4. Every loan raised by a local Government in accordance with these rules shall be a charge on the whole of the revenues allocated to the local Government, and all payments in connection with the service of such loans shall be made in priority to all payments by the local Government other than the payments of—

(*i*) the fixed provincial contribution payable to the Governor-General in Council,

(*ii*) interest due on sums advanced to the local Government by the Governor-General in Council from the revenues of India, and

(*iii*) interest due on all loans previously raised by the local Government.

In accordance with these powers, some provinces did raise their own loans, the most notable of them being the 6½ per cent Income Tax Free Bombay Development Loan; but of recent years the provinces have not raised any more loans in the open market, but agreed to do their borrowing jointly through and with the Government of India.

Besides the Provincial Contributions, which, though made a first charge upon the provincial finances, are made progressively reducible so as to disappear altogether in ten years, the provision of Famine Relief is made a specially secured charge upon the Provincial Finance. Every year in their Budget the provinces must make an assignment for famine relief and insurance, respectively as:—

Province.	Assignment.	This fixed assignment
Madras ...	Rs. 6,61,000	is calculated roughly on
Bombay ...	,, 63,60,000	the basis of an average
Bengal ...	,, 2,00,000	expenditure on this ac-
United Provinces ...	,, 39,60,000	count in the provinces
Punjab ...	,, 3,81,000	named. In any years
Burma ...	,, 67,000	when there is no need to
Bihar and Orissa ...	,, 11,62,000	spend any part of this
Central Provinces ...	,, 47,26,000	assignment—which can
Assam ...	,, 10,000	be spent only on actual

famine relief, or protective or preventive irrigation and other works, or for grant of loans to cultivators—the unspent balances must be allowed to accumulate, and if these accumulations exceed six times the annual provision in a province, the local Government may suspend the assignment temporarily. This fund remains with the Government of India, who pay interest on the unspent balances.

IX Bombay Provincial Finance.

The subjoined is a bird's-eye-view of the Finances of the Bombay Presidency under the new regime:—

ESTIMATED REVENUE FOR 1922-23.

PRINCIPAL HEADS OF REVENUE.

			Rs.
II	Taxes on Income	...	3,00,000
V	Land Revenue	...	5,97,25,000
VI	Excise	...	3,70,76,000
VII	Stamps	...	2,30,00,000
VIII	Forest	...	88,70,000
IX	Registration	...	14,50,000
	Total	...	13,04,21,000

Irrigation, Navigation, Embankments, &c.

XIII	Works for which Capital Accounts are kept	...	23,36,000
XIV	Works for which no Capital Accounts are kept	...	1,20,000
	Total	...	24,56,000
XVI	Interest	...	76,44,000

Civil Administration.

			Rs.
XVII	Administration of Justice	...	10,50,000
XVIII	Jails and Convict Settlements	...	4,58,000
XIX	Police	...	2,19,000
XX	Ports and Pilotage	...	53,000
XXI	Education	...	8,65,000
XXII	Medical	...	5,88,000
XXIII	Public Health	...	12,000
XXIV	Agriculture	...	2,90,000
XXV	Industries	...	22,000
XXVI	Miscellaneous Departments	...	89,000
	Total	...	36,46,000
XXX	Civil Works	...	7,29,000

Miscellaneous.

XXXIII	Receipts in aid of Superannuation	...	8,90,000
XXXIV	Stationery and Printing	...	1,92,000
XXXV	Miscellaneous	...	2,45,000
	Total	...	13,27,000
XL	Miscellaneous adjustments between the Central and Provincial Government...		*Nil.*
	Total Revenue	...	14,62,23,000

Capital Account not charged to Revenue.

XLII	Bombay Development Scheme	...	89,93,000
	Debts, Deposits and Advances	...	12,76,82,000
	Opening balance	...	1,21,82,000
	Grand Total	...	29,50,80,000

ESTIMATED EXPENDITURE FOR 1922-23.

Direct demands on the Revenue.

			Rs.
2.	Taxes on Income	...	.....
5.	Land Revenue	...	2,10,85,000
6.	Excise	...	29,54,000
7.	Stamps	...	5,14,000
8.	Forest	...	56,31,000
9.	Registration	...	7,61,000
	Total	...	3,09,45,000

Irrigation, Embankment, &c., Revenue Account.

		Rs.
14.	Interest on works for which Capital Accounts are kept	35,56,000
15.	Other Revenue Expenditure financed from Ordinary Revenue ...	43,99,000
	Total	79,55,000

Irrigation, Embankment, &c., Capital Account (charged to Revenue).

16.	Construction of Irrigation, Embankment, &c., Works	...	*Nil.*

Debt Services.

19.	Interest on ordinary Debt	...	1,13,56,000
21.	Sinking Funds	...	9,77,000
	Total		1,23,33,000

Civil Administration.

			Rs.
22.	General Administration	...	73,88,000
24.	Administration of Justice	...	65,63,000
25.	Jails and Convict Settlements	...	27,32,000
26.	Police	...	1,88,22,000
27.	Ports and Pilotage	...	1,20,000
30.	Scientific Departments	...	60,000
31.	Education	...	1,73,68,000
32.	Medical	...	42,49,000
33.	Public Health	...	18,36,000
34.	Agriculture	...	25,12,000
35.	Industries	...	4,63,000
37.	Miscellaneous Departments	...	4,70,000
	Total	...	6,25,83,000

Currency, Mint and Exchange.

40.	Exchange	...	13,02,000

Civil Works.

41.	Civil Works	...	1,37,58,000

Miscellaneous.

43.	Famine Relief and Insurance	...	63,51,000
45.	Superannuation allowances and Pensions	...	53,49,000
46.	Stationery and Printing	...	20,03,000
47.	Miscellaneous	...	30,05,000
	Total	...	1,67,08,000

		Rs.
51.	Contributions and assignments to the Central Government by Provincial Government ...	56,00,000
52.	Miscellaneous adjustments between the Central and Provincial Governments ...	50,000
	Total ...	56,50,000
	Total Expenditure ...	15,12,34,000

Capital Account not charged to Revenue.

55.	Construction of Irrigation Works ...	82,80,000
59.	Bombay Development Scheme ...	3,39,50,000
	Other Expenditure not charged to Revenue ...	86,51,000
	Debt, Deposit and Advances ...	7,77,94,000
	Closing balance ...	1,51,71,000
	Grand Total ...	29,50,80,000

CHAPTER VII.

PART VIA.

STATUTORY COMMISSION.

Statutory commission.

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

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

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

The appointment of a Royal Commission under statutory authority of this Act is the one provision of that enactment which, were there no others, would amply distinguish this measure from all other measures of a like description. It at once makes some progress, limits or defines the rate of that progress, and declares the measure to be clearly a temporary provision. The fact, however, that this section attempts to outline the terms of reference to a Royal Commission ten years after 1919, is notewoi thy. If the Commission is to inquire, " whether and to what extent it is desirable to establish the principle of responsible government, " the implication is irresistible that the Act of 1919 has *not* established that principle. How, then, are we to look upon the dyarchy introduced by the Act of 1919 ? As already mentioned, the authors of the Act of 1919 considered this the best and most efficacious means to give effect to the Declaration of 1917, which spoke of an

"immediate, substantial measure of responsible Self-Government." Read together, these two documents make the clause of this section quoted above utterly inconsistent. On the other hand, the further provision in the same section that the commission is to inquire into the possibility of extending, modifying or restricting "the degree of responsible government, *then* existing therein", is open to more than one interpretations. It admits the possibility of a revision of the present constitution of India, both forwards and backwards, whereas the Indian people at least believe that there can be and will be no retrograde revision of the constitution of 1919. Their belief would prove to be a misapprehension if the above interpretation is correct. And if, in the words quoted, stress is laid on the phrase "*then existing therein*" there would be at least an arguable possibility of the constitution of 1919 being capable of further extension even before the advent of the Royal commission herein provided for. At any rate, the Act of 1919, which, by this section, provides a mechanism for its own revision *after* a given period, cannot be construed to be so rigid *during* that period as not to permit of a modification within that period. That section of the Indian public opinion therefore, which desires a revision so as to bring about an immediate establishment of responsible government in India, is, at least by the express terms of the Statute, not utterly illogical or inconsistent with the governing principle of the constitution as established in 1919.

CHAPTER VIII.

PUBLIC SERVICES IN INDIA.

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PART VII.

Salaries, Leave of Absence, Vacation of Office, Appointments &c.

85. (1) There shall be paid to the Governor-General of India and to the other persons mentioned in the Second Schedule to this Act, out of the revenues of India, such salaries, not exceeding in any case the maximum specified in that behalf in that Schedule, and such allowances (if any) for equipment and voyage, as the Secretary of State in Council may by order fix in that behalf, and, subject to or in default of any such order, as are payable at the commencement of this Act;

(2) Provided as follows:—

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

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

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

(3) The remuneration payable to a person under this section shall commence on his taking upon himself the execution of his office, and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein, provided that nothing in this subsection shall apply to the allowances or other forms of profit and advantage which may have been sanctioned for such persons by the Secretary of State in Council.

86. (1) The Governor-General-in-Council may grant to any of the members of his executive council, other than the commander-in-chief, and a Governor-in-Council and a Lieutenant-Governor in Council may grant to any member of

his executive council, leave of absence under medical certificate for a period of not exceeding six months.

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

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

88. *Omitted.*

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

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

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

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

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

(2) Every such acting Governor-General, while acting as such, shall have and may exercise all the rights and powers of the office of Governor-

General, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing the salary and allowances appertaining to his office of Governor; and his office of Governor shall be supplied, for the time during which he acts as Governor-General in the manner directed by this Act with respect to vacancies in the office of Governor.

(3) If, on the vacancy occurring, it appears to the Governor, who by virtue of this section holds and executes the office of Governor-General, necessary to exercise the powers thereof before he takes his seat in council, he may make known by notification his appointment, and his intention to assume the office of the Governor-General, and thereupon the provisions of Section 89 of the Act shall apply.

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

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

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

(2) Every such acting Governor shall, while acting as such, be entitled to receive the emoluments and advantages appertaining to the office of Governor, foregoing the salary and allowances appertaining to his office of member of council or secretary.

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

(2) Until a successor arrives the person so appointed shall hold, and execute the office to which he has been appointed, and shall have and may

exercise all the rights and powers thereof, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing all emoluments and advantages to which he was entitled at the time of his being appointed to that office.

(3) If a member of the executive council of the Governor-General, other than the commander-in-Chief or any member of the executive council of a Governor, is, by infirmity or otherwise, rendered incapable of acting or of attending to act as such, or is absent on leave, or special duty, the Governor-General-in-Council, or Governor-in-Council, as the case may be, shall appoint some person to be a temporary member of Council.

(4) Until the return to duty of the member so incapable or absent, the person temporarily appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive half the salary of the member of council whose place he fills, and also half the salary of any other office which he may hold, if he hold any such office, the remaining half of such last named salary being at the disposal of the Governor-General-in-Council or Governor-in-Council, as the case may be.

(5) Provided as follows:—

(a) No person may be appointed a temporay member of council who might not have been appointed to fill the vacancy supplied by the temporary appointment: and.

(b) if the Secretary of State informs the Governor-General that it is not the intention of His Majesty to fill a vacancy in the Governor-General's executive council, no temporary appointment may be made under this section to fill the vacancy, and if any such temporary appointment has been made before the date of the receipt of the information by the Governor-General, the tenure of the person temporarily appointed shall cease from that date.

83. (1) A nominated or elected member of either chamber of the Indian Legislature or of a local Legislative Council may resign his office to the Governor-General or to the Governor, Lieutenant-Governor, or Chief Commissioner, as the case may be, and on the acceptance of the resignation the office shall become vacant.

(2) If for a period of two consecutive months any such member is absent from India or unable to attend to the duties of his office, the Governor-General, Governor, Lieutenant Governor or Chief Commissioner, as the case may be, may, by notification published in the Government Gazette, declare that the seat in council of that member has become vacant.

