

Section
of
Act.

Amendment.

Act of the Governor-General in Legislative Council has not validity."

"in Council" shall be inserted after "His majesty" and "to the Governor-General through the Secretary of State in Council" shall be omitted.

69 "Indian Legislature" shall be substituted for "Governor-in Legislative Council;" "in Council;" shall be inserted after "His Majesty" and "through the Secretary of State in Council" shall be omitted.

70 This section shall be omitted.

71(2) "Indian Legislature" shall be substituted for Governor-General in Legislative Council."

72 "Indian Legislature" shall be substituted for "Governor-General in Legislative Council."

73 In sub-section (1) "a Governor or of" shall be omitted and "and of members nominated or elected as hereinafter provided" shall be substituted for "with the addition of of members nominated or elected in accordance with rules made under this Act."

In sub-section (3) "as hereinafter provided" shall be substituted for "in accordance with rules made under this Act.")

74 This section shall be omitted.

75 This section shall be omitted.

76 In sub-section (1) "section" shall be substituted for "Act" and the following proviso shall be substituted for the existing proviso:—

"Provided that the number of members so nominated or elected shall not, in the case of the Legislative Council of a Lieutenant-Governor, exceed one hundred."

In sub-section (2) "non-officials" shall be substituted for "persons not in the civil or military service of the Crown in India."

In sub-section (4) "Indian Legislature or the local legislature" shall be substituted for "Governor-General in Legislative Council."

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Amendment

- 78 The following provision shall be inserted at the beginning of sub-section (1):—

"A Lieutenant-Governor or a Chief Commissioner who has a Legislative Council may appoint such times and places for holding the sessions of his legislative council as he thinks fit, and may also, by notification or otherwise, prorogue the Council, and any meeting of the Legislative Council of a Lieutenant-Governor or a Chief-Commissioner may be adjourned by the person presiding."

In sub-section (2) "in accordance with rules made under this Act" shall be omitted.

For sub-section (3) the following sub-section shall be substituted:—

"(3) All question at a meeting of the Legislative Council of a Lieutenant-Governor or Chief Commissioner shall be determined by a majority of votes of the members present other than the Lieutenant-Governor, Chief Commissioner, or presiding member, who shall, however, have and exercise a casting vote in case of inequality of votes.

(4) Subject to rules affecting the Council, there shall be freedom of speech in the Legislative Councils of Lieutenant-Governors and Chief Commissioners. No person shall be liable to any proceedings in any court by reason of his speech or vote in those Councils or by reason of anything contained in any official report of the proceedings of those Councils."

- 79 This section shall be omitted.

- 80 In sub-section (1) after "local Legislative Council," there shall be inserted "(other than a Governor's Legislative Council)."

Sub-section (2) shall be omitted.

In sub section (3) after "local Government" there shall be inserted "of a province other than a Governor's province," the word "Governor," where it occurs immediately before the word "Lieutenant-Governor," shall be omitted, and "Indian Legislature" shall be substituted for "Governor-General in Legislative Council."

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At the end of the section the following new sub-section shall be inserted:—

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

(5) The local Legislature of any such province may, subject to the assent of the Lieutenant-Governor or Chief-Commissioner, alter the rules for the conduct of Legislative business in the local Council (including rules prescribing the mode of promulgation and authentication of laws passed by the Council) but any alteration so made may be disallowed by the Governor in Council, and if so disallowed shall have no effect.”

81 Throughout sub-sections(1) and (2) and in sub-section (3) where it first occurs, for “Act,” there shall be substituted “Bill” and in sub-section (1) “by” shall be substituted for “at a meeting of.”

For “an Act” there shall be substituted “a Bill” and for “has no effect” there shall be substituted “shall not become an Act.”

82 For “any such Act” where those words occur for the first and third times, there shall be substituted “an Act” and for those words where they occur for the second time there shall be substituted “the Act.”

In sub-section (1) after “His Majesty” there shall be in “Council” and the words through the Secretary of State in Council shall be omitted.

83 This section shall be omitted.

84 “an Act of the Indian legislature” shall be substituted for “a law made by the Governor-General in Legislative

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Council" and "non-official members" shall be substituted for "members not holding office under the Crown in India."

In paragraph (c) "an Act of" shall be substituted for "a law made by."

86 In sub-section (1) "ordinary" shall be omitted, and after the words "Executive Council" where they first occur there shall be inserted the words "(other than the Commander-in-Chief)."

87 "ordinary" shall be omitted and after "Governor-General," where it occurs for the second time, there shall be inserted "other than the Commander-in-chief)."

89 In sub-section (4) for "ordinary member of the Council" where it occurs for the second time, there shall be substituted "member of the council (other than the Commander-in-Chief)."

90 In sub-section (1) after "Governor" there shall be inserted "of a presidency."

In sub-section (4) "ordinary" shall be omitted, and after, "executive council" there shall be inserted "(other than the Commander-in-Chief)."

92 "a member," shall be substituted for "an ordinary member" and for "any ordinary member," and after "executive council of the Governor-General" there shall be inserted "(other than the Commander-in-chief)"

In sub-section (5)(a) "under this Act" shall be omitted.

93 (1) "either chamber of the Indian legislature" shall be substituted for "the Indian Legislative Council."

95 Before "offices" wherever that word occurs before "Officers" and before "promotions" where it occurs for the second time, there shall be inserted "military."

97 "Section 96 A of this Act" shall be substituted for "the foregoing section."

110 In sub-section (1) after "Governor or Lieutenant-Governor" there shall be inserted "and minister appointed under this Act."

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- 124 In sub-section (4) after "Lieutenant-Governor" where it secondly occurs, there shall be inserted "or being a minister appointed under this Act."
- 131 "Indian legislature" shall be substituted for "Governor-General in Legislative Council."
- 134(4) The following paragraph shall be substituted for paragraph (4):—
 "(4) "Local Government" means, in the case of a Governor's province, Governor in Council or the Governor acting with ministers (as the case may require), and, in the case of a province other than a Governor's province, a Lieutenant-Governor in Council, Lieutenant-Governor or Chief Commissioner.
 "Local Legislative Council" includes the Legislative Council in any Governor's province, and any other Legislative Council constituted in accordance with this Act.
 "Local Legislature" means, in the case of a Governor's province, the Governor and the Legislative council of the province, and, in the case of any other province, the Lieutenant-Governor or Chief Commissioner in Legislative council."

- 135 The following section shall be substituted for section 135:—
 "135. This Act may be cited as the Government of India Act."

Second Schedule The following Schedule shall be substituted for the Second Schedule Schedule:—

SECOND SCHEDULE.

OFFICIAL SALARIES, ETC.

Officer.	Maximum Annual Salary.
Governor-General of India	Two hundred and fifty-six thousand rupees.
Governor of Bengal, Madras, Bombay and the United-Provinces.	One hundred and twenty-eight thousand rupees.

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

Third Schedule The following Schedule shall be substituted for the third Schedule*—

THIRD SCHEDULE.

OFFICES RESERVED TO THE INDIAN CIVIL SERVICE.

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

1. The offices of secretary, joint Secretary, and deputy secretary in every department except the Army, Marine, Education, Foreign, Political, and Public Works Departments: Provided that if the office of secretary or deputy secretary in the Legislative Department is filled from

* Section 98.

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among the members of the Indian Civil Service, then the office of deputy secretary or secretary in that department, as the case may be, need not be so filled.

2. Three offices of Accountants General.

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

The following offices, namely :—

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

Fifth
Schedule

"Indian legislature" shall be substituted in the heading for "Governor-General in Legislative Council."

PART III.

Section
of
Act.

How dealt with.

16 To be omitted.

42 "and signifies his intended absence to the Council" shall be omitted.

45 (2) To be omitted.

51 "and signifies his intended absence to the Council" and "civil" shall be omitted.

NOTE.—In parts I and II of the Second Schedule to this Act references to any word or expression in any provision of the principal Act or this Act apply, unless the contrary is stated to that word or expression wherever the word or expression occurs in that provision.

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of
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How dealt with.

54 (2) To be omitted.

55 (1) In paragraph (b) after "illness or otherwise" there shall be inserted "and for supplying a vacancy until it is permanently filled."

65 In sub-section (1) (d) "airmen" shall be inserted after "soldiers" and "or the Air Force Act" shall be inserted after "the Army Act."

In sub-section (2) (i) "the Air Force Act" shall be inserted after "the Army Act."

67 "naval, or air" shall be substituted for "or naval."

73 (2) To be omitted.

81 In sub-section (1) "whether he was or was not present in Council at the passing of the Act" shall be omitted.

85 The following proviso shall be inserted at the end of sub-section (3):—

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

87 For "subject to the foregoing provisions of this Act as to leave of absence" there shall be substituted "save in the case of absence on special duty or on leave under a medical certificate."

After "council of a governor" there shall be inserted "or of a lieutenant-governor."

88 To be omitted.

89 "entitled under a conditional appointment to succeed to the office of Governor-General, or" and "absolutely" shall be omitted, and for "that office" there shall be substituted "the office of Governor-General."

90 In sub-section (1) "conditional or other" shall be omitted. In sub-section (3) for "this Act" there shall be substituted "section eightynine of this Act," and "respecting the assumption of the office by a person conditionally appointed to succeed thereto" shall be omitted.

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of
Act.

How dealt with

In sub-section (4) conditional or other" shall be omitted.

91 In sub-section (1) "conditional or other" shall be omitted.

92 In sub-section (1) "conditional or other" shall be omitted.

In sub-section (3) "then, if any person has been conditionally appointed to succeed to his office and is on the spot, the place of that member shall be supplied by that person, and if no person conditionally appointed to succeed to the office is on the spot" shall be omitted.

In sub-section (4) "conditionally or" shall be omitted.

115 At the end of sub-section (1) the following shall be inserted:—

"His Majesty may also by letters patent make such provision as may be deemed expedient for the exercise of the episcopal functions and ecclesiastical jurisdiction of the bishop during a vacancy of any of the said sees or the absence of the bishop thereof"

At the end of sub-section (2) the following shall be inserted:—

"and as metropolitan shall have, enjoy, and exercise such ecclesiastical jurisdiction and functions as His Majesty may by letters patent direct. His Majesty may also by letters patent make such provision as may be deemed expedient for the exercise of such jurisdiction and functions during a vacancy of the See of Calcutta or the absence of the bishop."

118 In sub-section (1) "and archdeacons" shall be omitted, and after "letters patent" there shall be inserted "and the archdeacons of those dioceses by their respective diocesan bishops."

Financial Relations Committee

The following is the full text of the report :—

Chapter I.—Preliminary.

As a preliminary to constitutional reforms, the authors of the Montagu-Chelmsford Report urged the importance of a complete separation between the finances of the Central Government in India and those of the various Provincial governments. To this end they outlined the scheme described in Chapter VIII of their report. It abrogates the present system by which certain of the main heads of revenue and expenditure are divided between the central and the provincial exchequers ; some of these it hands over wholly to the Central Government, others wholly to the provinces. Inasmuch, however, as by this rearrangement the Government of India will lose heavily the scheme proposes to compensate them, to such extent as may be necessary, to prevent a deficit in their own budget, by contributions from the provinces ; and the power to levy such contributions is taken in section 1 (2) of the Government of India Act, 1919.

2. In assessing this levy the authors of the report met with a serious obstacle in the disparity which already exists between local Governments in the pitch of their revenues and the scale of their expenditure, a disparity deep rooted in the economic position of the different provinces, their revenue history and the tale of their oft-revised financial arrangements with the Central Government. For this inequality of burdens the authors of the report found no remedy in the several alternative methods of fixing the provincial contributions which they examined. Their ultimate choice fell upon an assessment in the ratio of the gross surplus which they estimated that each province would enjoy under the new allocation of resources. In recognition of the admitted fact that this method would largely affirm existing inequalities, they advised that the whole question should be re-investigated by the statutory commission after ten years' working.

