

(2) On such expiration or dissolution, the Governor-General shall, by notification in the Gazette of India, call upon the constituencies referred to in rule 11 to elect members in accordance with these rules within such time after the date of expiration or dissolution as may be prescribed by such notification :

Provided that, if the Governor-General thinks fit, such notification may be issued at any time not being more than three months prior to the date on which the duration of the Legislative Assembly would expire in the ordinary course of events.

(3) Before the date fixed for the first meeting of the Legislative Assembly, the Governor-General shall make such nominations as may be necessary to complete the Legislative Assembly.

23. As soon as may be after the expiration of the time fixed for the election of members at any general election, the names of the members elected for the various constituencies at such election shall be notified in the Gazette of India.

Rules for The Council of State

Composition of Council of State.

1. The Council of State shall consist of—

(1) thirty-three elected members, and

(2) twenty-seven members nominated by the Governor General, of whom not more than twenty 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 members 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 Council of State 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 Council of State 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 herein after 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 for 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 Constituencies.

4. (1) A person shall not be eligible for election as a Member of the Council of State to represent—

(a) a general constituency 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 presidency; or

(b) a general constituency in the United Provinces of Agra and Oudh or 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 another general constituency in the same province; or

(c) a general constituency in the presidency of Madras or in the presidency of Bombay or in the Punjab or in the Central Provinces or 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 any constituency which is not a special constituency; and

(b) "special constituency" means a European Commerce constituency.

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

5. (1) Every persons 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 Council of State in that province:

Provided further that, if a resolution is passed by the Council of State 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 Commissioners holding an election inquiry as guilty of a corrupt practice as specified in Part I, or in paragraph I, 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.

Qualifications of electors.

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

- (i) residence, or residence and community, and
- (ii) (a) the holding of land, or
- (b) assessment to or payment of income-tax, or
- (c) past or present membership of a Legislative body, or
- (d) past or present tenure of office on a local authority, or
- (e) past or present university distinction, or
- (f) the tenure of office in a co-operative banking society, or
- (g) the holding of a title conferred for literary merit,

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 whom 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 Council of State :

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 a 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 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 Bombay (Non-Muhammadan) constituency, in which constituency an elector may accumulate all his votes on any one candidate or may distribute them among the candidates as he pleases.

(9) 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 and 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 candidates elected shall be published in the Gazette of India.

Regulations regarding the conduct of election.

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 condition 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 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
- (10) the conduct of elections generally,

shall apply for the purpose of the holding of elections within the province to the Council of State :

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.

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.

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.

Return of election expenses.

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 those 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.

Accounts of Agents.

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 agent or by any person under the direction of the candidate or the election agent.

General disqualifications for nomination.

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 Council of State 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 Council of State 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 person who has been convicted of any 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 sub-rules (3) and (4) of this rule may be removed by an order of the Governor General in Council in that behalf.

Terms of office of nominated members.

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

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

Taking of oath.

18. Every person who is elected or nominated to be a member of the Council of State shall, before taking his seat, make at a meeting of the Council of State 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 Council 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 clause (a), (d), (e), (g), and (h) of sub-rule (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

the 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 Council of State.

21. [1] As soon as conveniently may be after these rules come into force, a Council of State shall be constituted in accordance with their provisions.

[1] 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 Council of State 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.

Reconstitution of Council of State—General Elections.

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

(2) On such expiration or dissolution, 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 after the date of expiration or dissolution as may be prescribed by such notification.

Provided that, if the Governor General thinks fit, such notification may be issued at any time not being more than three months

prior to the date on which the duration of the Council of State would exercise in the ordinary course of events.

(3) Before the date fixed for the first meeting of the Council of State, the Governor General shall make such nominations as may be necessary to complete the Council of State.

Publication of result of General election.

23. As soon as may be after the expiration of the time fixed for the election of members at any general election, the names of the members elected for the various constituencies at such election shall be notified in the Gazette of India.

List of Constituencies for The Imperial Legislative Assembly

Madras—16

Madras, City, Non-Muhammadan, Urban	1
" Districts, Non Muhammadan Rural	...	...	...	1
Ganjam cum Vizagapatam District	...	...	...	1
Godavari cum Kistna	...	...	...	1
Guntur cum Nellore	...	...	...	1
Chittoor cum Ceded Distrs (Anantpur, Bellary, Cuddapah, Kurnool)	...	...	...	1
Salem, Coimbatore cum North Arcot	...	...	...	1
Chingleput cum South Arcot	...	...	...	1
Tanjore cum Trichinopoly	...	...	...	1
Madura, Ramanad cum Tinnevely	...	...	...	1
Nilgiris and West Coast [Malabar, Anjengo, S. Canara]	...	...	...	1
Muhammadan Constituencies				
North Madras [Ganjam, Vizagapatam, Godavari, Kistna, Guntur Nellore, Anantpur, Bellary, Cuddapah, Kurnool and Chittoor]	...	...	...	1
South Madras [Chingleput, Madras, Arcot, N. & S., Coimbatore Tanjore, Trichinopoly, Madura, Ramanad, Tinnevely]	...	...	...	1
Nilgiris and W. Coast [Malabar, Anjengo, S. Canara]	...	...	...	1
Europeans in Presidency	...	...	...	1
Landholders in Presidency	...	...	...	1
Indian Commerce in Presidency	...	...	...	1

Bombay—11

Bombay—City Non-Muhammadan Urban	2
" " Muhammadan, Urban	...	...	...	1
Sind Non-Muhammadan	...	...	...	1
Muhammadan	...	...	...	1
Non-Muhammadan Rural				
Northern Division	...	...	...	2
Southern Division	...	...	...	1
Central "	...	...	...	2
Europeans in Presidency	...	...	...	1
Indian Merchants' Chamber	...	...	...

Bengal—15

Calcutta, Non-Muhammadan, Urban	...	...	...	...
" " " " " "	"	"	"	suburbs
[Hoogly, Howrah, 24 Pargana Dist Municipal.]	...	...	...	...
" " " " " "	"	Bural,	Presidency Division	...
Non Muhammadan—Rural	...	...	...	...
Burdwan Division, excluding Hoogly and Howrah Dist.	...	...	...	...
Dacca Division	...	...	...	...
Chittagong—Raishahi Division	...	...	...	...

LIST OF CONSTITUENCIES

109

Muhammadian—Urban—					
Calcutta and suburbs [Hoogly, Howrah, 24 Parganas District]	...	...	...	...	1
Muhammadian Rural—					
Burdwan and Calcutta Presidency Division	...	...	...	...	1
Dacca Division	...	...	...	...	1
Chittagong Division	...	...	...	...	1
Rajshahi Division	...	...	...	...	1
European—Bengal Presidency	...	...	...	...	2
Landholders—Bengal	...	...	...	...	1
Indian Chambers of Commerce	...	...	...	...	1

United Provinces—16

Non-Muhammadian—Urban—					
Cities of U. P. [Agra, Meerut, Cawnpore, Benares, Allahabad, Bareilly, Lucknow]	...	...	...	...	1
Non-Muhammadian—Rural—					
Meerut Division [excluding Municipality and Cantonment]	...	...	...	...	1
Agra	...	...	...	...	1
Rohilkhand and Kumaon Division	...	...	...	...	1
Allahabad—Jhansi Division	...	...	...	...	1
Benares—Gorakhpur Division	...	...	...	...	1
Lucknow Division	...	...	...	...	1
Fyzabad Division	...	...	...	...	1
Muhammadian—Urban—					
Cities of U. P. [Agra etc. as above]	...	...	...	...	1
Muhammadian Rural—					
Meerut Division—[excluding Municipal and Cantonment.]	...	...	...	...	1
Agra	...	...	...	...	1
Rohilkhand and Kumaon Division	...	...	...	...	1
Lucknow and Fyzabad	...	...	...	...	1
U. P. Southern Division [Allahabad, Benares, Gorakhpur]	...	...	...	...	1
European—U. P.	...	...	...	...	1
Landholders—U. P.	...	...	...	...	1

Punjab—12

Non-Muhammadian—					
Ambala Division	...	...	...	...	1
Jullundur Division	...	...	...	...	1
West Punjab [Lahore, Rawalpindi, Multan] Division	...	...	...	...	1
Muhammadian—					
East Punjab [Ambala, Kangra, Hoshiarpur, Jullundur, Ludhiana]	...	...	...	...	1
East Central Punjab [Ferozepur, Lahore, Amritsar and Gurdaspur]	...	...	...	...	1
West Central Punjab [Sialkot, Gujranwala, Sheikhupura and Lyallpur]	...	...	...	...	1
North Punjab [Gujrat, Jhelum and Rawalpindi]	...	...	...	...	1
North-West Punjab [Attock, Mianwali, Shahpur and Jhang]	...	...	...	...	1
South-West Punjab [Multan, Montgomery, Muzaffargarh and Dera Ghazi Khan]	...	...	...	...	1
Sikh—					
East Punjab [Ambala and Jullundur Division]	...	...	...	...	1
West Punjab [Lahore, Rawalpindi and Multan]	...	...	...	...	1
Punjab Landholders [The Province of the Punjab]	...	...	...	...	1

Bihar and Orissa—12

Non-Muhammadan—

Tirhut Division	...	...	...	...	2
Orissa Division	...	...	...	...	2
Patna cum Shahabad	...	...	...	...	1
Gaya cum Monghyr	...	...	...	...	1
Bhagalpur, Purnea and the Santhal parganas	...	...	...	...	1
Chota Nagpur Division	...	...	...	...	1

Muhammadan—

Patna and Chota Nagpur cum Orissa	...	...	...	...	1
Bhagalpur Division	...	...	...	...	1
Tirhut Division	...	...	...	...	1

Bihar and Orissa Landholders	1
------------------------------	-----	-----	-----	-----	---

Central Provinces—5

Non-Muhammadan—

Nagpur Division	...	...	...	...	1
Central Provinces Hindi Division [The Nerbada, Jubbulpur and Chhatisgarh Divisions	...	...	...	...	2

Mahammadan-Central Provinces	...	...	...	...	1
Central Provinces Landholders	...	...	...	...	1

Assam—4

Non-Muhammadan—

Assam Valley	...	...	...	...	1
Surma Valley cum Shillong	...	...	...	...	1

Muhammadan—

Assam Muhammadan	1
------------------	-----	-----	-----	-----	---

Assam European	1
----------------	-----	-----	-----	-----	---

Burma—4

Burma Non-European	...	...	...	...	3
Burma European	...	...	...	...	1

II. List of Constituencies entitled to representation in rotation.

Bombay	{ Sind Muhammadan Rural }		}	1
	{ Bombay Northern Division do }			
Ditto	{ Bombay Central Division do }		}	1
	{ Bombay Southern Division do }			
Ditto	{ Sind Jagirdar & Zamindars Landholders }		}	1
	{ Gujrat & Deccan Sardars & Inamdars do }			
Ditto	{ The Bom. Millowners' Association Indian Commerce }		}	1
	{ The Ahmedabad " " " }			
	{ Bengal Chambers of Commerce " }			
Bengal	{ Marawari Association }		}	1
	{ Bengal Mahajan Sabha " }			

III.—In a case where two constituencies are bracketed together as entitled to elect one member, the constituency first mentioned shall elect to the first Legislative Assembly, at the general election and at all bye-elections so long as the first Legislative Assembly continues, and the constituency second mentioned shall elect at the general election to the next Legislative Assembly and at bye-elections in like manner, and thereafter the constituencies shall elect in like manner in rotation to succeeding Legislative Assemblies.

