

(9) Notwithstanding anything in any Act or rule, where any person in the service of the Crown in India is appointed a member of the Council before the completion of the period of such service required to entitle him to a pension or annuity, his service as such member shall, for the purpose of any pension or annuity which would have been payable to him on completion of such period, be reckoned as service under the Crown in India whilst resident in India.]

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

5. The Council of India shall, under the direction of the Secretary of State, and subject to the provisions of this Act,
Duties of Council. conduct the business transacted in the United Kingdom in relation to the Government of India and the correspondence with India. ° ° ° ° 1

6. (1) All powers required to be exercised by the Secretary of State in Council, and all powers of the Council of India,
Powers of Council. shall be exercised at meetings of the Council at which 2[such number of members are present as may be prescribed by general directions of the Secretary of State].

(2) The Council may act notwithstanding any vacancy in their number.

President and 7. (1) The Secretary of State shall be the presi-
vice-president of
Council. dent of the Council of India, with power to vote.

(2) The Secretary of State in Council may appoint any member of the Council to be vice-president thereof, and the Secretary of State may at any time remove any person so appointed.

(3) At every meeting of the Council the Secretary of State, or, in his absence, the vice-president, if present, or, in the absence of both of them, one of the members of the Council, chosen by the member present at the meeting, shall preside.

8. Meetings of the Council of India shall be convened and held as
Meetings of and when the Secretary of State directs, but one such
Council. meeting at least shall be held in every 3[month].

¹ The remaining words were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

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

³ The word "month" was substituted for the word "week" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

9. (1) At any meeting of the Council of India at which the Secretary of State is present, if there is a difference of opinion **Procedure at** on any question, except a question with respect to **meetings.** which a majority of votes at a meeting is by this Act declared to be necessary, the determination of the Secretary of State shall be final.

(2) In case of an equality of votes at any meeting of the Council, the person presiding at the meeting shall have a second or casting vote.

(3) All acts done at a meeting of the Council in the absence of the Secretary of State shall require the approval in writing of the Secretary of State.

(4) In case of difference of opinion on any question decided at a meeting of the Council, the Secretary of State may require that his opinion and the reasons for it be entered in the minutes of the proceedings, and any member of the Council, who has been present at the meeting, may require that his opinion, and any reasons for it that he has stated at the meeting, be also entered in like manner.

10. The Secretary of State may constitute committees of the Council of India for the more convenient transaction of business, and direct what departments of business **Committees of** are to be under those committees respectively, and **Council and business.** generally direct the manner in which ¹[the business of the Secretary of State in Council or the Council of India shall be transacted, and any order made or act done in accordance with such direction shall, subject to the provisions of this Act, be treated as being an order of the Secretary of State in Council].

Orders and Communications.

²[11. Subject to the provisions of this Act, the procedure for the sending of orders and communications to India and in general for correspondence between the Secretary of State and the Governor-General in Council or any local government shall be such as may be prescribed by order of the Secretary of State in Council.] **Correspondence between Secretary of State and India.**

12. }
13. } ²Omitted.
14 }

¹ These words were substituted for the words "all business of the Council or Committees thereof is to be transacted" by Part II of Schedule II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² Section 11 was substituted for old Sections 11 to 14 by Part I of Schedule II, *Ibid.*

15. When any order is sent to India directing the actual commencement of hostilities by His Majesty's forces in India, the fact of the order having been sent shall, unless **Communication to Parliament as to orders for commencing hostilities.** the order has in the meantime been revoked or suspended, be communicated to both Houses of Parliament within three months after the sending of the order, or, if Parliament is not sitting at the expiration of those three months, then within one month after the next meeting of Parliament.

16. [*Correspondence by Governor-General with Secretary of State.*]
Omitted by Part III of Sch. II of 9 & 10 Geo. 5, Ch. 101.

Establishment of Secretary of State.

17. (1) No addition may be made to the establishment of the Secretary of State in Council, nor to the salaries of **Establishment of Secretary of State.** the persons on that establishment, except by an Order of His Majesty in Council, to be laid before both Houses of Parliament within fourteen days after the making thereof, or, if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

(2) The rules made by His Majesty for examinations, certificates, probation or other tests of fitness, in relation to appointments to junior situations in the civil service, shall apply to such appointments on the said establishment.

(3) The Secretary of State in Council may, subject to the foregoing provisions of this section, make all appointments to and promotions in the said establishment, and may remove any officer or servant belonging to the establishment.

18. His Majesty may, by warrant under the Royal Sign Manual, countersigned by the Chancellor of the Exchequer, **Pensions and gratuities.** grant to any secretary, officer or servant appointed on the establishment of the Secretary of State in Council, such compensation, superannuation or retiring allowance, or to his legal personal representative such gratuity, as may respectively be granted to persons on the establishment of a Secretary of State, or to the personal representatives of such persons, under the laws for the time being in force concerning superannuations and other allowances to persons having held civil offices in the public service or to personal representatives of such persons.

Military Appointments.

19. ¹(1) The Commander-in-Chief of His Majesty's forces in India **Military appointments.** is appointed by His Majesty by warrant under the Royal Sign Manual.

¹ Sub-section (1) was inserted by s. 3 of the Government of India (Leave of Absence) Act, 1924 (14 & 15 Geo. 5, Ch. 28).

(s) * * * * In the appointment of officers to His Majesty's army the same provision as heretofore, or equal provision, shall be made for the appointment of sons of persons who have served in India in the military or civil service of the Crown or of the East India Company.

Relaxation of Control of Secretary of State.

²[19A. Secretary of State in Council may, notwithstanding anything in this Act, by rule regulate and restrict the exercise of the powers of superintendence, direction and control vested in the Secretary of State in Council by this Act, or otherwise, in such manner as may appear necessary or expedient in order to give effect to the purposes of the Government of India Act, 1919.

Before any rules are made under this section relating to subjects other than transferred subjects, the rules proposed to be made shall be laid in draft before both Houses of Parliament, and such rules shall not be made unless both Houses by resolution approve the draft either without modification or addition, or with modifications or additions to which both Houses agree, but upon such approval being given the Secretary of State in Council may make such rules in the form in which they have been approved, and such rules on being so made shall be of full force and effect.

Any rules relating to transferred subjects made under this section shall be laid before both Houses of Parliament as soon as may be after they are made, and if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it praying that the rules or any of them may be annulled, His Majesty in Council may annul the rules or any of them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.]

PART II.

THE REVENUES OF INDIA.

20. (1) The revenues of India shall be received for and in the name of His Majesty, and shall, subject to the provisions of this Act, be applied for the purposes of the government of India alone.

¹ Certain words were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² Section 19A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(2) There shall be charged on the revenues of India alone—

(a) all the debts of the East India Company ; and

(b) all sums of money, costs, charges and expenses, which, if the Government of India Act, 1858, had not been passed, would have been payable by the East India Company
21 & 22 Vict., out of the revenues of India in respect of
c. 106. any treaties, covenants, contracts, grants or liabilities existing at the commencement of that Act ; and

(c) All expenses, debts and liabilities lawfully contracted and incurred on account of the Government of India ; and

(d) all payments under this Act ¹[except so far as is otherwise provided under this Act].

(3) The expression "the revenues of India" in this Act shall include all the territorial and other revenues of or arising in British India, and, in particular,—

(i) all tributes and other payments in respect of any territories which would have been receivable by or in the name
21 & 22 Vict., of the East India Company if the Government
c. 106. of India Act, 1858, had not been passed ; and

(ii) all fines and penalties incurred by the sentence or order of any court of justice in British India, and all forfeitures for crimes or any moveable or immoveable property in British India ; and

(iii) all moveable or immoveable property in British India escheating or lapsing for want of an heir or successor, and all property in British India devolving as *bona vacantia* for want of a rightful owner.

(4) All property vested in, or arising or accruing from property or rights vested in, His Majesty under the Government of India Act, 1858, or this Act, or to be received or disposed of by the Secretary of State in Council under this Act, shall be applied in aid of the revenues of India.
21 & 22, Vict.,
106.

21. ¹[Subject to the provisions of this Act, and rules made thereunder], the expenditure of the revenues of India, both in British India and elsewhere, shall be subject to the control of the Secretary of State in Council, and no grant or appropriation of any part of those revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of the Government of India Act, 1858, or this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council of India :

21 & 22 Vict.,
c. 106.

Control of Secretary of State over expenditure of revenues.

¹ These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

¹[Provided that a grant or appropriation made in accordance with provisions or restrictions prescribed by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council shall be deemed to be made with the concurrence of a majority of such votes.]

22. (1) Except for preventing or repelling actual invasion of His Majesty's Indian possessions, or under other sudden and urgent necessity, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defraying the expenses of any military operations carried on beyond the external frontiers of those possessions by His Majesty's forces charged upon those revenues.

Application of revenues to military operations beyond the frontier.

24 (2) Where any naval forces and vessels raised and provided by the Governor General in Council are in accordance with the provisions of the Act placed at the disposal of the Admiralty, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defraying the expenses of any such vessels or forces if and so long as they are not employed on Indian naval defence. "

23. (1) Such parts of the revenues of India as are remitted to the United Kingdom, and all money arising or accruing in the United Kingdom, from any property or rights vested in His Majesty for the purposes of the government of India, or from the sale or disposal thereof, shall be paid to the Secretary of State in Council, to be applied for the purposes of this Act.

Accounts of Secretary of State with Bank.

(2) All such revenues and money shall, except as by this section is provided, be paid into the Bank of England to the credit of an account entitled " The Account of the Secretary of State in Council of India. " .

(3) The money placed to the credit of that account shall be paid out on drafts or orders, either signed by two members of the Council of India and countersigned by the Secretary of State or one of his under-secretary, or signed by the accountant-general on the establishment of the Secretary of State in Council or by one of the two senior clerks in the department of that accountant-general and countersigned in such manner as the Secretary of State in Council directs; and any draft or order so signed and countersigned shall effectually discharge the Bank of England for all money paid thereon.

¹These words were added by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

²[See s. 1 (1) of the Government of India (Indian Navy) Act, 1927 (17 & 18 Geo. 5. Ch. 8).]

(4) The Secretary of State in Council may, for the payment of current demands, keep at the Bank of England such accounts as he deems expedient: and every such account shall be kept in such name and be drawn upon by such person, and in such manner, as the Secretary of State in Council directs.

(5) There shall be raised in the books of the Bank of England such accounts as may be necessary in respect of stock vested in the Secretary of State in Council; and every such account shall be entitled "The Stock Account of the Secretary of State in Council of India".

(6) Every account referred to in this section shall be a public account
Powers of attorney for sale of stock and receipt of dividends. 24. The Secretary of State in Council by power of attorney executed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, may authorise all or any of the cashiers of the Bank of England—

(a) to sell and transfer all or any part of any stock standing in the books of the Bank to the account of the Secretary of State in Council; and

(b) to purchase and accept stock for any such account; and

(c) to receive dividends on any stock standing to any such account; and, by any writing signed by two members of the Council of India and countersigned as aforesaid, may direct the application of the money to be received in respect of any such sale or dividend:

Provided that stock shall not be purchased or sold and transferred under the authority of any such general power of attorney, except on an order in writing directed to the chief cashier and chief accountant of the Bank of England, and signed and countersigned as aforesaid.

25. All securities held by or lodged with the Bank of England in trust for on account or on behalf of the Secretary of State in Council may be disposed of, and the proceeds thereof may be applied, as may be authorised by order in writing signed by two members of the Council of India and countersigned by the Secretary of State or one of his under-secretaries or his assistant under-secretary, and directed to the chief cashier and chief accountant of the Bank of England.

26. (1) The Secretary of State in Council shall
Accounts to be annually laid before Parliament. within the first ¹[twenty-eight days] during which Parliament is sitting next after the first day of May in every year, lay before both Houses of Parliament—

(a) an account, for the financial year preceding that last completed, of the annual produce of the revenues of India, distinguishing

¹ These words were substituted for the words "fourteen days" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

the same under the respective heads thereof, in each of the several provinces; and of all the annual receipts and disbursements at home and abroad for the purposes of the government of India, distinguishing the same under the respective heads thereof;

- (b) the latest estimate of the same for the financial year last completed;
- (c) accounts of all stocks, loans, debts and liabilities chargeable on the revenues of India at home and abroad, at the commencement and close of the financial year preceding that last completed, the loans, debts and liabilities raised or incurred within that year, the amounts paid off or discharged during that year, the rates of interest borne by those loans, debts and liabilities respectively, and the annual amount of that interest;

¹(d) * * * * *

- (e) a list of the establishment of the Secretary of State in Council, and the salaries and allowances payable in respect thereof.

(2) If any new or increased salary or pension of fifty pounds a year or upwards has been granted or created within any year in respect of the said establishment, the particulars thereof shall be specially stated and explained at the foot of the account for that year.

(3) The account shall be accompanied by a statement, prepared from detailed reports from each province, in such form as best exhibits the moral and material progress and condition of India.

27. (1) His Majesty may, by warrant under His Royal Sign Manual, countersigned by the Chancellor of the Exchequer

Audit of Indian accounts in United Kingdom appoint a fit person to be auditor of the accounts of the Secretary of State in Council, and authorise that auditor to appoint and remove such assistants as may be specified in the warrant.

(2) The auditor shall examine and audit the accounts of the receipt, expenditure and disposal in the United Kingdom of all money, stores and property applicable for the purposes of this Act.

(3) The Secretary of State in Council shall, by the officers and servants of his establishment, produce and lay before the auditor all such accounts, accompanied by proper vouchers for their support, and submit to his inspection all books, papers and writings having relation thereto.

(4) The auditor may examine all such officers and servants of that establishment, being in the United Kingdom, as he thinks fit, in relation to such accounts and the receipt, expenditure or disposal of such money, stores and property, and may for that purpose, by writing signed by him, summon before him any such officer or servant.

¹ Paragraph (d) was repealed by Sch. II, *ibid*.

(5) The auditor shall report to the Secretary of State in Council his approval or disapproval of the accounts aforesaid, with such remarks and observations in relations thereto, as he thinks fit, specially noting cases (if any) in which it appears to him that any money arising out of the revenues of India has been appropriated to purposes other than those to which they are applicable.

(6) The auditor shall specify in detail in his reports all sums of money, stores and property which ought to be accounted for, and are not brought into account, or have not been appropriated in conformity with the provisions of the law, or which have been expended or disposed of without due authority, and shall also specify any defects, inaccuracies or irregularities which may appear in the accounts, or in the authorities, vouchers or documents having relation thereto.

