

and upon such revocation or during such suspension the subjects shall not be transferred subjects.

7. If any doubt arises as to whether any matter relates to a reserved or to a transferred subject, the Governor shall decide the question, and his decision shall be final.

8. Where an Act of the Legislative Council of a Governor's province confers on local authorities powers of the management of matters relating to reserved subjects, those matters shall, to the extent of the powers conferred by such legislation, be deemed in that province to form part of the transferred subject of local self-government.

9. (1) When a matter appears to the Governor to affect substantially the administration both of a reserved and of a transferred subject, and there is disagreement between the member of the Executive Council and the minister concerned as to the action to be taken, it shall be the duty of the Governor, after due consideration of the advice tendered to him, to direct in which department the decision as to such action shall be given : provided that, in so far as circumstances admit, important matters on which there is such a difference of opinion shall, before the giving of such direction, be considered by the Governor with his Executive Council and his ministers together.

(2) In giving such a direction as is referred to in sub-rule (1), the Governor may, if he thinks fit, indicate the nature of the action which should in his judgment be taken, but the decision shall thereafter be arrived at by the Governor in Council or by the Governor and minister or ministers, according as the department to which it has been committed is a department dealing with reserved or a department dealing with transferred subjects.

10. The authority vested in the local Government over officers of the public services employed in a Governor's province shall be exercised in the case of officers serving in a department dealing with reserved subjects by the Governor in Council, and in the case of officers serving in a department dealing with transferred subjects by the Governor acting with the minister in charge of the department : provided that—

(1) no order affecting emoluments or pensions, no order of formal censure, and no order on a memorial shall be passed to the disadvantage of an officer of an all-India or provincial service without the personal concurrence of the Governor ; and

(2) no order for the posting of an officer of an all-India service shall be made without the personal concurrence of the Governor.

11. If an officer performs duties both in a department dealing with reserved subjects and in a department dealing with transferred subjects, the Governor shall decide in which department he shall be deemed to be serving.

12. A local Government shall employ such number of Indian Medical Service officers in such appointments and on such terms and conditions as may be prescribed by the Secretary of State in Council.

12A. The Governor-General in Council shall have power to declare that any road or other means of communication is of military importance, and to prescribe in respect thereof the conditions subject to which it shall be constructed or maintained, including the amount of expenditure to be from time to time incurred upon such construction and maintenance by the Governor-General in Council and by the local Government respectively :

Provided that before prescribing under this rule the sums to be expended by any local Government, the Governor-General in Council shall consult the local Government or local Governments concerned.

13. Subject to the provisions of these rules, provincial subjects shall be administered by the local Government. But, save in the case of transferred subjects, nothing in these rules shall derogate from the power of superintendence, direction, and control conferred on the Governor-General in Council by the Act.

PART II.—FINANCIAL ARRANGEMENTS

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

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

(b)¹ receipts accruing in respect of provincial subjects ;

(c) a share (to be determined in the manner provided by rule 15) in the growth of revenue derived from income-tax collected in the province, so far as that growth is attributable to an increase in the amount of income assessed ;

¹ See *The Government of India Act*, published by the Government of India, p. 188.

- (d) recoveries of loans and advances given by the local Government and of interest paid on such loans ;
- (e) payments made to the local Government by the Governor-General in Council or by other local Governments, either for services rendered or otherwise ;
- (f) the proceeds of any taxes which may be lawfully imposed for provincial purposes ;
- (g) the proceeds of any loans which may be lawfully raised for provincial purposes ; and
- (h) any other sources which the Governor-General in Council may by order declare to be sources of provincial revenue.

(2) The revenues of Berar shall be allocated to the local Government of the Central Provinces as a source of provincial revenue. This allocation shall be subject to the following conditions, namely :—

- (a) that the local Government of the Central Provinces shall be responsible for the due administration of Berar ; and
- (b) that if in the opinion of the Governor-General in Council provision has not been made for expenditure necessary for the safety and tranquillity of Berar, the allocation shall be terminated by order of the Governor-General in Council, or diminished by such amount as the Governor-General in Council may by order in writing direct.

15. (1) Whenever the assessed income of any year subsequent to the year 1920-21 exceeds in any Governor's province or in the province of Burma the assessed income of the year 1920-21, there shall be allocated to the local Government of that province an amount calculated at the rate of three pies in each rupee of the amount of such excess.

(2) In this rule ' the assessed income ' of any year (other than the year 1920-21) means the amount of income brought under assessment under the Indian Income-tax Act, 1918, in that year in respect of which income-tax is collected, whether in that year or thereafter :

Provided that the assessed income of any year subsequent to the year 1920-21 shall not include income in respect of which no share of the tax collected would have been credited to provincial revenues if such income had accrued and been brought under assessment in the year 1920-21.

(3) The assessed income of the year 1920-21 shall be such amount as the Governor-General in Council, after making due allowance for arrears caused by any abnormal delays in the collection of the

Allocation
of share in
the income-
tax.

tax, may determine as the amount of income brought under assessment under the Indian Income-tax Act, 1918, in that year in respect of which income-tax is collected. It shall not include income in respect of which no share of the tax collected was credited to provincial revenues :

Provided that, where in any year subsequent to the year 1920-21 the income derived from any business is for any reason assessed to income-tax in a province other than that in which it was assessed in that year, the assessed income of the year 1920-21 of such first-mentioned province shall be increased, and that of the other province shall be decreased, by the amount of the income of the business brought under assessment in that year on which income-tax was collected.

16. All moneys derived from sources of provincial revenue shall be paid into the public account, of which the Governor-General in Council is custodian, and credited to the Government of the province. The Governor-General in Council shall have power, with the previous sanction of the Secretary of State in Council, to prescribe by general or special order the procedure to be followed in the payment of moneys into, and in the withdrawal, transfer and disbursement of moneys from, the public account, and for the custody of moneys standing in the account.

Such orders may, to such extent and for such purposes as may be stipulated, delegate power to prescribe procedure for the said purposes to the Auditor-General, the Controller of the Currency and to local Governments.

17. In the financial year 1921-22 contributions shall be paid to the Governor-General in Council by the local Governments mentioned below according to the following scale :—

Name of Province	Contributions (In lakhs of rupees)			
Madras	348
Bombay	56
Bengal	63
United Provinces	240
Punjab	175
Burma	64
Central Provinces and Berar	22
Assam	15

18. (1) From the financial year 1922-23¹ onwards a total contribution of 983 lakhs, or such smaller sum as may be determined by the Governor-General in Council, shall be paid to the Governor-General in Council by the local Governments mentioned in the preceding rule. When for any year the Governor-General in Council determines as the total amount of the contribution a smaller sum than that payable for the preceding year, a reduction shall be made in the contributions of those local Governments only whose last previous annual contribution exceeds the proportion specified below of the smaller sum so determined as the total contribution ; and any reduction so made shall be proportionate to such excess :—

Madras	...	...	...	17-90ths.
Bombay	...	...	...	13-90ths.
Bengal	...	...	...	19-90ths.
United Provinces	...	...	...	18-90ths.
Punjab	...	...	...	9-90ths.
Burma	...	...	...	6½-90ths.
Central Provinces and Berar	...	...	...	5-90ths.
Assam	...	...	...	2½-90ths.

(2) ²

19. In cases of emergency, the local Government of any province may be required by the Governor-General in Council, with the sanction of, and subject to the conditions approved by, the Secretary of State, to pay to the Governor-General in Council a contribution for any financial year in excess of the amount required by the preceding rules in the case of that year.

20. The contributions fixed under the preceding rules shall be a first charge on the allocated revenues and moneys of the local Governments concerned, and shall be paid in such instalments, in such manner, and on such dates, as the Governor-General in Council may prescribe.

21. At any time when he considers this course to be essential in the financial interests of India as a whole, the Governor-General in Council shall have power to require any local Government to which revenues have been allocated under these rules so to regulate its programme of expenditure as not to

¹ As we have stated before (page 480), provincial contributions have been completely remitted with effect from the year 1928-29.

² No longer of any practical importance.

reduce the balance at its credit in the public account on a specific date or dates below a stated figure, and shall have power to take the necessary steps by the restriction of issues of moneys to secure this end. Subject to this power, those local Governments shall be at liberty to draw on their balances, provided that notice of the amount which they propose to draw during the ensuing financial year is given to the Governor-General in Council before such date in each year as the Governor-General in Council may by order fix.

22. (1) Whenever the Governor-General in Council has, on receipt of due notice of the intention of the local Government to draw on its balances, required it to reduce the extent of the proposed draft, he shall, at the end of the financial year in which the local Government is debarred from drawing, credit the local Government with interest on the amount which it was not permitted to draw. Such interest shall be a charge on the revenues of India, and shall be calculated at a rate which shall be one per cent. less than the rate charged by the Governor-General in Council during the year for advances made to the Provincial Loans Fund.

(2) The Governor-General in Council may also pay to a local Government interest on its surplus balances on such conditions as he may, with the approval of the Secretary of State, prescribe.

23. Any moneys which, on the 1st day of April, 1921, are owed to the Governor-General in Council on account of advances made from the provincial loan account of any province shall be treated as an advance to the local Government from the revenues of India, and shall carry interest at a rate calculated on the average rate carried by the total amount owed to the Governor-General in Council on this account on the 31st March, 1921. The interest shall be payable upon such dates as the Governor-General in Council may fix. In addition, the local Government shall pay to the Governor-General in Council in each year an instalment in repayment of the principal amount of the advance, and this instalment shall be so fixed that the total advance shall, except where, for special reasons, the Governor-General in Council may otherwise direct, be repaid before the expiry of twelve years. It shall be open to any local Government to repay in any year an amount in excess of the fixed instalment.

25. (1) The capital sums spent by the Governor-General in Council upon the construction in the various provinces of productive and protective irrigation works and of such other works financed from loan funds as may from time to time be handed over to the management of local

Governments shall be treated as advances made to the local Governments from the revenues of India. Such advances shall carry interest at the following rates, namely :—

(a) in case of outlay up to the end of the financial year 1916-17, at the rate of 3·3252 *per centum* ;

(b) in the case of outlay incurred after the financial year 1916-17, at the average rate of interest paid by the Governor-General in Council during the financial year preceding that in which the work in question is handed over to the local Government, on loans raised in the open market during the period from the end of 1916-17 to the beginning of the year in which the work is handed over.

(2) The interest shall be payable upon such dates as the Governor-General in Council may fix.

25. The Governor-General in Council may at any time make to a local Government an advance from the revenues or moneys accruing to the Governor-General in Council on such terms as to interest and repayment as he may think fit.

Advances by
the Govern-
ment of
India.

26. The payment of interest on loans and advances made under the three preceding rules, and the repayment of the principal of an advance under rule 23, shall be a charge on the annual allocated revenues of the local Government, and shall have priority over all other charges, save only contributions payable to the Governor-General in Council.

Priority of
interest
charges.

27. (1) The local Government of a Governor's province shall not, without the previous sanction of the Secretary of State in Council or of the Governor-General in Council, as the case may be, include any proposal for expenditure on a transferred subject in a demand for a grant, if such sanction is required by the provisions of Schedule III to these rules.

Powers of
sanctioning
transferred
expenditure.

(2) Subject to the provisions of sub-rule (1), the local Government of a Governor's province shall have power to sanction expenditure on transferred subjects to the extent of any grant voted by the Legislative Council.

(3) The local Government of a Governor's province shall have power to sanction any expenditure on transferred subjects which relates to the heads enumerated in section 72D (3) of the Act, subject to the approval of the Secretary of State in Council or of the Governor-General in Council, if any such approval is required by any rule for the time being in force.

28. The powers of a local Government under the preceding rule to sanction expenditure may be delegated by the local Government

to an authority subordinate to it, after previous consultation with the Finance Department, to such extent as may be required for the convenient and efficient despatch of public business.

(2) Any sanction accorded under these rules shall remain valid for the specified period for which it is given, subject, in the case of voted expenditure, to the voting of grants in each year.

29. Each local Government mentioned in Schedule IV shall establish and maintain out of provincial revenues a famine relief fund in accordance with the provisions of that Schedule, and such fund shall be controlled and administered as required by those provisions.

30. All proposals for raising taxation or for the borrowing of money on the revenues of a province shall, in the case of a Governor's province, be considered by the Governor with his Executive Council and ministers sitting together, but the decision shall thereafter be arrived at by the Governor in Council, or by the Governor and minister or ministers, according as the proposal originates with the Governor in Council or the Governor and ministers.

31. Expenditure for the purpose of the administration of both reserved and transferred subjects shall, in the first instance, be a charge on the general revenues and balances of each province, and the framing of proposals for expenditure in regard to transferred and reserved subjects will be a matter for agreement between that part of the Government which is responsible for the administration of transferred subjects and that part of the Government which is responsible for the administration of reserved subjects.

32. (1) If, at any time when proposals are to be framed for the apportionment of funds between reserved and transferred departments respectively, the Governor is satisfied that there is no hope of agreement within a reasonable time between the members of his Executive Council on the one hand and ministers on the other as to such apportionment, he may, by order in writing, allocate the revenues and balances of the province between reserved and transferred subjects, by specifying the fractional proportions of the revenues and balances which shall be assigned to each class of subjects.

(2) An order of allocation under this rule may be made by the Governor either in accordance with his own discretion, or in

accordance with the report of an authority to be appointed by the Governor-General in this behalf on the application of the Governor.

33. Every such order shall (unless it is sooner revoked) remain in force for a period to be specified in the order, which shall be not less than the duration of the then existing Legislative Council, and shall not exceed by more than one year the duration thereof :

Provided that the Governor may at any time, if his Executive Council and ministers so desire, revoke an order of allocation or make such other allocation as has been agreed upon by them :

Provided, further, that if the order which it is proposed to revoke was passed in accordance with the report of an authority appointed by the Governor-General, the Governor shall obtain the consent of the Governor-General before revoking the same.

34. Every order of allocation made under these rules shall provide that, if any increase of revenue accrues during the period of the order on account of the imposition of fresh taxation, that increase, unless the legislature otherwise directs, shall be allocated in aid of that part of the Government by which the taxation is initiated.

35. If at the time of the preparation of any budget no agreement or allocation such as is contemplated by these rules has been arrived at, the budget shall be prepared on the basis of the aggregate grants respectively provided for the reserved and transferred subjects in the budget of the year about to expire.

PART III.—FINANCE DEPARTMENT

36. (1) In each Governor's province there shall be a Finance Department, controlled by a Member of the Executive Council, with a Financial Secretary, who shall be immediately subordinate to the Member.

(2) If the minister so desire, the Governor shall, after consultation with the ministers, appoint a Financial Adviser, whose duty it shall be to assist the ministers in the preparation of proposals for expenditure, and generally to advise the ministers in matters relating to finance.

(3) The Finance Department may delegate to the Financial Adviser all or any of the functions of the Finance Department specified in Rule 37 or referred to in any other rule contained in this Part and in relation to any function so delegated, references in this

Part to the Finance Department shall be deemed to be references to the Financial Adviser.

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

Functions of Finance Department. (1) it shall be in charge of the account relating to loans granted by the local Government, and shall advise on the financial aspect of all transactions relating to such loans ;

(2) it shall be responsible for the safety and proper employment of the famine relief fund ;

(3) it shall examine and report on all proposals for the increase or reduction of taxation ;

(4) it shall examine and report on all proposals for borrowing by the local Government ; shall take all steps necessary for the purpose of raising such loans as have been duly authorized ; and shall be in charge of all matters relating to the service of loans ;

(5) it shall be responsible for seeing that proper financial rules are framed for the guidance of other departments, and that suitable accounts are maintained by other departments and establishments subordinate to them ;

(6) it shall prepare an estimate of the total receipts and disbursements of the province in each year, and shall be responsible during the year for watching the state of the local Government's balances ;

(7) in connection with the budget and with supplementary estimates—

(a) it shall prepare the statement of estimated revenue and expenditure which is laid before the Legislative Council in each year and any supplementary estimates or demands for excess grants which may be submitted to the vote of the Council ;

(b) for the purpose of such preparation, it shall obtain from the departments concerned material on which to base its estimates, and it shall be responsible for the correctness of the estimates framed on the material so supplied ;

(c) it shall examine and advise on all schemes of new expenditure for which it is proposed to make provision in the estimates, and shall decline to provide in the estimates for any scheme which has not been so examined ;

(8) on receipt of a report from an audit officer to the effect that expenditure for which there is no sufficient sanction is being incurred, it shall require steps to be taken to obtain sanction or that the expenditure shall immediately cease ;

(9) it shall lay the audit and appropriation reports before the committee on public accounts, and shall bring to the notice of the committee all expenditure which has not been duly authorized and any financial irregularities ;

(10) it shall advise departments responsible for the collection of revenue regarding the progress of collection and the methods of collection employed.

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

Powers of
Finance
Department
with
reference to
re-appro-
priation.

(a) the Finance Department shall have power to sanction any re-appropriation within a grant from one major, minor or subordinate head to another ;

(b) the member or minister in charge of a department shall have power to sanction any re-appropriation within a grant between heads subordinate to a minor head which does not involve undertaking a recurring liability, provided that a copy of any order sanctioning such a re-appropriation shall be communicated to the Finance Department as soon as it is passed.

(2) The Finance Department shall have power to sanction the delegation by a member or minister to any officer or class of officers of the power of re-appropriation conferred on such member or minister by clause (1) (b) above.

(3) Copies of orders sanctioning any re-appropriation which does not require the sanction of the Finance Department shall be communicated to that department as soon as such orders are passed.

39. No expenditure on any of the heads detailed in section 72D (3)

Matters to
be referred
to Finance
Department.

of the Act, which is in excess of the estimate for that head shown in the budget of the year, shall be incurred without previous consultation with the Finance Department.

40. No office may be added to, or withdrawn from, the public

Establish-
ment
changes.

service in the province, and the emoluments of no post may be varied, except after consultation with the Finance Department ; and, when it is proposed to add a permanent or temporary post to the public service, the Finance

Department shall, if it thinks necessary, refer for the decision of the Audit Department the question whether the sanction of the Secretary of State in Council is, or is not, necessary.

41. No allowance and no special or personal pay shall be sanctioned for any post or class of posts or for any Government servant without previous consultation with the Finance Department.

Allowances
and pay.

42. No grant of land or assignment of land revenue, except when the grant is made under the ordinary revenue rules of the province, shall be given without previous consultation with the Finance Department; and no concession, grant or lease of mineral or forest rights, or right to water power or of right-of-way or other easement, and no privilege in respect of such rights shall be given without such previous consultation.

Grants and
concessions.

43. No proposal involving an abandonment of revenue for which credit has been taken in the budget, or involving expenditure for which no provision has been made in the budget, shall be submitted for the consideration of the local Government or the Legislative Council, nor shall any orders giving effect to such proposals issue without a previous reference to the Finance Department.

Abandon-
ment of
revenue, etc.

44. Every report made by the Finance Department on any matter on which it is required to advise or report under these rules shall be forwarded to the department concerned, and shall, if the Finance Department so require, be submitted by the department concerned to the Governor for the orders of the local Government. The Governor may, if he thinks fit, direct that any such report shall be laid before the committee on public accounts.

Disposal of
reports by
Finance
Department.

45. Wherever previous consultation with the Finance Department is required by these rules, it shall be open to that department to prescribe, by general or special order, cases in which its assent may be presumed to have been given.

Presumption
of assent of
Finance
Department.

PART IV.—AGENCY

46. The Governor-General in Council may employ the agency of the Governor in Council of any province in the administration of central subjects in so far as such agency may be found convenient.

Agency
employment
of local
Govern-
ments.

46A. Where, in respect of a central subject, powers have been conferred by or under any law upon a local Government, such powers shall be exercised by the Governor in Council.

47. The cost of an establishment employed by the Governor in Council of any province exclusively on the administration of central subjects shall be a charge against all-India revenues.

Cost of
Agency
establish-
ments.

48. If a joint establishment is employed upon the administration of central and provincial subjects, the cost of such establishment

may be distributed in such manner as the Governor-General in Council and the Governor in Council of the province concerned may agree, or, in the case of disagreement, in such manner as may be determined by the Secretary of State in Council.

Distribution
of cost of
joint esta-
blishment.

PART V.—LIMITATION OF CONTROL

49. The powers of superintendence, direction, and control over the local Government of a Governor's province vested in the Governor-General in Council under the Act shall, in relation to transferred subjects, be exercised only for the following purposes, namely :—

Limitation
of control by
Governor-
General in
Council
over trans-
ferred
subjects.