94. Subject to the provisions of this Act, the Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, make rules as to the absence on leave or special duty of persons in the service of the Crown in India, and the terms as to continuance, variation or cessation of pay, salary and allowances on which any such absence may be permitted.

95. (1) The Secretary of State in Council, with the concurrence of a majority of votes at a meeting of the Council of India, may make rules for distributing between the several authorities in India the power of making appointments to and promotions in military offices under the Crown in India, and may reinstate military officers and servants suspended or removed by any of those authorities.

(2) Subject to such rules, all appointments to military offices and commands in India, and all military pomotions, which, by law, or under any regulation, usage or custom, are, at the commencement of this Act, made by any authority in India, shall, subject to the qualifications, conditions, and restrictions, then affecting such appointments and promotions, respectively, continue to be made in India by the like authority.

96. No native of British India, nor any subject of His Majesty resident therein, shall, by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any office under the Crown in India

96A. Notwithstanding anything in any other enactment, the Governor-General in Council, with the approval of the Secretary of State in Council, may, by notification, declare that, subject to any conditions or restrictions prescribed in the notification, any named ruler or subject of any state in India shall be eligible for appointment to any civil or military office under the Crown to which a native of British India may be appointed, or any named subject of any state, or any named member of any independent race or tribe in territory adjacent to India, shall be eligible for appointment to any such military office.

PART VII A.

The Civil Services in India.

96B. (1) Subject to the provisions of this Act and of rules made thereunder, every person in the civil service of the Crown in India holds office during His Majesty's pleasure, and may be employed in any manner required by a proper authority within the scope of his duty, but no person in that service may be dismissed by any authority subordinate to that by which he was appointed, and the Secretary of State in Council may (except so far as he may provide by rules to the contrary) reinstate any person in that service who has been dismissed.

If any such person appointed by the Secretary of State in Council thinks himself wronged by an order of an official superior in a governor's province, and on due application made to that superior does not receive the redress to which he may consider himself entitled, he may, without prejudice to any other right of redress, complain to the governor of the province in order to obtain justice, and the governor is hereby directed to examine such complaint and require such action to be taken thereon as may appear to him to be just and equitable.

(2) The Secretary of State in Council may make rules for regulating the classification of the civil services in India, the methods of their recruitment, their conditions of service, pay and allowances, and discipline and conduct. Such rules may, to such extent and in respect of such matters as may be prescribed, delegate the power of making rules to the Governor-General in Council or to local governments, or authorise the Indian legislature or local legislatures to make laws regulating the public services:

Provided that every person appointed before the commencement of the Government of India Act, 1919, by the Secretary of State in Council to the civil service of the Crown in India shall retain all his existing or accruing rights, or shall receive such compensation for the loss of any of them as the Secretary of State in Council may consider just and equitable.

(3) The right to pensions and the scale and conditions of pensions of all persons in the civil service of the Crown in India appointed by the Secretary of State in Council shall be regulated in accordance with the rules in force at the time of the passing of the Government of India Act, 1919. Any such rules may be varied or added to by the Secretary of State in Council and shall have effect as so varied or added to, but any such variation or addition shall not adversely affect the pension of any member of the service appointed before the date thereof.

Nothing in this section or in any rule thereunder shall prejudice the rights to which any person may, or may have, become entitled under the provisions in relation to pensions contained in the East India Annuity Funds Act, 1874.

(4) For the removal of doubt it is hereby declared that all rules or other provisions in operation at the time of the passing of the Government of India Act, 1919, whether made by the Secretary of State in Council or by any other authority, relating to the civil service of the Crown in India, were duly made in accordance with the powers in that behalf, and are confirmed, but any such rules or provisions may be revoked, varied or added to by rules or laws made under this section.

96C.—(1) There shall be established in India a public service commission, consisting of not more than five members, of whom one shall be chairman, appointed by the Secretary of State in Council. Each member shall hold office for five years, and may be re-appointed. No member shall be removed before the expiry of his term of office, except by order of the Secretary of State in Council. The qualifications for appointment, and the pay and pension (if any) attaching to the office of chairman and member, shall be prescribed by rules made by the Secretary of State in Council.

(2) The public service commission shall discharge, in regard to recruitment and control of the public service in India, such functions as may be assigned thereto by rules made by the Secretary of State in Council.

96D. An auditor-general in India shall be appointed by the Secretary of State in Council, and shall hold in office during His Majesty's pleasure. The Secretary of State in Council shall, by rules, make provision for his pay, powers, duties, and conditions of employment, or for the discharge of his duties in the case of a temporary vacancy or absence from duty.

(2) Subject to any rules made by the Secretary of State in Council, no office may be added to or withdrawn from the public service, and the emoluments of no post may be varied, except after consultation with such finance authority as may be designated in the rules, being an authority of the province or of the Government of India, according as the post is or is not under the control of a local government.

96E. Rules made under this Part of this Act shall not be made except with the concurrence of the majority of votes at a meeting of the Council of India.

COMMENTS.

Ss. 85-96 (both inclusive).

The salaries of the Viceroys, Governors, and Members of Councils are fixed at the maximum in the first schedule of this Act. Originally they were so fixed by 3 & 4 Wm. IV, c. 85, s. 76; but the same Act declared that these salaries were subject to such reductions as the Court of Directors, with the sanction of the Board of Control, might at any time think fit. The salaries of the Commander-in-Chief and of the Lieutenant-Governors were fixed at 1,00,000 Company's rupees by 16 and 17 Vict. c. 95, s 35, and they were made liable to the same provisions and regulations as the salaries fixed by the Act of 1833. At the present time it would seem that the salaries may be fixed at any amount not exceeding the amounts fixed by the Acts of 1833, and 1853. "The power to reduce," says Ilbert, "has been exercised more than once, but it is open to argument whether the power to reduce involves a power to raise subsequently."

The schedule to the consolidating Act of 1919 fixes the salaries as under:—

Office.	Maximum annual salary.
Viceroy	Rs. 2,56,000
Governors of Bengal, Madras, Bombay and United Provinces	,, 1,28,000
Commander-in-Chief...	,, 1,00,000
Governors of Punjab and Bihar & Orissa ...	,, 1,00,000
Governor of the Central Provinces ...	,, 72,000
Governor of Assam	,, 66,000
Lieutenant-Governor	,, 1,00,000
Member of the Viceroy's Council ...	,, 80,000

Member of the Governor's Council in Bombay, Madras, Bengal and U. P.	...	,, 64,000
Member of Executive Council, Punjab and Bihar & Orissa	... ...	,, 60,000
Member of the executive council Central Provinces	... ...	,, 48,000
Member of Executive Council, Assam	...	,, 42,000

Besides the salaries thus fixed by law, a certain number of specified officers are entitled to an allowance for equipment and voyage to India, such as the Viceroy, the Governors of Presidencies, Commanders-in-Chief, Members of the Viceregal Council, Judges of High Courts, and Bishops of Calcutta, Madras and Bombay. These allowances are fixed by the Indian Salaries and Allowances Act of 1880, but they may be altered or abolished by the Secretary of State in Council. Under that Act the following allowances are paid to-day:—

Viceroy	... ...	£ 5,000
Governors of Presidencies	... ...	,, 1,000
Commander-in-Chief	... ...	,, 500
Member of Council...	... ...	,, 300
High Court Judges...	... ...	,, 300
Bishops	... ...	,, 300

These allowances are paid, it should be further noted, only when the officer in question is resident in Europe at the time of his appointment. If he resides anywhere else a smaller allowance will be paid. No additional charge can be levied on the revenues of India under the Act of 1880, or for the purpose of these allowances.

The following table compares the salaries and allowances of the principal dignitaries of some other countries with those of India.

Office.	Salary and allowance.	Equivalent in Rs.	Pre-war rate estimated per capita wealth of the country per annum.
United States: President	$ 75,000 + $ 15,000	Rs. 3,00,000	£ 72 = 1,080
„ Cabinet Minister	„ 12,000	„ 36,000	„ „
France: President	Fr. 1,200,000 + 1,200,000	„ 4,50,000	„ 38 = 570
Britain: Premier	£ 5,000	„ 75,000	
Lord Chancellor	„ 10,000	„ 1,50,000	„ 50 = 750
Lord Lieut. of Ireland	„ 20,000	„ 3,00,000	
India: Viceroy	.....	„ 17,18,000	„ = 50

These salaries paid to the chief or the most important officers in some of the leading countries of the world leave the impression that the salaries paid in India are excessive, in relation either to the wealth and the taxable capacity of the people of India, or to the degree of responsibility borne or actual work done by these officers. The subject, however is more fully discussed below.

PART VIII.

The Indian Civil Service.

97. (1) The Secretary of State in Council may, with the advice and assistance of the Civil Service Commissioners, make rules for the examination, under the superintendence of those Commissioners, of British subjects and of persons in respect of whom a declaration has been made under section 96A of this Act, who are desirous of becoming candidates for appointment to the Indian Civil Service.

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

2(a) The admission to the Indian Civil Service of a British subject who or whose father or mother was not born within His Majesty's dominions shall be subject to such restrictions as the Secretary of State in Council, with the advice and assistance of the Civil Service Commissioners, may think fit to prescribe, and all such restrictions shall be included in the rules.

(3) All rules made in pursuance of this section shall be laid before Parliament within fourteen days after the making thereof, or if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

(4) The candidates certified to be entitled under the rules shall be recommended for appointment according to the order of their proficiency as shown by their examination.

(5) Such persons only as are so certified may be appointed or admitted to the Indian Civil Service by the Secretary of State in Council.

(6) Notwithstanding anything in this section the Secretary of State may make appointments to the Indian Civil Service of persons domiciled in India in accordance with such rules as may be prescribed by the Secretary of State in Council with the concurrence of the majority of votes at a meeting of the Council of India.

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

98. Subject to the provisions of this Act, all vacancies happening in any of the offices specified or referred to in the Third Schedule to this Act, and all such offices which may be created hereafter, shall be filled from amongst the members of the Indian Civil Service.

99. (1) The authorities in India, by whom appointments are made to offices in the Indian Civil Service, may appoint to any such office any person of

proved merit and ability domiciled in British India, and born of parents habitually resident in India and not established there for temporary purposes only, although the person so appointed has not been admitted to that service in accordance with the foregoing provisions of this Act.

(2) Every such appointment shall be made subject to such rules as may be prescribed by the Governor-General in Council and sanctioned by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council of India.

(3) The Governor-General in Council may, by resolution, define and limit the qualifications of persons who may be appointed under this section, but every resolution made for that purpose shall be subject to the sanction of the Secretary of State in Council, and shall not have force until it has been laid for thirty days before both Houses of Parliament.

100. (1) Where it appears to the authority in India, by whom an appointment is to be made to any office reserved to members of the Indian Civil Service, that a person not being a member of that service ought, under the special circumstances of the case, to be appointed thereto, the authority may appoint thereto any person who has resided for at least seven years in India, and who has, before his appointment, fulfilled all the tests, (if any) which would be imposed in the like case on a member of that service.

(2) Every such appointment shall be provisional only, and shall forthwith be reported to the Secretary of State, with the special reasons for making it: and, unless the Secretary of State in Council approves the appointment, with the concurrence of a majority of votes at a meeting of the Council of India, and within 12 months of the date of appointment intimates such approval to the authority by whom the appointment was made, the appointment shall be cancelled.