(7) The auditor shall lay all his reports before both Houses of Parliament, with the accounts of the year to which the reports relate.

(8) The auditor shall hold office during good behaviour.

(9) There shall be paid to the auditor and his assistants, out of the revenues of India, ¹[or out of moneys provided by Parliament], such salaries as His Majesty, by warrant signed and countersigned as aforesaid, may direct.

(10) The auditor and his assistants (notwithstanding that some of them do not hold certificates from the Civil Service Commissioners) shall, for the purposes of superannuation ²[or retiring] allowance [and their legal personal representatives shall, for the purposes of gratuity], be in the same position as if ³[the auditor and his assistants] were on the establishment of the Secretary of State in Council.

PART III.

PROPERTY, CONTRACTS AND LIABILITIES.

28. (1) The Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council
Power of Secretary of State to sell, mortgage and buy property. of India, sell and dispose of any real or personal estate for the time being vested in His Majesty for the purposes of the government of India, and raise money on any such real ⁴[or personal] estate by way of mortgage ⁴[or otherwise], and make the proper assurances for any of those purposes, and purchase and acquire any property

¹ These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 and 10 Geo. 5 Ch. 101).

² These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 and 7 Geo. 5, Ch. 37).

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

⁴ These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

(2) Any assurance relating to real estate, made by the authority of the Secretary of State in Council, may be made under the hands and seals of ¹[two] members of the Council of India.

(3) All property acquired in pursuance of this section shall vest in His Majesty for the purposes of the Government of India.

29. (1) ²[Subject to the provisions of this Act regarding the appointment of a High Commissioner for India,] **Contracts of Secretary of State.** the Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, make any contract for the purposes of this Act.

(2) Any contract so made may be expressed to be made by the Secretary of State in Council.

(3) Any contract so made which, if it were made between private persons, would be by law required to be under seal, may be made, varied or discharged under the hands and seals of two members of the Council of India.

(4) Any contract so made which, if it were made between private persons, would be by law required to be signed by the party to be charged therewith, may be made, varied or discharged under the hands of two members of the Council of India.

(5) Provided that any contract for or relating to the manufacture, sale, purchase or supply of goods, or for or relating to affreightment or the carriage of goods, or to insurance, may, subject to such rules and restrictions as the Secretary of State in Council prescribes, be made and signed on behalf of the Secretary of State in Council by any person upon the permanent establishment of the Secretary of State in Council in this behalf. Contracts so made and signed shall be as valid and effectual as if made as prescribed by the foregoing provisions of this section. Particulars of all contracts so made and signed shall be laid before the Secretary of State in Council in such manner and form and within such times as the Secretary of State in Council prescribes.

(6) The benefit and liability of every contract made in pursuance of this section shall pass to the Secretary of State in Council for the time being.

³[29 A. His Majesty may by Order in Council make provision for the appointment of a High Commissioner for India in the United Kingdom, and for the pay, pension, powers, duties, and conditions of employment of the High Commissioner and of his assistants; and the Order may further provide for delegating to the High Commissioner any of the powers previously exercised by the

¹ This word was substituted for the word "three" by *ibid.*

² These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

³ Section 23A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Secretary of State or the Secretary of State in Council, whether under this Act or otherwise, in relation to making contracts, and may prescribe the conditions under which he shall act on behalf of the Governor-General in Council or any local government.]

30. (1) The Governor-General in Council and any local government may, on behalf and in the name of the Secretary of State in Council, and subject to such provisions or restrictions as the Secretary of State in Council, with the concurrence of a majority of votes at a meeting of the Council of India, prescribes, sell and dispose of any real or personal estate whatsoever in British India, within the limits of their respective governments, for the time being vested in His Majesty for the purposes of the government of India, or raise money on any such real¹ [or personal] estate by way of mortgage,¹ [or otherwise,] and make proper assurances for any of those purposes, and purchase or acquire any property in British India within the said respective limits, and make any contract for the purposes of this Act.

²[(1a) A local government may on behalf and in the name of the Secretary of State in Council raise Money on the security of revenues allocated to it under this Act, and make proper assurances for that purpose, and rules made under this Act may provide for the conditions under which this power shall be exercisable.]

(2) Every assurance and contract made for the purposes of ³[sub-section (1) of this section] shall be executed by such person and in such manner as the Governor-General in Council by resolution directs or authorises, and if so executed may be enforced by or against the Secretary of State in Council for the time being.

(3) All property acquired in pursuance of this section shall vest in His Majesty for the purposes of the government of India

31. The Governor-General in Council, and any other person authorised by any Act passed in that behalf by the ⁴[Indian legislature] may make any grant or disposition of any property in British India accruing to His Majesty by forfeiture, escheat or lapse, or by devolution as *bona vacantia*, to or in favour of any relative or connection of the person from whom the property has accrued, or to or in favour of any other person.

¹ These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5. Ch. 37.)

² Sub-section (1a) was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5. Ch. 101).

³ These words and figure were substituted for the words " this section " by *Ibid.*

⁴ These words were substituted for the words " Governor-General in Legislative Council " by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

Rights and liabilities of Secretary of State in Council. 32. (1) The Secretary of State in Council may sue and be sued by the name of the Secretary of State in Council as a body corporate.

(2) Every person shall have the same remedies against the Secretary of State in Council as he might have had against the East India Company if the Government of India Act, 1858, and this Act had not been passed.

(3) The property for the time being vested in His Majesty for the purposes of the Government of India shall be liable to the same judgments and executions as it would have been liable to in respect of liabilities lawfully incurred by the East India Company if the Government of India Act, 1858, and this Act had not been passed.

(4) Neither the Secretary of State nor any member of the Council of India shall be personally liable in respect of any assurance or contract made by or on behalf of the Secretary of State in Council, or any other liability incurred by the Secretary of State or the Secretary of State in Council in his or their official capacity, nor in respect of any contract, covenant or engagement of the East India Company, nor shall any person executing any assurance or contract on behalf of the Secretary of State in Council be personally liable in respect thereof; but all such liabilities, and all costs and damages in respect thereof, shall be borne by the revenues of India.

PART IV.

THE GOVERNOR-GENERAL IN COUNCIL.

General Powers and Duties of Governor-General in Council.

Powers of control of Governor-General in Council. 33. ¹[Subject to the provisions of this Act and rules made thereunder,] the superintendence direction and control of the civil and military government of India is vested in the Governor-General in Council, who is required to pay due obedience to all such orders as he may receive from the Secretary of State.

The Governor-General.

The Governor-General. 34. The Governor-General of India is appointed by His Majesty by warrant under the Royal Sign Manual.

The Governor-General's Executive Council.

35. [Constitution of Governor-General's executive council.] Omitted by Part II of Sch. II, 9 & 10 Geo. 5, Ch. 101.

¹ These words were inserted by Part II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

36. (1) The ¹ [*] members of the Governor-General's executive Members of council shall be appointed by His Majesty by warrant Council. under the Royal Sign Manual.

(2) The number of the ¹ [*] members of the council shall be ² [such as His Majesty thinks fit to appoint].

(3) Three at least of them must be persons who ³ [*] have been for at least ten years in the service of the Crown in India, and one must be a Barrister of England or Ireland or a member of the Faculty of Advocates of Scotland, ⁴ [or a pleader of High Court] of not less than ⁵ [ten] years standing.

(4) If any ⁶ [member of the council (other than the Commander-in-Chief for the time being of His Majesty's forces in India) is at the time of his appointment in the military service of the Crown, he shall not, during his continuance in office as such member, hold any military command or be employed in actual military duties.

⁷ [(5) Provision may be made by rules under this Act as to the qualifications to be required in respect of the members of the Governor-General's executive council in any case where such provision is not made by the foregoing provisions of this section.]

Rank and precedence of Commander-in-Chief. ⁸ [37. If the Commander-in-Chief for the time being of His Majesty's forces in India is a member of the Governor-General's executive council he shall, subject to the provisions of this Act, have rank and precedence in the Council next after the Governor-General.]

Vice-president of Council. 38. The Governor-General shall appoint a member of his executive council to be vice-president thereof.

¹ The word "ordinary" was omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² These words were substituted for the words "five," or if His Majesty thinks fit to appoint a sixth member, "six" by *Ibid.*

³ The words "at the time of their appointment" were omitted by *Ibid.*

⁴ These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

⁵ This word was substituted for the word "five" by *Ibid.*

⁶ These words were substituted for the words "person appointed an ordinary member of the council" by *Ibid.*

⁷ Sub-section (5) was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

⁸ Section 37 was substituted by *ibid.*

Meetings.

39. (1) The Governor-General's executive council shall assemble at such places in India as the Governor-General in Council appoints.

(2) At any meeting of the council the Governor-General or other person presiding and ¹[one member of the council (other than the Commander-in-Chief)] may exercise all the functions of the Governor-General in Council.

40. (1) All orders and other proceedings of the Governor-General in Council shall be expressed to be made by the Governor-General in Council, and shall be signed by a secretary to the Government of India, or otherwise, as the Governor-General in Council may direct ²[and when so signed shall not be called into question in any legal proceeding on the ground that they were not duly made by the Governor-General in Council.]

(2) The Governor-General may make rules and orders for the more convenient transaction of business in his executive council, and every order made, or act done, in accordance with such rules and orders, shall be treated as being the order or the act of the Governor-General in Council.

41. (1) If any difference of opinion arises on any question brought before a meeting of the Governor-General's executive council, the Governor-General in Council shall be bound by the opinion and decision of the majority of those present, and, if they are equally divided the Governor-General or other person presiding shall have a second or casting vote.

(2) Provided that whenever any measure is proposed before the Governor-General in Council whereby the safety, tranquility or interests of British India, or of any part thereof, are, or may be, in the judgment of the Governor-General, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority present at a meeting of the council dissent from that opinion, the Governor-General may, on his own authority and responsibility, adopt, suspend or reject the measure, in whole or in part.

(3) In every such case any two members of the dissentient majority may require that the adoption, suspension or rejection of the measure, and the fact of their dissent, be reported to the Secretary of State, and the

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

² These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

report shall be accompanied by copies of any minutes which the members of the council have recorded on the subject.

(4) Nothing in this section shall empower the Governor-General to do anything which he could not lawfully have done with the concurrence of his council

Provision for 42. If the Governor-General is obliged to
absence of Gov- absent himself from any meeting of the council,
ernor-General by indisposition or any cause, ¹[* * *] the
from meetings of vice-president, or, if he is absent, the senior
Council. ²[member (other than the Commander-in-Chief)]
present at the meeting, shall preside thereat, with the like powers as the Governor-General would have had if present.

Provided that if the Governor-General is at the time resident at the place where the meeting is assembled, and is not prevented by indisposition from signing any act of council made at the meeting, the act shall require his signature; but, if he declines or refuses to sign it, the like provisions shall have effect as in cases where the Governor-General, when present, dissents from the majority at a meeting of the council.

43. (1) Whenever the Governor-General in Council declares that it is expedient that the Governor-General should

Powers of Gov- visit any part of India unaccompanied by his
ernor-General in executive council, the Governor-General in Council
absence from may, by order, authorize the Governor-General
Council. alone to exercise, in his discretion, all or any of the
powers which might be exercised by the Governor-General in Council at meetings of the council.

(2) The Governor-General during absence from his executive council may, if he thinks it necessary, issue, on his own authority and responsibility, any order which might have been issued by the Governor-General in Council, to any local Government, or to any officers or servants of the Crown acting under the authority of any local government without previously communicating the order to the local government; and any such order shall have the same force as if made by the Governor-General in Council; but a copy of the order shall be sent forthwith to the Secretary of State and to the local government, with the reasons for making the order.

(3) The Secretary of State in Council may, by order, suspend until further order all or any of the powers of the Governor-General under the last foregoing sub-section; and those powers shall accordingly be suspended

¹ The words "and signifies his intended absence to the council" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

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

as from the time of the receipt by the Governor-General of the order of the Secretary of State in Council.

¹[43A. (1) The Governor-General may at his discretion appoint, from among the members of the Legislative Assembly, council secretaries who shall hold office during his pleasure and discharge such duties in assisting the members of his executive council as he may assign to them.

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

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

War and Treaties.

44 (1) The Governor-General in Council may not, without the express order of the Secretary of State in Council, in any case (except where hostilities have been actually commenced, or preparations for the commencement of hostilities have been actually made, against the British Government in India or against any prince or state dependent thereon, or against any prince or state whose territories His Majesty is bound by any subsisting treaty to defend or guarantee), either declare war or commence hostilities or enter into any treaty for making war against any prince or state in India, or enter into any treaty for guaranteeing the possessions of any such prince or state.

(2) In any such excepted case the Governor-General in Council may not declare war, or commence hostilities, or enter into any treaty for making war, against any other prince or state than such as is actually committing hostilities or making preparations as aforesaid, and may not make any treaty for guaranteeing the possessions of any prince or state except on the consideration of that prince or state actually engaging to assist His Majesty against such hostilities commenced or preparations made as aforesaid.

(3) When the Governor-General in Council commences any hostilities or makes any treaty, he shall forthwith communicate the same, with the reasons therefor, to the Secretary of State.

²44A. Any naval forces and vessels which may from time to time be raised and provided by the Governor General in Council shall be em-

¹ Section 43A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

²[See s. 1 (2) of the Government of India (Indian Navy) Act, 1927 (17 and 18 Geo. 5, Ch. 8).]

played for the purposes of the Government of India alone, except that if the Governor-General declares that a state of emergency exists which justifies such action, the Governor-General in Council may place at the disposal of the Admiralty all or any of such forces and vessels, and thereupon it shall be lawful for the Admiralty to accept such offer."

PART V.

LOCAL GOVERNMENTS.

General.

Relation of local governments to Governor-General in Council. 45. (1) [Subject to the provisions of this Act and rules made thereunder], every local government shall obey the orders of the Governor-General in Council, and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its opinion to be reported to him, or as to which he requires information, and is under his superintendence, direction and control in all matters relating to the government of its province.

2[(2)* * * *]

(3) The authority of a local government is not superseded by the presence in its province of the Governor-General.

Classification of central and provincial subjects. 3[45A. (1) Provision may be made by rules under this Act—

- (a) for the classification of subjects, in relation to the functions of government, as central and provincial subjects, for the purpose of distinguishing the functions of local governments and local legislatures from the functions of the Governor-General in Council and the Indian legislature ;
- (b) for the devolution of authority in respect of provincial subjects to local governments, and for the allocation of revenues or other moneys to those governments ;
- (c) for the use under the authority of the Governor-General in Council of the agency of local governments in relation to central subjects, in so far as such agency may be found convenient, and for determining the financial conditions of such agency ; and

¹ These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² Sub-section (2) was omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

³ Section 45 A was inserted by Part I of Sch. II, *ibid*.