IV.—In the case where three constituencies are bracketed together as entitled to elect one member, the constituency first mentioned shall elect to the first Legislative Assembly at the general election and at all bye-elections so long as the first Legislative Assembly continues, and the second mentioned constituency shall elect at the general election to the next Legislative Assembly and at bye-elections in like manner, and the third mentioned constituency shall elect at the general election to the third Legislative Assembly and at bye-elections in like manner, and thereafter the constituencies shall elect in like manner in rotation to succeeding Legislative Assemblies.

List of Constituencies for The Council of State

Province.	Name of Constituency.	No. of Members.
Madras	Madras Non-Muhammadan.	4
Ditto	Madras Muhammadan.	1
Bombay	Bombay Non-Muhammadan.	3
Ditto	Bombay Presidency Muhammadan.	1
Ditto	Sind Muhammadan.	1
Ditto	Bombay Chamber of Commerce.	1
Bengal	East Bengal Non-Muhammadan.	1
Ditto	West Bengal do	2
Ditto	East Bengal Muhammadan	1
Ditto	West Bengal do	1
Ditto	Bengal Chamber of Commerce.	1
United Provinces	United Provinces	
	Central Non-Muhammadan	1
do	United Provinces Northern	
	Non-Muhammadan	1
do	United Provinces Southern	
	Non-Muhammadan	1
do	United Provinces West	
	Muhammadan	1
do	United Provinces East	
	Muhammadan	1

Province.	Name of Constituency.	No. of Members.
Punjab	Punjab (Non-Muhammadian)	1
Do.	Punjab Sikh	1
Behar and Orissa	Behar and Orissa Non-Muhammadian.	2*
Do.	Muhammadian.	1
Central Provinces	Central Provinces.	1
Burma	Burma.	1
Do.	Burma Chamber of Commerce.	1
Punjab.	East Punjab Muhammadan	} ... 2
Do.	West do. do.	
Bihar & Orissa	Bihar & Orissa Non-Muhammadian.	} ... 1
Assam	Assam Non-Muhammadian	
Ditto.	do Muhammadan	

III. In the case where two constituencies are bracketed together as entitled to elect one member, the constituency first mentioned shall elect to the first Council of State at the general election and at all bye-elections so long as the first Council of State continues, and the second-mentioned constituency shall elect at the general election to the next Council of State and at all bye-elections in like manner, and thereafter the constituencies shall elect in like manner in rotation to succeeding Councils of State.

IV. In the case where three constituencies are bracketed together as entitled to elect two members, the two first-mentioned constituencies shall each elect a member to the first Council of State at the general election and the constituency affected shall elect at any bye-election so long as the first Council of State continues, and for the purposes of the general election to the second Council of State and bye-elections occurring during the continuance of that Council the two first-mentioned constituencies shall be deemed to be one constituency and the members shall be elected, one by those constituencies combined and the other by the third-mentioned constituency, or, in the case of a bye-election, by those constituencies or that constituency, as the case may be, and thereafter the constituencies shall elect in like manner in rotation to succeeding Councils of State.

* NOTE.—The Bihar and Orissa (non-Muhammadian) constituency is entitled to elect a third member to the second, fourth and succeeding alternate Councils of State.

Devolution Rules

In exercise of the powers conferred by section 45 A and 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 :—

Short title and Definitions.

1. These rules may be called the Devolution Rules.
2. In these rules, unless there is anything repugnant in the subject or context—
 - (a) "all-India Revenues" means such portion of the revenues of India as is not allocated to local Governments under these rules ;
 - (b) "Schedule" means a Schedule to these rules ;
 - (c) "the Act" means the Government of India Act.

Part I.—Classification of Subjects.

3. (1) For the purpose of distinguishing the functions of local Governments and local legislatures from the functions of the Governor-General in Council and the Indian legislature, subjects shall be classified in relation to the functions of Government as central and provincial subjects in accordance with the lists set out in Schedule I.

(2) Any matter which is included in the list of provincial subjects set out in Part II of Schedule I shall, to the extent of such inclusion, be excluded from any central subject of which, but for such inclusion, it would form part.

Settlement of doubts.

4. Where any doubt arises as to whether a particular matter does or does not relate to a provincial subject the Governor-General in Council shall decide whether the matter does or does not so relate, and his decision shall be final.

Duty of local Government to supply information.

5. The local Government of a province shall furnish to the Governor-General in Council from time to time such returns and information on matters relating to the administration of provincial subjects as the Governor-General in Council may require and in such form as he may direct.

Transfer of subjects and revocation or suspension of transfer.

6. The provincial subjects specified in the first column of Schedule II shall, in the provinces shown against each subject in the

second column of the said Schedule, be transferred subjects provided that the Governor General in Council may, by notification in the Gazette of India, with the previous sanction of the Secretary of State in Council, revoke or suspend for such period as he may consider necessary the transfer of any provincial subject in any province, and upon such revocation or during such suspension the subject shall not be a transferred subject.

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

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

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

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

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

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

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

11. An officer shall be deemed to be serving in that department which controls the budget-head to which his pay is debited. If he performs duties both in a department dealing with reserved and in a department dealing with transferred subjects, the Governor shall decide to which budget-head his pay shall be debited.

Devolution.

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

Part II.—Financial arrangements.—Allocation of revenue.

13. The following sources of revenue shall be allocated to local Governments as sources of provincial revenue, namely :—

- (a) balances standing at the credit of the province at the time when the Act comes into force ;
- (b) receipts accruing in respect of provincial subjects ;
- (c) General stamps ;
- (d) recoveries of loans and advances given by the local Government and of interest paid on such loans ;
- (e) Payments made to the local Government by the Governor General in Council or by other local Governments, either for services rendered or otherwise ;
- (f) the proceeds of any taxes which may be lawfully imposed for provincial purposes ;
- (g) the proceeds of any loans which may be lawfully raised for provincial purposes ; and
- (h) any other sources which the Governor General in Council may by order declare to be sources of provincial revenue.

Payment of Government revenues into the public account.

14. All moneys derived from sources of provincial revenue shall be paid into the public account, of which the Governor General in Council is custodian, and credited to the Government of the province ; and no moneys so credited shall be withdrawn from the public account save in accordance with the provisions of a law passed by the Indian Legislature.

Provincial Contributions.

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

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

16. From the Financial year 1922-23 onwards a total contribution of 983 lakhs, or such smaller sum as may be determined by the Governor General in Council, shall be paid to the Governor General in Council by the local Governments mentioned below. The percentage of this total amount to be paid in each year by each local Government shall be according to the following scale :—

Name of Province,	1922- 23.	1923- 24.	1924- 25.	1925- 26.	1926- 27.	1927-28 and thereafter.
Madras ...	32.5	29.5	26.5	23	20	17
Bombay ...	7	8	9.5	10.5	12	13
Bengal ...	8.5	10.5	12.5	15	17	19
United Province ...	23.5	22.5	21	20	19	18
Punjab ...	16.5	15	13.5	12	10.5	9
Burma ...	6.5	6.5	6.5	6.5	6.5	6.5
Bihar and Orissa ...	1.5	3	5	7	8.5	10
Central Provinces and Berar ...	2.5	3	3.5	4	4.5	5
Assam ...	1.5	2	2	2	2	2.5

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

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

19. At any time when he considers this course to be essential in order to preserve the financial stability of India, the Governor General in Council shall have power to require a local Government so to regulate its programme of expenditure as not to reduce the balance at its credit in the public account on a specified date below a stated figure. Subject to this power, local Governments shall be

at liberty to draw on their balances, provided that notice of the amount which they propose to draw during the ensuing financial year is given to the Governor General in Council before such date in each year as the Governor General in Council may by order fix.

20. Whenever the Governor General in Council has, on receipt of due notice of the intention of the local Government to draw on its balances, required it to reduce the extent of the proposed draft, he shall, at the end of the financial year in which the local Government is debarred from drawing, credit the local Government with interest on the amount which it was not permitted to draw. Such interest shall be a charge on the revenues of India and shall be calculated at the average rate at which the Governor General in Council has borrowed money in the open market during the year by the issue of treasury bills.

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

22. (1) The capital sums spent by the Governor General in Council upon the construction in the various provinces of productive and protective irrigation works and such other works financed from loan funds as may from time to time be handed over to the management of local Governments shall be treated as advances made to the local Governments from the revenues of India. Such advances shall carry interest at the following rates, namely:—

(a) in the case of outlay up to the end of the financial year 1916-17, at the rate of 3.3252 per centum;

(b) in the case of outlay incurred after the financial year 1916-17, at the average rate of interest paid by the Governor General in Council on loans raised in the open market since the end of that year.

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

23. The Governor General in Council may at any time make to a local Government an advance from the revenues of India on such terms as to interest and repayment as he may think fit.

