . | Repealed as to U. K. by S. L. R. Act, 1887. |
| s. 19. | Power of commissioners to send orders to India through secret committee of direc- tors. | Not reproduced. Superseded by 3 & 4 Will. IV, c. 85, s. 36, and 21 & 22 Vict. c. 106, s. 27. See s. 14. |
| s. 20. | Appointment of secret com- mittee of directors. | Not reproduced. Superseded by 21 & 22 Vict. c. 106. See s. 14. |
| s. 21. | Dispatches of secret commit- tee, by whom to be pre- pared. | Repealed as to U. K. by S. L. R. Act, 1887. |
| s. 22. | Secret dispatches from India. | Amended by 21 & 22 Vict. c. 106, s. 28. Reproduced by s. 14 (2). The enumeration of subjects in s. 22 is not repeated in s. 14 (2). It differs from that given in 21 & 22 Vict. c. 106, s. 27, as to dispatches to India. |
| s. 23. | . | Repealed as to U. K. by S. L. R. Act, 1887. |
| s. 24. | Government of Bengal by Gov- ernor-General in Council. Government of Madras and Bombay by Governor in Council. | Not reproduced. Superseded by 3 & 4 Will. IV, c. 85, s. 39. See ss. 36, 49. Reproduced by s. 50 (1). The provision as to control of the revenues is superseded by 21 & 22 Vict. c. 106, s. 41. The provisions as to the military authority of the Madras and Bombay Gov- ernments are repealed by 56 & 57 Vict. c. 62. |
| | Number of members of council at Madras and Bombay. | Modified by 3 & 4 Will. IV, c. 85, s. 57. Reproduced by s. 51 (2). |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
|--|---|--|
| 33 Geo. III, c. 52, s. 24 (continued). | Governors in Council of Madras and Bombay to be subject to control of Governor-General in Council. | Verbally modified by 3 & 4 Will. IV, c. 85, s. 65. Reproduced by s. 49 (1). |
| s. 25. | Directors to fill vacancies in offices of— Governor-General . . . Governors of Madras and Bombay . . . Members of Council . . . | Not reproduced. Superseded by 24 & 25 Vict. c. 106, s. 29. Not reproduced. Superseded by 32 & 33 Vict. c. 97. |
| | Governor of the forts and garrisons at Fort William, Fort St. George, and Bombay . . . Commanders-in-chief . . . | Not reproduced. Superseded by 16 & 17 Vict. c. 95, s. 30, which has itself been subsequently repealed. |
| | Qualification for office of member of council of— Governor-General . . . | Not reproduced. Superseded by 24 & 25 Vict. c. 67, s. 3. |
| | Governor of Madras or Bombay. | Reproduced by s. 51 (3). Provision as to seniority rep. by 24 & 25 Vict. c. 54, s. 7. |
| s. 26. | Power for Crown to fill vacancies in default of directors. | Repealed as to U. K. by S. L. R. Act, 1887. |
| s. 27. | Provisional appointments to offices of— Governor-General, governor, and member of Council. Governor of the forts and garrisons at Fort William, Fort St. George, and Bombay . . . Commanders-in-chief. | Not reproduced. Superseded by 3 & 4 Will. IV, c. 85, s. 61, and 24 & 25 Vict. c. 67, ss. 2, 5. Not reproduced. See note on s. 25. |
| s. 28. | | Repealed as to U. K. by S. L. R. Act, 1887. |
| ss. 29, 30. | Temporary vacancy in office of— Governor-General. Governor. | Not reproduced. Superseded by 24 & 25 Vict. c. 67, ss. 50, 51. Not reproduced. Superseded by 3 & 4 Will. IV, c. 85, s. 63. |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
|-----------------------------|---|--|
| 33 Geo III c 52, s 31 | Temporary vacancy in office of member of council | Not reproduced Superseded by 3 & 4 Will IV, c. 85, s. 64, and 24 & 25 Vict c. 67, s 27 • |
| s 32 | Appointment of Commander-in-chief as member of— Governor-General's council | Not reproduced. Superseded by 24 & 25 Vict. c. 67, s. 3. Repealed in part, S L R Act, 1892. • |
| | Governor's council | Repealed by 56 & 57 Vict c 62. |
| | Salary of Commander-in-chief as member of council | Reproduced by s 80 |
| s 33 | Commander-in-chief in India to be a member of local council while in Madras or Bombay. | Reproduced by s 51 |
| s 34 | Absence or illness of member of council | Not reproduced Practically superseded by 3 & 4 Will IV, c 85, s 64, and 24 & 25 Vict c 67, s. 27. |
| s 35. | Removal of officers by Crown | Amended as to communication of order of removal by 21 & 22 Vict c 106, s 38 Reproduced by s 21 (1) |
| s 36 | Removal of officers by directors of East India Company Exception as to officers appointed by Crown on default of directors | Reproduced by s 21 (2) Not reproduced Made unnecessary by abolition of Company |
