

REGISTERED UNDER THE COPYRIGHT ACT XX OF 1847.

A COLLECTION OF RULES AND ORDERS

RELATING TO THE CONDUCT OF PUBLIC SERVANTS, THEIR DISMISSAL AND OTHER PUNISHMENTS

RULES FOR SUBMISSION OF

Petitions, Appeals, Memorials and Other Communications to The Government of India and to the Authorities in England, the Civil Services (Classification, Control and Appeal) Rules with the Rules of the Government of Punjab

AND

Regulations Relating to Foreign Orders and Medals and
Rules for the use of Uniforms by Civil and Political Officers
(&c., &c., &c.)

SEVENTH EDITION.

[June 1934.]

BY

RAI BAHADUR G. K. ROY, I.S.S. (RETD),

LATE SUPT., HOME DEPT., GOVT. OF INDIA,
[AUTHOR OF THE INDIAN ARMS ACT MANUAL
HAND-BOOK OF THE INDIAN POLICE ACT, ETC.]

Published by the Author.



Price Rs. 2/11/-

Pages 27 to 122 printed by B. B. Biswas, The Modern Art Press, 1/2, Durga Pituri Lane, Calcutta, and the rest by G. B. Dey, The Oriental Printing Works, 18 Brindaban Bysack St., Calcutta.



A COLLECTION OF
RULES AND ORDERS RELATING TO PUBLIC SERVANTS, ETC.—

DEDICATED
WITH KIND PERMISSION,
TO
P. C. TALLENTS, ESQ., C.S.I., C.I.E., I.C.S.,
Chief Secretary to the Government of Bihar and Orissa.

ii COLLECTION OF RULES AND ORDERS RELATING TO PUBLIC
SERVANTS, ETC.

EDITOR'S NOTE.

Since the publication of the last edition published in 1928, important alterations and additions have been introduced, which has necessitated the issue of a new edition of the "Collection of Rules and Orders relating to Government Servants, etc.," with corrections up to date. The book has been thoroughly revised and none of the subjects dealt with in the previous volume has been omitted except the Memorandum, which formed Chapter II and contained "Instructions for junior members of the Indian Civil Service on the subject of Social Intercourse between European Officers and Indian gentlemen". These instructions do not seem to be of much value in the present circumstances of the country. The memorandum has therefore been deleted. The editor is indebted to the Government of India for the following rules, (with corrections up to date) which have been incorporated in the Compilation.

1. Government Servants' Conduct Rules ..	1-26
2. Rules for the submission of petitions to the Govern- ment of India	52-57
3. Rules for the submission of Memorials to His Majesty or the Secretary of State for India ..	58-62
4. Foreign and Political Department Memorial Rules ..	70-76
5. Regulations respecting Foreign Orders and Medals ..	77-81
6. Use of uniform by officers in Civil employ ..	81-91
7. Dress Regulations for officers of the Political Dept.	91-96
8. The Civil Service (Classification, Control and Appeal) Rules	102-119

2 He is also grateful to the Governments of Bengal, Punjab, Bihar and Orissa and the North-West Frontier Province for the courtesy and kindness in furnishing the information and papers for inclusion in the book.

3. As will be seen from the "Table of Contents" the book is divided into Eight Chapters—the first being the Government Servants Conduct Rules, *minus* the "Appendix" to the Government publication. This Appendix consisted of extracts (section 124 of the Government of India Act and) and from certain old Statutes, Acts and Regulations, which are hardly of use for the purpose of reference. The text of Rules are printed in large type which are supplemented by "Notes" printed in smaller type. The greater portion of the notes consists of letters (including those from the Secretary of State) resolutions and notifications regulating the conduct of Government officers, before they were codified in the present form in 1904, and amended subsequently by the orders quoted at the end of each rule as explained below:—

4. Rule 11.—Control of immovable property—page 9-11. Note 4 on page 10, is a revised Circular of the Government of Punjab, no. 33882 dated the 17th November, 1926, directing that "so far as the Provincial and Subordinate Services are concerned, acquisitions of

immovable property by the wife, sons, father, brothers or nephews of a Government servant must in all cases be reported to Government by the Department concerned".

5. **Rule 15, note (1).—Private trade or employment—pages 14-15.** In 1911 the Government of India issued a Circular letter prohibiting Government officers from accepting Agencies of Insurance Companies. This order so far as is known is included in the Circular letters of the Government of Burma and of the Central Provinces for guidance of officers in their respective provinces. But it is well known that either through ignorance or for other reasons the rule has been lost sight of at a time when the necessity for its observance is greater than it was when the orders were originally issued in 1911.

6 Attention may also be drawn to a Despatch from the Secretary of State (No. 144 dated the 6th November 1898) reproduced as a note to rule 21 on page 22,—**"Evidence before a Committee"**, in which he expressed the opinion as to the attitude of officers towards the policy of Government in the following terms :—

"I will add, further, that it is improper for an officer to convey to the public, whether in writing, or in a speech or otherwise, any opinion upon matters of Government policy which are, or likely to become, the subject of public discussion. It is, of course, inevitable that cases must from time to time occur in which the decisions of Government do not commend themselves to the officers who may have to carry them out. On such occasions the officers in question, after making proper representations to their official superiors, have only two courses open to them, namely, either to acquiesce loyally and silently in the decision of the responsible authorities, or to resign their position in the service."

7. **Rule 23 on page 22.—Taking part in Politics and Elections.** An important change has been introduced in sub-rule (1) in order to cover the cases of breach of rules relating to the taking part in political movements, by the dependents and relatives of Government servants. Two additions have also been added to notes—viz, nos 3 and 4 on pages 23 and 24. The first is the order of the Government of the North-West Frontier Province, no. 4234-49A dated the 18th February 1932, warning Government servants against "attempting to exert their influence on behalf of prospective candidates for the Legislative Council; and the second is the Circular of the Government of Bengal no. 660 T. Edn dated the 19th June 1930, which contains instructions for the maintenance of a strong influence by the teaching staff over their students.

8. From the Leader dated May 3, 1934, it appears that the Government of the Central Provinces have issued supplementary rules in the sense of amended rule 23. In the same paper dated the 26th May, appears the following "C. P. Government notification".

"A Government notification announces that military pensions and other military awards are liable to forfeiture without a pensioner having been actually convicted by a criminal court of an offence connoting disaffection or disloyalty towards Government for sedition and violent agitation against the administration, or agitation in the form of passive resistance. Forfeiture of pension is also made likely to active support or advancement of civil disobedience or non-cooperation or allied movements which aim

at subverting the Government. It is emphasised that it is intended to apply the penalty of forfeiture of pensions in cases of misconduct of this nature. These orders will apply to every form of military pension, except family pensions, drawn by females and minor children, and will extend also to assignments of land revenue and cash Jagirs granted as reward for military service. In the case of land grants, forfeiture is involved for similar misconduct, as it is considered intolerable from every point of view, and particularly in regard to loyal serving soldiers, and loyal military pensioners, that individuals who hold gifts of land on the condition of loyal behaviour and active support of Government, should continue to enjoy those gifts when they have obviously ceased to honour the condition in the letter or the spirit."

9. There have been no change in Chapter II.

10. Chapter III. The rules in Chapter III "Misconduct, Dismissal, etc." are the same as were contained in the last edition but in this connection, attention is invited to chapter XII (page 112) of the Civil Services (Classification, Control and Appeal) Rules, and paragraphs 3-4 of the Punjab Subordinate Services Punishment and Appeal Rules 1930, (pages 119-120) and paragraph 3 of the Government of Bihar and Orissa Correction slip no. 14 dated the 21st November 1929. to rules 172 to 174 of Revenue Boards Rules, printed on page 127.

11. Chapter IV, contains the revised Petition and Memorial Rules which were published in the Gazette of India in 1934 and supersede the rules of 1924. They may be read in connection with chapter XIII of the Classification and Appeal Rules, pages 115-118. On page 66 will be found the Bengal rules for submission of petitions to that Government. The Foreign and Political Department Memorial Rules, on page 70, are corrected up to date.

12. Chapter V.—Consists of (1) Regulations respecting Foreign Orders and Medals, (2) Use of uniform by Civil Officers and (3) Dress Regulations for officers of the Political Department. They were obtained from the Departments concerned and have all been brought up to date. The Dress Regulations for officers of the Political Department is not a published document. The permission to their inclusion required the special permission of the Government of India which has been kindly granted.

13. Chapter VI, VII and VIII, require no comments.

14. In order to expedite the completion of the book the printing of the book was divided between the Modern Art Press, Calcutta (to which was entrusted pages 27 to 121) and the rest of the work was executed by Oriental Printing Works, Calcutta.

The book is approved by the Governments of Bengal, Punjab, Bihar and Orissa, N. W. F. Provinces, the Chief Commissioner of Delhi, the Agent to the Governor General in Baluchistan and the High Court, Lahore.

JUBBULPURE,
The 15th June, 1934.

}

Editor.

TABLE OF CONTENTS.

Chapter I

1. Government Servants Conduct Rules ...	1—26
--	------

Chapter II

1. Condition of transfer of services. ...	27
2. Officers taking up private employment while in leave. ...	27
3. Employment of persons belonging to firms or societies. ...	28
4. Employment of officials in making private purchases. ...	29
5. Government officers acting as Arbitrators. ...	29
6. Employment of pensioners by Municipalities and Indian States. ...	29
7. Use of conveyances belonging to Indian gentlemen. ...	29
8. Disposal of property by raffle. ...	29
9. Chaprasis and officials receiving tips from visitors. ...	30
10. Grant of testimonials by Government officials. ...	30
11-13 Prevention of Bribery and Corruption ...	31
14-15 Presentation of Dalis to officials ...	35
16. Medical attendance and supply of medicines. ...	37

Chapter III

1. Public Services Inquiries Act XXXVII of 1850 ...	39
2. Appeals against removal and dismissal from service ...	42
3-4. Dismissal and removal from service. ...	45
6. Fining of Government servants. ...	50
7. Infliction of punishments to be recorded. ...	51
8. Government servants convicted of criminal offence ...	51
9. Prosecution of provincial service officers. ...	51

Chapter IV

1. Submission of petitions to Government of India. ...	53
2. „ Memorials to His Majesty or Secy. of State, etc. ...	58
3. „ Petitions to Parliament. ...	64
4 5. „ Letters, Presents, etc., to His Majesty. ...	66
6. „ Petitions to Government of Bengal. ...	66
7. Foreign and Political Department Memorial Rules. ...	70

Chapter V.

1. Regulations respecting Foreign orders and medals. ...	77
2. Rules regarding use of Uniforms by Civil Officers. ...	81
3. Dress Regulations for officers of Political Department. ...	91

Chapter VI

1. Orders for reporting important occurrences. ...	97
2. Grant of shooting passes for sporting purposes. ...	99

Chapter VII

1. Civil services (Classification, Control and Appeal) Rules. ...	102
2. Rules made by the Government Punjab ...	119

Chapter VIII

1. Certificates of Domicile—Bihar and Orissa ...	122
2. Application of Candidates for Government Service ...	125
3. Punishment of Subordinates ...	127
4. Appointment of Ministerial Officers ...	128
5. Rules for grant of Casual leave ...	129

THE GOVERNMENT SERVANTS' CONDUCT RULES.
(issued or confirmed under section 96B of the Government of India Act).

CHAPTER I.

1. Interpretation.—In these rules,—

(a) Government servant means any person in the civil service of the Crown in India, whether for the time being on foreign service or not.

(b) "Native of India" means a person of unmixed Asiatic descent permanently resident in India.

Note (1). Rule 1 (a) does not specifically exclude persons holding a menial office from the scope of Government Servants' Conduct Rules as did the corresponding old rules now superseded. But persons holding menial offices should not be regarded as falling within the definition (Home Dept. letter no. F. 46-27 dated the 27th Jan'y. 1926).

Note (2). A Government Servant is held responsible for any act done by his wife which, if done by himself would constitute a breach of the rules for the conduct of Government servants. (Madras G. O. no. 91, dated the 6th Feby. 1895).

2. Gifts.—(1) Save as otherwise provided in this Rule, a Government servant shall not, except with the previous sanction of the Government of India,—

(a) accept directly or indirectly on his own behalf or on behalf of any other person, or

(b) permit any member of his family to accept, any gift, gratuity, or reward or any offer of a gift, gratuity, or reward from an Indian.

(2) The head of a Government or Administration or a Political Officer may accept a ceremonial gift from an Indian Prince or Chief if the gift is such that a return present will be made at the expense of Government. A gift so accepted shall be deposited in the Government Toshakhana.

(3) Subject to the provisions of any general or special order of the local Government, any Government servant may accept from any Indian a complimentary present of flowers or fruit or similar articles of trifling value, but all Government servants shall use their best endeavours to discourage the tender of such gifts.

(4) Any Government servant may accept, or permit any member of his family to accept, from an Indian who is his personal friend, a wedding present of a value which is reasonable in all the circumstances of the case, and which, in the case of a wedding present offered to a European Government servant or to a member of his family, does not exceed Rs 200. All Government servants shall use their best endeavours to discourage the tender of such presents, and such acceptance or permission shall be reported to the local Government, and, if the local Government so requires, the present shall be returned to the donor.

(5) If a Government servant cannot, without giving undue offence, refuse a gift of substantial value from an Indian, he may

accept the same, but shall, unless the Government of India by special order otherwise direct, deliver the gift to Government.

[5 & 6 Geo. 5, Chap. 61, section 124, and For. Dept. Cir. no. 1299-G., dated the 20th June 1876, Home Dept. Notn. no. F-393/2/22, dated the 17th March 1925; and Notn. no. F-325/25, dated the 17th Sept 1925.]

1. **Retired Officers.**—Although strictly speaking the rules on the subject apply to officers in the actual service of Government, the Secretary of State in Council thinks that it is clearly objectionable that retired Officers or their wives should receive presents. If such a practice were to be approved, it might obviously lead to the violation of the spirit of the law and rules and to aspersions on the character of public officers. (Secretary of State's Despatch no. 102, dated the 11th October 1888).

2. **Native Chiefs** who visit places in the province and receive assistance from Government officials occasionally express their wish to leave a sum of money with the Magistrate or Tahsildar for distribution among subordinate officials in return for services rendered. Such contributions should be politely declined on the ground that the servants of the Government are not allowed to take presents for doing their duty to any one. (U. P. M. I, III, 303).

3. Acceptance of **Dalis** are also prohibited in respect to which the Govts. of the Punjab and Bihar and Orissa have issued special orders.

3. Public demonstration in honour of Government servants.—

(1) Save as otherwise provided in this rule, a Government servant shall not, except with the previous sanction of the Local Government,—

(a) receive any complimentary or valedictory address, accept any testimonial or attend any public meeting or entertainment held in his honour; or

(b) take part in the presentation of a complimentary or valedictory address or of a testimonial to any other Government servant or to any person who has recently quitted the service of Government, or attend a public meeting or entertainment held in the honour of such other Government servant or person.

(2) Notwithstanding anything contained in sub rule (1)—

(a) the Head of any Government or Administration may receive an address;

(b) a Government servant may at the request of any public body sit for a portrait, bust or statue not intended for presentation to him;

(c) a Government servant may take part in the raising of a fund to be expended, in recognition of the services of any other Government servant or of a person who has recently quitted the service of Government, on the foundation of a scholarship or on any other public or charitable object or on the execution of any portrait, bust or statue not intended for presentation to such other Government servant or person:

Provided that no government servant shall solicit any subscription in aid of such fund;

- (d) subject to the provisions of any general or special order of the Local Government, a Government servant may attend a farewell entertainment of a substantially private and informal character held as a mark of regard to himself or to some other Government servant, or to a person who has recently quitted the service of Government, on the occasion of the retirement from the service or departure from a district or station of himself or such other Government servant or person.

[Home Dept. Resn no 29-1629-45 dated the 22nd July 1887, no. 729-753 dated the 6th May 1898 and Cir no. 4566-75 dated the 8th Aug. 1910].

4. Presentation of trowels etc., at ceremonial functions.—

(1) A Government servant shall not, save with the previous sanction of the local Government, receive any trowel, key or other similar article, offered to him at a ceremonial function, such as the laying of a foundation stone or the opening of a public building.

(2) A local Government may delegate its power of sanction under sub-rule (1) to Commissioners of Divisions, or, in the Madras Presidency, to the Board of Revenue.

(3) Nothing in sub-rule (1) shall be deemed to apply to the head of any local Government, or Administration, to any member of the Governor General's or a Governor's Executive Council to the Commissioner in Sind, to the Members of a Board of Revenue, to a Financial Commissioner, or to any Judge of a High Court.

[Home Dept Cir. nos 4566 75 dated the 8th Augt 1910, nos 1173-1184 dated the 18th June 1913, no 718 721 dated 13th May 1915, and Notn no F 393-2 22 dated the 17th March 1925]

5. Application of rules 2 and 3 to medical officers.—

Subject to the departmental rules governing the question, a medical officer may accept any gift, gratuity or reward offered in good faith by any person or body of persons in recognition of his professional services.

Medical Officers are not prohibited from receiving a pecuniary or other gifts in recognition of their services from a community or body of persons which may desire to acknowledge these, but the previous sanction of the local Government or Administration must be obtained by Medical Officers before receiving any public complimentary address (Home Dept Resn no 1812-36, dated the 19th August 1899).

(2) The following rules are applicable to British India and Native States regarding the receipt by Medical Officers of Government of fees (including honoraria or presents which may be offered for services rendered) for professional services, whether for an ordinary visit, or consultation, or a surgical operation, in certain cases —

(i) Whenever attendance on a Ruling Chief or his family or dependants, or on an Indian of position who holds a hereditary title conferred or recognized by Government of rank not below that of Raja or Nawab or his family or dependants involves the absence of a medical officer from his station, he shall be permitted to demand or receive such fees as may be arranged between himself and the person employing him, provided that he does not, without the special permission of the local Government, obtain as provided below, demand or receive, in addition to his travelling expenses, a higher fee than Rs. 500 a day for the first three days and Rs. 250 a day thereafter, the full daily fee being given for every complete period of 24 hour's absence with a proportionate fee for periods of less than 24 hours. (ii) For similar attendances not involving absence from his head-quarters a medical officer may demand or

receive fees in accordance with the scale which he has fixed for his patients generally. (iii) Before accepting or demanding from a Ruling Chief or Indians of position, as referred to in rule (i), a fee in excess of the rates laid down in rules (i) and (ii) above, a medical officer, must report the case confidentially to the local administrative medical officer, who will obtain unofficially and communicate to him, the orders of the local Government. When taking the orders of Government the administrative medical officer will be careful not to disclose any of the medical particulars of the case. (iv) Local Governments and Administrations shall have full power to dispose of all cases so reported to them, but shall be at liberty to consult the Director-General, Indian Medical Service, or to refer any particular case for the orders of the Government of India. (v) Fees for operations and confinements may be accepted equal in amount to those current in similar circumstances in the profession in the United Kingdom. (Home Dept. note no. 1129, dated the 20th December 1911).

6. Subscription.—A Government servant may not, without the previous sanction of the Local Government, ask for or accept from any Native Prince or Chief, or the Agent of any Native Prince or Chief, any subscription or other pecuniary assistance in pursuance of any object whatsoever.

[Home Dept. Resn. no. 31-1217-42 dated the 11th July, 1885, and no. 25-1437-60 dated the 14th Aug. 1889, para 7.]

1. No officer of Government shall ask or accept **pecuniary aid or subscriptions from Natives Chiefs** or officials of Native States in pursuance of public object, except with the sanction previously obtained of the local Government to which he may be subordinate. (H. D. Resn. no. 1217-1242, dated the 11th July 1885).

2. An instance has come to the notice in which a public servant accepted a **donation from a Native Chief** towards a religious object in which he was specially interested. In the Resolution of 11th July 1885, applications for contributions to private or semi-public objects are not expressly condemned, but the objections upon which those orders are based apply with even greater force to such donation. The Governor-General in Council is therefore pleased to extend the orders contained in Resolution No. 1217-42 dated 11th July 1885, to applications for, or acceptance of assistance towards, private or semi-public objects. (H. D. Resn. no. 1437-60, dated the 14th August 1889).

3. **The Government of Punjab** desires to re-affirm its objection to the association of its officers, with the **raising or receiving of subscriptions**, save on those exceptional occasions when Government itself permits this association. The Commissioners of Divisions and Heads of Departments are accordingly requested to see that officers subordinate to them avoid any action in connection with the advocacy of subscriptions or the collection of money which would render their action liable to misinterpretation. (Punjab No. 11405 dated the 11th April, 1927).

4. **The Government of Punjab** has ruled that the collection of subscriptions for well-known funds such as those indicated in

Provincial Boy Scouts Association,
St. Johns Ambulance Association,
Red Cross Society,
Lady Dufferin Fund
Lady Minto Nursing Association.

the margin, which have been encouraged by Government and its officers for many years, should be considered to be approved by Government. Permission is also accorded to a Deputy Commissioner inviting subscriptions to a fund not exceeding Rs. 500 in all for the relief of sufferers in any purely local calamity *i. e.* on fire. (Punjab No. 17056 dated the 14th June, 1927.)