24. The payment of interest on loans and advances made under the three preceding rules and the repayment of the principal of an advance under rule 21, shall be a charge on the annual allocated revenues of the local Government, and shall have priority over all other charges, save only contributions payable to the Governor General in Council.

25. (1) Subject to the rules contained in Schedule III, the local Government shall have full power to sanction expenditure on provincial subjects—

(a) in the case of grants voted by the Legislative Council to the full extent of such grant, and

(b) In the case of the heads of expenditure enumerated in section 72D (3) of the Act, to any extent.

(2) Sanctions once given under clause (a) of sub-rule (1) shall remain valid for the specified period for which they are given, subject to the voting of grants in each year.

Delegation of powers of sanction.

26. Any powers conferred by rule 25 upon the Governor in Council or the Governor acting with ministers may, after previous consultation with the Finance Department hereinafter referred to, be delegated, with or without conditions, to any officer subordinate to the local Government. Such officer may not in his turn delegate such powers to any officer subordinate to him.

Famine Insurance Fund.

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

Taxation and borrowing.

28. All proposals for raising taxation or for the borrowing of money on the revenues of a province shall be considered by the Governor with his Executive Council and ministers sitting together, but the decision shall thereafter be arrived at by the Governor in Council, or by the Governor and minister or ministers concerned, according as the proposal relates to a reserved or to a transferred subject.

Allocation of revenues for the administration of transferred subjects.

29. Expenditure for the purpose of the administration of transferred subjects shall, in the first instance, be a charge on the general revenues and balances of each province, and the framing

of proposals for expenditure in regard to transferred and reserved subjects will be a matter for agreement between that part of the government which is responsible for the administration of transferred subjects and that part of the government which is responsible for the administration of reserved subjects.

Procedure in event of failure to agree.

30. If the Governor is at any time satisfied that there is no hope of an agreement being arrived at within a reasonable time as to the framing of proposals in regard to expenditure for reserved and transferred subjects respectively, he may by order in writing allocate the revenue and balances of the province between reserved and transferred subjects by specifying the fractional proportions of the revenues and balances which shall be assigned to each class of subject.

Period of order of allocation.

31. Every such order shall specify the period for which the allocation will remain in force. Such period shall be either the period of the office of the then existing Legislative Council or such longer period terminating at a date not later than one year after the expiration thereof as the Governor may determine. The Governor may, if he thinks fit, before making an order of allocation, refer the question of the allocation of the revenues and balances of the province for the report of such authority as the Governor General may appoint in this behalf, and the Governor, if he so refers the matter, shall make his order in accordance with the terms of the report.

Condition of order of allocation.

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

Preparation of budget in default of agreement or order of allocation.

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

Part III.—Finance Department.

34. (1) There shall be in each Governor's province a Finance Department, which shall be controlled by a member of the Executive Council.

(2) Immediately subordinate to the member there shall be a financial secretary, with whom shall be associated, if the ministers so desire, a joint secretary appointed by the Governor after consultation with the ministers.

(3) The joint secretary shall be specially charged with the duty of examining and dealing with financial questions arising in relation to transferred subjects and with proposals for taxation or borrowing put forward by any minister.

Function of Finance Department.

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

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

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

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

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

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

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

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

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

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

(iii) it shall examine and advise on all schemes of new expenditure for which it is proposed to make provision in the estimates,

and shall decline to provide in the estimates for any scheme which has not been so examined ;

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

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

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

Powers of Finance Department.

36. (1) After grants have been voted by the Legislative Council, the Finance Department shall have power to sanction—

(i) any reappropriation within a grant from one major or minor head to another,

(ii) any reappropriation between heads subordinate to a minor head which involves the undertaking of a recurring liability, and

(iii) any delegation by a member or minister in charge of a department to any officer or class of officers of power to make reappropriation between heads subordinate to a minor head, and the conditions of such delegation,

and no such reappropriation or delegation shall be made without such sanction.

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

37. No expenditure on any of the heads detailed in section 72D. (3) of the Act, which is in excess of the estimate for that head shown in the budget of the year, shall be incurred without previous consultation with the Finance Department.

38. No office may be added to, or withdrawn from, the public service in the province, and the emoluments of no post may be varied, except after consultation with the Finance Department; and, when it is proposed to add a permanent or temporary post to the public service, the Finance Department shall decide to what cadre the proposed post will form an addition.

39. No duty allowance, local allowance or travelling allowance and no personal pay shall be sanctioned for any post or class of posts without previous consultation with the Finance Department.

40. No grant of land or assignment of land revenue, except when the grant is made under the ordinary revenue rules of the pro-

vince, shall be given without previous consultation with the Finance Department, and no concession, grant or lease of mineral or forest rights, of right to water power or of right-of-way or other easement, and no privilege in respect of such rights shall be given without such previous consultation.

Abandonment of revenue, ect.

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

Disposal of reports by Finance Department.

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

Presumption of assent of Finance Department.

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

Agency Employment of Local Governments.

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

Cost of agency establishment.

45. The cost of an establishment exclusively employed on the business of agency shall be a charge against all-India revenues.

Distribution of cost of joint establishment.

46. If a joint establishment is employed upon the administration of central and provincial subjects, the cost of such establishment may be distributed in such manner as the Governor General in Council and the Governor in Council of the province concerned may agree.

Part IV.—Limitation of control by Governor General in Council over transferred subjects.

47. The powers of superintendence, direction and control over the local Government vested in the Governor General in Council

under the Act shall, in relation to transferred subjects, be exercised only for the following purposes, namely :—

- (1) to safeguard the administration of central subjects ; and
- (2) to decide questions arising between two provinces, in cases where the provinces concerned fail to arrive at an agreement.

SCHEDULE I.

SEE RULE 3 ABOVE

PART I.—CENTRAL SUBJECTS.

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

(b) Naval and military works and cantonments.

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

3. Relations with States in India.

4. Political charges.

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

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

(b) aircraft and all matters connected therewith;

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

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

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

8. Port quarantine, and marine hospitals.

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

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

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

12. Currency and coinage.

13. Public debt of India.

14. Savings Banks.
15. Department of the Comptroller and Auditor General.
16. Civil law, including laws regarding status, property, civil rights and liabilities and civil procedure.
17. Commerce, including banking and insurance.
18. Trading companies and other associations.
19. Control of production, supply and distribution of any articles in respect of which control by a central authority is declared by rule made by the Governor General in Council or by or under legislation by the Indian legislature to be essential in the public interest.
20. Development of industries, in cases where such development by a central authority is declared by order of the Governor General in Council expedient in the public interest.
21. Control of cultivation and manufacture of opium, and sale of opium for export.
22. Stores and Stationery.
23. Control of petroleum and explosives.
24. Geological survey.
25. Control of mineral development in so far as such control is reserved to the Governor General in Council under rule made or sanctioned by the Secretary of State, and regulation of mines.
26. Botanical survey.
27. Inventions and designs.
28. Copyright.
29. Emigration from, and immigration into, British India and inter-provincial migration.
30. Criminal Law, including criminal procedure.
31. Central police organisation.
32. Control of arms and ammunition.
33. Central agencies and institutions for research (including observatories) and for professional or technical training or promotion of special studies.
34. Ecclesiastical administration, including European cemeteries.
35. Survey of India.
36. Archaeology.
37. Zoological survey.
38. Meteorology.
39. Census and Statistics.
40. All-India Services.
41. Legislation in regard to any provincial subject, in so far as such subject is in Part II of this Schedule stated to be subject to legislation by the Indian legislature, and any powers relating

to such subject reserved by legislation to the Governor General in Council.

42. Territorial changes, other than intra-provincial, and declaration of laws in connection therewith.

43. Regulation of ceremonial titles, orders, precedence and civil uniform.

44. Immoveable property acquired by, or maintained at, the cost of the Governor General in Council.

45. All matters expressly excepted by the provisions of Part II of this Schedule from inclusion among provincial subjects.

46. All other matters not included among provincial subjects under Part II of this Schedule.

PART II.—PROVINCIAL SUBJECTS.

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

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

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

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

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

4. Pilgrimages within British India.

5. Education : provided that—

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

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

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

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

(i) the control of the establishments, and the regulation of

the constitutions and functions, of Universities constituted after the commencement of these rules, and

- (ii) the definition of the jurisdiction of any University outside the province in which it is situated, and
- (iii) for a period of five years from the date of the commencement of these rules, the Calcutta University and the control and organisation of secondary education in the presidency of Bengal.

6. Public works included under the following heads, namely :—

- (a) construction and maintenance of provincial buildings used or intended for any purpose in connection with the administration of the province ; and care of historical monuments, with the exception of ancient monument as defined in section 2 (1) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under section 3 (1) of that Act: provided that the Governor General in Council may, by notification in the Gazette of India, remove any such monument from the operation of this exception ;
- (b) roads, bridges, ferries, tunnels, ropeways and causeways and other means of communication ;—subject to such conditions as regards control over construction and maintenance of means of communication declared by the Governor General in Council to be of military importance, and as regards incidence of special expenditure connected therewith, as the Governor General in Council may prescribe ;
- (c) tramways within municipal areas ; and
- (d) light and feeder railways in so far as provision for their construction and management is made by provincial legislation ;—subject to legislation by the Indian legislature in the case of any such railway or tramway which is in physical connection with a main line or is built on the same gauge as an adjacent main line.

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

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

- (a) assessment and collection of land revenue ;
- (b) maintenance of land records, survey for revenue purposes, records of rights ;

- (c) laws regarding land tenures, relations of landlords and tenants, collection of rents ;
- (d) Courts of Wards, incumbered and attached estates ;
- (e) land improvement and agricultural loans ;
- (f) colonisation and disposal of Crown lands and alienation of land revenue ; and
- (g) management of Government estates.

9. Famine relief.

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

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

12. Fisheries.

13. Co-operative Societies.

14. Forests, including preservation of game therein ;—subject to legislation by the Indian legislature as regards disforestation of reserved forests.

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

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

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

18. Provincial law reports.

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

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

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

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

23. Religious and charitable endowments.

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

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

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

(a) factories ;

(b) settlement of labour disputes ;

(c) electricity ;

(d) boilers ;

(e) gas ;

(f) smoke nuisances ; and

(g) welfare of labour including provident funds, industrial insurance (general, health and accident) and housing ;—
subject as to heads (a), (b), (c), (d) and (g) to legislation by the Indian legislature.