- (d) for the transfer from among the provincial subjects of subjects (in this Act referred to as 'transferred subjects') to the administration of the governor acting with ministers appointed under this Act, and for the allocation of revenues or moneys for the purpose of such administration.

(2) Without prejudice to the generality of the foregoing powers, rules made for the above-mentioned purposes may—

- (i) regulate the extent and conditions of such devolution, allocation, and transfer ;
- (ii) provide for fixing the contributions payable by local governments to the Governor-General in Council, and making such contributions a first charge on allocated revenues or moneys ;
- (iii) provide for constituting a finance department in any province, and regulating the functions of that department ;
- (iv) provide for regulating the exercise of the authority vested in the local government of a province over members of the public services therein ;
- (v) provide for the settlement of doubts arising as to whether any matter does or does not relate to a provincial subject or a transferred subject, and for the treatment of matters which affect both a transferred subject and a subject which is not transferred ; and
- (vi) make such consequential and supplemental provisions as appear necessary or expedient :

Provided that, without prejudice to any general power of revoking or altering rules under this Act, the rules shall not authorise the revocation or suspension of the transfer of any subject except with the sanction of the Secretary of State in Council.

(3) The powers of superintendence, direction and control over local governments vested in the Governor-General in Council under this Act shall, in relation to transferred subjects, be exercised only for such purposes as may be specified in rules made under this Act, but the Governor-General in Council shall be the sole judge as to whether the purpose of the exercise of such powers in any particular case comes within the purposes so specified.

(4) The expressions "central subjects" and "provincial subjects" as used in this Act mean subjects so classified under the rules.

Provincial subjects, other than transferred subjects, are in this Act referred to as "reserved subjects."]

Governorships.

46. ¹ [(1) The presidencies of Fort William in Bengal, Fort St. George, and Bombay, and the provinces known as **Local govern-** the United Provinces, the Punjab, Bihar and Orissa
ment in govern- the Central Provinces, and Assam, ² shall each be
ers' provinces. governed, in relation to reserved subjects, by a
governor in council, and in relation to transferred sub-
jects (save as otherwise provided by this Act) by the governor acting
with ministers appointed under this Act.

The said presidencies and provinces are in this Act referred to as "governors' provinces" and the two first named presidencies are in this Act referred to as the presidencies of Bengal and Madras.]

³ [(2) The governors of the said presidencies are appointed by His Majesty by warrant under the Royal Sign Manual, and the governors of the said provinces shall be so appointed after consultation with the Governor-General.]

(3) The Secretary of State may, if he thinks fit, by order revoke or suspend, for such period as he may direct, the appointment of a council for any or all of ⁴ [the governors' provinces]; and whilst any such order is in force the governor of the ⁵ [province] to which the order refers shall have all the powers of the governor thereof in council.

47. (1) The members of a governor's executive council shall be appointed by His Majesty by warrant under the **Members of** Royal Sign Manual, and shall be of such number, **governors' exe-** not exceeding four, as the Secretary of State
cutive council. in Council directs.

(2) ⁶ [One at least of them must be a person who at the time of his appointment has been] for at least twelve years in the service of the Crown in India.

¹ Sub-section 1 of section 46 was substituted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, ch. 101).

² The province of Burma has since been constituted a governor's province, *vide* footnote 2 to s. 52A (1) on p. 38, *infra*.

³ This sub-section was substituted by Part II of Sch. II. of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

⁴ These words were substituted for the words "those presidencies" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

⁵ This word was substituted for the word "presidency" by *ibid*.

⁶ These words were substituted for the words "Two at least of them must be persons who at the time of their appointment have been" by *ibid*.

1[(3) Provision may be made by rules under this Act as to the qualifications to be required in respect of members of the executive council of the governor of a province in any case where such provision is not made by the foregoing provisions of this section.]

48. Every governor of a 2[province] shall appoint a member Vice-president of his executive council to be vice-president of council. thereof.

3[49. (1) All orders and other proceedings of the government of a governor's province shall be expressed to be made by the government of the province, and shall be authenticated as the governor may by rule direct, so, however, that provision shall be made by rule for distinguishing orders and other proceedings relating to transferred subjects from other orders and proceedings.

Business of the governor in council and governor with ministers.

Orders and proceedings authenticated as aforesaid shall not be called into question in any legal proceeding on the ground that they were not duly made by the government of the province.

(2) The governor may make rules and orders for the more convenient transaction of business in his executive council and with his ministers, and every order made or act done in accordance with those rules and orders shall be treated as being the order or the act of the government of the province.

The governor may also make rules and orders for regulating the relations between his executive council and his ministers for the purpose of the transaction of the business of the local government.

Provided that any rules or orders made for the purposes specified in this section which are repugnant to the provisions of any other rules made under this Act shall, to the extent of that repugnancy, but not otherwise, be void.]

50. (1) If any difference of opinion arises on any question brought before a meeting of governor's executive council the governor in council shall be bound by the opinion and decision of the majority of those present, and if they are equally divided the governor or other person presiding shall have a second or casting vote.

Procedure in the case of difference of opinion in executive council.

(2) Provided that, whenever any measure is proposed before a governor in council whereby the safety, tranquillity or interest of his

¹ This sub-section was substituted by *Ibid.*

² This word was substituted for the word "presidency" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5 Ch. 101).

³ Section 49 was substituted by Part I, *Ibid.*

¹ [province], or of any part thereof, are or may be, in the judgment of the governor, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority present at a meeting of the council dissent from that opinion, the governor may, on his own authority and responsibility, by order in writing, adopt, suspend or reject the measure, in whole or in part.

(3) In every such case the governor and the members of the council present at the meeting shall mutually exchange written communications (to be recorded at large in their secret proceedings) stating the grounds of their respective opinions, and the order of the governor shall be signed by the governor and by those members.

(4) Nothing in the section shall empower a governor to do anything which he could not lawfully have done with the concurrence of his council.

51. If a governor is obliged to absent himself from any Provision for meeting of his executive council, by indisposition absence of gov- or any other cause, ² [* * *] the vice-president, ernor from or, if he is absent, the senior ³ [*] member meetings of present at the meeting, shall preside thereat, with council. the like powers as the governor would have had if present

Provided that if the governor is at the time resident at the place where the meeting is assembled, and is not prevented by indisposition from signing any act of council made at the meeting, the act shall require his signature; but, if he declines or refuses to sign it, the like provisions shall have effect as in cases where the governor, when present, dissents from the majority at a meeting of the council.

⁴[52. (1) The governor of a governor's province may, by notification, appoint ministers, not being members of his of ministers and executive council or other officials, to administer council secret- transferred subjects, and any ministers so appointed taries. shall hold office during his pleasure.

¹ This word was substituted for the word "presidency" by part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² The words "and signifies his intended absence to the council" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

³ The word "civil" was omitted by *Ibid.*

⁴ Section 52 was substituted by Part I of Sch. II of the Government of India Act. 1919 (9 & 10 Geo. 5. Ch. 101).

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

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

(3) In relation to transferred subjects, the governor shall be guided by the advice of his ministers, unless he sees sufficient cause to dissent from their opinion, in which case he may require action to be taken otherwise than in accordance with that advice :

Provided that rules may be made under this Act for the temporary administration of a transferred subject where, in cases of emergency, owing to a vacancy, there is no minister in charge of the subject, by such authority and in such manner as may be prescribed by the rules.

(4) The governor of a governor's province may at his discretion appoint from among the non-official members of the local legislature, council secretaries, who shall hold office during his pleasure and discharge such duties in assisting members of the executive council and ministers as he may assign to them.

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

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

[52A. (1) The Governor-General in Council may, after obtaining an expression of opinion from the local government and the local legislature affected, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute a new governor's province,² or place part of a governor's province under the administration of a deputy governor to be appointed by the Governor-General, and may in any such case apply, with such modification as appear necessary or desirable, all or any of the provisions of this Act relating to governors' provinces or provinces under a lieutenant-governor or chief commissioner, to any such new province or part of a province.

¹ Sections 52A and 52B were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² The province of Burma was constituted a governor's province with effect from January 2, 1923; vide notification No. 225, dated October 7, 1921, in Gazette of India Extraordinary, 1921, p. 581, and notification No. 1192, dated January 2, 1923, in Gazette of India Extraordinary, 1923, p. 37 and on pp. 251 and 252, *infra*.

(2) The Governor-General in Council may declare any territory in British India to be a "backward tract,"¹ and may, by notification, with such sanction as aforesaid, direct that this Act shall apply to that territory subject to such exceptions and modifications as may be prescribed in the notification.

Where the Governor-General in Council has, by notification, directed as aforesaid he may, by the same or subsequent notification, direct that any Act of the Indian legislature shall not apply to the territory in question or any part thereof, or shall apply to the territory or any part thereof subject to such exceptions or modifications as the Governor-General thinks fit, or may authorise the governor in council to give similar directions as respects any Act of the local legislature.

§ 52B (1) The validity of any order made or action taken after the commencement of the Government of India Act, 1919, by the Governor-General in Council or by a local government which would have been within the powers of the Governor-General in Council or of such local government if that Act had not been passed, shall not be open to question in any legal proceedings on the ground that by reason of any provision of that Act or this Act, or of any rule made by virtue of any such provision, such order or action has ceased to be within the powers of the Governor-General in or of the Government concerned.

Saving not be open to question in any legal proceedings on the ground that by reason of any provision of that Act or this Act, or of any rule made by virtue of any such provision, such order or action has ceased to be within the powers of the Governor-General in or of the Government concerned.

(2) The validity of any order made or action taken by a governor in council, or by a governor acting with his ministers, shall not be open to question in any legal proceedings on the ground that such order or action relates or does not relate to a transferred subject or relates to a transferred subject of which the minister is not in charge.]

¹ For the territories declared to be "backward tracts" in Madras, Bengal, the Punjab, Bihar and Orissa and Assam and for the exceptions and modifications subject to which the Government of India Act applies, thereto. *see* respectively, notifications Nos. 1-G., 2-G., 4-G. and 5-G. dated the 3rd January, 1921, Gazette of India Extraordinary, 1921, pp. 41, 42, 43, 44 and 45, respectively; for Bengal, *see* also notification No. F.—124, dated the 15th December, 1921, in Gazette of India, 1921, Part I, p. 1658, also pp. 253-268, *infra*.

For the modifications subject to which Act 5 of 1898 applies to the Agency Division of the Madras Presidency, a "backward tract" in that Presidency, *see* notification No. F—567, dated the 27th February, 1922, Gazette of India, 1922, Part I, p. 205, and also pp. 255-267, *infra*.

² *See* first footnote on p. 98. *supra*.

Lieutenant-Governorships and other Provinces.

53. ¹(1) ²[The province of] Burma is, subject to **Lieutenant-governorships.** the provisions of this Act, governed by a lieutenant-governor ³[⁴].

(2) The Governor-General in Council may, by notification with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute a new province under a lieutenant-governor.

Appointment, 54. (1) A lieutenant-governor is appointed by &c., of **Lieutenant-governors.** the Governor-General with the approval of His Majesty.

(2) A lieutenant-governor must have been, at the time of his appointment, at least ten years in the service of the Crown in India.

⁴[(3) * * * * *].

55. (1) The Governor-General in Council, with the approval of **Power to create** the Secretary of State in Council, may, by notification, create a council in any province under a **executive coun-** lieutenant-governor, for the purpose of assisting the **cils for Lieute-** lieutenant-governor in the executive government of **nant-governors.** the province, and by such notification—

- (a) make provision for determining what shall be the number (not exceeding four) and qualifications of the members of the Council; and
- (b) make provision for the appointment of temporary or acting members of the council during the absence of any member from illness or otherwise, ⁵[and for supplying a vacancy until it is permanently filled,] and for the procedure to be adopted in case of a difference of opinion between a lieutenant-governor

¹ This sub-section ceased to have effect from January 2, 1923, i. e., the date from which the province of Burma was constituted a governor's province, *vide* notification No. 225, dated October 7, 1921 in Gazette of India Extraordinary, 1921, p. 381 and notification No 1192, dated January 2, 1923, in Gazette of India Extraordinary 1923, p. 37, and on pp. 251-252. *infra*.

² These words were substituted for the words "Each of the following provinces, namely, those known as Bihar and Orissa, the United Provinces of Agra and Oudh, the Punjab and" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

³ The words "with or without an executive council" were omitted by *ibid*.

⁴ Sub-section (3) was omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

⁵ These words were inserted by *ibid*.

and his council, and in the case of equality of votes, and in the case of a lieutenant-governor being obliged to absent himself from his council by indisposition or any other cause:

Provided that, before any such notification is published, a draft thereof shall be laid before each House of Parliament for not less than sixty days during the session of Parliament, and if, before the expiration of that time an address is presented to His Majesty by either House of Parliament against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft.

(2) Every notification under this section shall be laid before both Houses of Parliament as soon as may be after it is made.

(3) Every member of a lieutenant governor's executive council shall be appointed by the Governor-General, with the approval of His Majesty.

56. A lieutenant-governor who has an executive council shall **Vice-president** appoint a member of the council to be vice-president of **lieutenant** thereof, and that vice-president shall preside at meetings of the council in the absence of the lieutenant-governor's council.

57. A lieutenant-governor who has an executive council may, with **Business of** consent of the Governor-General in Council, make rules **lieutenant - gov-** and orders for more convenient transaction of business **ernor in council.** in the council, and every order made, or act done, in accordance with such rules and orders, shall be treated as being the order or the act of the lieutenant-governor in council. ¹[An order made as aforesaid shall not be called into question in any legal proceedings on the ground that it was not duly made by the lieutenant-governor in council.]

58. Each of the following provinces, namely, those known as **Chief Commis-** ²[* * *] the North-West Frontiers Province, **sloners.** British Baluchistan, Delhi, Ajmere-Merwara, Coorg, and the Andaman and Nicobar Islands, is, subject to the provision of this Act, administered by a chief commissioner.

59. The Governor-General in Council may, with the approval of the Secretary of State, and by notification, take any part of British India under the immediate authority and management of the Governor-General in Council, and thereupon give all necessary orders and directions respecting the administration of that part, by placing it under a chief commissioner or by otherwise providing for its administration.

Power to place
territory under
authority of
Governor-General
in Council.

¹ The words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

The words "Assam, the Central Province" were omitted by *Ibid.*

Boundaries.

