

- <sup>2</sup> The letters, brackets and words enclosed in square brackets were substituted for the letters, brackets and words "(g), (k), (i) and (k)" by Notification No. 32, dated the 14th August, 1914, published in the *Gazette of India*, dated the 15th August, 1914, Pt. I, p. 132.

at a meeting of the Council, an oath or affirmation of his allegiance to the Crown in the following form, namely :—

I. A. B., having been <sup>elected</sup>~~nominated~~ an Additional Member of the Legislative Council of the Governor-General, 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 of the office upon which I am about to enter.

VIII. (1) If any person,—

<sup>Power to</sup>  
<sup>seats vacant.</sup> declare (a) not being eligible for election, is elected under these Regulations, or,

(b) having been elected or nominated, subsequently becomes subject to any of the disabilities stated in clause (d), (f), (g), (h) or (i) of Regulation IV, or fails to make the oath or affirmation prescribed by Regulation VII within such time as the Governor-General in Council considers reasonable.

[or (c) is elected or nominated, who is or subsequently becomes a Member of the Legislative Council of any Province and fails to resign his office as Member of such Provincial Council within seven days of the date on which he is Member of both Councils],

the Governor-General shall, by notification in the *Gazette of India*, declare his election or nomination to be void or his seat to be vacant :

\* [Provided that nothing in clause (c) shall apply to any election or nomination already made of any Additional Member of the Legislative Council of the Governor-General, who is, on the 24th day of January, 1914, also a Member of the Legislative Council of any Province.]

<sup>1</sup> Sub-clause (c) enclosed in square brackets was inserted by Notification No. 3, dated the 24th January, 1914, published in the *Gazette of India*, dated the 24th January, 1914, Pt. I, p. 85.

<sup>2</sup> The proviso enclosed in square brackets was inserted by Notification No. 3, dated the 24th January, 1914, published in the *Gazette of India*, dated the 24th January, 1914, Pt. I, p. 85.

(2) When any such declaration is made, the Governor-General shall, by notification as aforesaid, call upon the electorate concerned to elect another person within such time as may be prescribed by such notification, or shall nominate another person, as the case may be.

(3) If any person elected at such fresh election is not eligible for election, the Governor-General may nominate any person who is eligible for election by the electorate concerned.

IX. (1) If any person is elected by more than one electorate, 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 elections in the *Gazette of India*, choose, or in his default the Governor-General shall declare, for which of these electorates he shall serve, and the choice or declaration shall be conclusive.

(2) When any such choice or declaration has been made, the votes recorded for such person in any electorate for which he is not to serve shall be deemed not to have been given, and the candidate, if any, who, except for the said votes, would have been declared elected for such electorate, shall be deemed to have been duly elected for the same.

X. (1) Save as otherwise provided in these Regulations,  
 Term of office. the term of office of an Additional Mem-  
 ber shall be three years, commencing  
 from—

<sup>1</sup> [the date of the publication in the *Gazette of India* of the result of the election or of the notification nominating him, as the case may be, or when such

<sup>1</sup> The words enclosed in square brackets were substituted for sub-clauses (a) and (b) by Notification No. 46, dated the 20th August, 1915, published in the *Calcutta Gazette*, dated the 25th August, 1914.

The original sub-clauses (a) and (b) ran thus :—

- (a) "in the case of a nominated Member, the date of the publication in the *Gazette of India* of the notification by which he is nominated,  
(b) in the case of an elected Member, the date of the publication in the *Gazette of India* of the result of the election, or, where the result of such election has been so published before the vacancy has occurred, from the date on which such vacancy occurs."

publication has been made before the vacancy has occurred, from the date on which such vacancy occurs :]

Provided that official Members and Members nominated as being persons who have expert knowledge of subjects connected with proposed or pending legislation shall hold office for three years, or such shorter period as the Governor-General may at the time of nomination determine :

<sup>1</sup> [Provided further that the Governor-General may, by notification as aforesaid, extend for a period of not more than six months the term of office of Additional Members or any Additional Member elected or nominated under these Regulations.]

<sup>2</sup> [ \* \* \* \* \* ]

(2) A Member elected or nominated <sup>3</sup> [upon an election or nomination being declared void or a seat being declared vacant, or] to fill a casual vacancy occurring by reason of absence from India, inability to attend to duty, death, acceptance of office or resignation duly accepted, or otherwise, or a Member nominated on failure of an electorate to elect an eligible person, shall hold office so long as the Member whose place he fills would have been entitled to hold office <sup>4</sup> [if the election or nomination had not been declared void or the vacancy had not occurred, as the case may be].

<sup>1</sup> The proviso enclosed in square brackets was inserted by Notification No. 46, dated the 20th August, 1915, published in the *Calcutta Gazette*, dated the 25th August, 1915.

<sup>2</sup> The second proviso to clause (1) was repealed by Notification No. 32, dated the 14th August, 1914, published in the *Gazette of India*, dated the 15th August, 1914.

<sup>3</sup> The words enclosed in square brackets were inserted by Notification No. 46, dated the 20th August, 1915, published in the *Calcutta Gazette*, dated the 25th August, 1915.

<sup>4</sup> The words enclosed in square brackets were substituted for "if the vacancy had not occurred" by Notification No. 46, dated the 20th August, 1915, published in the *Calcutta Gazette*, dated the 25th August, 1915.



XI. <sup>1</sup> [When a vacancy occurs in the case of a nominated or elected Member, or at any time within three months of the date when such a vacancy will occur in the ordinary course of events, the Governor-General, by notification as aforesaid,—

- Vacancies.**
- (a) may, in the case of a nominated Member, nominate a person to the vacancy ; or
  - (b) shall, in the case of a Member who represents any interest specified in Regulation II, call upon the electorate concerned to elect a person for the purpose of filling the vacancy within such time as may be prescribed by such notification :

Provided that—

- (a) in the case of an elected Member, the election shall, subject to the provisions of Regulation II, relating to alternate elections by Members of the classes specified in sub-heads (xiii) and (xviii) of that Regulation, always be made by the same electorate as that which elected the Member whose place is to be filled, and shall be subject to the same conditions in respect of eligibility of candidates for nomination as those which governed the election of such Member, and

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<sup>1</sup> This Regulation was substituted for the original Regulation by Notification No. 46, dated the 20th August, 1915, published in the *Calcutta Gazette*, dated the 25th August, 1915.

The original Regulation ran as follows :—

XI. (1) When a vacancy occurs in the case of a Member who represents any interest specified in Regulation II, or at any time within three months of the date when such a vacancy will occur in the ordinary course of events, the Governor General shall, by notification as aforesaid, call upon the electorate concerned to elect a person for the purpose of filling the vacancy within such time as may be prescribed by such notification.

(2) When a vacancy occurs in the case of a nominated Member, the Governor General may nominate any person to the vacancy :

Provided that when a casual vacancy occurs—

- (a) in the case of an elected Member, the election shall always be made by the same electorate as that which elected the Member whose place is to be filled, and shall be subject to the same conditions in respect of eligibility of candidates for nomination as those which governed the election of such Member, and
- (b) in the case of a Member nominated as representing any class specified in Regulation I, sub-head B, clause (b), the person nominated shall be selected from the same class.

- (b) in the case of a Member nominated as representing any class specified in Regulation I, sub-head B, clause (b), the person nominated shall be selected from the same class.]

XII. If within the time prescribed by a notification issued under Regulation VIII, clause (2), or Regulation XI, [ \* \* ]<sup>1</sup> the electorate concerned fails to elect, the Governor-General may nominate at his discretion any person who is eligible for election by such electorate.

XIII. The power of making laws and regulations, and of transacting other business vested in the Legislative Council of the Governor-General, shall be exercised only when fifteen or more Additional Members of the Council are present.