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

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

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

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

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

32. The following miscellaneous matters, namely :—

(a) regulation of betting and gambling ;

(b) prevention of cruelty to animals ;

(c) protection of wild birds and animals ;

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

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

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

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

34. Coroners.

35. Excluded Areas.

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

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

38. Prisons, prisoners (except State prisoners) and reformatories ; subject to legislation by the Indian legislature.

39. Pounds and prevention of cattle trespass.

40. Treasure trove.

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

42. Provincial Government Presses.

43. Elections for Indian and provincial legislature, subject to rules framed under sections 64 (1) and 72A (4) of the Act.

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

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

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

47. Sources of provincial revenue, not included under previous heads, weather—

(a) taxes included in the Schedules to the Scheduled Taxes Rules, or

(b) taxes, not included in those Schedules, which are imposed by or under provincial legislation which has received the previous sanction of the Governor General.

48. Borrowing of money on the sole credit of the province, subject to the provisions of the Local Government (Borrowing) Rules.

49. Imposition by legislation of punishments by fine, penalty or imprisonment, for enforcing any law of the province relating to any provincial subject ; subject to legislation by the Indian legis-

lature in the case of any subject in respect of which such a limitation is imposed under these rules.

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

SCHEDULE II.

SEE RULE 6 ABOVE.

LIST OF PROVINCIAL SUBJECTS FOR TRANSFER.

Column I.	Column II.
1. Local self-Government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in the province for purposes of local self-Government, exclusive of matters arising under the cantonments Act, 1910; subject to legislation by the Indian legislature as regards (a) the powers of such authorities to borrow otherwise than from a provincial Government, and (b) the levying by such authorities of taxation not included in Schedule II to the Scheduled Taxes Rules.	All Governors' Provinces.
2. Medical administration, including hospitals, dispensaries and asylums, and provision for medical education.	Ditto.
3. Public health and sanitation and vital statistics; subject to legislation by the Indian legislature in respect to infectious and contagious diseases to such extent as may be declared by any Act of the Indian legislature.	Ditto.
4. Pilgrimages within British India	Ditto.
5. Education, other than European and Anglo-Indian education; provided that—	All Governors' Provinces.
(a) the following subjects shall be excluded namely:—	
(i) the Benares Hindu University and such other Universities, constituted after the commencement of these rules, as may be declared by the Governor General in Council to be central subjects, and	
(ii) Chiefs' Colleges and any institution maintained by the Governor General in Council for the benefit of members of His Majesty's Forces or of other public servants or of the children of such members or servants; and	

6. Public Works included under the following heads, All Governors' provinces, except Assam, namely :—

- (b) the following subjects shall be subject to legislation by the Indian legislature, namely —
- (i) the control of the establishment, and regulation of the constitutions and functions, of Universities constituted after the commencement of these rules, and
- (ii) the definition of the jurisdiction of any University outside the province in which it is situated, and
- (iii) for a period of five years from the date of the commencement of these rules, the Calcutta University and the control and organization of secondary education in the presidency of Bengal.
- (a) construction and maintenance of provincial buildings, other than residences of Governors of provinces, used or intended for any purpose in connection with the administration of the province on behalf of the departments of Government concerned, save in so far as the Governor may assign such work to the departments using or requiring such buildings ; and care of historical monuments, with the exception of ancient monuments as defined in section 2 (1) of the ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under section 3 (1) of that Act ; provided that the Governor General in Council may, by notification in the Gazette of India, remove any such monument from the operation of this exception ;
- (b) roads, bridges, ferries, tunnels, ropeways and causeways, and other means of communication, subject to such condition, as regards control over construction and maintenance of means of communication declared by the Governor General in Council to be of military importance, and as regards incidence of special expenditure connected therewith, as the Governor General in Council may prescribe ;
- (c) tramways within municipal areas ; and
- (d) light and feeder railways and extra municipal tramways in so far as provision for their construction and management is made by provincial legislation ; subject to legislation by the Indian legislature in the case of any such railway or tramway which is in physical connection with a main line or is built on the same gauge as an adjacent main line.

All Governors' provinces, except Assam.

- | | |
|--|---|
| 7. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases ; subject to legislation by the Indian legislature in respect to destructive insects and pests and plant diseases to such extent as may be declared by any Act of the Indian legislature. | All Governors' provinces. |
| 8. Civil Veterinary Department, including provision for veterinary training, improvement of stock, and prevention of animal diseases ; subject to legislation by the Indian legislature in respect to animal diseases to such extent as may be declared by any Act of the Indian legislature. | Ditto. |
| 9. Fisheries | All Governors' provinces, except Assam. |
| 10. Co-operative societies | All Governors' provinces. |
| 11. Forests, including preservation of game therein ; subject to legislation by the Indian legislature as regards disforestation of reserved forests. | Bombay. |
| 12. Excise, that is to say, the control of production, manufacture, possession, transport, purchase, and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and licence fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export. | All Governors' provinces, except Assam. |
| 13. Registration of deeds and documents ; subject to legislation by the Indian legislature. | All Governors' provinces. |
| 14. Registration of births, deaths and marriages ; subject to legislation by the Indian legislature for such classes as the Indian legislature may determine. | Ditto. |
| 15. Religious and charitable endowment | Ditto. |
| 16. Development of industries, including industrial research and technical education. | Ditto. |
| 17. Adulteration of food-stuffs and other articles ; subject to legislation by the Indian legislature as regards import and export trade. | Ditto. |
| 18. Weights and measures ; subject to legislation by the Indian legislature as regards standards. | Ditto. |
| 19. Museums (except Indian Museum, Imperial War Museum, and the Victoria Memorial, Calcutta) and Zoological Gardens. | Ditto. |

SCHEDULE III.

(SEE RULE 25.)

1. The following general rules shall be observed by every authority which sanctions expenditure from Government revenues :—

(1) Every public officer should exercise the same vigilance in respect of expenditure incurred from Government revenues as a person of ordinary prudence would exercise in respect of the expenditure of his own money.

Moneys borrowed on the security of allocated revenues should be expended on those objects only for which, as provided by rules made under the Act, moneys may be so borrowed.

Except where such order is of general application, no authority should exercise its powers of sanctioning expenditure to pass an order which will be, directly, to its own pecuniary advantage.

(4) Unless the amount of the expenditure is insignificant, Government revenues should not be utilised for the benefit of a particular person or section of the community except when—

- (i) a claim for the amount could be enforced in a court of law ;
- (ii) the expenditure is in pursuance of a recognised policy or custom ; or
- (iii) the object is such that the expenditure thereon may be deemed to be of a charitable nature.

(5) No authority should sanction any expenditure which is likely to involve at a latter date expenditure beyond its own powers of sanction.

(6) The amount of allowances, such as local or travelling allowances, granted to meet special expenditure of a particular type should be so regulated that the allowances are not on the whole sources of profit to the recipient.

2. The previous sanction of the Secretary of State in council is necessary :—

(i) (a) to the creation of a permanent appointment which would necessitate an increase in the cadre of an all-India Service ;

(b) to the abolition of any appointment in the cadre of an all-India Service ;

(c) to any increase or reduction of the pay of any appointment in the cadre of an all-India Service ;

(ii) to the creation of any temporary appointment the maximum pay of which exceeds Rs. 1,000 a month and which lasts or is expected to last for more than two years, or, if the appointment be for settlement work, for more than five years ;

(iii) to the grant to any officer of an allowance which is not admissible under rules made under section 96 B. of the Act, or, in cases in which those rules do not apply, under the terms of any authorised Code issued or maintained under the authority of the said rules ;

(iv) to the grant to any retiring officer of a pension or gratuity which is not admissible under the rules for the time being in force under section 96B. of the Act ;

(v) to the grant of pensions or gratuities to non-officials, except in the case of—

(a) compassionate gratuities to the families of Government servants left in indigent circumstances,

(b) pensions or gratuities to the families of officers dying while employed in Government service granted in accordance with such rules as may be made in this behalf by the Secretary of State in Council,

(c) pensions or gratuities to non-officials injured or the families of non-officials killed during services rendered to the State, and

(d) pensions or gratuities to non-officials who have rendered exceptional services to Government ;

(vi) to any increase of the contract, sumptuary or furniture grant of the Governor ;

(vii) to any expenditure upon the purchase of stores, either in the United Kingdom or in India, otherwise than in accordance with such rules as may be made in this behalf by the Secretary of State in Council ; and

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

Note.—Gratuities sanctioned under sub-clause (v) (a) of this paragraph should be subject as to total to such annual limit as the Secretary of State in Council may prescribe.

3. The previous sanction of the Governor General in Council is necessary—

(i) Subject to the provisions of paragraph 2 (d) of this Schedule—

(a) to the creation of a permanent appointment on a maximum rate of pay higher than Rs. 1,000 a month ;

(b) to the increase of the maximum pay of a sanctioned permanent appointment to an amount in excess of Rs. 1,000 a month ;

(ii) to expenditure on a residence of the Governor in excess of Rs. 75,000 in any year ;

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

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

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

(c) where a revised estimate exceeds by 25 per centum of 50 lakhs of rupees, whichever is less, an original estimate sanctioned by the Governor General in Council.

(d) where a further revised estimate is proposed, after one revised estimate has already been sanctioned by the Governor General in Council ; and

(iv) to revisions, involving additional expenditure exceeding Rs. 15 lakhs a year, of permanent establishments serving in departments dealing with reserved subjects.

4. Apart from the restrictions imposed by paragraphs 1, 2, and 3 of the Schedule the power of sanctioning expenditure conferred upon the local Government by rule 25 shall be unlimited.

SCHEDULE IV.

SEE RULE 27.

1. The local Governments mentioned below shall, save as hereinafter provided, make in every year provision in their budgets for expenditure upon relief of, and insurance against, famine of such amounts respectively (hereinafter referred to as the annual assignments) as are stated against each:—

				Rs.
Madras	...	...	...	6,61,000
Bombay	...	...	...	63,60,000
Bengal	...	...	...	2,00,000
United Provinces	...	...	...	39,60,000
Punjab	...	...	...	3,81,000

				Rs.
Burma	...	...	...	67,000
Bihar and Orissa	...	...	...	11,62,000
Central Provinces	...	...	...	47,26,000
Assam	...	...	...	10,000

2. The provision shall be made in the shape of a demand for a grant, and the estimates shall show, under the major heads concerned, the method in which it is proposed to utilise the grant.