7. Purchase of resignation.—Government servants may not enter into any pecuniary arrangement for the resignation by one of them of any office under the Government for the benefit of the others. Should this rule be infringed, any nomination or appointment consequent upon such resignation will be cancelled and such

parties to the arrangement as are still in the service will be suspended, pending the orders of the Secretary of State or of the Government, as the case may be.

[General Notn. no. 216 dated the 9th Sep. 1842 and Home Dept. Cir. no. 55-1864-73 dated the 29th Dec. 1883 (para 8).]

The Governor-General in Council considers it desirable to republish for general information the following order issued in Notification no. 216, dated 9th September 1842, prohibiting Civil and Military servants of the Government from entering into pecuniary arrangements with members of the service or department to which they belong, in connection with the resignation of any appointment held by them. Officers of Government are warned that any violation of these orders will be severely visited on the offender. (Home Dept. Cir. no. 1864-73, dated the 29th December 1883).

(Home Dept. Notn. no. 216, dated 9th September 1842). It having come to the knowledge of Government that very erroneous impressions are entertained on the subject of pecuniary arrangements referable to the resignation of appointments, the Honourable the President in Council is pleased to give notice that all such arrangements are prohibited, and that on proof of any appointment, Civil or Military, having been resigned under such circumstance, the nomination consequent on such resignation will be cancelled, and the parties concerned suspended the service in public Orders pending the pleasure of the Honourable the Court of Directors.

8. Lending and borrowing.—(1) A gazetted officer may not lend money to any person possessing land within the local limits of his authority, nor may he, except in the ordinary course of business with a Joint Stock Bank or a firm of standing, borrow money from, or otherwise place himself under a pecuniary obligation to, any person subject to his official authority, or residing, possessing land or carrying on business within the local limits of such authority.

[Home Dept. Resn. no. 2R-84-103, dated the 16th Jan. 1890; letter to Government of Madras, no. 2407, dated the 6th Dec. 1890; Cir. letter nos. 560-569, dated the 28th Feb. 1901.]

(2) When a gazetted officer is appointed or transferred to a post of such a nature that a person from whom he has borrowed money or to whom he has otherwise placed himself under a pecuniary obligation will be subject to his official authority, or will reside, possess immovable property or carry on business within the local limits of such authority, he must forthwith declare the circumstances to the Government through the usual channel.

[Home Dept. Resn. no. 22-637-653, dated the 16th March 1888 and Resn. no. 1032-1049, dated the 9th June 1897.]

(3) The orders contained in this paragraph apply also to non-gazetted officers, but in the case of the latter they may be relaxed in exceptional cases at the discretion of the head of their office. Non-gazetted officers should make the report referred to in subparagraph (2) to the head of their office.

[Home Dept. Cir. no. 4952-60, dated the 28th Oct. 1869, letter no. 1899, dated the 25th April 1872 and letter no. 1556, dated the 31st May 1892.]

Provided that this rule in so far as it relates to the lending, to or borrowing by Government servants from Co-operative Societies, registered under Act II of 1912, shall be subject to any general or special restrictions of relaxations made or permitted by the local Government.

[Home Dept. Cir. letter no. D.-2190, dated the 7th Aug. 1923.]

THE GOVERNMENT SERVANTS' CONDUCT RULES.

1. It having been brought to notice that it is not sufficiently well understood that Uncovenanted as well as Covenanted Servants of Government are not to be permitted to borrow money from natives resident in the district in which they may be employed, I am directed to draw the attention of * * * to the point, and to request that if orders have not already been issued on the subject, they may now be promulgated in the sense of those of the Honourable the Vice-President in Council, No. 1372, dated 14th July, 1834, a copy of which is herewith forwarded [published below] for facility of reference. [Home Dept. no. 4953, dated the 28th October, 1869].

The Principal Sadar Amins, Sadar Amins and Munsiffs and the Deputy Collectors appointed under the provisions of Regulation IX of 1833 are hereby prohibited, under pain of dismissal from office, from employing or retaining on their establishment any person being their private creditor, or any relative dependent or surety of such creditor, and from borrowing money from, or in any way incurring debt to, any Zemindar, Talukdar, Rayat or other person possessing real property or residing or having a commercial establishment within the city, district, or division to which their authority may extend.

If any of the Principal Sadar Amins, or other of the officers above mentioned, who may be now in debt, shall, at the expiration of one year from the publication of this order, be still indebted, to any person from whom it would, at such period be illegal for him to borrow under the above rule, it shall be incumbent on such officers to make known the circumstances to the Zila or City Judge, or to the Collector to whom he may be subordinate, for communication to the Government, if the officer be a Principal Sadar Amin, Sadar Amin, Munsiff or Deputy Collector and to the Sadar Diwani Adalat, if the officer be a Munsiff: and in the event of intimation not being so given, the same penalty shall attach to the said officer as if the debt had been incurred subsequently to the publication of this order.

In like manner, if any person who may be a candidate for the office of Principal Sadar Amin, Sadar Amin, Munsiff, or Deputy Collector, shall at the time of applying for such office, be indebted to any person, with whom it would be illegal for him to contract a loan while holding it, it shall be incumbent on such person, in preferring his application, to make known the circumstances to the Judge of the city or district, or to the Collector, for communication to superior authority as before stated; and failing to do so, he shall, in the event of his being appointed to the said office, be subject to the same penalty as if the debt had been contracted subsequently to his appointment. (Judl. and Rev. Dep. no. 1372, dated the 14th July, 1834.)

2. (1) * * * *

(2) What the Government of India intended, in the orders of the 28th October 1869, by the words "Uncovenanted Officers" was generally all officers to whom the Uncovenanted Service Leave and Pension Rules are applicable, including members of ministerial establishments. And such a definition is no doubt better than the one suggested in paragraph 3 of your letter, viz, officers whose names appear in the Oudh Civil List. Such a limit would exclude from the operation of the rule many Uncovenanted officers whom it is expedient to subject to it. That subordinate officers employed in the Revenue Settlement should consider themselves exempt from the general prohibition would be anomalous and possibly mischievous.

(3) It is so difficult to fix a limit, including some and excluding others of the Uncovenanted class, that the Governor-General in Council considers it right to maintain the rule as applicable to all to whom the Uncovenanted Pension and Leave Regulations apply. But it should be clearly understood, that this will not interfere with the discretion of the Head of an office in allowing his subordinate ministerial officers to borrow in exceptional circumstances from persons with whom transactions would under the rule be ordinarily inadmissible. (H. D. letter no. 1899, dated the 25th April, 1872.)

3. All Covenanted Civil Servants, Statutory Civilians, Uncovenanted Officers who hold gazetted appointments, and military Officers in civil employ are prohibited, under pain of dismissal, from taking loans from, or otherwise placing themselves under pecuniary obligations to, persons subject to the official authority or influence of such Government officers or residing, possessing property, or carrying on business within the local limits for which such Government officers are appointed.

(2) The prohibition does not extend to transactions in the ordinary course of business with Joint Stock Banks and British Firms. (Home Dept. Resn. no. 637-653, dated the 16th March 1888).

4. Section 2 Regulation XXXVIII of 1793 prohibits Covenanted Civil Servants from lending money, directly or indirectly to any proprietor or farmer of land, or dependent taluqdar or under-farmer of land or raiyat or their sureties; and by Home Department Resolution of 17th March 1882, this prohibition has been extended to Natives of India appointed to an office ordinarily reserved for Members of the Covenanted Civil Service under the provisions of 33 Vict., Chap. III, section 6.

(2) Instances have been brought to the notice of the Government of India in which Uncovenanted gazetted officers of Government have lent large sums of money at various, and sometimes very high, rates of interest, to landholders of the province, and even of the district in which they are serving. It appears very desirable that this practice should be discontinued at once and that the existing rules on the subject, which apply to Covenanted Civil Servants and Members of the Statutory Civil Services, shall be extended to all Uncovenanted officers in the Subordinate Executive and Judicial Services of the Government. Such officers are hereby prohibited from lending money at interest whether directly or through relatives or other agents to landholders, with or without security, within the province in which they are employed. (H. D. no. 8-7103, dated the 16th Jan. 1890).

Note.—These orders apply to all Executive and Judicial servants of Government to whom term the "Officer" is usually applied, (e. g. Deputy Collectors and Tahsildars and Subordinate Judges and Munsifs) and the prohibition covers all loans. (H. D. no. 2407 dated the 6th Dec. 1890).

5. The orders contained in the Resolution of 16th March 1888 had reference to gazetted officers only, and were not intended to cancel the orders of the 28th October 1869 and the 25th April 1872, which apply to Uncovenanted non-gazetted Officers. I am to explain that the difference between the orders of the 16th March 1888, affecting Gazetted Officers, and those in the Circulars of the 28th October 1869, and 25th April 1872, affecting non-gazetted Officers, is that in the former case the prohibition is absolute while in the latter it may be relaxed in exceptional cases at the discretion of the head of the office (subject to the control of the local Government) as explained in paragraph 3 of Home Department letter no. 1889 of the 16th April 1872. (H. D. no. 1556, dated the 31st May 1892).

6. It has been brought to the notice of the Government of India that Home Department Resolution No. 637-653, dated 16th March, 1888, conveying orders on the subject of the pecuniary relations of Government officers with the persons who are subject to their authority, make no provision, such as is contained in section 6 of Regulation VII of 1823, for the case of pre-existing indebtedness on the part of Civil Officers to individual residents in districts to which they may be posted. The Governor-General in Council considers such a provision desirable, and is accordingly pleased to direct that the following rules shall be added to the rules laid down in the Resolution quoted above.

Any such officer, as is referred to in rule 1, who is appointed or transferred to a post in which he will be in a position to exercise official influence or authority over any person to whom he is under any pecuniary obligation, or to a post with local jurisdiction within the limits of which any person to whom he is under any pecuniary obligation, resides, possesses property or carries on business, shall be bound to declare, without delay, the circumstance to the officer to whom he is immediately subordinate for report to the Government, and failing to do so, shall be subject to the same penalty as if the obligations were incurred after his appointment or transfer. (H. D. No. 1032-49, dated the 7th June, 1897).

9. Buying and selling houses and other valuable property.—

(1) Save in the case of transaction conducted in good faith with a regular dealer, a Government servant of gazetted rank, who intends to transact any purchase, sale or disposal by other means of moveable or immovable property exceeding in value Rs. 200, with an Indian residing, possessing immovable property or carrying on business within the station, district or other local limits for which such Government servant is appointed, shall declare his intention to the Commissioner of the Division or to such other officer as the Local Government may appoint. When the Government servant concerned is himself the Commissioner of the Division or the other officer appointed, he shall declare his intention to the local Government. Any declaration shall state fully the circumstances, the price offered or demanded and, in the case of disposal otherwise than by sale, the method of disposal. Thereafter such Government servant shall act in accordance with such orders as may be passed by the Commissioner, the other officer appointed, or the local Government as the case may be.

(2) Notwithstanding anything contained in sub-rule (1), a Government servant of gazetted rank who is about to quit the station, district or other local limits for which he has been appointed may, without reference to any authority, dispose of any of his moveable property by circulating lists of it among the community generally or by causing it to be sold by public auction.

[Home Dept. Notn. no. 1437, dated the 3rd Sep. 1881, Notn. no. 53, dated the 20th Jan. 1882, Cir. no. 38/-96, dated the 29th Feb. 1911 and Notn. no. F-140-25, dated the 7th July 1926].

10. Holding or acquiring immovable property :—(1) A Government servant who is not domiciled in Asia shall not, save in good faith for the purpose of residence, directly or indirectly hold or acquire any immovable property :—

- (a) within the province in which he is employed or within any province with the administration of which he is concerned or within the territories of any Prince or Chief in India within whose territories he is employed, or
- (b) save with the previous sanction of the Local Government under which he is serving, within any other province, or
- (c) save with the previous sanction of the Governor-General in Council, within the territories of any Prince or Chief in India

(2) A Government servant who is domiciled in Asia shall not save in good faith for the purpose of residence, acquire any immovable property in India by purchase or gift without the previous sanction of the Local Government under which he is serving or of head of a Department specially empowered by the Local Government in this behalf. (Amendment Slip no. 3, dated the 17th May 1928.)

(Home Dept. Cir. no. 71-797-806, dated the 13th May 1883, no. 19-1161-1170, dated the 14th June 1890 and no. 2224-32, dated the 13th May 1909).

THE GOVERNMENT SERVANTS' CONDUCT RULES

Punjab.—As doubt appears to exist on the question whether previous sanction of the local Government is required in all cases of acquisition, by purchase or gift, of land in Indian States by Government servants, I am directed to explain that, under rule 10, all such acquisitions of land in Indian States by all classes of Government servants must be reported for the previous sanction of Government, except where power to grant sanction has been specifically delegated to Heads of Departments. (Government, Punjab, no. 30079 dated the 14th Oct. 1926)

11. Control over immovable property held or acquired by Government servants.—Every Government servant or candidate for Government service must make to the Government, through the usual channel, a declaration of all immovable property which may, from time to time, be held or acquired by him or by his wife, or by any member of his family living with, or in any way dependent upon him.

Such declaration should state the district within which or the Native Prince or Chief within whose territories the property is situated and should give such further information as the Government may by general or special order require.

This rule shall not apply to any Member of the Imperial or a Provincial Executive Council who is a Government servant only in that capacity and not otherwise.

(Home Dept Cir no 21-707-806 dated the 13th May 1885, no 718-721 dated the 13th May.1888 and no 33-2405-14 dated the 11th Sep 1888).

1. (1) * * * * * The Government of India consider it desirable to frame, for facility of reference on the part of local Government and Administrations and officers serving under them, a brief summary of the existing rules, and of the more important interpretations which have been placed upon certain of them by the Government of India with the approval of Her Majesty's Secretary of State.

(2) Covenanted Civil Servants, Military officers in civil employ, and all persons holding civil offices ordinarily held by Covenanted or Commissioned officers of the two classes above mentioned, are prohibited from acquiring and holding land within the province in which they are employed or with the administration of which they are concerned, whether that connection be permanent or temporary. This prohibition does not extend to land occupied merely by buildings for residence and their usual appurtenances.

(3) Natives of India appointed under the Statutory Rules are permitted to hold any lands actually in their possession when they enter the service of Government or which may come into their possession, thereafter by inheritance, gifts (*s.e. bona fide* gifts from relatives or near friends) or device, provided that full information in respect of such lands is given to the local Government, which will consider in each case whether the fact of an officer holding any particular lands need be a bar to his employment in the district where these are situated. No fresh purchase of land is, however, allowed on the part of a Statutory Civil Servant without the previous sanction of Local Government under which he is serving. [Note—This rule is also applicable to natives of India who enter the Indian Civil Service by competition in England (H. D. Cir. no 1161—1170, dated the 14th June 1890)]

(4) Uncovenanted officers exercising independent judicial or revenue functions whether of European, Eurasian, or native descent, are not debarred from acquiring or possessing landed property in British-India for agricultural purposes, provided that they must not hold landed property in the districts in which they are employed. Although Uncovenanted officers are not precluded from holding land it is inexpedient that appointments which necessarily confer a considerable amount of power and influence on their occupants, such as those of Munsif, Deputy Collector and Tahsildar, should be filled by persons holding landed property within their jurisdiction.

(5) Officers of all classes (including candidates for office) must be required to make a declaration of the fact of their being in possession of, or of their having acquired landed property, stating the district within which it is situated, with such other particulars as may be considered necessary, of which registers should be kept by the local Governments concerned.

[As it appears from inquiries made from local Governments and Administrations that the words "officers of all classes (including candidates for office)" occurring in para 5 of H. D. circular letter no. 21-797-806 dated the 13th May 1885 are differently treated in different provinces, the Governor-General in Council thinks "it desirable to remove any doubts as to the scope of the orders contained in that para, and hereby declares that they apply to all officers in superior service."] [H. D. Resn. dated the 14th March 1890].

(6) It is incumbent on the several local Governments to take care that no officer who may be in possession of landed property in British India or elsewhere, to whatever branch of the service he may belong, shall apply any portion of the time and attention which ought to be devoted to his public duties, whether civil or military, to the management of that property, and that longer or more frequent leaves of absence are not permitted on that account.

(7) Civil Servants and Military officers in the actual service of the Crown in India are prohibited from holding lands in a Native State for any purpose whatever. This prohibition does not extend to land occupied merely by buildings for residence and their usual appurtenances. (Paras 1 to 7 of H. D. Cir. no. 797-808, dated the 13th May 1885.)

2. Similar particulars must be given of property held by (vide para (5) above) and managed by wives of officers or other members of their families living with and in any way dependent on them; and that the management of such property shall be subject to the same restrictions as that of property belonging to themselves. (H. D. No. 2405-44, dated the 11th Sep. 1888.)

3. The following instructions regarding grants of land to persons in the service of Government have been approved by the Government, Punjab are issued for information and guidance :—

(1) Subject to the orders of the Government of India contained in the papers marginally noted regarding land-holding and commercial speculation in India by public servants and members of their families, servants of Government are not debarred from purchasing Government land at auction.

(2) Grants or lease of Government land which is being given out under the Waste Land Rules or in accordance with the orders of Government on any colonization scheme shall not be made or given to persons in the service of Government unless the official concerned :—

(a) has rendered meritorious service, and (b) is about to retire within one year.

Any relaxation of this rule will require the sanction of Government.

Lambardars, Zaildars and Inamdars are not to be deemed in the service of Government, for the purpose of this rule.

(3) An application for a grant on special terms, other than those prescribed by the rules or order mentioned in paragraph (2) will not ordinarily be entertained in favour of any Government official while he is still in the service of Government. Reward grants which are not authorised by, or which involve any departure from the orders on a colonization scheme require the sanction of the Government of India, and are made only in very exceptional circumstances. (Government, Punjab no. 1030, dated the 8th Nov. 1909.)

4. The Government of Punjab, had under consideration the question whether rule 11, which prescribes that declarations must be made of immovable property held or acquired by a Government servant or by his near relations, is sufficiently wide in its terms. The rule as it stands applies only to the acquisition of property by the Government servant himself, or by his wife or any member of his family "living with, or in any way dependent upon" him. Acquisition by a son, brother or nephew not dependent on the official need not be reported.

(3) The Government is of opinion that the rule does not provide Government with sufficient information in regard to its officer's territorial connections

or local interests, and it is accordingly decided that, so far as the Provincial and Subordinate services are concerned, acquisitions of immovable property by the wife, sons, father, brothers or nephews of a Government servant must in all cases be reported to Government by the Department concerned. I am to request that these instructions may be made known to all Government servants of Provincial and Subordinate services, and that steps may be taken to ensure that they are complied with.

(3) Officers of Provincial and subordinate services should also be informed that they are liable to be called upon to render an account of their investments made of movable property acquired by themselves or the near relatives specified in the preceding paragraph, should the public interests, in the opinion of the Government require that such a demand should be made, and that they will be held responsible for the accuracy of any information furnished by them in regard to these matters. Government has no intention of making periodical or inquisitorial demands for such information, but it considers it necessary to impress on officers that, where necessary, Government will act on its right to inquire into their private financial transactions.

(4) All such reports will of course be treated as confidential. (Government, Punjab (revised) circular letter no. 33882 (H. Gaz.) of the 17th Novr. 1926.)

12. Investments other than those in immovable property.—

A Government servant may not make any investment, other than an investment in immovable property permitted by rule 10, which gives him such private interest in matters with which his public duties are connected as would be likely in the opinion of the local Government to embarrass or influence him in the discharge of his duties.

Subject to this condition he may hold or acquire shares in any Company, including a mining or agricultural Company, which has for its object the development of the resources of the country, but he will not be employed in any district in which the operations of any such Company are conducted.

Subject to the same condition he may place deposits in Provincial or Central Banks, registered under Act II of 1912, and make investments in non-agricultural societies registered under that Act and intended for Government servants only, even though he is employed in the locality, in which such banks or societies operate :

He may also make investments or place deposits in registered co-operative societies than the above, provided that—

- (a) if he belongs to the class referred to in the second paragraph of rule 10, he shall not make such investments or place such deposits within the province in which he is employed ;
- (b) if he belongs to the class referred to in the third paragraph of rule 10, he may hold or acquire such investments or deposits subject only to the same conditions as would apply to him under that rule if he were holding or acquiring immovable property.

Any of the provisions in this rule, in so far as they apply to registered co-operative societies, may be restricted or relaxed, generally or specially, by order of the local Government.

¹Home Dept. Cir. no. 21—797-806, dated the 13th May 1885 ; no. 2138—48, dated the 25th Sep. 1908 ; no. 4566—75, dated the 8th August 1910 ; and no. 79—90, dated the 23rd Jan'y. 1913.]