XIV. (1) No election shall be valid if any corrupt practice is committed in connection therewith by the candidate elected.

(2) A person shall be deemed to commit a corrupt practice within the meaning of these Regulations—

(i) who, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury, to any person, or

(ii) who gives, procures or abets the giving of a vote in the name of a voter who is not the person giving such vote,

(iii)<sup>2</sup> [who makes any payment or promise of payment on account of the conveyance of any voter, other than himself, to or from any place for the purpose of recording a vote at any election held under these Regulations, or

<sup>1</sup> The word, figure and brackets "Clause (1)" were repealed by Notification No. 46, dated the 20th August, 1915, published in the *Calcutta Gazette*, dated the 25th August, 1915.

<sup>2</sup> Sub-clauses (iii) and (iv) enclosed in square brackets were inserted by Notification No. 46, dated the 20th August, 1915, published in the *Calcutta Gazette*, dated the 25th August, 1915.

- (iv) who lets, lends, employs, hires, borrows or uses, for the purpose of conveying any voter to or from any place for the purpose of recording any such vote, any vehicle, horse or other animal which is kept or used by any person for the purpose of letting out on hire or conveying passengers by hire :

Provided that nothing in this clause shall apply to—

- (a) any such letting to or hiring by a voter at his own cost, or by several voters at their joint cost, for his or their own use; or  
(b) any such use by a voter of his own vehicle to convey himself.]

And a corrupt practice shall be deemed to be committed by a candidate if it is committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

*Explanation.*—A “promise of individual profit” includes a promise for the benefit of the person himself, or of any one in whom he is interested.

XV. No election shall be invalid by reason of a non-compliance with the rules contained in the Schedules to these Regulations, or any mistake in the use of forms annexed thereto, if it appears that the election was conducted in accordance with the principles laid down in such rules, and that such non-compliance or mistake did not affect the result of the election.

XVI. (1) If the validity of any election is brought in question by any person qualified either to be elected or to vote at such election on the ground of the improper rejection or reception of a nomination or of a vote, or of any corrupt practice in connection with such election, or for any other cause, such person may, at any time within fifteen days from the date of the publication of the result of such election in the *Gazette of India*, apply to the Governor-General in Council to set aside such election.

(2) The Governor-General in Council shall, after such inquiry (if any) as he may consider necessary, declare, by notification as aforesaid, whether the candidate whose election

is questioned or any or what other person was duly elected, or whether the election was void.

(3) If the election is declared void, the Governor-General shall, by notification as aforesaid, call upon the electorate concerned to elect another person within such time as may be prescribed by such notification.

(4) If within the time so prescribed the electorate fails to elect, the Governor-General may nominate any person who is eligible for election by such electorate.

**XVII.** The decision of the Governor-General in Council on any question that may arise as to the intention, construction or application of these Regulations shall be final.

**XVIII.** (1) As soon as conveniently may be after these Regulations come into force, a Council shall be constituted in accordance with their provisions.

(2) For this purpose the Governor-General shall, by notification as aforesaid, call upon the electorates referred to in Regulation III to proceed to elect Members in accordance with these Regulations within such time as may be prescribed by such notification.

(3) If within the time so prescribed any such class fails to elect, the Governor-General may nominate at his discretion for a period not exceeding six months any person who is eligible for election by such class.

## **II. Regulations for the Discussion of the Annual Financial Statement in the Legislative Council of the Governor-General.**

### *Definitions.*

1. In these rules—

(1) "President" means—

(a) the Governor-General, or

(b) the President nominated by the Governor-General in Council under section 6 of the Indian Councils Act, 1861, or

(c) the Vice-President appointed by the Governor-General under section 4 of the Indian Councils Act, 1909, or

(d) the Member appointed to preside under rule 27 ;

(2) "Member in charge" means the Member of the Council of the Governor-General to whom is allotted the business of the Department of the Government of India to which the subject under discussion belongs, and includes any Member to whom such Member in charge may delegate any function assigned to him under these rules ;

(3) "Finance Member" means the Member in charge of the Finance Department of the Government of India ;

(4) "Secretary" means the Secretary to the Government of India in the Legislative Department, and includes the Deputy Secretary and every person for the time being exercising the functions of the Secretary ;

(5) "Financial statement" means the preliminary financial estimates of the Governor-General in Council for the financial year next following ; and

(6) "Budget" means the Financial Statement as finally settled by the Governor-General in Council.

#### *A.—THE FINANCIAL STATEMENT.*

##### *General Order of Discussion.*

II. (1) On such day as may be appointed in this behalf by the Governor-General, the Financial Statement with an explanatory memorandum shall be presented to the Council every year by the Finance Member, and a printed copy shall be given to every Member.

(2) No discussion of the Financial Statement shall be permitted on such day.

III. (1) On such later day as may be appointed in this behalf by the Governor-General, the first stage of the discussion of the Financial Statement in Council shall commence.

(2)<sup>1</sup> [On this day, after the Finance Member has stated any changes in the figures of the Financial Statement which circumstances may since have rendered necessary, and has made any explanations of that Statement which he may think fit, a general discussion of the Financial Statement shall take place.

(3) At such discussion any Member shall be at liberty to offer any observations he may wish to make on the Statement

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<sup>1</sup> For Sub-rule (2) of rule 3 of the Regulations of 1909 the following were substituted by Notification No. 14 dated Delhi, the 7th February, 1918.

as a whole, or on any question of principle involved, but no Member shall be permitted to move any resolution nor shall the statement be submitted to the vote of the Council.

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

(5) It shall be open to the President, if he thinks fit, to prescribe a time limit for speeches.]

<sup>1</sup>[III A. (1) On such day after the general discussion of the Financial Statement, as may be appointed in this behalf by the Governor-General, the second stage of the discussion of the Financial Statement shall commence.

(2) On this day any Member shall be at liberty to move any resolution entered in his name in the list of business relating to any alteration in taxation, any new loan, or any additional grant to Local Governments, proposed or mentioned in such Statement or explanatory memorandum; and the Council shall thereupon proceed to discuss each such resolution in the manner hereinafter prescribed.]

IV. (1) The <sup>2</sup>[third] stage of the discussion of the Financial Statement shall commence as soon as may be after all the resolutions which may be moved as aforesaid have been disposed of.

(2) In this stage each head or group of heads specified in the Statement contained in the Schedule appended to these rules as being open to discussion, shall be considered separately according to such grouping as the Member in charge may determine.

(3) The consideration of a particular head or group of heads shall be introduced by the Member in charge with such explanations, supplementing the information contained in the Financial Statement, as may appear to him to be necessary.

(4) Any Member shall then be at liberty to move any resolution relating to any question covered by any such head or group of heads which may be entered in his name in the list of business, and the Council shall thereupon proceed to discuss every such resolution in the manner hereinafter prescribed.

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<sup>1</sup> This new rule was added by Notification No. 14 dated Delhi, the 7th February, 1918.

<sup>2</sup> The word "third" was substituted for the word "Second" by Notification No. 14 dated Delhi, the 7th February, 1918.

*Subjects excluded from discussion.*

V. No discussion shall be permitted in regard to any of the following subjects, namely :—

(a) any subject removed from the cognizance of the Legislative Council of the Governor-General by section 22 of the Indian Councils Act, 1861 ; or

(b) any matter affecting the relations of His Majesty's Government or of the Governor-General in Council with any foreign State or any native State in India ; or

(c) any matter under adjudication by a Court of law having jurisdiction in any part of His Majesty's Dominions.