3. The grant shall not be expended save upon the relief of famine or upon the construction of protective irrigation works or other works for the prevention of famine. Any portion of the grant which is not so spent shall be transferred to the famine insurance fund of the province.

4. The famine insurance fund shall consist of the unexpended balances of the annual assignments for each year, transferred to the fund under paragraph 3 of this Schedule, together with any interest which may accrue on these balances.

5. The local Government may, in any year when the accumulated total of the famine insurance fund of the province is not less than six times the amount of the annual assignment, suspend temporarily the provision of the annual assignment.

6. The famine insurance fund shall form part of the general balances of the Governor General in Council, who shall pay at the end of each year interest on the average of the balances held in the fund on the last day of each quarter. The interest shall be calculated at the average rate at which the Governor General in Council has during the year borrowed money by the issue of treasury bills. Such interest shall be credited to the fund.

7. The local Government may at any time expend the balance at its credit in the famine insurance fund for any of the purposes specified in paragraph 3 of this Schedule.

8. Such balances may further be utilised in the grant of loans to cultivators, either under the Agriculturists, Loans Act, 1884, or for relief purposes. When such loans have been granted, payments of interest on loans and repayments of principal shall be credited to the fund as they occur, and irrecoverable loans written off shall form a final charge against the fund.

9. In case of doubt whether the purpose for which it is proposed to spend any portion of the annual assignment or the famine insurance fund is one of the purposes specified in paragraph 3 of this Schedule, the decision of the Governor shall be final.

10. The annual accounts of the annual assignments and of the fund shall be maintained in the forms annexed to this Schedule.

Transferred Subjects Rules

In exercise of the powers conferred by section 52 (3) and section 129A. of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules :—

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

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

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

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

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

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

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

Scheduled Taxes Rules.

In exercise of the powers conferred by section 80A. (3) (a) and section 129A. of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules :—

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

2. The Legislative Council of a province may, without the previous sanction of the Governor-General, make and take into con.

sideration any law imposing, for the purposes of the local Government, any tax included in Schedule I to these rules.

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

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

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

SCHEDULE I.

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

SCHEDULE II.

In this Schedule the word "Tax" includes a cess, rate duty or fee.

1. A toll.
2. A tax on land or land values.
3. A tax on buildings.
4. A tax on vehicles or boats.
5. A tax on animals.
6. A tax on menials and domestic servants.
7. An octroi.
8. A terminal tax on goods imported into a local area in which an octroi was levied on or before the 6th July, 1917.
9. A tax on trades, professions and callings.
10. A tax on private markets.
11. A tax imposed in return for services rendered, such as—
 - (a) a water rate,
 - (b) a lighting rate,
 - (c) a scavenging, sanitary or sewage rate,
 - (d) a drainage tax,
 - (e) fees for the use of markets and other public conveniences.

Local Legislature Rules

In exercise of the powers conferred by sanction 80-A. (3) (h) and 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 :—

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

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

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

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

Year.	No.	Short Title.
1860	XLV	The Indian Penal Code.
1864	III	The Foreigners Act, 1864.
1865	III	The Carriers Act, 1864.
"	X	The Indian Succession Act, 1865.
"	XV	The Parsi Marriage and Divorce Act, 1865.
"	XXI	The Parsi Intestate Succession Act, 1865.
1866	XXI	The Native Converts' Marriage Dissolution Act, 1866.
"	XXVIII	The Trustees' and Mortgagees' Powers Act, 1866.
1867	XXV	The Press and Registration of Books Act, 1867.
1869	IV	The Indian Divorce Act, 1869.
1870	XXI	The Hindu Wills Act, 1870.
1872	I	The Indian Evidence Act, 1872.
"	III	The Special Marriage Act, 1872.
"	IX	The Indian Contract Act, 1872.
"	XV	The Indian Christian Marriage Act, 1872.
1873	X	The Indian Oaths Act, 1873.
1874	III	The Married Women's Property Act, 1874.
"	XIV	The Scheduled Districts Act, 1874.
"	XV	The Laws Local Extent Act, 1874.
1875	IX	The Indian Majority Act, 1875.
1877	I	The Specific Relief Act, 1877.
1881	V	The Probate and Administration Act, 1881.
"	XIII	The Fort William Act, 1881.
"	XXVI	The Negotiable Instruments Act, 1881.
1882	II	The Indian Trusts Act, 1882.
"	IV	The Transfer of Property Act, 1882.
"	VII	The Powers-of-Attorney Act, 1882.

Year.	No.	Short title.
1889	IV	The Indian Merchandise Marks Act, 1889.
"	VII	The Succession Certificate Act, 1889.
"	XV	The Indian Official Secrets Act, 1889.
1890	VIII	The Guardians and Wards Act, 1890.
"	IX	The Indian Railways Act, 1890.
1891	XVIII	The Bankers' Books Evidence Act, 1891.
1895	XV	The Crown Grants Act, 1895.
1897	III	The Epidemic Diseases Act, 1897.
"	X	The General Clauses Act, 1897.
"	XIV	The Indian short Titles Act, 1897.
1898	V	The Code of Criminal procedure, 1898.
"	IX	The Live-stock Importation Act, 1898.
1899	IX	The Indian Arbitration Act, 1899.
1903	XIV	The Indian Foreign Marriage Act, 1903.
"	XV	The Indian Extradition Act, 1903.
1908	V	The Code of Civil procedure, 1908.
"	IX	The Indian Limitation Act, 1908.
"	XIV	The Indian Criminal Law Amendment Act, 1908.
"	XV	The Indian Ports Act 1908.
"	XVI	The Indian Registration Act, 1908.
1909	III	The Presidency-towns Insolvency Act, 1909.
"	IV	The Whipping Act, 1909.
"	VII	The Anand Marriage Act, 1909.
1910	I	The Indian Press Act, 1910.
1911	X	The Seditious Meetings Act, 1911.
1912	IV	The Indian Lunacy Act, 1912.
"	V	The Provident Insurance Societies Act, 1912.
"	VI	The Indian Life Assurance Companies Act, 1912.
1913	VI	The Mussalman Wakf Validating Act, 1913.
"	VII	The Indian Companies Act, 1913.
1914	II	The Destructive Insects and Pests Act, 1914.
"	III	The Indian Copyright Act, 1914.
"	IX	The Local Authorities Loans Act, 1914.
1916	XV	The Hindu Disposition of Property Act, 1916.
1917	I	The Inland Steam Vessels Act, 1917.
"	XXVI	The Transfer of Property (Validating) Act, 1917.
1918	X	The Usurious Loans Act, 1918.
1919	XI	The Anarchical and Revolutionary Crimes Act, 1919.
1920	V	The Provincial Insolvency Act, 1920.
"	X	The Indian Securities Act, 1920.
"	XIV	The Charitable and Religious Trusts Act, 1920.

Reservation of Bill Rules

In exercise of the powers conferred by section 81A. (1) and section 129A. of the Government of India Act, the Governor General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules :—

1. These rules may be called the Reservation of Bills Rules.

2. The Governor of any Governor's province shall reserve for the consideration of the Governor General any Bill, not having been previously sanctioned by the Governor General, which has been passed by the Legislative Council of the province and is presented to the Governor for his assent, if the Bill appears to the Governor to contain provisions—

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

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

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

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

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

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

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

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

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

3. The Governor of any Governor's province may reserve for the consideration of the Governor General any Bill, not having been previously sanctioned by the Governor General, which has been passed by the Legislative Council of the province and is presented to the Governor for his assent, if the Bill appears to the Governor—

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

(b) to affect any central subject, or

(c) to affect the interests of another province.

THE ESHER REPORT

REPORT OF THE ARMY IN INDIA COMMITTEE 1919-1920

TERMS OF REFERENCE

1. *To enquire into and report, with special reference to post-bellum conditions, upon the administration and, where necessary, the organization of the Army in India, including its relations with the War Office and the India Office, and the relations of the two Offices to one another.*

2. *To consider the position of the Commander-in-Chief in his dual capacity as head of the Army and Member of the Executive Council, and to make recommendations.*

3. *To consider and to report upon any other matters which they may decide are relevant to the enquiry.*

To The Right Hon. E. S. Montagu, M.P.

SIR,

In forwarding you the first part of our Report we desire to point out a difficulty with which we are confronted at the outset of our enquiry. We cannot consider the administration of the army in India otherwise than as part of the total armed forces of the Empire; yet we have no indication of the form of organization which may be set up in the future for the control of other parts of those forces, or of the whole.

We have, it is true, been told that proposals for the higher direction of our Imperial forces are under consideration, and we are aware of the circumstances under which an Imperial Cabinet was formed during the late war. But the bases of permanent Imperial control over the organized forces of the Empire are as yet unlaid, and we have therefore been obliged to take existing statutes and usage as the foundation of the proposals we have made in accordance with the terms of our reference. The remedies which we shall suggest for such defects in the Army

in India as may be disclosed in the course of our enquiry will, therefore, be made subject to the limitations we have indicated.

Novel political machinery created by the Peace Treaty has enhanced the importance of the Army of India relatively to the military forces in other parts of the Empire, and more particularly to those of the British Isles. We feel bound to assume that Western Europe will no longer be an armed camp containing national armies in a high state of preparation for war, and we note that conflicts fraught with the gravest consequences to the belligerent nations cannot in future take place within a few days or weeks of an order to mobilize. We realize, and the evidence of Lord Allenby confirms our belief, that the war has left Eastern Europe, and what is commonly known as the Near and Middle East, in a condition of grave unrest, with consequences to India, especially as regards her military and financial resources, that we are unable to ignore.