| s 37 | If Governor-General, &c., leaves India intending to return to Europe, his office vacated | Re-enacted in substance by 3 & 4 Will IV, c 85, s. 76 Qualified as to members of council by 24 & 25 Vict c 67 s 26 Reproduced by s 82 (1). |
| | Evidence of intention to return to Europe | Not reproduced. 3 & 4 Will IV, c 85, s. 79, contains no such provision. |
| | Resignation of office by Governor-General, &c. | Reproduced by s. 82 (2) |
| | Salary and allowances to cease from date of departure or resignation. | Reproduced by s. 82 (4). |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
|--|--|--|
| 33 Geo. III. c. 52, s. 37 (continued). | Salary and allowances not payable during absence | Amended by 3 & 4 Will. IV, c. 85, s. 79. Reproduced by s. 82 (2). |
| s. 38. | Power to postpone matters proposed by members of council. | Not reproduced. Superseded by 24 & 25 Vict. c. 67, s. 8, giving power to make rules of procedure. |
| s. 39. | Form and signature of proceedings. | Amended by 53 Geo. III, c. 155, s. 179, and Indian Act II of 1834. Reproduced by ss. 43 (1), 54 (1). |
| s. 40. | Authority of Governor-General in Council over local Governments. | Re-enacted in more general terms by 3 & 4 Will. IV, c. 85, s. 39. Reproduced by ss. 36 and 49 (1). |
| s. 41. | Duty of local Governments in case of conflict between orders of Governor-General in Council and orders of directors of East India Company. | Not reproduced. These elaborate provisions have been made unnecessary and unsuitable by change of circumstances. |
| s. 42. | Restriction on power of Governor-General in Council to make war or treaty. | Reproduced by s. 48. |
| s. 43. | Local Governments not to make war or treaty without orders of Governor-General in Council or East India Company. | Reproduced by s. 49 (2) |
| | Officers of local Governments to obey such orders of Governor-General in Council. | Reproduced by s. 49 (1) |
| | Governor, &c., disobeying orders of Governor-General in Council liable to be suspended or removed. | Not reproduced. See note on s. 49. |
| s. 44. | Local Governments to keep Governor-General informed of their proceedings. | Reproduced by s. 49 (1). |
| ss. 45, 46. | Proceedings against persons suspected of dangerous correspondence. | Reproduced by s. 120. |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
|--------------------------------------|--|---|
| 33 Geo. III, c. 52, ss. 47-49. | Power for Governor-General or Governor of Madras or Bombay to act against opinion of council. | Modified, as to Governor-General, by 33 & 34 Vict. c. 3, s. 5. Reproduced by ss. 44 (2), (3), (4), 53 (5). |
| s. 50. | Person temporarily acting as Governor-General or governor not to act against opinion of council. | Not reproduced. Superseded by 3 & 4 Will. IV, c. 85, s. 65, and 24 & 25 Vict. c. 67, s. 50. |
| s. 51. | Power to act against opinion of council not to be exercised in certain cases. | Not reproduced. Superseded by 33 & 34 Vict. c. 3, s. 5, and by provisions as to Indian legislation. |
| s. 52. | Powers of local Government superseded by visit of Governor-General. | Not reproduced. Superseded as to Governments of Madras and Bombay by 3 & 4 Will. IV, c. 85, s. 67. |
| s. 53. | Appointment and powers of vice-president during absence of Governor-General. | Not reproduced. Superseded by 24 & 25 Vict. c. 67, s. 6, and by the appointment of a Lieutenant-Governor of Bengal. |
| s. 54. | Power of Governor-General while absent from his council to issue orders to local Governments and officers. | Reproduced by s. 47 (2). |
| s. 55. | Suspension of Governor-General's power to issue such orders. | Reproduced by s. 47 (3). |
| s. 56. | | Repealed, 24 & 25 Vict. c. 54, s. 7. |
| s. 57. | Presidential restriction on civil appointments. | Reproduced by s. 93 (final words). |
| | Residence required to qualify civil servant for appointment. | Not reproduced. Repealed by 24 & 25 Vict. c. 54, s. 7. |
| ss. 58-61. | | Repealed as to U. K. by S. L. R. Act, 1887. |

| <i>Session and Chapter</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
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| 33 Geo III, c. 52, s. 62. | Receiving gifts to be a misdemeanour. | Re-enacted by 3 & 4 Will IV, c. 85, s. 76. Reproduced by s 117 (5) |