13. Speculation.—A Government servant may not speculate in investments.

In applying this general rule, the purchase of a grant of land supposed to contain minerals with the object of disposing of it to Companies; and the habitual purchase and sale of securities of notoriously fluctuating value, will be treated as speculation in investments.

[Home Dept. Cir. no. 21-797-806 dated the 13th May, 1885.]

1. The following despatch from the Secretary of State for India on the subject of prohibiting public officers from engaging in speculation in India is republished for general information.

As doubt has been expressed regarding the application of the orders contained in the despatch, the Governor-General in Council thinks it right to give notice that he will be prepared to enforce the principle therein laid down in regard to all public servants of whatever class or position; and His Excellency in Council relies on local Governments, Administrations and Heads of Departments to see that it is not infringed: (H. D. Notn. no. 3421, dated the 28th August 1872.)

* DESPATCH NO. 46, DATED THE 31st MAY 1862. I have considered in Council your letter (No. 23) dated 11th March 1862, transmitting your proceedings, consequent on the accompanying minutes by the Governor and the Members of the Government of Bombay on the question of prohibiting public officers from engaging in speculations in India.

(2) You will have learned from my despatch to the Government of Bombay, No. 11, dated the 8th April last, that in connection with the orders of that Government of the 26th November 1861, relative to the case of public officers who might take part in any company formed for working the gold mines in the Dummul hills, I stated that as a general rule, I see no objection to servants of Government holding shares in Mining or other Companies having for their object the development of the resources of the country; and the only restriction I think it necessary to impose is that public servants shall take no part in the management of such institutions, and shall not be employed in the districts, where the operations of the Company may be carried on.

(3) * * * *

I think it important that this condition should be maintained and I have to direct that my decision, communicated in the terms above quoted to the Government of Bombay, may be made generally applicable, and may be published for general information.

(4) There can be no doubt as to the great evil of public servants in India engaging in speculations in the public funds, or in the shares of Joint Stock Companies; but I agree to the opinion of Lord Canning that such a practice on the part of any officer, could not long escape the knowledge of Government, and that it would be in the power of Government to mark its sense of such conduct either by withholding promotion, or in any other way it might deem fit.

2. (9) With regard to investments, other than those in land for the profits of cultivation, officers of every rank and class in the public service are expected to abstain from any investment (though of itself unobjectionable) which interests them privately in affairs or undertakings of the kind with which their public duty is connected. Subject to this general proviso, there is no objection to Government servants holding shares in mining or other companies (including agricultural companies,) having for their object the development of the resources of the country, provided that they must not take part in the management of any such company, and that they must not be employed in the districts where the operations of the company with which they may be connected are carried on. This latter prohibition must be held to apply sometimes with less, sometimes with greater, force to certain officers connected with the central administration, such as Members of the local Government, Members of the Board of Revenue and their Secretaries, and to indicate the necessity of great circumspection on the part of such officers on the undertakings with which they become connected in any part of the province in which they are employed.

(9) In the matter of taking part in the management of a company, it has been decided that the prohibition was not intended to apply to the participation of Government officers in the direction of those companies only which are designed to develop the resources of the country, but also to preclude such officers from taking part in the directions of such institutions as Banks. It has also been held that the prohibition against officers taking part in the management of a company applies to public servants on leave equally with those in active service, but that it does not extend to officers who, with the consent of the Government of India, take service under Railway Companies working under concession from Government nor does it apply to the management of associations which are established *bona-fide* for the purpose of mutual supply and not of trade and trade profit (provided in this latter case that the interests of Government do not suffer by the double employment of the officer concerned). Although the prohibition against taking part in the "management" of a company cannot, taken literally, be held to debar an officer from taking part as a promoter or as one of the applicants for registration in the Memorandum of Association, the Governor-General in Council has held that the danger against which the prohibition was aimed, namely, that of official influence being abused or official trust betrayed is under such circumstances not much less than that if the officer took part in the management after the company has been started. Government servants are, therefore distinctly forbidden to take any part in the promotion or registration of companies.

[Note 1. The Secretary of State has decided—

(1) That the standing order regulating the connection of Government officers with Banks and Trading Companies apply to all gazetted officers of Government, and that no such officer holding a permanent appointment under Government, whether pensionable or not, shall be permitted to serve as a Director of any Bank or Public Company without previous reference to him.

(2) That the Solicitors to Government at Calcutta, Madras and Bombay may be permitted to serve as Directors of Banks and of Companies so long as the public service in no way suffers and the interests of the Banks or Companies are not antagonistic to those of the Government, and that the like rule may be applied to Government Pleaders, Diocesan Registrars, Crown Prosecutors and Coroners. (Des. from the S. of S. no. 73 dated the 19th July 1883).

[Note 2. The orders prohibiting Government servants from becoming Directors of Public Companies do not apply to non-gazetted and ministerial officers in Government employ, in whose case it is expected that the supervision of heads of Departments and office will suffice as a check. It must, however, be distinctly understood that Government can at any time prohibit any extra employment which in its opinion it is undesirable that its servants should undertake.]

(10) It is a standing order that servants of Government are required to abstain from speculative investments but no literal definition has been laid down as to the stage at which, or circumstances under which, the holding of land or other valuable property becomes speculative. It is obviously speculative to secure a grant of land supposed to be auriferous with the object of disposing of it hereafter to companies. Habitual speculation by officials has been always held to be an evil, and the Government has reserved to itself full power to deal stringently with the practice whenever it appears to prevail. The general distinction which exists between permanent and speculative investments is sufficiently described in the extract quoted below from Home Department letter to the Government of Bengal No. 1495, dated the 10th April 1873*.

* There exists an essential difference between permanent and speculative investments; that the distinction is one of motive, and that the frequency of a man's purchases and sales may be, and usually is, very good evidence of his motive in effecting them. If an officer habitually buys and sells securities of a value notoriously fluctuating, it is clear that he is addicted to speculation and he thereby undoubtedly lays himself open to the disapproval of Government which can be expressed in various ways and in a degree proportionate to the nature of the dereliction. If he engages in such pursuits to an extent which attracts public notice and unfavourable remark so that his integrity or his application to his public duties is discussed and doubted, then he has given rise to a scandal with which the Government will have to deal. (Extracts paras 8 to 10 of H. D. Circular No. 797-306 dated the 13th May 1885.)

14 Promotion and management of companies.—A gazetted officer, whether on leave or in active service, may not without the special sanction of the Secretary of State, take part in the promotion, registration or management of any Bank or other Company.

This Rule does not apply to any Government servant who, with the sanction of the Government of India, enters into the service of a Railway Company working a concession granted by the Government or to the management by a Government servant of any association established and conducted in good faith for the purpose of mutual supply and not for profit, when such management does not interfere with his public duties, or (subject to the same condition) to any Government servant, who, under the general or special sanction of the local Government takes part in the management of a co-operative society registered under Act II of 1912

Solicitors to the Government at Calcutta, Madras or Bombay, Government Pleaders, Crown Prosecutors, Diocesan Registrars and Coroners may serve as Directors of a Bank or other Company if such service does not interfere with their public duties and the interests of the Bank or Company are not opposed to those of the Government.

The Advocate General and the Standing Counsel in Bengal may not accept an appointment as Director of a Bank or Company or firm without the specific permission of the Government of India. Similarly the Advocates General in Madras and Bombay may not accept such an appointment without the permission of the local Government concerned.*

[Home Dept Cir no 797-806 dated the 13th May 1885, Secy of State's Despatch no. 71, dated the 19th July 1883, 25, dated the 7th Feb 1889, 53, dated the 14th May 1891, Home Dept Circulars no 2130-48, dated the 25th Sept 1908, 79-99 dated the 23rd June 1913 and no F-1241 dated the 19th February, 1923]

Retired Government servants, specially gazetted officers before accepting directorships, partnerships or agencies, or of employment by any Company or firm or individual engaged in commercial business, or associated with the management of land in India, should either obtain the consent of the Govt of India, or if the Company is managed in London, the consent of the Secretary of State. The sanction by the Local Govt will, however, be sufficient in the case of officers who were appointed by the Local Govt or by any lower authority. In a case in which a retired officer was appointed by one Govt and his proposed appointment lies in the jurisdiction of another the decision will rest with the latter local Govt after consulting with the former.

The Govt. of India believe that the above procedure will conduce alike to the interests of the officers concerned and to those of the services generally, and are prepared to leave it to the good sense and loyalty of their officers to observe the procedure now suggested (H. D. no 1140 dated the 21st April 1920 and L.O. F-679-24 Pub of the 28th Aug 1924.

Vide also notes under rule 15, pages 13 and 14 ante.

15. Private trade or employment.—A Government servant may not, without the previous sanction of the local Government, engage in any trade or undertake any employment other than his public duties.

A Government servant may undertake occasional work of a literary or artistic character, provided that his public duties do not suffer thereby; but the Government may, in its discretion, at any time forbid him to undertake or require him to abandon any employment which in its opinion is undesirable.

Note.—The Secretaryship of a Club does not constitute employment in the sense of this rule, provided that it does not occupy so much of an officer's time as to interfere with his public duties and that it is an honorary office, that is to say, that it is not remunerated by any payment in cash, or any equivalent thereof other than the customary concession of free quarters and personal exemption from messing charges only. Any officer proposing to become the Honorary Secretary of a Club should inform his immediate departmental superior who will decide, with reference to this rule and note, whether the matter should be reported for the orders of Government (H. D. Cir. no. 928-637, B. dated the 9th June 1914.)

(1) No gazetted or non-gazetted officer of Government shall accept employment on Commission under an Insurance Company, as an Agent or Secretary or any similar capacity. For orders of the Government of India see Burma Cir. No. 27, dated the 19th June, 1911 and C. P. Cir. No. 235, dated the 4th July 1911.

(2) No retired member of the Indian Civil Service or Military Officer who has been in Civil Employ or other officer who has held an appointment which is ordinarily reserved for members of the Indian Civil Service, shall be employed in any appointment under a Municipal Committee or in the management of private estates in British India or in a State to which approval of a local Govt. or Administration has to be given without the previous sanction of the Govt. of India. (H. D. no. 707—23 dated 4th May 1898 and F. D. No. 921 I. A. dated 8th March 1905.)

16. Insolvency and habitual indebtedness. (1). When a Government servant is adjudged or declared an insolvent, or when one moiety of the salary of such Government servant is constantly being attached, has been continuously under attachment for a period exceeding two years, or is attached for a sum which, in ordinary circumstances, cannot be repaid within a period of two years, he will be considered liable to dismissal.

(2) When such Government servant is not liable to dismissal otherwise than by or with the sanction of the Secretary of State, the matter must, if he is declared insolvent, and may, if a moiety of his salary is attached, be reported to the Secretary of State, pending the receipt of whose orders he will be suspended from the service.

(3) In the case of any other Government servant, the matter should be reported to the local Government or to such authority subordinate to the Government as may, by general or special order, be directed.

(4) When a moiety of an officer's salary is attached, the report should show what is the proportion of the debts to the salary; how far they detract from the debtor's efficiency as a Government servant; whether the debtor's position is irretrievable; and whether, in the circumstances of the case, it is desirable to retain him in the post occupied by him when the matter was brought to notice, or in any post under the Government.

(5) In every case under this rule, the burden of proving that the insolvency or indebtedness is the result of circumstances which,

with the exercise of ordinary diligence, the debtor could not have foreseen or over which he had no control, and has not proceeded from extravagant or dissipated habits, will be upon the debtor.

[Home Dept. Notn. no. 181, dated the 26th Jan. 1856, Resn. no. 100, dated the 13th Jan. 1856, Cir. no. 67-2816-2821, dated the 19th Nov. 1874, Resn. no. 2777-103, dated the 19th Jan. 1884 and no. 29-1770-32, dated the 8th Oct. 1889.]

1. With reference to the Notification from the Military Department, No. 100 of 1855, the following public letter No. 18 of 1854, dated 22nd March, from the Hon'ble the Court of Directors, is published for general information :—

(1) In our despatch of this date, No. 6 to the Government of Bombay, we have given our views on a question submitted by that Government, viz :—“Whether a public declaration of insolvency on the part of our Civil Servants is to be regarded as a disqualification for office, or to be visited by Government with any marks of its disapprobation.”

(2) In reply to this question we have said : “We have no hesitation in giving it as our decision that such a declaration of insolvency as is involved in a resort to the Insolvent Debtor's Court for relief is quite incompatible with the maintenance of that high character for independence which we regard as essential in those filling offices of trust and authority in our service. We direct therefore that, in the event of any one of our Civil Servants at any time availing himself of the means afforded by the Court to obtain relief from his liabilities, he be suspended from public employment, and his case forthwith reported to us for final orders. You will give public notification to this effect, in such way as you may think proper.”

(3) You will consider these views of general application under all our Governments.

2. A covenanted civil servant taking the benefit of the Insolvency Act should be suspended pending the decision of the Home Authorities. (H. D. no. 181 dated the 26th Jan. 1855.)

3. A public servant arrested for debt, or having recourse to the Insolvent Court will be deemed to have forfeited his appointment, unless it can be proved that his embarrassment was the result of unforeseen misfortune or of circumstances over which he could have no control. This rule should be strictly observed, and every case should be reported to Government, with a copy of the Schedule filed in the Insolvent Court when recourse is had to that Court. (H. D. no. 100, dated the 12th Jan. 1856 and no. 300, dated the 8th Feb. 1880.)

4. In the Resolution no. 100 of the 12th Jan. 1856, Heads of offices having establishments in the pay of Government were directed to impress upon their subordinates the discredit attaching to a resort to the Insolvency Court, and to warn them that such a proceeding would be considered as of itself constituting a sufficient cause for exclusion from the Public Service, unless it should appear that the embarrassments of the insolvent had been the result of unforeseen misfortunes or of circumstances over which he could exercise no control, and has not proceeded from dissipated and extravagant habits. By a Circular Memorandum no. 67-2821, dated the 19th Nov. 1874, Heads of Departments under the Government of India were requested to hold the Registrar or Head of the Office responsible for reporting to the Secretary in charge or to the Chief of the Department the insolvency of clerks or other assistants.

(2) As there is reason to believe that the operation of these orders has to some extent been lost sight of, the Governor-General in Council in reproducing them desires to direct the attention of all local Governments and Heads of Departments to the imperative duty which devolves upon them to taking severe notice of the misconduct of clerks and others employees who allow themselves to fall into embarrassed circumstances. It is no valid excuse for hopeless indebtedness to show that it has been caused by standing security for friends, the plea which is frequently put forward in such cases. Assistant, in Government offices should clearly understand that, if they voluntarily contract debts or obligations which they are unable to meet, they render themselves liable to summary dismissal. (H. D. no. 2721-32, dated the 19th Jan. 1884.)

5. * Where half the salary of a Government official is constantly being attached for debt, or has been continuously under attachment for more than two years, or is attached for a sum which, under ordinary circumstances, it will require more than two years to repay, a full schedule of the officer's debts should be obtained by the Head of the office, and the case dealt with in the same way as if the debtor had taken advantage of the Insolvency Court. In such cases it should be specially ascertained—

- (1) What is the proportion of the debts to the salary, and the extent to which they detract from the debtor's efficiency as a public servant ;
- (2) Whether the debtor's position is irretrievable ;
- (3) Whether it is desirable under the circumstances to retain him—
 - (a) in the particular post he occupies, or, (b) in any position under Government.

It will be for local Governments and the different departments under the Government of India to issue subsidiary directions to officers subordinate to them as to the authority to which the schedule of debts and the report on it should be submitted for orders. (M. D. no. 1770—92, dated the 8th October 1889).

6. I am desired to forward for such action as you may deem suitable, extracts, * paragraphs 7 and 8, from the report of the Administration of Civil Justice in the Punjab for 1910, together with a copy of the Lieutenant-Governor's remarks thereon. I am to suggest that you should take the necessary steps to warn all your subordinates, especially those quartered in large stations, of the very undesirable results that frequently attend the borrowing of money on a promissory note. (Govt. of Punjab, Circular no. 6—1553, dated the 19th October 1911).

* Extracts, paragraphs 7 and 8, from the Punjab Civil Justice Administration Report 1910.—(d) Insolvency proceedings. The District Judge of Lahore writes :—

* 7. The returns do not show separately the figures for suits on promissory notes. This is a form of security which puts the lender in a very strong position, and there can be very little doubt that it is often scandalously abused.

We hear a good deal of the way in which a bania mulets the Zemindar, but it is nothing compared to the fleecing of the poorer class of Europeans and Eurasians by the Lahore money-lenders. For an advance of Rs. 500 a note for Rs. 1,000 is executed with interest which is sometimes well over Rs. 100 per cent. The borrower is told that the extra Rs. 500 is for interest in advance, and that, so long as he repays the Rs. 1,000 by regular instalments, the stipulation as to interest in the note will remain a dead letter: Sooner or later he makes default, and he is sued for a sum that may be four times the real consideration. He finds that he is precluded by the rules of evidence from pleading the real nature of the contract, unless he can give evidence of subsequent conduct, and the burden of proving that the Rs. 1,000 did not pass rests on him. The money lender has taken care that there shall be no witness of the transaction except a friend or two of his own and when the suit is tried he generally has it all in his own way. In the majority of these cases based on promissory notes, it would be found, I believe, if we could get at the real facts, that the stipulations of the promissory note would fall under section 74 of the Contract Act, and that the Courts would not be bound to enforce them to the full but the evidence which would show this, even, if it is obtainable, is generally inadmissible. A considerable proportion of the people who get into the clutches of the money-lenders are in Government employ, and it might be a good thing if the Departments principally concerned (e. g., the North-Western Railway) would send round a circular to their employees briefly explaining the law in regard to these promissory notes.

* 8. The Divisional Judge (Major A. A. Irvine) writes :—I certainly agree with his (District Judge's) remarks regarding the desirability of Departments sending circulars to their employees explaining the law with regard to promissory notes ; but at the same time, I consider that his remarks are somewhat one sided. During some 4½ years' experience as district Judge, Lahore and Simla, I constantly found instances on which borrowers were fully acquainted with the law on the subject, but were ready to agree to any terms, with (as I believe) every intention of afterwards trying to get out of the bargain by pleading 'undue influence' and the like. I quite agree that honest and ignorant borrowers should be helped and protected by the courts : but the courts should not be expected to assist an utterly

thrifless person who enters deliberately into a contract, hoping later on to be able to evade it, and as a rule no security of any kind is available for money-lenders.

2. Extract from the remarks of the **Lieut. Governor, Panjab** on the above Report.—Turning to the various cases of suits, Sir Louis Daise, welcomes the suggestion that Government Departments should warn their subordinates of the necessity of accurately ascertaining their position before entering into arrangements with money-lenders to borrow money on a promissory note. Not that His Honour considers that the **European and Eurasian subordinate** is entitled to much consideration in this connection at the hands of the courts. A man who signs a bond admitting that he has received double the sum of money that actually passed has only himself to blame: still there is no harm in giving a warning; and His Honour will take the necessary steps to see that the Departments take some such action as has been suggested by the District and Divisional Judge, of Lahore.

17. Communication of official documents or information.—A Government servant may not, unless generally or specially empowered by the local Government in this behalf, communicate directly or indirectly to Government servants belonging to other Departments, or to non-official persons, or to the Press, any document or information which has come into his possession in the course of his public duties or has been prepared or collected by him in the course of those duties whether from official sources or otherwise.

[Home Dept. Cir. no. 30—1267—76, dated the 16th Aug. 1884 and Resn. no. 22 A, dated the 3rd June 1883].

18. Connection with Press.—A Government servant may not, without the previous sanction of the local Government, become the proprietor in whole or in part, or conduct or participate in the editing or management, of any newspaper or other periodical publication.

Such sanction will be given only in the case of a newspaper or publication mainly devoted to matters not of a political character and may, at any time, in the discretion of the local Government, be withdrawn.

[Home Dept. Resn. no. 19—1134 dated the 8th July 1875].

19. Subject to the provisions of rule 17, a Government servant may contribute anonymously to the Press, but must confine himself within the limits of temperate and reasonable discussion; and, if his connection with the Press is contrary to the public interest, the local Government may withdraw his liberty to contribute. When there is room for doubt whether the connection of any Government servant with the Press is or is not contrary to the public interests, the matter should be referred to the Governor General in Council for orders.

Nothing in this rule will limit or otherwise affect the operation of any Army Regulations for the time being in force relating to the same subject.

1. The Governor-General deems it advisable to republish for general information the *Notification issued on the 30th August 1843, in which the principle is laid down that it is contrary to the duty of every officer, Civil or Military, to make public or to communicate to individuals, without the previous sanction of Government, any documents, papers or information of which he may have become possessed in his official capacity. (G. O. For. Dep., dated the 13th March 1847).

"NOTIFICATION. —Some misconception appears to exist with respect to the power which officers of both services have over the documents and papers which come into their possession officially, the Governor-General in Council deems it expedient to notify that such documents and papers are in no case to be made public, or communicated to individuals, without the previous consent of the Government to which alone they belong.