We are aware that, during the war, the necessary co-ordination of the fighting strength of the whole Empire brought into existence what has been called an Imperial Cabinet, performing real functions of Imperial Government, and accepted apparently without demur by the united peoples. The evolution of this novel constitutional instrument is for the moment arrested. If the principle of an Imperial Cabinet composed of the Prime Ministers of Great Britain and the Dominions becomes rooted in our institutions, other changes connected with Imperial defence seem likely to follow.

An Imperial General Staff, an Imperial Naval and an Imperial Air Staff, possibly an Imperial Foreign Office, may become segregated under the leadership of the British Prime Minister of the day, but controlled by a body that from the nature of the case cannot be wholly responsible to the Parliament at Westminster. If India were again to be represented directly in a permanent Imperial Council or Cabinet, such as that summoned *ad hoc* during the war, the position of her Commander-in-chief might assume a special aspect different from that which we have had to consider. Desirable and perhaps vital as such an evolution of our institutions may be, the chances of its accomplishment are not immediate. We have, therefore, accepted for the purpose of our Report the relations of India to Great Britain and to the Empire as they stand to-day.

We desire also to mention that we have been requested, in considering our recommendations, to avoid, if possible, framing them in such a manner as may hereafter prove inconsistent with the gradual approach of India towards a Dominion status; and we observe that the Indian Constitutional R

in view the relaxation of the control of the Secretary of State, as well as of Parliament, over the Government of India.

We are at the same time confronted with evidence of the continued reluctance of the India Office to relinquish into the hands of the Government of India greater freedom in the administration of the Army, even in cases where this could be done without compromising the administration of the Army at home or contravening the sound principle of uniformity in military policy. We are strongly of opinion that greater latitude should be allowed to the Governor-General in council and to the Commander-in-Chief in India in matters affecting internal military administration, in order to secure greater efficiency, and especially the greater contentment of the army in India.

At the same time we lay stress upon the importance of maintaining constant and intimate touch between the Commander-in-Chief in India and the Chief of the Imperial General Staff in London and between their General Staff Officers.

Taking, then, existing institutions and the present conditions in India as the basis on which to work, we consider that we shall be laying the foundations of a sound Imperial military system, if the plans we propose are consistent—

(1) with the control by the Government of India of Indian military affairs ;

(2) with giving to the Government of India a voice in questions of Imperial defence, and

(3) with allowing the Imperial General Staff through its Chief to exercise a considered influence on the Military policy of the Government of India.

Keeping these principles in mind, we propose to submit our Report to you in several parts, and to report on each separately. Part I is forwarded herewith, and deals with matters upon which a great mass of evidence already exists in documents laid before us. We have therefore not thought it necessary to travel once more over ground investigated by numerous committees and commissions, and by eminent Viceroys and Commanders-in-Chief in past years.

We have limited our enquiry upon these matters to obtaining the views of distinguished soldiers of recent war experience, and we have found that their conclusions are in general agreement with the recorded opinions of Lord Lytton and Lord Kitchener.

At the outset of our inquiry it was necessary to decide whether formal evidence should be taken. After consideration, we determined that it was undesirable to add to the mass of documentary evidence already available. We consequently decided to take counsel with high officers, military and civil, and certain independent

persons whose views and experience could simplify our task, but not to record their evidence formally. We have thus obtained expressions of opinion given with complete freedom, and, coupled with the experience of the members of the Committee, they have been of great value to us in forming our conclusions.

We desire to remind you that the subsequent parts of our Report, dealing as they are bound to do with matters of administrative detail, would be largely influenced by the decision at which you may arrive to accept or reject the proposals we have made in Part I. So convinced are we of the desirability of obtaining a decision of His Majesty's Government on the principles laid down in Part I before proceeding to the laborious examination of the numerous questions covered by our reference, that we have thought it imperative to place Part I of our Report in your hands before the Committee proceeds to India. It would facilitate the work of the Committee, and would render their complete report of greater value to His Majesty's Government and to the Government of India, if we could obtain from you at an early date an indication of the advice you are likely to tender to His Majesty's Government upon the principal questions covered by Part I of our Report.

We are,

Sir,

Your obedient Servants,
ESHER.

M. F. O'DWYER.

H. V. COX, LIEUT-GENL.

CLAUD W. JACOB, LIEUT-GENL.

J. P. DUCANE, LIEUT-GENL.

G. FELL.

WEBB GILLMAN, MAJ-GENL.

C. M. WAGSTAFF, BRIG-GENL.,

Secretary

The 3rd November, 1919.

PART I.

SECTION I.

The India Office.

1. The relations between the India Office and the Government of India are presumably based upon the importance of keeping the control of Parliament as far as possible intact over Indian expenditure. The theory, sound in itself in view of the bureaucratic form of Government in India, has proved to be illusory in practice. The business of Parliament is too great and too complex to enable any effective control to be exercised by the House of Commons over Indian expenditure. In practice, therefore, the control of the India Office has been merely the control of one bureaucracy over another.

The working of this system undoubtedly causes delay in dealing with military questions that frequently require rapid settlement, both in the interests of efficiency and of the contentment of the Army in India. We, therefore, recommend that greater latitude should be allowed to the Governor-General in Council in deciding questions of a military character, provided they do not influence by reflex action the administration of the British Army at home.

2. From 1909, and particularly during the war, the rule was relaxed under which all communications of a military nature between the Commander-in-Chief and the War Office passed through the India Office. During the war the Commander-in-Chief in India communicated direct with the War Office. We consider that the freedom of communication should now be established as a permanent right on a regular official basis ; but should be limited to communications between the Commander-in-Chief and the Imperial General Staff. The Secretary of State for India should be kept fully informed of such communications.

3. In order to facilitate what we consider of primary importance, namely the free and intimate relation between the Commander-in-Chief in India and the Chief of the Imperial General Staff, and in order that the Secretary of State for India should also be fully informed upon all questions of military policy affecting India, we recommend that the Secretary in the Military Department of the India Office should always be an officer with Indian experience, of high military rank, appointed on the recommendation of the Chief of the Imperial General Staff by the Secretary of State for India. It would be convenient and desirable that this officer should be a Deputy Chief of the Imperial General Staff in order that the Chief of the Imperial General Staff may have the benefit of experienced advice on Indian matters. Furthermore, he should

have the right of attending the meetings of the Army Council when questions affecting India are discussed. Although we strongly advocate that questions of administration regarding the Army in India should be mainly settled in India itself, and should only be referred to the India Office under the circumstances which we have previously noted, we are of opinion that the Secretary in the Military Department of the India Office should have attached to his Department two officers specially conversant with "A" and "Q" questions, in so far as they affect India.

4. We are unable to see any advantage, from the point of view of India, in retaining upon the India Council in London the services of an officer of high military rank. It is undesirable that the Secretary of State for India should be left in any doubt as to the quarter from which military advice should be offered him. The principle upon which we think it important to insist is that the sole responsible military adviser of the Secretary of State should be the chief of the Imperial General Staff. This advice could be tendered either through his Deputy Chief established in the India Office, or directly by the Chief of the Imperial General Staff himself, who should be authorized to attend any meeting of the Council of India at which military questions of first importance are to be discussed.

5. We recommend in Section III that the Commander-in-Chief in India shall be appointed with the concurrence of the Chief of the Imperial General Staff, and that the commander-in-Chief shall be the sole military adviser of the Government of India. If this system can be established, the chain of military responsibility for questions of an Imperial character will be complete. On the one hand, the Commander-in-Chief will look to the Chief of the Imperial General Staff for supreme direction in all questions of Imperial military policy in which India is concerned; and, on the other hand, the Governor-General will look to the Commander-in-Chief for military advice upon questions in which India only is concerned, and also upon questions of a wider military character with confidence that the Commander-in-Chief will be in a position to express upon the latter the considered views of the Chief of the Imperial General Staff.

6. We believe that, under the plan thus proposed, the Government of India will retain its statutory control over the Army in India, that the Governor-General will be assured of undivided counsel upon military questions, and that uniformity of military policy will at last be established between Great Britain and India.

SECTION II.

Defence Committee.

7. Our attention has been called to the Committee of Defence set up in India by the Governor-General during the war. Its composition and functions follow those of the Committee of Imperial Defence in this country as they were understood to be after it was reconstituted on a new basis in 1902 and before the establishment of its permanent Secretariat in 1905.

That Committee was consultative and not executive. It had no administrative functions. It could not prescribe a policy or give directions. Its duty was to advise. It interfered with no existing authority. It possessed no fixed constitution, and the persons composing it were selected by the Prime Minister from among his colleagues and their technical assistants, with the addition of any person whose advice he might desire to obtain upon the matters about to be discussed. The Committee, in short, contained no *ex-officio* member except the Prime Minister himself, and this flexibility, as Mr. Balfour pointed out at the time, gave it an advantage of first-rate importance in dealing with the manifold subjects that gather round the problem of national defence.

8. Such, we understand, was the body upon which the Governor-General modelled the Defence Committee in India, and we are firmly convinced that, taken in conjunction with the existence of the War Book, which had been prepared in 1914, it contributed valuable assistance towards bringing India into line with Great Britain during the war, and that it should not be allowed to disappear.

We recommend that its Secretary should be a member of the Governor-General's Private Secretariat, and that he should have charge of the records and be responsible for the preparation and upkeep of the War Book.

9. The War Book, designed by Sir Maurice Hankey some years before 1914, was planned with a view to the instant mobilization of all Government departments at home on the outbreak of war. For the first time in this country the attention of all Departments of Government was drawn to the fact that war was not the sole business of the Admiralty and the War office, but that it was the concern of practically every Department of State. The Defence Committee, by its composition and its methods of working first suggested this somewhat novel conception of modern war, but the War Book stereotyped it and fixed it indelibly in the minds of the whole Civil Service.

The War Book prepared in India in 1914 has been laid before us. It is a work of such value that we strongly recommend that it should be constantly revised and kept up-to-date by the officer we have designated, who will, at the same time, be the Secretary of the Defence Committee.

We would suggest that the Secretary of the Indian Defence Committee should be placed in direct touch with the Secretary of the Imperial Defence Committee in London, so that as far as possible the measures concerted by the latter should be applied by the Governor-General in India, so far as they are appropriate, to local conditions.

SECTION III.

The High Command.