1. The Fundamentals of Public Service in India.

The service of the East India Company in India was composed of three grades:—Writers, Factors and Merchants. The pay and conditions of service, during the period that the Company was merely a body of merchants, may perhaps have been adequate; but as the Company began to be transformed into a ruling sovereign body, the emoluments of its servants became wretchedly insufficient, and the temptation to provide against a rainy day by illicit means became irresistible. The abuses thus creeping into the service had attracted the attention of authorities

both at home and in India; and attempts were made by men like Clive and Hastings to check the rapacity of the Company's servants by removing the possibility of temptation from their way. Besides, the training of the Company's servants was utterly inadequate to help them in the discharge of their duties as administrators. It was not, however, till the days of Lord Cornwallis that the Public Service of the country was organised on a more satisfactory basis. Three main principles governed the new institution, to which the name of the Covenanted Service of the East India Company was given. These were: (1) that every civil servant should enter into a covenant not to engage into trade, nor receive presents from the natives, and to subscribe for the pension fund. In return the Company bound themselves to provide a handsome scale of pay and regular promotion, as also a certain pension for every servant retiring after a certain number of years of service. The Company also undertook to set apart a certain number of the more important posts in its service in India for men so drafted. This principle is maintained almost intact even to-day. The civil servant of to-day has not only to enter into a covenant as before; he must also observe the Government Servants' Conduct Rules, which are applicable to every public servant in India, however chosen. The scale of pay, allowances and pension remains almost unchanged. Every retiring Civil Servant—whether before his retirement he was a Lieutenant Governor, a High Court Judge, or merely a District Officer—gets the same pension of £1000 a year; while the widows and orphans of the deceased members of the service are provided for by an annuity fund to which every civilian, married or single, must subscribe. As regards the number of posts reserved for the members of the covenanted service, the Act of 1793, modified by the Indian Civil Service Act of 1861, offered them the posts of Secretaries and Under-Secretaries to Government, Commissioners of Revenue, Civil and Sessions Judges, Magistrates and Collectors of Districts etc. The present Act reserves for them the offices of:—

Secretary, joint secretary and deputy secretary in every department except the Army, Marine, Education,

Foreign, Political, and Public Works Departments: Provided that if the office of secretary or deputy secretary in the Legislative Department is filled from among the members of the Indian Civil Service, then the office of deputy secretary or secretary in that department, as the case may be, need not be so filled.

2. Three offices of Accountants General.

B.—*Offices in the provinces which were known in the year 1861 as "Regulation Provinces."*

The following offices, namely:—

1. Member of the Board of Revenue.
2. Financial Commissioner.
3. Commissioner of Revenue.
4. Commissioner of Customs.
5. Opium Agent.
6. Secretary in every department except the Public Works or Marine Departments.
7. Secretary to the Board of Revenue.
8. District or sessions judge.
9. Additional district or sessions judge.
10. District magistrate.
11. Collector of Revenue or Chief Revenue Officer of a district.

Though so many offices are reserved for the members of the Indian Civil Service—as the covenanted service is now called—they by no means exhaust the list. It has been said that nearly

one-fourth of the members of the service-now aggregating over 1300 men-are employed in posts not exclusively reserved for them. They serve in Native States, in the Post Office, in the Police department, in important Municipalities, and great Public Trusts like the Port Trust or the City Improvement Trust in Bombay. On the other hand, it must be added, that recent statutes, beginning from 1870, have enabled the authorities in India to appoint to posts reserved for the members of the Civil Service, men who have not passed the test of the service. Such appointments are made from amongst men of proved merit and ability in accordance with rules made by the Governor-General in Council, and sanctioned by the Secretary of State in Council with a majority of votes at a meeting of the India Council.

The **second** principle accepted in 1793 was that the first appointments to the service should be made by the Directors of the Company in England-without any interference by the authorities in India, while the subsequent promotion of men once appointed should depend entirely upon the authorities in India without any interference from home. This principle has been modified to some extent in the course of time. The right of nomination of the Directors was taken away in 1853 when the service was thrown open to competition among the natural born subjects of Her Majesty, and that system was maintained by the Act of 1858, and is accepted by the present Act. Still the principle remained that the first appointments should be made in England by the Secretary of State upon the recommendation of the Civil Service Commissioners. Even this was modified in 1870. The Charter Act of 1833 and the Queen's Proclamation of 1858 had distinctly promised that the public service will not be closed to the natives of the country by reason merely of their caste, colour, or creed, and that the only requirement of recruiting would be merit and efficiency. But the fact that the first appointments were to be made in England operated by itself as a bar to the admission of Indians in the service of their country. Men who were able to pass any, the most stringent, test were, however, precluded from serving their

country honourably and profitably, because they were unable to bear the expense of a protracted residence in England and unwilling to run the social risks of a voyage to Europe. This was impressed upon the authorities at home, and the Act of 1870 was passed, which, after reciting that "It is expedient that additional facilities should be given for the employment of Natives of India, of proved merit and ability, in the Civil Service of Her Majesty in India," authorised the appointment of Natives of India to posts in the civil service irrespective of the statutory restriction, and subject only to rules made by the Governor-General in Council and sanctioned by the Secretary of State and a majority of his council. This Act, however, could not be carried into effect at once. It was not till 1876 that rules were framed by the Governor-General in Council which threw open to the natives of India of "proved ability and merit" one-sixth of the posts usually held by members of the Indian Civil Service. Thus in Bombay 2 posts of Collectors, 1 of Talukdari Settlement Officer on the Revenue side, 2 posts of District and Sessions Judges, 3 posts of Assistant Judges, 1 post of the Registrar of the High Court, once held by the members of the Indian Civil Service, are now open to natives of India not belonging to the Civil Service proper. But the rules did not work satisfactorily in practice. Though the intention of the Government of India was sought to be given effect to by reducing to five-sixths the appointments made in England, between 1876 and 1889 only about 60 Indians could be appointed to this "Statutory Civil Service" as it was called. Already in 1886 a commission was appointed by the Government of India under the presidency of Sir C. Aitchison—"to devise a scheme which might reasonably be hoped to possess the necessary elements of finality, and to do full justice to the claims of natives of India to higher employment in the public service." The Commission was a representative body, and made recommendations under which the following scheme was framed.

"The Civil Service for the management of the higher branches of the executive and judicial administration is divided

into 3 sections: first is the Imperial Civil Service, recruited in England by competitive examination and open to all subjects of the King-Emperor. It has its own conditions and standards, and a few natives have been able to pass its tests and obtain employment within its ranks. It fills the majority of the highest civil offices together with such a number of less important offices as would provide a course of training for the younger members of the service. The second is called the Provincial service, recruited in each province chiefly from among educated natives by nomination, and sometimes by examination and promotion from the subordinate service. Admission to this branch of the service is regulated by rules framed by the Local Governments and approved by the Government of India. The members of the provincial service are eligible for some of the offices reserved for the I. C. S., and lists of such posts open to them have been published. The third is the subordinate service which is recruited almost exclusively from the natives of the country and is entrusted with minor posts." (Strachey).

But this arrangement was far from satisfying the Indians' thirst for a greater share in the administration of their country. Indians had been thought worthy of a place in the India Council ever since 1907, and they had also been admitted to the Executive Councils of the Governor-General and the various Governors; and naturally they came to demand admission in larger and larger numbers to the posts reserved for the civil servants. Government could not ignore their claims; and so in 1912, a Public Services Commission was appointed, consisting among others of three Indians, to report upon the matters in connection with the Civil Services. But the changes recommended by this Commission were found by Indians to be trifling and far from satisfactory. And therefore the famous declaration of August 1917 reiterated that Indians were henceforth to be employed in larger numbers in the administration of their own country. Two years later, the Act of 1919 provided that the Secretary of State might

make appointments to the Indian Civil Service of persons domiciled in India in accordance with such rules as may be prescribed by the Secretary of State in Council with the concurrence of the majority of votes at a meeting of the India Council. And to give the Indians a greater opportunity of qualifying themselves for the service, simultaneous examinations were held for the first time in 1922 both in England and in India. Besides, to facilitate Indianization of the services, thirty-three per cent of the new appointments, to be increased in ten years from 1919 to make forty-eight per cent, is reserved for Indians. This figure of course will cover the total Indian recruitment for all services, including promotions from the Provincial Service, and appointments of practising lawyers in India, besides candidates selected as a result of the competitive examinations held in India. But the gradual increase of the Indian element in the public service, according to the promises of the Report on the Constitutional Reforms, is brought about in such a manner that the existing European element does not suffer in the least. Posts and departments have been multiplied, and Indians have been appointed mostly to these new posts, so that while the burden of the administration becomes more costly, the strength of the non-Indian element remains undiminished. The Indian Legislative Assembly has accordingly passed a resolution for the more rapid Indianisation of the services, and the Government has in 1923-24 appointed a Royal Commission on the matter.

The third principle adopted in 1793 was that regulations should be framed for insuring proper training and qualifications in the aspirants for the Indian Civil Service. These regulations are made, under the present Act, by the Secretary of State for India in Council, with the advice and assistance of the Civil Service Commissioners. These regulations should be submitted to Parliament, 14 days after their framing. They prescribe the age limit of the candidates and their qualifications as also the subjects of examinations. These have varied from time to time. For instance the age limit before

1906 was 21 and 23, while from 1909-1922 the rule was that the candidates appearing for the Civil Service Examination in London must not be under 23 years of age in August of that year and must not be over 24 years of age. For the open examination held in 1923, the age limits were 21 to 24 ; whilst from 1924 onwards, the age limit will be 21-23 on the first of August of the year of competition. A candidate once plucked is allowed a second attempt, but no one is allowed more than two attempts in all. Originally the nominees of the Court of Directors were sent direct to join their appointments, but the want of adequate previous training made them inefficient. Lord Wellesley sought to remedy this defect by opening a College at Calcutta in 1800 to give the necessary preliminary training to newly arrived Civilians ; but this attempt was foiled by the Directors who started in 1805 a College at Haileybury. Till the day-1858-when this College was closed, nominees to the Indian Civil Service underwent there a course of two years' training before proceeding to take up their appointments in India. At the present time the practice is a little different. After a candidate has shown the required proficiency at the Civil Service Examination, and has been recommended for appointment by the Civil Service Commissioners, he is encouraged to pass some time at an English University to pursue there a prescribed course of study. Up to the present day, the probationary course was one year. For candidates selected in 1924 and subsequent years, however, the probationary course will be two years. During those years, probationers of European domicile are given an allowance of £300 per annum, and those of Indian domicile £ 350 per annum. At the end of the period, there is another examination, failure to pass which might mean final loss of service, while seniority in the service is determined by combining the results of the open competitive examination, and this final compulsory examination.

The principles, therefore, adopted in 1793, have all been maintained upto the present, with such slight modifications as

the progress of the country demanded. There are practically the same covenants—if anything more strict than before ; there are nearly the same posts reserved for them, though the increase in the activities of the State have been met by the comparatively wider employment of Indians ; there is nearly the same scale of pay, allowance and pensions, as also the general conditions of service. The first appointments are even now made in England, though there has been, since 1870, some authority delegated to the Government of India to make appointments under certain limitations; and, since 1919, half the appointments can be made in India. The regulations regarding the courses of study, age and qualifications have varied from the day that Lord Macaulay drafted the first regulations ; but the general principle that there should be a certain standard of efficiency for the candidate is maintained. In addition to the Imperial Civil Service, there are also other services organized provincially, and bearing the names of their provinces e. g. The Bombay Civil Service, the Madras Civil Service etc. ; and lastly there are subordinate Civil Services staffed in the main by Indians, and governed by rules framed on the model of the rules for the Indian Civil Service.

II. The Career Of a Civil Servant.

Every young civilian, on joining the service in India, is attached to a district as assistant to the Collector. He is given the powers of a Magistrate of the lowest class, and is required to pass an examination in a vernacular language, local laws, and Revenue Procedure. When he has passed that examination he attains the full magisterial powers and holds charge of a revenue sub-division. At this stage he has two alternatives—to go into the Judicial branch of the service or the Executive branch In the former line, in the regular course of promotion,

he becomes an Assistant Judge and a District and Sessions Judge; but the last office he does not attain to, unless he has served for ten years. As District Judge he is the principal civil tribunal of the district, and has considerable appellate powers. As Sessions Judge he tries the more important criminal cases. If he is intelligent and assiduous he may hope to rise and be on the High Court Bench or a Judicial Commissioner. In this branch of the service the highest available post is that of a High Court Judge.