60. The Governor-General in Council, may, by notification, declare, appoint or alter the boundaries of any of the provinces into which British India is for the time being divided, and distribute the territories of British India among the several provinces thereof in such manner as may seem expedient, subject to these qualifications namely :—

(1) an entire district may not be transferred from one province to another without the previous sanction of the Crown, signified by the Secretary of State in Council ; and

(2) any notification under this section may be disallowed by the Secretary of State in Council.

61. An alteration in pursuance of the foregoing provisions of the mode of administration of any part of British India, or of the boundaries of any part of British India, shall not affect the law for the time being in force in that part.

62. The governor of Bengal in council, the governor of Madras in council, and the governor of Bombay in council may, with the approval of the Secretary of State in Council, and by notification, extend the limits of the towns of Calcutta, Madras and Bombay, respectively; and any Act of Parliament, letters patent, charter, law or usage conferring jurisdiction, power or authority within the limits of those towns respectively shall have effect within the limits as so extended.

PART VI.
INDIAN LEGISLATION.*The Indian Legislature.*

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

Except as otherwise provided by or under this Act, a Bill shall not be deemed to have been passed by the Indian legislature unless it has been

¹ Sections 63, 63A, 63B, 63C, 63D, 63E, and 64 were substituted for sections 63 and 64 by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

agreed to by both chambers, either without amendment or with such amendments only as may be agreed to by both chambers.]

¹[63A. (1) The Council of State shall consist of not more than sixty members nominated or elected in accordance with rules made under this Act, of whom not more than twenty shall be official members.

(2) The Governor-General shall have power to appoint, from among the members of the Council of State, a president and other persons to preside in such circumstances as he may direct.

(3) The Governor-General shall have the right of addressing the Council of State, and may for that purpose require the attendance of its members.]

¹[63B. (1) The Legislative Assembly shall consist of members nominated or elected in accordance with rules made under this Act.

(2) The total number of members of the Legislative Assembly shall be one hundred and forty. The number of non-elected members shall be forty, of whom twenty six shall be official members. The number of elected members shall be one hundred:

Provided that rules made under this Act may provide for increasing the number of members of the Legislative Assembly as fixed by this section, and may vary the proportion which the classes of members bear one to another, so, however, that at least five-sevenths of the members of the legislative Assembly shall be elected members, and at least one-third of the other members shall be non-official members.

(3) The Governor-General shall have the right of addressing the Legislative Assembly, and may for that purpose require the attendance of its members.

¹[63C. (1) There shall be a president of the Legislative Assembly, who shall, until the expiration of four years from the first meeting thereof, be a person appointed by the Governor-General, and shall thereafter be a member of the Assembly elected by the Assembly and approved by the Governor-General.

Provided that, if at the expiration of such period of four years the Assembly is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the ensuing session.

(2) There shall be a deputy-president of the Legislative Assembly, who shall preside at meetings of the Assembly in the absence of the

¹ See the footnote to Sec. 63, *supra*.

president, and who shall be a member of the Assembly elected by the Assembly and approved by the Governor-General.

(3) The appointed president shall hold office until the date of the election of a president under this section, but he may resign his office by writing under his hand addressed to the Governor-General, or may be removed from office by order of the Governor-General, and any vacancy occurring before the expiration of his term of office shall be filled by a similar appointment for the remainder of such term.

(4) An elected president and a deputy-president shall cease to hold office if they cease to be members of the Assembly. They may resign office by writing under their hands addressed to the Governor-General, and may be removed from office by a vote of the Assembly with the concurrence of the Governor-General.

(5) A president and deputy-president shall receive such salaries as may be determined, in the case of an appointed president by the Governor-General, and in the case of an elected president and a deputy-president by Act of the Indian legislature.]

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

Provided that—

- (a) either chamber of the legislature may be sooner dissolved by the Governor-General; and
- (b) any such period may be extended by the Governor-General if in special circumstances he so thinks fit ; and
- (c) after the dissolution of either chamber the Governor-General shall appoint a date not more than six months, or, with the sanction of the Secretary of State, not more than nine months, after the date of dissolution for the next session of that chamber.

(2) The Governor-General may appoint such times and places for holding the sessions of either chamber of the Indian legislature as he thinks fit, and may also from time to time, by notification or otherwise, prorogue such sessions.

(3) Any meeting of either chamber of the Indian legislature may be adjourned by the person presiding.

(4) All questions in either chamber shall be determined by a majority of votes of members present other than the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

¹ See the footnote to Sec. 63, *supra*.

(5) The powers of either chamber of the Indian legislature may be exercised notwithstanding any vacancy in the chamber.]

¹[63E. (1) An official shall not be qualified for election as a member of either chamber of the Indian legislature **Membership of** and, if any non-official member of either chamber **both chambers.** accepts office in the service of the Crown in India, his seat in that chamber shall become vacant.

(2) If an elected member of either chamber of the Indian legislature becomes a member of the other chamber, his seat in such first-mentioned chamber shall thereupon become vacant.

(3) If any person is elected a member of both chambers of the Indian legislature, he shall, before he takes his seat in either chamber, signify in writing the chamber of which he desires to be a member, and thereupon his seat in the other chamber shall become vacant.

(4) Every member of the Governor-General's executive council shall be nominated as a member of one chamber of the Indian legislature, and shall have the right of attending in and addressing the other chamber, but shall not be a member of both chambers].

Supplementary provisions as to composition of Legislative Assembly and Council of State. ¹[64. (1) Subject to the provisions of this Act, provision may be made by rules under this Act as to—

- (a) the term of office of nominated members of the Council of State and the Legislative Assembly, and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise; and
- (b) the conditions under which and the manner in which persons may be nominated as members of the Council of State or the Legislative Assembly, and
- (c) the qualification of electors, the constitution of constituencies, and the method of election for the Council of State and the Legislative Assembly (including the number of members to be elected by communal and other electorates) and any matters incidental or ancillary thereto; and
- (d) the qualifications for being or for being nominated or elected as members of the Council of State or the Legislative Assembly; and
- (e) the final decision of doubts or disputes as to the validity of an election, and
- (f) the manner in which the rules are to be carried into effect.

¹ See the footnote to Sec. 63, *supra*.

(s) Subject to any such rules, any person who is a ruler or subject of any state in India may be nominated as a member of the Council of State or the Legislative Assembly.]

Powers of Indian legislature. 65. (1) The ¹[Indian legislature] has power to make laws—

- (a) for all persons, for all courts, and for all places and things, within British India; and
- (b) for all subjects of His Majesty and servants of the Crown within other parts of India; and
- (c) for all native Indian subjects of His Majesty, without and beyond as well as within British India: and
- (d) for the government of officers, soldiers, ²[airmen] and followers, in His Majesty's Indian forces, wherever they are serving, in so far as they are not subject to the Army Act ²[or the Air Force Act] ; and
- ³ (e) For all persons employed or serving in or belonging to any naval forces raised by the Governor General in Council, wherever they are serving, in so far as they are not subject to the Naval-Discipline Act and
- (f) for repealing or altering any laws which for the time being are in any part of British India or apply to persons for whom the ³[Indian legislature] has power to make laws.

(2) Provided that the ¹[Indian legislature] has not, unless expressly so authorised by Act of Parliament, power to make any law repealing or affecting—

- (i) any Act of Parliament passed after the year one thousand eight hundred and sixty and extending to British India (including the Army Act, ²[the Air Force Act] and any Act amending the same) ; or
- (ii) any Act of Parliament enabling the Secretary of State in Council to raise money in the United Kingdom for the government of India;

and has not power to make any law affecting the authority of Parliament, or any part of the unwritten laws or constitution of the United Kingdom of Great Britain and Ireland whereon may depend in any degree the

¹ These words were substituted for the words " Governor-General in Legislative Council " by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² These words were inserted by Part III, *ibid.*

³ [See s. 1 (3) of the Government of India (Indian Navy) Act, 1927 (27 and 18 Geo. 5,)]

allegiance of any person to the Crown of the United Kingdom, or affecting the sovereignty or dominion of the Crown over any part of British India.

(g) The ¹ [Indian legislature] has not power, without the previous approval of the Secretary of State in Council, to make any law empowering any court, other than a high court, to sentence to the punishment of death any of His Majesty's subjects born in Europe or the children of such subjects, or abolishing any high court.

² 66. Subject to the provisions of this Act, provision may be made by the Indian Legislature for the application to the naval forces raised by the Governor General in Council of the Naval Discipline Act, and that Act, if so applied, shall have effect as if references therein to His Majesty's navy and His Majesty's ships included the forces and ships raised and provided by the Governor General in Council, subject, however.

- (a) in the application of the said Act to the forces and ships raised and provided by the Governor General in Council, and the trial by court-martial of officers and men belonging to those forces, to such modifications and adaptations (if any) as may be made by the Indian Legislature to adapt the Act to the circumstances of India, including such adaptations as may be so made for the purpose of authorising or requiring anything, which under the said Act is to be done by or to the Admiralty or the Secretary of the Admiralty, to be done by or to the Governor General in Council or by or to such person as may be vested with the authority by the Governor General in Council; and
- (b) in the application of the said Act to the forces and ships of His Majesty's Navy not raised and provided by the Governor General in Council, to such modifications and adaptations as may be made by His Majesty in Council for the purpose of regulating the relations of the last mentioned forces and ships to the forces and ships raised and provided by the Governor General in Council:

Provided that, where any forces and ships so raised and provided by the Governor General in Council have been placed at the disposal of the Admiralty, the said Act shall apply without any such modifications or adaptations as aforesaid.

¹ These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² [See s. 1 (4) of the Government of India (Indian Navy) Act, 1927, (17 and 18 Geo. 5, Ch. 8.)]

67. ¹ [(1) Provision may be made by rules under this Act for regulating the course of business and the preservation of order in the chambers of the Indian legislature, **Business and** and as to the persons to preside at the meetings of **proceedings in** the Legislative Assembly in the absence of the president and the deputy-president; and the rules may **Indian legisla-** provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussion of, any subject specified in the rules.]

(2) It shall not be lawful, without the previous sanction of the Governor-General, to introduce at any meeting of ²[either chamber of the Indian legislature] any measure affecting—

- (a) the public debt or public revenues of India or imposing any charge on the revenues of India; or
- (b) the religion or religious rites and usages of any class of British subjects in India; or
- (c) the discipline or maintenance of any part of His Majesty's military, ³[naval or air] forces, or
- (d) the relations of the Government with foreign princes or states ⁴[or any measure—
- (i) regulating any provincial subject, or any part of a provincial subject, which has not been declared by rules under this Act to be subject to legislation by the Indian legislature, or
- (ii) repealing or amending any Act of a local legislature; or
- (iii) repealing or amending any Act or Ordinance made by the Governor-General.]

⁵ [(2a) Where in either chamber of the Indian legislature any Bill has been introduced, or is proposed to be introduced, or any amendment to a Bill is moved, or proposed to be moved, the Governor-General may certify that the Bill, or any clause of it, or the amendment, affects the safety or tranquillity of British India, or any part thereof, and may direct that no proceedings, or that no further proceedings, shall be taken by the chamber in relation to the Bill, clause, or amendment, and effect shall be given to such direction.]

¹ This sub-section was substituted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² These words were substituted for the words "the Council" by Part II, *ibid.*

³ These words were substituted for the words "or naval" by Part III, *ibid.*

⁵ These clauses were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

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

¹ [(3) If any Bill which has been passed by one chamber is not, within six months after the passage of the Bill by that chamber, passed by the other chamber either without amendments or with such amendments as may be agreed to by the two chambers, the Governor-General may in his discretion refer the matter for decision to a joint sitting of both chambers: Provided that standing orders made under this section may provide for meetings of members of both chambers appointed for the purpose, in order to discuss any difference of opinion which has arisen between the two chambers].

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

² [(5) Rules made for the purpose of this section may contain such general and supplemental provisions as appear necessary for the purpose of giving full effect to this section.]

² [(6) Standing orders may be made providing for the conduct of business and the procedure to be followed in either chamber of the Indian legislature in so far as these matters are not provided for by rules made under this Act. The first standing orders shall be made by the Governor-General in Council, but may with the consent of the Governor-General be altered by the chamber to which they relate.

Any standing order made as aforesaid which is repugnant to the provisions of any rules made under this Act shall, to the extent of that repugnancy but not otherwise, be void.]

² [(7) Subject to the rules and standing orders affecting the chamber, there shall be freedom of speech in both chambers of the Indian legislature. No person shall be liable to any proceedings in any court by reason of his speech or vote in either chamber, or by reason of anything contained in any official report of the proceedings of either chamber.

³ [67A. (1) The estimated annual expenditure and revenue of the Governor-General in Council shall be laid in the form of a statement before both chambers of the Indian legislature in each year.

(2) No proposal for the appropriation of any revenue or moneys for any purpose shall be made except on the recommendation of the Governor-General.

¹ Sub-sections (3), (4), (5), (6) and (7) were substituted for sub-section (3) by Part I, *ibid.*

² See the footnote to Sec. 67 (3).

³ Section 67A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(3) The proposal for the Governor-General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either chamber at the time when the annual statement is under consideration, unless the Governor-General otherwise directs —

- (i) interest and sinking fund charges on loans ; and
- (ii) expenditure of which the amount is prescribed by or under any law ; and

¹ (iii) Salaries and pensions payable to or to the dependants of —

- (a) persons appointed by or with the approval of His Majesty or by the Secretary of State in Council ,
- (b) chief commissioners and judicial commissioners ,
- (c) persons appointed before the first day of April, nineteen hundred and twenty-four, by the Governor-General in Council or by a local government to services of posts classified by rules under this Act as superior services or posts ; and

(iv) Sums payable to any person who is or has been in the civil services of the Crown in India under any order of the Secretary of State in Council, of the Governor-General in Council, or of a governor, made upon an appeal made to him in pursuance of rules made under this Act

(v) Expenditure classified by the order of the Governor-General in Council as—

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

For the purposes of this sub-section the expression 'salaries and pensions' includes remuneration, allowances, gratuities, any contributions (whether by way of interest or otherwise) out of the revenues of India to any provident fund or family pension fund, and any other payments or emoluments payable to or on account of a person in respect of his office

(4) If any question arises as to whether any proposed appropriation of revenue or moneys does or does not relate to the above heads, the decision of the Governor-General on the question shall be final.

(5) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to heads of expenditure not specified in the above heads shall be submitted to the vote of the Legislative Assembly in the form of demands for grants.

¹ [See s. I (1) of the Government of India (Civil Services) Act, 1925, (15 and 16 Geo. 5. Ch. 83).]