(1) to safeguard the administration of central subjects ;

(2) to decide questions arising between two provinces, in cases where the provinces concerned fail to arrive at an agreement ; and

(3) to safeguard the due exercise and performance of any powers and duties possessed by, or imposed on, the Governor-General in Council under, or in connection with, or for the purposes of the following provisions of the Act, namely, section 29 A, section 30 (1-A), Part VII A, or of any rules made by, or with the sanction of, the Secretary of State in Council.

SCHEDULE I

(See Rule 3)

PART I.—CENTRAL SUBJECTS

1. (a) Defence of India, and all matters connected with His Majesty's Naval, Military and Air Forces in India, or with His Majesty's Indian Marine Service, or with any other force raised in India other than military and armed police wholly maintained by local Governments.

(b) Naval and military works and cantonments.

2. External relations, including naturalization and aliens, and pilgrimages beyond India.

3. Relations with States in India.

4. Political charges.

5. Communications to the extent described under the following heads, namely :—

(a) railways and extra-municipal tramways, in so far as they are not classified as provincial subjects under entry 6 (d) of Part II of this Schedule ;

(b) aircraft and all matters connected therewith ; and

(c) inland waterways, to an extent to be declared by rule made by the Governor-General in Council or by or under legislation by the Indian legislature.

6. Shipping and navigation, including shipping and navigation on inland waterways, in so far as declared to be a central subject in accordance with entry 5 (c).

7. Light-houses (including their approaches), beacons, lightships and buoys.

8. Port quarantine and marine hospitals.

9. Ports¹ declared to be major ports by rule made by the Governor-General in Council or by or under legislation by the Indian legislature.

10. Posts, telegraphs and telephones, including wireless installations.

11. Customs, cotton excise duties, income-tax, salt and other sources of all-India revenues.

12. Currency and coinage.

13. Public debt of India.

14. Savings Banks.

15. The Indian Audit Department as defined in rules framed under section 96D (1) of the Act.

16. Civil law, including laws regarding status, property, civil rights and liabilities, and civil procedure.

17. Commerce, including banking and insurance.

18. Trading companies and other associations.

19. Control of production, supply, and distribution of any articles in respect of which control by a central authority is declared by rule made by the Governor-General in Council or by or under legislation by the Indian legislature to be essential in the public interest; save to the extent to which in such rule or legislation such control is directed to be exercised by a local Government.

20. Development of industries, in cases where such development by central authority is declared by order of the Governor-General in Council, made after consultation with the local Government or local Governments concerned, expedient in the public interest.

21. Control of cultivation and manufacture of opium, and sale of opium for export.

¹ The ports of Calcutta, Bombay, Karachi, Aden, Rangoon, Chittagong, Vizagapatam and Madras have been declared to be major ports.

22. Stores and stationery, both imported and indigenous, required for Imperial Departments.
23. Control of petroleum and explosives.
24. Geological survey.
25. Control of mineral development, in so far as such control is reserved to the Governor-General in Council under rules made or sanctioned by the Secretary of State, and regulation of mines.
26. Botanical survey.
27. Inventions and designs.
28. Copyright.
29. Emigration from, and immigration into, British India, and inter-provincial migration.
30. Criminal Law, including criminal procedure.
31. Central police organization.
32. Control of arms and ammunition.
33. Central agencies and institutions for research (including observatories) and for professional or technical training or promotion of special studies.
34. Ecclesiastical administration, including European cemeteries.
35. Survey of India.
36. Archæology.
37. Zoological Survey.
38. Meteorology.
39. Census and statistics.
40. All-India services.
41. Legislation in regard to any provincial subject, in so far as such subject is in Part II of this Schedule stated to be subject to legislation by the Indian legislature, and any powers relating to such subject reserved by legislation to the Governor-General in Council.
42. Territorial changes, other than inter-provincial, and declaration of laws in connection therewith.
43. Regulation of ceremonial, titles, orders, precedence and civil uniform.
44. Immovable property in the possession of the Governor-General in Council.
45. The Public Service Commission.
46. All matters expressly excepted by the provisions of Part II of this Schedule from inclusion among provincial subjects.
47. All other matters not included among provincial subjects under Part II of this Schedule.

PART II.—PROVINCIAL SUBJECTS

1. Local self-government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health, and other local authorities established in a province for the purpose of local self-government, exclusive of matters arising under the Cantonments Act, 1910; subject to legislation by the Indian legislature as regards—

(1) the powers of such authorities to borrow otherwise than from a provincial government, and

(2) the levying by such authorities of taxation not included in Schedule II to the Scheduled Taxes Rules.

2. Medical administration, including hospitals, dispensaries, and asylums, and provision for medical education.

3. Public health and sanitation and vital statistics, subject to legislation by the Indian legislature in respect to infectious and contagious diseases to such extent as may be declared by any Act of the Indian legislature.

4. Pilgrimages within British India.

5. Education : provided that—

(1) the following subjects shall be excluded, namely :—

(a) the Benares Hindu University, the Aligarh Muslim University, and such other Universities constituted after the commencement of these rules as may be declared by the Governor-General in Council to be central subjects, and

(b) Chiefs' Colleges and any institution maintained by the Governor-General in Council for the benefit of members of His Majesty's Forces or of other public servants or of the children of such members or servants : and

(2) the following subject shall be subject to legislation by the Indian legislature, namely :—

(a) the definition of the jurisdiction of any University outside the province in which it is situated.

6. Public Works, other than those falling under entry 14 of this Part and included under the following heads, namely :—

(a) construction and maintenance of provincial buildings used or intended for any purpose in connection with the administration of the province; and care of historical monuments, with the exception of ancient monuments as defined in section 2 (1) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to

be protected monuments under section 3 (1) of that Act : provided that the Governor-General in Council, may, by notification in *The Gazette of India*, remove any such monument from the operation of this exception, either absolutely or subject to such conditions as he may, after consultation with the local Government or local Governments concerned, prescribe ;

(b) roads, bridges, ferries, tunnels, ropeways and causeways, and other means of communication, subject to the provisions of rule 12 A of these rules, and of any orders made thereunder ;

(c) tramways within municipal areas ; and

(d) light and feeder railways and extra-municipal tramways, in so far as provision for their construction and management is made by provincial legislation : subject to legislation by the Indian legislature in the case of any such railway or tramway which is in physical connection with a main line or is built on the same gauge as an adjacent main line.

7. Water-supplies, irrigation and canals, drainage and embankments, water storage and water power ; subject to legislation by the Indian legislature with regard to matters of inter-provincial concern or affecting the relations of a province with any other territory.

8. Land revenue administration as described under the following heads, namely :—

(1) assessment and collection of land revenue ;

(2) maintenance of land records, survey for revenue purposes, records-of-rights ;

(3) laws regarding land tenures, relations of landlords and tenants, collection of rents ;

(4) Courts of Wards, encumbered and attached estates ;

(5) land improvement and agricultural loans ;

(6) colonization and disposal (subject to any provisions or restrictions that may be prescribed by the Secretary of State in Council under section 30 of the Act) of Crown lands not in the possession of the Governor-General in Council, and alienation of land revenue ; and

(7) management of Government estates.

9. Famine relief.

10. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases ; subject to legislation by the Indian legislature in respect to destructive insects and pests and

plant diseases to such extent as may be declared by any Act of the Indian legislature.

11. Civil Veterinary Department, including provision for veterinary training, improvement of stock, and prevention of animal diseases ; subject to legislation by the Indian legislature in respect to animal diseases to such extent as may be declared by any Act of the Indian legislature.

12. Fisheries.

13. Co-operative Societies.

14. Forests, including preservation of game therein and all buildings and works executed by the Forest Department ; subject to legislation by the Indian legislature as regards disforestation of reserved forests.

15. Land acquisition ; subject to legislation by the Indian legislature.

16. Excise, that is to say, the control of production, manufacture, possession, transport, purchase, and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and licence fees on, or in relation to, such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.

17. Administration of justice, including constitution, powers, maintenance and organization of courts of civil and criminal jurisdiction within the province ; subject to legislation by the Indian legislature as regards High Courts, Chief Courts and Courts of Judicial Commissioners, and any courts of criminal jurisdiction.

18. Provincial law reports.

19. Administrators-General and Official Trustees ; subject to legislation by the Indian legislature.

20. Non-judicial stamps, subject to legislation by the Indian legislature, and judicial stamps, subject to legislation by the Indian legislature as regards amount of court-fees levied in relation to suits and proceedings in the High Courts under their original jurisdiction.

21. Registration of deeds and documents ; subject to legislation by the Indian legislature.

22. Registration of births, deaths, and marriages ; subject to legislation by the Indian legislature for such classes as the Indian legislature may determine.

23. Religious and charitable endowments.

24. Development of mineral resources which are Government property, subject to rules made or sanctioned by the Secretary of State, but not including the regulation of mines.

24-A. Control of production, supply and distribution of any articles to the extent to which by rule made by the Governor-General in Council or by or under legislation by the Indian Legislature such control is directed to be exercised by a local Government.

25. Development of industries, including industrial research and technical education.

26. Industrial matters included under the following heads, namely :—

- (a) factories ;
 - (b) settlement of labour disputes ;
 - (c) electricity ;
 - (d) boilers ;
 - (e) gas ;
 - (f) smoke-nuisances ; and
 - (g) welfare of labour, including provident funds, industrial insurance (general, health and accident) and housing ;
- subject as to heads (a), (b), (c), (d), and (g) to legislation by the Indian legislature.

27. Stores and stationery ; subject, in the case of imported stores and stationery, to such rules as may be prescribed by the Secretary of State in Council.

28. Adulteration of foodstuffs and other articles ; subject to legislation by the Indian legislature as regards import and export trade.

29. Weights and measures ; subject to legislation by the Indian legislature as regards standards.

30. Ports, except such ports as may be declared by rule made by the Governor-General in Council or by or under Indian legislation to be major ports.

31. Inland waterways, including shipping and navigation thereon so far as not declared by the Governor-General in Council to be central subjects ; but subject as regards inland steam-vessels to legislation by the Indian legislature.

32. Police, including railway police ; subject, in the case of railway police, to such conditions as regards limits of jurisdiction and railway contributions to cost of maintenance as the Governor-General in Council may determine.

33. The following miscellaneous matters, namely :—

- (a) regulation of betting and gambling ;
- (b) prevention of cruelty to animals ;
- (c) protection of wild birds and animals ;

(d) control of poisons ; subject to legislation by the Indian legislature ;

(e) control of vehicles ; subject, in the case of motor vehicles, to legislation by the Indian legislature as regards licences valid throughout British India ; and

(f) control of dramatic performances and cinematographs ; subject to legislation by the Indian legislature in regard to sanction of films for exhibition.

34. Control of newspapers, books and printing presses ; subject to legislation by the Indian legislature.

35. Coroners.

36. Excluded areas.

37. Criminal tribes ; subject to legislation by the Indian legislature.

38. European vagrancy ; subject to legislation by the Indian legislature.

39. Prison, prisoners (except persons detained under the Bengal State Prisoners Regulations, 1818, the Madras State Prisoners Regulation, 1819, or the Bombay Regulation XXV of 1827) and Reformatories ; subject to legislation by the Indian legislature.

40. Pounds and prevention of cattle trespass.

41. Treasure trove.

42. Libraries (except the Imperial Library) and museums (except the Indian Museum, the Imperial War Museum and the Victoria Memorial, Calcutta) and Zoological Gardens.

43. Provincial Government Presses.

44. Elections for Indian and provincial legislatures ; subject to rules framed under Section 64 (1) and 72A (4) of the Act.

45. Regulation of medical and other professional qualifications and standards ; subject to legislation by the Indian legislature.

46. Local Fund Audit, that is to say, the audit by Government agency of income and expenditure controlled by local bodies.

47. Control, as defined by rule 10, of members of all-India and provincial services serving within the province, and control, subject to legislation by the Indian legislature, of public services within the province other than all-India services.

48. Sources of provincial revenue not included under previous heads, whether—

(1) taxes included in the Schedules to the Scheduled Taxes Rules ; or

(2) taxes not included in those Schedules, which are imposed by

or under provincial legislation which has received the previous sanction of the Governor-General.

49. Borrowing of money on the sole credit of the province ; subject to the provisions of the local Government (Borrowing) Rules.

50. Imposition by legislation of punishments by fine, penalty, or imprisonment for enforcing any law of the province relating to any provincial subject ; subject to legislation by the Indian legislature in the case of any subject in respect of which such a limitation is imposed under these rules.

51. Any matter which, though falling within a central subject, is declared by the Governor-General in Council to be of a merely local or private nature within the province.

SCHEDULE II

(See Rule 6)

LIST OF PROVINCIAL SUBJECTS FOR TRANSFER

Column I	Column II
1. Local self-government—that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health, and other local authorities established in the province for purposes of local self-government, exclusive of matters arising under the Cantonments Act, 1910 ; subject to legislation by the Indian legislature as regards (a) the powers of such authorities to borrow otherwise than from a provincial Government, and (b) the levying by such authorities of taxation not included in Schedule II to the Scheduled Taxes Rules.	All Governors' provinces.
2. Medical administration, including hospitals, dispensaries and asylums, and provision for medical education.	Ditto.
3. Public health and sanitation and vital statistics ; subject to legislation by the Indian legislature in respect to infectious and contagious	Ditto.

Column I	Column II
diseases to such extent as may be declared by any Act of the Indian legislature.	All Governors' provinces.
4. Pilgrimages within British India.	Ditto.
5. Education, other than European and Anglo-Indian education, provided that —	Ditto.
(1) the following subjects shall be excluded, namely :—	
(a) the Benares Hindu University, the Aligarh Muslim University, and such other Universities, constituted after the commencement of these rules, as may be declared by the Governor-General in Council to be central subjects ; and	
(b) Chiefs' Colleges and any institution maintained by the Governor-General in Council for the benefit of members of His Majesty's Forces or of other public servants or of the children of such members or servants ; and	
(2) the following subject shall be subject to legislation by the Indian legislature, namely :—	
the definition of the jurisdiction of any University outside the province in which it is situated.	
6. Public works, other than those falling under entry II of this part, and included under the following heads, namely :—	All Governors' provinces, except Assam.
(1) construction and maintenance of provincial buildings, other than residences of Governors of provinces, used or intended for any purpose in connection with the administration of the province on behalf of the departments of Government concerned, save in so far as the Governor may assign such work to the departments using or requiring such buildings ; and care of historical monuments, with the exception of ancient monuments, as defined in section 2(1) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under section	

Column I

Column II

3(1) of that Act : provided that the Governor-General in Council may, by notification in *The Gazette of India*, remove any such monument from the operation of this exception either absolutely or subject to such conditions as he may, after consultation with the local Government or local Governments concerned, prescribe.

(2) roads, bridges, ferries, tunnels, ropeways and causeways, and other means of communication, subject to the provisions of rule 12A of these rules, and of any orders made thereunder ;

(3) tramways within municipal areas ;
and

(4) light and feeder railways and extra-municipal tramways, in so far as provision for their construction and management is made by provincial legislation ; subject to legislation by the Indian legislature in the case of any such railway or tramway which is in physical connection with a main line or is built on the same gauge as an adjacent main-line.

7. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases ; subject to legislation by the Indian legislature in respect to destructive insects and pests and plant diseases to such extent as may be declared by any Act of the Indian legislature.

8. Civil Veterinary Department, including provision for veterinary training, improvement of stock, and prevention of animal diseases ; subject to legislation by the Indian legislature in respect to animal diseases to such extent as may be declared by any Act of the Indian legislature.

9. Fisheries.

10. Co-operative Societies.

11. Forests, including preservation of game therein, and all buildings and works executed by

All Governors' provinces, except Assam.

All Governors' provinces.

Ditto.

Ditto.

Ditto.

Bombay.

Column I	Column II
the Forest Department, subject to legislation by the Indian legislature as regards disforestation of reserved forests.	Bombay
11A. Notifications under sub-section (1) of section 4 and declarations under sub-section (1) of section 6 of the Land Acquisition Act, 1894, when the public purpose referred to in the said sub-sections appertains to a transferred subject; subject to legislation by the Indian legislature.	Ditto.
12. Excise, that is to say, the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and licence fees on, or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture, and sale for export.	Ditto.
13. Registration of deeds and documents; subject to legislation by the Indian legislature.	Ditto.
14. Registration of births, deaths, and marriages; subject to legislation by the Indian legislature for such classes as the Indian legislature may determine.	Ditto
15. Religious and charitable endowments.	Ditto.
16. Development of industries, including industrial research and technical education.	Ditto.
17. Stores and stationery required for transferred departments; subject, in the case of imported stores and stationery, to such rules as may be prescribed by the Secretary of State in Council.	Ditto.
18. Adulteration of foodstuffs and other articles; subject to legislation by the Indian legislature as regards import and export trade.	Ditto
19. Weights and measures, subject to legislation by the Indian legislature as regards standards.	
20. Libraries (other than the Imperial Library), Museums (except the Indian Museum, the Imperial War Museum, and the Victoria Memorial, Calcutta), and Zoological Gardens.	Ditto

SCHEDULE III

(See Rule 27)

RULES RELATING TO TRANSFERRED SUBJECTS.

1. The previous sanction of the Secretary of State in Council is necessary—

(1) to the creation of any new or the abolition of any existing permanent post, or to the increase or reduction of the pay drawn by the incumbent of any permanent post, if the post in either case is one which would ordinarily be held by a member of an all-India service, or to the increase or reduction of the cadre of an all-India service ;

(2) to the creation of a permanent post on a maximum rate of pay exceeding Rs. 1,200 a month, or the increase of the maximum pay of a sanctioned permanent post to an amount exceeding Rs. 1,200 a month ;

(3) to the creation of a temporary post with pay exceeding Rs. 4,000 a month or to the extension beyond a period of two years of a temporary post (or deputation) with pay exceeding Rs. 1,200 a month ;

[If the holder of a temporary post created by the local Government, the rupee pay of which does not exceed Rs. 3,000 a month, would have drawn overseas pay in sterling, had he not been appointed to this post, the local Government may permit the holder of that post to draw, in addition to the rupee pay sanctioned for the post, overseas pay in sterling not exceeding the amount to which he would have been entitled had he not been appointed to the temporary post.]

(4) to the grant to any Government servant or to the family or other dependants of any deceased Government servant of an allowance, pension or gratuity which is not admissible under rules made or for the time being in force under section 96B of the Act, except in the following cases :—

(a) compassionate gratuities to the families of Government servants left in indigent circumstances, subject to such annual limit as the Secretary of State in Council may prescribe ; and

(b) pensions or gratuities to Government servants wounded or otherwise injured while employed in Government service or to the families of Government servants dying as the result of wounds or injuries sustained while employed in such service, granted in accordance with such rules as

have been or may be laid down by the Secretary of State in Council in this behalf ; and

(5) *Omitted*

2. (1) Every application for the sanction of the Secretary of State in Council required by paragraph 1 shall be addressed to the Governor-General in Council, who shall, save as hereinafter provided, forward the same with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the local Government, to the Secretary of State in Council.

(2) If the application relates to—

(a) the grant in an individual case of any increase of pay, or

(b) the creation or extension of a temporary post, the Governor-General in Council may, at his discretion, on behalf of the Secretary of State in Council, sanction the proposal, or may, and, if he dissents from the proposal, shall, forward the application with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the local Government, for the orders of the Secretary of State in Council.

PUBLIC.

The 27th September, 1928.

No. F-174-II-28.—In exercise of the powers conferred by sections 45A and 129A of the Government of India Act, the Governor-General in Council, with the sanction of the Secretary of State in Council, is pleased to direct that the following further amendments shall be made in the Devolution Rules, namely :—

I. In rule 29 of the said Rules, for the word ' insurance ' the word ' relief ' shall be substituted.

II. For Schedule IV to the said Rules, the following Schedule shall be substituted, namely :—

SCHEDULE IV.

(See Rule 29)

1. The local Governments of the provinces mentioned below, shall, save as hereinafter provided, make in every year beginning with the financial year 1929-1930 provision in their budgets for expenditure

upon the relief of famine of such amounts respectively (hereinafter referred to as the annual assignments) as are stated against each :—

			Rs.
Madras	...	...	3,00,000
Bombay	...	...	12,00,000
Bengal	...	...	2,00,000
United Provinces	...	...	16,00,000
Punjab	...	...	2,00,000
Bihar and Orissa	...	...	3,00,000
Central Provinces	...	...	4,00,000

Provided that no annual assignment need be greater than is necessary to bring the accumulated total of the famine relief fund up to the amount specified in paragraph 5.

2. The annual assignment shall not be expended save upon the relief of famine. Any portion of an assignment which is not so spent shall be transferred to the famine relief fund of the province.