If our Civilian selects to go in the Executive line, in the regular course of promotion he becomes a Collector-Magistrate. In this branch the highest posts available are those of members of the Viceroy's Executive Council or even of a Provincial Governor. Civilians are now debarred from becoming Governors-General or even Governors of the Presidencies. In general, however by the time that the highest grades in the offices of Collector or Judge are reached, the Civilian has nearly completed his 25 years of service, which are necessary before he can retire on a pension. Should he, however, elect to remain in service there are still ten years more, and he can hope to rise to higher posts. Every one must retire on completing 35 years of service or 55 years of life, except the Judges of the High Court who are allowed to complete 12 years on the Bench, and a few others who may be retained in service even after that age, with the sanction of the local Government, on public grounds, which must be recorded in writing. Except in very special circumstances, no man may be retained after the age of 60. The pension on retirement is the same—£1,000 per annum—to all members of the Civil Service who have completed 25 years of service, of which 21 years must be active service.

III. Other Public Services.

"Besides this general service," says Sir Courtney Ilbert, "there are special services such as the Education department, the Public Works Department, the Forest Department, and the Police Department." To these we might add the Agricultural service, the Pilot service, the Medical service, and the Ecclesiastical service. In all those services there are generally speaking three main branches, *viz*:—the Imperial branch, recruited chiefly in England from Englishmen, the provincial branch recruited in India from Indians, and the subordinate branch. To take a bird's-eye-view of the conditions and prospects of some of the most important of the services:—

1. The Educational Department.

This service, like the Civil Service, has two main branches. The Imperial Educational Service is recruited largely from Englishmen in England and by the Secretary of State. It consists of two branches: (*a*) the teaching branch, including principals and professors of Colleges and Head Masters in certain High Schools; and (*b*) the Inspectors of Schools. They are all appointed by the Secretary of State, as vacancies occur, on the recommendation of a Selection Committee. As a rule candidates must not be under 23 years of age nor over 30. They must have a University Degree in honours, some experience as teachers, and qualifications in special subjects according to the nature of the appointment. The salaries paid are: Rupees 350 a month rising by annual increments of Rs. 50 monthly to Rs. 1,250 a month with overseas allowance of a maximum of Rs. 250, and a few selection posts in each province of Rs. 2,000 p. m. and more.

The Provincial branch is recruited chiefly from Indian graduates in India. It includes some principals and professors of colleges, head masters of schools and translators to the Gov-

ern ment. The minimum pay is Rs. 200 and maximum Rs. 750 in this branch of the service. The subordinate Educational service includes a few head masters, Assistant Deputy Inspectors, and the assistant masters in the Government High Schools and Middle Schools. The minimum pay in this service is Rs. 40 and the maximum somewhere near Rs. 400. As in the case of other services, the maximum percentage of posts reserved for Indians (or Burmans) is fixed at 50 per cent; and it is expected that as vacancies occur, they will be filled by qualified Indians, and that the prescribed percentage will soon be reached.

2. The Indian Medical Service.

The service is under the Government of India and consists of some 803 medical men recruited in part in England by competitive examination. Its chief duty is the care of the Indian troops and of the British officers and their families. In the course of time these duties have been amplified so that to-day they include the provision of medical aid to civil servants and their families, the administration of the civil Hospitals in large towns, and the supervision of numerous small dispensaries, public as well as private, the sanitation of large areas, the protection of water supply, and the prevention of epidemic disease. The jails in British India are also in their charge, and, upto recently, the officers in the mints have been recruited from members of this service. Lastly, the service provides men who are engaged in original research on tropical diseases, and others who teach in medical colleges and are allowed to practise their profession, thus helping to familiarize India with Western medicine.

The service dates from the earliest days of the East India Company. In 1898 the officers of the service were given military rank; and since 1906, the names of the officers serving

in the different provinces are all combined in one list. Since 1853 the service has been thrown open to the Indians, and up to 1910 nearly 90 men of purely Indian extraction had been able to find employment within its ranks. And while in the Civil Service hardly three per cent. of the whole body were Indians in 1913, in the Indian Medical service the proportion of Indians was over 5 per cent, and is yearly increasing. The service is recruited by open competition under rules and regulations framed by the Secretary of State in Council. The rules operating at present may be summarised as follows:—

The candidates must be natural born subjects of His Majesty of British or East Indian descent. They must be of sound bodily health, married or unmarried. They must possess a medical qualification registrable in the United Kingdom. No candidate is allowed to compete more than three times, while candidates for the examination in each year must be between 21 and 28 years of age. These examinations are held twice a year—in January and in July. Successful candidates are appointed as Lieutenants on probation, and, after two short courses of study at the Royal Medical College, Aldershot, are drafted in the regular service. At the head of the service is the Director-General—sometimes called Surgeon-General—who is an official of the Government of India. The pay varies from Rs. 420 to Rs. 3,000 a month.

The Salaries, Leave and Pensions rules for the branches of service, other than the Indian Civil Service proper, are modelled on those of the main body of the public service. The initial start even in the highest grades is somewhat lower, and the prospect of ultimate rise is less tempting than the corresponding features in the Civil Service proper. But the provision of a liberal pension, which, in the superior grades in all departments, ranges from Rs. 6,000, upwards, with the right to non-Indians to convert it at the rate of 1*s.* 9*d.* to the rupee and to commute a third of it on fair terms of capitalisation, make the service in almost every branch amply recognise the duty of the state to become a model employer, and offer

reasonably decent terms of living to its public servants. The active service required to earn a pension is given at 21 years out of a total nominal service of 30 years, due to generous provisions with regard to leave of all sorts and on a number of pretexts. Normally, under the present rules of the service, ordinary leave is allowed at the rate of 5-22nds of the period of service, subject to definite conditions about the maximum period that at any time can be enjoyed in leave on full, or half pay, or the two combined. The basic justification for such leave regulations originally was the belief that long continued service in tropical regions tends to enervate the European's faculties of the mind and body, which could and should be encouraged to be recuperated by occasional relaxation on leave in more temperate regions. This idea still persists, and since 1922, the old system of privilege leave at the rate of 1-11 of the period of service has been liberalised to give 5-22nd. It is unnecessary for our purpose to go more fully into the details of the regulations. Suffice it to say that in addition to salaries on a handsome scale, the liberal pensions and provident funds make the conditions of the Indian public service as handsome as the best in the world.

IV. Review of the Public Service Organisation.

A general survey of the terms and conditions of the public service in India in all the various branches and departments leaves clear the impression that these conditions are by no means harsh or ungenerous. The salaries have been fixed from the very start high enough, not to secure a given standard of efficiency in the work alone, but rather to secure the foreign high-placed servant of the state in India against the common temptations of public service which had become a great scandal; and to indemnify these officers, as far as the money emoluments and general facilities of the service could indemnify, against the sacrifices of a service in a foreign

country distant from their homes. In the years when the Indian recruit of suitable position and qualifications was not available, the practice of manning all the important posts in the service by Europeans on such terms could have its obvious justification in the security of the state and the efficiency of the administration. But in degree as the Indian element began to be more and more suitable; and the level of prosperity of the Indian people more and more carefully analysed, with reference particularly to their ability to bear these burdens, a feeling grew up in the country that the employment of such a large number of foreign officers on high pay, with generous not to say extravagant terms of leave and pensions and other allowances, not only shut out a corresponding number of the children of the soil from the opportunities and emoluments of the service of their country, but occasioned a serious, continued drain of their country's resources, which reacted most injuriously upon the further industrial development of their country. We have already reviewed in outline the attempts that have been made in the past to make some kind of a response to this sentiment by a statutory or other extension of the opportunities open to the Indians. Meanwhile the problem came to be further complicated by the introduction of a new political element. The extension of democratic institutions in India, coupled with the promise of establishing a Government in India responsible to the people of India has caused a feeling of uneasiness in the mind of the European public servants, which was not allayed by the provision, in the latest instalment of constitutional reforms in India, of a permission to retire on advantageous terms to those who elected not to serve under the new regime, and of ample security of their existing position to those who decided to remain in the service, together with ample facilities for appeal to the supreme authority in the event of any injustice being done by the new popular elements in the Government. The new Indian element in the Government has, on the other hand, made itself felt by a steadily increasing demand for the wholesale Indianisation of the services, which resulted in the

Government of India circularising the local Governments as to the possibility of further and more rapid Indianisation. The non-Indian section of the public service was rendered further uneasy by these moves. The result has been a new Royal Commission, appointed mainly at the instance of the European element by pressure from Whitehall, and in the teeth of the opposition in the Indian Legislative Assembly, which went the length of refusing to vote the grant for the Royal Commission, which the Viceroy had to restore by the exercise of his extraordinary powers of certification. It remains to be seen what recommendations the new commission makes, and how they are going to be given effect to.

CHAPTER VII

Judicial Administration.

PART IX.

THE INDIAN HIGH COURTS.

Constitution.

101. (1) The High Courts referred to in this Act are the high courts of judicature for the time being established in British India by letters patent.

(2) Each high court shall consist of a chief justice and as many other judges as His Majesty may think fit to appoint.

Provided as follows :—

(i) The Governor-General in Council may appoint persons to act as additional judges of any high court, for such period, not exceeding two years, as may be required; and the judges so appointed shall, whilst so acting, have all the powers of a judge of the high court appointed by His Majesty under this Act;

(ii) The maximum number of judges of a high court, including the chief justice and additional judges, shall be twenty.

(3) A judge of a high court must be :—

(*a*) A barrister of England or Ireland or a member of the Faculty of Advocates in Scotland, of not less than five years' standing: or

(*b*) A member of the Indian Civil Service of not less than ten years' standing, and having for at least three years served as, or exercised the powers of, a district judge; or

(*c*) A person having held judicial office, not inferior to that of a subordinate judge or a judge of a small causes court, for a period of not less than five years: or

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

(4) Provided that not less than one-third of the judges of a high court, including the chief justice but excluding additional judges, must be such barristers or advocates as aforesaid, and that not less than one-third must be members of the Indian Civil Service.

(5) The high court for the North-Western Provinces may be styled the high court of judicature at Allahabad, and the high court at Fort William in Bengal is in this Act referred to as the high court at Calcutta.

102. (1) Every judge of a high court shall hold his office during His Majesty's pleasure.

(2) Any such judge may resign his office, in the case of the high court at Calcutta to the Governor-General in Council, and in other cases to the local Government.

103. (1) The chief justice of a high court shall have rank and precedence before the other judges of the same court.

(2) All the other judges of a high court shall have rank and precedence according to the seniority of their appointments, unless otherwise provided in their patents.

104. (1) The Secretary of State in Council may fix the salaries, allowances, furloughs, retiring pensions, and (where necessary) expenses for equipment and voyage, of the chief justices and other judges of the several high courts, and may alter them, but any such alteration shall not affect the salary of any judge appointed before the date thereof.

(2) The remuneration fixed for a judge under this section shall commence on his taking upon himself the execution of his office, and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein.

(3) If a judge of a high court dies during his voyage to India, or within six months after his arrival there, for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, such a sum of money as will, with the amount received by or due to him at the time of his death, make up the amount of one year's salary.

(4) If a judge of a high court dies while in possession of his office and after the expiration of six months from his arrival in India for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, over and above the sum due to him at the time of his death, a sum equal to six months' salary.

105. (1) On the occurrence of a vacancy in the office of chief justice of a high court, and during any absence of such a chief justice the Governor-General in Council in the case of the High Court at Calcutta, and the local Government in other cases, shall appoint one of the other judges of the same high court, to perform the duties of chief justice of the court until some person has been appointed by His Majesty to the office of chief justice of the court, and has

entered on the discharge of the duties of that office, or until the chief justice has returned from his absence, as the case requires.