10. The definition of the High Command in India in future requires a few preliminary words of explanation. We have before observed that our attention has been drawn to the importance of keeping in view in any proposals we may make, the gradual approach of the Government of India to a Dominion status. We have also kept before our minds the possibility that, in the near future, Imperial control over the military policy of the Empire may take a form other than that which obtains at the present time, leading to the establishment of a real Imperial General Staff deriving its authority not from the War office and the British Parliament, but from an Imperial Council such as that contemplated in 1907, which materialized in the course of the late war, in what has been called an Imperial Cabinet.

We have, however, felt ourselves obliged to base the recommendations we are about to make upon existing facts. We are unable to admit any close resemblance between the principles which are applied to army administration in this country, governed as it is under democratic Parliamentary institutions, and the conditions that obtain in India, where the Government remains of a bureaucratic character with such Parliamentary checks as are found to be possible. No analogy exists between the Government of India and that of any European country. It appears to us, therefore, that Army administration in India must conform to the principles laid down by the statutes upon which that Government is based, which place the control of the Army in India in the hands of the Governor-General in Council.

11. We have endeavoured to superimpose upon the existing fabric of Indian Army administration the General Staff idea. In

other words, while leaving the control of the Army in India to the Governor-General in Council, we have tried to knit closer the relations between the High Command in India and the High Command as it now exists at the centre of the Empire. We have considered and rejected the proposal to establish in India a Civilian Member of the Executive Council responsible for the Army, and an Army Council with collective responsibilities, as unsuited to Indian requirements at the present time. Among the numerous recommendations that have been made in former years for the reconstitution of the War Department, we have adopted that of Lord Lytton, that the Commander-in-Chief should be himself the only military member of the Viceroy's Council, and we have not thought it conducive to good administration that upon the Executive Council the Commander-in-Chief should have any military colleague or competitor entitled to deal with the administration of Army affairs.

12. We recommend that in future the Army Department and the Headquarters Staff should be consolidated under one head, and with a single Secretariat, which is not at present the case, and that the Commander-in-Chief should be in that capacity considered to be the administrative, as well as the executive head of the Army, subject only to the Governor-General in Council, in whom the supreme control of the Army is vested by statute. Every trace of the duality of functions resulting from the same officer being Commander-in-Chief and Member-in-Charge of the Army Department should be swept away.

13. We are of opinion that the financial responsibility of the Commander-in-Chief should not be divorced from his executive responsibilities, and that while his purely military status should be in no way affected, it should be recognized that he possesses a personal and professional interest in and responsibility for the economical administration of Army funds. We are in agreement with the view that the Commander-in-Chief should be looked upon by all His Majesty's Indian subjects and feudatories in India as the depository and representative of a personal authority, second only to that of the Viceroy, and we are strongly of opinion that any change in the position of the Commander-in-Chief which would have the effect of weakening that authority, is inadvisable.

14. We propose that a Military Council should be established, composed of high staff officers and others to assist the Commander-in-Chief in the performance of his administrative functions. This body would have no collective responsibility. Its members, however,

would be individually responsible for the branches they would be called upon to administer.

15. We hold the position of the Secretary to Government in the Army Department, as it is generally understood, to be inconvenient and undesirable, as rendering possible an interference with the sole right of the Commander-in-Chief to offer military advice to the Governor-General in Council.

16. We propose to deal in Part II of our Report with the personnel of the Military Council and their respective functions, responsibilities and powers.

17. We are in agreement with the General Staff view that the Commander-in-Chief in India should be more directly in touch with the Chief of the Imperial General Staff, with a view to obtaining increased efficiency as regards the organization, equipment and training of the Army in India, so as to develop the military resources of India in a manner suited to Imperial necessities. We have already stated that, in our view, the Commander-in-Chief in India should have the established right to communicate in peace with the Chief of the Imperial General Staff in London with regard to strategic plans, war organization, training and the selection for commands and senior staff appointments. But we are not prepared to dogmatise as to whether the Government of India or the Imperial Government at Whitehall is to be responsible for the military safety of India. It is obvious that, if the gradual approach of India to a Dominion status is to be taken as an axiom, this question can be resolved only by the exercise of judgment, tact, and the principle of "give and take." We, however, are strongly of opinion that while unity of administration is for the present out of the question, unity of conception on broad lines of military policy, such as those for which an Imperial General Staff should be responsible, is essential in the interests of India herself and of the Empire as a whole. For this reason we suggest that the Commander-in-Chief in India should be appointed by His Majesty's Government on the recommendation of the Chief of the Imperial General Staff, and that the same procedure should be observed in the appointment of the Chief of the General Staff in India. Should this recommendation be approved, given a close co-operation and correspondence between the Chief of the Imperial General Staff and the Commander-in-Chief in India, we believe that as much will have been done towards securing unity of military purpose as can be profitably accomplished at the present time.

18. We have said that, in our opinion, the Commander-in-Chief should be the sole military adviser of the Government of India. So

important a function carries with it a necessity that the Commander-in-Chief shall be in the closest relation to the Governor-General in Council during the progress of hostilities and at all moments in peace when military questions of the first importance come under discussion. At the same time, we cannot disregard the importance of personal inspection from time to time of the larger army formations by the Commander-in-Chief himself. During his absence from headquarters under peace conditions, we therefore recommend that he should delegate to his Chief of the General Staff such functions as he thinks may be properly exercised by that officer during his absence. We do not contemplate that under any circumstances the Commander-in-Chief should himself take the field in war. In our view the command of military operations, whether on a large or small scale, should always be entrusted to an officer specially selected for that purpose. We are too well aware of the inconvenience and danger created in 1914 by stripping the War Office of its most experienced advisers and administrators, to desire to see a repetition in India of so unfortunate an incident. To the personal influence of the recognized head of the Army of India, especially over Indian troops, we have already alluded, and while we are anxious that it should not be supposed that we depreciate the value of his making himself thoroughly acquainted with the sentiments and requirements of officers and troops in all parts of India, we desire to make clear that, during moments of tension, it would not be consistent with the efficient discharge of his highest duties to absent himself from the Council table of the Governor-General.

19. We are convinced that the Commander-in-Chief, as being an "extraordinary" Member of Council, could be relieved of considerable technical responsibility. There appears to us no sound and valid reason why his signature should be obtained to despatches from the Government of India upon questions which have no military significance or importance, or that he should be required to study and record his opinion on cases which relate exclusively to the civil administration. We are sure that a liberal interpretation of the necessities of Indian administration would lead to an appreciable reduction of his duties. We, therefore, recommend that he should be excused attendance at the Executive and Legislative Councils except when the business under discussion affects military interests.

20. We have refrained from exploring in detail the functions which, in our view, should in future be imposed upon the Military Council which we have recommended. We believe that this can best be done after the visit of the Committee to India.

21. The recommendations we have made in Part I of our Report are based upon general principles to which the whole Committee have given their adherence, upon a mass of documentary evidence that has been at their disposal and upon the conferences between the members of the Committee and officers and others with profound experience of the working of army administration in India, previous to the war, during the war and since the armistice.

We offer these recommendations to the Secretary of State for India in the hope that he will obtain for them the early sanction of His Majesty's Government, in order that the labours of this Committee may not, like those of so many others, be thrown away.

C. M. WAGSTAFF,
BRIG.-GENL.,
Secretary.

ESHER.
M. F. O'DWYER.
H. V. COX, Lieut.-Genl.
CLAUD W. JACOB, Lieut.-Genl.
J. P. DuCANE, Lieut.-Genl.
G. FELL.
W. GILLMAN, Maj.-Genl.

The 3rd November 1919.

[NOTE]

[The first Part of this Report was drawn up in England before the 2 Indian Members could join the Committee, so that the Indian members had no opportunity of expressing an opinion, nor was their signature taken.

The sittings of the committee were in Camera. There was no public examination of witnesses or a record of evidence given. The Committee relied mainly on the recorded opinions of previous Committees and Commissions, Viceroys and Commanders-in-Chief, and the whole procedure was reminiscent of the public activity of Sir Michael O'Dwyer, the notorious ex-satrap of the Punjab, who alone really guided the deliberations of the Committee. Viscount Esher never came out to India; he simply signed the 2nd. and other part of the report as it was prepared under the guidance of Sir M. O'Dwyer.

Another secret manœuvre in presenting this report is that the first part which lays down principles of the most reactionary and novel form was submitted to the Secretary of State in November 1919, but it was never made public till the whole report was ready. Not only were the Indian members excluded from this part, but the Army Committee seemed to have exacted from the Secretary of State a sort of guarantee and acquiescence in the principles enunciated therein before they proceeded to the details of Army Reform. The covering letter of Part II, which follows, refers to this matter pointedly.]

Report

Of the

Army in India Committee 1919-20

Part II

To the Right Honourable E. S. Montagu M.P.

SIR,

Throughout this Report, we have been guided by the consideration that the army in India, as in all civilised States, furnishes the ultimate sanction for the security of the people against external aggression and for the maintenance of internal tranquility. We are impressed by the necessity of maintaining this instrument, placed as it always must and should be in the hands of the civil power, in the highest state of efficiency. Whatever form the future Government of India may take, however it may be democratised, and whatever advance may be made on the part of the various sections of the Indian community towards national and imperial unity, the army cannot fail to remain a vital attribute of Government in the hands of the dominant authority.

The proposals made by us in Part I having been in the main approved by you, we have in Part II attempted to deal with the difficult question of Supply, to explain in detail the functions which, in our view, should be imposed upon the Military Council, the constitution of which we recommended in Part I, and to make certain proposals regarding Military Finance.

We propose that a Military Council should be constituted for the purpose of assisting the Commander-in-Chief, with a view to relieving him, not of his responsibility, but of manifold duties which, without impairing that responsibility, he can, and should, delegate to his staff officers at Army Headquarters. We desire to impress upon the Commander-in-Chief and upon the officers in question the absolute necessity of carrying out loyally and to the full this principle of delegation. All sound administration is based upon it. No administrator, however able and however conscientious, can

interpret responsibility in the sense of giving personal attention and sanction to every act of administration, if the accomplishment of his task is to stand the test of efficiency.