(6) The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in any demand by reduction of the whole grant.

(7) The demands as voted by the Legislative Assembly shall be submitted to the Governor-General in Council, who shall, if he declares that he is satisfied that any demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, by the Legislative Assembly.

(8) Notwithstanding anything in this section the Governor-General shall have power, in cases of emergency, to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquillity of British India or any part thereof.]

¹[67B (1) Where either chamber of the Indian legislature refuse leave to introduce, or fails to pass in a form recommended by the Governor-General, any Bill, the Governor-General may certify that the passage or the Bill is essential for the safety, tranquillity, of interests of British India or any part thereof, and thereupon—

(a) if the Bill has already been passed by the other chamber, the Bill shall, on signature by the Governor-General, notwithstanding that it has not been consented to by both chambers, forthwith become an Act of the Indian legislature in the form of the Bill as originally introduced or proposed to be introduced in the Indian legislature, or (as the case may be) in the form recommended by the Governor-General; and

(b) if the Bill has not already been so passed, the Bill shall be laid before the other chamber, and, if consented to by that chamber in the form recommended by the Governor-General, shall become an Act as aforesaid on the signification of the Governor-General's assent, or, if not so consented to, shall on signature by the Governor-General, become an Act as aforesaid.

(2) Every such Act shall be expressed to be made by the Governor-General, and shall, as soon as practicable after being made, be laid before both Houses of Parliament, and shall not have effect until it has received His Majesty's assent, and shall not be presented for His Majesty's assent until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat; and upon the signification of such assent by His Majesty in Council, and the notification

¹ Section 67B was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the Indian legislature and duly assented to:

Provided that where in the opinion of the Governor-General a state of emergency exists which justifies such action, the Governor-General may direct that any such Act shall come into operation forthwith, and thereupon the Act shall have such force and effect as aforesaid, subject, however, to disallowance by His Majesty in Council.]

68. (1) When ¹[a Bill] has been passed ²[by both chambers of the Indian legislature], the Governor-General, **Assent of** ³[* * *] may declare that he assents to the **Governor-General to Bills.** ⁴[Bill], or that he withholds assent from the ⁴[Bill], or that he reserves the ⁴[Bill] for the signification of His Majesty's pleasure thereon.

(2) ⁵[A Bill passed by both chambers of the Indian legislature shall not become an Act] until the Governor-General has declared his assent thereto, or in the case of ¹[a Bill] reserved for the signification of His Majesty's pleasure, until His Majesty ⁶[in Council] has signified his assent ⁷[* * *] and that assent has been notified by the Governor-General.

69. (1) When an Act of the ¹[Indian legislature] has been assented to by the Governor-General, he shall send to the **Powers of Crown to disallow Acts.** Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty ²[in Council] to signify ³[* * *] his disallowance of any such Act.

(2) Where the disallowance of any such Act has been so signified, the Governor-General shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

70. [*Rules for conduct of legislative business*]—Omitted by Part II of Sch. II of 9 & 10 Geo. 5, Ch. 101.

¹ These words were substituted for the words "an Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² These words were substituted for the words "at a meeting of the Indian Legislative Council" by *ibid.*

³ The words "whether he was or was not present in Council at the passing thereof" were omitted by *ibid.*

⁴ This word substituted for the word "Act" by *ibid.*

⁵ These words were substituted for the words "An Act of the Governor-General in Legislative Council has not validity" by *ibid.*

⁶ These words were inserted by *ibid.*

⁷ The words "to the Governor-General through the Secretary of State in Council" were omitted by *ibid.*

Regulations and Ordinances.

71. (1) The local government of any part of British India to which this section for the time being applies may propose to the Governor-General in Council the draft of any Regulation for the peace and good government of that part, with the reasons for proposing the Regulation.

(2) Thereupon the Governor-General in Council may take any such draft and reasons into consideration; and when any such draft has been approved by the Governor-General in Council and assented to by the Governor-General, it shall be published in the Gazette of India and in the local official gazette, if any, and shall thereupon have the like force of law and be subject to the like disallowance as if it were an Act of the ¹[Indian legislature].

(3) The Governor-General shall send to the Secretary of State in Council an authentic copy of every Regulation to which he has assented under this section.

²[(3a) A Regulation made under this section for any territory shall not be invalid by reason only that it confers or delegates power to confer on courts or administrative authorities power to sit or act outside the territory in respect of which they have jurisdiction or functions, or that it confers or delegates power to confer appellate jurisdiction or functions on courts or administrative authorities sitting or acting outside the territory.]

(4) The Secretary of State may, by resolution in council, apply this section to any part of British India, as from a date to be fixed in the resolution, and withdraw the application of this section from any part to which it has been applied.

72. The Governor-General may, in cases of emergency, make and promulgate Ordinances for the peace and good government of British India or any part thereof, and any Ordinance so made shall, for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the ¹[Indian legislature]; but the power of making Ordinance under this section is subject to the like restrictions as the power of the ¹[Indian legislature] to make laws; and any Ordinance made under this

¹ These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² This sub-section was inserted by section 2 (1) of the Government of India (Amendment) Act, 1919 (6 & 7 Geo. 5, Ch. 87).

section is subject to the like disallowance as an Act passed by the '[Indian] legislature], and may be controlled or superseded by any such Act.

LOCAL LEGISLATURES.

(a) *Governors' Provinces.*

²[72A. (1) There shall be a legislative council in every governor's **Governors'** province, which shall consist of the members of the legislative council and of members nominated or elected as provided by this Act.

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

(2) The number of members of the governors' legislative councils shall be in accordance with the table set out in the First Schedule to this Act, and of the members of each council not more than twenty per cent. shall be official members, and at least seventy per cent. shall be elected members :

Provided that—

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

(b) the governor may, for the purpose of any Bill introduced or proposed to be introduced in his legislative council, nominate, in the case of Assam one person, and in the case of other provinces not more than two persons, having special knowledge or experience of the subject-matter of the Bill and those persons shall, in relation to the Bill, have for the period for which they are nominated all the rights of members of the council, and shall be in addition to the numbers above referred to, and

(c) members nominated to the legislative council of the Central Provinces by the governor as the result of elections held in the Assigned Districts of Berar shall be deemed to be elected members of the legislative council of the Central Provinces.

¹ In the case of the Legislative Council of Burma, this provision shall have effect as though 60 per cent. were substituted for 70 per cent.; see notification No. 225. dated October 7, in Gazette of India Extraordinary, 1921, p. 381, and at p. 251, *infra*.

¹ These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

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

(3) The powers of a governor's legislative council may be exercised notwithstanding any vacancy in the council.

(4) Subject as aforesaid, provision may be made by rules under this Act as to—

- (a) the term of office of nominated members of governors' legislative councils, and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, resignation duly accepted, or otherwise; and
- (b) the conditions under which and manner in which persons may be nominated as members of governors' legislative councils; and
- (c) the qualification of electors, the constitution of constituencies, and the method of election for governors' legislative councils, including the number of members to be elected by communal and other electorates, and any matters incidental or ancillary thereto; and
- (d) the qualifications for being and for being nominated or elected a member of any such council; and
- (e) the final decision of doubts or disputes as to the validity of any election, and
- (f) the manner in which the rules are to be carried into effect

Provided that rules as to any such matters as aforesaid may provide for delegating to the local government such power as may be specified in the rules of making subsidiary regulations affecting the same matters.

(5) Subject to any such rules any person who is a ruler or subject of any State in India may be nominated as a member of a governor's legislative council.]

Sessions and duration of gov- ernors' legisla- tive councils. 72B. (1) Every governor's legislative Council shall continue for three years from its first meeting.

Provided that—

- (a) the council may be sooner dissolved by the governor; and
- (b) the said period may be extended by the governor for a period not exceeding one year, by notification in the official gazette of the province, if in special circumstances (to be specified in the notification) he so think fit; and
- (c) after the dissolution of the council the governor shall appoint a date not more than six months or, with the sanction of the Secretary of State, not more than nine months from the date of dissolution for the next session of the council.

(2) A governor may appoint such times and places for holding the sessions of his legislative council as he thinks fit, and may also, by notification or otherwise, prorogue the council.

(3) Any meeting of a governor's legislative council may be adjourned by the person presiding.

(4) All questions in a governor's legislative council shall be determined by a majority of votes of the members present other than the person presiding, who shall, however, have and exercise a casting vote in the case of an equality of votes.]

¹[72C. (1) There shall be a president of a governor's legislative council, who shall, until the expiration of a period of four years from the first meeting of the council as constituted under this Act, be a person appointed by the governor, and shall thereafter be a member of the council elected by the council and approved by the governor:

Provided that, if at the expiration of such period of four years the council is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the next ensuing session.

(2) There shall be a deputy-president of a governor's legislative council who shall preside at meetings of the council in the absence of the president, and who shall be a member of the council elected by the council and approved by the governor.

(3) The appointed president of a council shall hold office until the date of the first election of a president by the council under this section, but he may resign office by writing under his hand addressed to the governor, or may be removed from office by order of the governor, and any vacancy occurring before the expiration of the term of office of an appointed president shall be filled by a similar appointment for the remainder of such term.

(4) An elected president and a deputy-president shall cease to hold office on ceasing to be members of the council. They may resign office by writing under their hands addressed to the governor, and may be removed from office by a vote of the council with the concurrence of the governor.

(5) The president and the deputy-president shall receive such salaries as may be determined, in the case of an appointed president, by the governor, and in the case of an elected president or deputy-president, by Act of the local legislature.]

¹ Sections 72B & 72C were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

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

(2) The estimated annual expenditure and revenue of the province shall be laid in the form of a statement before the council in each year, and the proposals of the local government for the appropriation of provincial revenues and other moneys in any year shall be submitted to the vote of the council in the form of demands for grants. The council may assent, or refuse its assent, to a demand, or may reduce the amount therein referred to either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed :

Provided that :—

- (a) the local government shall have power, in relation to any such demand, to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, if the demand relates to a reserved subject, and the governor certifies that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subject ; and
 - (b) the governor shall have power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the province, or for the carrying on of any department ; and
 - (c) no proposal for the appropriation of any such revenues or other moneys for any purpose shall be made except on the recommendation of the governor, communicated to the council.
- (3) Nothing in the foregoing sub-section shall require proposals to be submitted to the council relating to the following heads of expenditure :—
- (i) contributions payable by the local government to the Governor-General in Council ; and
 - (ii) interest and sinking fund charges on loans ; and
 - (iii) expenditure of which the amount is prescribed by or under law ; and
 - (iv) Salaries and pensions payable to or to the dependants of :—
 - (a) person appointed by or with the approval of His Majesty or by the Secretary of State in Council ;
 - (b) judges of the high court of the province ;
 - (c) the advocate-general ;

¹ Section 72D was inserted by Part I of Sch. II of Government of India Act, 1919 (9 & 10 Geo. Ch. 101).

- (d) persons appointed before the first day of April, nineteen hundred and twenty-four, by the Governor-General in Council or by a local government to services or posts classified by rule¹ under this Act as superior services or posts; and
- (V) Sums payable to any person who is or has been in the civil service of the Crown in India under any order of the Secretary of State in Council, of the Governor-General in Council, or of a governor, made upon an appeal made to him in pursuance of rules made under this Act.

If any question arises whether any proposed appropriation of moneys does or does not relate to the above heads of expenditure, the decision of the governor shall be final.

¹ For the purposes of this sub-section the expression 'salaries and pensions' includes remuneration, allowances, gratuities, any contributions (whether by way of interest or otherwise) out of the revenues of India to any provident fund, or family pension fund, and any other payments or emoluments payable to or on account of a person in respect of his office.

(4) Where any Bill has been introduced or is proposed to be introduced, or any amendment to a Bill is moved or proposed to be moved, the governor may certify that the Bill or any clause of it or the amendment affects the safety or tranquillity of his province or any part of it or of another province, and may direct that no proceedings or no further proceedings shall be taken by the council in relation to the Bill, clause or amendment, and effect shall be given to any such direction.

(5) Provision may be made by rules under this Act for the purpose of carrying into effect the foregoing provisions of this section and for regulating the course of business in the council, and as to the persons to preside over meetings thereof in the absence of the president and deputy-president, and the preservation of order at meetings; and the rules may provide for the number of members required to constitute a quorum and for prohibiting or regulating the asking of questions on and the discussion of any subject specified in the rules.

(6) Standing orders may be made providing for the conduct of business and the procedure to be followed in the council, in so far as these matters are not provided for by rules made under this Act. The first standing orders shall be made by the governor in council, but may, subject to the assent of the governor, be altered by the local legislatures. Any standing order made as aforesaid, which is repugnant to the provisions of any rules made under this Act, shall, to the extent of that repugnancy but not otherwise, be void.

¹ See s. 1 (3) of the Government of India (Civil Services) Act, 1925, (15 and 16 Geo. 5, Ch. 33).

(7) Subject to the rules and standing orders affecting the council, there shall be freedom of speech in the governor's legislative councils. No person shall be liable to any proceedings in any court by reason of his speech or vote in any such council, or by reason of anything contained in any official report of the proceedings of any such council.]

1[72E. (1) Where a governor's legislative council has refused leave to introduce, or has failed to pass in a form recommended by the governor, any Bill relating to a reserved subject, the governor may certify that the passage of the Bill is essential for the discharge of his responsibility for the subject, and thereupon the Bill shall, notwithstanding that the council have not consented thereto, be deemed to have passed, and shall on signature by the governor become an Act of the local legislature in the form of the Bill as originally introduced or proposed to be introduced in the council or (as the case may be) in the form recommended to the council by the governor.

(2) Every such Act shall be expressed to be made by the governor, and the governor shall forthwith send an authentic copy thereof to the Governor-General, who shall reserve the Act for the signification of His Majesty's pleasure, and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the local legislature and duly assented to

Provided that, where in the opinion of the Governor-General a state of emergency exists which justifies such action, he may, instead of reserving such Act, signify his assent thereto, and thereupon the Act shall have such force and effect as aforesaid, subject however to disallowance by His Majesty in Council.

(3) An Act made under this section shall, as soon as practicable after being made, be laid before each House of Parliament, and an Act which is required to be presented for His Majesty's assent shall not be so presented until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat.]

¹ Section 72E was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5. Ch. 101).

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

Legislative 73. (1) For purposes of legislation, the council
councils of lieutenants-governors and chief
commissioners. of [***] a lieutenant-governor having an execu-
tive council, shall consist of the members of his execu-
tive council ²[and of members nominated or elected
as hereinafter provided].