*Resolutions.*

VI. No resolution shall be moved which does not comply with the following conditions, namely :

(a) it shall be in the form of a specific recommendation addressed to the Governor-General in Council ;

(b) it shall be clearly and precisely expressed and shall raise a definite issue ;

(c) it shall not contain arguments, inferences, ironical expressions or defamatory statements, nor shall it refer to the conduct or character of persons except in their official or public capacity ;

(d) it shall not challenge the accuracy of the figures of the Financial Statement ; and

(e) it shall be directly relevant to some entry in the Financial Statement <sup>1</sup>[or explanatory memorandum.]

VII. A Member, who wishes to move a resolution, shall give notice in writing to the Secretary at least two clear days before the commencement of the stage of the discussion to which the resolution relates, and shall together with the notice submit a copy of the resolution which he wishes to move.

VIII. The President may disallow any resolution or part of a resolution without giving any reason therefor other than that in his opinion it cannot be moved consistently with the public interests or that it should be moved in the Legislative Council of a Local Government.

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<sup>1</sup> The words in square brackets were added by Notification No. 14 dated Delhi, the 7th February, 1918.

IX. (1) No discussion in Council shall be permitted in respect of any order of the President under rule VIII.

(2) A resolution that has been disallowed shall not be entered in the proceedings of the Council.

X. Resolutions admitted by the President shall be entered in the list of business in such order as he may direct.

*Discussion of Resolutions.*

XA. (1) <sup>1</sup>[A Member in whose name a resolution appears on the list of business shall, when called on, either—

- (a) withdraw the resolution, in which case he shall confine himself to a mere statement to that effect ; or
- (b) move the resolution, in which case he shall commence his speech by a formal motion in the terms appearing on the list of business.

(2) If the Member when called on is absent, the resolution standing in his name shall be considered to have been withdrawn.]

XI. (1) After the mover of a resolution has spoken, other Members may speak to the motion in such order as the President may direct, and thereafter the mover may speak once by way of reply.

(2) <sup>2</sup>[No Member shall speak more than once to any motion except with the permission of the President for the purpose of making an explanation :

Provided that the mover may speak in reply and the Member in charge may submit any final observations which he may wish to make.]

XII. No speech <sup>3</sup>[ \* \* ] shall exceed fifteen minutes in duration.

<sup>1</sup> The whole of this new rule was added by Notification No. 14 dated Delhi, the 7th February, 1918.

<sup>2</sup> This sub-rule was substituted by Notification No. 14 dated Delhi, the 7th February, 1918.

<sup>3</sup> The words "except with the permission of the President" have been omitted by notification No. 14 dated Delhi, the 7th February, 1918.



<sup>1</sup>[Provided that the mover of a resolution, when moving the same, the Member in charge, when speaking for the first time, and, with the permission of the President, any other Member may speak for thirty minutes.]

XIII. The discussion of a resolution shall be limited to the subject of the resolution, and shall not extend to any matter as to which a resolution may not be moved.

XIV. <sup>2</sup>[(1) A Member who has moved a resolution shall not withdraw the same except by leave of the Council.

(2) No discussion shall be permitted on a motion for leave to withdraw except with the permission of the President.]

XV. When, in the opinion of the President, a resolution has been sufficiently discussed, he may close the discussion by calling upon the Mover to reply and the Member in charge to submit any final observations which he may wish to make ;

Provided that the President may in all cases address the Council before putting the question to the vote.

XVI. <sup>3</sup>[When any resolution involving several points has been discussed, it shall be in the discretion of the President to divide the resolution and put each or any point separately to the vote as he may think fit.]

XVII. (1) Every question shall be resolved in the affirmative or in the negative according to the majority of votes.

(2) Votes may be taken by voices or by division and shall be taken by division if any Member so desires.

(3) The President shall determine the method of taking votes by division.

XVIII. (1) The President may assign such time as with due regard to the public interests he may consider reasonable for the discussion of resolutions or of any particular resolution.

(2) Every resolution which shall not have been put to the vote within the time so assigned shall be considered to have been withdrawn.

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<sup>1</sup> This new proviso was substituted by Notification No. 14 dated Delhi, the 7th February, 1918

<sup>2</sup> This new rule was substituted by Notification No. 14, dated Delhi, the 7th February, 1918.

<sup>3</sup> This new rule was substituted by Notification No. 14, dated Delhi, the 7th February, 1918.

XX. (1) When a question has been discussed at a meeting of the Council, or when a resolution has been<sup>1</sup> [ \* \* \* ] withdrawn under rule XIV no resolution raising substantially the question shall be moved within one year.

(2) <sup>2</sup>[When a resolution has been disallowed under rule VIII, no resolution raising substantially the same question shall be moved during the same session.]

### B.—THE BUDGET.

(2) A printed copy of the Budget shall be given to each Member.

(3) <sup>3</sup>[No discussion of the Budget shall be permitted nor shall it be submitted to the vote of the Council, but the President may make such observations in regard thereto as he may consider necessary.]

XXIII<sup>5</sup>.      \*      \*      \*      \*

### C.—GENERAL.

(2) At any time, if the President rises, any Member speaking shall immediately resume his seat.

XXV. (1) Any Member may send his speech in print to the Secretary not less than two clear days before the day fixed for

<sup>1</sup> The words "disallowed under rule viii or" have been omitted by Notification No. 14, dated Delhi, the 7th February, 1918.

<sup>2</sup> This sub-rule was added by Notification No. 14, dated Delhi, the 7th February, 1918.

<sup>3</sup> This sub-rule was added by Notification No. 14, dated Delhi, the 7th February, 1918.

\* Both these rules were omitted by Notification No. 14, dated Delhi, the 7th February, 1918.

the discussion of a resolution, with as many copies as there are Members and the Secretary shall cause one of such copies to be supplied to every Member.

(2) Any such speech may at the direction of the President be taken as read.

XXVI. (1) The President shall preserve order, and all points of order shall be decided by him.

(2) No discussion on any point of order shall be allowed unless the President thinks fit to take the opinion of the Council thereon.

(3) Any Member may at any time submit a point of order to the decision of the President.

(4) The President shall have all powers necessary for the purpose of enforcing his decisions.

XXVII. The Governor-General may appoint a Member of the Council to preside in his place, or in that of the Vice-President, on any occasion on which the Financial Statement<sup>1</sup> [ \* \* \* ] or any portion thereof is discussed in the Council.

XXVIII. The President, for sufficient reason, may suspend any of the foregoing rules.

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<sup>1</sup> The words "or the Budget" have been omitted by Notification No. 14, dated Delhi, 7th February, 1918.