3. The Government of India, in expressing their views on the scheme, pressed for an earlier treatment of the matter—vide paragraph 61 of their despatch of the 5th March 1919. They described

the feeling which had been aroused against the *prima facie* injustice of the exemplar figures given in the report. They urged that any such settlement should be recognised as temporary and provisional, and that steps be taken as soon as possible to fix a standard and equitable scale of contributions.....towards which the provinces will be required to work by stages, as a condition of the new arrangements." They proposed the appointment of a Committee on Financial Relations to advise on the subject. This recommendation was accepted and endorsed by the Joint Select Committee of Parliament which sat on the Reform Bill. We were accordingly appointed by the Secretary of State, and given the following terms of reference :—

To advise on—

(a) the contributions to be paid by the various provinces to the Central Government for the financial year 1921-22 ;

(b) the modifications to be made in the provincial contribution thereafter with a view to their equitable distribution until there ceases to be an all India deficit ;

(c) the future financing of the provincial loan accounts and ;

(d) whether the Government of Bombay should retain any share of the revenue derived from income-tax.

Clause (d) of these instructions was a latter addition made at the instance of the Government of Bombay, and was not communicated to us until we had completed our consultations with several of the larger provinces.

4. We formally opened our inquiry at Delhi on the 5th February 1920. We then visited in turn Allahabad, Patna, Calcutta, Rangoon, Madras, Bombay and Lahore. Pressure of time compelled us to ask that the consideration of the cases of Assam and the Central Provinces should be undertaken at Calcutta and Bombay, respectively ; and we are indebted to the two Chief Commissioners for meeting us in this request at some inconvenience to themselves. Our procedure was to discuss the subjects of our inquiry in each province with the Member of the Executive Council who holds the financial portfolio, or, in provinces where there is no Council, with the Secretary in charge of the Financial Department, and with such other officials as those gentlemen introduced. Sir Nicholas Beatson-Bell, the Chief Commissioner of Assam, presented the case of his province in person. After taking the official evidence we met these members of the Finance Committee of the provincial legislature who were ready to favour us with their views. We finally received such members of the general public or representatives of public bodies as offered themselves for examination. In most cases we had informal consultations with the Head of the Province ; and the local Government of Bombay as a whole accorded us two interviews.

Chapter II—the Government of India's Deficit

5. In order to effect the desired separation of central from provincial finance, the Montagu-Chelmsford Report (paragraph 203) proposes that the central exchequer should receive the whole of the Income-tax and the revenue from General Stamps; and that the provinces should retain the entire receipts from Land Revenue, Irrigation, Excise and Judicial Stamps, while they should be wholly responsible for the corresponding charges and for all expenditure in connection with famine. We read the Joint Select Committee of Parliament as approving this redistribution, and we considered that it would be outside our duty to advise any alteration of the scheme in the respect unless we found the strongest reason for a change. The argument addressed to us on this branch of the subject have related mainly to Income-tax and General Stamps. Certain local Governments have remonstrated against losing a share in those two heads, and the plea for making the whole or at least one half, of the income tax receipts a provincial asset was pressed with special earnestness in Bombay. Under our instructions we have to report on the point for that presidency, but we have found it difficult to treat the issue as applicable to one province only. The grounds of the Bombay claim are common to all provinces, and more especially to those in which large commercial and Industrial activities are centred.

6. The basic objection to the transfer of Income tax is that the provinces will thus be deprived of any share in a head of revenue which has recently shown a remarkable capacity for expansion, while they are left to finance their rapidly growing administrative needs with heads of revenue in which the increase is slow or problematical. How far the remarkable growth of the income-tax receipts in late years has been stimulated by war conditions, we have not attempted to estimate; but we are assured that large improvements are being made in the assessment staff and in their methods, and that a rapid and continuous growth in the return may be counted upon. Several Local Governments urge that the yield from income-tax is the only direct contribution to their public revenue which is made by the industrial wealth of their province, and Governments, which administer great mercantile and manufacturing centres like Calcutta and Bombay, claim special consideration for the heavy expenditure in which those centres involve them. To these arguments the Bombay Government added their apprehension that a time may come when a local Government may not be anxious to direct, or its officers zealous to enforce, the collection of a tax which bring no grist to the provincial mill. This

last contention was put forcibly ; but we presume that the Government of India will not be powerless to require the fulfilment by a provincial Government of its obligations under the new constitution, and that public service will not be revised in carrying out public duties with which they can be charged by law.

7. We doubt if it will be possible permanently to exclude Local Governments from some form of direct taxation upon the industrial and commercial earnings of their people ; and we recognise the natural anxiety of provinces to retain a share in a rapidly improving head of revenue. But, so far as the income-tax is concerned, we see no reasons to vary the scheme of the Report. We accept as valid the arguments given by its authors (paragraph 203) ; indeed, the second of these arguments seems to us capable of further extension in the case of public companies with share-holders scattered over India and elsewhere. We advise, therefore, that the whole of the income-tax proceeds be credited to the Central Government. Their needs in the near future are likely to be quite as great and to develop quite as rapidly, as those of the provinces ; while we do not apprehend that the richer provinces, such as Bombay, will be seriously handicapped in the administration of their own finances. We append, and shall allude to them hereafter, some figures which indicate that several of the provinces, and Bombay in particular, may look for reasonable elasticity in their revenues apart from the income-tax—an elasticity which will in most cases be encouraged by judicious capital outlay.

Percentage of growth in the Last Eight Years
(1912-13 to Budget 1920-21)

Under the Proposed Provincial Heads.

Provinces.	Excise.	General Stamps.	Land Revenue and other Provincial heads.	All Provincial heads.
Madras ...	70·24	63·22	11·66	29·06
Bombay ...	102·57	119·31	32·00	52·43
Bengal ...	35·91	69·49	13·52	22·30
United Provinces.	43·70	45·75	17·13	23·82
Panjab ...	106·78	73·73	26·86	34·88
Burma ...	36·15	26·62	33·52	33·65
Bihar and Orissa	24·20	55·29	4·53	11·20
Central Provinces	49·00	48·25	26·30	33·18
Assam ...	44·26	22·22	20·60	28·00
All the nine Provinces. ...	62·27	69·24	20·98	30·48

8. The case of General Stamps is somewhat different. We have approached it, in the first instance, from the point of view of the poorer Provinces. Some of these, it seems clear, would start with little or no surplus revenue under the allocation of resources proposed in the report; and this would be both a misfortune in itself and at variance with what we believe to be the intention, if not the implied promise, of the report. No remedy suggests itself except some extension of the schedule of provincial heads; doles and temporary assistance would be inconsistent with the whole policy. In this view, and also because it will greatly facilitate our initial distribution of the central deficit, we advise that General Stamps be made a provincial head throughout. The arguments in the report for crediting it to the Central Government have not the same force as in the case of income-tax. We are not disposed to see grave disadvantage in different rates of stamp duty in different provinces, at least on some of the transactions for which duty has to be paid; and any uniformity which may be decided to be essential can always be secured by central legislation. Moreover, in this part of the arrangements, there is still the taint of a divided head, for General and Judicial Stamps are controlled by the same agency, and there is a good deal of miscellaneous work and outlay common to both. To make the whole of the Stamp revenue provincial would secure a genuine and complete separation of resources; and we trust that the reasons for this course will outweigh the only consideration on the other side, to wit, the extent to which the deficit in the all India budget will thereby be increased.

9. That deficit we accept, subject to certain arithmetical adjustments described below, as amounting in the year 1921-22 to 10 crores, composed of the 6 crores previously estimated by the Government of India plus 4 crores for the loss of General Stamps which we propose. We have carefully examined the basis of this calculation. Clearly, we have no authority to criticise the military and financial policy on which it so largely rests; and we have restricted ourselves to a scrutiny of the budget arrangements of the Government of India, past and present, and of the normal growth of their revenue and expenditure. Factors of great uncertainty,—the needs of India's defence, her tariff policy and the future of exchange among others,—complicate the estimate, but we are satisfied that the Government of India have made reasonable allowance for those considerations in their forecast of the immediate financial future. On our tour in the provinces, it has been pressed upon us that the Government of India ought to meet their own deficit by special taxation, and a high protective tariff has

frequently been mentioned to us as an easy solution of the problem. On this latter question we naturally express no opinion : but we cannot see that the Government of India would have any justification in imposing special taxation to make good their initial shortage of revenue, at a time when the shortage in question will be more than counterbalanced by the additional resources enjoyed by local Government. As we have said, therefore, we accept the estimate of the normal deficit for the first year of the new constitution. We cannot conceal from ourselves the disadvantages in ordinary circumstances of a system of provincial contributions and we anticipate that the Government of India will direct its financial policy towards reducing those contributions with responsible rapidity, and their ultimate cessation. We recognise that it would be imprudent on the part of the Central Government to give any guarantee of the precise pace of reduction ; but we think that a formal enunciation of the general policy would go some way to allay apprehensions which have been expressed to us. Such a policy would clearly be subject to the important reservation mentioned in the report, by which the Central Government must remain empowered to levy special contributions, by way of temporary loan or otherwise, from the provinces in the event of any crisis of first importance.

10. In arriving at the figure which has actually to be distributed over the Provinces we have had to make certain adjustments. One of these is special and local, and we may dispose of it at once on the clear understanding that our treatment of the matter is entirely subject to the approval of the Government of India. It relates to the incidence of the cost of the military police force in Burma. The Government of the province, we understand, is discussing the point with the Government of India ; and their view, as expressed to us, is that 68 percent of the expenditure on the force is incurred for further defence and ought to be deficit to the central power. The figures originally before us had suggested a division of the cost of the force equally between the Government of India and Burma, but the Local Government now presses for more generous treatment and estimates that the share of the outlay on the military police which is equitably chargeable to the province is only 1742 lakhs against the 31.58 lakhs which had been taken in an earlier calculation. Subject to the assent of the Government of India, we have provisionally accepted this view ; and we are reducing the provincial expenditure accordingly, and making an equivalent addition to the charges, and thus to the deficit, of the Central Government. The main adjustments that have been suggested however, are concerned with the payment of pensions. At present the Central

Government is debited with all civil pensions drawn outside India whether the pensioner has served in a province or in an imperial department, and no debit is raised against the provinces concerned. On the other hand, pensioners whose service has been under the Central Government are paid by the province in which they reside, which received nothing in recoupment. It has been suggested that pensions paid outside India ought to be debited to the provinces when they are paid to provincial servants and simultaneously that the Government of India should relieve the provinces by paying their own pensioners. So far as the future is concerned, the propriety of this change is beyond question. Doubts, however, occurred to us regarding existing payments. Exchange complications and difficulties of exact allocation interfere with precision; while other and more general considerations point on the whole to the advisability of retaining on the books of the Central and Provincial Governments respectively the pensions for which they are at present responsible. We advise, therefore, that the readjustments of debits should take place only for pensions sanctioned on or after the 1st April 1921, and that pensions drawn before that date should be allowed to work themselves off on the present footing; this arrangement being definitely made a feature in the financial settlement. We may note incidentally with reference to a point raised by the Panjab, that provinces have no claim on any annuity fund in respect of those members of the Indian Civil Service from whose pay a 4 per cent deduction has until recently been made under the general rules in the Civil Service Regulations. There is in fact no annuity fund in such cases, and the deduction has simply lapsed to provincial revenues. The result of our recommendations in this matter is that it does not necessitate any immediate change in the all-India deficit; the net growth of their pension liabilities in future is a relatively small matter for which the provinces may be left to make provision without special assistance. The last adjustment to be made is on account of leave allowances drawn outside India. Those are paid at present in the same way as pensions drawn outside India, in future they ought certainly to be debited to the provinces concerned. The normal liability on this account can approximately be calculated and the Secretary of State has given us a figure of £311,000 for the nine provinces affected by our enquiry. We have converted this at two shillings to the rupee, distributed the liability among the provinces and subtracted 31·10 lakhs from the Imperial charges and deficit. The latter thus works out to 10 crores plus 14·16 lakhs for the Burma Military police minus 31·10 lakhs for leave allowances; 983·06 lakhs net.