The officer in possession of such documents and papers can only legitimately use them for the furtherance of the public service in the discharge of the official duty, and it is to be understood that the same rule which applies to documents and papers applies to information of which officers may become possessed officially."

The practice of making use of official information in carrying on personal controversies is a course highly prejudicial to the public interests, and is not only at variance with the rules by which due discipline and obedience to superior authority can be adequately maintained, but is a positive breach of faith, in as much as no functionary has a right to reveal, without due authority from his official superiors, or the Home authorities, any fact or circumstance, which may come to his knowledge in the performance of his duty, or to correspond with any one upon the instruction he may have received for his special guidance.

The Governor-General is persuaded that every officer, Civil and Military, will henceforth conform to this rule of the service under the conviction that if in the transaction of his official duties his public conduct be impugned, he is at liberty to seek redress through the usual official channel by an appeal to the Government he serves, and that the Government so appealed to will afford him every opportunity of vindicating his character.

2. Questions having arisen as to the extent to which officers, in the service of Government are permitted to connect themselves with the Press, the Governor-General in Council thinks it desirable that the existing orders on the subject should be clearly understood :—

(1) No officer in the service of Government is permitted, without the previous sanction in writing of the Government under which he immediately serves, to become the proprietor, either in whole or in part, of any newspaper or periodical publication, or to edit or manage any such newspapers or publications. Such sanction will only be given in the case of new papers or publication, mainly devoted to the discussion of topics not of political character, such for instance, as art, science, or literature. The sanction will be liable to be withdrawn at the discretion of the Government.

(2) Officers in the service of Government are not prohibited from contributing to the public Press; but their position makes it incumbent upon them to confine themselves within the limits of temperate and reasonable discussion, and they are prohibited from making public, without the previous sanction of Government, any documents, papers, or information of which they may become possessed in their official capacity. These rules have been hitherto in most cases honourably observed. In case of departure from them, or if the Government should consider the connexion of any officer with the Press to be contrary to the public interests, his liberty to contribute will be withdrawn.

(3) The Government of India will decide in case of doubt whether any engagements of officers with the Press are consistent with the discharge of their duties to the Government.

(4) Nothing in this Resolution is intended to relax the provisions of any regulations on this subject which now apply to the Army. (H. D. Resn. no. 1134, dated the 8th July 1875).

3. All officers of the Government are reminded that information received by them in their official capacity, whether from official sources or otherwise, which is not from its nature obviously intended to be made public, cannot be treated as if it were at their personal disposal. It is not thought necessary to issue any general order entirely prohibiting the disclosure, without special authority, of any information received officially. In such matters much must necessarily be left to the discretion and intelligence of officers holding places of trust and in charge of duties more or less important. But His Excellency would impress upon all officers the serious responsibility involved in the exercise of the discretion. Whenever there is any room for doubt as to the right course to pursue, the orders of superior authority should be obtained before information regarding the public affairs is communicated to any one not officially entitled to receive it. There is reason to believe that

sufficient attention has not upon all occasions been given to the principles which should guide the conduct of public officers in these matters, and which are especially applicable to the present time, when much important business is passing through the public offices and His Excellency trusts that these principles may in future be clearly apprehended and observed. (H. D. Resn. no. 1 C. H. dated the 16th Dec. 1878).

4. Within the last few months it has been observed, not infrequently, in the columns of the daily papers, items of official information of a confidential character, which can only have reached the press through an indiscretion or want of reticence on the part of those officers of Government who have had to deal departmentally with the subject matter of the editorial paragraph in question. In former days when India was comparatively isolated, when there were no telegraphs and when newspapers were neither numerous nor widely circulated, the mischief arising from such violations of official reticence may have been less apparent, but now that every statement, however inaccurate or incomplete, which has any bearing upon pending questions of policy or administration, is reported from one end of India to the other, and from India to Europe in the course of a few hours, the case is very different, and the embarrassment thus caused to the Government becomes at times a matter of every serious moment.

(2) It must be clearly understood that no officer of Government not specially authorized in that behalf, is at liberty to communicate to the Press, either directly or indirectly, information of which he may become possessed in the course of his official duty. A similar professional reticence should be exercised by all officers of Government in their private and unofficial intercourse with non-official persons, and even with officers of Government belonging to other Departments. His Excellency the Viceroy and Governor-General, does not for a moment intend to debar officers of Government in private life from the same freedom in the discussion of public events which is enjoyed by all Her Majesty's subjects, but when an officer has in the course of his duty become possessed of special information not yet made public, he should always be strictly on his guard against the temptation of divulging it, even to other servants of Government, when these are not officially entitled to his confidence. Irresponsible persons hearing facts of interest mentioned without reserve in the course of general conversation can scarcely be expected to refrain from repeating them to others, and thus giving them premature and often a garbled currency.

(3) His Excellency the Viceroy and Governor-General feels sure that he has only to invite the attention of the officers of Government to the importance of this matter to secure their earnest co-operation in putting a stop to such casual and unpremeditated breaches of official confidence. Officers of Government are bound to be as reserved in respect to all matters that may come within their cognizance during the discharge of their public duties as lawyers, bankers or other professional men in regard to the affairs of their clients.

(4) For the due communication to the Press of such information as may unobjectionably be given to it, departmental arrangements must be made under proper authority. (H. D. Resn. no. 22 A, dated the 3rd June, 1885).

20.—Criticism of Government and publication of information or opinion on matters relating to foreign countries. (1) No Government servant shall, in any document published under his own name or in any public utterance delivered by him, make any statement of fact or opinion which is capable of embarrassing—

- (a) the relations between Government and the people of India or any section thereof, or
- (b) the relations between His Majesty's Government or the Governor-General in Council and any foreign country or the ruler of any State in India.

(2) A Government servant who intends to publish any document under his own name or to deliver any public utterance containing

statements in respect of which any doubt as to the application of the restrictions imposed by sub-rule (1) may arise shall submit to the Government under which he is serving a copy or draft of the document which he intends to publish or of the utterance which he intends to deliver, and shall not publish the document or deliver the utterance save with the sanction of the Government under which he is serving and with such alterations, if any, as the Government may direct.

(S. of S's despatch no. 182, dated 27th Sep. 1912 and Home Dept. Cir. no. 2661-2370, dated 15th Sep. 1912).

Govt. Servants who are on deputation or on foreign Service or who are members of local bodies are not precluded from giving expression to views which are at variance with those stated by Government where a proposal of Government relating to a local body or other authority whom a public servant represents is under discussion. But his observations should be confined to the manner in which the proposal of Government will affect the interests of the local body or authority and to suggestions for alternative proposals where it is proposed to move Government to reconsider its orders and should not include general criticisms of the policy of Government. His criticisms should be directly relevant of the interests of the body or authority whom he represents and should be moderately worded. When the orders of Government are final his part in the discussion should be confined to an explanation of the extent to which they affect the interests of the local body or other authority. (H. D. letter no. F. 46-27 dated the 3rd. Oct. 1928)

21. Evidence before committees.—A Government servant shall not give evidence before a public committee,

- (1) in India, unless he has first obtained the permission of the Government under which he is serving or, if he is on leave, under which he was last serving;
- (2) outside India, unless he has first obtained the permission of the Secretary of State.

In giving such evidence he must not criticize the policy or decisions of the Secretary of State, or of any Government in British India.

This rule will not apply to evidence given before Statutory Committees with power to compel attendance and the giving of answers, nor to evidence given in judicial inquiries.

1. I have received your letter of the 14th July, with enclosures, relating to a speech delivered by Mr. A. B., at Simla, on the 28th of June.

2. It appears that Mr. A. B. made what is said to have conveyed the impression of being "an attack of a deliberate and somewhat violent character on the policy and proceedings of the Government."

3. It is not surprising that this action on the part of Mr. A. B., should at once have attracted the serious notice of his official superiors or that he should have found it necessary, within eight days of the delivery of the speech, to express his deep regret for his conduct. This apology your Government thought well to accept, and your acceptance was communicated to him.

4. In these circumstances I have no intention of commenting on this particular incident so far as it affects Mr. A. B., individually. But I think it right, while fully recognizing that every officer is entitled to form and hold his own opinion on public matters, to record my entire agreement with the Lieutenant-Governor's statement of the rules which must govern the conduct of Government servants in India. It should be distinctly understood that (to use his words) "a member of the Government service is not at liberty to make an attack upon what he is actuated

by conscientious motives or has a strong conviction of the correctness of his own judgment." I will add, further, that it is improper for an officer to convey to the public, whether in writing, or in a speech or otherwise, any opinion upon matters of Government policy which are, or are likely to become, the subject of public discussion. It is, of course, inevitable that cases must from time to time occur in which the decisions of Government do not commend themselves to the officers who may have to carry them out. On such occasions the officers in question, after making proper representations to their official superiors, have only two courses open to them, namely, either to acquiesce loyally and silently in the decision of the responsible authorities, or to resign their position in the service.

5. I am glad to have had of late more than one opportunity of stating publicly my high appreciation of the loyalty and self-devotion of the Indian Civil Service. Those qualities have never been more conspicuous than during recent years of difficult and anxious labour. But a clear understanding that the rules to which I have referred are in existence, and will be strictly enforced, can only tend to increase the efficiency of that Service; and I request that Your Excellency will take such steps as may seem to you advisable to make my views generally known, and to ensure that improprieties, such as that which you have on this occasion thought fit to condone, shall not be repeated in future. (Des from S. of S. no. 144, dated the 6th Oct. 1898).

22. Political agitations and meetings.—(1) A Government servant may, for the purpose of removing misapprehensions, correcting misstatements and refuting disloyal and seditious propaganda defend and explain in public the policy of the Government. Save, however, as provided in rules 17, 18, and 19 a Government servant may not make any communications to the Press in regard to the policy or acts of the Government without the sanction of the local Government or such superior authority as the local Government may prescribe.

(2) In any action taken by them under sub-paragraph (1) Government servants should, so far as possible, refrain from making any reference to the personality of parties or individuals who may be in opposition to the Government and when elections are impending, they must give no ground for the suggestion that any statements of facts or views made by them have been made with the object of influencing electors in favour of or against any party or individual candidate.

(Home Dept. Cir. no. 11 679—88, dated the 18th March, 1890; 4015—24, dated the 16th Dec. 1905 and Resn no. 632, dated the 7th March, 1921).

23. Taking part in politics and elections. (1) (i) Subject to the provisions of rule 22 and of any general or special order of the local Government, no Government servant shall take part in, subscribe in aid of or assist in any way any political movement in India, or relating to Indian affairs.

Explanation. The expression "political movement" includes any movement or activities tending directly or indirectly to excite disaffection against, or to embarrass, the Government as by law established, or to promote feelings of hatred or enmity between different classes of His Majesty's subjects, or to disturb the public peace.

(ii). No Government servant shall permit any person dependent on him for maintenance or under his care or control to take part in, or in any way assist, any movement or activity which is, or tends

directly or indirectly to be subversive of Government as by law established in India.

Explanation. A Government servant shall be deemed to have permitted a person to take part in or assist a movement or activity within the meaning of clause (ii), if he has not taken every possible precaution and done everything in his power to prevent such person so acting or if when he knows or has reason to suspect that such person is so acting, he does not at once inform the local Government or the officer to whom he is subordinate.

(2) A whole-time Government servant shall not canvas or otherwise interfere or use his influence in connection with, or take part in, any election to a legislative body whether in India or elsewhere:—

provided that a Government servant who is qualified to vote at such election may exercise his right to vote, but if he does so, shall give no indication of the manner in which he proposes to vote or has voted.

(3) A Government servant who issues an address to electors or in any manner publicly announces himself or allows himself to be publicly announced as a candidate or prospective candidate for election to a legislative body shall be deemed, for the purpose of Sub-rule (2) to take part in an election to such body.

(Amendment Slip No. 4 dated the 29th January 1929).

(4) Save in the case of a whole-time Government servant who, with the permission, if any, required under any law or order for the time being in force, is a candidate for election to a Municipal Committee, District Board or other local body, the provisions of sub-rule (2) shall apply in the case of an election to any such Committee, Board or body.

(Home Dept. Resn. no. 632, dated the 7th March 1921. Amendment Slip No. 2 dated August 1927 and Resn. F 50—13 - 22 dated the 15th Feb. 1934.)

1. **Seditious propaganda** or the expression of disloyal sentiment by a Government servant will be regarded as a sufficient ground for dispensing with his services and such conduct on the part of pensioners will be dealt with under Art. 351 of the C. S. R. (Madras G. O. No. 874 dated the 5th Nov. 1909).

2. In a communique published on the 7th Jan. 1922 the Government, Punjab, thought it desirable to let it be known that **Government pensioners** who advocate or take part in civil disobedience in any form are likely to have their pensions withheld.

3. Complaints have been received in connection with the forthcoming elections to the **Legislative Council** that Government Servants are attempting to exert their influence on behalf of prospective candidates who are their relations or friends. Particular attention is therefore invited to rule 23 of the Government Servants' Conduct Rules, which lays down that a Government Servant shall not canvas or otherwise interfere or use his influence in connection with, or take part in any election to a Legislative body, and I am directed to request that the attention of all Government Servants under your administrative control should be drawn to this rule. They should at the same time be plainly warned that any contravention of Government orders will be severely dealt with. (Govt of the N. W. Frontier Province Cir. no. 4234—49 A, dated the 18th Feby. 1932).

4. (1) The Government of Bengal (Ministry of Education) attach great importance to the maintenance of a strong influence over their students by teaching staffs and I am to request you to draw the attention of governing bodies, managing

committees and the teaching staff of all institutions to the need for teachers to consolidate their influence by all means in their power and to lose no opportunity of organising and taking part in activities which may interest students or occupy their attention. It is, for example, very important that teachers should take part in the organisation of games, the boy scout movement, historical and scientific excursions, debating societies and in the publication of school or college magazines. It should be further made clear that these efforts of teachers should not be confined solely to teaching hours but are expected to extend to activities of students taking place at other times.

(2) At the same time, even where the influence of teachers over students is all that can be desired, outside influence may at times cause breaches of discipline. For such cases the following directions are issued, and I am to request that appropriate portions of the same be communicated to governing bodies, managing committees, the staffs of colleges and schools and the inspecting staff as soon as possible for their guidance.

The use of the building and grounds of Government or aided institutions for political meetings or demonstrations. Such use is forbidden.

Conduct of teachers in aided institutions:—Attention should be drawn to existing rules relating the conduct of teachers in aided institutions (paragraphs 11 and 12, pages 62 and 63 of Rules and Orders of the Bengal Education Department).

Grants to aided institutions:—Officers should be warned that before distributing grants they should take particular care to ascertain that, in institutions claiming grants, proper relations between teachers and students are being maintained and proper attempts made to enforce discipline, and that they should withdraw grants where these conditions are absent.

The power to withdraw scholarship rights remains with Government and will be exercised where it appears on the Director of Public Instruction's recommendation that discipline is unsatisfactory. Acts of indiscipline by scholarship holders should be dealt with firmly and should on no account be ignored.

The attention of the authorities of all aided institutions should be drawn to the dependence of payment of grants in aid on the maintenance of satisfactory discipline and satisfactory relations between teachers and students.

Conduct of students at public meetings.—If a student of a Government or aided institution so conducts himself or herself at any public meeting as to bring undesirable notoriety upon the institution in which he or she is reading, or engages in political agitation in such a way as to interfere with the corporate life and educational work of the institution, or indulges in picketing or open violence, such action shall be deemed a breach of discipline and be dealt with by the head of the institution in accordance with the ordinary rules.

Treatment of students who take part in strikes and hartals:—(1) Disciplinary action should be taken against the ring-leaders as well as those who take an active part in picketing. Every effort should be made to ascertain the names of students who for the purpose of dissuading students from attending school or college, picket their own or other educational institutions.

(2) Students who remain absent from school or college and whose continued absence, after due warning, is in the opinion of the head of the institution unjustifiable, should have their names struck off the rolls or be dealt with in such other way as the head of the institution thinks fit.

(3) The initiative in taking such disciplinary action and the award of individual punishment will remain with the head of the institution but if mass punishment is considered necessary, the matter must be reported to the managing committee or governing body in accordance with Departmental Rules.

(4) It should be recognised that it is undesirable to close an institution, as students who are willing to study are entitled to the best efforts of the authorities to enable them to do so. Government have therefore decided that only in cases where there is a serious danger of violence, should heads of institutions take the responsibility of closing schools or colleges. In such cases an immediate report of the action taken and the reasons for it should be submitted to the Director of Public Instruction through the proper channels.

In all other cases Government and aided schools or colleges should be kept open until orders of the authorities are received. (Govt. of Bengal no. 60 T Edn. dated the 19th June 1930).

24. Vindication of acts and character of Government servant as such.—A Government servant may not, without the previous sanction of the local Government, have recourse to any Court or to the Press for the vindication of his public acts or character from defamatory attacks. In granting sanction to the recourse to a Court the local Government will in each case decide whether it will itself bear the costs of the proceedings, or whether the Government servant shall institute the proceedings at his own expense, and, if so, whether, in the event of a decision in his favour, the Government shall reimburse him to the extent of the whole or any part of the costs.

Nothing in this rule will limit or otherwise affect the right of any Government servant to vindicate his private acts or character.

(Home Dept. Civ. no. 80-1676-85, dated the 5th Sept. 1890 and no. 1365-74, dated the 29th May, 1900).

1. (1) In a General Order of the Government of India in the Foreign Department dated the 15th March 1847, it was laid down that a Government officer is at liberty, if his public conduct in the transaction of his official duties is impugned "to seek redress through the usual official channel by an appeal to the Government he serves, and that the Government so appealed to will afford him every opportunity of vindicating his character." Though the matter has since that been dealt with in a confidential paper, no subsequent orders regulating the course to be followed by Government officers for the vindication of their acts as public functionaries have been generally circulated, and the result is that the practice in this respect is not uniform in all provinces. The Governor-General in Council therefore deems it desirable to prescribe the procedure, which should be generally observed in future. I am accordingly to convey the following instructions, with the request that their purport may be conveyed to the officers serving in the different branches of the administration in the several provinces in India.

(2) It is a standing order that, without obtaining the authorization of the Government to which he is immediately subordinate, no officer of Government, is permitted to have recourse to the Court for the vindication of his public act or of his character as a public functionary, from defamatory attacks. In giving authority to institute proceedings, the Local Government concerned will decide whether the circumstances of the case are such that the Government should bear the cost of the proceedings, civil or criminal, or leave the officer to institute the prosecution or suit at his own expense; and in the latter case it will also determine, in the event of the matter being decided by the Courts in the officer's favour, whether he should be recouped by Government the whole or any part of the costs of the action.

(3) I am to explain that the ruling above laid down does not affect an officer's right to defend his private dealings or behaviour in any way that he may be advised; but his official reputation is in the charge of the Government which he serves, and it is for that Government to decide in each case whether the institution of proceedings to vindicate his public acts or character, is necessary or expedient. (H. D. Circular no. 1676-85, dated the 5th Sept. 1890).

2. In the Circular above quoted it was laid down that without obtaining authorization of the Government to which he is immediately subordinate, no officer of Government is permitted to have recourse to the courts for the vindication of his public acts, or of his character, as a public functionary, for defamatory attacks, as it is for the Government to decide in each case whether the institution of proceedings is necessary or expedient. There is also the rule of the service, stated in paragraph 2 of Home Department Resolution of the 3rd June 1885 (*vide* note 4, to rule 19 on page 20, *ante*) that no officer of Government, not specially authorized in that behalf, is at liberty to communicate to the press, either directly, or indirectly information of which he may become possessed in the course of his official duty.

(2) Neither of these orders prohibits, except indirectly and by implication, the communication of officers with the public press in explanation of defence of their official conduct. The Governor-General in Council, who holds that such action should not be permitted without official sanction, has accordingly decided to issue explicit instructions forbidding any officer of Government to communicate with the press in respect of his official conduct or acts without the prior consent, in writing of the local Government which he serves.

(3) I am accordingly to request that, the officers serving in the Punjab may be informed of this rule of the service. Government, Punjab, letter dated the 29th May 1900, P. R. 1900).

The Hon'ble Sir John Maynara replied in the affirmative to the following question asked at a meeting of the Punjab Council held in March 1923 by Rai Sahib Lala Thakar Das :—Will Government be pleased to state (a) if it is a fact that the Government has issued the following notification to all Heads of Departments in the Punjab :—

"His Excellency the Governor in Council considers it desirable that when Government servants are defamed in the press for their public acts, proceedings should be taken against Editor or Proprietors of the newspapers concerned for defamation. In all approved cases Government will be prepared, with reference to Rule No. 24 of the Government Servants' Conduct Rules, to give assistance of the Crown Law officers and to bear the expenses of the suit. Civil proceedings are probably ordinarily preferable to criminal, because these can be taken against the Proprietors, who are, as a rule, substantial persons from whom damages can be recovered." (Govt. Punjab, no 13032 dated the 19th April 1922).