3(2) ° ° *

(3) The legislative council of a lieutenant governor not having an executive council, or of a chief commissioner, shall consist of members nominated or elected "[as hereinafter provided]."

5(4) * *

74. [*Constitution of legislative councils in Bengal Madras and Bombay.*—Omitted by Part II of Schedule II of 9 & 10 Geo. 5. Ch. 101.

75. [*Meetings of legislative councils of Bengal, Madras and Bombay.*]
—Omitted by Part II of Schedule II of 9 & 10 Geo. 5. Ch. 101.

Constitution of legislative councils of lieutenant-governors and chief commissioners. 76. (1) The number of members nominated or elected to the legislative council of a lieutenant-governor or chief commissioner, the number of such members required to constitute a quorum, the term of office of such members, and the manner of filling casual vacancies occurring by reason of absence from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise shall in the case of each such council, be such as may be prescribed by rules made under this [section].

²[Provided that the number of members so nominated or elected shall not, in the case of the legislative council of a lieutenant-governor, exceed one hundred.]

(2) At least one-third of the persons so nominated or elected to the legislative council of a lieutenant-governor or chief commissioner must be ³[non-officials].

(3) The Governor-General in Council may, with the approval of the Secretary of State in Council, make rules as to the conditions under which

¹ This word was substituted for the word "Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² This proviso was substituted by *ibid.*

³ This word was substituted for the words "persons not in the civil or military service of the Crown in India" by *ibid.*

⁴ Sub-sections (3a) and (3b) were inserted by section 1 (2) of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

⁵ These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

and manner in which persons resident in India may be nominated or elected members of any of those legislative councils, and as to the qualifications for being, and for being nominated or elected, a member of any of those councils, and as to any other matter for which rules are authorised to be made under this section, and as to the manner in which those rules are to be carried into effect.

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

²[(3b) Subject to any rules made under this section, any person who is a ruler or subject of any state in India shall be eligible to be nominated a member of a legislative council.]

(4) All rules made under this section shall be laid before both Houses of Parliament as soon as may be after they are made, and those rules shall not be subject to repeal or alteration by the ³[Indian legislature or the local legislature].

77. (1) When a new lieutenant-Governorship is constituted under this Act, the Governor-General in Council may, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute the lieutenant-governor in legislative council of the province, as from a date specified in the notification, a local legislature for that province, and define the limits of the province for which the lieutenant-governor in legislative council is to exercise legislative powers.

(2) The Governor-General in Council may, by notification, extend the provisions of this Act relating to legislative councils of lieutenant-governors, subject to such modifications and adaptations as he may consider necessary, to any province for the time being under a chief commissioner.

78. (1) ²[A lieutenant-governor or a chief commissioner who has a legislative council may appoint such times and places for holding the sessions of his legislative council as he thinks fit, and may also, by notification or otherwise, prorogue the council, and any meeting of the legislative council of a lieutenant-governor or chief commissioner may be adjourned by the person presiding.] Every lieutenant-governor who has no executive council, and every chief commissioner who has a legislative council, shall appoint a member of his legislative council to be vice-president thereof.

¹ Sub-sections (3a) and (3b) were inserted by section 1 (3) of the Government of India Amendment (Act, 1916 (6 & 7 Geo. 5, Ch. 37).

² These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(2) In the absence of the lieutenant-governor or chief commissioner from any meeting of his legislative council the person to preside thereat shall be the vice-president of the council, or, in his absence, the member of the council who is highest in official rank among those holding office under the Crown who are present at the meeting, or, during the discussion of the annual financial statement or of any matter of general public interest ²[or when questions are asked,] the vice-president or the member appointed to preside ¹[* * *].

²[(3) All questions at a meeting of the legislative council of a lieutenant-governor or chief commissioner shall be determined by a majority of votes of the members present other than the lieutenant-governor, chief commissioner, or presiding member, who shall, however, have and exercise a casting vote in case of an equality of votes.]

²[(4) Subject to rules affecting the council, there shall be freedom of speech in the legislative councils of lieutenant-governors and chief commissioners. No person shall be liable to any proceedings in any court by reason of his speech or vote in those councils or by reason of anything contained in any official report of the proceedings of those councils.]

79. [Powers of local legislatures.]—Omitted by Part II of Sch. II of 9 & 10 Geo. 5, Ch. 101.

80. (1) At a meeting of a local legislative council ³[(other than a governor's legislative council)] no motion shall be entertained other than a motion for leave to introduce a measure into the council for the purpose of enactment, or having reference to a measure introduced or proposed to be introduced into the council for that purpose, or having reference to some rule for the conduct of business shall be transacted other than the consideration of those motions or the alteration of those rules

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

⁴(2) " * * * "

¹ These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 131).

² These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

³ The words "in accordance with rules made under this Act" were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² Sub-sections (3) and (4) were substituted for sub-section (3) by *ibid.*

³ These words were inserted by *ibid.*

⁴ Sub-section (2) was omitted by *ibid.*

(3) Notwithstanding anything in the foregoing provisions of this section, the local government ¹[of a province other than a governor's province] may, with the sanction of the Governor-General in Council, make rules authorising, at any meeting of the local legislative council, the discussion of the annual financial statement of the local government, and of any matter of general public interest, and the asking of questions, under such conditions and restrictions as may be prescribed in the rules. Rules made under this sub-section for any council may provide for the appointment of a member of the council to preside at any such discussion ²[or when questions are asked] in the place of the ³[] lieutenant-governor or chief commissioner, as the case may be, and of the vice-president, and shall be laid before both Houses of Parliament as soon as may be after they are made, and shall not be subject to repeal or alteration by the ⁴[Indian legislature] or the local legislature.

⁵[(4) The local Government of any province (other than a governor's province) for which a local legislative council is hereafter constituted under this Act shall, before the first meeting of that council, and with the sanction of the Governor-General in Council, make rules for the conduct of legislative business in that council (including rules for prescribing the mode of promulgation and authentication of laws passed by that council.)]

⁶[(5) The local legislature of any such province may, subject to the assent of the lieutenant-governor or chief commissioner, alter the rules for the conduct of legislative business in the local council (including rules prescribing the mode of promulgation and authentication of laws passed by the council), but any alteration so made may be disallowed by the Governor-General in Council, and, if so disallowed, shall have no effect.]

⁷[80A. (1) The local legislature of any province
Powers of local legislatures. has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province.

(2) The local legislature of any province may, subject to the provisions of the sub-section next following, repeal or alter as to that province

¹ These words were inserted by *ibid.*

² These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

³ The word "governor" was omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

⁴ These words were substituted for the words "Governor-General in Legislative Council" by *ibid.*

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

⁶ Sub-section (5) was inserted by *ibid.*

⁷ Section 80A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

any law made either before or after the commencement of this Act by any authority in British India other than that local legislature.

(3) The local legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law—

- (a) imposing or authorising the imposition of any new tax unless the tax is a tax scheduled as exempted from this provision by rules made under this Act; or
- (b) affecting the public debt of India, or the customs duties, or any other tax or duty for the time being in force and imposed by the authority of the Governor-General in Council for the general purposes of the government of India, provided that the imposition or alteration of a tax scheduled as aforesaid shall not be deemed to affect any such tax or duty; or
- (c) affecting the discipline or maintenance of any part of His Majesty's naval, military, or air forces; or
- (d) affecting the relations of the government with foreign princes or states; or
- (e) regulating any central subject; or
- (f) regulating any provincial subject which has been declared by rules under this Act to be, either in whole or in part, subject to legislation by the Indian legislature, in respect of any matter to which such declaration applies; or
- (g) affecting any power expressly reserved to the Governor-General in Council by any law for the time being in force; or
- (h) altering or repealing the provisions of any law which, having been made before the commencement of the Government of India Act, 1919, by any authority in British India other than that local legislature, is declared by rules under this Act to be a law which cannot be repealed or altered by the local legislature without previous sanction; or
- (i) altering or repealing any provision of an Act of the Indian legislature made after the commencement of the Government of India Act, 1919, which by the provisions of such first-mentioned Act may not be repealed or altered by the local legislature without previous sanction :

Provided that an Act or a provision of an Act made by a local legislature, and subsequently assented to by the Governor-General in pursuance of this Act, shall not be deemed invalid by reason only of its requiring the previous sanction of the Governor-General under this Act.

(4) The local legislature of any province has not power to make any law affecting any Act of Parliament.]

Vacation of seats in local legislative councils. ¹[80B. An official shall not be qualified for election as a member of a local legislative council, and if any non-official member of a local legislative council, whether elected or nominated, accepts any office in the service of the Crown in India, his seat on the council shall become vacant :

Provided that for the purposes of this provision, a minister shall not be deemed to be an official and a person shall not be deemed to accept office on appointment as a minister.]

Financial proposals. ¹[80C. It shall not be lawful for any member of any local legislative council to introduce, without the previous sanction of the governor, lieutenant-governor or chief commissioner, any measure affecting the public revenues of a province, or imposing any charge on those revenues.]

Assent to Bills. 81. (1) When ²[a Bill] has been passed ³[by] a local legislative council, the governor, lieutenant-governor or chief commissioner, ⁴[* * *] may declare that he assents to or withholds his assent from the ⁵[Bill].

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

(3) If the governor, lieutenant-governor or chief commissioner assents to any such ⁷[Bill], he shall forthwith send an authentic copy of the Act to the Governor-General, and the Act shall not have validity until the Governor-General has assented thereto and that assent has been signified by the Governor-General to, and published by, the governor, lieutenant-governor or chief commissioner.

(4) Where the Governor-General withholds his assent from any such Act, he shall signify to the governor or chief commissioner in writing his reason for so withholding his assent.

¹ Sections 80B and 80C were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² These words were substituted for the words "an Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

³ This word was substituted for the words "at a meeting of" by *ibid.*

⁴ The words "whether he was or was not present in council at the passing of the Act" were omitted by Part III, *ibid.*

⁵ This word was substituted for the word "Act" by Part II, *Ibid.*

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

⁷ This word was substituted for the word "Act" by *ibid.*

1[81A. (1) Where a Bill has been passed by a local legislative council, the governor, lieutenant-governor or chief commissioner may, instead of declaring that he assents to or withholds his assent from the Bill, return the Bill to the council for reconsideration, either in whole or in part, together with any amendments which he may recommend, or, in cases prescribed by rules under this Act, may, and if the rules so require, shall, reserve the Bill for the consideration of the Governor-General.

(2) Where a Bill is reserved for the consideration of the Governor-General, the following provisions shall apply:—

- (a) The governor, lieutenant-governor or chief commissioner may, at any time within six months from the date of the reservation of the Bill, with the consent of the Governor-General, return the Bill for further consideration by the council with a recommendation that the council shall consider amendments thereto:
- (b) After any Bill so returned has been further considered by the council, together with any recommendation made by the governor, lieutenant-governor or chief commissioner relating thereto, the Bill, if re-affirmed with or without amendment, may be again presented to the governor, lieutenant-governor or chief commissioner
- (c) Any Bill reserved for the consideration of the Governor-General shall, if assented to by the Governor-General within a period of six months from the date of such reservation, become law on due publication of such assent, in the same way as a Bill assented to by the governor, lieutenant-governor or chief commissioner, but if not assented to by the Governor-General within such period of six months, shall lapse and be of no effect unless before the expiration of that period either:—
 - (i) the Bill has been returned by the governor, lieutenant-governor or chief commissioner for further consideration by the council; or
 - (ii) in the case of the council not being in session, a notification has been published of an intention so to return the Bill at the commencement of the next session.

(3) The Governor-General may (except where the Bill has been reserved for his consideration), instead of assenting to or withholding his assent from any Act passed by a local legislature, declare that he reserves the Act for the signification of His Majesty's pleasure thereon,

¹ Section 81 A was inserted by Part I, *ibid.*

and in such case the Act shall not have validity until His Majesty in Council has signified his assent and his assent has been notified by the Governor-General.]

82. (1) When ¹[an Act] has been assented to by the Governor-General, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty ²[in Council] to signify ³[^e] his disallowance of ¹[the Act].

(2) Where the disallowance of ¹[an Act] has been so signified, the governor, lieutenant-governor or chief commissioner shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

83. [*Rules for conduct of legislative business.*]—Omitted by Part II of Schedule II of 9 & 10 Geo. 5, Ch. 101.

Validity of Indian Laws.

Removal of

doubts as to validity of certain Indian laws.

84. (1) A law made by any authority in British India shall not be deemed invalid solely on account of any one or more of the following reasons:—

- (a) in the case of ¹[an Act of the Indian legislature] ²[or a local legislature], because it affects the prerogative of the Crown; or
- (b) in the case of any law, because the requisite proportion of ³[non-official members] was not complete at the date of its introduction into the council or its enactment; or
- (c) in the case of ⁴[an Act of] a local legislature, because it confers on magistrates, being justices of the peace, the same

¹ These words were substituted for the words, "any such Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² These words were inserted by *ibid.*

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

⁴ These words were substituted for the words "a law made by the Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² These words were inserted by section 2 (2) of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

³ These words were substituted for the words "members not holding office under the Crown in India" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

⁴ These words were substituted for the words "a law made by" by *ibid.*

jurisdiction over European British subjects as that legislature, by Acts duly made, could lawfully confer on magistrates in the exercise of authority over other British subjects in the like cases.

[A law made by any authority in British India and repugnant to any provision of this or any other Act of Parliament shall, to the extent of that repugnancy, but not otherwise, be void.]

[(2) Nothing in the Government of India Act, 1919, or this Act, or in any rule made thereunder, shall be construed as diminishing in any respect the powers of the Indian legislature as laid down in section sixty-five of this Act, and the validity of any Act of the Indian legislature or any local legislature shall not be open to question in any legal proceedings on the ground that the Act affects a provincial subject or a central subject, as the case may be and the validity of any Act made by the governor of a province shall not be so open to question on the ground that it does not relate to a reserved subject.]

PART VIA.

STATUTORY COMMISSION.

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

Statutory commission. 9 and 10 Geo. 5, c. 101.

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

¹ These words were inserted by section 2 (2) of the Government of India (Amendment) Act, 1916 (8 & 7 Geo. 5, Ch. 37).

² [See s. 1 of the Government of (Statutory Commission) Act, 1927, (17 and 18 Geo. 5, Ch. 24).]

³ Section 84A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

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

PART VII.

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

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

(2) Provided as follows:—

- (a) an order affecting salaries of members of the Governor-General's executive council may not be made without the concurrence of a majority of votes at a meeting of the Council of India;
- (b) if any person to whom this section applies holds or enjoys any pension or salary, or any office of profit under the Crown or under any public office, his salary under this section shall be reduced by the amount of the pension, salary or profits of office so held or enjoyed by him;
- (c) nothing in the provisions of this section with respect to allowances shall authorise the imposition of any additional charge on the revenues of India.