Chapter III.—The Initial Contributions.

II. We can now proceed to fix the ratio in which each of the nine provinces should contribute to this figure of 983 lakhs in the year 1921-22. It will clear the ground to state at the outset a limiting consideration by which we have felt ourselves bound. This is an obligation to leave each province with a reasonable working surplus—a surplus which we should prefer to calculate so far as possible, with some relation to the general financial position of the province and the more imminent claims upon its resources. From the preliminary enquiry conducted at Simla in October last, it is apparent that in certain provinces no surplus at all and in others no adequate surplus, would have been possible without provincialisation of the revenue from General stamps and our task would thus in our judgement have been futile. Looked at somewhat differently, the limit we have imposed on ourselves is that in no case may a contribution be such as would force the province to embark on new taxation *ad hoc*, which to our minds would be an unthinkable sequel to a purely administrative rearrangement of abundant general resources. This limit, however, obvious as it is, makes it inevitable that the initial contributions should be in some measure arbitrary, dictated by the existing financial position of each province and not by any equitable standard such as its capacity to pay. Whatever standard ratio of contributions we might advise,—and a subsequent chapter will narrate our proposal in that direction,—it would have, were it to be applied immediately, the effect of starting some provinces on their new career with deficit, and we have thus to accept some measure of transition.

12. We have now to explain our reasons for suggesting a departure from the basis of initial contribution proposed in the Montague-Chelmsford report. We are aware that that basis was not lightly adopted, and only after consideration of various alternative basis,—population, provincial, revenue or expenditure, and the like—which for one reason or another were thought inapplicable to existing conditions. The basis of realised surplus was finally accepted partly because of the difficulty of finding a preferable alternative, partly because at all events it did not add to, though it continued, existing disparities of contribution. That it has been freely criticised in evidence before us as unequitable is certainly not fatal to it, for indeed every initial basis that can be suggested is open to some such criticism, but examination has revealed some objections to it which weigh with us.

13. Obviously if any inequalities of contribution exist, the basis chosen tends to stereotype them while by disclosing them it

renders them more difficult to justify ; for each province is now able to see more clearly than under the former system its relative contribution to the purse of the Government of India. While actual deficits appear, as has been said, in some provinces, others complain that their apparent surplus, if rightly understood, makes a real deficit. The prospect of arriving at any accepted figures as a basis appears remote. While the figures of the Simla Conference as to normal provincial revenue are accepted with minor modifications of detail, the estimates of normal expenditure in each province are strongly contested. How much of the expenditure held over during the war, are clearly imminent if not already sanctioned and ought to be included in the calculation of normal expenditure ? Where is the dividing line to be drawn between expenditure essential in the immediate future and expenditure foreseen as a future commitment ? Ought a province to be penalised by an increase of its contribution for strict adhesion to economy during the war while another province, which had increased its expenditure more freely is rewarded by a reduced contribution ? Is adequate allowance made for the special conditions of a largely undeveloped province like Burma, or for the circumstances of a recently established province like Behar and Orissa which claims that it has never received from its start resources adequate to its needs ? No satisfactory results seemed likely to be reached by our attempting to act as a court of appeal in contentions of this kind. Moreover the artificial and temporary nature of the basis cannot be overlooked. It is too much determined by mere accidents of budgetting in spite of attempts to clear away abnormalities of expenditure. But even if a normal surplus can be agreed at the moment, it tends to be obscured or to disappear in the budgets of succeeding years. How could a contribution be levied in later years on the basis of a so-called normal surplus which did doubtless once exist and might be said to be implied in the economic life of the province, but which in fact had disappeared to be replaced by a totally different surplus or perhaps by a deficit ? The best argument for the basis of realised surplus was that, when originally recommended, it did recognise existing facts, that it appeared to leave all the provinces collectively with improved finances and each individual province with a surplus, and that it proceeded upon the principle of creating the minimum of financial disturbance in introducing the Reforms scheme.

14. But these advantages can be secured by another solution, which after careful consideration we think is less open to question. It must be noted that even if the original classification of sources of revenue in the Montagu-Chelmsford report is strictly adhered to, each one of the provinces gains something in revenue, while some

gain very substantially in consequence of the introduction of the Reform scheme. If our recommendation as to General Stamps is accepted, the net increase in the total income of all the provinces taken together works out at 1850 lakhs. These additional resources represent what the central Government loses and the provinces gain under the redistribution. Some parts of them the former may reasonably retain and latter forego, so long as contributions to the central Government remain necessary. Even those provinces which were found at the Simla Conference to be in deficit secured some improvement in their revenues under the original classification, an improvement which will of course be increased by the addition of General Stamps. It has been urged upon us that this increased spending power will in fact be swallowed up by the higher cost of administration, by improvement of old services, or by inauguration of new. At this stage, however, we are considering merely the revenue side of the account. These future liabilities would have had to be faced by each province, if no Reforms Scheme had come. Each province is the better able to face them by reason of the additional resources it has secured. There is the advantage that the figures of normal revenue laid down at the Simla Conference, have been submitted to Local Governments, and with minor amendments, which we have been able to accept, are agreed as arithmetically correct. We propose, subject to the limiting consideration referred to in paragraph II, to assess the initial contribution on this increase of spending power in the provinces. The proposal has the merit of proceeding on the lines of minimum disturbance of the Financial position in each province. It will enable us to comply with the requirements of leaving each province with a surplus, and of inaugurating the new Councils without the necessity of resort to fresh taxation.

15. It is of importance to realise the nature of this transaction. In the first place it implies no judgment on the merits of previous financial settlements with any province. The increase in revenues comes to the provinces as a windfall, or as a bye-product of a constitutional change. It is not due as financial settlements have been in the past to consideration of the financial needs of individual provinces. It cannot properly be quoted as an admission of financial inequalities or as an act of tardy justice to the provinces that gain by it. Clearly it has come from political and not primarily from financial motives. It originates in the desire to secure a greater measure of devolution in the provinces, and in the endeavour to draw for this purpose a defensible line of financial partition between local Governments and the Government of India. While we consider that a windfall of this nature affords a suitable basis for

initial contributions by the provinces it is not surprising to find that its application requires some modifications in view of individual circumstances.

Secondly, on this basis the system of contribution appears in a less invidious light. The Central Government in the course of a political reconstruction gives to each of the local Governments some, and to some local Governments a very considerable, increase of spending power. Finding itself in a deficit as the result of this re-construction, it withholds from each province a certain proportion of the increased resources which it is intended that the province should eventually obtain. The Central Government does not come in as raiding the hard-won surplus of a province, nor ought the Central Government to be represented, if our proposal be accepted, as the pensioner of the provinces. It can hardly be contended that a province, which has at all events decidedly improved its finances as a result of the change, has valid ground of complaint, if it does not obtain immediately the full increment which it may subsequently realise. In the cases of the provinces that gain most, it would hardly be possible for any such province to spend in the first year the whole of its suddenly increased resources ; and if it were possible, it would be financially undesirable. We think therefore that this basis affords less scope for controversy and may be accepted as both more logical and more equitable than the Montagu-Chelmsford Report.

16. A detailed calculation (of which copies are being handed to the Government of India) has accordingly been made to ascertain the net additional revenues with which each province will be endowed by the new allocation of resources. Starting on the assumption that our proposal about General Stamps will be adopted, we have worked on the figures of moral income which were accepted at the Simla Conference and on figures similarly accepted when we came to tabulate the expenditure which will be transferred to and from provinces. We took the calculations with us on tour, discussed them with the officials of each province, and made several correction at their instance. The figures of increased spending power on which we ultimately acted may be regarded as agreed figures. Certain provinces urged that they are unduly favourable to our argument, as the great rise this year in the income-tax receipts means a correspondingly greater loss to local Governments when they cease to enjoy a share of those receipts. Provision however clearly demands that all our standard should be based on figures for the same years ; and there would be advantage in elaborating a series of normal statistics different from those which specifically prepared

to assist us in our enquiry. We were also pressed to make allowances for schemes of future expenditure to which special importance was attached ; but to this we have been unable to accede as it is not our task to make budget fore-cast.

17. Having arrived in the manner indicated at the extra spending power which will accrue to each province, we first considered the possibility of securing the All-India deficit by an even rate on all the provincial figures. So far-reaching, however, is the disparity in the financial strength of the provinces that even this apparently equitable arrangement would in some cases have caused hardship. The extreme case would be that of a province which has been depending largely on doles from the central exchequer ; and difficulty arises wherever the provincial revenues are so pinched that the new resources have had to be seriously discounted to provide for the normal expenditure. We have therefore had to consider each province on its merits, relying both on the abundant statistical information which was placed at our disposal and on the insight which we gained into the general situation by our local consultations with the best expert opinion. Our recommendations may be conveniently set out in the following statement, which explains itself when read with the succeeding paragraphs :—

[IN LAKHS]

Province.	Increased spending power under new distribution of revenues.	Contributions as recommended by the Committee.	Increased spend- ing power left after contribu- tions are paid.
Madras	... 5,76	3,48	2,28
Bombay	... 93	56	37
Bengal	... 1,04	63	41
United Provinces	3,94	2,40	1,57
Paujab	... 2,89	1,75	1,14
Burma	... 2,46	64	1,82
Bihar and Orissa...	51	Nil.	51
Central Provinces	52	22	30
Assam	... 42	15	27
TOTAL	... 1,850	9,83	8,67

18. The provinces which caused us most anxiety were Burma and Orissa. In the former the coming improvement in its revenues has been largely discounted by the heavy commitments necessary to

give Burma the responsible administrative conveniences which it now lacks. The province, as we have satisfied ourselves, is far behind India proper in what its Government does for the people. Profits flowing from the rice control scheme, and a wise outlay of borrowed capital, should enable rapid progress now to be made but the heavy recurring expenditure which development entails will be more imminent than the new income which it will yield. We are convinced that a very substantial share of the surplus revenues of this province should be left free, and our calculations have led us to fix on them only about six and half per cent of the total deficit ; this happens, as will be seen below, to equal what we determine as the standard ratio of contribution. In Behar and Orissa the local Government is quite the poorest in India and every special skill will be required in developing its resources. Heavy initial expenditure lies in front of what is still a new province and here is a wholly abnormal want of elasticity about its revenues. We cannot advise that any share of the deficit should be taken from Bihar and Orissa in 1921-22 and we expect that the province will be sufficiently burdened by having to work up to its standard ratio of contribution in the same period as the rest of India.

19. The two provinces which come next in difficulty are the Central Provinces and Assam. They have a small margin at the best of times, and their need for development is great. The former has a more rapidly expanding revenue than the latter, but on the other hand, its finances are more liable to disturbance by famine. On the whole we do not feel that it would be just to ask more than roughly 40 per cent of their windfall in both cases, and we have based our recommendations accordingly.

20. The special treatment of these four provinces left us with 882 lakhs to allocate among their five richer neighbours ; and this sum would be secured by a flat rate of about 60 per cent on their new revenues. After the most careful scrutiny of their various peculiarities we see no marked necessity for differential treatment inter se. In Madras and the United Provinces the windfall is so vast that it could not be employed profitably for several years. On the other hand, their revenues do not promise any remarkable elasticity, economy has been strictly practised, and considerable arrears of administrative progress are now due. In the Panjab also the windfall is large and balances are full while here the revenues move upwards with marked ease. The position is less simple for diverse reasons in Bombay and Bengal. The former has attained a scale of expenditure far above the Indian average and the pace of expansion of its revenues is distinctly higher than in any other province. We believe that it could without inconvenience forego

the greater part of its new resources at the outset, and help the less fortunate provinces from its own abundant balance. But we hesitate to differentiate it prejudicially from the other richer provinces. Bengal on the other hand has a low scale of expenditure and an inelastic revenue; and it will receive only a very moderate start in its new financial career. But its size, intrinsic wealth and general economic possibilities prevented us from treating it more favourably than the other provinces in this category.