25. Control of Officers on leave or on duty in the United Kingdom.—Any function vested by these rules in the Government of India or in a local Government shall, in the case of an officer on leave or on duty in the United Kingdom, be discharged by the Secretary of State, and references in these rules to the Government of India or a local Government shall, in the case of such an officer, be construed accordingly.

[Home Dep. Notn. no F-277/25-Public, dated the 13th May 1926].

FOOT-NOTE.—The Auditor General exercises the powers of a local Government under these rules in respect of officers under his administrative control who are not appointed directly by the Government of India or by the Secretary of State [Finance Department letter no. 2127-F E., dated the 11th December 1919.]

CHAPTER II.

1. **Conditions upon which a Government officer may transfer his services to another Government office or Department.**—*Fin. Dept. Resn. No. 3205 P., dated the 27th June, 1910.*—In a case which recently came before them, the Government of India observed some misconception regarding the conditions upon which a Government officer may transfer his services to another Government office or department. It seems desirable therefore to affirm and in some measure to amplify the principles embodied in the existing orders on the subject. The Resolutions No. 546, dated the 31st January, 1888, and No. 2255 P., dated the 17th January, 1899, are accordingly cancelled, and the Governor-General in Council is pleased to convey the following instructions for general observation.

(2) It is the duty of the Government officer, who wishes to transfer his services to a different Government office or department, to obtain the consent of the authority which appoints to his existing post before taking up the new employment. If he takes up the new employment without such consent, he commits a breach of discipline and is liable to be punished, in the last resource, by dismissal from his former post and consequent loss of pensionable service. Resignation of his former appointment will not, it should be noted, protect him from this penalty.

(3) In granting or withholding consent to the acceptance by a subordinate of other Government employment, the head of an office or department, must consider whether the transfer will be consistent with the interests of the public service. Permission should not be refused, however, without strong reason, which should be recorded in writing.

(4) The head of an office or department shall not employ either temporarily or permanently, an officer whom he knows, or has reason to believe, to belong to another establishment without the previous consent of the head of the office or department in which he is employed. In the rare cases in which, for reasons which appear satisfactory to the new employer, an officer cannot obtain the required consent before taking up the new appointment, the employment may be made conditional on consent being obtained at the earliest opportunity.

(5) The foregoing instructions apply equally to officers on leave whether with or without allowances. All leave allowances must *ipso facto* cease on the taking up of new employment, other than work of a purely casual nature.

2. **Officers on leave out of India taking up private employment.**—*Fin. Dept. Resn. No. 3205-P., dated the 6th September, 1911.*—The Government of India consider it desirable to call attention to the orders of the Secretary of State for India requiring officers on leave out of India to obtain his sanction before taking up private employment. They have further decided to extend the authority granted to local Governments in the Resolution No. 2098-P, dated the 16th May, 1907, to permit officers on

leave to accept employment, outside Government service. The Governor-General in Council is accordingly pleased to revise as follows the orders contained in that Resolution.

(2) The Government of India desire to repeat that inasmuch as leave is intended as a period of recreation and rest and is granted to an officer for the purpose of recruiting his health, it follows that taking up employment during leave is not permissible save in exceptional circumstances and with special sanction.

(3) A gazetted officer, who is in receipt of furlough or leave allowances, must obtain, if he is resident out of India, the previous sanction of the Secretary of State, or if resident in India, that of the local Government, or (if he is serving under the Government of India) of the Government of India, before taking service under an employer, other than Government, or accepting any employment,* not being under Government which involves the receipt of a fee or honorarium. In the case, however, of a non-gazetted officer resident in India, the special permission of the officer empowered to appoint him may be accepted as sufficient authority.

*NOTE. This condition is not to be held to apply to the receipt of fees for literary work, or for service as an Examiner or to similar employment.

(4) The orders contained in the preceding paragraphs refer to the acceptance of employment of any description whatever not being employment of the kind for which the Foreign Service Rules in Part VII of the Civil Service Regulations provide. An officer in receipt of leave allowances cannot take up an appointment which is such as should, for public reasons and not merely in his own interests, be filled by a servant of Government, unless he has been transferred thereto in the regular way by the authority empowered to authorise his transfer under the rules regulating transfers to Foreign Service. An officer who has been so transferred ceases, from the date on which he takes up the appointment, to be on leave and is no longer entitled to draw leave allowances from Government. He becomes an officer in active service drawing from his employer pay fixed in accordance with rule.

NOTE. (1) The above orders, while they apply to medical officers, refer only to employment; and as the relations of patient to doctor are not those of employer, there is nothing to prevent a medical officer on leave from engaging in private practice, though the rules would forbid him from entering the employment of any institution (Para. 4, H. D. No. 306, dated the 22nd April, 1912, and para. 48 of C. P. Med. Man., 1912).

(2) Government medical officers are expected to make themselves acquainted with the provisions of the Government Servants Conduct Rules, a copy of which is supplied to every Government officer. (Para. 49, C. P. Med. Man., 1912).

3. Employment of persons engaged for service in India by Firms and Societies.—*S. of S's Des. No. 82, dated the 7th June, 1907.* The employment in Government service of persons who have been originally engaged by private firms and societies for service in India should be avoided so far as is consistent with the interests of the public service. When such appoint-

ments are contemplated, care should be taken to consult the employers before an offer is made.

4. **Employment of public servants in making private purchases.**—*H. D. Nos. 126 and 895, dated the 16th January, 1873 and 22nd May, 1873.*—The employment of public servants in making of purchases, or in any private matters in which the receipt or expenditure of money is concerned is strictly prohibited. Every breach of the order which is brought to the notice of Government will be severely dealt with.

NOTE.—This prohibition does not preclude officers from employing public servants to procure for them conveyance or necessary supplies while they are travelling upon duty, though in all such transactions constant vigilance is needed to prevent cheating or extortion.

5. **Public officers acting as Arbitrators.**—*Home Dept. No. 544, dated the 12th January, 1873.*—Public officers may be permitted to act as arbitrators for the settlement of disputes under the following rules:—

(1) An officer shall not act as arbitrator in any case without the sanction of his immediate superior, or unless he is directed so to act by a Court having an authority to appoint an arbitrator.

(2) No public officer shall act as an arbitrator in any case which is likely to come before him in any shape in virtue of any judicial or executive office which he may be holding.

(3) If an officer acts as an arbitrator at the private request of disputants, he shall accept no fees.

(4) If he acts by an appointment of a Court of law, he may accept such fees as the Court may fix.

6. **Employment of retired officials by Municipalities or Indian States.**—*H. D. No. 107-23, dated the 4th May, 1898 and For. Dept. No. 921 I. A., dated the 8th March, 1903.*—Reproduced as note (2) to rule 15 of Government Servants' Conduct Rules, page 15, *ante*.

7. **Use of conveyances belonging to native gentlemen.**—On occasion of State ceremonial or when a rapid or long official journey has to be made exceeding the capacity of reasonable private establishment, and when no other means of locomotion are available, officers of the Government may occasionally avail themselves of the proffered assistance of Indian gentlemen or of the resources of estates under their charge. This procedure should, however, be resorted to as seldom as possible and only under circumstances in which one English gentleman would accept similar civilities from another without incurring an inconvenience and obligation. The use by Government officials of conveyances and houses belonging to gentlemen or private estates under the charge of the officer of Government is prohibited, except under the condition explained above. (U. P. M. I., III., page 707.)

8. **Disposal of property by raffle.**—When any Government official desires to dispose of valuable property by means of a raffle, he should declare his intention, with a full statement of the details of the raffle and the price proposed to be fixed, to the head of his office, who will forward the application with any remarks to the Commissioner of the Division. The price fixed must be reasonable and no pressure must be brought to bear on subordinate officials in order to induce them to purchase tickets.

The sale of tickets and any other work in connection with the raffle should be arranged for by the Government servant concerned either by himself or through private agency, but in no case through any of his subordinates. It will be the duty of the Commissioner to satisfy himself that these instructions are strictly observed and to report any disregard of them to the local Government. (C. P. M., Ed. 1917, page 70).

9. **Chaprasis or officials receiving tips from visitors.**—*Government Punjab Circular No. 7-17-10, dated the 10th Nov 1911.*—The attention of all Heads of Departments, Commissioners and Deputy Commissioners is directed to an extract from a newspaper regarding the practice of *chaprasis* or other officials receiving and sometimes extorting tips from visitors, with a view to such action as is possible being taken to stop this objectionable practice, if it still exists, notwithstanding the recent increases in the pay of *chaprasis*.

10. **Grant of testimonials by Government officers.**—*H. D. No 3021 dated the 17th October, 1873 and Government Punjab No 561, dated the 3rd May, 1893.*—Cases have frequently been noticed in which officers through thoughtlessness or good nature have given in a private or demi-official form testimonials which they probably would not have given after that full reflection under that strong sense of responsibility which usually precede or accompany official action. It had also been represented that officers in all departments are often liable to importunity for such testimonials and would probably welcome instructions which would enable them, without giving offence, to reject applications for them.

(2) Enquiry has been made as to whether any instructions on this subject are at present in force in the Punjab. The only order which has been traced is that contained in Punjab, Revenue Circular No. 16, paragraph 5, Rule IV. This is to the effect that whenever the head of an establishment desires to record a commendatory notice of an official subordinate to him, he should do so by making an entry in the official's character book and not by separate letter or certificate.

(3) The Lieutenant-Governor concurs in the view that general orders on the present subject are expedient and likely to be useful. He therefore directs that officers should abstain from giving private or demi-official testimonials to their subordinates, whether in the form of what are commonly called "*chits*" or in the form of letters addressed to them. As a rule, a superior has ample opportunities of recording his opinion of his subordinates in an official form in the various annual reports when the subordinate is of the higher grades, and in the character books when he is of the lower grades, and if on any occasion circumstances should require a special expression of opinion, that should always be conveyed in an official letter addressed to higher authority.

(4) It is, moreover, to be noted that Deputy Commissioners or other officers when vacating positions of control can, if they think it expedient to do so, leave a memorandum for their successors, mentioning the principal officials or other subordinates in the district or department whom they may desire to notice favourably or otherwise.

(5) In the case, too, of a non-official person rendering useful public service, as the Lieutenant-Governor is happy to say such persons frequently do in this province, any acknowledgment of such service should be ordinarily made in an official form. Thus important service rendered by a member of a Municipal Committee should be acknowledged in the Annual Municipal Report, similar service rendered by a member of a District Board in the Annual District Fund Report, important assistance rendered by a zemindar in the detection and suppression of crime in the Annual Police Report, important assistance rendered by a Tumandar or Malik on the frontier in the report of the transactions with which it is connected, and so on. Further, an officer making over charge of his office might very properly leave on record, for the information of his successors, a memorandum similar to that mentioned in paragraph 4, noting the leading non-official persons with whom in his official capacity he has had to deal.

II. Bribery and Corruption.—*Government Punjab Cir. No. 5087, dated the 12th March, 1917.*—As you are aware several prominent officials have, during the past few years, been punished for taking bribes and other forms of corruption, the matter has aroused a good deal of public attention, has been discussed in the Press and has been raised in the Legislative Council. The Lieutenant-Governor thinks that the present is a favourable opportunity for making a determined attempt through the services and the people to eradicate, if possible, and, at least, to check the corrupt practices which weigh so heavily on the people and bring discredit on the Administration. With this object he is now issuing two separate appeals for co-operation in the suppression of these evils, one to the public and the other to officials of all grades in the Provincial and Subordinate Services. Copies of those appeals are enclosed. The appeal to officials should be circulated to every officer and subordinate in every department and to every one hereafter appointed. The appeal to the public will be circulated through Deputy Commissioners to all public bodies and associations, all Honorary Magistrates, Honorary Sub-Registrars, Zaildars, Inamdars, Nakadars, Lambardars and Schools, and copies should be posted up in public places, such as Kacheries, Tahsils, Thanas, and all other offices under the Provincial Government. Serais, Patwarkhanas and Village Chaupals

(2) In the present state of public opinion, it is important that the officers of the Imperial Services and officers holding appointments generally held by or of the same nature as those held by officers of the Imperial Services, should take the initiative and make special efforts to check corruption. The Lieutenant-Governor desires that they should exercise a more vigilant control in these matters than in the past and that every duly authenticated complaint should, if it appears to have any foundation, and is not already in the hands of the Police or under magisterial inquiry, be very thoroughly investigated departmentally. If special assistance is required for the purpose of the investigation demi-official reference should be made to Government by the Head of the Department concerned.

(3) The Lieutenant-Governor does not overlook the possibility that this attitude of Government may tend to encourage false complaints. Officers should be on the look out for any such tendency and men who bring

charges which are found on enquiry to be false and malicious should, wherever a prosecution is likely to succeed, be prosecuted.

12. *Government Punjab Circular No. 4627, dated the 6th March, 1917.*—Recent enquiries and prosecutions have given prominence to the question of the suppression of corruption in the public service. At the last meeting of the Legislative Council, His Honour the Lieutenant-Governor in his closing speech said that it was a real satisfaction to see that public opinion was awakening to a sense of its duty in the matter, and the answer given to the Hon'ble Khan Sahib Mirza Muhammad Ikramullah Khan set forth at some length the views held by Government on certain suggestions that had been put forward in the Press. Copies of the remarks of His Honour on the subject and of the question put by the Hon'ble Member and the answer given by Government are enclosed. The answer shows how anxious Government is to avoid doing anything which might encourage false charges of bribery, and the appeal for co-operation now being issued to the public concludes with a warning against such false charges.

The object of that appeal is to rouse public opinion to assist Government in the eradication of corruption. The object of the present letter is to appeal to the public opinion of the various services. There are, His Honour is glad to think, a large number of officials in every branch of the service whose probity is above suspicion. But this is not sufficient. What is required is that these men should not only by strict control of their assistants and subordinates, but also by quiet social pressure and by the ostracism of delinquents insist on their own high standard being accepted as the standard of the service to which they belong. An established reputation should ensure the exclusion of the man who has acquired it from the ranks of respectable society. Public servants form, as it were, a caste of their own, and the bribe-taker commits an offence against the whole caste to which he belongs.

In the matter of illegal gratifications there are, it is true, different degrees of guilt. There is the man who extorts, and there is the man who merely accepts. There is the bribe that is given for a particular purpose whether that purpose is to pervert justice, to obtain a contract, to cover bad work done or to secure an unlawful advantage in any other way and there is, especially in the lower grades of the service, the customary perquisite paid at regular intervals without definite object and largely because it is the custom. But all these, though in different degrees, should excite the indignation or disapproval of the service in general, and His Honour looks to the best elements in each branch of the service to give expression to their feeling in a practical form as occasion demands.

13. *Question put by the Hon'ble Khan Sahib Mirza Muhammad Ikram Ullah Khan at the Punjab Council Meeting held on the 2nd September, 1916.*—Has the attention of Government been drawn to the leading articles, which have recently appeared in the *Tribune*, on the subject of 'Corruption in Public Service' and will the Government kindly state what action, if any, they propose to take in order to remove corruption and particularly extortion and tipping amongst the subordinate *amla* of the lower Courts in the mufassil?

Reply by the Hon'ble Mr. Thompson.—Government has seen the articles to which the Hon'ble Member refers as well as other articles and letters in the Anglo-Vernacular and Vernacular Press, and is glad to observe that the action so far taken by Government to check corruption in the public services is generally supported by the Press and the public. Government has also considered the suggestions in the articles in question and other suggestions for coping with the evil.

The first of the suggestions made by the writer of the articles is that in order to reduce the amount of corruption in the services, Government should rely less on nomination and more on competition for their recruitment. The assumption is that the latter method is more likely to provide the country with more honest officials than the former. Government would like to believe that this assumption was true, but unfortunately there is a good deal to be said on the other side. During the past few years, three officials have been dismissed from the Provincial Service for corruption. Every one of the three has been a competitor. During the past month, certain officers have been warned that they will be refused grade promotion and will endanger their offices and pensions if their reputation does not improve. Of these 50 per cent are competitors. The facts do not give much support to the view that the main remedy is the extension of competition.

Another suggestion is that greater confidence and consideration should be shown by district officers to members of the Bar in order to raise the estimation in which they are held and render them a more powerful instrument for the suppression of corruption. Government is glad to recognize the assistance that has been rendered in the past by members of the Bar who are often in a position to know of cases where the administration of justice has been corrupted by bribery, and it trusts that it can count in an increasing degree on their support. The co-operation of a united and public spirited Bar supplies one of the most effective weapons that Government can employ in fighting judicial corruption.

A further suggestion was that district officers should be relieved of judicial work, should see fewer visitors at headquarters, but more of the important residents of the district, and that when on tour they should try to come into more direct touch with the people. The Lieutenant-Governor trusts that all such officers are alive to the importance of acquiring a first-hand knowledge of their districts and the inhabitants and of the reputation of their subordinates for integrity and impartiality, but he believes that in many cases they are deterred from taking action against corrupt subordinates by the difficulty of getting reliable evidence and the danger of false accusation.

Finally, it is urged in the articles to which the Hon'ble Member has referred, that all complaints against Government officers should be treated as privileged, and that there should be a special Bureau of complaints for their investigation. As the article recognizes, the position is a difficult one, but this particular suggestion seems to Government impractical, so long as the false complaint retains its popularity as a weapon of offence or revenge.

The Lieutenant-Governor welcomes the ventilation of the subject in the Press—English and Vernacular—as an indication that the public conscience is awakening to the scandal of corruption. But the articles referred to by the Hon'ble Member seem to him to start with the assumption that all that is required is that Government should take certain steps and corruption will cease.

Government has, as a matter of fact, been prosecuting and punishing whenever cases come to notice for years past. Action has recently been taken in the Revenue and Irrigation Departments to check extortion and exaction by subordinate officials in the Colonies, and to make it clear to the people that such practices are illegal, are contrary to the direct orders of Government and when brought to light will be severely punished. The attitude of Government is of course well known, but it is well publicly to emphasise it, and other departments will be asked to take similar action. But in this, as in other matters, the evil cannot be eradicated without the active co-operation of the people and the support of public opinion. What is really wanted is that the Hon'ble Member and his friends, the Press and all the respectable opinion of the Province should not only take a determined stand against corruption, whether among officers or among subordinate officials, but should boycott all who practise it, whether the giver or the receiver, and rouse public opinion from its apathy. It has sometimes seemed that the one thing needed to make a man an object of public sympathy was that Government should order his prosecution for bribery or misconduct. When that attitude changes, and Government believes there are hopeful indications of a change, then and not till then, will it be possible to eradicate bribery and corruption from the public service.

Remarks of His Honour the Lieutenant-Governor.—I would like to refer to another matter which I was glad to see raised by an Hon'ble Member in the Council to-day—the cleansing of the public services from bribery and extortion. The answer given to the Hon'ble Member will show how anxious Government is to secure the co-operation of all classes in dealing with this evil, and it is a real satisfaction to see that public opinion is awakening to a sense of its duty. Government will not hesitate to impress on its officers in all departments their responsibility towards the public; and Government expects in return that the public will do their duty by setting their face against the bribe-giver whatever his status in society and the bribe-taker whatever his grade in the public service.

Public Proclamation by the Government of the Punjab.—The Lieutenant-Governor invites the assistance of the public in the suppression of bribery and corruption in the Public Service. In the past few years, several officers, some of high degree, have been punished and dismissed, but so long as there are private persons foolish enough or dishonest enough to give bribes, there will always be some officials who will not scruple to take them. Bribe-taking will only stop when bribe-giving ceases. It is with the public, therefore, that the remedy rests.

Every man who gives a bribe is the enemy of the public. One bribe leads to another, justice hides her face, avarice is encouraged in the *Hakim* and *Ahlkar* and insecurity increased among the subjects. Treat the bribe-giver, therefore, as your enemy. Refuse to smoke or drink with him. He has shown discord and injustice; let him reap aversion and contempt.

Many give fees to public servants because they believe that the demand is made according to custom. Remember that officials' salaries are fixed and paid by Government. It is against Government orders that they should take anything for which they will not give a receipt. It is Government's desire to root out the bribe-taker, and it is ever on the watch to punish him, but bribes are not taken in the bazar but secretly. It is in your interest that Government watches and in helping Government to crush corruption you are helping yourselves. You have seen that where people combine and help one another to establish Zamindari Banks, they are able in time to pay off their debts and redeem their lands; where they combine and help Government against the *badmash* and dacoit, crime disappears and your life and property become more secure. The bribe-giver and the bribe-taker are your enemies and the enemies of Government. Combine with one another in refusing to give bribes or perquisites to officials and you will enable Government to root out the bribe-giver and the bribe-taker.

But in this matter remember that he, who cries for justice where there is no oppression by bringing a false charge of bribery, deserves the punishment due to the oppressor.

14. **Dalis.**—*Punjab Circular No. 1737, dated the 22nd January, 1918.*—In Punjab Government Circular No. 1108-S. (Home-Genl.), dated the 25th June, 1914, attention was drawn to rule 2 of the Government Servants' Conduct Rules, which prohibits Government servants from accepting any gift, except a complimentary present of fruit or flowers or similar articles of trifling value and directs that even such complimentary presents should be discouraged. It was stated that His Honour believed that most officers would be glad to see the practice of giving *dalis* totally prohibited as a troublesome nuisance. This opinion the Lieutenant-Governor still holds and he is aware that in the great majority of cases, officers in accepting *dalis* sacrifice their own feelings in order to spare those of the men who present the *dalis*.