## THE SCHEDULE.

*Heads Open to or excluded from discussion under Rule IV.*

A. REVENUE.		B. EXPENDITURE.	
Heads open to discussion.	Heads not open to discussion.	Heads open to discussion.	Heads not open to discussion.
I.—Land Revenue	<i>IV.—Stamps</i>	1.—Refunds and Drawbacks	<i>2.—Assignments and</i>
II.—Opium	<i>VII.—Customs</i>	3.—Land Revenue	<i>Compensations</i>
III.—Salt	<i>VIII.—Assessed Taxes</i>	4.—Opium	<i>13.—Interest on debt</i>
V.—Excise	<i>XI.—Tributes from</i>	5.—Salt	<i>23.—Ecclesiastical</i>
VI.—Provincial Rates	<i>Native States</i>	6.—Stamps	<i>25.—Political</i>
IX.—Forest	<i>XVI.—A.—Courts *</i>	7.—Excise	<i>27.—Territorial and</i>
X.—Registration	<i>XXXII.—Army</i>	8.—Provincial Rates	<i>Political Pensions</i>
XII.—Interest	<i>XXXIII.—Marine</i>	9.—Customs	<i>38.—State Railways.†</i>
XIII.—Post Office	<i>XXXIV.—Military</i>	10.—Assessed Taxes	<i>42.—Major Works :</i>
XIV.—Telegraph	<i>Works</i>	11.—Forests	<i>Interest on Debt</i>
XV.—Mint	<i>All purely Provincial</i>	12.—Registration	<i>46.—Army</i>
XVI.—B.—Jails	<i>revenue and revenue</i>	14.—Interest on other obligations	<i>46.—A.—Marine</i>
XVII.—Police	<i>accruing from divi-</i>	15.—Post Office	<i>47.—Military Works</i>
XIX.—Education	<i>ded heads in Provin-</i>	16.—Telegraphs	<i>47.—A.—Special Defences</i>
XX.—Medical	<i>ces possessing Legis-</i>	17.—Mint	<i>All statutory Charges</i>
XXI.—Scientific and other Minor	<i>lative Councils.</i>	18.—General Administration†	<i>All purely Provincial</i>
Departments		19.—A.—Courts of Law†	<i>expenditure and ex-</i>
XXII.—Receipts in aid of Superan-		19.—B.—Jails	<i>penditure accruing</i>
nuation, etc.		20.—Police	<i>under divided heads in</i>
XXIII.—Stationery and Printing		22.—Education	<i>Provinces possessing</i>
		24.—Medical	<i>Legislative Councils</i>
XXIV.—Exchange		26.—Scientific and other Minor	
XXV.—Miscellaneous		Departments	
XXVI.—State Railways		28.—Civil Furlough and Absentee	
XXVIII.—Subsidised Companies		Allowances	

XXIX.—Irrigation, Major Works  
 XXX.—Minor Works and Navigation  
 XXXI.—Civil Works.

- 29.—Superannuation, Allowances and Pensions
- 30.—Stationery and Printing
- 31.—Exchange
- 32.—Miscellaneous
- 33.—Famine Relief
- 34.—Construction of Protective Railways
- 35.—Construction of Protective Irrigation Works
- 36.—Reduction or avoidance of Debt
- 40.—Subsidised Companies ; Land, etc.
- 41.—Miscellaneous Railway Expenditure
- 42.—Irrigation : Major Works—Working expenses
- 43.—Minor Works and Navigations
- 45.—Civil Works
- 48.—State Railways; Capital Expenditure not charged to Revenue.
- 49.—Irrigation Works ; Capital Expenditure not charged to Revenue

\* Mainly Court-fees and fines.

† These heads include certain statutory charges, which will be excluded from debate.

‡ This head deals purely with interest, sinking funds and annuities.

**III. Regulations for the Discussion of Matters of General Public Interest in the Legislative Council of the Governor-General.**

*Definitions.*

I. In these rules—

(1) "President" means—

(a) the Governor-General, or

(b) the President nominated by the Governor-General in Council under section 6 of the Indian Councils Act, 1861, or

(c) the Vice-President appointed by the Governor-General under section 4 of the Indian Councils Act, 1909, or

(d) the Member appointed to preside under rule XXVII.

(2) "Member in charge" means the Member of the Council of the Governor-General to whom is allotted the business of the Department of the Government of India to which the subject under discussion belongs, and includes any Member to whom such Member in charge may delegate any function assigned to him under these rules; and

(3) "Secretary" means Secretary to the Government of India in the Legislative Department, and includes the Deputy Secretary and every person for the time being exercising the functions of the Secretary.

*Matters open to discussion.*

II. Any matter of general public interest may be discussed in the Council subject to the following conditions and restrictions.

III. No such discussion shall be permitted in regard to any of the following subjects, namely:—

(a) any subject removed from the cognizance of the Legislative Council of the Governor-General by section 22 of the Indian Councils Act, 1861; or

(b) any matter affecting the relations of His Majesty's Government or of the Governor-General in Council with any Foreign State or any Native State in India; or

(c) any matter under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.

*Resolutions.*

IV. Subject to the restrictions contained in rule III, any Member may move a resolution relating to a matter of general public interest :

Provided that no resolution shall be moved which does not comply with the following conditions, namely :—

(a) it shall be in the form of a specific recommendation addressed to the Governor-General in Council ;

(b) it shall be clearly and precisely expressed and shall raise a definite issue ; and

(c) it shall not contain arguments, inferences, ironical expressions or defamatory statements, nor shall it refer to the conduct or character of persons except in their official or public capacity.

V. A Member, who wishes to move a resolution, shall give notice in writing to the Secretary, at least fifteen clear days before the meeting of the Council at which he desires to move the same, and shall, together with the notice, submit a copy of the resolution which he wishes to move :

Provided that the President may allow a resolution to be moved with shorter notice than fifteen days, and may, in any case, require longer notice or may extend the time for moving the resolution.

VI. (1) The Secretary shall submit every resolution of which notice has been given to him in accordance with rule V to the President, who may either admit it or, when any resolution is not framed in accordance with rule IV, cause it to be returned to the Member concerned for the purpose of amendment.

(2) If the Member does not, within such time as the President may fix in this behalf, re-submit the resolution duly amended, the resolution shall be deemed to have been withdrawn.

VII. The President may disallow any resolution or part of a resolution without giving any reason therefor other than that in his opinion it cannot be moved consistently with the public interests or that it should be moved in the Legislative Council of a Local Government.

VIII. (1) No discussion in Council shall be permitted in respect of any order of the President under rule VI or rule VII.

(2) A resolution which has been disallowed shall not be entered in the proceedings of the Council.

IX. Resolutions admitted by the President shall be entered in the list of business for the day in the order in which they are received by the Secretary :

Provided that the President may give priority to any resolution which he may consider to be of urgent public interest, or postpone the moving of any resolution.

*Discussion of Resolutions.*

X. The discussion of resolutions shall take place after all the other business of the day has been concluded.

<sup>1</sup>[X.A. (1) A Member in whose name a resolution appears on the list of business shall, when called on, either—

(a) withdraw the resolution, in which case he shall confine himself to a mere statement to that effect ; or

(b) move the resolution, in which case he shall commence his speech by a formal motion in the terms appearing on the list of business.

(2) If the Member when called on is absent, the resolution standing in his name shall be considered to have been withdrawn.]

XI. (1) After the Mover of a resolution has spoken, other Members may speak to the motion in such order as the President may direct, and thereafter the Mover may speak once by way of reply.

<sup>2</sup>[(2) No Member shall speak more than once to any motion except with the permission of the President for the purpose of making an explanation :

Provided that the Mover may speak in reply and the Member in charge may submit any final observations which he may wish to make.]

XII. No speech, except with the permission of the President, shall exceed fifteen minutes in duration :

<sup>1</sup> The whole of this new rule was added by Notification No. #5, dated Delhi, the 7th February, 1918.

<sup>2</sup> This sub-rule was substituted by Notification No. 15, dated Delhi, the 7th February, 1918.



Provided that the Mover of a resolution, when moving the same, and the Member in charge <sup>1</sup>[when speaking for the first time] may speak for thirty minutes.

XIII. (1) Every Member shall speak from his place, shall rise when he speaks and shall address the Chair.

(2) At any time, if the President rises, any Member speaking shall immediately resume his seat.

XIV. (1) Any Member may send his speech in print to the Secretary not less than two clear days before the day fixed for the discussion of a resolution, with as many copies as there are Members and the Secretary shall cause one of such copies to be supplied to each Member.

(2) Any such speech may at the discretion of the President be taken as read.

XV. The discussion of a resolution shall be limited to the subject of the resolution, and shall not extend to any matter as to which a resolution may not be moved.

XVI. When a resolution is under discussion any Member may, subject to all the restrictions and conditions relating to resolutions specified in rules III and IV, move an amendment to such resolution :

Provided that an amendment may not be moved which has merely the effect of a negative vote.