3. The local Government, in making provision in its budget for the annual assignment, shall include in demands for grant such portion of the assignment as is proposed to be expended for the relief of famine. The amount required, over and above the grants voted for the aforesaid purposes, to make up the total of the annual assignment, shall not be included in a demand for grant, but shall be provided in the shape of a lump sum allocated for transfer to the famine relief fund.

4. The famine relief fund shall consist of (a) the amount outstanding at the credit of the famine insurance fund heretofore maintained and (b) the unexpended balances of the annual assignments for each year, transferred to the fund under paragraph 2 of this Schedule, together with any interest which may accrue on these balances under paragraph 6 and any recoveries of interest and principal under paragraph 9.

5. The local Government may, in any year, when the accumulated total of the famine relief fund of the province is not less than the amount specified below, suspend temporarily the provision of the annual assignment :—

			Rs.
Madras	...	...	40,00,000
Bombay	...	...	75,00,000
Bengal	...	...	12,00,000
United Provinces	...	...	55,00,000
Punjab	...	...	20,00,000

			Rs.
Bihar and Orissa ...	...	...	15,00,000
Central Provinces ...	...	...	45,00,000

6. The famine relief fund shall form part of the general balances of the Governor-General in Council, who shall pay at the end of each year interest on the average of the balances held in the fund on the last day of each quarter. The interest shall be calculated for the financial year at a rate which shall be one *per cent.* less than the rate charged by the Governor-General in Council during the year for advances made to the Provincial Loans Fund. Such interest shall be credited to the fund.

7. The local Government may at any time expend the balance at its credit in the famine relief fund upon the relief of famine.

8. When the balance in the famine relief fund exceeds the amount specified in paragraph 5, the local Government may utilize the excess to meet expenditure on protective irrigation works ; in the grant of loans to cultivators, either under the Land Improvement Loans Act, 1883, or under the Agriculturists' Loans Act, 1884, or for relief purposes ; or in the repayment of advances from the Provincial Loans Fund, or to meet irrecoverable balances of loans under the said Acts, or for relief purposes when such loans have been made from the Provincial Loan Account :

Provided that the excess of the accumulated balance in the Fund on April 1, 1929, over the minimum balance prescribed in paragraph 5, may, in the case of Bombay, Bihar and Orissa and the Central Provinces, be utilized, with the approval of the Governor-General in Council, on objects other than those specified in this paragraph.

9. Loans to cultivators under paragraph 8 shall be made through the Provincial Loan Account and the amount lent shall be repaid with interest to the famine relief fund by equated instalments, the rate of interest being the rate determined under paragraph 6 for the financial year in which the loan was made to the Provincial Loan Account.

10. In case of doubt whether the purpose for which it is proposed to spend any portion of the annual assignment, of the famine relief fund or the balance thereof is one of the purposes specified in paragraph 2 of this Schedule, the decision of the Governor shall be final.

11. The annual accounts of the annual assignments and of the fund shall be maintained in forms to be prescribed in this behalf by the Auditor-General.

12. The local Government of the provinces mentioned in paragraph 1 shall make such adjustments in their budgets for the financial year 1928-29 as will have the effect of substituting the annual assignment prescribed in paragraph 1 for the annual assignment included in the budget in pursuance of the provisions heretofore in force.



APPENDIX C

THE LOCAL GOVERNMENT (BORROWING) RULES¹

Short title and commencement.	1. (1) These rules may be called the Local Government (Borrowing) Rules.
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Purposes for which loans may be raised.	(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.
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2. A local Government may raise loans on the security of the revenues allocated to it for any of the following purposes, namely :—

(a) to meet capital expenditure on the construction or acquisition (including the acquisition of land, maintenance during construction and equipment) of any work or permanent asset of a material character in connection with a project of lasting public utility, provided that—

(i) the proposed expenditure is so large that it cannot reasonably be met from current revenues ; and

(ii) if the project appears to the Governor-General in Council unlikely to yield a return of not less than such percentage as he may from time to time by order prescribe, arrangements are made for the amortization of the debt ;

(b) to meet any classes of expenditure on irrigation which have, under rules in force before the passing of the Act, been met from loan funds ;

(c) for the giving of relief and the establishment and maintenance of relief works in times of famine or scarcity ;

¹ See Notification No. 309-S. in *The Gazette of India* (Extra.), December 16, 1920 ; see also *The Bengal Legislative Council Manual*, 1927, pp. 151-53.

(d) for the financing of the Provincial Loan Account ; and

(e) for the repayment or consolidation of loans raised in accordance with these rules or the repayment of advances made by the Governor-General in Council.

3. (1) No loan shall be raised by a local Government without the sanction (in the case of loans to be raised in India) of the Governor-General in Council, or (in the case of loans to be raised outside India) of the Secretary of State in Council, and in sanctioning the raising of a loan, the Governor-General in Council or the Secretary of State in Council, as the case may be, may specify the amount of the issue and any or all of the conditions under which the loan shall be raised.

(2) Every application for the sanction of the Secretary of State required by this rule shall be transmitted through the Governor-General in Council.

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—

(1) the fixed provincial contribution payable to the Governor-General in Council ;

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

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

APPENDIX D

THE TRANSFERRED SUBJECTS (TEMPORARY ADMINISTRATION) RULES¹

Short title
and com-
mencement.

1. (1) These rules may be called the Transferred Subjects (Temporary Administration) Rules.

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

¹ See Notification No. 310-S. in *The Gazette of India* (Extra.), December 16, 1920 ; see also *The Bengal Legislative Council Manual*, 1927, pp. 153-54.

of the Secretary of State in Council, and different dates may be appointed for different parts of India.

Vacancy in office of minister, 2. In case of emergency where, owing to a vacancy, there is no minister in charge of a transferred subject, the Governor—

(1) shall, if another minister is available and willing to take charge of the subject, appoint such minister to administer the subject temporarily ; or

(2) shall, if the vacancy cannot be provided for in the manner aforesaid, himself temporarily administer the subject, and, while so doing, shall exercise, in relation to such subject, all such powers in addition to his own powers as Governor as he could exercise if he were the minister in charge thereof.

3. In any case in which the Governor himself undertakes temporarily to administer a subject under these rules, he shall certify that an emergency has arisen in which, owing to a ministerial vacancy, it is necessary for him so to do, and shall forthwith forward a copy of such certificate for the information of the Governor-General in Council.

4. Such temporary administration by the Governor shall only continue until a minister has been appointed to administer the subject.

5. The Governor shall not exercise in respect of such subject the powers conferred on him by section 72E of the Government of India Act.

APPENDIX E

THE SCHEDULED TAXES RULES ¹

1. (1) These rules may be called the Scheduled Taxes Rules.

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

2. The Legislative Council of a province may, without the previous sanction of the Governor-General, make and take into consideration any law imposing, for the purposes of the local Government, any tax included in Schedule I to these rules.

¹ See Notification No. 311-S. in *The Gazette of India* (Extra.), December 16, 1920 ; see also *The Bengal Legislative Council Manual*, 1927, pp. 154-56.

3. The Legislative Council of a province may, without the previous sanction of the Governor-General, make and take into consideration any law imposing, or authorizing any local authority to impose, for the purposes of such local authority, any tax included in Schedule II to these rules.

4. The Governor-General in Council may at any time, by order, make any addition to the taxes enumerated in Schedules I and II to these rules.

5. Nothing in these rules shall affect the right of a local authority to impose a tax without previous sanction or with the previous sanction of the local Government when such right is conferred upon it by any law for the time being in force.

SCHEDULE I

1. A tax on land put to uses other than agricultural.
2. A tax on succession or on acquisition by survivorship in a joint family.
3. A tax on any form of betting or gambling permitted by law.
4. A tax on advertisements.
5. A tax on amusements.
6. A tax on any specified luxury.
7. A registration fee.
8. A stamp duty other than duties of which the amount is fixed by Indian legislation.

SCHEDULE II

(In this Schedule the word 'tax' includes a cess, rate, duty or fee.)

1. A toll.
2. A tax on land or land values.
3. A tax on buildings.
4. A tax on vehicles or boats.
5. A tax on animals.
6. A tax on menials and domestic servants.
7. An octroi.
8. A terminal tax on goods imported into, or exported from, a local area, save where such tax is first imposed in a local area in which an octroi was not levied on or before the 6th July, 1917.
9. A tax on trades, professions and callings.
10. A tax on private markets.
11. A tax imposed in return for services rendered, such as—
 - (a) a water rate;

- (b) a lighting rate ;
- (c) a scavenging, sanitary or sewage rate ;
- (d) a drainage tax ; and
- (e) fees for the use of markets and other public conveniences.

APPENDIX F

THE LOCAL LEGISLATURES (PREVIOUS SANCTION) RULES.¹

1. (1) These rules may be called the Local Legislatures (Previous Sanction) Rules.

Short title
and com-
mencement.

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

2. A local legislature may not repeal or alter, without the previous sanction of the Governor-General,—

Laws re-
quiring
previous
sanction.

(1) any law made by any authority in British India before the commencement of the Indian Councils Act, 1861: provided that the Governor-General in Council may, by notification in *The Gazette of India*, declare that this provision shall not apply to any such law which he may specify, and if he does so, previous sanction shall not thereafter be necessary to the alteration or repeal of that law ; or

(2) any law specified in the Schedule to these rules or any law made by the Governor-General in Council amending a law so specified.

SCHEDULE

Year.	No.	Short title.
1860	XLV	The Indian Penal Code, 1860.
1864	III	The Foreigners Act, 1864.
1865	III	The Carriers Act, 1865.
„	X	The Indian Succession Act, 1865. ²
„	XV	The Parsi Marriage and Divorce Act, 1865.
„	XXI	The Parsi Intestate Succession Act, 1865. ³

¹ See Notification No. 312-S. in *The Gazette of India* (Extra.), December 16, 1920 ; see also *The Bengal Legislative Council Manual* 1927, pp. 156-57.

² Consolidated into the Indian Succession Act, 1925, and consequently repealed.

³ *Ibid.*

Year.	No.	Short title.
1866	XXI	The Native Converts' Marriage Dissolution Act, 1866.
„	XXVIII	The Trustees' and Mortgagees' Powers Act, 1866.
1867	XXV	The Press and Registration of Books Act, 1867.
1869	IV	The Indian Divorce Act, 1869.
1870	XXI	The Hindu Wills Act, 1870. ¹
1872	I	The Indian Evidence Act, 1872.
„	III	The Special Marriage Act, 1872.
„	IX	The Indian Contract Act, 1872.
„	XV	The Indian Christian Marriage Act, 1872.
1873	X	The Indian Oaths Act, 1873.
1874	III	The Married Women's Property Act, 1874.
„	XIV	The Scheduled Districts Act, 1874.
„	XV	The Laws Local Extent Act, 1874.
1875	IX	The Indian Majority Act, 1875.
1877	I	The Specific Relief Act, 1877.
1881	V	The Probate and Administration Act, 1881. ²
„	XIII	The Fort William Act, 1881.
„	XXVI	The Negotiable Instruments Act, 1881.
1882	II	The Indian Trusts Act, 1882.
„	IV	The Transfer of Property Act, 1882.
„	VII	The Powers of Attorney Act, 1882.
1889	IV	The Indian Merchandise Marks Act, 1889.
„	VII	The Succession Certificate Act, 1889.
„	XV	The Indian Official Secrets Act, 1889.
1890	VIII	The Guardians and Wards Act, 1890.
„	IX	The Indian Railways Act, 1890.
1891	XVIII	The Bankers' Books Evidence Act, 1891.
1895	XV	The Crown Grants Act, 1895.
1897	III	The Epidemic Diseases Act, 1897.
„	X	The General Clauses Act, 1897.
„	XIV	The Indian Short Titles Act, 1897.
1898	V	The Code of Criminal Procedure, 1898.
„	IX	The Live-stock Importation Act, 1898.
1899	IX	The Indian Arbitration Act, 1899.
1903	XIV	The Indian Foreign Marriage Act, 1903.
„	XV	The Indian Extradition Act, 1903.
1908	V	The Code of Civil Procedure, 1908.

¹ Consolidated into the Indian Succession Act of 1925, and, consequently, repealed.

² *Ibid.*

Year.	No.	Short title.
1908	IX	The Indian Limitation Act, 1908.
"	XIV	The Indian Criminal Law Amendment Act, 1908.
"	XV	The Indian Ports Act, 1908.
"	XVI	The Indian Registration Act, 1908.
1909	III	The Presidency-towns Insolvency Act, 1909.
"	IV	The Whipping Act, 1909.
"	VII	The Anand Marriage Act, 1909.
1910	I	The Indian Press Act, 1910. ¹
1911	X	The Seditious Meetings Act, 1911.
1912	IV	The Indian Lunacy Act, 1912.
"	V	The Provident Insurance Societies Act, 1912.
"	VI	The Indian Life Assurance Companies Act, 1912.
1913	VI	The Mussalman Wakf Validating Act, 1913.
"	VII	The Indian Companies Act, 1913.
1914	II	The Destructive Insects and Pests Act, 1914.
"	III	The Indian Copyright Act, 1914.
"	IX	The Local Authorities Loans Act, 1914.
1916	XV	The Hindu Disposition of Property Act, 1916.
1917	I	The Inland Steam-Vessels Act, 1917.
"	XXVI	The Transfer of Property (Validating) Act, 1917.
1918	X	The Usurious Loans Act, 1918.
1919	XI	The Anarchical and Revolutionary Crimes Act, 1919. ²
1920	V	The Provincial Insolvency Act, 1920.
"	X	The Indian Securities Act, 1920.
"	XIV	The Charitable and Religious Trusts Act, 1920.

APPENDIX G

THE RESERVATION OF BILLS RULES³

Short title and commencement. 1. (1) These rules may be called the Reservation of Bills Rules.

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

¹ It has been repealed.

² *Ibid.*

³ See Notification, No. 313-S. in *The Gazette of India* (Extra.), December 16, 1920; see also *The Bengal Legislative Council Manual*, 1927, pp. 158-59.

the Secretary of State in Council, and different dates may be appointed for different parts of India.

2. The Governor of any Governor's province shall reserve, for the consideration of the Governor-General, any Bill which has been passed by the Legislative Council of the province and is presented to the Governor for his assent, if the Bill appears to the Governor to contain provisions in respect of which the Bill has not been previously sanctioned by the Governor-General under sub-section (3) of section 80A of the Government of India Act—

(a) affecting the religion or religious rites of any class of British subjects in British India, or,

(b) regulating the constitution or functions of any University, or

(c) having the effect of including within a transferred subject matters which have hitherto been classified as reserved subjects, or

(d) providing for the construction or management of a light or feeder railway or tramway other than a tramway within municipal limits, or

(e) affecting the land revenue of a province either so as to—

(a) prescribe a period or periods within which any temporarily-settled estate or estates may not be re-assessed to land revenue, or

(b) limit the extent to which the assessment to land revenue of such an estate or estates may be made or enhanced, or

(c) modify materially the general principles upon which land revenue has hitherto been assessed,

if such prescription, limitation or modification appears to the Governor to be likely seriously to affect the public revenues of the province.

3. The Governor of any Governor's province may reserve for the consideration of the Governor-General, any Bill which has been passed by the Legislative Council of the province and is presented to the Governor for his assent, if any provisions of the Bill in respect of which it has not been previously sanctioned by the Governor-General under sub-section (3) of section 80A of the Government of India Act, appear to the Governor—

(1) to affect any matter wherewith he is specially charged under his Instrument of Instructions, or

(2) to affect any central subject, or

(3) to affect the interests of another province.

APPENDIX H

NON-OFFICIAL (DEFINITION) RULES¹

Short title
and com-
mencement.

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

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

Certain
persons not
to be treated
as officials
for purposes
of the Gov-
ernment of
India Act.

2. The holder of any office in the civil or military service of the Crown, if the office is one which does not involve both of the following incidents, namely, that the incumbent—

(1) is a whole-time servant of Government, and

(2) is remunerated either by salary or fees,

shall not be treated as an official for any of the purposes of the Government of India Act.

Decision of
Governor-
General in
Council to
be final.

3. If any question arises, whether any officer is or is not a whole-time servant of Government for the purposes of Rule 2, the decision of the Governor-General in Council shall be final.

APPENDIX I

A. RULES² RELATING TO EXPENDITURE BY THE GOVERNMENT OF INDIA ON SUBJECTS OTHER THAN PROVINCIAL

1. The previous sanction of the Secretary of State in Council is necessary—

(1) To the creation of any new, or the abolition of any existing, permanent post, or to the increase or reduction of the pay drawn by the incumbent of any permanent post, if the post in either case is one which would ordinarily be held by a member of one of the services

¹ *Vide The Bengal Legislative Council Manual*, 1927, pp. 159-60.

² The Government of India's Finance Department Resolution No. 1448-E. A., dated the 29th September, 1922, as subsequently amended by Resolution No. 518-Ex., dated the 2nd March, 1923, and Resolution No. F.-115-7-Ex.-25 (Finance Dept.), dated Simla, the 29th June, 1926.—*Vide also Book of Financial Powers* (Government of India), 1927, pp. 1-5, *The Calcutta Gazette*, July 15, 1926, Part IA, p. 213, and *The Gazette of India*, July 3, 1926.

named in the Schedule or by an officer holding the King's commission ; or to the increase or reduction of the cadre of any of those services, or of a service ordinarily filled by officers holding the King's commission.

(2) To the creation of a permanent post on a maximum rate of pay exceeding Rs. 1,200 a month, or the increase of the maximum pay of a sanctioned permanent post to an amount exceeding Rs. 1,200 a month.

(3) To the creation of a temporary post on pay exceeding Rs. 4,000 a month, or the extension beyond a period of two years (or, in the case of a post for settlement operations, of five years) of a temporary post or deputation on pay exceeding Rs. 1,200 a month.

[*Note.*—If the holder of a temporary post created by the Governor-General in Council, the rupee pay of which does not exceed Rs. 3,000, would have drawn overseas pay in sterling if he had not been appointed to this post, the Governor-General in Council may permit the holder of that post to draw, in addition to the rupee pay sanctioned for the post, the overseas pay in sterling not exceeding the amount to which he would have been entitled, had he not been appointed to the temporary post.]

(4) To the grant to any Government servant or the family or other dependants of any deceased Government servant of an allowance, pension or gratuity which is not admissible under rules made under section 96B of the Government of India Act, or under Army Regulations, India, except in the following cases :—

(a) compassionate gratuities to the families of Government servants left in indigent circumstances, subject to such annual limit as the Secretary of State in Council may prescribe ; and

(b) pensions or gratuities to Government servants wounded or otherwise injured while employed in Government service, or to the families of Government servants dying as the result of wounds or injuries sustained while employed in such service, granted in accordance with such rules as have been or may be laid down by the Secretary of State in Council in this behalf ; and

(c) re-grant of an hereditary political pension, in whole or in part, to an heir who is in Government employ or in receipt of a service pension.

(5) To any expenditure on a measure other than a Military Works project costing more than Rs. 5,00,000 (initial plus one year's

recurring) and involving outlay chargeable to the Army or Marine estimates.

(6) (a) To any expenditure on the inception of a Military Works project which is estimated to cost, or forms part of a scheme which is estimated to cost, more than Rs. 10,00,000 :

(b) To any expenditure on a Military works project in excess of the original sanctioned estimate, if—

(i) the excess is more than 10 per cent. of the original sanctioned estimate, and the estimated cost of the project thereby becomes more than Rs. 10,00,000 :

(ii) if the original estimate has been sanctioned by the Secretary of State, and the excess is more than 10 per cent of that estimate, or more than Rs. 10,00,000 :

(c) To any expenditure on a Military works project, in excess of a revised or completion estimate sanctioned by the Secretary of State :

Provided that, for the purposes of clauses (b) (ii) and (c) of the rule, if any section accounting for 5 per cent. or more of the estimated cost of a project sanctioned by the Secretary of State is abandoned, the estimated cost of the works in that section shall be excluded from the total sanctioned estimate of the project for the purpose of determining whether the Secretary of State's sanction is necessary.

(7) To any expenditure on the purchase of imported military stores otherwise than in accordance with such rules as may be made in this behalf by the Secretary of State in Council ;

(8) To any expenditure otherwise than in accordance with such rules as may have been laid down in this behalf by the Secretary of State in Council upon—

(a) the erection, alteration, furnishing, or equipment of a church ; or a grant-in-aid towards the erection, alteration, furnishing or equipment of a church not wholly constructed out of public funds ; or

(b) the provision of additions to the list of special saloon and inspection railway carriages reserved for the use of high officials ; or

(c) the staff, household and contract allowances, or the residences and furniture provided for the use of the Governor-General ; or

(d) railways.