(2) On the occurrence of a vacancy in the office of any other judge of a high court, and during any absence of any such judge, or on the appointment of any such judge to act as chief justice, the Governor-General in Council in the case of the high court at Calcutta, and the local Government in other cases, may appoint a person, with such qualifications as are required in persons to be appointed to the high court, to act as a judge of the court; and the person so appointed may sit and perform the duties of a judge of the court, until some person has been appointed by His Majesty to the office of judge of the court, and has entered on the discharge of the duties of the office, or until the absent judge has returned from his absence, or until the Governor-General in Council or the local Government, as the case may be, sees cause to cancel the appointment of the acting judge.

Jurisdiction.

106. (1) The several high courts are courts of record and have such jurisdiction, original and appellate, including admiralty jurisdiction in respect of offences committed on the high seas, and all such powers and authority over or in relation to the administration of justice, including power to appoint clerks and other ministerial officers of the court, and power to make rules for regulating the practice of the court, as are vested in them by letters patent, and, subject to the provisions of any such letters patent, all such jurisdictions, powers and authority as are vested in those courts respectively at the commencement of this Act.

(1) (a) The letters patent, establishing, or vesting jurisdiction, powers or authority in a high court may be amended from time to time by His Majesty by further letters patent.

(2) The high courts have not and may not exercise any original jurisdiction in any matter concerning the revenue, or concerning any act ordered or done in the collection thereof according to the usage and practice of the country or the law for the time being in force.

107. Each of the high courts has superintendence over all courts for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say,

(a) call for returns;

(b) direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction;

(c) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts;

(d) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts; and

(e) settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts;

provided that such rules, forms and tables shall not be inconsistent with the provisions of any law for the time being in force, and shall require the previous approval, in the case of the high court at Calcutta, of the Governor-General in Council, and in other cases of the local Government.

108. (1) Each high court may by its own rules provide as it thinks fit for the exercise, by one or more judges, or by division courts constituted by two or more judges of the high court, of the original and appellate jurisdiction vested in the court.

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

108. (1) The Governor-General in Council may, by order, transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the high courts, and authorise any high court, to exercise all or any portion of its jurisdiction in any part of British India not included within the limits for which the high court was established, and also to exercise any such jurisdiction in respect of any British subject for the time being within any part of India outside British India.

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

(3) His Majesty may signify, through the Secretary of State in Council, his disallowance of any such order, and such disallowance shall make void and null the order as from the day on which the Governor-General notifies that he has received intimation of the disallowance, but no act done by any high court before such notification shall be deemed invalid by reason only of such disallowance.

110. (1) The Governor-General, each Governor, lieutenant-governor and chief commissioner and each of the members of the Executive Council, of the

Governor-General, or of a governor or lieutenant governor, and a minister appointed under this Act shall not—

(*a*) be subject to the original jurisdiction of any high court by reason of anything counselled, ordered, or done by any of them in his public capacity only; or

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

(*c*) be subject to the original criminal jurisdiction of any high court in respect of any offence not being treason or felony.

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

111. The order in writing of the Governor-General in Council for any act shall, in any proceeding, civil or criminal, in any high court acting in the exercise of its original jurisdiction, be a full justification of the act, except so far as the order extends to any European British subject; but nothing in this section shall exempt the Governor-General or any member of his executive council, or any person acting under their orders, from any proceedings in respect of any such act before any competent court in England.

Law to be Administered.

112. The high courts at Calcutta, Madras and Bombay, in the exercise of their original jurisdiction in suits against inhabitants of Calcutta, Madras or Bombay, as the case may be, shall, in matters of inheritance and succession to lands, rents, and goods, and in matters of contract and dealing between party and party, when both parties are subject to the same personal law or custom having the force of law, decide according to that personal law or custom, and when the parties are subject to different personal laws or custom having the force of law, decide according to the law or custom to which the defendant is subject.

Additional High Courts.

113. His Majesty may, if he sees fit, by letters patent, establish a high court of judicature in any territory in British India, whether or not included

within the limits of the local jurisdiction of another high court, and confer on any high court so established any such jurisdiction, powers and authority as are vested in or may be conferred on any high court existing at the commencement of this Act; and where a high court is so established in any area included within the limits of the local jurisdiction of another high court, His Majesty may, by letters patent, alter those limits, and make such incidental, consequential and supplemental provisions as may appear to be necessary by reason of the alteration.

Advocate General.

114. (1) His Majesty may, by warrant under His Royal Sign Manual, appoint an advocate-general for each of the presidencies of Bengal, Madras and Bombay,

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

(3) On the occurrence of a vacancy in the office of advocate-general, or during any absence or deputation of an advocate-general, the Governor-General in Council in the case of Bengal, and the local Government in other cases may appoint a person to act as advocate-general; and the person so appointed may exercise powers of an advocate-General until some person has been appointed by His Majesty to the office and has entered on the discharge of his duties, or until the advocate-general has returned from his absence or deputation, as the case may be, or until the Governor-General in Council or the local Government, as the case may be, cancels the acting appointment.

I. History of the Courts of Justice.

The early charters of the Company gave a general authority to establish Courts of law in their possessions in India. But the necessity for a more regularly constituted judicial authority was not felt till **1726**, when the Company petitioned the King to establish *Mayor's Courts*. As a result three courts were created, one each at Bombay, Madras and Calcutta, consisting

of a Mayor and 9 aldermen for the trial of actions between Europeans within those towns and their dependent factories. At the same time a sort of an appellate tribunal was created in the shape of the President and Council, who heard appeals from the Mayor's Courts; while from the Presidency Government an appeal lay to the King in Council in cases involving sums exceeding Rs. 4000.

The Reforms of Hastings.

The series of English victories which followed the Battle of Plassey, and ended in the transfer of the powers of Government to the Company, changed this organisation. Under the arrangements made in 1765, the administration of civil justice was taken over by the Company, while that of criminal justice still remained in the hands of the Nawab. This state of things gave rise to considerable inconvenience which Hastings tried to avert by placing the organisation of justice on a more regular basis. He created a civil court—Diwani Adalat—for each district, presided over by a European Zilla Judge and aided by Hindu and Mahomedan law officers. For minor cases he appointed Registrars and Native Commissioners called Sadar Amins and Munsifs. To supervise these he established four Civil Courts of appeal in four important centres, and over these was the Sadar Diwani Adalat or the highest Civil Court of appeal consisting of the Governor and his Councillors assisted by native officers. As regards criminal justice, corresponding reforms were effected at the same time. Nizamat Adalats—or Provincial Courts of Criminal Justice—were instituted in each province, and Courts of Circuit, under the presidency of the judges of the civil appellate courts, were constituted as courts of criminal appeal. Alongside the Sadar Diwani Adalat, a Sadar Nizamat Adalat was established as the highest Court of Criminal Appeal.

The Regulating Act.

Soon after these reforms, the judicial system in India was complicated by the institution of the Supreme Court by Parliament in 1773. The new Court was a creature of Parliament, independent of the Company, and consisted exclusively of professional lawyers. It superseded the Mayor's Court, but not the Court of Requests, and was vested with the most extensive jurisdiction, subject to an appeal to the Privy Council in cases involving Rs. 4,000 or more. The relations between the new Court and the Company's Courts were not defined, as also the relations between it and the Executive. At the same time the Supreme Court adopted, without modification, English law and procedure, which were entirely unsuitable to the Indian conditions of the day. Hastings tried to remedy the antagonism between his adalats and the Supreme Court by appointing his friend, Sir Elijah Impey, the chief justice of the latter, to the Sadar Diwani Adalat; but his attempt failed.

II. The Present System.

The present system was inaugurated by the Indian High Courts Act of 1861. On the establishment of the High Courts the old Sadar and Supreme Courts were abolished and the jurisdiction of both was conferred upon the High Courts. These were established at first in Bombay, Madras and Bengal, and later on in Agra at Allahabad, while a High Court was established for the new Province of Bihar and Orissa at Patna in 1915, and another at Dacca in 1922. The Chief Court at Lahore has also been raised to the status of a High Court for the Punjab. The Judges of the High Courts are appointed by the Crown and are selected partly from the Judicial branch of the I. C. S. and partly from the Indian and English bar, and hold office during the pleasure of the Sovereign. In this respect the practice in India is different from that of

England, where the Judges are appointed during good behaviour. The difference between these two kinds of tenures is that, while the officers appointed during the pleasure of the sovereign can be removed by the King at any time he likes without giving any reasons, the officers appointed during good behaviour cannot be removed except if they commit such offences as render them unfit for their post in the eyes of a competent tribunal. The necessity of the independence of the Judges, to secure an impartial administration of justice, requires, that the Judges in India, as in England, be appointed during good behaviour, and be not removable except on an address to that effect by the Houses of Parliament, or by the Legislative Councils in India. Perhaps we can trace this principle of judicial appointments during the pleasure of the Sovereign to the necessity, which once existed, of the impartial authority of the Crown being given a power of removal of the obnoxious servants of the Company. That reason, of course, would not justify the present maintenance of this obsolete principle; but the composition of the Judicial bench makes it advisable that the principle be maintained even now. For at least one-third of the Judges of the High Court are members of the Civil Service who hold their position only so long as the King is pleased to continue them in their office. If the judges in India as in England cannot be removed merely at the will of the sovereign, the change must necessarily follow that judges should not be drawn from the Indian Civil Service.

One third of the judges of the High Court must also be barristers or members of the Faculty of Advocates of Scotland, the remaining places being filled by members of the local bar. It is provided that the Chief Justice of a High Court shall always be a barrister, but that relates to the permanent occupant of the post, temporary or acting Chief Justices being indifferently drawn from the Civil Service or from the profession.

III The Chief Courts and Judicial Commissioners.

The High Court is charged with the superintendence of all subordinate Courts within the Province. Corresponding to the High Courts of Bengal, Madras, Bombay, Allahabad, Patna, Dacca and Lahore for the Panjab, there are Chief Courts at Nagpur and at Rangoon for the province of Burma. Unlike the High Courts, the Chief Courts are established by the Governor-General-in-Council; and derive their authority from him. The position and pay of the Judges of the Chief Courts are also inferior to those of the High Courts. In all other respects they are on the same level as the Chartered High Courts. In the remaining Provinces the highest judicial authority is vested in one or more Judicial Commissioners. In Sind, the Judicial Commissioner is called the Judge of the Sadar, and has two colleagues.

IV The Lower Civil Courts.

As regards the Subordinate Courts, the constitution and jurisdiction of the inferior Civil Courts varies from province to province. Broadly speaking, for each administrative district one District Judge who is usually a member of the I. C. S. is appointed to preside in the principal Civil Court of his district with original jurisdiction. Under the District Judges are the Subordinate Judges and Munsifs, the extent of whose original jurisdiction is not the same in the different parts of India. The officers are mainly Indians. Generally speaking they are graded in three classes, with definite limitations on the powers and jurisdiction of a judge of each class.

Besides these inferior Civil Courts in the mofussil there are the Courts of Small Causes which are very important in the Presidency Towns of Madras, Bombay and Calcutta. They have powers to try money suits of Rs. 1,000, or, with the consent of the parties, suits upto Rs. 2,000 in value. The

increasing pressure of original work upon the High Courts in the Presidency Towns has led to the suggestion that the jurisdiction of the Small Causes Courts be raised to money suits of Rs. 5,000 or less, but the suggestion has not yet materialized. Another suggestion of a like nature aims at creating a City Court in these centres, but that too has not been given effect to.