21. On a general view of the table the heavy contributions of Madras, the United Provinces and the Punjab doubtless call for comment. Between them these three provinces have to bear 35·5 24·5 and 8 per cent respectively, of the total initial contribution making 78 per cent of the whole. Conversely, the light assessments of Bengal and Bombay contributing 6·5 and 5·5 per cent respectively of the levy will be noticed. But the character of the transaction as described above must be borne in mind. If the contribution represented some new and additional burden extracted from the wealths of the provinces, objection might fairly be taken. But it really amounts to the requirement that Madras is called upon to content itself in the initial year with an improvement in its revenue of 228 lakhs instead of a possible maximum of 576; United Provinces with an improvement of 157 lakhs instead of a possible 397 and the Punjab with an improvement of 114 lakhs instead of a possible 289. The weight of the contribution by the Provinces is the best index to the amount of their gains, both immediate, and, as will be seen, eventual, under the new financial scheme. Just because immediately they are substantial gainers, they can best afford to postpone the full enjoyment of their ultimate advantages.

22. If on the other hand it is urged that some provinces, Bengal and Bombay for instance, escape too lightly under this assessment, the answer is two-fold. In the first place they are light gainers in the new distribution of revenues, Bengal having a gross gain of 104 lakhs and Bombay of 93. Secondly, we have not overlooked the claim of certain provinces to exemption from the levy in virtue of their indirect contributions through customs and income-tax to the Government of India. While this claim is often over-stated and exaggerated, we recognised that provinces with commercial capitals such as Calcutta and Bombay make larger contributions through these channels than purely agricultural provinces; and it will be noticed that those provinces where payment to the Government of India through customs and income-tax is presumably highest make a light contribution to the provincial levy.

Chapter IV.—The Standard Contributions.

23. Our recommendation as to the ratio on which the Provinces can properly be called upon to contribute the deficit of the Government of India in the first year of contribution (paragraph 17 above) is based, as already stated, upon consideration of their present financial positions and of the immediate improvement which will be effected therein by the redistribution of revenues under the Reforms Scheme. This ratio is not intended in any manner to represent the ideal scale on which the Provinces should in equity be called upon to contribute, nor is it possible that it should do so. In making our recommendation as to the initial contributions we have had to consider established programmes of taxation and expenditure, and legislative and administrative expectations and habits, that cannot without serious mischief be suddenly adjusted to a new and more equitable ratio of contribution widely different (as an equitable ratio must admittedly be) from that of the past. It is accordingly inevitable, if such mischief is to be avoided, that the ratio for initial contributions should bear little relation to that which would be ideally equitable. But an initial ratio of this nature can only be defended as a measure of transition. It is necessary, but it is necessary only in order to give time to the Provinces to adjust their budgets to a new state of affairs; and we are clearly of opinion that no scheme of contribution can be satisfactory that does not provide for a more equitable distribution of the burden of the deficit within a reasonable time.

24. The ideal basis for such an equitable distribution can be stated with some certainty. To do equity between the Provinces it is necessary that the total contribution of each to the purse of the Government of India should be proportionate to its capacity to contribute. Unfortunately the application of this principle in practice presents many difficulties.

25. The total contribution of a Province to the purse of the Government of India will consist in future of its direct contribution towards the deficit, together with its indirect contribution (as at present) through the channels of customs, income-tax, duties on salt, etc. A valuation of the amount of this indirect contribution involves an exact arithmetical calculation of the proportion of the total sum collected under each of these heads of revenue which is properly attributable to each Province. For such a calculation the statistical information available as to the distribution of the revenue between the Provinces is not adequate. Under the head of customs the locality in which dutiable articles are consumed cannot be traced with sufficient accuracy; under that of income-tax, questions of

the utmost complexity arise as to the true local source of the income assessed—questions which the information in the hands of the assessing officers does not enable them to answer. We have nevertheless carried our investigation into this matter as far as available information permits, and by means of an examination of the statistics concerning the distribution of articles which have paid customs duty, and of those concerning the place of collection of income-tax, together with a review of the more general circumstances of the economic life of the Provinces, we have found it possible to arrive at an estimate of the weight which should be given in fixing the basis for equitable contributions by the Provinces, to their indirect contributions.

26. Turning to the other circumstance which¹ must be considered in fixing the ideal basis for an equitable distribution—the capacities of the Provinces to contribute—we find practical difficulties no less great than in the exact arithmetical calculation of the quantities involved. The capacity of a province to contribute is its taxable capacity, which is the sum of the incomes of its tax-payers, or the average income of its tax-payers multiplied by their number. In this connection also the statistical information available does not permit of any direct valuation. Enquiries of much interest have been made at various times with a view to calculating the wealth of the respective Provinces or the average income of their respective inhabitants, and the results provided much useful information; but in the absence of any general assessment of incomes, and of any census of production, they cannot be considered reliable as a direct estimate of the quantities concerned. In the absence of any such direct estimate, various circumstances have been suggested to us as capable of serving, taken separately or together, as an indirect measure of the relative taxable capacities of the Provinces. Amongst these may be mentioned gross population, urban and rural, or industrial and agricultural population; cultivated area; provincial revenue, or provincial expenditure; amount of income-tax collected; and, more indirect, amount of salt or of foreign textile goods consumed in each Province. As measures of comparison all these are open to obvious criticisms, both on theoretical and on practical grounds. We are of opinion, however, that some of them are not without their value as a substitute for the direct information which is not available and they have indeed assisted us in coming to a general conclusion as to the relative taxable capacities of the provinces. But we are also of opinion that none of them is capable of serving, either alone or in conjunction with others, as an accurate or even an approximate arithmetical measure of those capacities.

27. For the reasons given, we believe it to be useless to attempt to state a formula, to serve as a basis for a standard ratio of contributions, capable of automatic application from year to year by reference to ascertained statistics. Although the formula could be stated, the statistics which would be needed for its application are not available. But we are able, after surveying such figures as are available and after close enquiry into the circumstances of each province, to recommend a fixed ratio of contributions which in our opinion represents a standard and equitable distribution of the burden of any deficit. In arriving at this ratio we have taken into consideration the indirect contributions of the provinces to the purse of the Government of India, and in particular the incidence of customs duties and of income-tax. We have enquired into the relative taxable capacities of the provinces, in the light of their agricultural and industrial wealth and of all other relevant incidents of their economic positions including particularly their liability to famine. It should be observed that we have considered their taxable capacities not only as they are at the present time, or as they will be in the immediate future but from the point of view also of the capacity of each province for expansion and development agriculturally and industrially, and by respect of imperfectly developed assets such as minerals and forests. We have also given consideration to the elasticity of the existing heads of revenue which will be secured to each province, and to the availability of its wealth for taxation. After estimating, to the best of our ability, the weight which should be given to each of these circumstances, we recommend the following fixed ratio as representing an equitable basis for the relative contributions of the provinces to the deficit.

Standard Contributions

Province.		Per cent contribution to deficit.
Madras	...	17
Bombay	...	13
Bengal	...	19
United Provinces	...	18
Panjab	...	9
Burma	...	6.5
Bihar and Orissa	...	10
Central Provinces	...	5
Assam	...	2.5

100 per cent.

28. This, in our opinion, is the ratio which the provinces should in equity be called upon to contribute after an interval of time sufficient to enable them to adjust their budgets to the new

conditions. We further recommend that the interval allowed for adjustment should not be unduly prolonged. The initial ratio which we have proposed is a practical necessity, but the provinces which will be called upon to pay thereunder more than they should pay in equity, ought not to be required to bear that burden for a longer period or to a greater extent than is required to prevent dislocation of the provincial budgets. We propose, therefore, that contributions should be made on the standard ratio to any deficit that there may be in the seventh year of contribution and that the process of transition from the initial to the standard ratio should be continuous, beginning in the second year of contribution, and proceeding in six equal annual steps. The following table shows the initial, intermediate and ultimate ratio of contribution for the seven years, in accordance with our recommendations. The initial ratio is the rate per cent of the actual initial contributions recommended in paragraph 17 above :—

Per cent contributions to deficit in seven consecutive years
beginning with the first year of contribution.

(rounded off to even halves).

Provinces.	1st. year.	2nd. year.	3rd. year.	4th. year.	5th. year.	6th. year.	7th. year.
Madras	35.5	32.5	29.5	26.5	23	20	17
Bombay	5.5	7	8	9.5	10.5	12	13
Bengal	6.5	8.5	10.5	12.5	15	17	19
United Provinces	24.5	23.5	22.5	21	20	19	18
Panjab	18	16.5	15	13.5	12	10.5	9
Burma	6.5	6.5	6.5	6.5	6.5	6.5	6.5
Bihar and Orissa	Nil.	1.5	3	5	7	8.5	10
Central Provinces	2	2.5	3	3.5	4	4.5	5
Assam	1.5	1.5	2	2	2	2	2.5
	100%	100%	100%	100%	100%	100%	100%

29. It should be observed that, if the Government of India fulfil their announced intention of gradually wiping out their deficit, against any increase in the proportion which a province will be called upon to contribute from year to year, there will be set off a reduction in the total to be contributed.

30. The scheme of contribution that we recommend above complies we believe with the two essential conditions, that any immediate dislocation in the provincial budgets must be avoided, and that the admitted inequalities of the proportions in which, in the past, the

provinces have contributed to the purse of the Government of India must be rectified within a reasonable time. The scheme is subject to the disadvantage that the ratio which we recommend is fixed and cannot hold good for an indefinite period. We are of opinion however that it will do substantial equity between the provinces until such a period of time has passed as may be required to effect a very substantial change in their relative states of economic development, a change scarcely to be effected in less than at least a decade.

Chapter V.—Provincial Loan Account.

31. The future financing of the Provincial Loan Account is a less controversial subject than the others that we have had to investigate. It is commonly agreed that it is the natural result of the Reforms Scheme that the provinces should for the future finance of their own loan transactions and that joint accounts of this nature between them and the Government of India should be wound up as quickly as possible. In our discussions of this subject with the Provincial Governments we have found little or no difference of opinion as to this, and our task has been only to ascertain the wishes of the Provincial Government as to the amount of its account which each can take over on 1st, April 1921, and how soon it can take over the rest.

32. The Government of Bengal, the Panjab, the Central Provinces and Assam signified to us their willingness to take over the whole of their respective loan accounts on 1st, April 1921 and we recommend that it should be arranged for them to do so. In some cases it was stipulated as a condition that the provincial Government should be allowed to use for the purpose any part of its balance, including the earmarked portion. We see no objection to the condition, which accords with the intention expressed in paragraph 208 of the Montagu-Chelmsford Report.

33. The Government of Bombay, the United Provinces, Burma, Bihar and Orissa signified to us their willingness to take over a portion of their provincial loan accounts on 1st, April 1921 and the remainder in instalments to cover varying periods. The Government of Madras alone expressed unwillingness to take over any part of the account. Evidence was given before us, however, by officials of that Government to the effect that they would not object to do so if the transfer could be effected by fresh credit arrangements. In view of this and of the great improvement which will be effected in the financial position of the province by the redistribution of revenues under the Reforms Scheme, we are of opinion that there is no reason why Madras should form an exception to the general scheme for the transfer of their accounts which we recommend below for application to those provinces which are prepared to take over a part of their accounts forthwith.

34. In the case of those provinces, namely, Bombay, the United Provinces, Burma, Bihar and Orissa, and including as stated, Madras, we recommend that the Provincial Loan Account should be "funded," at a rate of interest calculated at the weighted average of the three rates of three and half, four and half and five and half per cent now paid on varying portions of the account. Whatever portion of the account so "funded" the province is prepared to take over forthwith should, we recommend, be written off against an equal portion of the provincial balance as from 1st, April 1921; and the balance of the "funded" account should remain outstanding as a debt from the province to the Government of India. On the outstanding balance the province should pay interest at the calculated average rate, and also an annual charge for redemption enough to redeem the debt in a fixed number of years, which should not, save in exceptional circumstances, exceed twelve. The provinces should further have the option to make in any year a large repayment that the fixed redemption charge.