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

¹[Provided that nothing in this sub-section shall apply to the allowances or other forms of profit and advantage which may have been sanctioned for such persons by the Secretary of State in Council.]

²[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, etc.

¹ This proviso was inserted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² Section 86 was substituted by s. 1 of the Government of India (Leave of Absence) Act, 1924 (14 & 15 Geo. 5, Ch. 28).

(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 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 cases 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

¹ Section 87 was substituted by s. 1 of the Government of India (Leave of Absence) Act, 1924 (14 & 15 Geo. 5, Ch. 28).

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.

(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.]

88. [Conditional appointments.]—Omitted by Pt. III of Sch. II of 9 & 10 Geo. 5, Ch. 101.

89. (1) If any person ¹[***] appointed ²[^o] to **Power for Governor General to exercise powers before taking seat.** ³[the office of Governor-General] is in India on or after the event on which he is to succeed, and thinks it necessary to exercise the powers of Governor-General before he takes his seat in council, he may make known by notification his appointment and his intention to assume the office of Governor-General.

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

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

(4) When the office of Governor-General⁴ is assumed under the foregoing provision, the vice-president, or, if he is absent, the senior ⁴[member

¹ The words "entitled under a conditional appointment to succeed to the office of Governor-General or" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² The word "absolutely" was omitted by *ibid.*

³ These words substituted for the words "that office" by *ibid.*

⁴ These words were substituted for the words "ordinary member of the Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

of the council (other than the Commander-in-Chief)] then present, shall preside therein, with the same powers as the Governor-General would have had if present.

90. (1) If a vacancy occurs in the office of Governor-General when there is no ¹[¹⁰⁰] successor in India to supply the vacancy, the governor ²[of a presidency] who was first appointed to the office of governor ²[of a presidency] by His Majesty shall hold and execute the office of Governor-General until a successor arrives or until some person in India is duly appointed thereto.

(2) Every such acting Governor-General, while acting as such, shall have and may exercise all the rights and powers of the office of Governor-General, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing the salary and allowances appertaining to his office of governor; and his office of governor shall be supplied, for the time during which he acts as Governor-General, in the manner directed by this Act with respect to vacancies in the office of governor.

(3) If, on the vacancy occurring, it appears to the governor, who by virtue of this section holds and executes the office of Governor-General, necessary to exercise the powers thereof before he takes his seat in council, he may make known by notification his appointment, and his intention to assume the office of Governor-General, and thereupon the provisions of ³[section eighty-nine of this Act] ⁴[¹⁰⁰] shall apply.

(4) Until such a governor has assumed the office of Governor-General, if no ⁵[¹⁰⁰] successor is on the spot to supply such vacancy, the vice president, or, if he is absent, the senior ⁶[^o] member of the executive council ⁷[(other than the Commander-in-Chief),] shall hold and execute the office of Governor-General until the vacancy is filled in accordance with the provisions of this Act.

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

¹ The words "conditional or other" were omitted by Part III, *ibid*.

² These words were inserted by Part II, *ibid*.

³ These words were substituted for the words "this Act" by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

⁴ The words "respecting the assumption of the office by a person conditionally appointed to succeed thereto" were omitted by *ibid*

⁵ The words "conditional or other" were omitted by *ibid*.

⁶ The words "ordinary" was omitted by Part II, *ibid*

⁷ These words were inserted by *ibid*.

91. (1) If a vacancy occurs in the office of governor when no ³[~~one~~] successor is on the spot to supply the vacancy, the **Temporary vacancy in office of governor.** vice-president, or, if he is absent, the senior member of the governor's executive council, or, if there is no council, the chief secretary to the local government, shall hold and execute the office of governor until a successor arrives, or until some other person on the spot is duly appointed thereto.

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

92. (1) If a vacancy occurs in the office of ¹[a member] of the executive council of the Governor-General ²[(other than the Commander-in-Chief)], or a member of the executive council of a governor, and there is no ³[~~one~~] successor present on the spot, the Governor-General in Council, or governor in council, as the case may be, shall supply the vacancy by appointing a temporary member of council.

(2) Until a successor arrives, the person so appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing all emoluments and advantages to which he was entitled at the time of his being appointed to that office.

(3) If ⁴[a member] of the executive council of the Governor-General ²[(other than the Commander-in-Chief)] or any member of the executive council of a governor is, by infirmity or otherwise, rendered incapable of acting or of attending to act as such, or is absent on leave ⁵[or special duty,] ⁶[***] the Governor-General in Council or governor

¹ These words were substituted for the words "an ordinary member" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² These words were inserted by *ibid.*

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

⁴ These words were substituted for the words "any ordinary member" by Part II, *ibid.*

⁵ These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

⁶ Certain words were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

in council, as the case may be, shall appoint some person to be a temporary member of council.

¹(4) Until the return to duty of the member so incapable or absent, the person temporarily appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive 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.]

(5) Provided as follows :—

(a) no person may be appointed a temporary member of council who might not have been appointed ²[*¹⁰⁰] to fill the vacancy supplied by the temporary appointment; and

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

93. (1) A nominated or elected member of ³[either chamber of the Indian legislature] or of a local legislative council
Vacancies in may resign his office to the Governor-General or to
legislative councils. the governor, lieutenant governor or chief commissioner, as the case may be, and on the acceptance of the resignation the office shall become vacant.

(2) If for a period of two consecutive months any such member is absent from India or unable to attend to the duties of his office, the Governor-General, governor, lieutenant-governor or chief commissioner,

¹ Sub section (4) and (4A) were substituted by s. 2 of the Government of India (Leave of Absence) Act, 1924 (14 & 15 Geo. 5, Ch. 28).

² The words "under this Act" were omitted by part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

³ These words were substituted for the words "the Indian Legislative Council" by *ibid.*

as the case may be, may, by notification published in the government gazette, declare that the seat in council of that member has become vacant.

94 Subject to the provisions of this Act, the Secretary of State in Council may, with the concurrence of a majority of
Leave. votes at a meeting of the Council of India, make rules as to the absence on leave ¹[or special duty] of persons in the service of the Crown in India, and the terms as to continuance, variation or cessation of pay, salary and allowances on which any such ²[absence may be permitted].

95 (1) The Secretary of State in Council, with the concurrence of a majority of votes at a meeting of Council of India,
Power to make rules as to Indian military appointments may make rules for distributing between the several authorities in India the power of making appointments to and promotions in ³[military] offices under the Crown in India, and may reinstate ³[military] officers and servants suspended or removed by any of those authorities.

(2) Subject to such rules, all appointments to ³[military] offices and commands in India, and all ³[military] promotions, which, by law, or under any regulations, usage or custom are, at the commencement of this Act, made by any authority in India, shall, subject to the qualifications, conditions and restrictions then affecting such appointments and promotions, respectively, continue to be made in India by the like authority.

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

⁴[96A. Notwithstanding anything in any other enactment, the Governor-General in Council, with the approval of the Secretary of State in Council, may, by notification, declare that, subject to any conditions or restrictions prescribed in the notification any named ruler or subject of any state in India shall be eligible for appointment to any civil or military office under the Crown to which a native of British India may be
Qualification of rulers and subjects of certain states for office.

¹ These words were inserted by Sch. I of the Government of India (Amendment) Act 1916 (6 & 7 Geo. 5, Ch. 37).

² These words were substituted for the words "leave may be granted" by *ibid.*

³ This word was inserted by Part II of Sch. II of the Government of India Act 1919 (9 & 10 Geo. 5, Ch. 101).

⁴ Section 96A was inserted by section 3 of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

appointed, or any named subject of any state, or any named member of any independent race or tribe, in territory adjacent to India, shall be eligible for appointment to any such military office.]

PART VIIA

THE CIVIL SERVICES IN INDIA.

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

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

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

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

(3) The right to pensions and the scale and conditions of pensions of all persons in the civil service of the Crown in India appointed by the Secretary of State in Council shall be regulated in accordance with the rules in force at the time of the passing of the Government of India Act 1919. Any such rules may be varied or added to by the Secretary

¹ Section 96B was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

of State in Council and shall have effect as so varied or added to, but any such variation or addition shall not adversely affect the pension of any member of the service appointed before the date thereof.

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

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

¹(5) No rules or other provisions made or confirmed under this section shall be construed to limit or abridge the power of the Secretary of State in Council to deal with the case of any person in the civil service of the Crown in India in such manner as may appear to him to be just and equitable, and any rules made by the Secretary of State in Council under sub-section (2) of this section delegating the power of making rules may provide for dispensing with or relaxing the requirements of such rules to such extent and in such manner as may be prescribed :

Provided that where any such rule or provision is applicable to the case of any person, the case shall not be dealt with in any manner less favourable to him than that provided by the rule or provision.

[196C. (1) There shall be established in India a public service commission, consisting of not more than five members, of whom one shall be chairman, appointed by the Secretary of State in Council. Each member shall hold office for five years, and may be re-appointed. No member shall be removed before the expiry of his term of office, except by order of the Secretary of State in Council. The qualifications for appointment, and the pay and pension (if any) attaching to the office of chairman and member, shall be prescribed by rules made by the Secretary of State in Council.

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

¹[See s. 2 of the Government of India (Civil Services) Act, 1925, (15 and 16 Geo. 5, Ch. 83).

¹[96D. (1) An auditor-general in India shall be appointed by the Secretary of State in Council, and shall hold office during His Majesty's pleasure. The Secretary of State in Council shall, by rules, make provision for his pay, powers, duties, and conditions of employment, or for the discharge of his duties in the case of a temporary vacancy or absence from duty.

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

Rules under Part VII A. ²[96E. Rules made under this Part of this Act shall not be made except with the concurrence of the majority of votes at a meeting of the Council of India.

PART VIII.

THE INDIAN CIVIL SERVICE.

Rules for admission to the Indian Civil Service. 97. (1) The Secretary of State in Council may, with the advice and assistance of the Civil Service Commissioners, make rules for the examination, under the superintendence of those Commissioners, of British subjects ³[and of persons in respect of whom a declaration has been made under 'section 96A of this Act,] who are desirous of becoming candidates for appointment to the Indian Civil Service.

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

⁵[(2a) The admission to the Indian Civil Service of a British subject who or whose father or mother was not born within His Majesty's dominions shall be subject to such restrictions as the Secretary of State

¹Section 96C and 96D were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

²Section 96E was inserted by *ibid.*

³These words were inserted by section 4 of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

⁴The words, figures and letter "section 96 A of this Act" were substituted for the words "the last foregoing section" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

⁵This sub-section was inserted by section 4 of the Government of India (Amendment) Act, 1916 (6 and 7 Geo. 5, Ch. 37).

in Council, with the advice and assistance of the Civil Service Commissioners, may think fit to prescribe, and all such restrictions shall be included in the rules.]

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

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

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

¹[(6) Notwithstanding anything in this section, the Secretary of State² in council may make appointments to the Indian Civil Service of persons domiciled in India, in accordance with such rules as may be prescribed by the Secretary of State in Council with the concurrence of the majority of votes at a meeting of the Council of India.

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

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

99. (1) The authorities in India, by whom appointments are made to offices in the Indian Civil Service, may appoint to any such office any person of proved merit and ability domiciled in British India and born ³[***] of parents habitually resident in India and not established there for temporary purposes only, although the person so appointed has not been admitted to that service in accordance with the foregoing provisions of this Act.

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

¹ This sub-section was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² [See s. 3 of the Government of India (Civil Services) Act, 1925, (15 and 16 Geo. 5, Ch. 83).

³ The words "in British India" were repealed by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37.)

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

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

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

PART IX.

THE INDIAN HIGH COURTS.

Constitution.

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

(2) Each High Court shall consist of a chief justice and as many other judges as His Majesty may think fit to appoint: Provided as follows:—

- (i) The Governor General in Council may appoint persons to act as additional judges of any high court, for such period, not exceeding two years, as may be required; and the judges so appointed shall, whilst so acting, have all the powers of a judge of the high court appointed by His Majesty under this Act;
- (ii) the maximum number of judges of a high court including the chief justice and additional judges shall be twenty.
- (3) A judge of a high court must be—
 - (a) a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland, of not less than five years' standing; or

- (b) a member of the Indian Civil Service of not less than ten years' standing, and having for at least three years served as, or exercised the powers of, a district judge; or
- (c) a person having held judicial office, not inferior to that of a subordinate judge or a judge of a small cause court, for a period of not less than five years; or
- ¹[(d) a person who has been a pleader of one of the high courts referred to in this Act, or of any court which is a high court within the meaning of clause (24) of section 3 of the Act of the Indian legislature known as the General Clauses Act, 1897, for an aggregate period of not less than ten years]

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

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

Tenure of office of judges of high courts.

102. (1) Every judge of a high court shall hold

his office during His Majesty's pleasure.

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

Precedence of judges of high courts.

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

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

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

(2) The remuneration fixed for a judge under this section shall commence on his taking upon himself the execution of his office, and shall be

¹ This clause was substituted by the Indian High Courts Act, 1925 (12 & 13 Geo. 5, Ch. 20).

the whole profit or advantage which he shall enjoy from his office during his continuance therein.

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

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

105. (1) On the occurrence of a vacancy in the office of chief justice of a high court, and during any absence of such a chief justice the Governor-General in Council in the case of the high court at Calcutta, and the local government in other cases, shall appoint one of the other judges of the same high court to perform the duties of chief justice of the court, until some person has been appointed by His Majesty to the office of chief justice of the court, and has entered on the discharge of the duties of the office, or until the chief justice has returned from his absence, as the case requires.

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

Jurisdiction.

106. (1) The several high courts are courts of record and have such jurisdiction, original and appellate, including admiralty jurisdiction in respect of offences committed on the high seas, and all such powers and authority over or in relation to the administration of justice, including power to appoint clerks and other ministerial officers

of the court, and power to make rules for regulating the practice of the court, as are vested in them by letters patent, and, subject to the provisions of any such letters patent, all such jurisdiction, powers and authority as are vested in those courts respectively at the commencement of this Act.

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

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

Powers of high court with respect to subordinate Courts. 107. Each of the high courts has superintendence over all courts for the time being subject to its appellate jurisdiction, and may [do any of the following things, that is to say,—

- (a) call for returns ;
- (b) direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction;
- (c) make and issue general rules and prescribe forms for regulating of such courts;
- (d) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts; and
- (e) settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts :

Provided that such rules, forms and tables shall not be inconsistent with provisions of any ² [law] for the time being in force, and shall require the previous approval, in the case of the high court at Calcutta, of the Governor-General in Council, and in other cases of the local government.