| s. 63 | Disposal of gifts and fines | Reproduced by s. 117 (last part) |
| s. 64 | Exception for fees of barristers, &c | Reproduced by s 117 (5) |
| s. 65 | Disobedience and breach of duty | Re-enacted by 3 & 4 Will IV, c. 85, s. 80 Reproduced by s 117 (2), (3) |
| s. 66 | Corrupt bargain for giving up or obtaining employment | Not reproduced Superseded by 49 Geo III, c. 126 |
| s. 67 | Jurisdiction of courts in India and Great Britain over offences by British subjects in Native States | See s 119 (2) Repealed as to Indian courts by Indian Act XI of 1872. |
| s. 68 | East India Company or its servants not to stay actions without approbation of Board | Not reproduced Cf 13 Geo III, c. 63, s. 35 |
| s. 69 | East India Company not to release sentence of British or Indian court against its servants. | Repealed as to U K. by S L R Act, 1887 |
| s. 70. | Forfeiture of office after absence of five years. | Amended as to military officers by 53 Geo. III, c. 155, s. 84. Not reproduced Practically superseded by power to make rules as to furlough, &c |
| ss 71-136 | . | Repealed, S L R Act, 1872 |
| s. 137. | Governor-General, governor, judges of supreme courts, members of council, and judicial and revenue officers in Bengal not to trade. | Reproduced by s 117 (4) |
| | British subjects not to trade in salt, &c | Not reproduced. Repealed by Indian Act XIV of 1870. |
| ss 138, 139. | | Repealed, S L R. Act, 1872. |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
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| 33 Geo. III, c. 52, s. 140. | Procedure for offences under Act. | See s. 169. |
| s. 141. | Procedure, and limitation of time for proceedings. | S. 119 (3), following 21 Geo. III, c. 70, s. 7, substitutes 'five' for 'six' years. The provision in that section as to arrival in England is taken from 21 Geo. III, c. 70, s. 7. The provisions as to procedure are omitted as having been superseded by change of practice. |
| ss. 142-150. | | Repealed, S. L. R. Act, 1872. |
| s. 151. | Appointment of justices of the peace. | Not reproduced. Rep. by Indian Act II of 1869. |
| ss. 152-155. | | Repealed as to U. K. by S. L. R. Act, 1887. |
| s. 156. | Admiralty jurisdiction of Supreme Court, Calcutta. | Not reproduced. Effect saved by s. 102 (1), and by Article 33 of the charter of the Calcutta High Court. |
| s. 157. | Appointment of coroners . . | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |
| ss. 158-160. | | Repealed as to U. K. by S. L. R. Act, 1887. |
| s. 161. | | Repealed, 4 & 5 Will. IV, c. 33. |
| s. 162. | Proceedings in respect of things done under Act to be taken within three years. | See s. 119 (3). Superseded as to India by Indian legislation, see Act IX of 1871. |
| s. 163. | | Repealed as to U. K. by S. L. R. Act, 1887. |
| 37 Geo. III, c. 142, s. 1. | The East India Act, 1797. Number of judges of Supreme Court, Calcutta. | Superseded by 24 & 25 Vict. c. 104, s. 2. Repealed, S. L. R. Act, 1892. |
| ss. 2, 3. | Pensions of judges . . . | Not reproduced. Superseded by 24 & 25 Vict. c. 104, s. 6. Repealed in part, S. L. R. Act, 1892. |

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| 37 Geo. III, c. 142, s. 4. | Depositions | Repealed, Indian Act XIV of 1878, S. L. R. Act, 1892. |
| ss. 5-7. | Salaries and fees of officers of Supreme Court, Calcutta. | |
| | Registration, &c., in Supreme Court, of regulations made by Governor-General in Council. | |
| s. 8. | Constitution and powers of recorders' courts at Madras and Bombay. | Repealed, S. L. R. Act, 1892. |
| ss. 9, 10. | Jurisdiction of recorders' courts at Madras and Bom- bay. | Reproduced by s. 101. The powers and jurisdiction of the recorders' courts were vested in the supreme courts by 39 & 40 Geo. III, c. 79, s. 5 (Madras), and 4 Geo. IV, c. 71, s. 7 (Bombay). |
| s. 11. | Governor, members of his council, and recorder ex- empt from arrest or im- prisonment by recorders' courts. | Reproduced by s. 105. See note on 43 Geo. III, c. 63, s. 17. |
| s. 11. proviso. | Governor and his council exempt from jurisdiction of recorders' courts for official act. | Reproduced by s. 105 (1) (a) |
| | Recorders' courts not to have jurisdiction in matters con- cerning the revenue. | Reproduced, s. 101 (3). |