XVII. (1) If a copy of such amendment has not been sent to the Secretary at least three clear days before the day fixed for the discussion of the resolution, any Member may object to the moving of the amendment ; and such objection shall prevail unless the President in exercise of his power to suspend any of these rules allows the amendment to be moved.

(2) The Secretary shall, if time permits, cause every amendment to be printed and send a copy for the information of each Member.

XVIII. <sup>2</sup>[(1) A Member who has moved a resolution or an amendment of a resolution shall not withdraw the same except by leave of the Council.

<sup>1</sup> The words in square brackets were inserted by Notification No. 15, dated Delhi, the 7th February, 1918.

<sup>2</sup> This rule was substituted by Notification No. 15, dated Delhi, the 7th February, 1918.

(2) No discussion shall be permitted on a motion for leave to withdraw except with the permission of the President.]

XIX. When, in the opinion of the President, a resolution and any amendment thereto have been sufficiently discussed, he may close the discussion by calling upon the Mover to reply and the Member in charge to submit any final observations which he may wish to make :

Provided that the President may in all cases address the Council before putting the question to the vote.

XX. (1) When an amendment to any resolution is moved, or when two or more such amendments are moved, the President shall, before taking the sense of the Council thereon, state or read to the Council the terms of the original motion and of the amendment or amendments proposed.

(2) It shall be in the discretion of the President to put first to the vote either the original motion or any of the amendments which may have been brought forward.

XXI. <sup>1</sup>[When any resolution involving several points has been discussed, it shall be in the discretion of the President to divide the Resolution and put each or any point separately to the vote as he may think fit.]

XXII. (1) Every question shall be resolved in the affirmative or in the negative according to the majority of votes.

(2) Votes may be taken by voices or by division and shall be taken by division if any Member so desires.

(3) The President shall determine the method of taking votes by division.

*General.*

XXIII. (1) The President may assign such time as, with due regard to the public interests, he may consider reasonable for the discussion of resolutions or of any particular resolution.

(2) Every resolution which shall not have been put to the vote within the time so assigned shall be considered to have been withdrawn.

XXIV. Every resolution, if carried, shall have effect only as a recommendation to the Governor-General in Council.

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<sup>1</sup> This new rule was substituted by Notification No. 15, dated Delhi, the 7th February, 1918.

XXV. <sup>1</sup>[(1) When a question has been discussed at a meeting of the Council, or when a resolution has been <sup>2</sup> [\* \*] withdrawn under rule XVIII, no resolution or amendment raising substantially the same question shall be moved within one year.

<sup>3</sup>[(2) When a resolution has been disallowed under rule VII, no resolution raising substantially the same question shall be moved during the same session.]

XXVI. (1) The President shall preserve order, and all points of order shall be decided by him.

(2) No discussion on any point of order shall be allowed unless the President thinks fit to take the opinion of the Council thereon.

(3) Any Member may at any time submit a point of order to the decision of the President.

(4) The President shall have all powers necessary for the purpose of enforcing his decisions.

XXVII. The Governor-General may appoint a Member of the Council to preside in his place, or in that of the Vice-President, on any occasion on which a matter of general public interest is discussed in the Council.

XXVIII. The President, for sufficient reason, may suspend any of the foregoing rules.

#### **IV. Regulations for the Asking of Questions in the Legislative Council of the Governor-General.**

##### **I. In these rules—**

(1) "President" means—

(a) the Governor-General, or

(b) the President nominated by the Governor-General in Council under Section 6 of the Indian Councils Act, 1861, or,

(c) the Vice-President appointed by the Governor-General under section 4 of the Indian Councils Act, 1909.

(2) "Member in charge" means the Member of the Council of the Governor-General to whom is allotted the business of the

<sup>1</sup> The number 25 has been re-numbered 25 (1) by Notification No. 15, dated Delhi, the 7th February, 1918.

<sup>2</sup> The words "disallowed under rule 7 or" have been omitted by Notification No. 15, dated Delhi, the 7th February, 1918.

<sup>3</sup> Sub-rule (2) was added by Notification No. 15, dated Delhi, the 7th February, 1918.

Department of the Government of India to which the subject of the question belongs, and includes any Member to whom such Member in charge may delegate any function assigned to him under these rules ; and

(3) "Secretary" means the Secretary to the Government of India in the Legislative Department, and includes the Deputy Secretary and every person for the time being exercising the functions of the Secretary.

II. Any question may be asked by any Member subject to the following conditions and restrictions.

III. No question shall be permitted in regard to any of the following subjects, namely :—

(a) any matter affecting the relations of His Majesty's Government or of the Governor-General in Council with any Foreign State or with any Native State in India, or

(b) any matter under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.

\* IV. No question shall be asked unless it complies with the following conditions, namely :—

(a) it shall be so framed as to be merely a request for information,

(b) it shall not be of excessive length,

(c) it shall not contain arguments, inferences, ironical expressions or defamatory statements, nor shall it refer to the conduct or character of persons except in their official or public capacity, and

(d) it shall not ask for an expression of an opinion or the solution of a hypothetical proposition.

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

VI. A Member who wishes to ask a question shall give notice in writing to the Secretary at least ten clear days before the meeting of the Council at which he desires to put the question and shall, together with the notice, submit a copy of the question which he wishes to ask :

Provided that the President may allow a question to be put with shorter notice than ten days and may in any case require longer notice or may extend the time for answering a question.

VII. (1) The Secretary shall submit every question of which notice has been given to him in accordance with rule VI to the President, who may either allow it or, when any question is not framed in accordance with rules IV and V, cause it to be returned to the Member concerned for the purpose of amendment.

(2) If the Member does not, within such time as the President may fix in this behalf, re-submit the question duly amended, the question shall be deemed to have been withdrawn.

VIII. The President may disallow any question, or any part of a question, without giving any reason therefor other than that in his opinion it cannot be answered consistently with the public interests or that it should be put in the Legislative Council of a Local Government.

IX. No discussion in Council shall be permitted in respect of any order of the President under rule VII or rule VIII.

X. Questions which have been allowed shall be entered in the list of business for the day and shall be put in the order in which they stand in the list before any other business is entered upon at the meeting.

XI. Questions shall be put and answers given in such manner as the President may in his discretion determine.

XII. Any Member who has asked a question may put a supplementary question for the purpose of further elucidating any matter of fact regarding which a request for information has been made in his original question.

XIII. The Member in charge may decline to answer a supplementary question without notice, in which case the supplementary question may be put in the form of a fresh question at a subsequent meeting of the Council.

XIV. These rules, except rules VI and VII, apply also to supplementary questions :

Provided that the President may disallow any supplementary question without giving any reason therefor.

XV. The President may rule that an answer to a question in the list of business for the day shall be given on the ground of public interests even though the question may have been withdrawn.

XVI. No discussion shall be permitted in respect of any question or of any answer given to a question.

XVII. All questions asked and the answers given shall be entered in the proceedings of the Council :

Provided that no question which has been disallowed by the President shall be so entered.

XVIII. The President may assign such time as, with due regard to the public interests, he may consider reasonable for the putting and answering of questions.

## K

THE RESOLUTION OF THE GOVERNOR-GENERAL IN COUNCIL No. 4213, DATED THE 15TH OF NOVEMBER, 1909.

With the approval of the Secretary of State in Council, the Governor-General in Council has to-day brought into operation the Indian Councils Act, 1909, and has published the rules and regulations relating to the nomination and election of the Members of the enlarged Legislative Councils. This act marks the completion of the earnest and prolonged deliberations that were initiated by the Viceroy more than three years ago, when he appointed a Committee of his Executive Council to consider and report on the general question of giving to the peoples of India a larger measure of political representation and wider opportunities of expressing their views on administrative matters.