2. The foregoing rules do not apply to expenditure in time of war with a view to its prosecution. The Government of India have

full powers with regard to such expenditure, subject only to the general control of war operations which is exercised by the Secretary of State for India in consultation with His Majesty's Government ; to the necessity of obtaining the sanction of the Secretary of State in Council to really important special measures required to carry out those operations, where, in the judgment of the Government of India, time permits a previous reference to him ; and to the obligation to keep him as fully informed as circumstances allow of their important actions.

THE SCHEDULE

- (1) Indian Civil Service.
- (2) Indian Police Service.
- (3) Indian Forest Service.
- (4) Indian Educational Service.
- (5) Indian Agricultural Service.
- (6) Indian Service of Engineers.
- (7) The Indian Veterinary Service.
- (8) Indian Medical Service.
- (9) Imperial Customs Service.
- (10) Indian Audit and Accounts Service.
- (11) Superintendents and Class I of the Survey of India Department.
- (12) The Superior Staff of the Geological Survey of India Department.
- (13) The superior telegraph branch of the Posts and Telegraphs Department.
- (14) The State Railway Engineering Service.
- (15) The superior staff of the Mint and Assay Department.
- (16) The Archæological Department.
- (17) Any other service declared by the Secretary of State in Council to be included in this schedule.

B. RULES¹ RELATING TO EXPENDITURE BY A GOVERNOR IN COUNCIL ON PROVINCIAL RESERVED SUBJECTS

1. The previous sanction of the Secretary of State in Council is necessary—

(1) To the creation of any new or the abolition of any existing permanent post, or to the increase or reduction of the pay drawn by

¹ The Government of India's Finance Department Resolution No. 1449-E.A., September 29, 1922 (*The Gazette of India*, October

the incumbent of any permanent post, if the post in either case is one which would ordinarily be held by a member of an all-India service or by an officer holding the King's Commission, or to the increase or reduction of the cadre of an all-India Service.

(2) To the same as (2) in A above.¹

(3) To the same as (3) in A above.²

[*Note.*—If the holder of a temporary post created by the Governor in Council, the rupee pay of which does not exceed Rs. 3,000, would have drawn overseas pay in sterling if he had not been appointed to this post, the Governor in Council may permit the holder of that post to draw, in addition to the rupee pay sanctioned for the post, the overseas pay in sterling not exceeding the amount to which he would have been entitled, had he not been appointed to the temporary post.]

(4) To the same as (4) in A above, with the words 'or under Army Regulations' and clause (c) left out.³

(5) To any expenditure on the purchase of imported stores or stationery, otherwise than in accordance with such rules as may be made in this behalf by the Secretary of State in Council.

(6) To capital expenditure upon irrigation and navigation works, including docks and harbours, and upon projects for drainage, embankment and water-storage and the utilization of water power, in any of the following cases, namely :—

(a) where the project concerned materially affects the interests of more than one local Government ;

(b) where the original estimate exceeds 50 lakhs of rupees ;

(c) where a revised estimate exceeds by 15 per cent. an original estimate sanctioned by the Secretary of State in Council ;
and

(d) where a further revised estimate is proposed, after one revised estimate has already been sanctioned by the Secretary of State in Council.

(7) To a revision of permanent establishment involving additional establishment charges exceeding Rs. 5 lakhs a year ; provided that,

7, 1922, Part I, pp. 1216-17) as amended by the Finance Department (Government of India) Resolution No. 2119-Ex., dated Simla, the 18th September, 1923 (*The Gazette of India*, September 29, 1923), and Resolution No. F. 115-8-Ex.,—25, dated Simla, June 29, 1926 (*The Calcutta Gazette*, July 15, 1926 or *The Gazette of India*, July 3, 1926).

¹ See page 572 *ante*.

² *Ibid*.

³ *Ibid*.

if a resolution has been passed by the Legislative Council recommending an increase of establishment charges for this purpose, the sanction of the Secretary of State in Council shall not be required unless the expenditure so recommended exceeds 15 lakhs a year.

(8) To any increase of the contract, sumptuary or furniture grant of a Governor.

(9) To expenditure upon original works on the residences of a Governor exceeding Rs. 50,000 in any year. The Governor-General in Council shall, if necessary, decide whether a charge falls under the head of original works.

(10) To any expenditure upon railway carriages or water-borne vessels specially reserved for the use of high officials, otherwise than in connection with the maintenance of such carriages or vessels already set apart with the sanction of the Secretary of State in Council for the exclusive use of a Governor.

2. (1) Every application for the sanction of the Secretary of State in Council required by Rule 1 shall be addressed to the Governor-General in Council, who shall, save as hereinafter provided, forward the same with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the local Government, to the Secretary of State in Council.

(2) If the application relates—

(a) to the grant in an individual case of any increase in pay, or

(b) to the creation or extension of a temporary post,

the Governor-General in Council may at his discretion, on behalf of the Secretary of State in Council, sanction the proposal, or may, and, if he dissents from the proposal, shall, forward the application with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the local Government, for the orders of the Secretary of State in Council.

APPENDIX J

STANDING COMMITTEES

Under the orders ¹ of the Governor-General, Standing Committees, consisting of members of the Indian Legislature, have been attached to the following departments of the Government of India :—

(1) the Home Department ;

(2) the Departments of Commerce and Industries ; and

¹ See the Government of India Notification No. F.-49, dated August 22, 1922. Vide *The Gazette of India*, August 26, 1922, Part I, pp. 1052-53.

(3) the Department of Education and Health.

The Member of the Governor-General's Executive Council in charge of the department to which a Standing Committee is attached is the Chairman of the Committee. He may, however, depute an officer to act as Chairman on his behalf. A Secretary or a Deputy Secretary to the Government of India in the department concerned acts as Secretary to the Committee.

A Standing Committee consists of five members of the Indian Legislature of whom two must be members of the Council of State, and three members of the Legislative Assembly. The members of each Committee are nominated, subject to the approval of the Governor-General, by the Member in charge of the department to which the Committee is assigned, 'from separate panels consisting of such number of members, not less than ten and not more than fifteen, as the Governor-General may direct.' The panels are elected by the two Chambers of the Legislature for each Committee according to the principle of proportional representation by means of a single transferable vote. The term of office of the members of each Committee is one year, and if they are summoned to attend a meeting at a time when the Indian Legislature is not sitting, they are entitled to receive the allowances admissible to them for attendance at meetings of the Legislature.

The following subjects are laid before the Standing Committees :—

" (1) All Bills introduced or proposed to be introduced, by non-official members of the Legislature, and legislative proposals which the department concerned intends to undertake and on which the Member in charge of the department desires the advice of the Committee.

(2) Reports of Committees and Commissions on which the Indian Legislature is not adequately represented and on which the Member in charge of the department desires the advice of the Committee.

(3) Major questions of general policy on which the Member in charge of the department desires the advice of the Committee.

(4) Annual Reports."

It is provided, however, that in cases of urgency and for other reasons a reference to a Standing Committee may be dispensed with by the department concerned ; and that the following cases are to be excluded from the purview of the Committee :—

(1) cases concerning appointments ; and

(2) all cases which the Member in charge of the department

concerned considers cannot be placed before the Committee consistently with the public interest.

The functions of the Standing Committees are purely advisory and their proceedings are strictly confidential. No press representatives are allowed to attend any meeting of a Committee.

A Standing Committee meets as and when the Member in charge of the department to which it is attached, directs. The meeting is summoned by the Secretary of the department. The agenda of each meeting are drawn up and circulated by the Secretary, together with a memorandum explaining the nature of each item of business, and copies of such papers as the Member in charge of the department directs to be supplied to the Committee. Such papers have to be returned by the members of the Committee to the Secretary at the close of the meeting. When the Committee meets, the Secretary may be requested by the Member in charge to explain each item of business. The Chairman then invites a discussion and the Secretary notes on the departmental file the general opinion of the Committee.

In addition to the Standing Committees mentioned above, there are the Standing Finance Committee, the Standing Finance Committee for Railways, the Standing Committee for Emigration and the Central Advisory Council for Railways. The procedure of these Committees is governed by the rules under which they are constituted. The Standing Finance Committee consists of members, not exceeding fourteen, elected by the Legislative Assembly and a Government Member, usually the Finance Member, who is the Chairman of the Committee. It (a) 'examines all proposals for new votable expenditure in all departments of the Government of India; (b) sanctions allotments out of lump sum grants; (c) suggests retrenchments and economy in expenditure; and (d) generally helps the Finance Department of the Government of India by advice in such cases as may be referred to it by that department.' Its powers are, as in the case of other Standing Committees, advisory; but it undoubtedly exercises a wholesome influence over the expenditure of public revenues.

Standing Committees have been attached, under the orders of the Governor, to the following departments of the Government of Bengal¹ :—

Rule for
Standing
Committees
in Bengal.

- (1) Police.
- (2) Judicial and Jails.

¹ *Vide The Bengal Legislative Council Manual, 1927, pp. 344-45.*

- (3) Local Self-Government.
- (4) Medical and Public Health.
- (5) Education.
- (6) Commerce and Marine.
- (7) Public Works (Roads and Buildings).
- (8) Irrigation.
- (9) Agriculture (including Civil Veterinary, Fisheries and Co-operative Credit).
- (10) Excise.
- (11) Land Revenue.

Each Standing Committee consists of the Member or Minister in charge of the department to which the Committee is attached, the head of the department, where there is one, and four non-official members of the local Legislative Council. The Member or Minister in charge is the Chairman of the Committee and the departmental Secretary is its Secretary. The four non-official members are appointed by the Governor 'after consideration of the names of the persons' elected for the Committee by the Council on the basis of the single transferable vote. They are entitled to the allowances payable under the Legislative Council Rules if they are summoned at a time when the Council is not sitting.

The following matters must be laid before the Standing Committee attached to a department, namely :—

- (1) all major questions of departmental policy ;
- (2) all schemes involving large expenditure ;
- (3) annual Reports issued by the department ; and
- (4) any other matter concerning the department on which the Member or Minister in charge may desire its opinion.

It is provided, however, that in cases of urgency a reference to the Committee may be dispensed with, and that the following cases will be excluded from its purview :—

- (1) 'cases concerning appointments ; and
- (2) all cases which the Member or Minister in charge, with the concurrence of the Governor, considers cannot be submitted to it consistently with the public interest.'

The meetings of the Committee are summoned by the Secretary concerned under the direction of the Member or Minister in charge. The agenda are 'drawn up and circulated by the Secretary together with a memorandum explaining the nature of each item of business, and copies of such papers as the Member or Minister in charge directs to be furnished to the Committee.' At every meeting

of the Committee the Secretary explains each case brought before it and is entitled to take part in the discussion that follows. He then notes on the departmental file the general opinion of the Committee.

The powers of the Standing Committees are advisory only, and their proceedings are confidential.

APPENDIX K

OFFICES RESERVED TO THE INDIAN CIVIL SERVICE

A.—Offices under the Governor-General in Council.

1. The offices of Secretary, Joint Secretary and Deputy Secretary in every department except the Army, Marine, Education, Foreign, Political and Public Works Departments: provided that if the office of Secretary or Deputy Secretary in the Legislative Department is filled from among the members of the Indian Civil Service, then the office of Deputy Secretary or Secretary in that department, as the case may be, need not be so filled.

2. Three offices of Accountants-General.

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

The following offices, namely :—

- (1) Member of the Board of Revenue.
- (2) Financial Commissioner.
- (3) Commissioner of Revenue.
- (4) Commissioner of Customs.
- (5) Opium Agent.
- (6) Secretary in every department except the Public Works or Marine Department.
- (7) Secretary to the Board of Revenue.
- (8) District or Sessions Judge.
- (9) Additional District or Sessions Judge.
- (10) District Magistrate.
- (11) Collector of Revenue or Chief Revenue Officer of a district.

APPENDIX L

Provisions of the Government of India Act which may be repealed or altered by the Indian Legislature.

(Fifth Schedule to the Act)

Section	Subject
62	... Power to extend limits of presidency towns.

	Section	Subject
106	... "	... Jurisdiction, powers and authority of High Courts.
108 (1) Exercise of jurisdiction of High Court by single judges or division courts.
109 Power for Governor-General in Council to alter local limits of jurisdiction of High Courts, etc.
110 Exemption from jurisdiction of High Courts.
111 Written order by Governor-General in Council a justification for act in High Court.
112 Law to be administered in cases of inheritance, succession, contract and dealing between party and party.
114 (2) Powers of Advocate-General.
124 (1) Oppression.
124 (4)—so far as it relates to persons employed or concerned in the collection of revenue or the administration of justice.		Trading.
124 (5)—so far as it relates to persons other than the Governor-General, a Governor, or a Member of the Executive Council of the Governor-General or of a Governor.		Receiving presents.
125 Loans to Princes or Chiefs.
126 Carrying on dangerous correspondence.
128 Limitation for prosecutions in British India.
129 Penalties.

APPENDIX M

INSTRUCTIONS¹ TO GOVERNORS

Whereas by the Government of India Act provision has been made for the gradual development of self-governing institutions in British

¹ *The Calcutta Gazette* (Extra.), January 3, 1921, pp. 6 and 7.

India with a view to the progressive realization of responsible government in that country as an integral part of Our Empire :

And whereas it is Our will and pleasure that in the execution of the office of Governor in and over the presidency or the province of . . . you shall further the purposes of the said Act to the end that the institutions and methods of Government therein provided shall be laid upon the best and surest foundations, that the people of the said presidency (or province) shall acquire such habits of political action and respect such conventions as will best and soonest fit them for self-government, and that Our authority and the authority of Our Governor-General in Council shall be duly maintained :

Now, therefore, We do hereby direct and enjoin you and declare Our will and pleasure to be as follows :—

1. You shall do all that lies in your power to maintain standards of good administration, to encourage religious toleration, co-operation, and good-will among all classes and creeds, to ensure the probity of public finance and the solvency of the presidency (or province), and to promote all measures making for the moral, social and industrial welfare of the people and tending to fit all classes of the population without distinction to take their due share in the public life and government of the country.

2. You shall bear in mind that it is necessary and expedient that those now and hereafter to be enfranchised shall appreciate the duties, responsibilities and advantages which spring from the privilege of enfranchisement ; that is to say, that those who exercise the power henceforward entrusted to them of returning representatives to the Legislative Council being enabled to perceive the effects of their choice of a representative, and that those who are returned to the Council being enabled to perceive the effects of their votes given therein shall come to look for the redress of their grievances and the improvement of their condition to the working of representative institutions.

3. Inasmuch as certain matters have been reserved for the administration according to law of the Governor in Council, in respect of which the authority of Our Governor-General in Council shall remain unimpaired, while certain other matters have been transferred to the administration of the Governor acting with a Minister, it will be for you so to regulate the business of the Government of the presidency (or province) that, so far as may be possible, the responsibility for each of these respective classes of matters may be kept clear and distinct.

4. Nevertheless, you shall encourage the habit of joint deliberation between yourself, your Councillors and your Ministers in order that the experience of your official advisers may be at the disposal of your Ministers, and that the knowledge of your Ministers as to the wishes of the people may be at the disposal of your Councillors.

5. You should assist Ministers by all the means in your power in the administration of the transferred subjects, and advise them in regard to their relations with the Legislative Council.

6. In considering a Minister's advice and deciding whether or not there is sufficient cause in any case to dissent from his opinion, you shall have due regard to his relations with the Legislative Council and to the wishes of the people of the presidency (or province), as expressed by their representatives therein.

7. But in addition to the general responsibilities with which you are, whether by statute or under this instrument, charged, We do further hereby specially require and charge you—

(1) to see that whatsoever measures are in your opinion necessary for maintaining safety and tranquillity in all parts of your presidency (or province) and for preventing occasions of religious or racial conflict, are duly taken and that all orders issued by Our Secretary of State or by Our Governor-General in Council on Our behalf, to whatever matters relating, are duly complied with ;

(2) to take care that due provision shall be made for the advancement and social welfare of those classes amongst the people committed to your charge, who, whether on account of the smallness of their number, or their lack of educational or material advantages, or from any other cause, specially rely upon Our protection and cannot as yet fully rely for their welfare upon joint political action, and that such classes shall not suffer or have cause to fear neglect or oppression ;

(3) to see that no order of your Government and no Act of your Legislative Council shall be so framed that any of the diverse interests of, or arising from, race, religion, education, social condition, wealth or any other circumstance may receive unfair advantage, or may unfairly be deprived of privileges or advantages which they have heretofore enjoyed or be excluded from the enjoyment of benefits which may hereafter be conferred on the people at large ;

(4) to safeguard all members of Our services employed in the said presidency (or province) in the legitimate exercise of their functions, and in the enjoyment of all recognized rights and privileges,

and to see that your Government order all things justly and reasonably in their regard, and that due obedience is paid to all just and reasonable orders and diligence shown in their execution ;

(5) to take care that, while the people inhabiting the said presidency (or province) shall enjoy all facilities for the development of commercial and industrial undertakings, no monopoly or special privilege, which is against the common interest, shall be established, and no unfair discrimination shall be made in matters affecting commercial or industrial interests.

8. And We do hereby charge you to communicate these Our Instructions to the members of your Executive Council and your Ministers and to publish the same in your presidency (or province) in such manner as you think fit.

APPENDIX N

INSTRUCTIONS TO THE GOVERNOR-GENERAL¹

Instructions to Our Governor-General of India given at Our Court at Buckingham Palace, this 15th day of March, 1921.²

Whereas by the Government of India Act it is enacted that the Governor-General of India is appointed by Warrant under Our Royal Sign Manual, and We have by Warrant constituted and appointed a Governor-General to exercise the said office subject to such instructions and directions as he, or Our Governor-General for the time being, shall from time to time receive or have received under Our Royal Sign Manual or under the hand of one of Our Principal Secretaries of State :

And whereas certain instructions were issued under Our Royal Sign Manual to Our said Governor-General bearing date the 19th day of November, 1918 :

And whereas by the coming into operation of the Government of India Act, 1919, it has become necessary to revoke the said instructions and to make further and other provisions in their stead :

Now, therefore, We do by these Our instructions under Our Royal Sign Manual hereby revoke the aforesaid instructions and declare Our pleasure to be as follows :—

I. Our Governor-General for the time being (hereinafter called

¹ See the Government of India Notification No. 1552, dated the 8th June, 1921 in *The Cal. Gaz.*, Part IA, June 22, 1921, pp. 261-62 or in *The Gazette of India*, June 11, 1921, pp. 850-51 ; also the Government of India, Home Department, Notification No. F.—476/26 (Public), dated the 7th August, 1926 (*The Gazette of India*, August 14, 1926, Part I, pp. 902-3).

² Also see *ibid.*

Our said Governor-General) shall with all due solemnity cause our Warrant under Our^a Royal Sign Manual appointing him to be read and published in the presence of the Chief Justice for the time being or, in his absence, of the Senior Judge of one of the High Courts established in British India, and of so many of the Members of the Executive Council of Our said Governor-General as may conveniently be assembled.

Our said Governor-General shall take the Oath of Allegiance and the Oath for the due execution of the Office of Our Governor-General of India, and for the due and impartial administration of Justice in the forms hereto appended; which Oaths the said Chief Justice for the time being or, in his absence, the Senior Judge of one of Our said High Courts shall, and he is hereby required to, tender and administer unto him.

II. And We do authorize and require Our said Governor-General from time to time, by himself or by any other person to be authorized by him in that behalf, to administer to every person who shall be appointed by Us by Warrant under Our Royal Sign Manual to be a Governor of one of Our presidencies or provinces in India, and to every person who shall be appointed to be a Lieutenant-Governor or a Chief Commissioner, the Oaths of Allegiance and of Office in the said forms.

III. And We do authorize and require Our said Governor-General from time to time, by himself or by any other person to be authorized by him in that behalf, to administer to every person who shall be appointed by Us by Warrant under Our Royal Sign Manual or by the Secretary of State in Council of India to be a Member of the Governor-General's Executive Council or a Member of a Governor's Executive Council, and to every person who shall be appointed to be a Member of a Lieutenant-Governor's Executive Council, and to every person whom any of Our said Governors shall appoint to be a Minister, the Oaths of Allegiance and of Office in the said forms together with the Oath of Secrecy hereto appended.

IV. And We do further direct that every person who under these instructions shall be required to take an Oath, may make an affirmation in place of an Oath if he has any objection to making an Oath.

V. And We do hereby authorize and empower Our said Governor-General in Our name and on Our behalf to grant to any offender convicted in the exercise of its criminal jurisdiction by any Court of Justice within Our said Territories a pardon either free or subject to such lawful conditions as to him may seem fit.