(2) There are, however, other aspects of the matter. The Lieutenant-Governor has some reason to believe that even men of intelligence and position sometimes believe that the presentation of a *dali* is likely to influence an officer in favour of the man who presents it, and insinuations are made that the *dali* at times contains a good deal more than appears to the eye. Such insinuations are easy to make, but they are not so easy to refute, because the officer to whom the *dali* is nominally presented, probably never looks at it, and it is usually divided up amongst his servants and *chaprasis* who, naturally, encourage a practice which is to their advantage. The evidence in recent bribery cases also shows that the *dali* is at times used as a vehicle for bribes, which are offered in this way through the medium of servants and *chaprasis*.

(3) The position, therefore, is an unsatisfactory one and it has become unsatisfactory largely owing to unwillingness to wound Indian susceptibilities. But the Lieutenant-Governor has come to the conclusion that the attitude of officials is liable to be misunderstood and misrepresented, and he considers that scruples of the kind indicated should no longer stand in the way of absolute prohibition. He is, therefore, pleased, with the approval of the Government of India, to direct that for the future any *dali* or gift

that is offered by, or on behalf of an Indian, to any Government official, should be refused, even at the risk of giving offence. It is believed that if these orders are made generally known, the public will not be slow to accept them and officers will be saved from any feeling of embarrassment or imputation of discourtesy in giving effect to them.

(4) These instructions are not to be given an application beyond their obvious meaning. Every British official who lunches or dines with an Indian friend, in a sense, accepts a gift from him, but it is no part of the Lieutenant-Governor's intention to place restrictions on friendly social intercourse of this sort. On the contrary, he is glad to think that the interchange of hospitality between Europeans and Indians is on the increase.

(5) This letter is not being addressed to Political Officers. Where Native States are concerned existing rules will continue to apply. Ceremonial presents will be deposited in the *Toshakhana* and complimentary gifts of fruits, flowers, etc., of trifling value may be accepted but should be discouraged as far as possible.

15 **Bihar and Orissa.**—*Resn. No. 1892 186, dated the 16th July 1913*—The Lieutenant-Governor in Council has had under his consideration the questions involved in the acceptance by Government servants of the presents commonly known as *dalis*.

(2) In Rule 2 of the Government Servants Conduct Rules it is laid down that no Government servant may accept presents from a native of India, but this general prohibition is qualified by the provision that complimentary presents of flowers and fruits and similar articles of trifling value may be accepted, though the practice should be discouraged. The giving and acceptance of these complimentary presents, especially on the occasion of a visit, is an ancient custom based on feelings to which exception cannot be taken, but like other practices, harmless in themselves it may lend itself to abuse. For some years the presents have shown a tendency to increase in value and articles purchased in the market, or even expensive cakes and confectionery, have frequently been substituted for the produce of the donor's own garden.

(3) It is far from the intention of the Lieutenant-Governor in Council to do anything which would obstruct the maintenance of friendly social relations between Government officers and private persons or among Government officers themselves. He feels, however, that the practice of accepting *dalis* throws an unfair burden on Government officers. Officers vary in their opinion as to what may, and what may not, be accepted, and persons, whose presents are accepted by one officer, naturally feel aggrieved when another officer, whose views as to where the line should be drawn are stricter, feels compelled to refuse their presents. On the other hand, the existence of the practice exposes Government officers to insinuations, however baseless, that *dalis* are used as a means of influence or with a view to obtaining some general or particular favour.

(4) After full consideration His Honour in Council is of opinion that these considerations ought to outweigh the temporary difficulties which would ensue from a prohibition of the practice. He has accordingly decided

that no Government officer shall be permitted to accept *dalis*. This prohibition is not intended to prevent the giving of presents on occasions when they would be required by the customs of ordinary social intercourse, and where it is clear that the present would have been given, had the recipient not been a Government officer.

(5) In order to give an opportunity to all concerned to adjust themselves to the new conditions, these orders will not take effect until the 1st September, 1919.

16. **Medical attendance on, and supply of medicines to Government servants and pensioners.**—H. D. No. 12-334-51, dated the 16th August, 1884 and 1851-26, dated the 26th Nov., 1884.—Government servants during their actual tenure of office, and no other persons, are entitled to the benefit of free medical attendance, and existing rules do not extend the privilege to Government pensioners; but European military pensioners, who have been pensioned directly from military service and who reside outside cantonments, should be considered entitled to gratuitous medical attendance, both for themselves and their families, from the Civil Surgeons of their respective stations, the privilege not being applicable to any persons drawing a civil pension or who have received a gratuity for service in the Civil Department or to pensioned commissioned officers.

(2) All Government officials and their families and menial and inferior servants of Government enjoy the privilege of gratuitous supply of medicines; but at place where there are good druggists' shops and where the charges are reasonable, patients who are able to pay should be encouraged to resort to those shops (H. D. No. 632, dated the 23rd December, 1880).

(3) All officers of Government living at the headquarters station of a district and drawing a salary (as defined in the Codes of the Financial Department) of Rs. 250/- (Rs. 300/- so far as it concerns Bihar and Orissa) and over, whether gazetted or not, are entitled to gratuitous medical attendance at their own residences from Civil Surgeons. Gazetted officers drawing less than Rs. 250/- (or Rs. 300/- in the case of B. and O.) a month are not entitled to the gratuitous medical attendance of a Civil Surgeon.

NOTE.—Executive Officers and Engineers of His Majesty's Marine in the junior grades, though drawing salary of less than Rs. 250 a month, are also entitled to personal attendance of the Civil Surgeon when they require to be treated on shore.

H. D. No. 2116, dated the 15th November, 1900 and No. 676 C, dated the 2nd February, 1918.—Any gazetted officer in foreign service, who is not provided with a medical attendant of gazetted rank by his employer, is entitled to the services of the Civil Surgeon of the district in or near which he is employed.

(4) F. and C. Dept. No. 2999, dated the 26th August, 1870.—Government servants who have been engaged by the Secretary of State under covenant, on the condition among others that they are to receive medical aid and medicines at the Government expense, shall, in case of need, be supplied with medicines from the Government hospital nearest to their respective residences.

(5) *F. and C. Dept. No. 2067, dated the 8th July, 1877.*—Government cannot undertake to reimburse to a public servant, who is entitled to the gratuitous attendance of Government medical officer or to medicines from a Government dispensary, fees which he may have occasion to pay to a medical practitioner not in the public service or the cost of medicines which he may purchase privately.

(6) *H. D. No. 386, dated the 30th April, 1915.*—It is, however, open to the local Administration when a patient would be entitled to such attendance by a Government medical officer at State expense and such an officer is not available to sanction a fee for a competent private medical practitioner who has to be called in emergently in place of the Government medical officer.

(7) *H. D. No. 14-447-64, dated the 23rd October, 1884 and No. 42, dated the 31st August, 1885.*—The following rules are prescribed for medical attendance on, and supply of medicines to, Government clerks and their families:—

(1) All clerks of all Government offices are entitled to gratuitous medical attendance and medicines. (2) All clerks of Army Headquarters offices are entitled to similar privileges for themselves and their families. (3) Subject to the above rules, clerks drawing Rs. 250/- (or Rs. 300/- in the case of B. and O.) per mensem and upwards are entitled to the services of the Civil Surgeon, and those drawing less than that amount to the services of the Assistant Surgeon or medical subordinate provided for the purpose, it being understood that the attendance of the Civil Surgeon shall be given in all cases of emergency or of great danger or difficulty when applied for by the subordinate medical attendant.

NOTE.—For the purpose of the above orders, the definition of the term 'family' in the Simla Travelling Allowance Code should be adopted. According to this definition, the word will include the officer's wife, his legitimate children residing with and wholly dependent on him, and also his parents, sisters and minor brothers, if wholly dependent on, and residing with, him

CHAPTER III.

MISCONDUCT, DISMISSAL AND OTHER PUNISHMENTS OF GOVERNMENT SERVANTS.

1. Act No. XXXVII of 1850 for regulating Inquiries into the behaviour of Public Servants, as amended by Act I of 1897.—Whereas it is expedient to amend the law for regulating inquiries into the behaviour of public servants not removable [from their appointment] without the sanction of Government and to make the same uniform throughout the territories under the Government of India ; it is enacted as follows :—

1. [*Repeal of Act*] *Rep. by the Repealing Act, 1870 (XIV of 1870)*

2. Whenever the Government shall be of opinion that there are good grounds for making a formal and public inquiry into the truth of any imputation of misbehaviour by any person in the service of the Government not removable from his appointment without the sanction of the Government, it shall cause the substance of the imputations to be drawn into distinct articles of charge, and shall order a formal and public inquiry to be made into the truth thereof.

3. The inquiry may be committed either to the Court, Board or other authority to which the person accused is subordinate, or to any other person or persons, to be specially appointed by the Government, commissioners for the purpose: notice of which commission shall be given to the person accused ten days at least before the beginning of the inquiry.

4. When the Government shall think fit to conduct the prosecution, it shall nominate some person to conduct the same on its behalf.

5. When the charge shall be brought by an accuser, the Government shall require the accusation to be reduced to writing, and verified by the oath or solemn affirmation of the accuser ; and every person who shall wilfully and maliciously make any false accusation under this Act, upon such oath or affirmation shall be liable to the penalties of perjury ; but this enactment shall not be construed to prevent the Government from instituting any inquiry which it shall think fit, without such accusation on oath or solemn affirmation as aforesaid.

6. Where the imputation shall have been made by an accuser, and the Government shall think fit to leave to him the conduct of the prosecution, the Government before appointing the commission shall require him to furnish reasonable security that he will attend and prosecute the charge thoroughly and effectually, and also will be forthcoming to answer any countercharge or action which may be afterwards brought against him for malicious prosecution or perjury or subornation of perjury, as the case may be.

7. At any subsequent stage of the proceedings the Government may, if it think fit, abandon the prosecution, and in such case may, if it think fit, on the application of the accuser allow him to continue the prosecution, if

he is desirous of so doing, on his furnishing such security as is hereinbefore mentioned.

8. The commissioners shall have the same power of punishing contempts and obstruction to their proceedings, as is given to Civil and Criminal Courts by Act XXX, 1841, [since repealed by the Repealing Act, 1868 (VIII of 1868)] and shall have the same powers for the summons of witnesses, and for compelling the production of documents, and for the discharge of their duty under the commission, and shall be entitled to the same protection as the Zila and City Judges, except that all process to cause the attendance of witnesses or other compulsory process, shall be served through and executed by the Zila or City Judge in whose jurisdiction the witness or other person resides, on whom the process is to be served, and if he resides within Calcutta, Madras or Bombay, then through the Supreme Court of Judicature there. When the commission has been issued to a Court, or other person or persons having power to issue such process in the exercise of their ordinary authority, they may also use all such power for the purposes of the commission.

9. All persons disobeying any lawful process issued as aforesaid for the purposes of the commission, shall be liable to the same penalties as if the same had issued originally from the Court or other authority through whom it is executed.

10. A copy of the articles of charge, and list of the documents and witnesses by which each charge is to be sustained, shall be delivered to the person accused, at least three days before the beginning of the inquiry, exclusive of the day of delivery and the first day of the inquiry.

11. At the beginning of the inquiry the prosecutor shall exhibit the articles of charge to the commissioners, which shall be openly read, and the person accused shall thereupon be required to plead "guilty" or "not guilty" to each of them, which pleas shall be forthwith recorded with the articles of charge. If the person accused refuses, or without reasonable cause neglects to appear to answer the charge either personally or by his counsel or agent, he shall be taken to admit the truth of the articles of charge.

12. The prosecutor shall then be entitled to address the commissioners in explanation of the articles of charge, and of the evidence by which they are to be proved: his address shall not be recorded.

13. The oral and documentary evidence for the prosecution shall then be exhibited: the witness shall be examined by, or on behalf of the prosecutor and may be cross-examined by, or on behalf of the person accused. The prosecutor shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without leave of the commissioners, who also may put such questions as they think fit.

14. If it shall appear necessary before the close of the case for the prosecution, the commissioners may, in their discretion, allow the prosecutor to exhibit evidence not included in the list given to the person accused, or may themselves call for new evidence; and in such case the person accused shall be entitled to have, if he demand it, an adjournment of the proceedings.

for three clear days, before the exhibition of such new evidence exclusive of the day of adjournment and of the day to which the proceedings are adjourned.

15. When the case for the prosecution is closed, the person accused shall be required to make his defence, orally or in writing as he shall prefer. If made orally, it shall not be recorded; if made in writing, it shall be recorded, after being openly read, and in that case a copy shall be given at the same time to the prosecutor.

16. The evidence for the defence shall then be exhibited, and the witnesses examined, who shall be liable to cross-examination and re-examination and to examination by the commissioners according to the like rules as the witnesses for the prosecution.

17. [*Examination of witnesses and evidence by the prosecution.*] *Rep. by the Repealing Act 1876 (XII of 1876.)*

18. The commissioners or some person appointed by them shall take notes in English of all the oral evidence, which shall be read aloud to each witness by whom the same was given, and, if necessary, explained to him in the language in which it was given, and shall be recorded with the proceedings.

19. If the person accused makes only an oral defence, and exhibits no evidence, the inquiry shall end with his defence; if he records a written defence, or exhibits evidence, the prosecutor shall be entitled to a general oral reply on the whole case, and may also exhibit evidence to contradict any evidence exhibited for the defence, in which case the person accused shall not be entitled to any adjournment of the proceedings although such new evidence were not included in the list furnished to him.

20. When the commissioners shall be of opinion that the articles of charge, or any of them, are not drawn with sufficient clearness and precision, the commissioners may, in their discretion, require the same to be amended and may thereupon, on the application of the person accused, adjourn the inquiry for a reasonable time. The commissioners may also, if they think fit, adjourn the inquiry from time to time, on the application of either the prosecutor or the person accused, on the ground of sickness or unavoidable absence of any witness or other reasonable cause. When such application is made and refused the commissioners shall record the application, and their reasons for refusing to comply with it.

21. After the close of the inquiry the commissioners shall forthwith report to Government their proceedings under the commission, and shall send with the record thereof their opinion upon each of the articles of charge separately, with such observations as they think fit on the whole case.

22. The Government, on consideration of the report of the commissioners, may order them to take further evidence or give further explanation of their opinions. It may also order additional articles of charge to be framed, in which case the inquiry into truth of such additional articles shall be made in the same manner as is herein directed with respect to the original charges. When special commissioners have been appointed, the Government may also, if it think fit, refer the report of the commissioners to the Court or other authority to which the person accused is subordinate, for their

opinion on the case ; and will finally pass such orders thereon as appear just and consistent with its powers in such cases.

23. The powers of the Government under this Act may, in all cases, be exercised by the Governor-General in Council, and when the person accused can be removed from his appointment by the local Government, those powers may also be exercised by the local Government.

24. Nothing in this Act shall be construed to repeal any Act or Resolution in force for the suspension or dismissal of Principal and other Sadar Amins or of Deputy Magistrates or Deputy Collectors, but a commission may be issued for the trial of any charge against any of the said officers, under this Act, in any case in which the Government shall think it expedient.

25. Nothing in this Act shall be construed to affect the authority of Government, for suspending or removing any public servant for any cause without an injury under this Act.

2. Petition or appeals against the orders of removal or dismissal.—
(H. R. and A. Dept. Resn. No. 1389-1401 dated the 29th July, 1879).
 From time to time petitions or appeals, against the orders of local officers, removing or dismissing Government servants reach the Government of India. Such appeals ordinarily are forwarded through, or are reported upon by, the local Governments, and the Governor-General in Council is glad to say that he very rarely indeed sees ground for thinking such removals, hasty or unjust. The general rule of the service is that the authority who can appoint to a particular office has power to dismiss or remove from that office ; and an appeal lies from an order of dismissal to the official superior of the officer who passes such order. Since the date of the order passed by the Court of Directors in 1851, no general instructions on the subject of dismissing public servants have been circulated by the Government of India. Local Governments have from time to time issued such orders : and a copy of a recent circular of the North-Western Provinces Government on the subject is appended to this Resolution. His Excellency the Governor-General in Council believes that the forbearance and consideration enjoyed by the Honourable Court are usually exercised by the public officers of all grades and departments ; but at the same time he deems it advisable to republish those instructions with the following remarks :—

1. In order that a dismissed servant of Government may be able to exercise his right of appeal, it is obviously necessary that the charge against him, his defence, and the order thereon, should be reduced to writing. And this course, so far as the Governor-General in Council is aware, is usually taken. In the case of public servants who are dismissed in consequence of facts or inferences elicited at a judicial trial or in the case of persons who abscond with an accusation over their heads, this procedure may be unnecessary or impossible. But in all other cases of the dismissal of public servants, the charge against a public servant should be reduced to writing, his defence should be either taken in, or reduced to writing and the decision on such defence should also be in writing. In many cases (such for instance as that of a clerk at an outlying tahsil station) the officer who passes the order of dismissal may not be able to make the enquiry himself, and the proceedings

leading to dismissal would be conducted by the superior officer on the spot. The record of such charge, defence and decision would then furnish sufficient information for, and should be submitted to the superior officer or the Government to whom the dismissed servant may prefer an appeal.

2. In regard to the rules of conduct which should guide the relation of superior officers with their subordinates, the Governor-General in Council fully concurs in the views expressed by the late Court of Directors in paragraphs 4 to 9 of their despatch No. 42 of 1851 [reproduced below].

Extract paras. 4 to 9 of a Despatch from the Court of Directors, No. 42, dated 6th August, 1841. Para. 4.—In the letter from the Secretary to the Sadar Board of Revenue, North-Western Provinces, conveying the opinions of the Members of the Board we notice the following passages:—

"It scarcely needs to be stated that Native Officers are frequently dismissed from their situations not for proved delinquency, or any tangible matter, or substantial charge, but in accordance with the opinions of their immediate superiors, taken up against them sometimes hastily.

"A large portion of the public servants are under the absolute control of one officer, who has the absolute power of dismissal, and men are consequently often dismissed by caprice and also as a punishment.

"An officer, often too, dismisses a man merely as a punishment, with the intention, frequently carried out, of re-appointing him

"Further, the Native Servants of Government are treated with a degree of hardship which stands in remarkable contrast to the conduct adopted towards Europeans or officers of mixed parentage. To such an extent does this severity prevail that all prudent Natives resign when they perceive that their superiors do not regard them with favour. This state of things has the worst effect on our Native officers. It induces them to make hay while the sun shines, and to add to the severity now used by pronouncing every man dismissed, incapable of serving Government, would only add to the evil.

"Once again, the Junior Member of the Board takes this opportunity to put on record his deliberate opinion that less caprice, less severity, less indignity in the treatment of Native Servants of Government is necessary if Government would be well served by them."

Para. 5. We confess we have perused these statements with pain and deep regret. If the treatment of Native officials by their covenanted superiors be indeed generally of the harsh character here alleged, it is most discreditable to those members of our Civil Service who have practised it.

Para. 6.—But the rule we instructed you to introduce, in place of aggravating the evil as is alleged, will in reality ameliorate the position of the uncovenanted servants. We would establish it as a principle that when persons are appointed to permanent situations in any department they should not be dismissed upon light grounds. Fraud and dishonesty, continued and wilful negligence, and all offence involving moral disgrace meet with their appropriate punishment in dismissal, and our position is that, in every case in which that punishment is inflicted upon just grounds, the individual should be considered to be permanently excluded from Government employ. With regard, however, to the instances of arbitrary dismissal for slight reasons adverted to by the Secretary to the Board of Revenue, we can neither recognize their propriety nor see the advantage accruing to Government from the practice. It may be doubtful whether the punishment of temporary suspension under the name of dismissal

" with the intention of re-appointment " has any beneficial operation as regard the supposed offender. But we cannot doubt that it must tend to impede the business of the office by raising fears in the mind of the other Native officials that the caprice of their superiors may inflict upon them the same penalty. We consider it more likely that Government will be well served if it is distinctly understood that probity and diligence are the conditions of continued employment than if the subordinate work in slavish dread of their official superior, knowing that his whim, prejudice, or passion may at any hour eject them from their situations and reduce them to destitution. In our opinion, moreover, the knowledge that gross misconduct will altogether exclude from the service of Government will operate as an additional inducement to the honest and attentive discharge of duty on the part of Native servants. If the offence, which a subordinate may commit, be considered by the chief of the office to merit severe punishment, though not the ultimate one of dismissal, the circumstances should be reported to the higher authority, and, if necessary, to the Government for their judgment and decision.