2. The various stages of inquiry and discussion which followed need not be reviewed at length. In the Home Department letter of the 24th August, 1907, the Government of India put forward certain provisional and tentative proposals, and invited the Local Governments to submit their matured conclusions, after consulting important bodies and individuals representing the various classes of the community. The voluminous opinions elicited by that letter were fully dealt with in the Despatch which the Government of India addressed to the Secretary of State on the 1st October, 1908, and in LORD MORLEY'S Despatch of the 27th November following. Since those papers were published, the Government of India have been engaged, in communication with the Secretary of State, in working out the principles accepted by him, and the scheme finally adopted for the future constitution of the Legislative Councils is embodied in the Indian Councils Act and in the Regulations which are published to-day. The Governor-General in Council will now proceed to state briefly the extent and nature of the changes introduced and to indi-

cate in what respects they differ from the proposals contained in the papers already published.

3. The maximum strength of each Council is fixed by the first Schedule of the Act. Excluding the Head of the Government and the Members of the Executive Councils, it varies from 60 for the Council of the Governor-General, to 30 for the Councils of the Punjab and Burma, the number for each of the other five Provincial Councils being 50. The actual strength of each Council is determined by the Regulations: the statutory maximum will at present be worked up to only in the Imperial and Bengal Councils, but as will be seen from the annexed statements the numbers are in every case slightly larger than those shown in the Despatch of the 1st October, 1908.

4. For the reasons given by the Secretary of State in his Despatch of 27th November, 1908, there will continue to be a majority of officials in the Governor General's Council, but the Regulations provide not only that there may be, but that there must be, a majority of non-official Members in every Provincial Council. The following statement, from which the Head of the Government is in each case excluded, shows the effect of this great constitutional change on the composition of each Council. It will be within the power of a Local Government to increase the non-official majority by nominating less than the maximum number of officials and substituting non-officials, but that majority can not be reduced except to the limited extent indicated below and then only for a specified period or in connection with a particular measure :—

Legislative Council of			Officials.	Non-officials.	Majority.
					<i>Official.</i>
India	...	..	35	32	3
					<i>Non-official.</i>
Madras	...	...	19	26	7
Bombay	...	...	17	28	11
Bengal	...	...	17	31	14
United Provinces	...	...	20	26	6
Eastern Bengal and Assam			17	23	6
Punjab	...	...	10	14	4
Burma	...	...	6	6	3

These figures relate to the ordinary constitution of the Councils and leave out of account the two experts who may

be appointed Members of each Provincial Council when the legislation in hand is of a nature to demand expert advice. If these Members are non-officials the majority will be strengthened, and even if both are officials it will not be entirely neutralised. The strength of the non-official majority varies with local conditions.

5. Special provision has been made for the representation of the professional classes, the landholders, the Mahomedans, European commerce, and Indian commerce. The first of these interests will be represented on the Governor-General's Council by the Members elected by the Provincial Legislative Councils and by the District Councils and Municipal Committees in the Central Provinces ; and on the Provincial Councils by the representatives of the District Boards, the Municipalities, the Corporations of the Presidency Towns and the Universities. The others will be represented upon all the Councils by Members elected by special electorates or nominated under an express provision of the Regulations. The representative of the Bombay landholders on the Governor-General's Council will be elected at the first, third and subsequent alternate elections by the landholders of Sind, a great majority of whom are Mahomedans, while at other elections he will be elected by the Sardars of Gujerat or the Sardars of the Deccan, a majority of whom are Hindus. Again the landholders of the Punjab consist of about equal numbers of Mahomedans and non-Mahomedans and it may be assumed that their representative will be alternately a Mahomedan and non-Mahomedan. It has accordingly been decided that at the second, fourth, and succeeding alternate election when these two seats will presumably not be held by Mahomedans, there shall be two special electorates consisting of the Mahomedan landholders who are entitled to vote for the Member who represents in the Governor-General's Council the landholders of the United Provinces and Eastern Bengal and Assam respectively. In some Provinces there are special interests such as the tea and jute industries in Eastern Bengal and Assam and the planting communities in Madras and Bengal, for which special provision has been made. The representation of minor interests and smaller classes will be provided for by nominations made from time to time as the particular needs of the moment and the claims of each community may require.

6. In the Despatch of the 1st October, 1908 it was explained that some of the seats there shown as elective might at first have to be filled by nomination, pending the formation of suit-



able electorates. Further inquiry has shown their course to be unavoidable at present in respect of (1) the representative of Indian Commerce in all Councils except that of the Governor of Bombay; (2) the representatives of the landholders and the Mahomedan community of the Punjab on the Governor-General's Council; and (3) the representative of the planting community on the Bengal Council. The Regulations, however, provide that a Member must be nominated to represent each of these interests; and it is the intention of the Governor-General in Council to substitute election for nomination wherever a workable electorate can be formed.

7. It will be seen that the Regulations have been divided into two parts, first, the substantive Regulations, which deal with all matters of general application, and, secondly, a series of separate Schedules defining the constitution of each electorate and prescribing the electoral procedure to be adopted in each case.

8. The qualifications required for both candidates and voters are specified in the Schedules, but the disqualifications, which apply generally, are given in the Regulations. The only voters disqualified are females, minors, and persons of unsound mind, but for candidates wider restrictions are obviously necessary and these are set forth under nine heads in Regulation IV. The last of these provides that no person shall be eligible for election if he has been declared by the Government of India or the Local Government to be of such reputation and antecedents that his election would, in the opinion of the Government, be contrary to the public interests. The Act of 1892 laid down that an elected candidate must be nominated by the Head of the Government before he could take his seat on the Council. It thus gave power to exclude a candidate whose presence would bring discredit upon the Council, and although this power was never exercised, yet it served a useful purpose in deterring such persons from coming forward for election. If the dignity and representative character of the Legislative Councils are to be maintained, there must be some means of excluding unworthy candidatures, though recourse to it would be of rare occurrence, and the disqualification imposed would not necessarily be permanent.

9. In accordance with the practice of the House of Commons and of other British Legislatures, Members of the enlarged

Councils must, before taking their seats, make an oath or affirmation of allegiance to the Crown.

10. If a candidate is elected for more than one electorate he is required by Regulation IX to choose for which electorate he will sit. The votes recorded for him in any electorate for which he decides not to sit will be deemed not to have been given, and the seat will go to the candidate who would have been elected but for such votes. This is in accordance with the procedure prescribed for ward elections in the city of Bombay, and it has the advantages of rendering a fresh election unnecessary.

11. The normal term of office has been extended from two to three years, but a Member elected to fill a casual vacancy will sit only for the unexpired portion of the outgoing Member's term. This provision is necessary to meet the case of electorates which elect by rotation. To deprive such a constituency of its representation for what might be a considerable portion of the term allotted to it would be unfair; while to allow the constituency of the out-going Member (who might have sat for nearly the full term) to elect another Member for a further period of three years would be open to still greater objections. The provision is also required to secure the retention of the advantages of cumulative voting in two-member constituencies.

12. It has been expressly laid down that corrupt practices shall render an election invalid. There is no such provision in the existing Regulations but the great extension of the principle of election and the probability of keen contests render it desirable to provide safe-guards against the employment of improper practices. The definition of "corrupt practices" is taken from the Bombay District Municipalities Act. It covers false personation on the part of a voter and the use of threats of injury, as well as the actual purchase of votes by the candidate or his agent.

13. Any person who is qualified as a voter or a candidate may question the validity of an election and apply to the Government of India or the Local Government, as the case may be, to set it aside. After such inquiry as may be necessary, the Government may declare whether the candidate whose election is questioned was duly elected; or whether any, and if so, what other person was duly elected; or whether the election was void (Regulation XVI). An election will not, how-

ever, be set aside on the ground of minor irregularities which do not affect the result (Regulation XV).