V. The Lower Criminal Courts.

As regards the Subordinate Criminal Courts, they are divided into Courts of Sessions and Courts of Magistrates. By the Criminal Procedure Code, every province, outside the presidency towns, is divided into sessions divisions. A sessions division does not always correspond to an administrative district. Frequently a sessions division includes more than one district. Each sessions division has a Court of Sessions, presided over by a Sessions Judge, with such assistance as the size of the division and the volume of the work may require. A Sessions Judge is usually also a District Judge at the same time. The Sessions Courts are competent to try all accused persons—committed to the sessions by the Magistrates' Courts—and to inflict any sentence authorised by law; with this modification, however, that a sentence of death by a Sessions Court is subject to confirmation by the highest court of criminal appeal within the province. Trials before the Courts of Sessions are by assessors or juries. The former assist the Judge in framing a judgment, though their opinion is not binding upon him. In the latter the verdict given by a majority prevails, if accepted by the presiding Judge.* Though the verdict of a jury is usually binding on the Judge, he has power to refer a case

* Hazrat Mohani's case in Ahmedabad in 1922 was tried upon two counts, on one by a jury, on the other by assessors. The verdict of the jury was not accepted by the judge, and the case was accordingly referred to the High Court which accepted the verdict of the jury.

to the highest criminal tribunal in the province, if in his opinion, the verdict of the jury is manifestly in opposition to the facts or the weight of evidence. The prerogative of mercy is vested in the Governor-General in Council and the local Government, without prejudice to the superior authority of the Crown in this respect.

The Courts of Magistrates like the Courts of the Subordinate Judges on the civil side, are graded into three classes, each class of Magistrates having well—defined powers. A Magistrate of the first class, for instance, can inflict a sentence of two years' imprisonment, or a fine of Rs. 1,000. For offences requiring more serious punishment, the Magistrates can only hold a preliminary inquiry, and commit such cases for trial by the Court of Sessions.

In the Presidency Towns there are Presidency Magistrates, with the powers of First Class Magistrates, to try the less important offences, and to commit the more important ones to the Sessions. Each Presidency Town is a Sessions Division by itself, and the Sessions Court in a Presidency Town consists of a Judge of the High Court sitting on the original side with the Criminal jurisdiction of the High Court. Such Sessions Courts are held three or four times a year.

Besides the Presidency Magistrates, there are Honorary Magistrates in the Presidency Towns, to dispose of petty cases. Such Honorary Magistrates are now created in every important town.

In addition to these officers, Coroners are appointed in Calcutta, Bombay and Madras to inquire, with the aid of a Jury, in cases of sudden and suspicious deaths, and to commit suspected persons for trial before the Sessions Court. In the mofussil the work of the Coroner is done by the ordinary staff of Magistrates and Police officers unaided by Jurors.

VI. The Jurisdiction of the High Courts.

The High Courts in India have full civil and criminal, original and appellate, jurisdiction. Its ordinary, original, civil jurisdiction is exercised, for the Presidency towns, in respect of all suits, except the minor money suits assigned to the Small Causes Court within the Presidency Town, by a single judge. An appeal lies from the decision of a judge on the original side to a bench on the appellate side. In the case of other towns which—like Allahabad or Lahore—have a High Court, the court has no such jurisdiction, their only ordinary original jurisdiction being confined to criminal proceedings against a British European subject. From the jurisdiction of the Indian High Courts, the Governor-General and the members of his council, as well as the Governors of the provinces, together with their councillors, and Ministers, are exempt; nor can they be arrested in connection with any suit or proceeding before a High Court. This exemption of theirs has probably arisen from the quarrels of Warren Hastings with the Supreme Court, as in the famous Nundkumar affair; and more particularly in the Cossijurah case. On the other hand certain specified offences *e.g.* (1) oppression of any of His Majesty's subjects, (2) wilful disobedience of the orders of the Secretary of State, (3) engaging in trade, or (4) receipt of any bribe by way of a gift, gratuity or reward are made punishable as misdemeanours by the King's Bench Division of the High Court in London.

Mention may here be made of a point of some constitutional importance. After the events following the proclamation of martial law in the Punjab in 1919, the Government of India passed an Act of Indemnity exonerating the participators from the legal consequences of their acts. It may be questioned, however, whether, if a proper case had been brought by any sufferer before an appropriate tribunal, the Indemnity Act passed by the Indian Government would have been held valid. It is almost certain that on a similar case being brought before the highest English tribunal, *i.e.* the King's Bench Division, the Indian Act of Indemnity, being passed by a non-

sovereign law-making body, would not have constituted a valid defence before the supreme court of justice in England.

The extraordinary original jurisdiction of the High Courts consists of : (1) the right to call for returns from all Subordinate Courts, (2) and the right to remove any suit on the file of a Subordinate Court, and try the same itself, either with the consent of the parties, or merely to further the ends of justice. The High Court exercises a constant control and supervision over the working of all the Subordinate Courts within the jurisdiction by examining their periodical returns, by sending for particular proceedings, calling for explanations, &c. All this is altogether apart from that other power of supervision, which it exercises through the cases that constantly come before it for appeal. It also issues general rules for regulating the practice and proceedings before such courts, as well as prescribes forms.

The High Courts are Insolvency Courts for the Presidency Towns, and they act as Courts of Matrimonial causes for such of His Majesty's subjects as have their own marriage laws permitting divorce by such a public tribunal.

The Ecclesiastical Jurisdiction of the Indian High Courts relates only to the Established Church of England; while their jurisdiction with regard to offences on sea, and in connection with Prize Courts, was conferred upon them by a number of statutes and charters. In this connection it may be mentioned that for every offence committed on land, both the procedure and the substantive law to be applied are those of British India; and the same is the case for offences committed whether on land or on sea by British Indian subjects of His Majesty. The case is slightly different with regard to offences committed at sea by persons other than the natives of India. The proceedings in such a case will be regulated by the Code of Criminal Procedure, but English law will have to be applied to determine the nature of the crime and the extent of the punishment.

Under the Indian Criminal Law Amendment Act, 1908 (XIV), persons accused of any of the offences specified there—chiefly offences which may be described as the terrorist attempts to overthrow the Government—may be tried in a High Court by a special bench of 3 Judges. As a rule offences are tried in the High Courts by a Judge and Jury; but in this case no jury is allowed—as also in all civil cases. This act was repealed along with the other Repressive Laws in 1921.

VII The Revenue Courts.

The High Courts have no power to exercise original jurisdiction in matters concerning the revenue, or acts done in collecting the same. These cases are tried by a special set of courts, called the Revenue Courts, presided over by the chief Revenue Officers, the Collectors. The relations of these courts with the other civil courts in the country have given rise to serious difficulties in the past and the balance of official opinion has inclined now in favour of one and now in favour of the other. The present situation may be described thus. The civil courts are excluded from all cases concerning the assessment and collection of land revenue—and from other purely fiscal cases. But all questions of title to land—though closely connected with questions of assessment—are triable by the civil courts. And even in cases of rent disputes, *i.e.* disputes relating to the fixing and payment of rents between land-lords and tenants—the ordinary civil courts are supreme, especially in Bengal; and in those provinces where the local tenancy laws still leave such cases to be dealt with by the Revenue Courts, the procedure of these Courts is assimilated to that of the civil courts. Appeal from the Revenue Courts may be made to the Board of Revenue wherever this institution exists, and in provinces where it does not, such appeals probably lie to the officer in charge of the Land Records and Revenue Settlement.

VIII. The Privy Council.

As with the whole of the Empire, the final Court of Appeal for Indian cases is the Judicial Committee of the Privy Council. The prerogative of the Sovereign to hear appeals from his subjects beyond the seas, though regulated and modified by Acts of Parliament, local rules, and orders in council, is still maintained. In 1833 was constituted a Committee of the Privy Council to hear such appeals from British subjects beyond the seas. This Committee, though for all practical purposes a final Court of Appeal, adopts in its judgments the form of advising the Sovereign, who, therefore, stands out as the final dispenser of all justice. He has the right to refer any matter for advice to this Committee; but, apart from this, the conditions of appeal from India are regulated by the Charters of the High Court, and by the provisions of the Code of Civil Procedure. As regards civil matters an appeal lies from the High Court or any court of final appellate jurisdiction; from a final decree of the High Court in the exercise of its orignal jurisdiction; and from any other decree if the case is certified by the High Court as fit for appeal. In the first two cases the value of the subject matter of the suit in the court of first instance must be at least Rs. 10,000; and when the decree appealed from affirms the decision of the court immediately below, the appeal must also involve some substantial question of law. In criminal cases a right of appeal is given, provided the High Court certifies that the case is fit for appeal, from any judgment, order, or sentence of a High Court made in the exercise of original jurisdiction, or in any criminal case where a point of law has been reserved for the opinion of the High Court. The Sovereign also may grant special leave to appeal. The idea of a Central Court of Final Appeal in India itself has not yet materialised.

IX. The Position of the European British Subject.

Every subject of the Crown is equal as far as the substantive criminal law is concerned; but in procedure certain distinctions have been maintained—thanks to the peculiar position the Company's servants occupied in India—as regards charges against European British subjects. Upto 1836 every case, whether civil or criminal, in which a European was concerned as a defendant, could be tried only in the Supreme Court at Calcutta. This naturally gave rise to a great deal of injustice, for a European defendant or offender could compel the aggrieved party in a mofussil centre to go all the way, with all his witnesses, to Calcutta, with all the dangers and hardships of such a journey in those days, and take his chance of the proverbial blindness of justie. Under the circumstances very few natives could be found spirited and rich enough to pursue European offenders to justice. This situation was partly remedied. In 1836 the District Courts were given power to try all civil suits in which a European was concerned as a defendant. The anomaly remained intact with regard to criminal cases. An effort was made in 1872 to remove it partially, when it was enacted that European British subjects should be liable to be tried for any offences by magistrates of the highest class—who were also Justices of the Peace—and by judges of the Sessions Court, provided that in each the trying judge was himself a European British subject. This provision made the anomaly greater than before. For it was obvious to every one concerned with the Government of India, that natives of India, who had passed that competitive examination and entered the Civil Service, would, in the ordinary course of promotion, become magistrates of the highest class and Sessions Judges; and would yet be debarred from trying European offenders, simply because they were not born of European parents.

It was this monstrous absurdity which Lord Ripon felt most acutely, and which he tried to remove most completely. The Government of India announced in 1883 that they had

decided "to settle the question of jurisdiction over European British subjects in such a way as to remove from the code, at once and completely, every judicial disqualification which is based merely on race distinction." No sooner was this decision announced than a storm of protest was raised by the Anglo-Indian community, the like of which has never been witnessed in India before or since. The Government of Lord Ripon, frightened by the protest, agreed to a compromise, which is thus summarised by Sir John Strachey:—"The controversy ended with the virtual, though not the avowed abandonment, of the measure proposed by the Government. Act III, of 1884 by which the law previously in force was amended, cannot be said to have diminished the privileges of European British subjects charged with offences, and it left their position as exceptional as before. The general disqualification of the native judges and magistrates remains; but if a native of India be appointed to the post of District Magistrate or Sessions Judge, his rights are the same as those of an Englishman holding the same office. This provision, however, is subject to the condition that every European British subject, brought for trial before the District Magistrate or the Sessions Judge, has the right, however trivial be the offence, to claim to be tried by a jury, of which not less than half the members shall be Europeans or Americans..... Whilst this change was made in the powers of the District Magistrates, the law in regard to other magistrates remained unaltered." To remedy this state of affairs, a motion was adopted in the Legislative Assembly in 1921 "that in order to remove all racial distinctions between Indians and Europeans in the matter of their trial and punishment for offences, a committee be appointed to consider what amendments should be made in the provisions of the Code of Criminal Procedure, 1898, and to report on the best methods of giving effect to their proposals." The report of the Racial Distinctions Committee as it was called was published after over a year in February 1923, and a Bill was framed to give effect to its recommendations, whereby the anomalous position of the European British subject has been

largely modified, and most of his exceptional privileges abolished, or extended to the Indian subjects of His Majesty. We shall here briefly summarise the main features of the report, and the Government Bill to give effect to its recommendations.

(1) European British subjects, when tried before a High Court, a Court of Sessions or a District magistrate, can only be tried by a jury of which not less than half the jurors shall be Europeans or Americans. The Racial Distinctions committee could not abolish this privilege, because of the storm of protest that was raised in European quarters; but it has effected a compromise on this issue, and extended a similar privilege to Indians, who can now, whenever they are tried by a jury, claim a mixed jury consisting of not less than half of their own nationality.