V-B (?) And We do hereby authorize and empower Our said Governor-General in Our name and on Our behalf for sufficient cause to him appearing and with the concurrence of one of Our Principal Secretaries of State to suspend from the exercise of his office any person appointed by Us or with Our approval to an office in India against whom misbehaviour shall have been alleged, and to constitute a tribunal to enquire into the truth of such allegation in order that Our pleasure may be signified on its finding under Our Royal Sign Manual.

VI. And inasmuch as the policy of Our Parliament is set forth in the Preamble to the said Government of India Act, 1919, We do hereby require Our said Governor-General to be vigilant that this policy is constantly furthered alike by his Government and by the local Governments of all Our presidencies and provinces.

VII. In particular it is Our will and pleasure that the powers of superintendence, direction and control over the said local Governments vested in Our said Governor-General and in Our Governor-General in Council shall, unless grave reason to the contrary appears, be exercised with a view to furthering the policy of the local Governments of all Our Governors' provinces, when such policy finds favour with a majority of the Members of the Legislative Council of the province.

VIII. Similarly, it is Our will and pleasure that Our said Governor-General shall use all endeavour consistent with the fulfilment of his responsibilities to Us and to Our Parliament for the welfare of Our Indian subjects, that the administration of the matters committed to the direct charge of Our Governor-General in Council may be conducted in harmony with the wishes of Our said subjects as expressed by their representatives in the Indian Legislature, so far as the same shall appear to him to be just and reasonable.

IX. For above all things it is Our will and pleasure that the plans laid by Our Parliament for the progressive realization of responsible government in British India as an integral part of Our Empire may come to fruition, to the end that British India may attain its due place among Our Dominions. Therefore We do charge Our said Governor-General by the means aforesaid and by all other means which may to him seem fit to guide the course of Our subjects in India whose governance We have committed to his charge so that, subject on the one hand always to the determination of Our Parliament, and, on the other hand, to the co-operation of those on whom new opportunitie

of service have been conferred, progress toward such realization may ever advance to the benefit of all Our subjects in India.

X. And We do hereby charge Our said Governor-General to communicate these Our Instructions to the Members of his Executive Council, and to publish the same in such manner as he may think fit.

APPENDIX O ¹PROVISIONS OF THE GOVERNMENT OF INDIA
(LEAVE OF ABSENCE) ACT, 1924.

[Section 1 of the Government of India (Leave of Absence) Act, 1924, has been incorporated in the Government of India Act as Sections 86 and 87 with the consequential changes in the latter Act ; similarly, Section 2 of the former Act has been incorporated in the latter as its Sub-sections (4) and (4A) of Section 92.]

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

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

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

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

(4) Where leave of absence is granted to any person in pursuance

¹ See *The Government of India Act* published by the Government of India, pp. 118a, 118b and 119 ; also pp. 122-23 ; also pp. 228a and 228b.

V-B (?) And We do hereby authorize and empower Our said Governor-General in Our name and on Our behalf for sufficient cause to him appearing and with the concurrence of one of Our Principal Secretaries of State to suspend from the exercise of his office any person appointed by Us or with Our approval to an office in India against whom misbehaviour shall have been alleged, and to constitute a tribunal to enquire into the truth of such allegation in order that Our pleasure may be signified on its finding under Our Royal Sign Manual.

VI. And inasmuch as the policy of Our Parliament is set forth in the Preamble to the said Government of India Act, 1919, We do hereby require Our said Governor-General to be vigilant that this policy is constantly furthered alike by his Government and by the local Governments of all Our presidencies and provinces.

VII. In particular it is Our will and pleasure that the powers of superintendence, direction and control over the said local Governments vested in Our said Governor-General and in Our Governor-General in Council shall, unless grave reason to the contrary appears, be exercised with a view to furthering the policy of the local Governments of all Our Governors' provinces, when such policy finds favour with a majority of the Members of the Legislative Council of the province.

VIII. Similarly, it is Our will and pleasure that Our said Governor-General shall use all endeavour consistent with the fulfilment of his responsibilities to Us and to Our Parliament for the welfare of Our Indian subjects, that the administration of the matters committed to the direct charge of Our Governor-General in Council may be conducted in harmony with the wishes of Our said subjects as expressed by their representatives in the Indian Legislature, so far as the same shall appear to him to be just and reasonable.

IX. For above all things it is Our will and pleasure that the plans laid by Our Parliament for the progressive realization of responsible government in British India as an integral part of Our Empire may come to fruition, to the end that British India may attain its due place among Our Dominions. Therefore We do charge Our said Governor-General by the means aforesaid and by all other means which may to him seem fit to guide the course of Our subjects in India whose governance We have committed to his charge so that, subject on the one hand always to the determination of Our Parliament, and, on the other hand, to the co-operation of those on whom new opportunitie

of service have been conferred, progress toward such realization may ever advance to the benefit of all Our subjects in India.

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APPENDIX O¹

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

Power to
grant leave
of absence
to Governor-
General.

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

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

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

(4) Where leave of absence is granted to any person in pursuance

¹ See *The Government of India Act* published by the Government of India, pp. 118a, 118b and 119; also pp. 122-23; also pp. 228a and 228b.

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

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

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

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

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

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

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

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

92. (4) Until the return to duty of the member (of the Executive Council¹) so incapable or absent, the person temporarily appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing the emoluments and advantages (if any) to which he was entitled at the time of his being appointed to that office.

(4A) When a member of an Executive Council is by infirmity or otherwise rendered incapable of acting or attending to act as such and a temporary member of council is appointed in his place, the absent member shall be entitled to receive half his salary for the period of his absence.

MONTHLY RATES OF LEAVE ALLOWANCES PAYABLE ²

	RS. A. P.		
Governor-General	6,000	0	0
Commander-in-Chief and Governors (other than the Governors of the Central Provinces and Assam) ...	4,000	0	0
Governor of the Central Provinces ...	3,000	0	0
Governor of Assam	2,750	0	0
Member of the Governor-General's Executive Council ...	3,333	5	4
Member of the Executive Council of the Governor of Bengal, Madras, Bombay or the United Provinces ...	2,666	10	8
Member of the Executive Council of the Governor of the Punjab, Bihar and Orissa, or Burma ...	2,500	0	0
Member of the Executive Council of the Governor of the Central Provinces	2,000	0	0
Member of the Executive Council of the Governor of Assam	1,750	0	0

¹ See Section 92 of the Government of India Act.

² Schedule to Rules under Section 86 of the Government of India Act. See pages 228a and 228b of *The Government of India Act* published by the Government of India.

APPENDIX P

*A. Manner of determining by ballot the relative precedence of notices of Bills and Resolutions.*THE BENGAL LEGISLATIVE COUNCIL¹

(1) All non-official members, when giving notice for the introduction of Bills or the moving of resolutions, will state in the notice the order of precedence in which they place the motions of which they are giving notice. If they send in more than one notice, the motion or motions contained in the earlier notice will take priority over other motions of the same member of which subsequent notice is given, unless the member sends express written intimation to the contrary. If notice of two or more motions is given by a member at one time and no priority is stated between them, the motions will not be considered for priority until the ballot held under rule (8) below.

(2) On such day and at such time as the President may prescribe in this behalf, balloting will take place for priority of non-official Bills and Resolutions. Members may attend at the time of the ballot if they wish, but are not bound to do so.

(3) The name of each member who has given notice of one or more motions (Bills or Resolutions) shall be entered in alphabetical order by the Secretary on the ballot paper.

(4) Slips of paper bearing corresponding numbers will be folded up and placed in the ballot box.

(5) The Registrar of the Council, having shuffled the slips of paper, will draw them out one by one and notify to the Secretary the numbers that have been drawn out.

(6) (i) The Secretary shall thereupon announce, in order of drawing, the names of the members to whose signatures the numbers are attached upon the ballot paper, and shall enter the notices in the list of business in the order arrived at by ballot :

Provided that, as a result of any one ballot, priority will be given to only one motion standing in the name of any one member.

(ii) The list of business will be compiled so as to give, within the time allotted to non-official business by the Governor, such time to bills of non-official members and to resolutions as may be decided by the President. When the number of a member is drawn in the ballot, if the motion to which he has given preference is a bill, that bill will take place in the list of business among the bills

¹ See *The Bengal Legislative Council Manual*, 1927, pp. 312-15.

according to the order of drawing, and if it is a resolution, then it will similarly take place in the list of resolutions.

(7) After a ballot has been taken, if any notices stand over in the names of members whose names have been balloted, a further ballot or ballots shall be taken until all such notices have been disposed of.

(8) Motions of members whose names do not appear on the ballot paper shall be placed after all balloted notices, in the order in which they may be drawn in a final supplementary ballot, conducted on the same lines, except that each motion will be given a number, and that the proviso to order (6) (i) shall not apply.

(9) The President shall, after question-time, announce to the members in meeting the order of non-official business as arrived at by the ballot.

B. Ballot Procedure for determining relative precedence of non-official Bills and Resolutions.

THE LEGISLATIVE ASSEMBLY.¹

(1) Not less than seventeen days before each day allotted for the disposal of non-official business, the Secretary will cause to be placed in the Assembly Office a numbered list. This list will be kept open for two days, and during those days and at hours when the office is open, any member, who wishes to give or has given notice of a resolution, or has given notice of a Bill, as the case may be, may have his name entered, in the case of a ballot for resolutions, against one number only, or, in the case of a ballot for Bills, against one number for each Bill of which he has given notice, up to the number of three.

(2) The ballot will be held in the Committee room before the Secretary, and any member who wishes to attend may do so.

(3) Papers with numbers corresponding to those against which entries have been made on the numbered list will be placed in a box.

(4) A clerk will take out at hazard from the box one of the papers and the Secretary will call out from the list the corresponding name, which will then be entered on a priority list. This procedure will be carried out till all the numbers or, in the case of a ballot for resolutions, five numbers have been drawn.

¹ Manual of Business and Procedure (L.A.) 1926, p. 122.

(5) Priority on the list will entitle the member to have set down, in the order of his priority for the day with reference to which the ballot is held, any Bill or any resolution, as the case may be, of which he has given the notice required by the rules or standing orders :

Provided that he shall then and there specify such Bill or Bills or such resolution.

APPENDIX Q

Home Department (the Government of India) Notification No. 5123-Public, dated the 8th November, 1927.

The following statement by His Excellency the Viceroy and Governor-General in regard to the appointment of a Statutory Commission with reference to section 84A of the Government of India Act is published for general information.

H. G. HAIG,

Secy. to the Govt. of India.

STATEMENT.

Eight years ago the British Parliament enacted a Statute which regulated the conditions under which India might learn by actual experience whether or not the Western system of representative government was the most appropriate means through which she might attain responsible self-government within the Empire. That Statute never professed to incorporate irrevocable decisions, and recognised that its work must of necessity be reviewed in the light of fuller knowledge with the lapse of years. Parliament accordingly enacted that at the end of ten years, at latest, a Statutory Commission should be appointed to examine and report upon the progress made.

Considerable pressure has during recent years been exercised to secure anticipation of the Statute, but His Majesty's Government has hitherto felt that circumstances in India were not such as to justify, in the interests of India itself, advancement of the date at which the future development of the constitution would be considered. So long as the unwise counsels of political non-co-operation prevailed, it was evident that the conditions requisite for calm appraisalment of a complicated constitutional problem were lacking, and that an earlier enquiry would have been likely only to crystallize in opposition two points of view, between which it must be the aim and the duty of statesmanship to effect reconciliation. But there have been signs latterly that, while those who have been foremost in advancing the

claims of India to full self-government have in no way abandoned principles they have felt it their duty to assert, yet there is in many quarters a greater disposition to deal with the actual facts of the situation and to appreciate what I believe to be the most indubitably true, namely, that the differences which exist on these matters are differences of method or pace, and not differences of principle or disagreements as to the goal which we all alike desire to reach.

It is also certain that the review, if it is to be thorough, and deal adequately with the issues that will claim attention, will have much ground to cover, and, both for this stage and for those that will necessarily follow, it is important to ensure a sufficient allowance of time, without unduly postponing the date by which final action could be undertaken.

There is another element in the present position, which is immediately relevant to the question of when the work of the Commission should begin. We are all aware of the great, the unhappily great, part played in the life of India recently by communal tension and antagonism, and of the obstacle thus imposed to Indian political development. It might be argued that in such circumstances it was desirable to delay the institution of the Commission as long as possible, in the hope that this trouble might in the meantime abate. On the other hand it seems not impossible that the uncertainty of what constitutional changes might be imminent may have served to sharpen this antagonism, and that each side may have been, consciously or unconsciously, actuated by the desire to strengthen, as they supposed, their relative position in anticipation of the Statutory Commission. Wherever such activities may first begin, the result is to create a vicious circle, in which all communities are likely to feel themselves constrained to extend their measures of self-defence.

The fact that these fierce antagonisms are irreconcilable with the whole idea of Indian nationalism has not been powerful enough to exercise its influence over great numbers of people in all classes, and I suspect that the communal issue is so closely interwoven in the political, that 'suspense and uncertainty in regard to the political react rapidly and unfavourably upon the communal situation. Fear is frequently the parent of bad temper, and when men are afraid, as they are to-day, of the effect unknown political changes may have, they are abnormally ready to seek relief from, and an outlet for, their fears in violent and hasty action. In so far as these troubles are the product of suspense, one may hope for some relief through action taken to limit the period of uncertainty.

Having regard to such considerations as these, His Majesty's Government has decided to invite Parliament to advance the date of the enquiry and to assent forthwith to the establishment of the Commission. Subject to the obtaining of this necessary authority, His Majesty's Government hopes that the Commission will proceed to India as early as possible in the New Year for a short visit, returning to India in October for the performance of their main task.

The task of the Commission will be no easy one. In the governing words of the Statute, which will constitute its terms of reference, it will be charged with 'inquiring into the working of the system of government, the growth of education, and the development of representative institutions, in British India, and matters connected therewith, and the Commission shall report as to whether and to what extent it is desirable to establish the principle of responsible government, or to extend, modify, or restrict the degree of responsible government then existing therein, including the question whether the establishment of second chambers of the local legislatures is or is not desirable.'

His Majesty's Government have naturally given careful thought to the most appropriate agency for the conduct of an enquiry so comprehensive and unrestricted.

The question of what should be the composition of the Commission is one to which the answer must inevitably be greatly influenced by the nature of the task which Parliament has to perform in the light of its advice. In order that the decision at which His Majesty's Government have arrived may be fully understood, it is necessary to state in a few words what they conceive that task to be. If it were simply the drawing up of a constitution which Parliament, which must in any circumstances be the final arbiter, would impose on India from without, the problem would be comparatively simple. But that is not how His Majesty's Government conceive it. The preamble to the Act of 1919 recognized in effect that, with the development of Indian political thought during the last generation, legitimate aspirations towards responsible government had been formed of which account must be taken. His Majesty's present Government desire no less to take account of those aspirations, and their hope is to lay before Parliament—after the investigation into facts prescribed by the Act—conclusions which shall, so far as is practicable, have been reached by agreement with all the parties concerned. It is with this object steadily in view that His Majesty's

Government have considered both the composition of the Commission and the procedure to be followed in dealing with its report.

It would be generally agreed that what is required is a Commission which would be unbiassed and competent to present an accurate picture of facts to Parliament; but it must also be a body on whose recommendations Parliament should be found willing to take whatever action a study of these facts may indicate to be appropriate.

To fulfil the first requirement it would follow that the Commission should be such as may approach its task with sympathy and a real desire to assist India to the utmost of its power, but with minds free from preconceived conclusions on either side. It is, however, open to doubt whether a Commission constituted so as to include a substantial proportion of Indian members, and, as it rightly would, British official members also, would satisfy the first condition of reaching conclusions unaffected by any process of *a priori* reasoning. On the one hand, it might be felt that the desires, natural and legitimate, of the Indian members to see India a self-governing nation could hardly fail to colour their judgment of her present capacity to sustain the rôle. On the other hand, there are those who might hold that British official members would be less than human if their judgment were not in some degree affected by long and close contact with the questions to which they would now be invited to apply impartial minds.

But even after such a Commission had written its report, Parliament would inevitably approach consideration of it with some element of mental reservation due to an instinctive feeling that the advice in more than one case represented views to which the holder was previously committed. It would move uncertainly among conclusions, the exact value of which, owing to unfamiliarity with the minds of their framers, it would feel unable to appraise.

We should, however, be making a great mistake if we supposed that these matters were purely constitutional, or could be treated merely as the subject of judicial investigation. Indian opinion has a clear title to ask that in the elaboration of a new instrument of government, their solution of the problem, or their judgment on other solutions which may be proposed, should be made an integral factor in the examination of the question and be given due weight in the ultimate decision. It is therefore essential to find means by which Indians may be made parties to the deliberations so nearly affecting the future of their country.

Balancing these various considerations, and endeavouring to give

due weight to each, His Majesty's Government have decided upon the following procedure:—

They propose to recommend to His Majesty that the Statutory Commission should be composed as follows:—

Chairman—The Right Hon. Sir John Simon, M. P.; Members—The Viscount Burnham, The Lord Strathcona, The Hon. E. Cadogan, M. P., The Right Hon. Stephen Walsh, M. P., Colonel The Right Hon. George Lane-Fox, M. P., and Major C. R. Attlee, M. P.

His Majesty's Government cannot of course dictate to the Commission what procedure it shall follow, but they are of opinion that its task in taking evidence would be greatly facilitated if it were to invite the Central Legislature to appoint a Joint Select Committee, chosen from its elected and nominated unofficial members, which would draw up its views and proposals in writing and lay them before the Commission for examination in such manner as the latter may decide. This Committee might remain in being for any consultation which the Commission might desire at subsequent stages of the enquiry. It should be clearly understood that the purpose of this suggestion is not to limit the discretion of the Commission in hearing other witnesses.

His Majesty's Government suggest that a similar procedure should be adopted with the Provincial Legislatures.

The vast area to be covered may make it desirable that the task of taking evidence on the more purely administrative questions involved should be undertaken by some other authority, which would be in the closest touch with the Commission. His Majesty's Government suggest that the Commission on arrival in India should consider and decide by what machinery this work may most appropriately be discharged. This will not of course debar the Commission from the advantage of taking evidence itself upon these subjects to whatever extent it may think desirable.

When the Commission has reported and its report has been examined by the Government of India and His Majesty's Government, it will be the duty of the latter to present proposals to Parliament. But it is not the intention of His Majesty's Government to ask Parliament to adopt these proposals without first giving a full opportunity for Indian opinion of different schools to contribute its view upon them.

And to this end it is intended to invite Parliament to refer these proposals for consideration by a Joint Committee of both Houses, and to facilitate the presentation to that Committee both of the view of the

Indian Central Legislature by delegations who will be invited to attend and confer with the Joint Committee, and also of the views of any other bodies whom the Joint Parliamentary Committee may desire to consult.

In the opinion of His Majesty's Government, the procedure contemplated fulfils to a very great extent the requisites outlined above.

Such a Commission, drawn from men of every British political party, and presided over by one whose public position is due to outstanding ability and character, will evidently bring fresh, trained, and unaffected judgment to bear upon an immensely complex constitutional issue.

Moreover, the findings of some of its own members can count in advance upon a favourable reception at the hands of Parliament, which will recognise them to speak from a common platform of thought, and to be applying standards of judgment which Parliament will feel instinctively to be its own. For myself I cannot doubt that the quickest and surest path of those who desire Indian progress is by the persuasion of Parliament, and that they can do this more certainly through members of both Houses of Parliament than in any other way. The Indian nationalist has gained much if he can convince Members of Parliament on the spot, and I would therefore go further and say that if those who speak for India have confidence in the case which they advance on her behalf, they ought to welcome such an opportunity being afforded to as many members of the British Legislature as may be thus to come into contact with the realities of Indian life and politics.

Furthermore, while it is for these reasons of undoubted advantage to all who desire an extension of the Reforms that their case should be heard in the first instance by those who can command the unquestioned confidence of Parliament, I am sanguine enough to suppose that the method chosen by His Majesty's Government will also assure to Indians a better opportunity than they could have enjoyed in any other way of influencing the passage of these great events. For, not only will they, through representatives of the Indian Legislatures, be enabled to express themselves freely to the Commission itself, but it will also be within their power to challenge in detail or principle any of the proposals made by His Majesty's Government before the Joint Select Committee of Parliament, and to advocate their own solutions. It should be observed moreover that at this stage Parliament will not have been asked to express any opinion on particular proposals, and

therefore, so far as Parliament is concerned, the whole field will still be open.