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

¹ This sub-section was inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 47).

² This word was substituted for the word "Act" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

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

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

Power for Governor-General in Council to alter local limits of jurisdiction of high courts.

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

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

110. (1) The Governor-General, each governor, **Exemption from jurisdiction of high courts.** ²[lieutenant-governor and chief commissioner] and each of the members of ³[the executive council of the Governor-General or of a governor or lieutenant-governor,] ⁴[and a minister appointed under this Act], shall not—

- (a) be subject to the original jurisdiction of any high court by reason of anything counselled, ordered or done by any of them in his public capacity only; nor
- (b) be liable to be arrested or imprisoned in any suit or proceeding in any high court acting in the exercise of its original jurisdiction; nor

¹ These words were substituted for the words "Christian subjects of His Majesty resident in" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

² These words were inserted by *ibid.*

³ These words were substituted for the words "their respective executive councils" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

⁴ These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

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

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

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

Law to be administered.

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

Additional High Courts.

113. His Majesty may, if he sees fit, by letters patent, establish a high court of judicature in any territory in British India, whether or not included within the limits of the local jurisdiction of another high court, and confer on any high court so established any such jurisdiction, powers and authority as are vested in or may be conferred on any high court existing at the commencement of this Act; and, where a high court is so established in any area included within the limits of the local jurisdiction of another high court, His Majesty may, by letters patent, alter those limits, and make such incidental, consequential and supplemental provisions as may appear to be necessary by reason of the alteration.

Advocate-General.

Appointment and powers of advocate general.

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

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

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

116 to 121. Rep. by Sec. 2, and Sch. I of the Indian Church Act, (17 and 18 Geo. 5, Ch. 40).

122. (1) Two members of the establishment of chaplains maintained in each of the presidencies of Bengal, Madras and Bombay must always be ministers of the Church of Scotland, and shall be entitled to have, out of the revenues of India, such salary as is from time to time allotted to the military chaplains in the several presidencies.

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

123. Nothing in this Act shall prevent the Governor-General in Council from granting, with the sanction of the Secretary of State in Council, to any sect, persuasion or community of Christians, not being of the Church of England or Church of Scotland, such sums of money as may be expedient for the purpose of instruction or for the maintenance of places of worship

¹ This sub-section was added by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

¹ These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

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

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

PART XI.

OFFENCES, PROCEDURE AND PENALTIES.

Certain acts to be misdemeanours ; 124. If any person holding office under the Crown in India does any of the following things, that is to say—

- (1) if he oppresses any British subject within his jurisdiction or **Oppression ;** in the exercise of his authority; or
- (2) if (except in case of necessity, the burden of proving which **Willful disobedience ;** shall be on him) he wilfully disobeys, or wilfully omits, forbears or neglects to execute, any orders or instructions of the Secretary of State; or
- (3) if he is guilty of any wilful breach of the trust and duty **Breach of duty ;** of his office; or
- (4) if, being the Governor-General, or a governor, lieutenant-governor or chief commissioner, or a member of the executive council of the Governor-General or of a governor or lieutenant-governor, ¹[or being a minister appointed under this Act], or being a person employed or concerned in the collection of revenue or the administration of justice, he is concerned in, or has any dealings or transactions by way of trade or business in any part of India, for the benefit either of himself or of any other person, otherwise than as a shareholder in any joint-stock company or trading corporation, or
- (5) if he demands, accepts or receives, by himself or another, in **Receiving presents.** the discharge of his office, any gift, gratuity or reward pecuniary or otherwise, or any promise of the same, except in accordance with such rules as may be made by the Secretary of State as to the receipt of presents, and except in the case of fees paid or payable to barristers, physicians, surgeons and chaplains in the way of their respective professions,

he shall be guilty of a misdemeanour; and if he is convicted of having demanded, accepted or received any such gift, gratuity or reward, the same, or the full value thereof, shall be forfeited to the Crown, and the court may order that the gift, gratuity or reward, or any part thereof, be restored to the person who gave it, or be given to the prosecutor or informer, and that the whole or any part of any fine imposed on the offender be paid or given to the prosecutor or informer, as the court may direct:

¹ These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

¹[Provided that notwithstanding anything in this Act, if any member of the Governor-General's executive council or any member of any local government was at the time of his appointment concerned or engaged in any trade or business, he may, during the term of his office with the sanction in writing of the Governor-General, or, in the case of ministers, of the governor of the province, and in any case subject to such general conditions and restrictions as the Governor-General in Council may prescribe, retain his concern or interest in that trade or business, but shall not, during that term, take part in the direction or management of that trade or business.]

125. (1) If any European British subject, with-
Loans to prin- out the previous consent in writing of the Secretary of
ces or chiefs. State in Council or of the Governor-General in Council or of a local government, by himself or another,—

- (a) lends any money or other valuable thing to any prince or chief in India; or
 - (b) is concerned in lending money to, or raising or procuring money for, any such prince or chief, or becomes security for the repayment of any such money; or
 - (c) lends any money or other valuable thing to any other person for the purpose of being lent to any such prince or chief; or
 - (d) takes, holds, or is concerned in any bond, note or other security granted by any such prince or chief for the repayment of any loan or money hereinbefore referred to,
- he shall be guilty of a misdemeanour.

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

126. (1) If any person carries on, mediately or immediately, any
Carrying on illicit correspondence, dangerous to the peace or safety
dangerous corre- of any part of British India, with any prince, chief,
pondence. land-holder or other person having authority in India, or with the commander, governor, or president of any foreign European settlement in India, or any correspondence contrary to the rules and orders of the Secretary of State or of the Governor-General in Council or a governor in council, he shall be guilty of a misdemeanour, and the Governor-General or governor may issue warrant for securing and detaining in custody any person suspected of carrying on any such correspondence.

¹ This proviso was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

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

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

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

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

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

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

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

Prosecution of Crown in India 127. (1) If any person holding office under the Act, commits any offence under this Act, or any offence against any person within his jurisdiction or subject to his authority, the offence may, without prejudice to any other jurisdiction, be inquired of, heard, tried and determined before His Majesty's High Court of Justice, and be dealt with as if committed in the county of Middlesex.

(2) Every British subject shall be amenable to all courts of justice in the United Kingdom of competent jurisdiction to try offences committed in India, for any offence committed within India and outside British India, as if the offence had been committed within British India.

Limitation for prosecutions in British India. 128. Every prosecution before a high court in British India in respect of any offence referred to in the last foregoing section must be commenced within six years after the commission of the offence.

Penalties. 129. If any person commits any offence referred to in this Act he shall be liable to such fine or imprisonment or both as the court thinks fit, and shall be liable, at the discretion of the court, to be adjudged to be incapable of serving the Crown in India in any office, civil or military; and, if he is convicted in British India by a high court, the court may order that he be sent to Great Britain.

PART XII.

SUPPLEMENTAL.

Provisions as to rules. [129A. (1) Where any matter is required to be prescribed or regulated by rules under this Act, and no special provision is made as to the authority by whom the rules are to be made, the rules shall be made by the Governor-General in Council, with the sanction of the Secretary of State in Council, and shall not be subject to repeal or alteration by the Indian legislature or by any local legislature.

(2) Any rules made under this Act may be so framed as to make different provision for different provinces.

(3) Any rules to which sub-section (1) of this section applies shall be laid before both Houses of Parliament as soon as may be after they are made, and, if an address is presented to his Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it praying that the rules or any of them may be annulled, His Majesty in Council may annul the rules or any of them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder :

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

¹ Section 129 A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

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

Provided that this repeal shall not affect—

- (a) the validity of any law, charter, letters patent, Order in Council, warrant, proclamation, notification, rule, resolution, order, regulation, direction or contract made, or form prescribed, or table settled, under any enactment hereby repealed and in force at the commencement of this Act, or
- (b) the validity of any appointment, or any grant or appropriation of money or property made under any enactment hereby repealed, or
- (c) the tenure of office, conditions of service, terms of remuneration or right to pension of any officer appointed before the commencement of this Act.

²[Any reference in any enactment, whether an Act of Parliament or made by any authority in British India, or in any rules, regulations or orders made under any such enactment, or in any letters patent or other document, to any enactment repealed by this Act, shall for all purposes be construed as references to this Act, or to the corresponding provision thereof.]

²[Any reference in any enactment in force in India, whether an Act of Parliament or made by any authority in British India, or in any rules, regulations, or orders made under any such enactment, or in any letters patent or other document, to any Indian legislative authority, shall for all purposes be construed as references to the corresponding authority constituted by this Act.]

Savings.

Saving as to certain rights and powers. 131. (1) Nothing in this Act shall derogate from any rights vested in His Majesty, or any powers of the Secretary of State in Council, in relation to the government of India.

(2) Nothing in this Act shall affect the power of Parliament to control the proceedings of the Governor-General in Council, or to repeal or alter any law made by any authority in British India, or to legislate for British India and the inhabitants thereof.

¹[S. 1 and Sch. of the Statute Law Revision Act, 1927, (17 and 18 Geo. 5, Ch. 42)]

² These paragraphs were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

(8) Nothing in this Act shall affect the power of the ¹[Indian legislature] to repeal or alter any of the provisions mentioned in the Fifth Schedule to this Act, or the validity of any previous exercise of this power.

132. All treaties made by the East India Company, so far as they are in force at the commencement of this Act, are binding on His Majesty, and all contracts made and liabilities incurred by the East India Company may, so far as they are outstanding at the commencement of this Act, be enforced by and against the Secretary of State in Council.

133. All orders, regulations and directions lawfully made or given by the Court of Directors of the East India Company, or by the Commissioners for the affairs of India, are, so far as they are in force at the commencement of this Act, deemed to be orders, rules and directions made or given by the Secretary of State under this Act.

134. In this Act, unless the context otherwise requires,—

Definitions requires,—

(1) "Governor-General in Council" means the Governor-General in executive council;

(2) "governor in council" means a governor in executive council;

(3) "lieutenant-governor in Council" means a lieutenant-governor in executive council,

²[(4) "local government" means, in the case of a governor's province, the governor in council or the governor acting with ministers (as the case may require), and in the case of a province other than a governor's province, a lieutenant-governor in council, lieutenant-governor or chief commissioner,

"local legislative council" includes the legislative council in any governor's province, and any other legislative council constituted in accordance with this Act;

"local legislature" means, in the case of a governor's province, the governor and the legislative council of the province, and, in the case of any other province, the lieutenant-governor or chief commissioner in legislative council];

¹ These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² Paragraph (4) was substituted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

- (5) "office" includes place and employment;
 (6) "province" includes a presidency; and
 (7) references to rules made under this Act include rules or regulations made under any enactment hereby repealed, until they are altered under this Act.

³[The expressions "official" and "non-official," where used in relation to any person, mean respectively a person who is or is not in the civil or military service of the Crown in India:

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

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

SCHEDULES.

Section 72 A. ³FIRST SCHEDULE.

NUMBER OF MEMBERS OF LEGISLATIVE COUNCILS.⁴

Legislative Council.						Number of Members.
Madras	...	...	...	...	...	118
Bombay	...	...	...	...	...	111
Bengal	...	...	...	...	...	125
United Provinces	...	...	...	...	...	118
Punjab	...	...	...	...	...	83
Bihar and Orissa	...	...	...	...	...	98
Central Provinces	...	...	...	...	...	70
Assam	...	...	...	...	...	53

¹ This paragraph was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² Sec. 135 was substituted by Part II, *ibid.*

³ This Schedule was substituted by Part I, *ibid.*

⁴ On the constitution of the Province of Burma as a governor's province, the number of members of the Legislative Council of Burma was fixed at 92 and the First Schedule is to have effect accordingly. *see* notification No. 225, dated October 7, 1921, in Gazette of India Extraordinary, 1921, p. 381, and at p. 251, *infra*.

SECOND SCHEDULE.

OFFICIAL SALARIES, &c.

Officer.	Maximum Annual Salary.
Governor-General of India ...	Two hundred and fifty-six thousand rupees.
Governor of Bengal, Madras, Bombay and the United Provinces	One hundred and twenty-eight thousand rupees.
Commander-in-Chief of His Majesty's forces in India.	One hundred thousand rupees.
² Governor of the Punjab, and Bihar and Orissa.	One hundred thousand rupees
Governor of the Central Provinces.	Seventy-two thousand rupees.
Governor of Assam ...	Sixty-six thousand rupees.
Lieutenant Governor ...	One hundred thousand rupees.
Member of the Governor-General's Executive Council (other than the Commander-in-Chief).	Eighty thousand rupees.
Member of the executive council of the governor of Bengal, Madras, Bombay. and the United Provinces.	Sixty-four thousand rupees.
Member of the executive council of the governor of the Punjab and Bihar and Orissa.	Sixty thousand rupees.
Member of the executive council of the governor of the Central Provinces.	Forty-eight thousand rupees.
Member of the executive council of the governor of Assam.	Forty-two thousand rupees.

¹ This Schedule was substituted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

² On the constitution of the province of Burma as a governor's province, the pay of the Governor and the members of the executive council was fixed at Rs. 1,00,000 and Rs. 60,000 per annum respectively, and the Second Schedule is to have effect accordingly *vide* notification No. 225 dated October 7, 1921, in Gazette of India Extraordinary, 1921, p. 381 and at p. 251, *infra*.

THIRD SCHEDULE.

OFFICES RESERVED TO THE INDIAN CIVIL SERVICE.

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

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

2. Three offices of Accountants General.

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

The following offices, namely:—

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

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FOURTH SCHEDULE.

¹ [Repealed by Sec. 1 and Sch. of the Statute Law Revision Act, 1927 (17 and 18 Geo. 5. Ch.)]

FIFTH SCHEDULE.

Sec. 131 (3).

PROVISIONS OF THIS ACT WHICH MAY BE REPEALED OR ALTERED BY
THE ²[INDIAN LEGISLATURE].

Section.				Subject.
62	...	...	...	Power to extend limits of presidency towns.
106	...	...	...	Jurisdiction, powers and authority of high courts.
108 (1)	...	...	...	Exercise of jurisdiction of high court by single judges or division courts.
109	...	...	...	Power for Governor-General in Council to alter local limits of jurisdiction of high courts, etc.
110	...	...	...	Exemption from jurisdiction of high courts.
111	...	...	...	Written order by Governor-General in Council a justification for act in high court.
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.

¹ This Schedule was substituted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

² These words were substituted for the words "Governor General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).