(2) The Bill removes the distinction between European and Indian British subjects as regards the classes of offences for which, in particular districts, trial before the court of sessions is by jury or with the aid of assessors. Indian British subjects are henceforth given equal privileges with Europeans as regards the constitution of the jury and assessors.

(3) Upto the present day, European British subjects could not be tried by a second or third class magistrate, but were only triable by a first class magistrate, if he was a J. P. and himself a European British subject, unless he was the District Magistrate or a Presidency Magistrate. The Bill does away with most of these privileges. Though European subjects cannot be tried even now by second and third class magistrates except in cases punishable with fine not exceeding Rs. 50, any first class magistrate, even if he is an Indian, may now try a European British subject. The most rigorous sentence, however, that magistrates of the first class or District magistrates or Courts of Sessions, may award in the case of European British subjects is limited to, three months' imprisonment and a fine of Rs. 1000; 6 months' imprisonment

and a fine of Rs. 2000; or a year's imprisonment and an unlimited fine.

(4) The Bill proposes that so far as sentences of death, penal servitude, imprisonment or fine are concerned, the powers of Magistrates shall be the same with European as with Indian British subjects. As regards Magistrates who possess some special powers under certain sections, though they can pass a sentence of imprisonment upto seven years on the Indians, they may not pass on European British subjects sentence of imprisonment exceeding two years or whipping. The committee has made several recommendations as regards the abolition of even these privileges; and Government is going to institute inquiries into the matter.

(5) Upto now, Indians were not allowed to appeal against the decision of a Magistrate who had passed a sentence of imprisonment not exceeding three months only, or of a fine not exceeding Rs. 200 only or of whipping only. The Bill lays down that in cases of sentences of a fine not exceeding Rs. 200 only, there will be no appeal for Indians or for Europeans either; and it gives to all, Indians and Europeans, sentenced to any term of imprisonment, the right of appeal. Again, Europeans had upto now more extensive rights of appeal, and could even, at their option, appeal to a High Court. The Bill abolishes this right.

(6) European British subjects can obtain writs in the nature of a Habeas Corpus from the High Courts of Judicature established by letters patent when outside the limits of British India; while Indians can get that protection only within the presidency towns.

(7) Lastly, an order in writing of the Governor-General in Council is no justification for any act complained against a European; whilst such an order would be a complete justification against an Indian in any court of law. But this is one of the very few privileges enjoyed by the Englishman at the present day as regards the criminal procedure applicable

to him. Besides, the number of Europeans enjoying these few privileges will be reduced because of the fact that only persons of European descent in the male line can claim these privileges.

X. The Combination of Executive and Judicial Functions.

Another question of constitutional importance connected with the administration of justice is the concentration of all the authority of Government in the hands of the same officer. The basic principle of Indian administration is the concentration of all authority with a view to promote efficiency. Thus the chief officer in an administrative unit is the head of the revenue department, directs the police, controls the Local Boards and Municipalities, and administers justice himself, or superintends his subordinates in the administration of justice.

This concentration of authority is open to attack from several points of view. Taking first the model of the British constitution, the practice in India seems to be at variance with the fundamental principles of the British constitution. Ever since King James I was foiled by Lord Coke in His Majesty's own court, the independence of the Judges was established; and the Revolution of 1688 secured it by law. The judges in England are, of course, subordinate to the sovereign authority of Parliament; but, they have nothing to do with the Executive. Between the Executive and the Judiciary in England there is no link at present, with the single exception of the Lord Chancellor, who is both a Cabinet Minister and a high judicial officer. But the Lord Chancellor never sits in any court of original jurisdiction; and he cannot, therefore, be placed in the awkward position of having advised certain proceedings in his capacity as executive minister, and being called

upon to try the same case in his capacity as judicial officer. This is precisely what happens in India. The district officer is the head of the District Superintendent of Police, as far as the investigation of crime in a district is concerned. He is also the head of the Government pleader-the public prosecutor-of the District. The prejudices of the investigator of crime, and the preconceptions of the prosecutor are fatal to a judicial mind; and yet the District Officer-being the District Magistrate—may be called upon to judge important criminal cases in the district. It is not inconceivable that such judges may give sound justice; but it is also not inconceivable that the famous principle of English criminal law *viz.* "that it is better that ten guilty persons should escape punishment than that one innocent person should suffer," will not be maintained. It is alleged in answer to this criticism that in practice the District Officer does not try any important cases, because he has no time to do so. But, it may be urged, even if he himself does not try important cases, his subordinate magistrates have to try them: and there is no gaurantee that the subordinates-whose promotion in the service depends upon the goodwill of their superior-will not try to please him, if he drops a hint about the guilt or innocence of men awaiting their trial. We cannot, of course, adduce any instances to support the view that District Officers do interfere with the judicial independence of their subordinates; for, by their very nature, such things take place behind the scenes. But there is nothing unreasonable or unnatural in assuming that the power of control, which the District Officers have by law over their subordinates, may be used to encourage the latter in proper subordination and a wholesome desire to please. It is also pointed out, by the advocates of the existing system, that the assumption is unwarranted that the District Officer allows his judgment to be coloured by the prejudices of the investigator and the preconceptions of the prosecutor of crime. It would, indeed, be a gross mistake if we assumed that the investigator, the prosecutor, and the judge are combined in the same officer. Still it is quite possible that the head of the administration is kept

informed of all that takes place in the district; and that owing to this information he may, unknown even to himself, have formed opinions on a case not strictly according to the merits of the case, but according to the bent of that information.

Another point of principle on which the present system is objectionable is that the Magistrates are primarily revenue officers and only incidentally judges. They are not trained lawyers, and cannot, therefore, be a match for all the subterfuges of legal practitioners. The criminal law of India, it is true, is contained in a simple code, which, after a few years' experience, any well educated man can administer. Still it is a serious handicap to a man who has never practised himself to administer even this simple code when confronted by acute practitioners. The plea that in the peculiar conditions of India a Magistrate with full local knowledge of the district would make a better judge than the lawyer pure and simple is equally inadmissible. For the bulk of the magistracy is recruited from men who know very little the language of their districts, and can therefore have but scanty knowledge of the customs and beliefs—of the psychology of the people. Moreover a professional lawyer, who is raised to the bench after years of practice, will not allow justice to suffer, either for want of common sense, or through an excessive regard for the letter of the law. For there is no profession in our modern society wherein, by constant contact with every shade of character, with every kind of villainy, weakness or virtue—men learn so well to appreciate their fellows at their proper value as in the profession of law. It is a profession, which, by destroying all ideals, promotes one's common sense. And as regards excessive respect for the letter of the law, perhaps no one knows better than a lawyer when the letter of the law needs to be stretched, and how it should be stretched. Almost the whole of the English common law is a growth of such judicial interpretations and extension. Hence from the point of view of principle the present system is indefensible.

But after all that has been said against the combination of Executive and Judicial functions in one and the same officer, we must note that in practice, the position is not quite opposed to the ideas of an efficient administration for several reasons:—

(1) The administration of civil justice is entrusted in most countries to special judicial officers who have no concern with the Executive administration or the police work of the country.

(2) Even in criminal cases, justice is administered in High Courts and Courts of Sessions by men who have long since severed their connection with the Executive branch of the public service.

(3) Even in cases tried by magistrates who have executive authority,

(*a*) In practice the Collector hardly tries any important cases himself, because he is too busy with his own work to spare time for anything else;

(*b*) The same officer does not investigate the crime and also prosecute the criminal;

(*c*) The collector does not as a rule interfere in the work of his judicial subordinates;

(*d*) As a safe-guard against possible injustice, wide latitude is given for appeal, and men who have been acquitted in the face of evidence against them can be tried again for the same offence.

Thus though the position is indefensible in theory, it makes for efficiency, since the administration of justice by men who know the habits and sentiments of the people is to be preferred to the dispensing of justice by lawyers who might respect too much the letter of the law to be able to deal out efficient justice. This is the greatest justification of the system.

In 1899 ten leading Indian judicial officers presented a Memorial to the Secretary of State on this subject. The points, summed up by the Memorial, make out a strong case for the separation of the executive from judicial functions. One of the latest Decennial Report on the Moral and Material Progress of India says, "The question of carrying further the separation of executive and judicial functions has received much consideration in recent years. In Bengal some steps tending in this direction have been taken, in the course of the natural process of administrative development, by the appointment of additional district magistrates to relieve the pressure on the district officers, and by an increase in the number of outlying judicial centres in the mofussil. The very heavy expenditure that would be involved in the complete separation of the two classes of functions is necessarily an important factor in the case." To this it may be replied that the point at issue is not merely to relieve the pressure of work upon the District Officer; it is rather to bring about a complete divorce between executive and judicial functions. Magistrates should have only judicial work and nothing to do with any kind of executive duties. Merely appointing additional magistrates will not help the situation, unless the additional magistrates are debarred from taking part in any executive duties. And as regards the "very heavy expenditure," we may calculate that for the 250 districts which make up the whole of the British territories in India, an increase of Rs. 25,000 a year—quite enough to bring about a complete separation in one district—would mean a total additional expenditure of Rs. 62·5 lacs. If the question at issue is one involving a great, fundamental principle, perhaps it would not be too great a sacrifice to incur this additional expenditure, and prevent those opportunities for "suspicion, distrust and discontent" which must necessarily arise under the present system, and which cannot but be deplored.

XI The Law Officers and the Organisation of the Bar.

The Government of India have their most important Law Officer in the Law Member of Council. Their Legislative Department has much in common with the officer of the Parliamentary Counsel in England. All Government measures are drafted by that department; all bills before the Council, when referred to a Select Committee, are discussed by that Committee under the presidency of the Law Member. It publishes all the Acts of the Government, revises the Statute Book, drafts all statutory rules, and assists other departments with legal advice in certain specified questions of a non-litigious character. Legislation in the Provincial Councils is watched and guided by the same department. In spite of these duties, however, the Law Member of Council in India, dose not correspond to the Attorney-General and Solicitor-General in England, the highest Law Officers of the British Crown. Their place is taken in India by the various Advocates-General, the most important of whom is the Advocate-General of Bengal, who is appointed by the Crown from among the most prominent practitioners at the local bar, and who is always anominated member of the Provincial Legislative Council. He advises the Government in legal matters, and conducts their litigation, and assists them in their legislative work. He is assisted by standing counsel and Government Solicitor. In Bombay and Madras there is also an Advocate-General for each province, who discharges the same functions in his province as the Advocate-General of Bengal. In Bombay he is assisted by Government Solicitor, and to the Secretariat are attached a Legal Remembrancer (a Civil Servant) and a Deputy Legal Remembrancer (a practising Barrister).

XII The Laws Administered in India.

The early English settlers in India established themselves in the country under license from native rulers. They

ought, therefore, to have been subject to the native systems of law. But the two great indigenous systems of law are both systems of personal law, knowing no local limit, and binding upon individuals within their respective faiths, all the world over. There was, therefore, no *lex loci* to govern such aliens in race and religion which the English then were. Moreover, the system of Capitularies in force with Turkey, and recognised by the International Law of Europe in the XVII century, regarded European settlers in the non-Christian countries as under the system of law in force in their own country. Hence the first Charters assumed that the English brought their own legal system in India, and the Charter of 1726 specifically introduced the Common Law and some of the older Acts of Parliament as applicable to Englishmen in India. As they grew to be a sovereign power, the English inclined towards making their law the public and territorial law of India ; and in 1773, with the establishment of the Supreme Court and the advent of English lawyers, they proceeded to apply the English law in its entirety to all the inhabitants within the Company's jurisdiction. The hardships which followed this indiscriminate application of English law are too well known, even to the ordinary student of Indian history, to need a detailed consideration here. In 1780 this was changed by a Declaratory Act, s. 17 of which required that Hindu Law and usage should be applied to Hindus, and Mahomedan Law and usage to Mahomedans. This rule was in course of time extended to all the dominions of the Company.