Para. 7.—The salutary tendency of the proposed rule will, therefore be to make subordinates more faithful in the discharge of their duties and superiors more cautious in inflicting punishment upon those under their control. Necessary, as it is, the power of dismissal should be vested in the chiefs of departments, it is equally desirable to check and, as far as may be practicable, to regulate that power. If evidence of this be required the letter from the Agra Board of Revenue affords it and we shall here further quote the sentiments of the junior Member of that Board as a corroboration of the view which we are led to take of this question. He observes that since he has entered the service " the Government have done much to temper the arbitrary severity with which their Native officers are treated by their European fellow servants, and they have in consequence materially increased the honesty and faithfulness of the deserving class of men, but more remains to be done, and, he doubts not, will be done by degrees " We give due weight to the opinions to which we have adverted, and under the explanation we have now given we are not disposed to depart from our order of the 10th July, 1850.

Para. 8.—There is, however, a class of cases which does not come within the intention of our order, though erroneously considered in this light by the authorities in the North-Western Province—we mean cases of inaptitude for particular branch of occupation to which a Native servant may have been originally appointed as well as cases of physical incapacity. The latter must be treated according to rule and with regard to the former we cannot but think that in the majority of cases the difficulty might be overcome by readjustment of duties without recourse to the harsh steps of removal from office.

Para. 9.—We would, in conclusion, express our hope that the notice we have taken on this subject will have the beneficial effect of inducing the exercise of greater forbearance and a more just consideration on the part of our Civil Servants towards the useful and deserving class of men placed in subordination to them. With respect to the most important class of those men, namely, those receiving salaries of above Rs. 10 a month, and to some of whom, under certain restrictions, pensions are granted upon retirement, we think that you might issue instructions, that you should be kept advised of the dismissal of all individuals composing that class and of causes of their dismissal. This would afford an opportunity for inquiry into cases in which the cause might appear unsatisfactory or questionable, which does not at present exist. Should any instances unfortunately occur to disappoint the expectation, which we have expressed that greater forbearance and justice will be exercised towards the native

servants, we desire to be invariably informed of them whether they shall occur in the class above referred to, or in any other, and we shall feel it to be our duty to visit such conduct with the expression of our severe displeasure.

3. Procedure to be adopted when native subordinates in the Civil Departments are dismissed from pensionable service for misconduct.—*H. D. letter No 50-1682, dated the 13th November, 1883.*—I am directed to forward for information the accompanying copy of a Resolution recorded by the Government of Bombay on the subject of dismissals of Native subordinates for misconduct

Govt of Bombay, Resn. No 7170, dated the 16th Oct., 1883.—The Court of Directors, by Despatch No 42 of 6th August, 1851, enunciated their views on the habit imputed to European heads of offices and departments of inconsiderately dismissing Native subordinates. This habit had been reported to the Court of Directors as deeply rooted. The Court quoted a Member of the Agra Board of Revenue as observing that since he had entered the service, the Government have done much to temper the "arbitrary severity with which their Native officers are treated by their European fellow servants, and they have in consequence materially increased the honesty and faithfulness of that deserving class of men, but more remain to be done, and, he doubts not, will be done by degrees." The purport of the instructions then laid down was that Native subordinates were not to be dismissed merely in consequence of unfavourable opinions entertained towards them by their superiors, or for slight reasons, but on proof only of tangible delinquency in such matters as "fraud and dishonesty, continued and wilful negligence, and all offences involving moral disgrace, and a subordinate once dismissed, upon just grounds was to be permanently excluded from Government employ."

2. After 28 years, i.e., in July, 1879, the habit adverted to was found to be still existent in sufficient force to induce the Government of India to republish these instructions of the Court of Directors with an expression of their own concurrence, and to add to them as follows.—

In all classes of the "dismissal of public servants, the charge against a public servant should be reduced to writing, his defence should be either taken in or reduced to writing, and the decision on such defence should also be in writing." As a reservation it was stated—"In the case of public servants who are dismissed in consequence of facts or inferences elicited at a judicial trial, or in the case of persons who abscond with an accusation over their heads this procedure may be unnecessary or impossible."

3. In May last, by Resolution No. 1549 of the General Department, this Government further added the orders that the dismissing authority should always record in English, under his own handwriting, a statement showing briefly, but clearly, the charges brought against the official, evidence supporting those charges, motives which are supposed to have influenced him, and the opinion of the dismissing authority on each charge

4. Cases that have lately come before Government suggest that even additional fulness and precision should be given to the orders of Government,

5. The Governor in Council would first observe that the state of things, now calling for correction, is not quite the same as that which attracted the notice of the Court of Directors in 1851. The Court had in view the habit of dismissing Native officials in consequence merely of the unfavourable opinion of their superiors, or for slight reasons, but as a rule subordinates are now dismissed only on very precise charges of delinquency. The same disposition of mind, however, on the part of European superiors, which in former days led to the dismissal of Native subordinates on slight charges, now too often leads to the hasty acceptance of evidence as establishing serious charges.

6. The Governor in Council will now state why the late rules do not sufficiently ensure that the defence of a native subordinate shall be patiently heard before his dismissal is recommended or ordered. The rules require that the charge shall be reduced to writing, that the defence shall be given in, or reduced to writing and that the decision shall be in writing, and comprise certain details. But all this is compatible with the disposal of the case in a very off hand way. It would seem, indeed, as if the rules were sometimes taken as meaning that the charge against the accused might be communicated to him and his explanation taken by correspondence, whereas the first principles of justice require that he should be brought before the enquiring officer in person. Again, it is not enough that he should be told of the charge he has to meet—he should be told also of the evidence and arguments in support of the charge before he is required to defend himself. It is very unfair that he should not know the case against him until the enquiring officer has actually committed himself to a decision.

7. The necessary orders so far are that an enquiry in judicial form should precede an order or recommendation for dismissal. It is not meant that the admission of evidence should be restricted by the law of judicial evidence. All evidence, which in the opinion of the enquiring officer conduces to moral conviction, should be admissible, but, in whatever form received, it should be noted and explained to the person charged. Much evidence could be recorded simply in the form of questions to which the person charged should be required to give specific answers. He should be allowed besides to place on record a full written statement of his defence.

8. In the next place, some principle should be laid down for guidance in those cases where there is strong suspicion rather than actual proof against the person implicated. The intention of Government is that no servant of theirs should be dismissed except on proof, but *proof* in the great majority of cases, even in a court of justice, means no more than a preponderance of probabilities, and the estimate of what the preponderance ought to be and is, varies with the temperament of the judging officer. Executive Officers, in the matter of dismissals, have to discharge the judicial function but do not always possess the judicial faculty. It is necessary, therefore, to lay down, as a general rule, that no subordinate should be dismissed except on grounds capable of being stated. There is a distinction between judicial enquiries and departmental enquiries as regards the admissibility of evidence, but there should be no distinction as regards the decision being based solely on the evidence admitted.

9. It may indeed be thought that in some cases a comprising suspicion is in itself a sufficient reason for removing a subordinate from the service of Government, but, if so, this should be honestly stated, and there should be no pretence of proof when there is only suspicion. The subordinate should not be dismissed with disgrace but allowed to resign, or simply relieved of his office. And in such cases, it is more necessary than ever that the exact case against him should be carefully recorded, in order that he may, if possible, satisfy any other employer who has the means of livelihood in his gift.

10. The possibility of men being removed from the public service on mere suspicion suggests the difficult question of the moral liability of Government in such cases to make compassionate allowances. It has been decided, and the Governor in Council thinks rightly, that the admission of such liability would work mischief to the public service in its general effect. But if a man has earned, or nearly earned, his pension, this would not be a proper case for removal on suspicion. He would necessarily be an old servant of Government, who has reached at a time of life when it would be most improbable that he could turn to any other occupation for a livelihood. The sudden beggary of a man whose working days are drawing to a close, is as serious an exercise of a power as the penal sentence of a court of justice, and should not be inflicted on haphazard principles. The pension Rules, moreover, provide that a portion of the pension may be withheld from those whose service has not been entirely approved.

11. The Governor in Council considers that in proportion as the evidence falls short of full proof, consideration should be given to the previous character of the subordinate concerned, and especially to any specific instances of good or bad service that may have been officially noted in his case. It would seem sometimes as if previous good conduct was regarded as an aggravation of a man's offence as showing concealment of his true character. It would, in the opinion of the Governor in Council, apart from the question of evidence, work well for the service of the public if subordinates were able to feel that a good character and acts of good service would stand them in real stead when their conduct is exposed to question.

The admission, however, of evidence of previous bad character requires great caution. It was argued lately in a petition that if one fault is taken as evidence of another, the first punishment of a small fine expands into dismissal by a sort of natural growth. It is certainly not uncommon for dismissing officers to support a weak case by reference to previous punishments for misconduct, too slight for confidence that it received close attention.

12. Controlling officers, as, for instance, Commissioners, to whom orders of dismissal are submitted for confirmation or on appeal, should be reminded that they have an individual responsibility of their own. They must of course on certain points, like all appellate authorities, place confidence on the judgment of the officer who has personally conducted the inquiry; but they should withhold this confidence unless it is clear from the proceedings that the enquiring officer has acted with care and fairness. No defects in the record of enquiry should be passed over with such

reflections as that the enquiring officer is a very careful man, and that he probably knows a good deal more about the case than he has been able to say. If there are such defects, the case should be remanded for further enquiry, and the controlling officer should commit himself to no opinion of his own till the case is as complete as it can be made.

13. Lastly, the Governor in Council observes that the reservation of the Government of India, quoted in paragraph 2 of this resolution to the effect that the prescribed procedure might be unnecessary "in the case of public servants who are dismissed in consequence of facts or inferences elicited at a judicial trial," has been, in some cases, misunderstood. Doubtless trials may occur in which the conduct of some public servant is so mixed up with the matter under adjudication that any after enquiry into it by the head of his department would be superfluous; but what oftener happens is that some censure is passed on a public servant in a side remark from Bench, which he has no opportunity of answering, or which the presiding officer may not have thought of sufficient importance to require verification. It would be extremely hazardous and unfair to accept such a remark as a deliberate judgment, and there seems no safe general rule except that a public servant, unless himself convicted at a judicial trial, has a right to defend himself departmentally against any imputation that he may have therein incurred.

14. The system enjoined might result occasionally in undesirable individuals being retained in the service who would otherwise be got rid of; but the Governor in Council is satisfied that its general tendency would be to raise the tone of the native subordinate service. Any disposition on the part of superiors to seek opportunities of making examples, and to act on general impressions in disposing of specific charges, is calculated to encourage the prevailing habit of intrigue and false accusations among their native subordinates. So far as dismissals are examples rather of the precariousness of the Government service than of a strictly just discipline, their effect must be demoralising. Such examples, instead of having a deterrent effect, must rather suggest the use of opportunities for laying by provision for the future, in case the Government pension should never be attained.

15. The Governor in Council has purposely confined these remarks to dismissals for misconduct. Dismissals for inefficiency, though equally falling within the scope of the observations of the Court of Directors in 1851, depend on a different set of principles, and His Excellency in Council has not observed any need for correction in the practice of dealing with this class of cases.

16. The case of peons differs in some respects from that of Government servants of a superior class. Though their service is pensionable, they belong to the class of cultivators and the lower rank of domestic servants; their parents have put themselves to no sacrifices to educate them for the public service, and they require to be kept very strictly in hand. But, however unwilling the Government may be in such cases to interfere with the discretion of departmental authorities, it will be gathered from what has been said that the Governor in Council expects from the responsible

officers the exercise of a fair and impartial consideration of the case even of the humblest servants of Government. Loose decisions and inconsiderate dismissals are stains upon the Administration.

[NOTE.—Witness in a departmental inquiry into charges of misconduct brought against a Government officer should not be examined on Oath. Advocates should not be allowed to appear in such cases, without the previous permission of the officer holding the inquiry (Birma Cir. No. 6, dated the 3rd May, 1893)]

4. **Dismissal and Removal from Service.**—*H D Cir. No. 917-926, dated the 15th June 1895*—In the circular letter from this Department No. 1085-1095, dated the 21st June, 1894, the Government of India enquired what rule was observed with regard to giving Government officers necessary information as to dismissals of public servants, whether any difference was made between cases where re-employment is prohibited, and where it is not, and whether in any case of dismissal in which it is decided to issue a public notification, the cause which led to dismissal, is specified. The replies received to the letter of 21st June show that a uniform practice is not observed in the different provinces in dealing with this matter. The Governor-General in Council accordingly deems it desirable to state the general principles which should be observed in disposing of such cases.

2. In the first place, His Excellency in Council desires to direct attention to the distinction that exists between the removal or discharge and the dismissal of a public servant. Removal from office for such a cause as unfitness for the duties of the office need not usually entail any further consequences. It ought not to bar re-appointment to another office for the duties of which the person may be suited, and it should not be accompanied by any subsidiary orders which would operate as such a bar or otherwise prejudice the person in question. Removal should be the penalty in all cases where it is not thought necessary to bar future re-employment under Government.

3. In cases of dismissal, on the other hand the effect of the order should be to preclude the dismissed officer from being re-employed. Ordinary cases of the dismissal of non-gazetted officers need not be notified in the *Government Gazette*. As a precaution against the inadvertent re-employment of men who may have been dismissed, it would be sufficient to rule that officers should ascertain whether an applicant for a post has been in Government service before, and should refer to his previous employer if the circumstances connected with his discharge are not clear. The applicant should be required to produce a copy of his character book or other record of service, and a person who succeeds in obtaining employment by the concealment of his antecedents would obviously merit dismissal on the true facts being discovered. The sanction of the local Government or administration should always be required to the re-employment of persons dismissed.

4. The dismissal of Government servants should, the Governor-General

in Council considers, be notified in the *Gazette* only in the following cases, viz.:—

(1) When it is necessary to notify the public of removal from service of an officer whether because his appointment was previously gazetted or from any other cause; and (2) when it is specially desired to exclude from re-employment in the service of Government a public servant who has been dismissed for a heinous offence, such as fraud or falsification of accounts.

The reason for the dismissal of a public officer should not be stated in the notification regarding his dismissal even in cases in which a conviction has been obtained in a criminal Court. It will be sufficient to announce in the case of any person whose dismissal will be notified in accordance with the principle laid down in paragraph 4 of their circular, that the Government has dispensed with his services, except in those cases in which the cause of dismissal constitutes a disqualification under the terms of the law regulating the tenure of a particular appointment, and it is for this reason necessary to couple with the announcement of the dismissal a statement of the grounds upon which it has been ordered.

The Government of India leave it to the local Governments to make such arrangements as they think necessary for securing that officers serving under them are informed what Government servants, other than those whose dismissals have been gazetted, have been dismissed. There is not before the Government of India sufficient evidence to show that it is necessary to communicate such information between provinces if the precautions above-mentioned are taken by officers when making appointments to vacant posts.

5. *H. D. Letter No. 2035, dated the 15th October, 1898.*—In several recent cases of Government servants dismissed for misconduct, it has been noticed that the charges laid against them have been investigated in a very unsatisfactory manner. The attention of local Governments and Administrations is therefore drawn to the instructions contained in the Resolution of the Government of India, H. R. and A. Department, No. 1389-1404, dated the 26th July, 1879. It is there laid down that in all cases of dismissal of public servants, except in cases of dismissal in consequence of facts or inferences elicited at a judicial trial, or when persons have absconded with an accusation over their heads, the charges must be reduced to writing, the defence must either be taken in or reduced to writing and the decision on the defence must also be in writing. I am to observe that the strict observance of these instructions may again be impressed upon all officers concerned.

6. **Fining of Government Clerks.**—*C.P. B.C. No. 32, dated the 16th August, 1900.* (based on the orders of the Government of India). The question of the imposition of fines on clerks in Government service has recently been under consideration, and it has been decided that this form of punishment, besides being capable of abuse is imperfect and incorrect. It is held that discipline can be properly maintained among clerical establishments without the imposition of fines, which from henceforth are forbidden. Cases

which call for punishment must in the future be dealt with in one or more of the following ways:—

Official reprimand, addition to work, postponement of increment of pay, stoppage of promotion, reduction of existing pay, entry of misdemeanours in the service-books, suspension, and, in the last resort, dismissal from the service of Government.

Some of these forms of punishment involve a pecuniary penalty, and constitute, therefore, an indirect fine; but these are not direct fines in the common use of the term. In the cases of the **menial establishments**, for whom there is no other means of punishment for petty carelessness, lateness, and idleness, and whose position is very similar to that of domestic servants, the imposition of fines is unobjectionable. It is requested that these orders may be strictly enforced in all officers.

7. *H. D. letter No. 1513, dated the 24th June, 1907.*—At the time of **inflicting any punishment**, a formal order should be recorded setting out clearly the fact on which the punishment is inflicted.

8. **Government Servants convicted of criminal offence.** *H. D. No. 49, dated the 7th August 1868.*—Whenever a Government servant or pensioner is convicted by a Criminal Court of any offence, the presiding officer shall send a copy of the decision to the Head of the office or department in which the accused was employed, who will consider whether any departmental action is required.

9. **Prosecutions against Provincial Service Officers.** *B. and O. Cir. No. 1780-1804, A. R., dated the 31st July, 1920.*—The Lieutenant-Governor in Council has recently considered the question of the sanction which should be obtained before a prosecution is instituted against a member of the Provincial Civil Service (Executive Branch) or against a member of the Subordinate Civil Service, who is charged with the commission of an offence as a public servant.

(2) Under section 197 of the Code of Criminal Procedure, when a judge or a public servant, not removable from his office without the sanction of the Government of India or the local Government, is accused as such judge or public servant of any offence, no Court may take cognizance of the offence, without the previous sanction of the Government having power to order his removal, or of some officer empowered in this behalf by Government, or of some Court or other authority to which the Judge or public servant is subordinate and whose power to give sanction has not been limited by Government. In Bihar and Orissa, no officer has been specially empowered to give sanction in the case of Deputy or Sub-Deputy Collectors, while on the other hand no order has been issued limiting the powers of any authority. The result is that sanction may be given by any authority to which a Deputy or Sub-Deputy Collector is subordinate.

(3) The Lieutenant-Governor in Council does not consider that this state of affairs is satisfactory. If there appears to be a *prima facie* case

against a Deputy or Sub-Deputy Collector of having committed an offence as a public servant, an immediate report to Government is clearly necessary ; and since conviction after trial must almost inevitably entail dismissal, it is expedient that the sanction of Government should be obtained before the prosecution begins. For this reason the Lieutenant-Governor in Council has been pleased, acting under section 197 of the Criminal Procedure Code, to withdraw from all authorities subordinate to the local Government the power to accord the sanction required by that section before a Court can take cognizance of an offence committed by a Deputy or a Sub-Deputy Collector as a public servant.

(4) I am also to draw your attention and the attention of your District Officers to section 16 of the General Clauses Act, X of 1897, under which the power to suspend or dismiss any officer rests with the authority which has by law the power to appoint him. Since the power to appoint Deputy Collectors is reserved by law to the local Government, neither a Commissioner nor a District Officer is empowered to suspend an officer of that rank. If, therefore, a District Officer considers it necessary that a Deputy Collector should be suspended, he should submit an immediate report to Government through the Commissioner, but pending the orders of Government it is open to him to relieve the officer concerned of the charge of the departments which had been placed under his control. The appointment of Sub-Deputy Collectors is not regulated by statute, but as they are in fact appointed by Government, the same principles are applicable and the same procedure should be observed.

CHAPTER IV.

1. Home Department Notification No. F. 6/7/33-II, dated the 19th June, 1933.—The following instructions for the **submission of petitions to the Governor-General in Council** are published for general information in supersession of the instructions published with the Home Department Notification No. F. 472-II-2/23-Public, dated the 21st June, 1924:—

*** PART—I.—PRELIMINARY.**

1. Definitions—In these instructions:—

- (1) "civil employment" means employment by Government or by a local authority;
- (2) "local Government" includes the authorities mentioned in the Schedule; and
- (3) "petition" includes memorials, letters and applications of the nature of petitions.

2. Scope of Instructions—(1) Save as hereinafter provided, these instructions shall apply, so far as may be, to all petitions addressed to the Governor-General in Council

(2) They shall apply only in so far as they are not inconsistent with the conditions of Army, Royal Air Force, or Royal Indian Marine service to petitions of the nature referred to in sub-instruction (1) from persons who are or have been in such service in respect of matters arising therefrom.

(3) They shall not apply to—

(a) petitions relating to matters arising in a State in India, such petitions are governed by separate instructions* issued by the Foreign and Political Department,

(b) petitions relating to bills pending before the Indian Legislature; such petitions are governed by the Standing Orders of the Council of State and the Legislative Assembly

(c) petitions submitted by, or on behalf of, convicts under sentence of death.

(4) They shall not affect any rules or orders made by the Governor-General in Council in respect of representations submitted by recognised associations of government servants.

PART II.—FORM AND MANNER OF SUBMISSION OF PETITIONS.

3. Form of petition.—(1) A petition may be either in manuscript or in print.

(2) Every petition shall be authenticated by the signature of the petitioner, or, when the petitioners are numerous, by the signatures of one or more of them.