| | Exemption of certain classes of persons from jurisdiction of recorders' courts. | Not reproduced. The corre- sponding provisions in 21 Geo. III, c. 70, ss. 9, 10, as to the Supreme Court, Cal- cutta, have been repealed by Indian Act XIV of 1870. |
| s. 12. | Rights of fathers of Hindu and Mahomedan families, and rules of caste, preserved. | Not reproduced. Corresponds to 21 Geo. III, c. 70, s. 18. |
| s. 13. | Jurisdiction of recorders' courts, Madras and Bom- bay. | Not reproduced. Saved by s. 101. |

| <i>Session and Chapter</i> | <i>Title and Short Contents.</i> | <i>Remarks</i> |
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| 37 Geo III, c 142, s 13 (continued) | Proviso as to native laws and usages. | Reproduced by s. 108. See note to 21 Geo. III, c 70, s 17, <i>supra</i> |
| | Power to make rules of procedure for such cases | Not reproduced The corresponding provisions in 21 Geo III, c 70, s 19, as to the Supreme Court, Calcutta, have been repealed by Indian Act XIV of 1870. |
| | Appearance and examination of witnesses in such cases | |
| s 14 | No action for acts done by or by order of judicial officers | Not reproduced Superseded by Indian Act XVIII of 1850 |
| | Procedure for prosecution of judicial officers | Not reproduced The corresponding provisions in 21 Geo III, c 70, ss 24, 25, 26, as to the Supreme Court at Calcutta, have been repealed by Indian Act XIV of 1870 |
| s 15 | Registration of native servants of East India Company | Repealed, Indian Act XIV of 1870, S L R Act, 1892 |
| s 16 | Appeal to His Majesty in Council | |
| s 17 | Transfer of records of mayors' courts, &c, to recorders' courts | |
| s 18 | Jurisdiction of mayors' courts, &c, transferred to recorders' courts | |
| ss 19 26 | Provisions as to recorders | |
| s 27 | Forms and rules as to process to be sent to Board for Affairs of India | Not reproduced Does not correspond to modern practice |
| s 28 | Loans by British subjects to native princes | Reproduced by s 118 |
| s 29 | Report by law officers | Not reproduced Does not require specific enactment |
| s 30 | Jurisdiction of courts of request. | Repealed, Indian Act XIV of 1870, S L R. Act, 1892. |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
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| 39 & 40 Geo. III, c. 79, s. 1. | The Government of India Act, 1800. Power of directors of East India Company to apportion territories, revenues, and civil servants between Governments of Madras, Bombay, and Bengal. | Not reproduced. As to territories, superseded by 24 & 25 Vict. c. 67, s. 47, and 28 & 29 Vict. c. 17, ss. 4, 5. See s. 57. |
| s. 2. | Constitution, powers, and jurisdiction of Supreme Court, Madras. | Reproduced by s. 101. See note to 13 Geo. III, c. 63, ss. 13, 14, supra. |
| s. 3. | Exemption of Governor of Madras and Governor-General and their councils from jurisdiction of Supreme Court. | Reproduced by s. 105. |
| s. 4. | Transfer of records to Supreme Court. | Repealed by Indian Act XIV of 1870, S. L. R. Act, 1892. |
| s. 5. | Transfer of jurisdiction of Supreme Court. | See note to 13 Geo. III, c. 63, ss. 13, 14, supra. Repealed in part, S. L. R. Act, 1892. |
| s. 6. | Salaries of Madras judges | Repealed, S. L. R. Act, 1892. |
| s. 7. | Salaries of Madras judges to be in place of perquisites. | Not expressly reproduced. Covered by s. 99. |
| s. 8. | Allowances to Madras judges | Repealed in part, S. L. R. Act, 1892. Covered by s. 99. |
| s. 9. | Salaries of judges of supreme courts at Calcutta and Madras, and Recorder of Bombay, to cease on judge leaving India. | Nor reproduced. Salaries and allowances of high court judges are now fixed by the Secretary of State under 24 & 25 Vict. c. 104, s. 6. |
| s. 10. | Vacancy in office of Recorder of Bombay. | Repealed by Indian Act XIV of 1870, S. L. R. Act, 1892. |
| s. 11. | Power of Governor of Madras in Council to make regulations. | Repealed by Indian Act XIV of 1870, S. L. R. Act, 1892. |
| s. 12. | Absence of Governor-General or Governor from his council. | Reproduced as to governors by s. 53. Repealed as to Governor-General, S. L. R. Act, 1892. |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