35. The provinces in question will probably not be in a position to state the exact proportion of their respective accounts which they are prepared to take over, or the exact number of years that they will require to repay the balance, until their closing balance on 1st April 1921, are more precisely ascertained, and also until they know what contributions will be required from them. It appears therefore that these details must be left for determination by future negotiations. We are however of opinion that a maximum period of twelve years is ample in order to enable any province to clear its account and that in some cases the period may with advantage be substantially reduced. We further consider that the fixing of a definite term of repayment and the provision of an annual charge for redemption within that term are essential in order to secure the desired clearing accounts between the Provincial Governments and the Government of India.

Conclusion.

36. Several other matters were referred to in the course of our enquiry, on which a recommendation appeared to us to be outside the strict scope of our reference. We propose, however, to communicate our views upon some of them informally to the Government of India.

37. In conclusion we wish to express our indebtedness to our secretary Mr. Dina Nath Dutt, for his careful and methodical assistance in our work. We have also derived very great benefit from the association with us of Mr. C. G. Sim, C.I.E., whom the Government of India attached to us as liaison officer.

MESTON.

CHARLES ROBERTS.
E. HILTON YOUNG.

Rules Under the Govt. of India Act Council of State and Legislative ASSEMBLY

In exercise of the powers conferred by sub-sections (1) and (5) of section 67 and sub-section (1) of section 129-A of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules for the Chambers of the Indian Legislature.

Short Title.

1. These rules may be called the Indian Legislative Rules.

Definitions.

2. In these rules, unless the context otherwise requires,—

“Assembly” means the Legislative Assembly ;

“Chamber” means a Chamber of the Indian Legislature ;

“Council” means the Council of State ;

“Finance Member” means the member of the Assembly appointed by the Governor General to perform the functions assigned to the Finance Member under these rules ;

“Gazette” means the Gazette of India ;

“member” means a member of either Chamber ;

“member of the Government” means a member of the Governor-General's Executive Council, and includes any member to whom such a member may delegate any function assigned to him under these rules ;

“resolution” means a motion for the purpose of discussing a matter of general public interest ;

“standing order” means a standing order of either Chamber ;

“Secretary” means the Secretary to either Chamber, and includes any person for the time being performing the duties of the Secretary.

Temporary Chairman.

3. At the commencement of every Session, the Governor-General shall nominate from amongst the members of the Assembly a panel of not more than four Chairmen, any one of whom may preside over the Assembly in the absence of the President and Deputy President, when so requested by the President, or in his absence, by the Deputy President.

President and Secretary.

4. The Deputy President and any Chairman of the Assembly and any person appointed by the Governor General to preside over the Council in the absence of the President shall, when presiding over the Assembly or the Council, as the case may be, have the same powers as the President when so presiding, and all references to the President in these rules shall, in these circumstances be deemed to be references to any such person so presiding.

5. The Secretary, and such assistants of the Secretary as the Governor-General considers to be necessary, shall be appointed by order in writing by the Governor General and shall hold office during his pleasure.

Non-official Business.

6. The Governor-General, after considering the state of business of the Chamber, shall, at the commencement of each Session of that Chamber, allot as many days as are in his opinion compatible with the public interests for the business of non-official members in that Chamber, and may, from time to time during the Session, alter such allotment, and on these days such business shall have precedence. At all other times Government business shall have precedence.

On Questions.

7. The Governor-General may within the period of notice disallow any question or any part of a question on the ground that it relates to a matter which is not primarily the concern of the Governor-General in Council, and if he does so, the question or part of the question shall not be placed on the list of questions.

8. (1) A question may be asked for the purpose of obtaining information on a matter of public concern within the special cognisance of the member to whom it is addressed :

Provided that no question shall be asked in regard to any of the following subjects, namely :—

- (i) any matter effecting the relations of His Majesty's Government, or of the Governor General in Council, with any foreign State ;

(ii) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief or to the administration of the territories of any such Prince or Chief ; and

(iii) any matter which is under adjudication by a Court of Law having jurisdiction in any part of his Majesty's Dominions.

(2) The decision of the Governor-General on the point whether any question is or is not within the restrictions imposed by sub-rule (1) shall be final.

9. In matters which are or have have been the subject of controversy between the Governor General in Council and the Secretary of State or Local Government, no question shall be asked except as to matters of fact, and the answer shall be confined to a statement of facts.

Supplementary Questions.

10. Any member may put a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given :

Provided that the President shall disallow any supplementary question if, in his opinion, it infringes the rules as to the subject matter of questions, and in that case the question shall not appear on the record of the proceedings of the Chamber.

Motion for Adjournments.

11. A motion for an adjournment of the business of either Chamber for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the Governor-General which shall not be refused, except for reasons which would justify disallowance of a resolution.

12. The right to move the adjournment of either Chamber for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions, namely :—

(i) not more than one such motion shall be made at the same sitting ;—

(ii) not more than one matter can be discussed on the same motion, and the motion must be restricted to a specified matter of recent occurrence ;

(iii) the motion must not revive discussion on a matter which has been discussed in the same Session ;

(iv) the motion must not anticipate a matter which has been previously appointed for consideration, or with reference to which a notice of motion has been previously given ; and

- (c) the motion must not deal with a matter on which a resolution could not be moved.

Quorum.

13. In the case of the Council the presence of at least fifteen members, and in the case of the Assembly the presence of at least twenty-five members, shall be necessary to constitute a meeting of the Council or of the Assembly for the exercise of its powers.

Language of Proceedings.

14. The business of the Indian legislature shall be transacted in English provided that the President may permit any member unacquainted with English to address the Council in a vernacular.

Points of Order.

15. (1) The President shall decide all points of order which may arise, and his decision shall be final.

(2) Any member may at any time submit a point of order for the decision of the President, but in doing so shall confine himself to stating the point.

16. The President, after having called the attention of the Chamber to the conduct of a member who persists in irrelevance or in tedious repetition either of his own arguments or of the arguments used by other members in debate, may direct him to discontinue his speech.

Withdrawal of Member.

17. (1) The President shall preserve order and have all powers necessary for the purpose of enforcing his decisions on all points of order.

(2) He may direct any member whose conduct is in his opinion grossly disorderly to withdraw immediately from the Chamber, and any member so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second time in the same session, the President may direct the member to absent himself from the meetings of the Chamber for any period not longer than the remainder of the Session, and the member so directed shall absent himself accordingly.

(3) The President may, in the case of grave disorder arising in the Chamber, suspend any sitting for a time to be named by him.

Notice and Publication of Bills

18. The Governor-General may order the publication of any Bill (together with the Statement of Objects and Reasons accompa-

nying it) in the Gazette, although no motion has been made for leave to introduce the Bill. In that case it shall not be necessary to move for leave to introduce the Bill, and, if the Bill is afterwards introduced it shall not be necessary to publish it again.

19. (1) Any member, other than a member of the Government, desiring to move for leave to introduce a Bill shall give notice of his intention, and shall, together with the notice, submit a copy of the Bill and a full Statement of Objects and Reasons.
- (2) If the Bill is a Bill which under the Government of India Act requires sanction, the member shall annex to the notice a copy of such sanction, and the notice shall not be valid until this requirement is complied with.
- (3) If any question arises, whether a Bill is or is not a Bill which requires sanction under the Government of India Act, the question shall be referred to the Governor-General, and his decision on the question shall be final.
- (4) The period of notice of a motion for leave to introduce a Bill under this rule shall be one month or, if the Governor-General so directs, a further period not exceeding in all two months.

20. As soon as may be after a Bill has been introduced, the Bill, unless it has already been published, shall be published in the Gazette.

Certification of Governor-General

21. If the Governor-General certifies that a Bill or any clause of a Bill or an amendment to a Bill affects the safety or tranquility of British India or any part thereof, and directs that no proceedings or no further proceedings shall be taken thereon, all notices of motions in connection with the subject-matter of the certificate shall lapse, and if any such motion has not already been set down in the list of business, it shall not be so set down. If any such motion has been set down on the list of business, the President shall, when the motion is reached, inform the Chamber of the Governor-General's action, and the Chamber shall forthwith, without debate, proceed to the next item of business.

Disallowance of Resolutions

22. The Governor-General may, within the period of notice, disallow any resolution or any part of a resolution, on the ground that it cannot be moved without detriment to the public interest, or on the ground that it relates to a matter which is not primarily the concern of the Governor-General in Council, and, if he does so,

the resolution or part of the resolution shall not be placed on the list of business.

Restrictions of Discussion

23. (1) Every resolution shall be in the form of a specific recommendation addressed to the Governor-General in Council, and no resolution shall be moved in regard to any of the following subjects, namely :—

- (i) any matter affecting the relations of His Majesty's Government, or of the Governor-General or the Governor-General in Council, with any foreign State ;
- (ii) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty, of His Majesty, or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief ; and
- (iii) any matter which is under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.

(2) The decision of the Governor-General on the point whether any resolution is or is not within the restrictions imposed by sub-rule (1) shall be final.

24. A copy of every resolution which has been passed by either Chamber shall be forwarded to the Governor-General in Council, but any such resolution shall have effect only as a recommendation to the Governor-General in Council.

On Bills

25. Every Bill which has been passed by the originating Chamber shall be sent to the other Chamber, and copies of the Bill shall be laid on the table at the next following meeting of that Chamber.

26. At any time after copies have been laid on the table, any member acting on behalf of Government in the case of a Government Bill or, in any other case, any member may give notice of his intention to move that the Bill be taken into consideration.

27. On the day on which the motion is set down in the list of business, which shall, unless the President otherwise directs, be not less than three days from the receipt of the notice, the member giving notice may move that the Bill be taken into consideration.

28. On the day on which such motion is made or on any subsequent day to which the discussion is postponed, the principle of the Bill and its general provisions may be discussed, but the details of the Bill must not be discussed further than is necessary to explain its principle.

29. Any member may (if the Bill has not already been referred to a Select Committee of the originating Chamber or to a Joint Committee of both Chambers, but not otherwise) move as an amendment that the Bill be referred to a Select Committee, and if such motion is carried, the Bill shall be referred to a Select Committee, and the standing orders regarding Select Committees on Bills originating in the Chamber shall then apply.

Passing of Bills

30. If the motion that the Bill be taken into consideration is carried, the Bill shall be taken into consideration, and the provisions of the standing orders of the Chamber regarding consideration of amendments to Bills and the subsequent procedure in regard to the passing of Bills shall apply.

31. If the Bill is passed without amendment and the originating Chamber is the Legislative Assembly, a message shall be sent to the Legislative Assembly intimating that the Council of State have agreed to the Bill without any amendments. If the originating Chamber is the Council of State, the Bill with a message to the effect that the Legislative Assembly have agreed to the Bill without any amendments shall be sent to the Council of State.

32. If the Bill is passed with amendments, the Bill shall be returned with a message asking the concurrence of the originating Chamber to the amendments.

33. When a Bill which has been amended in the other Chamber is returned to the originating Chamber, copies of the Bill shall be laid on the table at the next following meeting of that Chamber.

34. After the amended Bill has been laid on the table, any member acting on behalf of Government in the case of a Government Bill or, in any other case, any member after giving three days' notice or with the consent of the President without notice, may move that the amendments be taken into consideration.

On Amendments to Bills

35. (1) If on a motion that the amendments be taken into consideration is carried, the President shall put the amendments to the Chamber in such manner as he thinks most convenient for their consideration.
- (2) Further amendments relevant to the subject matter of the amendments made by the other Chamber may be moved, but no further amendment shall be moved to the Bill, unless it is consequential upon, or an alternative to an amendment made by the other Chamber.