I hope that there will be none, whatever may be their political opinions, who will fail to take advantage of this potent means thus presented to them of establishing direct contact between the Indian and British peoples. There will be some whose inclination, it may be, will prompt them to condemn the scheme of procedure on which His Majesty's Government has decided. Others may criticise this or that part of the proposals. The reply to these last is that the plan outlined stands as a single comprehensive whole, and should be so regarded. Of the first, I would ask in all sincerity whether disagreement on the particular machinery to effect the end which we all alike pursue is sufficient ground for any man to stand aside, and decline to lend his weight to the joint effort of peoples that this undertaking represents. I have never concealed from myself that there are and will be differences of opinion between the two peoples, just as there are differences of opinion within Great Britain and India on these matters. It is through disagreement, and the clash of judgment, that it is given to us ultimately to approach the knowledge of the truth. It is also inevitable that, on issues so momentous, difference of judgment will be founded on deep and sincere conviction. But, if difficult, our general line of conduct is surely plain. Where possible, it is our duty to bring these differences to agreement; where this is at any given moment not practicable without surrender of something fundamental to our position, it is our duty to differ as friends, each respecting the standpoint of the other, and each being careful to see that we say or do nothing that will needlessly aggravate differences which we are unable immediately to resolve.

The effect that such differences will have upon the relations between the two countries will depend upon something which lies deeper than the differences themselves. All friendships are subject at times to strains which try the tempers and lay men under the necessity of exercising considerable forbearance and restraint. Such strains are indeed a sovereign test, for just as one is the stronger for rising superior to the temptation to which another yields, so true friendship flourishes on the successful emergence from the very test which would dissolve any less firmly founded partnership. In real friendship each party is constrained to see the best in the other's case—to give credit for the best motives, and place the most charitable interpretation upon actions which they might wish otherwise. Above all, friends will strive to correct differences by appeal to the many things on which

they are agreed, rather than lightly imperil friendship by insistence on points in regard to which they take conflicting views.

Thus I would fain trust it would be in the present case. I do not think I am mistaken if I assert that it is the fixed determination of the overwhelming majority of the citizens both of India and Great Britain to hold firmly by the good-will which, through many trials and, it may be, through some false steps on the part of each, has meant much to both. In each country there may be from time to time misunderstanding of the other. Let us not magnify such things beyond their value. Least of all let us permit such transient influences to lead us to lose sight of the rich prize of achievement of a common purpose, which we may assuredly win together but can hardly win in separation. It is my most earnest hope that this joint endeavour to solve a problem, on the wise treatment of which so much depends, may be inspired by such a spirit as shall offer good hope of reaching an issue to the great and abiding good of India and of all her sons.

IRWIN,

The 8th November, 1927.

Viceroy and Governor-General.

APPENDIX R

The following extract¹ from the speech of Viscount Chelmsford delivered on November 24, 1927, in the House of Lords, gives a brief, but authoritative, account of the genesis of the Reforms :—

‘I think the ball was set rolling with regard to the policy of reform by a very remarkable utterance made by my noble friend Lord Sinha, who is not here to-night. In 1915 he addressed the Indian National Congress as their President. It is very remarkable that, with the extreme views expressed by many Indians at that time, a man of his moderation, the foremost Indian of the time, should have been chosen. The remarkable passage in Lord Sinha’s address was that in which he pleaded with the British Government to declare two things: first, their policy with regard to future constitutional development, and then that, as an earnest of their sincerity in putting forward that announcement of constitutional development, they would state their readiness to take the first steps in that direction. This was at Christmas time in 1915. I came home from India in January, 1916, for six weeks before I went out again as Viceroy, and when I got home I found that there was a Committee in existence at the India Office, which was considering on what lines future constitutional

¹ See *Parliamentary Debates* (pub. by the Government of India), 1928, pp. 160-63.

development might take place. That Committee, before my return in the middle of March, gave me a pamphlet containing in broad outline the views which were held with regard to future constitutional development. When I reached India I showed this pamphlet to my Council and also to my noble friend Lord Meston, who was then Lieutenant-Governor of the United Provinces. It contained what is now known as the diarchic principle.

In this connection it might interest your Lordships to know how the epithet 'diarchic' first arose. At one of the first councils that I held on the subject, Sir William Meyer, a man of considerable erudition and very acute mind, when he heard the principles on which this proposal developed, as it appeared in the brochure, said that it reminded him of the division of central and imperial provinces under the early Roman Empire, which Mommsen called 'diarchy'. From that chance remark—it could only have been a chance remark, because I am sure that Sir William Meyer, if he had waited to think a little further, would have seen on reflection that there was no resemblance between the diarchy of Mommsen and the diarchy in our scheme—the word 'diarchic' has spread as an epithet of prejudice in connection with the reforms which were instituted at that time. Since people very often wonder how the word came to be used, I think it may interest your Lordships to mention that fact.

Both the Council and Lord Meston, who was then Sir James Meston, reported adversely on the proposals for constitutional development contained in that pamphlet. We proceeded to consider a Despatch on different lines, which were rather in the nature of an extension of the old Morley-Minto Reforms, but, as the then Secretary of State pointed out, our proposals failed to fix the enlarged Councils with responsibility. Mr. Chamberlain declared that a mere increase in numbers did not train Indians in self-government and did not advance its object unless the Councils could at the same time be fixed with some definite powers and real responsibility for their action. Surely in that criticism of Mr. Chamberlain lies the basic principle of the announcement that was made in August, 1917. It is true that Mr. Montagu was the mouth-piece of that announcement, but it is common knowledge that the announcement in its substance had been framed before Mr. Montagu assumed office.

With that announcement the situation regarding the consideration of reforms changed at once. I immediately asked my Council to work on the principles embodied in that announcement. It is interesting to note that Mr. Montagu was doing the very same thing in

London and when we met in India, in November of that year, we found that both my Council and the India Office had arrived at substantially the same conclusion—namely, that, if you were to carry out the announcement as pronounced by His Majesty's Government, embodying responsibility and advance by stages, the diarchic method must be employed. But Mr. Montagu and I were not content with this, and when we went round in India we were always interviewing deputations and leading men, whether Indians or Governors, and trying to get away from what is called diarchy. But when we brought the proposals of other people to the test of the announcement which was really our terms of reference, we always found ourselves back at the fact that we had to come to the diarchic method.

After long striving, we found no way out and, of course, that method is embodied, as your Lordships know, in our Report. But I am sure that no one who reads our Report—I am afraid very few people have read it—can imagine for one moment that we put forward our proposals otherwise than on the basis that, having sought all the alternative methods of carrying out the announcement of His Majesty's Government, we were driven back to the question of a Constitution on the lines embodied in what is called diarchy. And I would remind your Lordships that in that same Report which I read to your Lordships just now, the Committee presided over by Lord Selborne said this :—

'In the opinion of the Committee, the plan proposed by the Bill is conceived wholly in this spirit, and interprets the pronouncement of the 28th August, 1917, with scrupulous accuracy. It partitions the domain of Provincial government into two fields, one of which is made over to Ministers chosen from the elected members of the Provincial Legislature while the other remains under the administration of a Governor-in-Council. This scheme had evoked apprehensions which are not unnatural in view of its novelty. But the Committee, after the most careful consideration of all suggested alternatives, are of opinion that it is the best way of giving effect to the spirit of the declared policy of His Majesty's Government. Its critics forget that the announcement spoke of a substantial step in the direction of the gradual development of self-governing institutions with a view to the progressive realisation of responsible government and not of the partial introduction of responsible government; and it is this distinction which justifies the method by which the Bill imposes responsibility, both on Ministers to the Legislative Council and on the

members of the Legislative Council to their constituents, for the results of that part of the administration which is transferred to their charge.'

APPENDIX S

An Act to amend section 84A of the Government of India Act with respect to the time for the appointment of a Statutory Commission thereunder.

(23rd November, 1927).

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. In section 84A of the Government of India Act (which relates to the appointment of a Statutory Commission for the purpose of inquiring into the working of the system of government and other matters), for the words 'At the expiration of ten years' there shall be substituted the words 'Within ten years'.

2.—(1) This Act may be cited as the Government of India (Statutory Commission) Act, 1927.

(2) Sub-section (2) of section 45 of the Government of India Act, 1919 (which relates to the printing of the Government of India Act), shall have effect as if herein re-enacted and in terms made applicable to the amendment of the Government of India Act effected by this Act.

APPENDIX T

THE PUBLIC SERVICE COMMISSION (FUNCTIONS) RULES, 1926.

HOME DEPARTMENT

NOTIFICATION

ESTABLISHMENTS

SIMLA, the 14th October, 1926.

No. F.—178-14-24.—The following resolution by the Secretary of State for India in Council is published for general information :—

RESOLUTION

In exercise of the powers conferred by sub-section (2) of section 96C of the Government of India Act, the Secretary of State for India, with the concurrence of a majority of votes at a meeting of the Council of

India held this 22nd day of September 1926, hereby makes the following Rules .—

PART I

PRELIMINARY

1. These rules may be called the Public Service Commission (Functions) Rules, 1926.

2. For the purposes of these rules, the services described as 'All-India Services,' 'Central Services, Class I,' 'Central Services, Class II,' and 'Provincial Services' shall be deemed to be composed as follows :—

The All-India Services shall consist of (a) members of the services included in Schedule I appended to these rules, and (b) military officers and other officers who hold in a substantive capacity posts borne on the cadres of the said services.

The Central Services, Class I, shall consist of members of the services, and officers holding the posts, included in Schedule II appended to these rules, and of members of such other services and officers holding such posts under the administrative control of the Governor-General in Council as the Governor-General in Council, with the previous approval of the Secretary of State in Council, may from time to time declare, by notification in the *Gazette of India*, to be included in the Central Services, Class I.

The Central Services, Class II, shall consist of members of such services and officers holding such posts under the administrative control of the Governor-General in Council (other than the services and posts included in Schedules I and II) as the Governor-General in Council may from time to time declare, by notification in the *Gazette of India*, to be included in the Central Services, Class II.

The Provincial Services shall consist of the members of such services (other than the services included in Schedule I) and officers holding such posts under the administrative control of the Local Government of a Governor's Province as the Local Government may, from time to time, by notification in the local Gazette, declare to be included in the Provincial Services of that province.

And in these rules :—

The term special post means any post of a special character (not included in the All-India, Central or Provincial services) under the administrative control of the Governor-General in Council or the Local Government of a Governor's province which the Governor-General in Council or the Local Government, as the case may be, may declare to be a special post for the purposes of these rules.

PART II

FUNCTIONS OF THE COMMISSION IN REGARD TO RECRUITMENT TO
THE PUBLIC SERVICES

A.—ALL-INDIA SERVICES AND CENTRAL SERVICES

Class I

3. The Commission shall advise the Governor-General in Council on any question connected with recruitment to an All-India Service or a Central Service, Class I, which the Governor-General in Council may refer to it.

4. When any competitive examination is to be held in India for the purposes of recruitment to any such service, the Commission shall—

(i) advise the Governor-General in Council in regard to the regulations prescribing the—

- (a) qualifications of candidates,
- (b) conditions of admission to the examination, and
- (c) syllabus of the examination ;

(ii) announce the number of vacancies to be filled from among the candidates for the examination ;

(iii) make all arrangements for the actual conduct of the examination ;

(iv) arrange the candidates in order of merit on the results of the examination ; and

(v) forward a list of the candidates so arranged to the Governor-General in Council.

5. When recruitment to any such service is to be made in India by selection, the Commission shall—

(i) advise the Governor-General in Council in regard to the rules regulating the qualifications of candidates and the submission of applications ;

(ii) announce the number of vacancies and, when necessary, invite applications ;

(iii) consider all applications received and interview such candidates as it considers most suitable for appointment ; and

(iv) submit to the Governor-General in Council a list, consisting of such number as he may fix, of the candidates whom it considers most suitable for appointment, in the order of preference :

Provided that—

(a) the Governor-General in Council shall, if he thinks fit, appoint an officer to represent the Service or Department for which

recruitment is being made, who shall be present at the interview referred to in clause (iii) ;

(b) when recruitment is made by selection owing to the failure of a competitive examination to give adequate representation to different communities, the functions of the Commission shall be confined to the recommendation of candidates in accordance with such orders as the Secretary of State in Council or the Governor-General in Council, as the case may be, may pass in this behalf.

6. When recruitment is to be made by promotion to any permanent post in an All-India Service (other than the Indian Civil Service) or a Central Service, Class I, the Commission shall—

(i) consider the claims of candidates nominated by the Local Government or the Head of the Department, as the case may be, and

(ii) thereafter advise the Governor-General in Council in respect of each candidate nominated whether his qualifications are sufficient and whether his record proves him to have the requisite character and ability for the service to which it is proposed to appoint him, and

(iii) arrange the candidates in order of preference.

7. Notwithstanding anything contained in these rules, it shall not be necessary for the Governor-General in Council to consult the Commission in regard to the selection for appointment to a Central Service, Class I, of any officer holding His Majesty's commission or who is already a member of an All-India Service or a Central Service, Class I.

B.—PROVINCIAL SERVICES, CENTRAL SERVICES, CLASS II, AND SPECIAL POSTS

8. The Commission shall, if so required by the Governor-General in Council, perform the same functions in regard to recruitment to any Central Service, Class II, or to any special post to which the appointment is made by the Governor-General in Council, as it is required by rules 3 to 5 to perform in the case of Central Services, Class I.

9. The Commission may, subject to the approval of the Governor-General in Council, perform such functions in regard to recruitment to Provincial Services or to any special post to which appointment is made by a Local Government as the Local Government may invite it to undertake.

PART III.

FUNCTIONS OF THE COMMISSION IN REGARD TO DISCIPLINARY CASES

10. The Governor-General in Council shall—

(i) before considering any appeal presented to him in accordance with the Statutory Appeal Rules against any order—

- (a) of censure,
- (b) of withholding an increment or promotion,
- (c) of reduction to a lower post,
- (d) of suspension,
- (e) of removal,
- (f) of dismissal, or

(ii) before passing any original order—

- (a) withholding an increment or promotion,
- (b) of reduction to a lower post,
- (c) of removal, or
- (d) of dismissal,

consult the Commission in regard to the order to be passed thereon :

Provided that it shall not be necessary for the Governor-General in Council to consult the Commission in any case in which the Commission has at any previous stage given advice as to the orders to be passed and no fresh question has thereafter arisen for determination.

EXPLANATION.—Nothing in this rule shall be deemed to apply in the case of any order giving notice to an officer, in accordance with the terms of his contract of employment, of the termination of that employment.

11. Before forwarding to the Secretary of State in Council an appeal made to him in accordance with the Statutory Appeal Rules, the Governor-General in Council shall obtain the advice of the Commission as prescribed in Rule 10 :

Provided that, if the Commission has at any previous stage given advice as to the orders to be passed and no fresh question has thereafter arisen for determination, it shall not be necessary for the Governor-General in Council to consult the Commission.

12. The Governor-General in Council may consult the Commission as to the orders to be passed on any memorial submitted to him by an officer of an All-India or a Central Service in accordance with the memorial rules.

13. The Governor or Chief Commissioner or the Local Government of any province may, before passing any order of the kind specified in Rule 10, consult the Commission in regard to the order to be passed.

14. In any case in which the advice of the Commission is sought under these Rules, the record of the case shall be forwarded to the Commission and the opinion given by the Commission shall form part of the record of the case and shall be communicated to the officer or officers concerned along with the orders of the authority empowered to pass orders in the case.

PART IV.

OTHER FUNCTIONS.

15. The Commission shall advise the Governor-General in Council on any question connected with the pay, allowances, pensions, provident or family pension funds, leave rules, or conditions of service generally of any All-India or Central Service which he may refer to it.

16. The Commission shall, if so requested by a Local Government, advise the Local Government on any question of the nature specified in Rule 15 connected with a Provincial Service.

17. If any question arises as to whether or as to the extent to which the interests of any officer of an All-India Service or a Central Service, Class I, or the interests of any class of such officers, have been adversely affected by reason of the abolition of any post or class of posts, the Governor-General in Council shall refer the case to the Commission for advice in regard to the orders to be passed thereon.

18. The Commission shall advise the Secretary of State for India on any question which he may refer to it through the Governor-General in Council.

PART V.

PROCEDURE.

19. Every question at a meeting of the Commission shall be determined by a majority of the votes of the Members present and voting on the question, and, in the case of an equal division of the votes, the Chairman shall have a second or casting vote.

20. If the Chairman is unable to be present at a meeting of the Commission, he shall appoint one of the Members to act for him, and the Member so appointed shall have all the powers of the Chairman at that meeting :

Provided that, unless the Chairman otherwise directs, no action shall be taken upon any decision arrived at in a meeting at which he was not present, until he has been informed of such decision ; and, upon being so informed, he may direct that any such decision shall be reconsidered at a meeting at which he is present.

21. The proceedings of the Commission shall not be invalidated by any vacancy in the office of a Member.

22. The quorum for a meeting of the Commission shall be three, but the Chairman may adjourn any business at a meeting if he is of opinion that it cannot conveniently be transacted owing to the non-attendance of any Member.

23. All decisions of the Commission shall be recorded by the Secretary, who shall be appointed by the Commission with the approval of the Governor-General in Council, in accordance with the directions of the Commission, and it shall be open to any Member who dissents from a decision to record his dissent and, if he thinks fit, his reasons for dissenting.

24. Whenever under these rules the Commission is required to give advice, or to submit proposals, to, or to be consulted by, any authority, the decision of the Commission shall be communicated in a letter signed by the Secretary, and, in a case where the decision is not unanimous, neither the fact of, nor the ground for, dissent shall be communicated unless the Chairman so directs.

25. The Commission may refer any matter to an individual Member or to a Committee, consisting of Members and such other persons, if any, as the Commission may appoint, for consideration and report to the Commission.

26. (1) The Commission may, subject to such directions as it thinks fit, delegate to a Committee constituted from among the Members any of its functions under sub-clause (c) of clause (i), or clause (ii), clause (iii), clause (iv) or, clause (v) of Rule 4, or under clause (ii), clause (iii), or clause (iv) of Rule 5, or under Rule 6, or any analogous functions which the Commission may be required or invited to perform under Rule 8 or Rule 9 of these Rules.

(2) Every such Committee shall consist of not less than two Members.

27. The decision of any Committee to which powers have been delegated under Rule 26 shall be communicated to the Chairman before any action is taken thereon, and the Chairman may thereupon direct that such decision shall be referred to a meeting of the Commission for further consideration and decision; but in default of such direction, the decision of the Committee shall be deemed to be the decision of the Commission.

28. The Chairman or, in his absence, a Member designated by him in this behalf, may deal with any urgent matter appearing to him to require immediate action. Such action shall, if taken by the Chairman, be reported to the Commission at its next meeting, and,

if taken by another Member, be reported to the Chairman and by him to the Commission at its next Meeting.

29. In matters for which no provision is made by these rules, the Commission may regulate its proceedings in such manner as it thinks fit.

SCHEDULE I.

1. Indian Civil Service.
2. Indian Police Service.
3. Indian Agricultural Service.
4. Indian Educational Service.
5. Indian Forest Service.
6. Indian Forest Engineering Service.
7. Indian Medical Service (Civil).
8. Indian Service of Engineers.
9. Indian Veterinary Service.

SCHEDULE II.

A. SERVICES.

1. Indian Audit and Accounts Service.
2. Superior Service Officers of the Military Accounts Department.
3. Mint and Assay Departments.
4. Imperial Customs Service.
5. Superior Telegraph Engineering and Wireless Branches of the Post and Telegraph Department.
6. Geological Survey of India (Director, Superintendents, Assistant Superintendents and Chemist).
7. Indian Meteorological Service (Director-General of Observatories and Meteorologists).
8. Department of Mines in India.
9. Gazetted Staff of the Indian Stores Department.
10. Indian Railway Service of Engineers.
11. Superior Revenue Establishment of State Railways (excluding local Traffic Service).
12. Archaeological Department.
13. Zoological Survey of India.
14. Survey of India, Class I.
15. Indian Ecclesiastical Establishment.
16. Political Department of the Government of India.
17. Medical Research Department (including I.M.S. officers).

18. Opium Department (excluding officers who joined the Department after 2nd April, 1907)
19. Bengal Pilot Service.

B. Posts.

1. Posts and Telegraph Department.
 - (i) In the Postal Department :—
 - Deputy Director-General.
 - Postmasters-General.
 - Deputy Postmasters-General.
 - Assistant Directors-General.
 - Presidency Postmasters (including Postmaster, Rangoon).
 - (ii) In the Telegraph Traffic Branch :—
 - Deputy Director-General.
 - Assistant Director-General.
 - First Division of the Superior Traffic Branch.
2. Commissioners and Assistant Commissioners of Income-Tax.
3. Commissioners; Deputy Commissioners, and General Managers, Northern India Salt Revenue Department.
4. Officers of the Cantonment Department if on the Supernumerary List.