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| 39 & 40 Geo. III, c. 79, s. 12 (continued). | Saving of Governor-General's power to appoint a vice-president. | Not reproduced. This power was conferred by 33 Geo. III, c. 52, s. 53, which has been superseded by 24 & 25 Vict. c. 67, s. 6. |
| ss. 13-16. | | Repealed, 9 Geo. IV, c. 74, s. 126, which section is itself repealed by S. L. R. Act, 1873. |
| s. 17. | Courts of request . . . | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |
| ss. 18, 19 | Corporal punishment . . . | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |
| s. 20. | Local extent of jurisdiction of Supreme Court, Calcutta. | Saved by s. 101 (1). Repealed in part, S. L. R. Act, 1892. |
| ss. 21, 22. | Grant of letters of administration. | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |
| ss. 23, 24. | Insolvent debtors . . . | Repealed, Indian Act XIV of 1870, S. L. R. Act, 1892. |
| s. 25 | Power to appoint judges of supreme courts at Calcutta, Madras, and Bombay, commissioners of prize. | Repealed by Prize Courts Act, 1894. |
| 53 Geo. III, c. 155, ss. 1-32. | The East India Company Act, 1813. | Repealed, S. L. R. Act, 1873. |
| ss. 33-39. | | Repealed, S. L. R. Act, 1874. |
| ss. 40, 41. | | Repealed, S. L. R. Act, 1873. |
| s. 42. | Control of India Board over colleges and seminaries in India. | } Omitted as having been made unnecessary by alteration of circumstances. |
| s. 43. | Provision to be made for public education. | |
| ss. 44-48. | | Repealed, S. L. R. Act, 1873. |
| s. 49. | Salaries of bishops and archdeacons. | } Not reproduced. These salaries may now be fixed and altered by the Secretary of State under 43 Vict. c. 3, s. 3. |
| s. 50. | Such salaries when to commence and cease. Such salaries to be in lieu of fees, &c. | |

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| 53 Geo. III, c. 155, ss. 51, 52. | Jurisdiction of Bishop of Calcutta. | Reproduced by s. 110. Ss. 51 and 52 extended to bishops of Madras and Bombay, and s. 52 verbally amended by 3 & 4 Will. IV, c. 85, ss. 92, 93. |
| s. 53. | Countersignature of ecclesiastical letters patent for Calcutta, Madras, or Bombay. | Not reproduced. Superseded by 47 & 48 Vict. c. 30 (Great Seal Act, 1884). |
| ss. 54-78. | | Repealed, S. L. R. Act, 1873. |
| s. 79. | Signature of proceedings by the chief secretary or the principal secretary of the department. | Amended by Indian Act II of 1834. Reproduced by ss. 43 (1), 54 (1). |
| ss. 80, 81. | | Repealed, S. L. R. Act, 1873. |
| s. 82. | Residence required to qualify civil servants for appointments exceeding in value £1,500 per annum. | Not reproduced. Virtually repealed by 24 & 25 Vict. c. 54, s. 7. |
| s. 83. | | Repealed, S. L. R. Act, 1873. |
| s. 84. | Absence of military officers for five years. | Not reproduced. See note on 33 Geo. III, c. 52, s. 70. |
| s. 85. | Precedence of civil servants returning after five years' absence. | Omitted as having been superseded by rules of service. |
| s. 86. | Precedence of civil servants. | Omitted on the same ground. S. 56 of 33 Geo. III, c. 52, which this section amends, has been repealed by 24 & 25 Vict. c. 54, s. 7. |
| ss. 87, 88. | | Repealed, S. L. R. Act, 1873. |
| s. 89. | Salaries of governor-general, governors of Madras and Bombay, members of council, and judges of high courts, to commence on their taking upon themselves the execution of their office. | Unnecessary, the power to fix the salaries of all these officers being now vested in the Secretary of State. |
| | Allowances for equipment and voyage. | Repealed by 43 Vict. c. 43, s. 5. |

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| 53 Geo. III, c. 155, ss. 90-92. | | Repealed, S. L. R. Act, 1873. |
| s. 93. | Superannuation allowances of East India Company's servants in England. | Not reproduced. As to officers transferred to Secretary of State's establishment, saved by 21 & 22 Vict. c. 106, s. 18. |
| s. 94. | Account of such allowances to be laid before Parliament. | Not reproduced. There is no corresponding provision in 21 & 22 Vict. c. 106, s. 18, as to superannuation allowances of officers first appointed to Secretary of State's establishment. |
| s. 95. | | Repealed, S. L. R. Act, 1873. |
| s. 96. | Power of Governor-General in Council, and the Governors of Madras and Bombay in Council, to make articles of war for native officers and soldiers. | Not reproduced. Superseded by 3 & 4 Will. IV, c. 85, s. 73; see also 24 & 25 Vict. c. 67, ss. 22, 43. |