In the constitution of the Military Council, in the functions we have allotted to its various members, and in the handling of this difficult question of military supply, we have all been guided by the supreme consideration of the efficiency of the army in war, coupled with a due regard to the best interests of the Indian tax-payer. We aim at establishing a system which, while it will work simply and economically in time of peace, will be adaptable, without undue friction and disturbance, to the conditions even of such a war as that in which the Empire has recently been engaged.

We lay stress upon the importance, as it appears to us, of organising in India a system of military administration which will establish a chain of responsibility from the Commander-in-Chief himself through his Military Council to the military commands, and so down to divisional units, in order that the test of war, whenever it is applied, shall find ready to hand a body of men expert in administration as well as in command, ready to meet its exigencies. While we are anxious to see officers from their youth up trained in administration as well as in general staff duties, we are conscious that, under a voluntary system such as ours, it is impossible to rely wholly for the administration of the army upon the soldier. There are certain spheres of administration into which a civilian element must not only be introduced, but should be cordially welcomed. This axiom especially applies to the region of provision and production of material, which is essential to the military needs of an army in peace time and in the field. The provisioning of an army with all that it requires, which is ordinarily covered by the term "supply," has been considered carefully by us in consultation with the most experienced authorities, both in India and at home. There has been much conflict of opinion and we have been furnished with advice in diverse forms. Powerful arguments, supported by experience in war and by knowledge of Indian conditions, have been used in the course of our discussions in favour of various solutions of what is admitted to be a complicated problem.

The recommendations which we have made in Part II have been signed by us, but we regret that in regard to section I a divergency of views has occurred.

While detracting from the constructive value of our report, this divergence of opinion will not, we venture to hope, prove a serious obstacle in attempting to arrive at a decision upon the functions to be vested in the Commander-in-Chief.

We are all agreed in our recommendations regarding the composition and functions of the Military Council, except to the extent that the minority desire to see added to it a member, with the title of Surveyor-General of supply, to whom they would entrust those functions of production and provision which the majority advocate placing under a separate Member of the Executive Council.

We are,

SIR,

Your obedient Servants,

ESHER.

M. F. O'DWYER.

H. V. COX, *Lieut.-Genl.*

J. P. DuCANE, *Lieut.-Genl.*

CLAUD W. JACOB, *Lieut.-Genl.*

H. HUDSON, *Lieut.-Genl.*

G. FELL.

WEBB GILLMAN, *Major-Genl.*

UMAR HAYAT.

K. G GUPTA.

C. M. WAGSTAFF, *Colonel, Secretary.*

19th May 1920.

Production Provision

The majority consisting of Sir Michael O'Dwyer, Sir Herbert Cox, Sir Claud Jacob, Sir Godfrey Fell, Sir W. Gilman and Sir K. Gupta incline to the view that the military production and provisions, as also the administration of Royal Indian Marine, should be entrusted to the department to be called "Department of Munitions and Marine" in charge of civilian member of the Governor-General's Executive Council; while the minority composed of Lord Esher,

John Du Cane, Sir Havelock Hudson and Sir Umar Hayat Khan favour solution by appointing a civil member of the Commander in Chief's Military Council and placing the Royal Indian Marine directly under the Commander-in Chief against the idea of placing a civilian under immediate and direct control of the Commander-in Chief. The majority point to the enormous difficulties that would arise in future in regard to labour and the growth of trade unionism which would affect the working of Government factories under the Reforms Scheme. The responsibility for the expenditure of nearly half of the total revenues would rest on the shoulders of one man (Commander-in-Chief) and, therefore, the creation of a separate department for production and provision would result, in their opinion, increased efficiency and consequent economy, thus tending to minimise public criticism. The minority challenge these majority conclusions as being irreconcilable with the fundamental principle of concentrating the command and administration of the army in the hands of a single responsible authority. The civilian member according to the minority, should be called the "Surveyor General of supply," and he should be a member of the Military Council, in which capacity he would be in constant touch with his military colleagues.

Further relief could be afforded to the Commander-in-Chief, if the Secretary, Army Headquarters, or one of the members of the Military Council, were authorised to attend meetings of the Legislative and Executive Councils on behalf of the Commander-in-Chief in order to explain the questions of military administrations as also before the Viceroy. The Committee, as a whole, think that the Commander-in-Chief should be the President of the Military Council, of which the members should be: (1) Chief, of the General Staff, (2) Adjutant General, (3) Quarter master-General, (4) Financial Adviser, and (5) Civil Member and Secretary, Army Headquarters, with provision that, in the event of the minority view prevailing, the Council would include a Surveyor-General of supply.

Financial Control

As regards functions, the Military Council can have no collective responsibility, and one of their principal duties is to watch the progress of military expenditure with a view to securing economical use of Army Funds. Other recommendations are summarised below:—

Summary of Recommendations.

(a) That the system under which financial control is exercised at Army Headquarters should be continued.

(b) That the Financial Adviser should be a Member of the Military Council.

(c) That there should be a Deputy Financial Adviser in each of the principal spending branches of Army Headquarters and in the Royal Air Force, with functions as described.

(d) That whatever arrangement is made for production and provision, there should be at headquarters a Controller of Ordnance Factory Accounts, who would also act as Deputy Financial Adviser to the authority responsible for administration. This Controllers' functions might extend to the clothing factories; but, if this is not found practicable, there should be a separate Controller for the latter.

(e) That the system under which separate finance and accounting offices are attached to the ordnance factories should be extended to the clothing factories.

(f) That the accounts and audit relating to contracts should be concentrated under a Controller at headquarters, who should also act as Deputy Financial Adviser to the administrative authority.

(g) That a Controller should be attached to the office of the Director, Royal Indian Marine, at Bombay to maintain the marine accounts and to act as Deputy Financial Adviser to the Director.

(h) That for the present no change should be made in the arrangements under which financial assistance and advice are given in commands and divisions.

(i) That no change should be made in the status and duties of the Military Accountant-General.

(j) That the Controller and Auditor-General should exercise more definite authority over the audit staff of the Military Accounts Department.

(k) That the responsibility for preparing their estimates and administering their grants should be definitely placed on the heads of branches at Army Headquarters and of the officer commanding the Royal Air Force.

(l) That the military accounts should be maintained in such a form as will enable the heads of branches to watch the progress of expenditure, with a view to savings being made available for other objects.

(m) That prompt information should be afforded to the Government of India regarding the progress of expenditure at home on stores, etc.

(n) That there should be a block vote for each arm of the service and for the Royal Air Force.

(o) That savings effected in the "on-costs" of factories should be available for expenditure on the improvement of the factories.

(p) That the spheres of financial responsibility of the Commander-in-Chief and the Member for Munitions and Marine (if this department is formed) should be defined on the lines indicated.

(q) That the Financial Adviser at Army Headquarters should also be the Financial Adviser to the proposed Department of Munitions and Marine.

(r) That a radical change, on the lines proposed by the Government of India, should be made in the system under which pay is disbursed.

(s) That the regulations dealing with pay, allowances, leave, pensions, etc., should be revised.

Part III—Decentralisation and Liaison

Part Three deals exclusively with the decentralisation and liaison, and after examining the present organisation of commands in India, draws attention to the proposal that India should be divided into fourteen separate areas to be called districts in order to provide a link between the army headquarters and districts, with a view to avoid return to a state of affairs which existed before the war. The Committee recommend the creation of four commands, each under an army commander, graded as General officer commanding in chief with adequate staff. These commands will comprise districts, each containing a certain number of brigade commands. Burma should form an independent district, and several districts should be classified according to their importance. This part of the report also deals with the internal security and liaison between the military and civil authorities, and urges the importance of establishing a close and regular liaison with Provincial Governments, the extension of Indian military and civil intelligence near and far East, Europe, America and Africa, with a view to counteract seditious and revolutionary movements calculated to tamper with the loyalty of troops. Lastly, the Committee emphasise the importance of propaganda and a greater use of the press, adding that the value of the press in India as a medium for information appears to have been neglected in the past.

Part IV—Organisation of Air Forces Etc.

Part four : The Committee believe that the last war has made it clear that India's partnership in the Empire demanded that the organisation of Air Forces should conform closely to the rest of the force of the Empire. For the attainment of this object, steps are suggested so as to secure closer relations between the British and Indian armies. The recommendations, therefore, aim on the assimilation of conditions, closer liaison, uniformity of ideals and interchange of officers among British and Indian's services.

As regards regimental offices, the Committee recommend a scheme for forming closer connection between the British officers cadre of the Indian Army and that of the British Army, and has shown the necessity for assimilating so far as practicable the organisation and system of administration of the services concerned with the feeding of the army, transport, stores, medical assistance, signalling.

After detailed examination, the Committee consider the completion of the Royal Army Service Corps and the Supply and Transport Corps as yet impracticable, but desire more in the direction of unification of the two corps.

Coming to the veterinary service, the Committee approves the scheme of reorganisation now under consideration of the Government of India, but suggest the admission of qualified Indians to commission in veterinary service by removing the existing racial bar.

The *personnel* of the Signal Service should be definitely posted to the corps. A joint service called Army Ordnance Corps, India, should be formed.

The Committee then proceed to examine the possibility of unification of the two medical organisations with the Indian Medical Service, and the Royal Army Medical Corps. After critical examination of the various suggestions put forward by responsible authorities the Committee are reluctantly forced to say that the amalgamation of the two services at present is impracticable. They however, suggest some reforms to secure a more harmonious working and closer co-operation between these two services.

Conditions in India are such that the amalgamation of pioneers and engineers is not advisable in the organisation of army headquarters. Field engineers' training should be co-ordinated by a Senior Royal Engineer Officer affiliated to the General Staff, and that military works services should become a directorate under the Quarter-Master-General in command. Chief Engineers should be retained. The Committee emphasises the need for close co-operation in training and military education between Home and Indian armies to afford higher appointments. If the Commander-in-Chief belongs to the British service, two of his three principal staff officers (C.G.S., A.G. and Q.M.G.) should belong to the Indian Army; while, if the Commander-in-Chief belongs to the Indian Army, two of the principal staff officers should come from the British service.

Part V—Amelioration of Conditions of Service.

The Committee are aware of the spirit of unrest and dissatisfaction in both armies arising, *inter alia*, out of the complexity of the regulations governing pay, leave and travelling allowances, and want of suitable accommodation. After em-