The Government in India have thus accepted the indigenous systems of law, with such modifications as they thought India was fit to receive. The rigidity of the old systems has been considerably undermined by a variety of influences, the most important of which are the growth of education and enlightenment among the peoples themselves, the influence of Western ideas of Government, and of the case law emanating from courts established on English models. Acts of Parliament, and still more frequently, Acts of local legislatures,

such as the Caste Disabilities Removal Act of 1850, or the Hindu Widows Remarriage Act of 1856, or the Age of Consent Act of 1893, have all tended in the same direction. Codes of Procedure have been practically the creation of the present Government, as also the various laws relating to land-lords and tenants. At the present time, therefore, "Native law has been wholly superseded, as to criminal law and procedure and as to civil procedure, by the Indian Penal Code, the Indian Codes of Criminal and Civil Procedure, the Evidence Act and other enactments ; and has been largely superseded as to other matters by Anglo-Indian legislation ; but still regulates, as personal law, most matters relating to family law and to the law of succession and inheritance among the Hindus, Mahomedans, and other natives of the country". (Ilbert.)

The laws in British India may therefore, be either,

(*a*) English Common law, or (*b*) some old English statutes, or	}	In presidency towns applicable to Europeans.
(*c*) Hindu and Mahomedan law	}	Personal for Hindus and Mahomedans
or		
(*d*) Acts of Parliament. (*e*) Acts of Indian Legislatures. (*f*) Statutory rules, orders and by-laws supplementing particular enactments.	}	Applicable to all persons in British India.

We may note in passing that a great portion of the statutory law of India is codified. The most important of these codes are the Indian Penal Code, passed in 1860, and in force today with very few modifications, the Codes of Procedure, and of Evidence, and the Law relating to Contract.

X. Comparison with the English System of Justice.

All our codes and our entire judicial system are said to be based on the English model. And yet a close study of the two

systems of law and justice reveals many and fundamental differences. Most of these have already been described, and some of them critically examined. In this place we shall collect together all those features of the Indian judicial and legal system which, in a comparison with the English system, constitute the peculiarities of our system.

(1) The one peculiarity of our system that has not yet been touched upon is contained in s. 111 of the present Act.

The order in writing of the Governor-General in Council for any act shall, in any proceeding, civil or criminal, in any High Court acting in the exercise of its original jurisdiction, be a full justification of the act, except so far as the order extends to any European British subject; but nothing in this section shall exempt the Governor-General or any member of his Executive Council or any person acting under their orders from any proceedings in respect of any such act before any competent Court in England.

Ever since the case of the Chancellor Lord Nottingham in the reign of Charles II, who pleaded an express order of the King for having affixed the great seal to an unlawful order, the principle has been well established in England that no order of the Crown shall grant an exemption to any minister or servant of the Crown for any wrongful act done in his private or official capacity. The above section goes entirely against the spirit of this principle, and is only defensible, if at all, on the ground that it was necessitated by the peculiar position of the Indian Government under the Company.

(2) The presence on the Judicial Bench of the highest tribunals in India of men who have never in their lives been practising lawyers constitutes another such peculiarity of the Indian system.

(3) The tenure, too, of judicial officers "during the pleasure of the Sovereign" is a marked departure from the recognised principles of the English constitution in this respect.

(4) Theposition of the "Jury," though an English institution, is too different from that of the same institution in England to pass unnoticed. It is employed more sparingly, and is allowed less extensive powers than in England; for only in original criminal cases before the High Courts is the jury employed in India and never in civil suits. Besides, the difficulty of finding intelligent jurors able to discriminate between right and wrong and with a sense of their responsibility to the public has led the legislator to make a judge more independent of a Jury than he would be in England, so much so that the Act provides that if a presiding officer believes that the verdict of the jury is manifestly unjust, he may refer the case to the High Court, which may set aside or modify the verdict of the jury. And lastly, in the absence of a proper jury, a case is tried with the aid of assessors whose verdict is not binding upon the judge. All this shows the extent to which the institution of the Jury differs in the two counturies.

(5) The immunity of high officers of state from legal liability, the special privileges of whole classes of private individuals like the European British subjects, the existence of special tribunals exclusively empowered to try specified kinds of cases, are all pecularities of the Indian system of judicial administration unparalleled in England.

(6) To these may be added the combination in the hands of one and the same officer of executive and judicial functions.

(7) Lastly in England no man can be tried again for the same offence; but that principle has not been followed in India. Instances of serious miscarriage of justice due to race prejudice having been brought to the notice of Government, it has been provided that whenever a local Government believes that a man has been acquitted in spite of manifestly overwhelming evidence against him, it can once again bring the offender to justice before a competent tribunal for the same offence.

There are other cases in which the Indian system differs from the English system ; but, probably, the cases enumerat

ed here are the only cases in which the difference is fundamental while in other cases the difference is one of details.

XIV. The Indian Police and Jails System.

For the effective administration of justice the existence of some form of police organisation is indispensale, both to carry out the punishment inflicted by courts of law, as well as to prevent the possibility of crime, and thus to minimise the occasions of the exercise of the punitive authority. After describing the judicial system of India we shall now proceed to give a brief sketch of the police organisation of India. There are about 203,000 officers and men in the Indian police ; and 30,000 officers and men of the military police. The cost of maintaining this huge force has recently risen owing to the increases of pay and allowances made in consideration of the increased cost of living. The budget estimate for 1922-3 is Rs. 90,78,000.

The police force in India may be divided into the regular police force and the village police organisation. The regular police establishment is in most provinces a single force under the Local Government, and is formally enrolled. In Bombay each district has its own separate police organisation. The force is in each province under the general control of an Inspector-General, who may be a police officer, or a member of the Indian Civil Service. Under him are the Deputy Inspectors-General of Police, holding charge of the portions of the province, each known as a Range. The most important unit of Police administration is the district, with a District Superintendent of Police, who is responsible for the discipline and the internal management of the force to his departmental superiors at the headquarters; while in all matters connected

with the preservation of peace, and the detection and suppression of crime and its prevention he is the subordinate of the District Officer. He is assisted by one or more Assistant or Deputy Superintendents. The former are ordinarily recruited in England by competitive examination from among candidates who must be of European descent. In exceptional cases appointments may be made directly in India. The Deputy Superintendents constitute the Provincial branch of the Police service, and these officers are recruited in India partly by promotion from the rank of Inspectors, and partly by direct appointments of the natives of India who have the requisite educational qualifications. Their functions and departmental status is closely similar to those of the Assistant Superintendents. For Police purposes the district is divided into "circles", each in the charge of an Inspector; and the circle is again split up into areas in each of which there is a police station in charge of a Sub-Inspector of Police. The average area of a Police Station is nearly 200 sq. miles; and where the work of investigation is heavy additional Sub-Inspectors are appointed. In Bombay there are also subsidiary Police Stations, known as "Outposts" in charge of Head Constables. It is the duty of the outpost police to patrol roads and villages and to report all matters of local interest to the Sub-Inspector. They do not possess the right of investigating offences.

Besides the regular Police there is the old Indian village Police organisation, on whom the regular Police are dependent for information and assistance. Every Police Station comprises within its jurisdiction a number of villages, for each of which there is a Chokidar or watchman. This official, whether working under orders of the village headman or directly under the regular Police officers, must report crime and aid the execution of justice. He is remunerated in different ways in different provinces, *e.g.* by fees, or by monthly payments, or by grants of free lands. Besides reporting crime, the Chokidar must keep a watch on suspicious characters, and give general aid and information to the Police.

In addition to the regular Police in the rural areas and the village organisation, there are portions of the Police force in towns, organised more or less on the same lines. In the Presidency towns, however, and in Rangoon, the Police are organised as a separate force, under a Commissioner in each case, who is aided by a staff of European and Indian subordinate officers and constables. The Railway Police is another independent organisation, which, however, works in co-operation with the District Police. These last are, as a rule, concerned with the maintenance of watch and ward and order over railway property. The Railway Police charges are, as far as possible, coterminous with the territorial jurisdiction of the local Governments, the force in each province being under a Deputy Inspector-General

In addition to all these organisations there is the now famous Criminal Investigation Department, or the C. I. D. as it is more generally known. It is mainly concerned with political inquiries, sedition cases, and crimes which are too important to be left in the hands of the district police. This department originated from the necessity to investigate those secret crimes associated with the Thugs in India. Upto 1904 there was a separate Thugee and Dacoitee Department; and, though the Thugs were wiped off the face of the earth long before that date, the duties of this department continued to be described by the title which suggested their principal original occupation before 1863. From 1863 to 1904 this department was concerned with the suppression of armed robbery in the dominions of the Nizam and of the Native States in Central India and Rajputana. In the latter year this department was abolished and replaced by a Central Criminal Intelligence Department under a Director. The duties of this department, with its provincial counterparts, is to collect and provide a systematic and full information as to important and organised crime, and to train up a small staff of detectives for investigation of crimes, authors of which are not easily ascertainable by the ordinary

Police. This department has of late earned an unpleasant notoriety by allowing its zeal to outrun its discretion in the task of securing the safety of the state and its important officers against the menace of the Anarchists, who carried on their activities in parts of India with the object of overturning the whole machine of the present Government by assassinating isolated officials. From being a protector of the State and its officers and a help to the citizens, this department has tended in every country, organised like India, to be a terror of the people, who will never aid men suspected not only of discovering criminals, but also of manufacturing crimes and creating criminals. The State may protect and maintain, but the people will distrust, an organisation, which, instituted to unearth unknown criminals, is often unable to fulfil that duty, but tries to shield its inability or incompetence by unnecessary and unfounded accusations to prove its vigilance and to earn its promotions, reckless of the mischief it causes between the rulers and the ruled. Those in power may be entirely innocent of any complicity with or encouragement of this side of the work of the C. I. D.; but, after the revelations of some of the anarchist trials in Bengal, it is hard to believe that the C. I. D. is an unmixed blessing to the people or to the State.

XV. Jails.

Jail administration in India is regulated by the Prisons Act of 1894, and by the rules issued under it by the Government of India and the local Governments. The Indian jails must provide accommodation for prisoners sentenced to penal servitude, rigorous imprisonment or simple imprisoment, as well as for persons awaiting trial, and for civil prisoners. The Indian jails are accordingly divided into three classes, *viz*,

the large central jails for convicts sentenced to more than one year's imprisonment; the district jails at the headquarters of each district; and subsidiary jails and lock-ups for prisoners awaiting trial, and for short term imprisonment. The jail department in each province is under the control of an Inspector-General, who is an officer of the Medical Service, and the superintendents of certain jails are usually recruited from that service. The district jail is in the charge of the civil surgeon, and is frequently inspected by the district officer. In large central jails there are, under the superintendents, officers to supervise the jail manufactures; and in all central and district jails there are one or more subordinate medical officers. The executive staff consists of jailors, warders, and convict petty officers.

As regards youthful offenders, *i. e.*, those under 15 years of age, the law provides alternatives to imprisonment, which consist in detention in a Reformatory School for a period of three to seven years, but not beyond the age of 18; whipping by way of discipline; discharge after admonition; and delivery to parent or guardian on the latter executing a bond for the good behaviour of the child. The Reformatory Schools are administered, since 1899, by the Education department, and the authorities are directed to improve the industrial education of the inmates, to help the boys to obtain employment after leaving school, and as far as possible to keep a watch on their career. The question of the treatment of young adult prisoners has in recent years attracted the attention of many people. Prisoners over fifteen cannot be admitted into the Reformatory Schools, and yet the ordinary jail is hardly a fit place for such juvenile offenders. Government are therefore considering schemes to treat the "young adults" on the lines followed at Borstal ; and considerable progress has been made in this direction. In 1905, a special class was created at the Dharwar jail for this kind of prisoners; in Bengal in 1909, separate jails were set aside for adolescents. But the people at large do not understand that they have a