| ss. 97-110 | | Repealed, S. L. R. Act, 1890. |
| s. 111. | Power of advocates-general at Calcutta, Madras, Bombay, and Prince of Wales' Island, to file informations for debts due to Crown | Reproduced by s. 109. |
| ss. 112 122. | | Repealed, S. L. R. Act, 1873. |
| s. 123. | | Repealed, S. L. R. Act, 1874. |
| ss. 124, 125 | | Repealed, S. L. R. Act, 1873. |
| 55 Geo. III, c. 84, s. 1. | The Indian Presidency Towns Act, 1815. Power to extend limits of presidency towns. | Reproduced by s. 59. Residue of Act repealed, S. L. R. Act, 1873. |
| 4 Geo. IV, c. 71 ss. 1, 2. | The Indian Bishops and Courts Act, 1823. | Repealed, S. L. R. Act, 1873. |
| s. 3. | Pensions to bishops and archdeacons. | Not reproduced. See note (b) on s. 113. Repealed as to archdeacons by 43 Vict. c. 3, s. 5. |

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| 4 Geo. IV, c. 71, s. 4. | Residence as chaplain to count for pension as archdeacon. | Not reproduced. Unnecessary, in view of the Secretary of State's power under 43 Vict. c. 3, s. 3, to fix allowances. |
| s. 5. | House to be provided for Bishop of Calcutta. Expenses of visitations of Bishop of Calcutta. | } Reproduced by s. 113. Extended to bishops of Madras and Bombay by 3 & 4 Will. IV, c. 85, s. 100. |
| s. 6. | Power of Bishop of Calcutta to admit to holy orders. | |
| s. 7. | Constitution, powers, and jurisdiction of Supreme Court, Bombay. Exemption of Governor of Bombay and his council, and Governor-General, from jurisdiction of the court | Reproduced by s. 101. See note to 13 Geo. III, c. 63, ss. 13, 14, supra. Reproduced by s. 105. |
| ss. 8-10. | | Repealed, S.L.R. Act, 1873. |
| s. 11. | Salaries of judges when to commence. Such salaries to be in lieu of fees, &c. | } Not reproduced. Superseded or made unnecessary by 24 & 25 Vict. c. 104, s. 6. |
| ss. 12, 13. | | |
| ss. 14-16. | | Repealed, S. L. R. Act, 1873. |
| s. 17. | Powers of Supreme Courts, Madras and Bombay. | Reproduced by s. 103. See note to 13 Geo. III, c. 63, ss. 13, 14, supra. |
| s. 18. | | Repealed, S. L. R. Act, 1873. |
| 6 Geo. IV, c. 85. | The Indian Salaries and Pensions Act, 1825. | |
| s. 1-3. | | Repealed, S. L. R. Act, 1890. |
| s. 4. | Salaries of judges of Supreme Courts, Madras and Bombay. | Not reproduced. Superseded by 24 & 25 Vict. c. 104, s. 6. |
| s. 5. | Payments where judge of Supreme Court, Recorder of Prince of Wales' Island, or Bishop of Calcutta, dies on voyage to India, &c. | Reproduced in part by s. 113. Repealed, as to Recorder of Prince of Wales' Island, by S. L. R. Act, 1878. Made unnecessary in part by 24 & 25 Vict. c. 104, s. 6, and 43 Vict. c. 3, s. 3. |

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| 6 Geo. IV, c. 85, ss. 6-14. | | Repealed, S. L. R. Act, 1890. |
| s. 15. | Pension of Bishop of Calcutta. | Not reproduced. See note (b) on s. 113. |
| 7 Geo. IV, c. 56, | The East India Officers' Act, 1826. | |
| s. 3. | Payments to representatives of deceased officers. | Reproduced by s. 82 (3). Ss. 1 and 2 and residue of Act repealed, S. L. R. Act, 1873. |
| 3 & 4 Will. IV, c. 85, ss. 1, 2. | The Government of India Act, 1833. | |
| | Continuance of powers. &c. of East India Company till April 30, 1854. | Not reproduced. Spent |
| | Property of Company to be held in trust for Crown. | Not reproduced. Superseded by 21 & 22 Vict. c. 106, ss. 1, 2. |
| ss. 3-18. | | Repealed, S. L. R. Act, 1874. |
| s. 19. | | Repealed, S. L. R. Act, 1890. |
| ss. 20-24. | | Repealed, S. L. R. Act, 1874. |
| s. 25. | Control of Commissioners over acts of East India Company. | Reproduced by s. 2 (2). |
| ss. 26-35. | | Repealed, S. L. R. Act, 1874. |
| s. 36. | Communication of secret orders to India. | Reproduced by s. 14 (1). Amended by 21 & 22 Vict. c. 106, s. 27. |
| s. 37. | | Repealed, S. L. R. Act, 1874. |
| s. 38. | Presidency of Fort William to be divided into two presidencies (Bengal and Agra). | Not reproduced. This provision was suspended by 5 & 6 Will. IV, c. 52, s. 1, and 16 & 17 Vict. c. 95, s. 15, and has never been brought into operation. It is practically superseded by the appointment of a lieutenant-governor for the North-Western Provinces, under 5 & 6 Will. IV, c. 52, s. 2. |