APPENDIX U

SOME ASPECTS OF PROVINCIAL FINANCE WITH SPECIAL REFERENCE TO BENGAL.¹

THE PROBLEM

The system which was finally evolved as a consequence of the gradual development of provincial finance from 1871 onwards, and which was in force before the introduction of the Montagu-Chelmsford Reforms, was known as the system of 'divided heads'. Under it² the proceeds of certain heads of revenue were credited to the central Government; those of certain others were made over to the provincial Governments to enable them to meet their expenditure on the ordinary provincial services; and those of the remaining heads were divided between the central and provincial Governments. Similarly,

¹ This Paper was read and discussed at the Twelfth Conference of the Indian Economic Association held at Mysore in the first week of January, 1929. As it has a bearing upon the chapter on Finance, it is reprinted here with only a few minor alterations.

² See p. 472 *ante*.

the heads of expenditure were classified as wholly central, wholly provincial, and partly central and partly provincial. The receipts and expenditure in England were classed as central. As I have observed¹ elsewhere, although the provincial Governments had to a large extent a free hand in administering their share of the revenue, they had 'no inherent legal right' to it. Their financial administration was subject to the general supervision of the Government of India, and they were bound by a number of restrictions on expenditure. 'For any large and costly innovations' they had to depend 'on doles out of the Indian surplus.' They had no borrowing powers, nor could they impose any taxes without the sanction of the Government of India. In respect of financial matters, as in respect of all others, the provincial Governments had only delegated authority. With the introduction of the Reforms, this system of 'divided heads' was replaced by the existing financial arrangements. As is well-known, these arrangements have been based upon the scheme of central and provincial finance outlined in the Montagu-Chelmsford Report (Chap. VIII), as modified by the recommendations of the Meston Committee, and as further amended by the Joint Select Committee appointed by Parliament to revise the draft rules made under the Government of India Act². They have come in for a good deal of well-merited criticism, and, undoubtedly, they are largely responsible for the unpopularity of the Reforms, and in particular for the system of Government, popularly known as dyarchy, obtaining in the Governors' provinces. For instance, in its letter No. 3116, dated the 2nd July, 1924, the Government of Bombay wrote to the Government of India as follows :—

"But there is one factor in the opinion of the Bombay Government which has done more to militate against the success of the working of the Reforms than any other and that is the division of revenues under the Meston Settlement. The Bombay Government have never ceased to protest against the inequity of this settlement.....As time progresses, it is being more abundantly proved that this settlement is one in which the distribution of revenues reacts in the most inequitable manner on this Presidency...It is sincerely hoped that steps will be taken at once either through the medium of the (Indian Taxation Enquiry) Committee, or by other means to readjust the financial arrangements existing between the Government of India and this Presidency, and that, until this is done, no hopes can be held out of the satisfactory working of the India Act of 1919."

¹ See pages 472-73 *ante*.

² Also see p. 475 *ante*.

Similarly, in its letter No. 8540-D., dated Calcutta, the 21st July, 1924, the Government of Bengal wrote to the Government of India: The treatment of Bengal 'by the Meston Settlement stood condemned from the outset, and to this more than to any other cause perhaps may be attributed much of the discontent against the (reformed) system, that prevails even among the more moderate element. This settlement is one of the main defects in the constitution, and with its amendment on a basis which will afford means for progress, the working of the constitution in its present lines should be greatly facilitated.'

We also find in the Report (1924) of the Government of Madras¹ on the working of the reformed constitution in the province: unless the financial embarrassments of the province 'can be mitigated or removed, His Excellency the Governor in Council anticipates that no changes in the Reform scheme, whether in the direction of extending the sphere of Ministerial control or otherwise, will result in material improvement.'

It is gratifying, however, to note here that one of the most objectionable features of the Financial Settlement under the Reforms has been recently removed. Under this settlement, the provincial Governments, with the exception of the Government of Bihar and Orissa, were required to make annually a total contribution of 983 lakhs of rupees, or such smaller sum as might be determined by the Governor-General in Council, to the Government of India, in order to enable the latter to meet an anticipated, large deficit in its budget. A scale of contributions payable by those Governments in the year 1921-22 was fixed on the advice of the Meston Committee, and provision was also made in the Devolution Rules for the proportionate reduction in the contributions payable in any subsequent financial year by some of the provinces in the event of the Government of India deciding to take, for that year, as the total amount of the contribution, a smaller sum than that payable for the preceding year. The Joint Select Committee of Parliament, to which reference has already been made, had urged in 1920 that the Government of India and the Secretary of State in Council should, in regulating their financial policy, make it their constant endeavour to render the central Government independent of provincial assistance at the earliest possible date. In 1922 the Government of India renewed the undertaking, given in the Despatch of Lord Chelmsford's Government No. 296, dated June 24, 1920, that it would work its financial

¹ See its letter No. 532, dated Camp Ootacamund, July 28, 1924.

policy towards the reduction, and ultimate extinction, of the provincial contributions to itself, although it could then give no assurance as to the definite period within which the contributions would be abolished or as to the pace of their reduction.¹ The Secretary of State in Council also expressed his concurrence with the Government of India in this policy.² Effect has since been given to this policy. The Government of India's Budgets for 1925-26 and 1926-27 "effected" a reduction in the provincial contributions amounting to 3.75 crores or, if the Bengal contribution be included, a reduction from 9.83 crores by 4.38 crores to 5.45 crores; and the Budget for the year 1927-28 provided for the complete remission temporarily for that year, of the provincial contributions.⁴ Further, they have been completely and finally remitted with effect from the current financial year (1928-29).⁵ This final and complete abolition of the provincial contributions is undoubtedly one of the most important financial measures adopted by the Government of India in recent years. Its beneficial effects will be far-reaching. As Sir Basil Blackett⁶ very aptly remarked in 1927 :—

"Ever since the Reforms were inaugurated, the provincial contributions have been a millstone round the neck both of the central Government and of the provincial Governments, poisoning their mutual relations and hampering their every action. Their quality, even more than their amount, has strained the resources of the giver and the patience of the recipient. They have brought curses, not blessings, both to him who has given and to him who has taken. The year 1927-28 sets India free from this incubus."

As some of the provinces, however, are still in great financial difficulty, what is now necessary is such a new re-distribution of the sources of revenue between the central and provincial Governments as will enable them both to incur all necessary expenditure and, at the same time, to balance their budgets. I shall now consider this aspect of the question.

The sources⁷ of provincial revenue at present are as follows :—

(a) balances standing at the credit of a province ;

¹ *Vide* the Despatch of the Government of India to the Secretary of State, dated Simla, the 13th July, 1922, on financial contributions, etc.

² *Vide* the reply of the Secretary of State to *ibid.*

³ *Vide* Budget for 1927-28 (Government of India).

⁴ *Ibid.*

⁵ *Vide* Sir Basil Blackett's Budget Speech on February 29, 1928.

⁶ See his Budget Statement for 1927-28.

⁷ Devolution Rule 14.

(b) receipts accruing in respect of provincial subjects ;

(c) recoveries of loans and advances given by a local Government and of interest paid on such loans ;

(d) payments made to a local Government by the Government of India or by other local Governments, either for services rendered or otherwise ;

(e) the proceeds of any taxes which may be lawfully imposed for provincial purposes ;

(f) the proceeds of any loans which may be lawfully raised for provincial purposes ;

(g) a share (determined in the way described later on) ' in the growth of revenue derived from income-tax collected in the province, so far as that growth is attributable to an increase in the amount of income assessed ' ; and

(h) any other sources which the Government of India may by order declare to be sources of provincial revenue.

Of these sources of revenue, items (a), (b) and (e) have so far been of real importance to the provinces ; but, except in the technical sense, item (a) should not be regarded as a source of revenue. As I have shown elsewhere,¹ the recommendations of the Meston Committee, and specially those which related to the allocation of the heads of revenue, having aroused strong dissatisfaction in some provinces, particularly the three presidencies, the Joint Select Committee of Parliament suggested, on grounds of policy, that there should be granted to all provinces some share in the growth of revenue from taxation on income so far as that growth would be due to an increase in the amount of income assessed. The manner in which the provincial share of the tax is determined is as follows² :—

If the assessed income of any year subsequent to the year 1920-21 exceeds in any Governor's province the assessed income of the year 1920-21, there must be allocated to the local Government of that province an amount calculated at the rate of three pies in each rupee of the amount of such excess.

In spite of these sources of provincial revenue and in spite of the fact that Bengal was exempted for six years with effect from 1922-23 from the payment of any contribution to the central Government, its budgets for three consecutive years from 1926-27 have been deficit budgets, and altogether it has had four balanced budgets with some surpluses, out of eight introduced into its Legislative Council since

¹ See p. 476 *ante*.

² Devolution Rule 15.

1921¹. It has hitherto met its deficits by drawing upon its balances². And all this has happened notwithstanding the further fact that Bengal retrenched³ in the very first year of the Reforms to the extent of Rs. 89½ lakhs, and has since had recourse to additional taxation and further retrenchment. This clearly points to the urgent necessity of a re-examination of the whole question of provincial finance, at any rate so far as Bengal is concerned. As the Hon'ble Member in charge of the Department of Finance in Bengal said, on February 20th, 1928, in the course of his Budget Statement for the year 1928-29 :—

'Owing to the state of our finances we have been compelled to cut expenditure down to the minimum and have been able to allow for very little new expenditure..... No one realizes more than I do that this is a very unsatisfactory budget, which does not do justice to any department of Government, and, especially, to the Transferred Departments. But I do not think that any one can hold the Hon'ble Ministers, or even the Members of Government, in any way responsible for this position. It is solely due to our Financial Settlement, and until that is put right, we can expect little or no amelioration..... Even if this (provincial) contribution is remitted, either temporarily or permanently, we shall have to face a deficit of Rs. 37,43,000 in next year's budget. In these circumstances we may be able to carry on for a year or so, but not unless we can see ultimate relief in the near future ; and that relief must take the shape of a new Financial Settlement which will leave Bengal with an expanding income adequate for her needs and proper development. We are again addressing the Government of India reiterating our protests against the present Financial Settlement and our claims for its complete revision..... When the Government of Bengal put their case before the (Simon) Commission, one of the most important points that they will urge is that the Financial Settlement was wrong *ab initio* and treated Bengal most unfairly, and it was largely owing to the shortness of funds that the working of the reformed constitution in Bengal has been so hampered and that Ministers have found it so difficult to carry on. The Government of Bengal will put in the forefront of their case a claim for a complete revision of the Financial Settlement,

¹ *Vide* the Budget Statement of the Finance Member, Bengal, for 1928-29.

² *Ibid.*

³ *Vide* The National Liberal League's Appeal to the Secretary of State for India on the question of the Financial Adjustment, p. 11.

at any rate so far as Bengal is concerned, and unless that is done, I am convinced that all parties in the province will be unanimous in thinking that the successful working of the new constitution will be impossible in Bengal, however good that constitution may be in other ways'.

Coming as it does from a very responsible Member of the Government of Bengal, the weight of this statement is obvious, and is also my justification for quoting it at length.

THE REMEDY.

In order to remedy this state of affairs, it has been suggested by many responsible persons in Bengal that the whole of the revenue derived from the export duty on jute exported from the province, or at any rate a very substantial portion thereof, should be made over to it. Considering the fact that the net income derived from this source in Bengal was about Rs. 389 lakhs in 1926-27,¹ the suggested step, if adopted, would not merely relieve the province of its existing financial difficulties, but also enable it to spend money adequately on its nation-building departments. Now the question is: should such a step be adopted? If the receipts from the export duty on jute be credited to Bengal, Burma's claim to the proceeds from the export duty on rice exported from it will be almost irresistible. And Burma contributed over 97 lakhs of rupees to the total net revenue of Rs. 112·8 lakhs realised from the export duty on rice in 1926-27. To my mind, customs tariff should continue to be a central head of revenue. As Prof. Seligman² points out, customs duties are almost everywhere kept for national or federal use. The reason is obvious. In fixing these duties a Government has to take into account various questions of policy, apart from the consideration of revenue to be derived from them.

There is a further objection to the *provincialisation* of the export duty on jute. As Sir Basil Blackett rightly pointed out in the Legislative Assembly³, so long as the monopoly conditions prevail, 'it (*i.e.*, the export duty on jute) may be a good tax; but it is obviously desirable that it should be in the hands of the central Government, so that action may be taken to reduce it the moment there may be any sign of a change in the monopolistic character of the article on

¹ Vide *Finance and Revenue Accounts of the Government of India* for the year 1926-27, p. 81.

² *Essays in Taxation* (1921), p. 380.

³ On March 8, 1928.

which it is imposed.' The provincial Government should not be exposed 'to the difficulty of having to deal with the jute duty or an export duty of any kind at a moment when world conditions may have made it imperatively desirable in the economic interests of everybody that the duty should be abolished.'

Lastly, it is highly desirable that a uniform principle should be adopted in the allocation of revenues to the provinces. The provincialisation of the export duty on jute may remove the financial stringency of Bengal, but there are other provinces, for instance Bombay, the existing resources of which are not quite adequate for meeting their various requirements. They will certainly have a legitimate ground for complaint against any arrangement which will favour only Bengal and leave them where they were before.

I am, therefore, of opinion that the most expedient measure for improving the financial position of the major provinces will be to *semi-provincialise* the taxes on income. This will mean that the major provinces will have placed at their disposal a sum of about Rs. 745 lakhs,¹ out of which Bengal and Bombay will receive about Rs. 284·5 lakhs and Rs. 160·5 lakhs respectively, and the other provinces such sums as will be determined on the basis of their contributions to the total revenue from the taxes on income. As Sir Basil Blackett observed² in the Legislative Assembly, the existing Devolution Rule 15 regarding the grant to the provinces of an interest in the proceeds of taxes on income which was designed for the benefit of Bombay and Bengal in particular, has altogether failed in its purpose. This will be evident from what follows. During the five years from 1922-23, Bengal obtained³ no share in the receipts from the taxes on income; nor did Bombay receive⁴ anything out of them during the four years from 1923-24. Nor again did the Budget of the Government of India for 1927-28 make any provision for the payment of any revenue from income-tax to these two provinces⁵. But Bengal contributed,⁶ during the five years from 1922-23, over Rs. 26·45 crores to the total revenue derived from the taxes on income during those years, and its contribution to

¹ This figure is based on the actual figures of 1926-27. *Vide Finance and Revenue Accounts of the Government of India* for 1926-27, p. 85. The amount may increase with the growth of trade and industry.

² *Vide* his Budget Statement for 1927-28.

³ *Vide Statistical Abstract for British India* (1916-17 to 1925-26), also *Budget for 1927-28 (Government of India)*; also *Finance and Revenue Accounts of the Government of India for 1926-27*.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

the total income-tax revenue estimated for 1927-28, was expected to amount to Rs. 6·24 crores. Similarly, during the period from 1923-24 to 1926-27, Bombay contributed¹ over Rs. 16·08 crores to the total receipts from income-tax and its contribution for 1927-28 was estimated to amount to Rs. 3·55 crores. The United Provinces² also was not in a happier position. It received during the period from 1923-24 to 1926-27 only Rs. 2,504 although its total contribution during this period amounted to over Rs. 3·22 crores. I shall only add one more illustration to show the effect of the existing Devolution Rule 15 on the provincial share in the total revenue from the taxes on income. The total contribution from the major provinces for 1925-26 and 1926-27 was over Rs. 3,030 lakhs and the total amount received by them under the Devolution Rule was only about Rs. 59·4 lakhs³. Even the Government of India appreciates the difficulty of the provinces under the existing arrangement regarding the distribution of the sources of revenue. In the course of his reply at the end of the general discussion of the Budget for 1928-29, Sir Basil Blackett said in the Legislative Assembly⁴ :

'I have full sympathy with the desire of the provinces to see their revenue increased and made more elastic. I am in some hopes that some results in this direction may be secured when the Statutory Commission has reported—some arrangement that might hand over some of the non-judicial stamps to the central Government and give in their place a really effective share of the income-tax'.

I am, however, opposed to any idea of distribution of the receipts from the non-judicial stamps, as such distribution will to a certain extent neutralize the effect of the semi-provincialisation of the income-tax.

I may observe in this connexion that my suggestion regarding income-tax will be in accordance with the modern movement in taxation. In the course of his survey of recent reforms in taxation, Prof. Seligman⁵ points out that there is an important tendency in these days that taxes collected by the central Government are distributed, in part at all events, among the states and even in some cases among the localities. 'More and more,' he continues,⁶ 'the fiscal problem

¹ Vide *Statistical Abstract for British India* (1916-17 to 1925-26) ; also *Budget for 1927-28* (Government of India) ; also *Finance and Revenue Accounts of the Government of India for 1926-27*.

² *Ibid.*

³ *Ibid.*

⁴ On March 8, 1928.

⁵ *Essays in Taxation* (1921), p. 540.

⁶ *Ibid.*, p. 541.

is being envisaged as a totality, and the relative claims of the community, state and central Governments are being considered from the point of view of an equitable distribution of the entire burden resting upon the individual or the class. This is the most recent phase of modern tax reform.' The administration of the income-tax should continue to be in the hands of the central Government, although the provincial Governments may be required to bear a portion of the cost of the administration according to a certain principle of equity. 'If there is anything,' says the writer whom I have quoted above, 'that may be considered a well-settled induction from experience, it is that an income-tax is more and more unsuccessful as the basis of the tax becomes narrower'¹ Thus my plan of 'central administration and provincial apportionment' will secure all the ends of 'suitability,' 'efficiency,' and 'adequacy' as required by writers² on Public Finance in connexion with any scheme of taxation. In Germany, according to Prof. Seligman,³ the proceeds of certain indirect taxes are divided between the federal and the state Governments, and in Canada, a large part of the provincial revenue is derived⁴ from the proceeds of taxes that are levied by the federal Government. Thus the suggested arrangement will not be an altogether novel thing. Besides, our income-tax is even now a divided head of revenue as has been shown before. Lastly, one should not make a fetish of the principle of the separation of the sources of revenue of the central and provincial Governments in India.

A more serious objection to my suggestion will be that it will deprive the central Government of nearly seven and a half crores of rupees annually, and, possibly, of more as the revenue from the taxes on income will show, as Sir Basil Blackett pointed out in the Assembly,⁵ some improvement from year to year with the growth and prosperity of our trade and industry; and that, consequently, the central Government will be faced with deficit budgets in future. As against this it may be pointed out, in the first place, that since 1923-24 there have been decent surpluses in the central budgets and that such surpluses will recur from 1929-30 onwards.⁶ Thus, on the basis of

¹ *Essays in Taxation* (1921), p. 382.

² *Ibid.* ch. xii.

³ *Ibid.*, p. 387.

⁴ *Ibid.*

⁵ On February 29, 1929.

⁶ The estimated surplus of 1927-28 was used for reducing the provincial contributions, and out of the anticipated surplus of 263 lakhs for 1928-29, 258 lakhs were utilised for the final extinction of these contributions, a small surplus of 5 lakhs being left in the budget. From 1929-30 there will be 'no outside claimant to the recurring

the figures of the last five financial years, it may be confidently asserted that, other things remaining unchange^d, the apprehended deficit of the central Government will be less by, at least, two crores. The Government of India can have no justification for having surplus budgets, while provinces are starving.

In the second place, I should suggest such judicious modifications of the existing customs tariff as would yield every year an additional amount of revenue not exceeding two crores. Regard being had to the fact that the Budget estimate for 1928-29 has put the revenue from the customs duties at 50·18 crores, I do not think there will be any difficulty in securing the additional amount of income if an honest and sincere attempt is made to raise it.

Thirdly, the existing convention¹ agreed upon in September, 1924, on which the separation of railway finance from general finance is based, and under which the general revenues of the central Government receive annually 'a definitely ascertainable contribution' from railways, should be so modified as to ensure an additional annual income of, at least, a crore of rupees from the railways to the general revenues. In view of the fact that at the end of the current (1928-29) financial year there will have accumulated over 19 crores in the Railway Reserve Fund,² and also in view of the fact there was an estimated total of over 11 crores in the Railway Depreciation Fund³ at the end of 1927-28, the suggested additional contribution may be legitimately required of the railways.

My fourth suggestion is that the Indian Income-tax Act, 1922, as subsequently modified, should be so amended that agricultural income, at least as defined in section 2 (1) (a) of the Act, *i.e.*, any rent or revenue derived from land used for agricultural purposes, might be made assessable to income-tax; and, secondly, that such income might be taken into account in determining the rate at which the income-tax should be levied on income from other sources.