14. In most cases the electorates are sufficiently defined in the Regulations ; where more detailed information is necessary, this has been given in the Schedules prescribing the electoral procedure. Where the electorates are scattered, as is the case with the landholders and the Mahomedans, provision has been made for the preparation and publication of an electoral roll containing the names of all persons qualified to vote. After the first election this roll will be brought under revision from time to time, when claims and objections will be decided ; but the roll actually in force at the time of any election will be conclusive evidence on the question whether any person has the right to vote. The Governor-General in Council regrets that it has not been possible to allow claims to be made or objections to be taken in respect of the first roll. The qualifications upon which each roll is based could not be announced until the Regulations had received the approval of the Secretary of State, and no revision of the roll could be undertaken until the new Act had been brought into operation. At least two months would have to be devoted to the disposal of claims and objections, and it is probable that even at the end of that period some cases would still be pending. It would thus be impossible to constitute the Provincial Councils before March 1910, and the Governor-General's Council could not assemble before the end of that month or the beginning of April. The consequent loss of the whole of the legislative season would cause so much inconvenience that it would be necessary to defer putting the Act into operation and to postpone the assembling of the new Councils until the session of 1910-11. The Governor-General in Council is sensible of the objections to holding an election on a register which has not been subjected to the test of revision, but he is convinced that those objections are greatly outweighed by the keen disappointment that would be caused by further delay in introducing the constitutional changes which have now been under discussion for more than three years. Moreover, the danger of improper omission or inclusion is comparatively small. The two principal qualifications are payment of land revenue and income tax, the records of which are detailed and complete and steps were taken before-hand to ensure, as far as possible that doubtful cases and claims based on other qualifications should be brought to notice. The Governor-General in Council believes that the great majority of those interested in

the question will recognise the difficulties of the situation, and will acquiesce in the decision to prefer the possibility of some small degree of error affecting only a few individuals to the certainty of further prolonged delay in the assembling of the new Councils.

15. The qualifications prescribed for electors in the cases of the landholders and the Mahomedans vary greatly from Province to Province. They are in accordance, for the most part, with the specific recommendations of the Local Governments, and these recommendations again were based upon inquiries made by a special officer appointed in each Province to ascertain by personal consultation the wishes of the Members of the two communities. The Governor-General in Council would have preferred some nearer approach to uniformity; but the principle he has borne in mind is that election by the wishes of the people is the ultimate object to be secured and he has felt that he must be guided by the advice of the Local authorities as to what those wishes are. The status and circumstances both of the landholders and of the Mahomedan community differ widely from Province to Province, and qualifications which would produce a satisfactory constituency in one case would in another give an electorate insignificant in numbers and deficient in representative character.

16. The qualifications for candidates are, as a rule, the same as those prescribed for voters, but in some cases, such as that of candidates for election to the Governor-General's Council by the non-official Members of a Provincial Council, any such restriction would be inappropriate. In other instances, there has been some difference of treatment in different Provinces, but the object in all cases has been to secure that the Member shall really represent the electorate.

17. The different kinds of electoral machinery may be broadly classified under two main heads,—one under which the electors vote direct for the Members and the other under which they select delegates by whom the Members are elected. A subsidiary distinction in each case is that the electors or delegates either vote at a single centre before a Returning Officer, or vote at different places before an Attesting Officer, who despatches the voting papers to the Returning Officer. A further distinction in the case of delegates is that in Bengal each delegate has a varying number of votes, the number depending in the case of District Boards and Municipalities

upon the income of those bodies, and in the case of the Mahomedan community upon the strength and importance of the Mahomedan population of a district or group of districts. Elsewhere the same object has been attained by varying the number of delegates on like grounds, each delegate then having only one vote. In the Central Provinces, however, the number of delegates to be elected by each District Council and Municipal Committee has been fixed, not with sole reference to income or population, but with regard to a number of factors, of which those two are perhaps the most important.

18. A special case of voting by delegates is that of the election of a Member of the Governor-General's Council to represent the Mahomedan community of Bombay. The delegates in this case are not appointed *ad hoc*, but consist of the Mahomedan Members of the Provincial Council. This exceptional method has been admitted on the assurance of the Governor in Council that the Mahomedan community of the Presidency as a whole would be better represented by the Mahomedan Members of the Provincial Council than by any form of direct electorate that could be devised.

19. The procedure for voting is generally similar to that prescribed by the English Ballot Act. In some cases, however, such as the elections by the Corporations of the Presidency Towns, the Chambers of Commerce and the Trades Associations, the voting will, as at present, be regulated by the procedure usually adopted by those bodies for the transaction of their ordinary business.

20. The rules authorising the moving and discussion of resolutions, the discussion of the Budget, and the asking of questions have been framed in accordance with the decisions on these matters which have already been announced. In the rules relating to the discussion in the Governor-General's Council of matters of general public interest it is provided that no discussion shall be allowed in regard to subjects removed from the cognisance of the Council by the Indian Councils Act of 1861, or matters affecting the foreign relations of His Majesty's Government or the Government of India, or matters which are *sub-judice*. The President may also disallow any resolution on the ground that its introduction is opposed to the public interest, or that it should be moved in the Legislative Council of a Local Government. Subject to these necessary restrictions, a resolution may be moved regarding any matter of general

public interest and all such resolutions may be fully discussed and put to the vote. The President may assign such time as he may consider reasonable for the discussion of resolutions or of any particular resolution.

The examination of the annual financial proposals in the Governor-General's Council will be divided into three parts. There will first be an opportunity for discussing any alteration in taxation, any new loan, or any grant to Local Governments proposed or mentioned in the financial statement or the explanatory memorandum accompanying it. In the second stage, each head or group of heads of revenue or expenditure not excluded from discussion will be explained by the Member in charge of the administrative department concerned and any Member may then move a resolution relating to these subjects. The final stage consists of the presentation of the Budget by the Finance Member, who will explain why any resolutions passed by the Council have not been accepted. A general discussion of the Budget will follow, but at this stage no resolution may be moved.

The rules for the asking of questions are substantially the same as those hitherto in force, with the important exception that they permit a Member who has asked a question to put a supplementary question.

In respect of these matters each Provincial Council is governed by rules of its own, which in essentials differ but little from those of the Governor-General's Council. One distinguishing feature, however, is that the local financial statement is first examined by a Committee of the Council consisting of twelve Members, of whom six will be nominated by the Head of the Government and six elected by the non-official Members of the Council.

21. The Governor-General in Council is conscious that many of the details of the scheme which is being introduced may be found on trial to be unsatisfactory or capable of improvement. Experience alone can show how far methods which are new to India give to the different classes and interests a measure of representation proportionate to their importance and influence, and to what extent an untried electoral machinery is suitable to the varying circumstances of the different Provinces and the numerous electorates. Defects will no doubt be discovered when the rules are put into operation, but, if this proves to be the case, the law admits of the Regulations being amended without difficulty.