| | Power to declare limits of presidencies. | Reproduced by s. 57. This provision is modified by 28 & 29 Vict. c. 17, ss. 4, 5. |

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| 3 & 4 Will. IV, c. 85, s. 39. | Government of India by Governor-General in Council. | Reproduced by s. 36. The provision as to control of the revenues of India is superseded by 21 & 22 Vict. c. 106, s. 41. |
| s. 40. | | Repealed, 24 & 25 Vict. c. 67, s. 2. |
| ss. 41, 42. | | Repealed, S. L. R. Act, 1874. |
| ss. 43, 44. | | Repealed, 24 & 25 Vict. c. 67, s. 2. |
| s. 45. | Laws made by Governor-General in Council – to have same force in India as Acts of Parliament. to be judicially noticed by Indian courts. need not be registered . | Not reproduced. There is no such provision in 24 & 25 Vict. c. 67. Not reproduced. Superseded as to laws in force in British India by Indian Act I of 1872, s. 57. Not reproduced. Spent. |
| s. 46. | Restrictions on legislation affecting high courts. | Reproduced by s. 63 (3). This restriction is kept in force by 24 & 25 Vict. c. 67, s. 22. |
| s. 47. | Rules for procedure of Governor-General in Council. | Not reproduced. Superseded by 24 & 25 Vict. c. 67, ss. 8, 18. |
| s. 48. | Quorum of Governor-General's legislative council. Quorum of Governor-General's executive council. Equality of votes in— Governor-General's executive council. Governor-General's legislative council. | Not reproduced. Superseded by 24 & 25 Vict. c. 67, s. 15. Reproduced by s. 42 (4). Reproduced by s. 44 (1). Not reproduced. Superseded by 24 & 25 Vict. c. 67, s. 15. |
| s. 49. | | Repealed, 33 & 34 Vict. c. 3, s. 4. |
| s. 50. | | Repealed, 24 & 25 Vict. c. 67, s. 2. |
| s. 51. | Saving of power of Parliament— to legislate for India to control Governor-General in Council. | Reproduced by ss. 63, 121. |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
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| 3 & 4 Will. IV, c. 85, s. 51 (continued). | Laws made by Governor-General in Council to be laid before Parliament. | Not reproduced. This provision does not appear to apply to laws made under 24 & 25 Vict. c. 67. |
| s. 52. | Enactments relating to Governor-General of Bengal to apply to Governor-General of India. | Not expressly reproduced. |
| ss. 53-55. | | Repealed, S. L. R. Act, 1874. |
| s. 56. | Government of Bengal by Governor in Council. | Not reproduced. Superseded by the appointment of a lieutenant-governor of Bengal under 16 & 17 Vict. c. 95, s. 16. |
| | Government of Madras and Bombay by Governors in Council. | Reproduced by s. 50 (1). |
| | Number of members of council at Madras and Bombay. | Modified by 3 & 4 Will. IV, c. 85, s. 57. Reproduced by s. 51 (2). |
| | Government of Agra . . . | Not reproduced. There is no Presidency of Agra. See note to 3 & 4 Will. IV, c. 85, s. 38, <i>supra</i> . |
| s. 57. | Power to revoke or suspend appointment of councils. | Reproduced by s. 50 (3). |
| | Power to reduce number of members of council. | Reproduced by s. 51 (2). |
| s. 58. | | Repealed, S. L. R. Act, 1874. |
| s. 59. | Powers of Governor where there is no council. | Reproduced by s. 50. |
| | Powers of Governor in Council. Rights, &c., of Governors and members of their councils. | } See s. 56. |
| | Legislation by Governors in Council. | |
| | Sanction required to creation of office or grant of salary. | Not reproduced. Superseded by 24 & 25 Vict. c. 67, ss. 29, et seq. |
| s. 60. | | Reproduced by s. 49. |
| | | Repealed, S. L. R. Act, 1874. |

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| 3 & 4 Will. IV, c. 85, s. 61. | Power of directors to make <i>provisional appointments to any office, subject, in certain cases, to approval of Crown.</i> | Repealed, as to members of Governor-General's council, by 24 & 25 Vict. c. 67, s. 2. Reproduced, so far as in force, by s. 83. |
| s. 62. | Member of council to fill vacancy in office of Governor-General. | Reproduced by s. 85 (4), (5). S. 62 is superseded but 24 & 25 Vict. c. 67, s. 50, which provides for the Governor of Madras or Bombay acting as Governor-General, but the section is still in force with respect to the interval before the arrival of the governor (see 24 & 25 Vict. c. 67, s. 51). |