36. (1) If the Chamber agrees to the amendments made by the other Chamber, a message intimating its agreement shall be sent to that Chamber.
- (2) If the Chamber disagrees with the amendments made by the other Chamber, or any of them, the Bill with a message intimating its disagreement shall be sent to that Chamber.
- (3) If the Chamber agrees to the amendments or any of them with further amendments or proposes further amendments in place of amendments made by the other Chamber, the Bill as further amended with a message to that effect shall be sent to the other Chamber.
- (4) The other Chamber may either agree to the Bill as originally passed in the originating Chamber or as further amended by that Chamber, as the case may be, or may return the Bill with a message that it insists on an amendment or amendments to which the originating Chamber has disagreed.
- (5) If a Bill is returned with a message intimating that the other Chamber insists on amendments to which the originating Chamber is unable to agree, that Chamber may either—

(i) report the fact of the disagreement to the Governor-General, or

(ii) allow the Bill to lapse.

37. A joint sitting of both Chambers shall be convened by the Governor-General by notification in the Gazette.

38. The President of the Council shall preside at a joint sitting and the procedure of the Council shall, so far as practicable, apply.

39. The members present at a joint sitting may deliberate and shall vote together upon the Bill at last proposed by the originating Chamber and upon amendments, if any, which have been made therein by one Chamber and not agreed to by the other, and any such amendment which are affirmed by a majority of the total members of the Council and the Assembly present at such sitting shall be taken to have been carried; and if the Bill with the amendments, if any, is affirmed by a majority of the members of the Council and the Assembly present at such sitting, it shall be deemed to have been duly passed by both Chambers.

40. (1) If both Chambers agree to a meeting of members for the purpose of discussing a difference of opinion which has arisen between the two Chambers, a conference shall be held.

(2) At a conference each Chamber shall be represented by an equal number of members.

(3) The conference shall determine its own procedure.

(4) The time and place of the conference shall be fixed by the President of the Council.

41. Messages between one Chamber and the other Chamber shall be conveyed by the Secretary of the one Chamber to the Secretary of the other, or in such other manner as the Chambers may agree.

Joint Committees.

42. (1) If a resolution is passed in the originating Chamber recommending that a Bill should be committed to a Joint Committee of both Chambers, a message shall be sent to the other Chamber to inform it of the resolution and to desire its concurrence in the resolution.

(2) If the other Chamber agrees, a motion shall be made in each Chamber nominating the members of that Chamber who are to serve on the Committee. On a Joint Committee equal numbers of members of each Chamber must be nominated.

(3) The Chairman of the Committee shall be elected by the Committee. He shall have only a single vote, and, if the votes are equal, the question shall be decided in the negative.

(4) The time and place of the meeting of the Committee shall be fixed by the President of the Council.

The Budget.

43. A statement of the estimated annual expenditure and revenue of the Governor-General in Council (hereinafter referred to as "the Budget") shall be presented to each Chamber on such day or days as the Governor-General may appoint.

44. (1) A separate demand shall ordinarily be made in respect of grant proposed for each Department of the Government provided that the Finance Member may in his discretion include in one demand grants proposed for two or more Departments, or make a demand in respect of expenditure which cannot readily be classified under particular Departments.

(2) Each demand shall contain, first, a statement of the total grant proposed, and then a statement of the detailed estimate under each grant divided into items.

(3) Subject to these rules the Budget shall be presented in such a form as the Finance Member may consider best fitted for its consideration by the Assembly.

The Budget Debate.

45. The Budget shall be dealt with by the Assembly in two stages, namely :—

- (i) a general discussion ; and
- (ii) the voting of demands for grants.

46. (1) On a day to be appointed by the Governor General subsequent to the day on which the Budget is presented and for such time as the Governor General may allot for this purpose, the Assembly shall be at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion shall be moved at this stage, nor shall the Budget be submitted to the vote of the Assembly.

(2) The Finance Member shall have a general right of reply at the end of the discussion.

(3) The President may, if he thinks fit, prescribe a time limit for speeches.

Voting of Grants.

47. (1) Not more than fifteen days shall be allotted by the Governor General for the discussion of the demands of the Governor General in Council for grants.

(2) Of the days so allotted, not more than two days shall be allotted by the Governor General to the discussion of any one demand. As soon as the maximum limit of time for discussion is reached, the President shall forthwith put every question necessary to dispose of the demand under discussion.

(3) On the last day of the allotted days at five o'clock, the President shall forthwith put every question necessary to dispose of all the outstanding matters in connection with the demands for grants.

Motions.

48. (1) No motion for appropriation can be made except on the recommendation of the Governor General communicated to the Assembly.

(2) Motions may be moved at this stage to omit or reduce any grant, but not to increase or alter the destination of a grant.

(3) When several motions relating to the same demand are offered, they shall be discussed in the order in which the heads to which they relate appear in the Budget.

Excess Grants.

49. When money has been spent on any service, for which the vote of the assembly is necessary during any financial year, in excess

of the amount granted for that service and for that year, a demand for the excess shall be presented to the Assembly by the Finance Member and shall be dealt with in the same way by the Assembly as if it were a demand for a grant.

Additional Grants.

50. (1) An estimate shall be presented to the Assembly for a supplementary or additional grant when—

- (i) the amount voted in the Budget of a grant is found to be insufficient for the purposes of the current year, or
- (ii) a need arises during the current year for expenditure for which the vote of the Assembly is necessary upon some new service not contemplated in the Budget for that year.

(2) Supplementary or additional estimates shall be dealt with in the same way by the Assembly as if they were demands for grants.

Committee on Public Accounts.

51. (1) As soon as may be after the commencement of each financial year a Committee on Public Accounts shall be constituted for the purpose of dealing with the audit and appropriation accounts of the Governor General in Council and such other matters as the Finance Department may refer to the Committee.

(2) The Committee on Public Accounts shall consist of not more than twelve members including the Chairman, of whom not less than two-thirds shall be elected by the non-official members of the Assembly according to the principle of proportionate representation by means of the single transferable vote. The remaining members shall be nominated by the Governor-General.

(3) The Finance Member shall be Chairman of the Committee, and, in the case of an equality of votes on any matter, shall have a second or casting vote.

Duty of Finance Committee.

52. (1) In scrutinising the audit and appropriation accounts of the Governor General in Council, it shall be the duty of the Committee to satisfy itself that the money voted by the Assembly has been spent within the scope of the demand granted by the Assembly.

(2) It shall be the duty of the Committee to bring to the notice of the Assembly—

- (i) every re-appropriation from one grant to another grant ;

- (ii) every re-appropriation within a grant which is not made in accordance with the rules regulating the functions of the Finance Department, or which has the effect of increasing the expenditure on an item the provision for which has been specifically reduced by a vote of the Assembly ; and
- (iii) all expenditure which the Finance Department has requested should be brought to the notice of the Assembly.

Rules Under the Govt. of India Act Provincial Legislative Council

In exercise of the powers conferred by sub-section (6) of section 72 D and sub-section (1) of section 129 A of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules for the Legislative Council of the Governor of...

Short Title.

1. These rules may be called the.....Legislative Council Rules.

Definitions.

2. In these rules—

“Council” means the Legislative Council of....;

“Finance Member” means the member of the Council appointed by the Governor to perform the function of the Finance Member under these rules;

“Gazette” means the Gazette;

“Member” means a member of the Council;

“Member of the Government” means a member of the Executive Council or a Minister, and includes any member to whom such member may delegate any function assigned to him under these rules.

“Resolution” means a motion for the purpose of discussing a matter of general public interest;

“Standing order” means a standing order of the Council; and

“Secretary” means a Secretary to the Council and includes any person for the time being performing the duties of the Secretary.

Temporary Chairman.

3. At the commencement of every Session, the Governor shall nominate from amongst the members of the Council a panel of not more than four Chairmen, any one of whom may preside over the Council in the absence of the President and Deputy President, when

so requested by the President or, in his absence, by the Deputy President.

4. The Deputy President and any Chairman of the Council shall, when presiding over the Council, have the same powers as the President when so presiding, and all references to the President in the rules and standing orders shall, in these circumstances, be deemed to be references to any such person so presiding.

Council Secretary.

5. The Secretary and such assistants of the Secretary as the Governor considers to be necessary shall be appointed by order in writing by the Governor and shall hold office during his pleasure.

Days of Business.

6. The Governor, after considering the state of business of the Council, shall, at the commencement of each Session, allot as many days as are in his opinion compatible with the public interests for the business of non-official members in the Council, and may from time to time during the Session alter such allotment, and on these days such business shall have precedence. At all other times Government business shall have precedence.

On Questions.

7. The Governor may, within the period of notice, disallow any question or any part of a question on the ground that it relates to a matter which is not primarily the concern of the local Government, and if he does so, the question or part of the question shall not be placed on the list of questions.

8. (1) A question may be asked for the purpose of obtaining information on a matter of public concern within the special cognisance of the member to whom it is addressed :

Provided that, no question shall be asked, in regard to any of the following subjects, namely :—

- (i) any matter affecting the relations of His Majesty's Government, or of the Government of India, or of the Governor or the Governor in Council, with any foreign State ;
- (ii) any matter affecting the relations of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief, and
- (iii) any matter which is under adjudication by a Court of Law having jurisdiction in any part of his Majesty's Dominions,

(2) The decision of the Governor on the point whether any question is or is not within the restrictions imposed by sub-rule (1) shall be final.

Matters of Controversy.

9. In matters which are or have been the subject of controversy between the Governor-General in Council or the Secretary of State and the local Government no question shall be asked except as to matters of fact, and the answer shall be confined to a statement of facts.

Supplementary Question.

10. Any member may put a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given.

Provided that the President shall disallow any supplementary question if, in his opinion, it infringes the rule as to the subject matter of questions, and in that case the question shall not appear on the record of the Proceedings of the Council.

Motion for Adjournments.

11. A motion for an adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the Governor, which shall not be refused except for reasons which would justify the disallowance of a resolution.

12. The right to move the adjournment of the council for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions, namely:—

- (i) not more than one such motion shall be made at the same sitting;
- (ii) not more than one matter can be discussed on the same motion, and the motion must be restricted to specific matter of present occurrence;
- (iii) the motion must not revive discussion on a matter which has been discussed in the same Session;
- (iv) the motion must not anticipate a matter which has been previously appointed for consideration, or with reference to which a notice of motion has been previously given; and
- (v) the motion must not deal with a matter on which a resolution could not be moved.

Quorum.

13. The presence of at least...members shall be necessary to constitute a meeting of the Council for the exercise of its powers.

Language of the Council.

14. The business of the Council shall be transacted in English, but any member who is not fluent in English may address the Council in any recognised vernacular of the province, provided that the President may call on any member to speak in any language in which he is known to be proficient.

Points of Order.

15. (1) The President shall decide all points of order which may arise, and his decision shall be final.

(2) Any member may at any time submit a point of order for the decision of the President, but in doing so shall confine himself to stating the point.

16. The President, after having called the attention of the Council to the conduct of a member who persists in irrelevance or in tedious repetition either of his own arguments or of the arguments used by other members in debate, may direct him to discontinue his speech.

Presidents Powers.

17. (1) The President shall preserve order and have all powers necessary for the purpose of enforcing his decisions on all points of order.

(2) He may direct any member whose conduct is in his opinion grossly disorderly to withdraw immediately from the Council, and the member so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second time in the same Session, the President may direct the member to absent himself from the meetings of the Council for any period not longer than the remainder of the Session, and the member so directed shall absent himself accordingly.

On Bills.

(3) The President may in the case of grave disorder arising in the Council suspend any sitting for a time to be named by him.

18. The Governor may order the publication of any Bill (together with the Statement of Object and Reasons accompanying it) in the Gazette, although no motion has been made for leave to introduce the Bill. In that case it shall not be necessary to move for leave to introduce the Bill, and if the Bill is afterwards introduced, it shall not be necessary to publish it again.

19. (1) Any member, other than a member of the Government, desiring to move for leave to introduce a Bill shall give notice

of his intention, and shall, together with the notice, submit a copy of the Bill and a full Statement of Objects and Reasons.