(3) Every petition, and the documents accompanying it, shall, if possible, be in English; if not, they shall be accompanied by an English translation authenticated in the manner provided in sub-instruction (2).

*Vide page 70.

4. *Contents of petition.*—Every petition shall—

(a) contain all material statements and arguments relied upon by the petitioner ;

(b) be complete in itself ;

(c) if any recorded order of a public authority is complained against, be accompanied by a copy of the order and by a copy of any order in the case passed by a subordinate authority ; and

(d) end with a specific prayer.

5. *Method of submission.*—(1) Every petition shall be submitted through—

(a) the local Government mentioned in the Schedule in respect of the petitioner ; or

(b) if no local Government is mentioned in the Schedule in respect of the petitioner, the local Government of the province in which the petitioner is or has last been residing or employed,

and shall be accompanied by a letter requesting the local Government to transmit the petition to the Governor-General in Council.

(2) If there is no local Government such as is referred to in sub-instruction (1), the petition shall be submitted to the Governor-General in Council direct.

6. *Submission of petitions by persons in civil employment* —(1) Every person in civil employment, and every person who has been in civil employment, shall, if he desires to petition the Governor-General in Council in respect of such employment, or in respect of the termination of such employment, submit a separate petition on his own behalf.

(2) Every such petition shall be submitted through the authority provided in instruction 5 through the head of the office or department to which the petitioner belongs or belonged.

(3) The head of an office or department, on receipt of any petition submitted through him in accordance with sub-instruction (2), shall forward the petition, by means of the usual official channel, to the authority provided in instruction 5.

PART III.—WITHHOLDING OF PETITIONS BY THE LOCAL GOVERNMENT.

7. *Circumstances in which petitions may be withheld.*—The local Government may, at discretion, withhold a petition when—

(1) the petitioner has not complied in full with the provisions of Part II of these instructions ;

(2) the petition is illegible or unintelligible, or contains language which is, in the opinion of the Local Government, disloyal, disrespectful or improper ;

(3) a previous petition from the petitioner on the same subject has been disposed of by the Secretary of State for India in Council or the Governor-General in Council, and the petition, in the opinion of the local Government, discloses no new facts or circumstances which afford grounds for a reconsideration of the subject ;

(4) the petition is a representation against a decision which is declared to be final by any law or statutory rule ;

(5) the law provides a different or specific remedy in respect of the subject-matter of the petition, whether or not any period of limitation prescribed for the prosecution of such remedy has expired ;

(6) the petition is an appeal from a judicial decision :

Provided that, if the petition—

(a) is an appeal from a judicial decision in a case in which Government has reserved any discretion of interference ;

(b) is an appeal from a judicial decision in a suit to which Government was a party ; or

(c) is a prayer for the suspension or remission of a sentence under Chapter XXIX of the Code of Criminal Procedure, 1898 (V of 1898), the petition shall not be withheld unless it falls under clause (12).

(7) the petition is a mere application for relief, pecuniary or other, which is—

(a) presented by a person manifestly possessing no claim or advancing a claim of an obviously unsubstantial character ; or

(b) so belated that its consideration is clearly impossible ;

(8) the petition is—

(a) an application for employment in Government service not made in pursuance of any rule or announcement regarding applications for such employment ; or

(b) a request for exemption from the provisions of any law or rule prescribing the qualifications to be possessed by persons in the service of Government or by persons engaging in any profession or employment ;

(9) the petition makes a proposal regarding legislation which the local Government is not prepared to support ;

(10) the petition is a representation against the action of a private individual or of a body of private individuals regarding the private relations of the petitioner and such individual or body ;

(11) the petition, not being a petition such as is referred to in the proviso to clause (6), relates to matters in which the petitioner has no direct personal interest ;

(12) the petition relates to a subject on which the local Government is competent to pass orders, and no application for redress has been made by the petitioner to the local Government ;

(13) the petition is a representation against an order communicated to the petitioner more than six months before the submission of the petition, and no satisfactory explanation of the delay is given ;

(14) the petition is a representation against a failure to exercise a discretion vested in the local Government :

Provided that no petition submitted by—

(a) a member of an All-India Service ;

(b) an officer holding the King's Commission on the active list of the Regular Army, the Royal Air Force or the Royal Indian Marine ; or

(c) a person appointed by the Secretary of State for India in Council, on the ground that he has not been selected for a selection post, shall be withheld ;

(15) the petition is a representation against the discharge of a person—
 (a) appointed on probation, during such probation ;
 (b) appointed, otherwise than under contract, to hold a temporary appointment, on the expiration of the period of such appointment : or
 (c) engaged under contract, in accordance with the terms of such contract ;

(16) the petition is a representation by a Government servant against an order—

(a) from which he has exercised, or possesses, a right of appeal under—
 (i) rules or orders regulating his conditions of service ; or
 (ii) the terms of his contract of service ;
 (b) passed by any authority in the exercise of appellate or revisional powers conferred by any rule, order or contract such as is referred to in sub-clause (a) ; or

(c) from which, not being an order of punishment passed by the Governor-General in Council on an officer appointed by the Governor-General in Council, an appeal is expressly barred by any rule, order or contract such as is referred to in sub-clause (a) ;

(17) the petition is a representation relating to—

(a) the application of—
 (i) rules made by the Secretary of State for India in Council under sub-section (2) of section 96-B of the Government of India Act ,
 (ii) orders made by the Secretary of State for India in Council ; or
 (iii) the terms of the contract of service of the petitioner , or
 (b) an order of the local Government refusing to grant or to recommend—
 (i) a special pension ,
 (ii) a compassionate pension , or
 (iii) any pecuniary or other concession to which the petitioner is not entitled under any law or statutory rule :

Provided that, subject to the provisions of clause (4), no petition against the interpretation by any authority, other than the Secretary of State for India in Council, of any rule, order or contract—

(A) such as is referred to in sub-clause (a) ; or

(B) approved by the Secretary of State for India in Council shall be withheld ,

(18) the petition is submitted, otherwise than in accordance with any rule, order or contract such as is referred to in sub-clause (a) of clause (16), by a person in Government service with regard to his prospective claim to pension ; or

(19) the petition is a representation with regard to any matter connected with the official prospects or position of a person in Government service, and is not submitted by such person.

8. *Petitioner to be informed when petition is withheld.*—The local Government shall, when a petition is withheld under instruction 7, inform the petitioner of the withholding and the reason therefor.

9. *List of petitions withheld.*—The local Government shall send a quarterly return to the Governor-General in Council specifying all petitions

withheld under instruction 7 by the local Government, and the reasons for withholding them.

PART IV.—TRANSMISSION OF PETITIONS BY THE LOCAL GOVERNMENT.

10. *Procedure for transmission.*—(1) The local Government shall transmit to the Governor-General in Council all petitions not withheld under instruction 7; together with a concise statement of facts material thereto and, unless there are special reasons to the contrary, an expression of the opinion of the local Government thereon.

(2) Where the petition or any document accompanying it is not in English—

(a) if it is accompanied by an English translation, the local Government shall examine the translation and, when transmitting the petition, notify the Governor-General in Council of any defects found in the translation; and

(b) if it is not accompanied by an English translation, the local Government shall prepare such a translation and transmit it together with the petition.

**SCHEDULE.—LIST OF AUTHORITIES INCLUDED IN THE WORDS
“LOCAL GOVERNMENT.”**

[See Instruction 1 (2).]

1. Chief Commissioners.
2. The Commander-in-Chief in India and Army, District and Independent Brigade Commanders.

NOTE.—In the case of petitioners who are ex-soldiers and have served under more than one Army, District or Independent Brigade Commander, the local Government for the purposes of these instructions shall be the Army, District or Independent Brigade Commander who from his knowledge of the petitioner or of the subject-matter of the petition is best able to make recommendations on the petition.

3. The Air Officer Commanding, Royal Air Force in India.
4. The Flag Officer Commanding and Director, Royal Indian Marine.
5. Heads of Departments who are directly under the Government of India.

6. In respect of persons serving under the Railway Board:—

(a) as regards non-pensionable subordinate staff:—

- (i) Agents.
- (ii) Chief Engineers.
- (iii) Chief Operating and Transportation Superintendents.
- (iv) Chief Traffic and Commercial Managers.
- (v) Locomotive and Carriage and Wagon Superintendents.
- (vi) Chief Mechanical Engineers.
- (vii) Superintendents of Mechanical Workshops.
- (viii) Chief Accounts Officers.
- (ix) Divisional Superintendents.
- (x) Controller of Railway Accounts.

of the
N. W.,
E. B.,
E. I.,
G. I. P.
and
Burma
Railways.

(b) as regards other staff:—

The Railway Board.

2. **Home Department Notification No. F. 6/7/33-I, dated the 19th June, 1933.**—The following instructions for the **submission, receipt and transmission of memorials to His Majesty the King-Emperor of India, or to the Secretary of State for India** are published for general information in supersession of the instructions published with the Home Department Notification No. F.-472-II-1/23-Public, dated the 21st June, 1924:—

PART I.—PRELIMINARY.

1. *Definitions.*—In these instructions:—

(1) "civil employment" means employment by Government or by a local authority;

(2) "local Government" includes the authorities mentioned in the Schedule; and

(3) "memorial" includes petitions, letters and applications of the nature of memorials.

2. *Scope of Instructions.*—(1) Save as hereinafter provided, these instructions shall apply, so far as may be, to all memorials addressed to His Majesty the King Emperor of India,* or the Secretary of State for India in Council.

(2) They shall apply only in so far as they are not inconsistent with the conditions of Army, Royal Air Force, or Royal Indian Marine service to memorials of the nature referred to in sub-instruction (1) from persons who are or have been in such service in respect of matters arising therefrom.

(3) They shall not apply to memorials relating to matters arising in a State in India; such memorials are governed by separate instructions* issued by the Foreign and Political Department.

(4) They shall not apply to memorials submitted by, or on behalf of, convicts under sentence of death.

(5) They shall not affect any rules or orders made by competent authority in respect of representations submitted by recognised associations of government servants.

PART II.—FORM AND MANNER OF SUBMISSION OF MEMORIALS.

3. *Form of memorial.*—(1) A memorial may be either in manuscript or in print.

(2) Every memorial shall be authenticated by the signature of the memorialist, or, when the memorialists are numerous, by the signatures of one or more of them.

(3) Every memorial, and the documents accompanying it, shall, if possible, be in English; if not, they shall be accompanied by an English translation authenticated in the manner provided in sub-instruction (2).

4. *Contents of memorial.*—Every memorial shall—

(a) contain all material statements and arguments relied upon by the memorialist;

(b) be complete in itself;

(c) if any recorded order of a public authority is complained against, be accompanied by a copy of the order and by a copy of any order in the case passed by a subordinate authority; and

**Vide* page 70.

SUBMISSION OF MEMORIALS TO HIS MAJESTY OR THE SECY. OF STATE

(d) end with a specific prayer.

5. *Method of submission.*—Every memorial shall be submitted through—

(a) the local Government mentioned in the Schedule in respect of the memorialist ;

(b) if no local Government is mentioned in the Schedule in respect of the memorialist, the local Government of the province in which the memorialist is or has last been residing or employed ; or

(c) if there is no local Government such as is referred to in clause (a) or clause (b), the Governor-General in Council, and shall be accompanied by a letter requesting the local Government or the Governor-General in Council, as the case may be, to transmit the memorial to His Majesty or the Secretary of State for India in Council, as the case may be.

6. *Submission of memorials by persons in civil employment.*—

(1) Every person in civil employment, and every person who has been in civil employment, shall, if he desires to memorialise His Majesty or the Secretary of State for India in Council in respect of such employment, or in respect of the termination of such employment, submit a separate memorial on his own behalf

(2) Every such memorial shall be submitted through the authority provided in instruction 5 through the head of the office or department to which the memorialist belongs or belonged.

(3) The head of an office or department, on receipt of any memorial submitted through him in accordance with sub-instruction (2), shall forward the memorial, by means of the usual official channels, to the authority provided in instruction 5.

PART III.—WITHHOLDING OF MEMORIALS BY THE GOVERNOR-GENERAL IN COUNCIL OR LOCAL GOVERNMENTS.

7. *Circumstances in which memorials may be withheld*—Memorials received by—

(i) the Governor-General in Council—

(i) under clause (i) of instruction 5, or

(ii) under sub-instruction (1) of instruction 10 from an authority such as is referred to in article 6 of the Schedule,

may at discretion, be withheld by the Governor-General in Council,

(b) a local Government may, at discretion, be withheld by the local Government, when—

(1) the memorialist has not complied in full with the provisions of Part II of these instructions ;

(2) the memorial is illegible or unintelligible, or contains language which is, in the opinion of the Governor-General in Council or the local Government, disloyal, disrespectful or improper ;

(3) a previous memorial from the memorialist on the same subject has been disposed of by His Majesty or the Secretary of State for India in Council, and the memorial, in the opinion of the Governor-General in Council or the local Government, discloses no new facts or circumstances which afford grounds for a reconsideration of the subject ;

(4) the memorial is a representation against a decision which is declared to be final by any law or statutory rule ;

(5) the law provides a different or specific remedy in respect of the subject-matter of the memorial whether or not any period of limitation prescribed for the prosecution of such remedy has expired ;

(6) the memorial is an appeal from a judicial decision :

Provided that, if the memorial—

(a) is an appeal from a judicial decision in a case in which Government has reserved any discretion of interference ;

(b) is an appeal from a judicial decision in a suit to which Government was a party ; or

(c) is a prayer for the exercise of a royal prerogative, such as that of pardon,

the memorial shall not be withheld unless—

(i) not being a prayer for the exercise of a royal prerogative, it falls under clause (12) ; or

(ii) being a prayer for the exercise of a royal prerogative it has been granted by His Excellency the Viceroy in virtue of his authority to exercise the royal prerogative in question, in which case it may be withheld by the Governor-General in Council ;

(7) the memorial is a mere application for relief, pecuniary or other, which is—

(a) presented by a person manifestly possessing no claim or advancing a claim of an obviously unsubstantial character ; or

(b) so belated that its consideration is clearly impossible ;

(8) the memorial is—

(a) an application for employment in Government service not made in pursuance of any rule or announcement regarding applications for such employment ; or

(b) a request for exemption from the provisions of any law or rule prescribing the qualifications to be possessed by persons in the service of Government or by persons engaging in any profession or employment ;

(9) the memorial makes a proposal regarding legislation which the Governor-General in Council or the local Government is not prepared to support ;

(10) the memorial is a representation against the action of a private individual or of a body of private individuals regarding the private relations of the memorialist and such individual or body ;

(11) the memorial, not being a memorial such as is referred to in the proviso to clause (6), relates to matters in which the memorialist has no direct personal interest ;

(12) the memorial relates to a subject on which the Governor-General in Council or the local Government is competent to pass orders, and no application for redress has been made by the memorialist to the Governor-General in Council or the local Government, as the case may be ;

(13) the memorial is a representation against an order communicated to the memorialist more than six months before the submission of the memorial, and no satisfactory explanation of the delay is given ;

(14) the memorial is a representation against a failure to exercise a discretion vested in the Governor-General in Council or the local Government ;

Provided that no memorial submitted by—

- (a) a member of an 'All-India Service ;
- (b) an officer holding the King's Commission on the active list of the Regular Army, the Royal Air Force or the Royal Indian Marine ; or
- (c) a person appointed by the Secretary of State for India in Council, on the ground that he has not been selected for a selection post, shall be withheld ;

(15) the memorial is a representation against the discharge of a person—

- (a) appointed on probation, during such probation ;
- (b) appointed, otherwise than under contract, to hold a temporary appointment, on the expiration of the period of such appointment ; or
- (c) engaged under contract, in accordance with the terms of such contract ;

(16) the memorial is a representation by a Government servant against an order—

- (a) from which he has exercised, or possesses, a right of appeal under—
 - (i) rules or orders regulating his conditions of service ; or
 - (ii) the terms of his contract of service ;
- (b) passed by any authority in the exercise of appellate or revisional powers conferred by any rule, order or contract such as is referred to in sub-clause (a) ;
- (c) from which an appeal is expressly barred by any rule, order or contract such as is referred to in sub-clause (a) ; or

(d) passed by the Governor General in Council on a petition against an order of punishment passed by the Governor General in Council on an officer appointed by the Governor-General in Council ;

(17) the memorial is a representation relating to—

- (a) the application of—
 - (i) rules made by the Secretary of State for India in Council under sub-section (2) of section 96-B of the Government of India Act ;
 - (ii) orders made by the Secretary of State for India in Council ; or
 - (iii) the terms of the contract of service of the memorialist ; or
- (b) an order of the Governor-General in Council or the local Government refusing to grant or to recommend—
 - (i) a special pension ;
 - (ii) a compassionate pension ; or
 - (iii) any pecuniary or other concession to which the memorialist is not entitled under any law or statutory rule ;

Provided that, subject to the provisions of clause (4), no memorial against the interpretation by any authority, other than the Secretary of State for India in Council, of any rule, order or contract—

(A) such as is referred to in sub-clause (a) ; or

(B) approved by the Secretary of State for India in Council, shall be withheld, unless the Governor-General in Council is satisfied that there is no reasonable doubt of the correctness of such interpretation ;

(18) the memorial is submitted, otherwise than in accordance with any rule, order or contract such as is referred to in sub-clause (a) of clause (16), by a person in government service with regard to his prospective claim to pension , or

(19) the memorial is a representation with regard to any matter connected with the official prospects or position of a person in Government service, and is not submitted by such person

8. *Memorialist to be informed when memorial is withheld*—The Governor-General in Council or the local Government shall, when a memorial is withheld under instruction 7, inform the memorialist of the withholding and the reason therefor

9. *List of memorials withheld*—(1) The local Government shall send a quarterly return to the Governor-General in Council specifying all memorials withheld under instruction 7 by the local Government and the reasons for withholding them

(2) The Governor-General in Council shall send a quarterly return to the Secretary of State for India in Council specifying all memorials withheld under instruction 7 by the Governor General in Council or by a local Government, and the reasons for withholding them.

PART IV.—TRANSMISSION OF MEMORIALS BY THE GOVERNOR-GENERAL IN COUNCIL OR LOCAL GOVERNMENTS.

10. *Procedure for transmission*—(1) The local Government shall transmit to the Governor-General in Council all memorials not withheld under clause (b) of instruction 7, together with a duplicate copy thereof

(2) The Governor-General in Council shall, ordinarily within one month after receipt, transmit, in original, to His Majesty or the Secretary of State for India in Council, as the case may be, all memorials received by the Governor General in Council—

(a) under clause (c) of instruction 5, and not withheld under sub-clause (i) of clause (a) of instruction 7 ; and

(b) under sub-instruction (1) of this instruction, and not withheld under sub-clause (ii) of clause (a) of instruction 7

(3) Memorials transmitted under this instruction shall be accompanied by a concise statement of facts material thereto, and, unless there are special reasons to the contrary, an expression of the opinion of the Governor-General in Council or the local Government, as the case may be, thereon, or, in the case of a memorial received by the Governor-General in Council under sub-

instruction (1), of the opinions of both the Governor-General in Council and the local Government thereon.

(4) Where the memorial or any document accompanying it is not in English, the Governor-General in Council or the local Government, as the case may be, shall, when transmitting it under this instruction,—

(a) if it is accompanied by an English translation, examine the translation and notify the authority to which it is transmitted of any defects found in the translation; or

(b) if it is not accompanied by an English translation, prepare such a translation and transmit it together with the memorial.

SCHEDULE. LIST OF AUTHORITIES INCLUDED IN THE WORDS
“LOCAL GOVERNMENT.” [See Instruction 1 (2).]

1. Chief Commissioners.
2. The Commander-in-Chief in India and Army, District and Independent Brigade Commanders.

NOTE.—In the case of memorialists, who are ex-soldiers and have served under more than one Army, District or Independent Brigade Commander, the local Government for the purposes of these instructions shall be the Army, District or Independent Brigade Commander who from his knowledge of the memorialist or of the subject-matter of the memorial is best able to make recommendations on the memorial.

3. The Air Officer Commanding, Royal Air Force in India.
4. The Flag Officer Commanding and Director, Royal Indian Marine.
5. The Railway Board.
6. Save for the purposes of Part III of the Instructions, heads of Departments who are directly under the Government of India.

Home Department Notification No. F. 6/7/33, dated the 19th June, 1933.—The following resolution passed by the Secretary of State for India in Council is published for general information:—

In exercise of the powers conferred by sub-section (2) of section 96-B of the Government of India Act, the Secretary of State in Council, with the concurrence of a majority of votes at a meeting of the Council of India held this 12th day of July, 1932, hereby makes the following rule:—

The rules regarding the submission of petitions to the Government of India and the rules regarding the submission of memorials and other papers of the same class to His Majesty the King-Emperor of India, or to the Secretary of State for India, which were published with the Government of India, Home Department Notifications Nos. 534 and 536-Public, dated the 30th June, 1916, are, in so far as they relate to persons in the civil service of the Crown in India, hereby cancelled.