| s. 63. | Vacancy in office of Governor to be supplied by member of council, or (if no council) by secretary. | Reproduced by s. 86 (1), (2). |
| s. 64. | | Repealed, S. L. R. Act, 1890. |
| s. 65. | Authority of Governor-General in Council over certain local Governments. | Reproduced by s. 49 (1). |
| s. 66. | | Repealed, 24 & 25 Vict. c. 67, s. 2. |
| s. 67. | Powers of Governors of Madras, Bombay, [and Agra] not suspended by visit of Governor-General. | Reproduced by s. 49 (4). |
| s. 68. | Governors in Council to keep Governor-General in Council informed of their proceedings. | Reproduced by s. 49 (1). |
| s. 69. | | Repealed, S. L. R. Act, 1890. |
| s. 70. | | Repealed, 24 & 25 Vict. c. 67, s. 2. |
| s. 71. | New Presidency of Agra not to affect promotion of officers. | Not reproduced. No Presidency of Agra was ever constituted; see note to 3 & 4 Will. IV, c. 85, s. 38, <i>supra</i> . |

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| 3 & 4 Will. IV, c. 85, s. 72. | | Repealed, S. L. R. Act, 1874. |
| s. 73. | Power to make articles of war. Judicial notice to be taken of such articles. Saving of prior laws until articles made. | Reproduced by s. 63 (1) (c). Not reproduced. Superseded, as to British India, by In- dian Act I of 1872, s. 57. Not reproduced. Unnecessary. See Indian Act V of 1869. |
| s. 74. | Removal of officers by Crown. | Amended, as to communica- tion of order of removal, by 21 & 22 Vict. c. 106, s. 38. Reproduced by s. 21 (1). |
| s. 75. | Removal of officers by direc- tors of East India Company. Proviso as to officers appointed by Crown on default of directors. | Reproduced by s. 21 (2). Not reproduced. The section (60) as to appointments made in such cases is repealed by the S. L. R. Act, 1874. |
| s. 76. | Salaries of Governor-General, governor, and members of their councils. Governor-general, governors, and members of council not to accept gifts; or to carry on trade. Expenses of equipment and voyage. | Reproduced by s. 80. Amend- ed, as to members of the Governor-General's council, by 24 & 25 Vict. c. 67, s. 4. The salaries of the Governors of Madras and Bombay, and of members of council, have since been fixed by the Secretary of State. Reproduced by s. 117 (4). (5). |
| s. 77. | Salary of governor-general, governors, and members of their councils to be reduced by amount of any pension, &c., received by them. | Repealed by 43 Vict. c. 3, s. 5. Reproduced by s. 80. |
| s. 78. | Power to make regulations as to patronage. | Amended by 21 & 22 Vict. c. 106, s. 30. Reproduced by s. 90 (1). |

| <i>Session and Chapter.</i> | <i>Title and Short Contents.</i> | <i>Remarks.</i> |
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| 3 & 4 Will. IV, c. 85, s. 79. | If governor-general, &c., returns to Europe his office vacated. Resignation of office by governor-general, &c. Salary and allowances to cease from date of departure or resignation. Salary and allowances not payable during absence. Payment of salaries and allowances to representatives. | Reproduced by s. 82, except as to mode of resignation. See note on 33 Geo. III, 52, s. 37. |
| s. 80. | Disobedience and breach of duty. | Reproduced by s. 82 (3). |
| ss. 81-83. | | Repealed, S. L. R. Act, 1890. |
| s. 84. | Laws to be made against illicit entry or residence. | Not reproduced. This direction has been observed. See Act III of 1864. |
| s. 85. | | Repealed, S. L. R. Act, 1890. |
| s. 86. | Power to hold land . . . | Omitted as no longer necessary. May be repealed or modified by Indian legislation. See 32 & 33 Vict. c. 96, s. 3. |
| s. 87. | No disabilities in respect of religion, colour, or place of birth. | Reproduced by s. 91. |
| s. 88. | Laws to be made for mitigating and abolishing slavery. | Not reproduced. This direction has been observed by the passing of Act V of 1843. Repealed, as to U.K., S. L. R. Act, 1888. |
| s. 89. | Salaries of Bishops of Madras and Bombay. | Reproduced by s. 113. These salaries may now be fixed and altered by the Secretary of State under 43 Vict. c. 3, s. 3. |
| s. 90. | Salaries of Bishops of Madras and Bombay to be in lieu of fees. | Reproduced by s. 113. |
| s. 91. | Expenses of equipment and voyage. | Not reproduced. Repealed by 43 Vict. c. 3, s. 5. |
| s. 92. | Jurisdiction of Bishops of Madras and Bombay. | Reproduced by s. 110. |