(2) If the Bill is a Bill which under the Government of India Act requires sanction, the member shall annex to the notice a copy of such sanction, and the notice shall not be valid until this requirement is complied with.

(3) If any question arises whether a Bill is or is not a Bill which requires sanction under the Government of India Act, the question shall be referred to the authority which would have power to grant the sanction if it were necessary, and the decision of that authority on the question shall be final.

(4) The period of notice of a motion for leave to introduce a Bill under this rule shall be as follows, namely:—

(a) if the Bill relates to a transferred subject—fifteen days;

(b) if the Bill relates to a reserved subject—one month or, if the Governor so directs, a further period not exceeding in all two months.

20. As soon as may be after a Bill has been introduced, the Bill unless it has already been published, shall be published in the Gazette.

Certification of Bills.

21. If the Governor certifies that a Bill, or any clause of a Bill, or any amendment to a Bill, affects the safety or tranquility of a Province or any part thereof, and directs that no proceedings or no further proceedings shall be taken thereon, all notices of motion in connection with the subject-matter of the certificate shall lapse, and if any such motion has not already been set down in the list of business, it shall not be so set down. If any such motion has been set down on the list of business, the President shall, when the motion is reached, inform the Council of the Governor's action, and the Council shall forthwith without debate proceed to the next item of business.

Disallowance of Resolutions.

22. The Governor may, within the period of notice, disallow any resolution or any part of a resolution, on the ground that it cannot be moved without detriment to the public interest, or on the ground that it relates to a matter which is not primarily the concern of the local Government, and if he does so, the resolution or part of the resolution shall not be placed on the list of business.

On Resolutions.

23. (1) Every resolution shall be in the form of a specific recommendation addressed to the Government, and no resolution

shall be moved in regard to any of the following subjects, namely :—

- (i) any matter affecting the relations of His Majesty's Government, or of the Government of India, or of the Governor or the Governor in Council, with any foreign State :
 - (ii) any matter affecting the relations of any of the foregoing authorities, with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief, or to the administration of the territory of any such Prince or Chief : and
 - (iii) any matter which is under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.
- (2) The decision of the Governor on the point whether any resolution is or is not within the restrictions imposed by sub-rule (1) shall be final.

Effect of Resolutions.

24. A copy of every resolution which has been passed by the Council shall be forwarded to the Government, but any such resolution shall have effect only as a recommendation to the Government.

The Budget.

25. A statement of the estimated annual expenditure and revenue of the Province (hereinafter referred to as "the Budget") shall be presented to the Council on such day as the Governor may appoint.

26. (1) A separate demand shall ordinarily be made in respect of the grant proposed for each Department of the Government, provided that the Finance Member may in his discretion, include in one demand grants proposed for two or more Departments, or make a demand in respect of expenditure, such as Famine Relief and Insurance and Interest, which cannot readily be classified under particular Departments. Demands affecting reserved and transferred subjects shall, so far as may be possible, be kept distinct.

(2) Each demand shall contain, first, a statement of the total grant proposed, and then a statement of the detailed estimate under each grant divided into items.

(3) Subject to these rules, the Budget shall be presented in such a form as the Finance Member may consider best fitted for its consideration by the Council.

The Budget Debate.

27. The Budget shall be dealt with by the Council in two stages, namely :—

- (i) a general discussion ; and
- (ii) the voting on demands for grants,

28. (1) On a day to be appointed by the Governor subsequent to the day on which the Budget is presented and for such time as the Governor may allot for this purpose, the Council shall be at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion shall be moved at this stage nor shall the Budget be submitted to the vote of the Council.

(2) The Finance Member shall have a general right of reply at the end of the discussion.

(3) The President may, if he thinks fit, prescribe a time-limit for speeches.

29. (1) Not more than twelve days shall be allotted by the Governor for the discussion of the demands of the Local Government for grants.

(2) Of the days so allotted, not more than two days shall be allotted by the Governor to the discussion of any one demand. As soon as the maximum limit of time for discussion is reached, the President shall forthwith put every question necessary to dispose of the demand under discussion.

(3) On the last day of the allotted days at...o'clock, the President shall forthwith put every question necessary to dispose of all the outstanding matters in connection with the demands for grants.

30. (1) No motion for appropriation can be made except on the recommendation of the Governor communicated to the Council.

(2) Motions may be moved at this stage to omit or reduce any grant or any item in a grant, but not to increase or alter the destination of a grant.

(3) When several motions relating to the same demand are offered, they shall be discussed in the order in which the heads to which they relate appear in the Budget.

(4) No motion shall be made for the reduction of a grant as a whole until all motions for the omission or reduction of definite items within that grant have been discussed.

Excess Grant.

31. When money has been spent on any service for which the vote of Council is necessary during any financial year in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Council by the Finance Member and shall be dealt with in the same way by the Council as if it were a demand for a grant.

Additional Grant.

32. (1) An estimate shall be presented to the Council for a supplementary or additional grant when,

- (i) the amount voted in the Budget of a grant is found to be insufficient for the purposes of the current year, or
- (ii) a need arises during the current year for expenditure for which the vote of the Council is necessary upon some new service not contemplated in the Budget for that year.

(2) Supplementary or additional estimates shall be dealt with in the same way by the Council as if they were demands for grants.

Committee on Public Accounts.

33. (1) As soon as may be after the commencement of each financial year, a Committee on Public Accounts shall be constituted for the purpose of dealing with the audit and appropriation account of the Province and such other matters as the Finance Department may refer to the Committee.

(2) The Committee on Public Accounts shall consist of not more than . . . members including the chairman, of whom not less than two thirds shall be elected by the non-Official members of the Council according to the principle of proportionate representation by means of the single transferable vote. The remaining members shall be nominated by the Governor.

(3) The Finance Member shall be the Chairman of the Committee, and, in the case of an equality of votes on any matter, shall have a second or casting vote.

Duty of the Committee.

34. (1) In scrutinising the audit and appropriation accounts of the province, it shall be the duty of the Committee to satisfy itself that the money voted by the Council has been spent within the scope of the demand granted by the Council.

(2) It shall be the duty of the committee to bring to the notice of the Council—

- (i) every re-appropriation from one grant to another grant ;
- (ie) every re-appropriation within a grant which is not made in accordance with the rules regulating the functions of the Finance Department, or which has the effect of increasing the expenditure on an item the provision from which has been specifically reduced by a vote of the Council ; and

(iii) all expenditure which the Finance Department has requested should be brought to the notice of the Council.

Rules for The Legislative Assembly

The following rules relating to the Legislative Assembly and the Council of State, have been made under sections 63 A (1) and (2) and 64 (1) (a), (b), (c), (d), (e) and (f) of the Government of India Act and submitted for the sanction of the Secretary of State in Council, May 1920.

Composition of Legislative Assembly.

1. The Legislative Assembly shall consist of—

- (1) one hundred and two elected members, and
- (2) forty-one members nominated by the Governor General, of whom not more than twenty-six may be officials, and one shall be a person nominated as the result of an election held in Berar.

Elected Members—Constituencies.

2. The elected members shall be elected by the constituencies specified in Schedule I to these rules subject to the provisions of that Schedule in regard to constituencies entitled to elect in rotation, and the number of member to be elected by each constituency shall be as stated therein against that constituency.

General disqualifications for being elected.

3. (1) A person shall not be eligible for election as a Member of the Legislative Assembly if such person—

- (a) is not a British subject ; or
- (b) is a female ; or
- (c) is already a member of any legislative body constituted under the Act ; or
- (d) having been a legal practitioner has been dismissed or is under suspension from practising as such by order of any competent court ; or
- (e) has been adjudged by a competent court to be of unsound mind ; or
- (f) is under 25 years of age ; or
- (g) is an undischarged insolvent ; or
- (h) being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part ;

Provided that, if the Ruler of a State in India or any subject of such a State is not ineligible for election to the Legislative Council of a province, such Ruler or Subject shall not by reason of not being a British subject be ineligible for election to the Legislative Assembly by any constituency in that province :

Provided further that the disqualification mentioned in clause (d) may be removed by an order of the Governor General in Council in this behalf.

(2) A person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election for five years from the date of the expiration of the sentence.

(3) A person who has been convicted of an offence under Chapter IX-A. of the Indian Penal Code punishable with imprisonment for a term exceeding six months or has been reported by Commissioners holding an election inquiry as guilty of a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II, of Schedule IV to these rules, shall not be eligible for election for five years from the date of such conviction or of the finding of the Commissioners, as the case may be ; and a person reported by such Commissioners to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

(4) A person who having been a candidate or an election agent at an election has failed to lodge the return of election expenses hereinafter prescribed or has lodged a return which is found either by Commissioners holding an election inquiry or by a Magistrate in a judicial proceeding to be false in any material particular shall be disqualified for five years from the date of the election from being nominated as a candidate at any other election :

Provided that either of the disqualifications mentioned in sub-rules (3) and (4) of this rule may be removed by an order of the Governor General in council in that behalf.

Special qualifications for election in case of certain constituencies

4. (1) A person shall not be eligible for election as a member of the Legislative Assembly to represent—

(a) a general constituency in the presidency of Madras or in the presidency of Bengal, unless his name is registered on the electoral roll of the constituency or of another constituency of the same communal description situate in the same presidency ; or

(b) a general constituency in the presidency of Bombay, unless his name is registered on the electoral roll of the constituency and he has resided in the constituency for a period of six months prior

to the first day of January in the year in which the constituency is called upon to elect a member or members : provided that a candidate eligible for election in any such constituency shall be eligible for election in a constituency of the same communal description if the whole or part of either constituency is included in the same district ; or

(c) a general constituency in the province of Bihar and Orissa or in the province of Assam, unless his name is registered on the electoral roll of the constituency or of any other general constituency in the same province ; or

(d) a Muhammadan or non-Muhammadan constituency in the United Provinces of Agra and Oudh, unless his name is registered on the electoral roll of a Muhammadan or non-Muhammadan constituency in that province ; or

(e) a general constituency in the Punjab or in the Central Provinces, or a European constituency in the United Provinces of Agra and Oudh, or a constituency in the Province of Burma or any special constituency, unless his name is registered on the electoral roll of the constituency.

(2) For the purposes of these rules—

(a) "general constituency" means a non-Muhammadan, Muhammadan, European, non-European, or Sikh constituency ; and

(b) "special constituency" means a Landholders' or Indian Commerce constituency.

The right to elect—General conditions of registration and disqualifications.

5. (1) Every person shall be entitled to have his name registered on the electoral roll of a constituency who has the qualifications prescribed for an elector of that constituency and who is not subject to any of the disqualifications hereinafter set out, namely :—

(a) is not a British subject ; or

(b) is a female ; or

(c) has been adjudged by a competent court to be of unsound mind ; or

(d) is under 21 years of age :

Provided that, if the Ruler of a State in India or any subject of such a State is not disqualified for registration on the electoral roll of a constituency of the Legislative Council of a province, such Ruler or subject shall not by reason of not being a British subject be disqualified for registration on the electoral roll of any constituency of the Legislative Assembly in that province :

Provided further that, if a resolution is passed by the Legislative Assembly recommending that the sex disqualification for registration should be removed either in respect of women generally or any class of women, the Governor General in Council shall make regulations providing that women or a class of women, as the case may be, shall not be disqualified for registration by reason only of their sex :

Provided further that no person shall be entitled to have his name registered on the electoral roll of more than one general constituency.

(2) If any person is convicted of an offence under Chapter IX-A. of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is reported by the Commissioners holding an election inquiry as guilty of a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II, of Schedule IV to these rules, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of five years from the date of the conviction or the report, as the case may be, or if not on the electoral roll, shall not be so registered for a like period ; and if any person is reported by such Commissioners as guilty of any other corrupt practice as specified in the said Schedule, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of three years from the date of the report or, if not on the electoral roll, shall not be registered for a like period :

Provided that the Governor General in Council may direct that the name of any person to whom this sub-rule applies shall be registered on the electoral roll.