The question of assessing agricultural income to income-tax has been sufficiently discussed by the Indian Taxation Enquiry Committee, 1924-25, and I have no space at my disposal to deal with it here. My only point is that a scheme of taxation which has provided for a continued duty on salt can have absolutely no justification for exempting men like the Zemindars of Bengal and the

surpluses.'—*Vide* Sir Basil Blackett's Budget Statements for 1927-28 and 1928-29.

¹ *Vide India in 1924-25*, App. X.

² *Vide The Railway Budget for 1928-29*.

³ *Ibid.*, 1927-28.

Talukdars of Oudh from the payment of income-tax in respect of any rent or revenue derived from land used for agricultural purposes. Justice as well as fiscal necessity requires the change I have suggested. If effected, it will fetch considerable additional revenue to both the central and provincial Governments. If the representatives of vested interests raise any objection to the suggested change, they must be definitely told, as Pitt once said¹ in connexion with the East India Company Bill, 1784, in reference to the rights and privileges of the East India Company, that no charter ought to be suffered to stand in the way of a reform on which the welfare of the country depends, and that no rights, however sacred, of any body of men can supersede state necessity.

Finally, I should suggest that military expenditure should be further reduced by, at least, three crores. Be it said to the credit of the authorities that the net military expenditure² was reduced from Rs. 69·81 crores in 1921-22 to Rs. 55·97 crores in 1926-27³. The revised estimate of the same for 1927-28 was Rs. 54·92 crores and the budget estimate for the current (1928-29) year has been put at Rs. 55·10 crores.⁴

The Indian Retrenchment Committee (1922-23), of which Lord Inchcape was the Chairman, recommended in 1923 that the Government of India should not be satisfied with a military budget of Rs. 57 crores (for 1923-24), and that a close watch should be kept on the details of military expenditure with the object of bringing about a progressive reduction in the future. 'Should a further fall in prices,' it continued, 'take place, we consider that it may be possible, after a few years, to reduce the military budget to a sum not exceeding Rs. 50 crores, although the Commander-in-Chief does not subscribe to this opinion. *Even this is more, in our opinion, than the tax-payer in India should be called upon to pay, and, though revenue may increase through a revival of trade, there would, we think, still be no justification for not keeping a strict eye on military expenditure with a view to its further reduction.*'⁵

On the other hand, Sir Basil Blackett observed⁶ in 1928 :

'The Government have given special consideration to the matter

¹ In the House of Commons.—*Vide* P. Mukherjee, *Indian Constitutional Documents*, Vol. i, pp. 47-48.

² In 1913-14 it was Rs. 29·84 crores.

³ *Vide the Budget for 1928-29.*

⁴ *Ibid.*

⁵ The italics are mine.

⁶ *Vide* his Budget Statement for 1928-29.

during the current year and we have come to the conclusion that the figure proposed for next year cannot be reduced if India is to make a reasonable provision for her defence in modern conditions.'

His Excellency the Commander-in-Chief also said,¹ after referring to certain figures :

'It must be improbable that, however strict a watch we may keep on expenditure, a further progressive reduction on any appreciable scale can be expected.'

It should however, in fairness, be mentioned in this connexion that 'since the Inchcape Committee reported, it has been decided to charge the army with the cost of certain services rendered by other Government Departments which previously were given free.'² The estimated cost of these services for the current year is Rs. 45·64 lakhs. In view of all this, I have suggested above the reduction in military expenditure by Rs. 3 crores. And I do not think that it will be impossible for the Government of India to effect the reduction without diminishing the efficiency of the Army, if a supreme effort is made to bring it about. As will appear from the following table, there has been, according to *Labour Gazette*,³ Bombay, September, 1928, an appreciable fall in wholesale prices since 1923 when the Inchcape Committee reported.

"The annual movements in food, non-food and general wholesale prices.
JULY 1924 = 100

	Food Index No.	Non-food Index No.	General Index No.
Twelve—monthly average for 1922.	186	187	187
„ „ „ „ 1923.	179	182	181
Eight—monthly „ „ 1928.	140	146	144 "

Though the index number of wholesale prices in Bombay does not exactly indicate the level of wholesale prices in other parts of India, it can be regarded however as fairly representative of those prices for my present purposes. Time, therefore, has come for giving effect,

¹ Vide *The Legislative Assembly Debates* of March 8, 1928.

² *Ibid.*

³ Published by the Labour Office, Government of Bombay.

substantially at least, to the recommendation of the Inchcape Committee to which I have referred before:

I should also propose that if the suggested reduction in military expenditure cannot be otherwise effected, it should be brought about by the replacement of a portion of the British element in the Indian Army by Indian element. According to the Report¹ of the Inchcape Committee, in 1922-23, the average, approximate annual cost of a British soldier was Rs. 2,503, and that of an Indian Sepoy was Rs. 631 only. Further, in the same year, the average, approximate annual cost of a British Officer was Rs. 12,460, and that of an Indian officer was Rs. 2,324 only. Things cannot have changed materially since 1922-23. It is evident from these figures that if a portion of the British element in the Indian Army is replaced by Indian element as I have suggested, considerable saving will be effected in India's military expenditure.

The suggestions outlined above, if accepted, will enable the Government of India not merely to meet its expected deficit in the event of the semi-provincialisation of the taxes on income, but also to have a small surplus every year. On the other hand, my scheme, as I have shown before², will place at the disposal of the major provinces a sum of about Rs. 745 lakhs, and possibly more with the expansion of commerce and industry from year to year. What will be the ultimate effects of this upon the country? I feel that I cannot better describe them than by repeating, with slight changes³, what Sir Basil Blackett said⁴ on February 28, 1927, in reference to the remission of the provincial contributions to the extent of Rs. 5.45 crores :—

‘What romance lies behind this figure (7.45 crores) when it is translated into spending capacity in the hands of the Ministers in the provinces!.....What will 7.45 crores a year transfigured into goods and services, available year by year in the hands of the provincial Governments, mean in the promotion of human happiness, in the prevention of preventable diseases and ignorance, in the widening of the opportunities for a good life for many crores of the people of India!’

In this connexion I should like to observe that the Government of India must not forget that, to take a single instance, ‘in 1921, out

¹ *Vide* App. C and D to the Report.

² See p. 617 *ante*.

³ In figures, i.e. by reading 7.45 for 5.45.

⁴ In the Legislative Assembly. *Vide* his Budget Statement for 1927-28.

of a total population of 247 millions in British India, only 22·6 millions were literate'; and that in 1926-27 only '7·8 million pupils, or 21·03 per cent. of the population of school-going age, were undergoing primary education.'

* * * * *

APPENDIX V

THE GOVERNMENT OF INDIA NOTIFICATION.

LEGISLATIVE DEPARTMENT.

SIMLA, THE 24th August 1929.

No. 293—1/29-C. & G.—In exercise of the powers conferred by subsection 1 of section 67, read with section 129A, of the Government of India Act, the Governor-General in Council, with the sanction of the Secretary of State in Council, is pleased to direct that the following further amendment shall be made in the Indian Legislative Rules, namely :—

After Rule 17 of the said Rules the following rule shall be inserted, namely :—

'17-A. Notwithstanding anything contained in rule 15 or rule 17, the President shall not have or exercise any power to prevent or delay the making or discussion of any motion relating to a Bill made by the Member in charge of the Bill or to refuse to put, or delay the putting of, the question on any such motion, unless such power is expressly conferred upon him by, or such motion or discussion or the putting of such question, as the case may be, is expressly prohibited or directly precluded by, any provision of the Government of India Act, these Rules or the Standing Orders.'¹

APPENDIX W

FORM OF PETITION²

To THE Council of State
Legislative Assembly

Whereas a Bill entitled a Bill..... (Here insert title of Bill) is now under the consideration of the Indian Legislature³, the

¹ This Rule 'is intended to prevent a repetition of the deadlock over the Public Safety Bill at the Delhi session of the Assembly last (1929) April.'

² See also the Govt. of India Notification, No. 592, dated Delhi, the 30th March 1922, in the *Cal. Gaz.* Part IA, April 12, 1922, pp. 108-111.

³ Or the Council of State in the case of the Council of State.

humble petition of.....[Here insert name and designation or description of petitioner (or petitioners) in concise form, e.g., ' Ram Lal and others ' or ' the inhabitants of.....' or ' the municipality of..... ' etc.] sheweth.....(Here insert concise statement of case.) and accordingly your petitioner (or petitioners) pray that(Here insert ' that the Bill be or be not proceeded with,' or ' that special provision be made in the Bill to meet the case of your petitioners ' or any other appropriate prayer regarding the Bill) and your petitioner (s) as in duty bound will ever pray

Assembly	Name of petitioner	Address	Signature or thumb impression

Countersignature of Member presenting.

Or (in the case of the Council of State)

Signature of petitioner.

Countersignature of Member presenting.

APPENDIX X

THE LEGISLATIVE ASSEMBLY DEPARTMENT (CONDITIONS OF SERVICE) RULES, 1929.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

SIMLA, the 31st August, 1929.

No. 82-1/29-C. and G.—The following Resolution by the Secretary of State for India in Council is published for general information :—

RESOLUTION

In exercise of the powers conferred by Sections 96B and 96C of the Government of India Act, the Secretary of State, with the concurrence of the majority of votes at a meeting of the Council of India held on this 7th day of August, 1929, hereby makes the following Rules, namely :—

1. These rules may be called the Legislative Assembly Department (Conditions of Service) Rules, 1929.

2. In these rules :

(a) ' Assembly ' means the Legislative Assembly ;

(b) 'President' means the President of the Legislative Assembly.

3. The Assembly Department shall consist of—

(a) a Secretary, a Deputy Secretary and an Assistant Secretary, who shall be the officers of the House; and

(b) so many Superintendents, Reporters, Assistants, Clerks, Stenographers, Translators and menials as shall, from time to time, be found necessary by the Governor-General in Council.

4. The officers of the House shall be appointed by the Governor-General after consultation with the President. With the exception of the first appointments of Secretary and Assistant Secretary and of all appointments by promotion from Assistant Secretary and Deputy Secretary, the officers of the House shall be appointed from persons recommended as qualified for appointment by the Public Service Commission in accordance with the procedure laid down in Rules 5 and 6 of the Public Service Commission (Functions) Rules, 1926¹, for recruitment to Central Services, Class I, with the substitution of 'the Governor-General' for 'the Governor-General in Council', and with the further modification that, in place of an officer appointed by the Governor-General under part (z) of the proviso to Rule 5 of the said Rules, the President shall be entitled to sit with the Commission at interviews referred to in clause (iii) of the last-mentioned Rule.

5. The members of the ministerial establishment of the Assembly Department shall be appointed by the President after consultation with the Secretary, and all appointments to these posts of persons not already in the service of Government, shall be made from among persons who have been recognized by the Public Service Commission as qualified to hold an appointment in the class in which a vacancy exists.

6. (1) The pay² of the officers of the House shall be as follows:—

			Rs.
Secretary	...	...	2,500-75-3,250
Deputy Secretary	...	...	1,500-50-2,000
Assistant Secretary	...	...	1,000-50-1,250

(2) The pay of members of the ministerial and menial establishments of the Assembly Department shall be as fixed by the Governor-General in Council.

7. The appointments to the menial establishment shall be made by the President after consultation with the Secretary.

¹ See Appendix T. ² Per month.

8. (1) In respect of the officers of the House no order of the kind described in Rule 10 (1) of the Public Service Commission (Functions) Rules, 1926, shall be passed except by the Governor-General acting after consultation with the President, but before passing any order of removal or dismissal, the Governor-General shall consult the Public Service Commission, and the Public Service Commission shall thereupon take action as if the order to be passed were an order in respect of which it had been consulted under Rule 10 of the Public Service Commission (Functions) Rules, 1926.

(2) Nothing in this rule shall be construed as empowering the Governor-General to dismiss from Government service any officer of the House who was originally appointed to such service by the Secretary of State in Council, or as affecting the right of appeal to the Secretary of State in Council which may be possessed by any officer of the House in virtue of any other Rule or law for the time being in force.

9. Any order of the kind described in Rule 10 (1) of the Public Service Commission (Functions) Rules, 1926, may be passed by the President against any member of the ministerial establishment of the Assembly Department after consultation with the Secretary, and an appeal shall lie from any such order to the Governor-General, who may consult the Public Service Commission in regard to the order to be passed thereon and the Commission shall thereupon take action as if the appeal were an appeal in respect of which it had been consulted under Rule 10 of the Public Service Commission (Functions) Rules, 1926.

10. Any order of the kind described in Rule 10 (1) of the Public Service Commission (Functions) Rules, 1926, may be passed by the President against any member of the menial establishment of the Assembly Department and there shall be no appeal against any such order.

11. In all matters for which special provision is not made in these Rules, the conditions of service of the officers of the House, and of the ministerial and menial establishments of the Assembly Department, shall be governed by the Rules and orders for the time being applicable to such classes of Government servants as shall be specified by the Governor-General in Council.

L. GRAHAM,

Secretary to the Government of India.

APPENDIX Y

APPENDIX Y

THE VICEREGAL PRONOUNCEMENT
OF OCTOBER 31ST, 1929.

GOVERNMENT OF INDIA.
HOME DEPARTMENT.

NOTIFICATION.

PUBLIC.

NEW DELHI, *the 31st October, 1929.*

No. 4485.—The following statement by His Excellency the Viceroy and Governor-General is published for general information,

H. G. HAIG.

Secy. to the Govt. of India.

STATEMENT

I have just returned from England where I have had the opportunity of prolonged consultation with His Majesty's Government. Before I left this country, I said publicly that, as the King-Emperor's representative in India, I should hold myself bound to tell my fellow-countrymen, as faithfully as I might, of India's feelings, anxieties and aspirations. In my endeavours to discharge that undertaking I was assisted by finding, as I had expected, a generous and sincere desire, not only on the part of His Majesty's Government but on that of all persons and parties in Great Britain, to hear and to appreciate everything that it was my duty to represent.

These are critical days, when matters by which men are deeply touched are in issue and when, therefore, it is inevitable that political feeling should run high, and that misunderstandings, which would scarcely arise in conditions of political tranquillity, should obtain firm foothold in men's minds. I have, nevertheless, not faltered in my belief that, behind all the disquieting tendencies of the time, there lay the great mass of Indian opinion, overflowing all divisions of race, religion, or political thought, fundamentally loyal to the King-Emperor, and, whether consciously or not, only wanting to understand and to be understood. On the other side, I have never felt any doubt that opinion in Great Britain,

puzzled as it might be by events in India, or only perhaps partially informed as to their true significance, was unshaken in its determination that Great Britain should redeem to the full the pledges she has given for India's future. On both countries the times have laid a heavy and in some ways a unique responsibility, for the influence on the world of a perfect understanding between Great Britain and India might surely be so great that no scales can give us the measure either of the price of success or the price of failure in our attempts to reach it.

In my discussions with the Prime Minister and the Secretary of State, it was inevitable that the principal topic should have been the course of events in India. It is not profitable on either side to discuss to what extent, or with what justification, the appointment of a Parliamentary Commission two years ago has affected the general trend of Indian thought and action. Practical men must take facts and situations as they are, and not as they would have them be.

Sir John Simon's Commission, assisted as it has been by the Indian Central Committee, is now at work on its Report, and until that Report is laid before Parliament, it is impossible, and even if it were possible, it would, in the view of His Majesty's Government, clearly be improper, to forecast the nature of any constitutional changes that may subsequently be proposed. In this respect every British party is bound to preserve to itself complete freedom of action. But what must constantly engage our attention, and is a matter of deep concern to His Majesty's Government, is the discovery of means by which, when the Commission has reported, the broad question of British Indian constitutional advance may be approached in co-operation with all those who can speak authoritatively for opinion in British India. I would venture to recall some words which I used in addressing the Assembly eight months ago in a reference to the then existing political situation. 'On the one side', I said, 'it is as unprofitable to deny the right of Parliament to form its free and deliberate judgment on the problem, as it would be short-sighted of Parliament to underrate the importance of trying to reach a solution which might carry the willing assent of political India'. We shall surely stray from the path, at the end of which lies achievement, if we let go either one or other of these two main guiding principles of political action.

But there has lately emerged, from a totally different angle, another set of considerations which is very relevant to what I have just stated on this matter to be the desire of His Majesty's Government.

The Chairman of the Commission has pointed out in correspondence with the Prime Minister, which, I understand, is being published in England, that, as their investigation has proceeded, he and his colleagues have been greatly impressed, in considering the direction which the future constitutional development of India is likely to take, with the importance of bearing in mind the relations which may, at some future time, develop between British India and the Indian States. In his judgment it is essential that the methods, by which this future relationship between these two constituent parts of Greater India may be adjusted, should be fully examined. He has further expressed the opinion that if the Commission's Report and the proposals subsequently to be framed by the Government take this wider range, it would appear necessary for the Government to revise the scheme of procedure as at present proposed. He suggests that what might be required, after the Reports of the Statutory Commission and the Indian Central Committee have been made, considered and published, but before the stage is reached of the Joint Parliamentary Committee, would be the setting up of a Conference in which His Majesty's Government should meet representatives both of British India and of the States, for the purpose of seeking the greatest possible measure of agreement for the final proposals which it would later be the duty of His Majesty's Government to submit to Parliament. The procedure by Joint Parliamentary Committee conferring with delegations from the Indian Legislature and other bodies, which was previously contemplated and is referred to in Sir John Simon's letter to myself of 6th February, 1928, would still be appropriate for the examination of the Bill when it is subsequently placed before Parliament, but would, in the opinion of the Commission, obviously have to be preceded by some such Conference as they have suggested.

With these views I understand that His Majesty's Government are in complete accord. For, while they will greatly desire, when the time comes, to be able to deal with the question of British Indian political development under conditions the most favourable to its successful treatment, they are, with the Commission, deeply sensible of the importance of bringing under comprehensive review the whole problem of the relations of British India and the Indian States. Indeed, an adjustment of these interests in their view is essential for the complete fulfilment of what they consider to be the underlying purpose of British policy, whatever may be the method for its furtherance which Parliament may decide to adopt.

The goal of British policy was stated in the declaration of August

1917 to be that of providing for 'the gradual development of self-governing institutions, with a view to the progressive realization of responsible government in India as an integral part of the British Empire.' As I recently pointed out, my own Instrument of Instructions from the King-Emperor expressly states that it is His Majesty's will and pleasure that the plans laid by Parliament in 1919 should be the means by which British India may attain its due place among His Dominions. Ministers of the Crown, moreover, have more than once publicly declared that it is the desire of the British Government that India should, in the fullness of time, take her place in the Empire in equal partnership with the Dominions. But in view of the doubts which have been expressed both in Great Britain and India regarding the interpretation to be placed on the intentions of the British Government in enacting the Statute of 1919, I am authorized on behalf of His Majesty's Government to state clearly that in their judgment it is implicit in the declaration of 1917 that the natural issue of India's constitutional progress, as there contemplated, is the attainment of Dominion status.

In the full realization of this policy, it is evidently important that the Indian States should be afforded an opportunity of finding their place, and even if we cannot at present exactly foresee on what lines this development may be shaped, it is from every point of view desirable that whatever can be done should be done to ensure that action taken now is not inconsistent with the attainment of the ultimate purpose which those, whether in British India or the States, who look forward to some unity of All-India, have in view.

His Majesty's Government consider that both these objects, namely, that of finding the best approach to the British Indian side of the problem, and secondly, of ensuring that in this process the wider question of closer relations in the future between the two parts of Greater India is not overlooked, can best be achieved by the adoption of procedure such as the Commission has outlined. When, therefore, the Commission and the Indian Central Committee have submitted their Reports and these have been published, and when His Majesty's Government have been able, in consultation with the Government of India, to consider these matters in the light of all the material then available, they will propose to invite representatives of different parties and interests in British India and representatives of the Indian States to meet them, separately or together as circumstances may demand, for the purpose of conference and discussion in regard both to the British-Indian and the All-Indian problems. It will be their earnest hope that by this means it may subsequently prove possible

on these grave issues to submit proposals to Parliament which may command a wide measure of general assent.

It is not necessary for me to say how greatly I trust that the action of His Majesty's Government may evoke response from and enlist the concurrence of all sections of opinion in India, and I believe that all who wish India well, wherever and whoever they are, desire to break through the webs of mistrust that have lately clogged the relations between India and Great Britain. I am firmly assured that the course of action now proposed is at once the outcome of a real desire to bring to the body politic of India the touch that carries with it healing and health, and is the method by which we may best hope to handle these high matters in the way of constructive statesmanship.

IRWIN,

Viceroy and Governor-General.

October 31st, 1929.

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