Qualification of electors.

6. (1) The qualifications of an elector for a general constituency shall be such qualifications based on—

- (i) community,
- (ii) residence, and
- (iii) (a) ownership or occupation of a building, or
- (b) assessment to or payment of municipal or cantonment of rates or taxes or local cesses ; or
- (c) assessment to or payment of income tax ; or
- (d) the holding of land,

as are specified in Schedule II to these rules in the case of that constituency.

(2) The qualifications of an elector for a special constituency shall be the qualifications specified in Schedule II to these rules in the case of that constituency.

Electoral roll.

7. (1) An electoral roll shall be prepared for every constituency, on which shall be entered the names of all persons appearing to be entitled to be registered as electors for that constituency. It shall be published in the constituency together with a notice specifying the mode in which, and the time within which, any person whose name is not entered in the roll and who claims to have it inserted therein, or any person whose name is on the roll and who objects to the inclusion of his own name or of the name of any other person on the roll, may prefer a claim or objection to the Revising Authority.

(2) The regulations for the time being in force in any province for the purpose of elections to the Legislative Council of that province in regard to the following matters, namely,—

(1) the authority by whom the electoral roll shall be prepared and the particulars to be contained in the roll,

(2) the time at which the roll shall be prepared,

(3) the publication of the roll in the constituency to which it relates,

(4) the mode in which and the time within which claims and objections may be preferred,

(5) the constitution and appointment of Revising Authorities to dispose of claims and objections,

(6) the manner in which notices of claims or objections shall be published,

(7) the place, date, and time at which and the manner in which claims or objections shall be heard,

shall apply for the purpose* of the holding of elections within that province to the Legislative Assembly :

Provided that the Governor-General in Council may, by notification in the Gazette of India, direct that such modifications and adaptations as he may specify shall be made in the application of those regulations.

(3) The orders made by the Revising Authority shall be final, and the electoral roll shall be amended in accordance therewith and shall, as so amended, be republished in the case of each province in such manner as may be prescribed by the regulations aforesaid for the republication of electoral rolls of constituencies of the Legislative Council.

(4) The electoral roll shall come into force from the date of such republication, and shall continue in force for a period of three years or for such less period as the Governor General in Council may

by regulation prescribe, and after the expiration of such period a fresh roll shall be prepared in accordance with these rules.

(5) If a constituency is called upon to elect a member or members after an electoral roll has ceased to have force and before the completion of the new electoral roll, the old electoral roll shall for the purposes of that election continue to operate as the electoral roll for the constituency.

Right to vote.

8. Every person registered on the electoral roll for the time being in force for any constituency shall while so registered be entitled to vote at an election of a member or members for that constituency provided that no person shall vote in more than one General constituency.

Nomination of candidates.

9. (1) Any person may be nominated as a candidate for election in any constituency for which he is eligible for election under these rules.

(2) On or before the date on which a candidate is nominated, the candidate shall make in writing and sign a declaration appointing either himself or some other person who is not disqualified under these rules for the appointment to be his election agent, and no candidate shall be deemed to be duly nominated unless such declaration has been made.

(3) A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be renominated as a candidate for the same election.

Election.

10. (1) If the number of candidates who are duly nominated and who have not withdrawn their candidature before such time as the Governor General in Council may fix in this behalf exceeds that of the vacancies, a poll shall be taken.

(2) If the number of such candidates is equal to the number of vacancies, all such candidates shall be declared to be duly elected.

(3) If the number of such candidates is less than the number of vacancies, all such candidates shall be declared to be elected, and the Governor General shall, by notification in the Gazette of India call for fresh nominations for the remaining vacancies, and if any such are received, shall call upon the constituencies concerned to elect members to fill these vacancies.

(4) Votes shall be given by ballot and in General and Landholders' constituencies in person. No votes shall be received by proxy.

(5) In plural-member constituencies every elector shall have as many votes as there are members to be elected: provided that no

elector shall give more than one vote to any one candidate except in the case of the plural-member constituencies in the presidency of Bombay, in which constituencies any elector may accumulate his votes upon one candidate or distribute them amongst the candidates as he pleases.

(6) Votes shall be counted by the Returning Officer, and any candidate, or, in the absence of the candidate, a representative duly authorised by him in writing, shall have a right to be present at the time of counting.

(7) When the counting of the votes has been completed, the Returning Officer shall forthwith declare the candidate or candidates, as the case may be, to whom the largest number of votes has been given to be elected.

(8) Where an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Returning Officer in such manner as he may determine.

(9) The Returning Officer shall without delay report the result of the election to the Secretary to the Government of India in the Legislative Department, and the name or names of the candidate or names of the candidate or candidates elected shall be published in the Gazette of India.

Regulations regarding the conduct of elections.

11. The regulations for the time being in force in any province for the purpose of elections to the Legislative Council of that province in regard to the following matters, namely,—

(1) the form and manner in, and the conditions on, which nominations may be made, and for the scrutiny of nominations,

(2) the appointment of a Returning Officer for each constituency and for his powers and duties,

(3) the division of General and Landholders' constituencies into polling areas and the appointment of polling stations for these areas,

(4) the appointment of officers to preside at polling stations, and the duties of such officers,

(5) the checking of voters by reference to the electoral roll,

(6) the manner in which votes are to be given, both generally and in the case of illiterate voters or voters under physical or other disability,

(7) the procedure to be followed in respect of tender of votes by persons representing themselves to be electors after other persons have voted as such electors,

(8) the scrutiny of votes.

(9) the safe custody of ballot papers, and other election papers, the period for which such papers shall be preserved, and the inspection and production of such papers, and,

(1) the conduct of elections generally,

shall apply for the purpose of the holding of elections within that province to the Legislative Assembly :

Provided that the Governor-General in Council may, by notification in the Gazette of India, direct that such modifications and adaptations as he may specify shall be made in the application of these regulations.

Multiple elections.

12. (1) If any person is elected by more than one constituency, he shall, by notice in writing signed by him and delivered to the Secretary to the Government of India in the Legislative Department within seven days from the date of the publication of the result of such election in the Gazette of India, choose for which of these constituencies he shall serve, and the choice shall be conclusive.

(2) When any such choice has been made, the Governor-General shall call upon any constituency or constituencies for which such person has not chosen to serve to elect another person or persons.

(3) If the candidate does not make the choice referred to in sub-rule (1) of this rule, the elections of such person shall be void and the Governor-General shall call upon the constituency or constituencies concerned to elect another person or persons.

Election agents and expenses—Disqualification for being an election agent.

13. No person shall be appointed an election agent who is himself ineligible for election as being subject to the disqualification mentioned in sub-rule (3) of rule III.

14. (1) Within one month or such longer period as the Governor General may allow after the date of the declaration of the result of the election, every candidate, either personally or through his election agent, shall cause to be lodged with the returning Officer a return of his election expenses containing the particulars specified in Schedule III to these rules.

(2) Every such return shall contain a statement of all payments made by the candidate or by his election agent or by any persons on behalf of the candidate or in his interests for expenses incurred on account of or in respect of the conduct and management of the

election, and further a statement of all unpaid claims in respect of such expenses of which he or his election agent is aware.

(3) The return shall be accompanied by declarations by the candidate and his election agent which shall be in the form contained in the said Schedule and shall be made on oath or affirmation before a Magistrate.

(4) The Governor General in Council shall cause to be prepared in such manner, and maintained for such time, as he may direct, a record showing the names of all candidates at every election under these rules and the date on which the return of election expenses of each candidate has been lodged with the Returning Officer.

15. Every election agent shall keep regular books of account in which the particulars of all expenditure of the nature referred to in rule XIV shall be entered, whether such expenditure is incurred by the candidate or by the election agents or by any person under the direction of the candidate or the election agent.

Nominated Members.

16. (1) Save as expressly provided in these rules in regard to the nomination of a person elected in Berar, no person shall be nominated to the Legislative Assembly who—

(a) is not a British subject ; or

(b) is a female ; or

(c) is already a member of any legislative body constituted under the Act ; or

(d) having been a legal practitioner has been dismissed or is under suspension from practising as such by order of any competent court ; or

(e) has been adjudged by a competent court to be of unsound mind ; or

(f) is under 25 years of age ; or

(g) is an undischarged insolvent ; or

(h) being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part :

Provided that, if the Ruler of a State in India or any subject of such a State is not disqualified for nomination to the Legislative Council of a province, such Ruler or subject shall not by reason of not being a British subject be disqualified for nomination to the Legislative Assembly to represent that province :

Provided further that the disqualification mentioned in clause (d) may be removed by an order of the Governor-General in Council in this behalf.

(2) A person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for nomination for five years from the date of the expiration of the sentence.

(3) A persons who has been convicted of an offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months or has been reported by Commissioners holding an election inquiry as guilty of a corrupt practice as specified in Part I or in paragraph 1, 2 or 3 of Part II, of Schedule IV to these rules, shall not be eligible for nomination for five years from the date of such conviction or of the finding of the Commissioners, as the case may be ; and a person reported by such Commissioners to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

(4) A person who having been a candidate or an election agent at an election has failed to lodge the return of election expenses prescribed in these rules or has lodged a return which is found either by Commissioners holding an inquiry or by a Magistrate in a judicial proceeding to be false in any material particular shall not be eligible for nomination for five years from the date of the election :

Provided that either of the disqualifications mentioned in subrules (3) and (4) of this rule may be removed by an order of the Governor-General in Council in this behalf.

Terms of office of nominated member.

17. (1) A nominated non-official member shall hold office for the duration of the Legislative Assembly to which he is nominated.

(2) Official members shall hold office for the duration of the Legislative Assembly to which they are nominated or for such shorter period as the Governor-General may, at the time of nomination, determine.

Obligation to take oath—Taking of oath.

18. Every person who is elected or nominated to be a member of the Legislative Assembly shall, before taking his seat, make at a meeting of the Legislative Assembly an oath or affirmation of his allegiance to the Crown in the following form, namely :—

I, A. B. having been ^{elected}
nominated a member of this Assembly do solemnly swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.

Effect of subsequent disabilities or failure to take oath.

19. If any person having been elected or nominated subsequently becomes subject to any of the disabilities stated in clauses (a), (d), (e), (g), and (h) of subrule (1) or in sub-rules (2), (3) and (4) of rule III or of rule XVI, as the case may be, or fails to make oath or affirmation prescribed by rule XVIII within such time as the Governor-General considers reasonable, the Governor-General shall, by notification in the Gazette of India, declare his seat to be vacant.

Vacancies.

20. (1) When a vacancy occurs in the case of an elected member by reason of his election being declared void or his seat being declared vacant, or by reason of absence from India, inability to attend to duty, death, acceptance of office or resignation duly accepted, the Governor-General shall, by notification in the Gazette of India, call upon the constituency concerned to elect a person for the purpose of filling the vacancy within such time as may be prescribed by such notification.

(2) If a vacancy occurs in the case of a nominated member, the Governor-General shall nominate to the vacancy a person having the necessary qualification under these rules.

First constitution of the Legislative Assembly.

21. (1) As soon as conveniently may be after these rules come into force, a Legislative Assembly shall be constituted in accordance with their provisions.

For this purpose the Governor-General shall, by notification in the Gazette of India, call upon the constituencies referred to in rule II to elect members in accordance with these rules within such time as may be prescribed by such notification, and shall make such nominations as may be necessary to complete the Legislative Assembly before the date fixed for its first meeting.

(3) If any difficulty arises as to the preparation or publication of the first electoral roll or the holding of the first elections after the commencement of these rules, the Governor-General in Council may by order do any matter or thing which appears to him necessary for the proper preparation or publication of the roll or for the proper holding of the elections.

General Elections.

22. (1) On the expiration of the duration of a Legislative Assembly or on its dissolution, a general election shall be held in order that a new Legislative Assembly may be constituted.