22. Under the arrangements that have been made, the new Provincial Councils will assemble at the beginning of January 1910, and the Council of the Governor-General in the course of that month. It is a source of great satisfaction, both to the Viceroy personally and to the Members of his Council, that the deliberations which have extended over the greater part of LORD MINTO'S Viceroyalty should have achieved their purpose before he lays down the office of Governor-General. The constitutional changes that have been effected are of no small magnitude. The Councils have been greatly enlarged; their maximum strength was 126: it is now 370. All classes and interests of major importance will in future have their own representatives. In the place of 39 elected Members there will now be 135; and while the electorates of the old Council had only the right to recommend the candidate of their choice for appointment by the Head of the Government, and elected Member of the new Councils will sit as of right and, will need no official confirmation. Under the Regulations of 1892 officials were everywhere in a majority; the Regulations just issued establish a non-official majority in every Provincial Council. Nor has reform been confined to the constitution of the Councils: their functions also have been greatly enlarged. A Member can now demand that the formal answer to a question shall be supplemented by further information. Discussion will no longer be confined to legislative business and a discursive and ineffectual debate on the Budget, but will be allowed in respect of all matters of general public interest. Members will in future take real and active part in shaping the financial proposals for the year; and as regards not only financial matters but all questions of administration they will have liberal opportunities of criticism and discussion and of initiating advice and suggestions in the form of definite resolutions. The Governor-General in Council feels that these momentous changes constitute a generous fulfilment of the gracious intention, foreshadowed in the King-Emperor's Message, to entrust to the leaders of the Indian peoples a greater share in legislation and government, and he looks forward with confidence to these extensive powers being loyally and wisely used by them, in association with the holders of executive authority, to promote the prosperity and contentment of all classes of the inhabitants of this great country.

## PART V.

### DOCUMENTS RELATING TO THE CONSTITUTION OF THE INDIAN JUDICIARY.

(1833-1916)

#### I. THE ACT ESTABLISHING THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

AN ACT FOR THE BETTER ADMINISTRATION OF JUSTICE  
IN HIS MAJESTY'S PRIVY COUNCIL.

(3, & 4 William IV. C. 41).

*14th August, 1833.*

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And whereas, from the decisions of various Courts of Judicature in the East Indies, and in the plantations, colonies, and other Dominions of His Majesty Abroad, an appeal lies to His Majesty in Council : and whereas matters of Appeal or Petition to His Majesty in Council have usually been heard before a Committee of the whole of His Majesty's Privy Council, who have made a Report to His Majesty in Council, whereupon the final Judgment or determination hath been given by His Majesty : And whereas it is expedient to make certain Provisions for the more effectual hearing and reporting on Appeals to His Majesty in Council and on other matters, and to give such powers and jurisdiction to His Majesty in Council as herein-after mentioned :—

Be it enacted etc. \* \* \* That the President for the time being of His Majesty's Privy Council, the Lord High Chancellor of Great Britain for the time being, and such of the members of His Majesty's Privy Council as shall from time to time hold any of the offices following, that is to say, the office of Lord Keeper or First Lord Commissioner of the



Great Seal of Great Britain, Lord Chief Justice or Judge of the Court of King's Bench, Master of the Rolls, Vice-Chancellor of England, Lord Chief Justice or Judge of the Court of Common Pleas, Lord Chief Baron or Baron of the Court of Exchequer, Judge of the Prerogative Court of the Lord Archbishop of Canterbury, Judge of the High Court of Admiralty, and Chief Judge of the Court in Bankruptcy, and also all persons, Members of His Majesty's Privy Council, who shall have been President thereof or held the office of Lord Chancellor of Great Britain, or shall have held any of the other offices here-in-before mentioned, shall form a Committee of His Majesty's said Privy Council and shall be styled "The Judicial Committee of the Privy Council": Provided nevertheless, that it shall be lawful for His Majesty from time to time, as and when He shall think fit, by His Sign Manual, to appoint any two other persons, being Privy Counsellors, to be members of the said Committee.

3. And be it further enacted, That all Appeals or complaints in the nature of Appeals whatever, which, either by virtue of this Act, or of any Law, Statute, or Custom, may be brought before His Majesty or His Majesty in Council from or in respect of the Determination, Sentence, Rule, or Order of any Court, Judge, or Judicial Officer, and all such appeals as are now pending and unheard, shall from and after the passing of this Act be referred by His Majesty to the said Judicial Committee of His Privy Council, and that such Appeals, Causes, and Matters shall be heard by the said Judicial Committee, and a Report or Recommendation thereon shall be made to His Majesty in Council for his decision thereon as heretofore, in the same manner and form as has been heretofore the Custom with respect to matters referred by His Majesty to the whole of His Privy Council or a Committee thereof (the Nature of such Report or Recommendation being always stated in open Court.)

21. And be it further enacted, That the Order or Decree of His Majesty in Council on any Appeal from the Order, Sentence, or Decree of any Court of Justice in the East Indies, or of any Colony, Plantation, or other His

Certain persons to form a Committee, to be styled "The Judicial Committee of the Privy Council."

All Appeals from sentence of any Judge, etc., to be referred by His Majesty to the Committee, to report thereon.

Decrees for Courts abroad to be carried into effect as the king in Council shall direct.

Majesty's Dominions abroad, shall be carried into effect in such manner, and subject to such limitations and conditions, as His Majesty in Council shall, on the recommendation of the said Judicial Committee, direct; and it shall be lawful for His Majesty in Council, on such recommendation, by order, to direct that such Court of Justice shall carry the same into effect accordingly, and thereupon such Court of Justice shall have the same powers of carrying into effect and enforcing such order or Decree as are possessed by or are hereby given to His Majesty in Council: Provided always that nothing in this Act contained shall impeach or abridge the powers, jurisdiction, or authority of His Majesty's Privy Council as heretofore exercised by such Council, or in anywise alter the constitution or duties of the said Privy Council, except so far as the same are expressly altered by this Act, and for the purposes aforesaid.

**Act not to abridge Powers of Privy Council.**

22. And whereas various appeals to His Majesty in Council from the Courts of Sudder Dewanny Adawlut at the several Presidencies of Calcutta, Madras, and Bombay in the East Indies, have been admitted by the said Courts and the transcripts of the proceedings in appeal have been from time to time transmitted under the seal of the said Courts, through the United Company of Merchants in England trading to the East Indies, to the office of His Majesty's said Privy Council, but the suitors in the causes so appealed have not taken the necessary measures to bring on the same to Hearing; be it therefore further enacted by the authority aforesaid that it shall be lawful for His Majesty in Council to give such directions to the said United Company and other persons for the purpose of bringing to a hearing before the said Committee the several cases appealed or hereafter to be appealed to His Majesty in Council from the several Courts of Sudder Dewanny Adawlut in the East Indies and for appointing Agents and Counsel for the different parties in such appeals, and to make such orders for security and payment of the cost thereupon, as His said Majesty in Council shall think fit; and thereupon such Appeals shall be heard and reported on to His Majesty in Council, and shall be by His Majesty in Council determined in the same manner, and the Judgments, Orders, and Decrees of His Majesty in Council thereon shall be of the same force and effect, as if the same had

**His Majesty may direct the East India Company to bring on Appeals from the Sudder Dewanny Adawlut courts to a hearing.**

been brought to a hearing by the direction of the parties appealing in the usual course of proceeding : Provided always, that such last mentioned Powers shall not extend to any Appeals from the said Courts of Sudder Dewanny Adawlut other than Appeals in which no proceedings have been or shall hereafter be taken in England on either side for a period of two years subsequent to the admission of the Appeal by such Court of Sudder Dewanny Adawlut.

24. And be it further enacted, That it shall be lawful for His Majesty in Council from time to time to make any such rules and orders as may be thought fit for regulating the mode, form, and time of Appeal to be made from the Decisions of the said Courts of Sudder Dewanny Adawlut, or any other Courts of Judicature in India or elsewhere to the Eastward of the Cape of Good Hope (from the decisions of which an Appeal lies to His Majesty in Council), and in like manner from time to time to make such other Regulations for the preventing Delays in the making or hearing such Appeals, and as to Expenses attending the said Appeals, and as to the Amount or Value of the Property in respect of which any such Appeal may be made.

30. And be it enacted, That two Members of His Majesty's Privy Council who shall have held the office of Judge in the East Indies or any of His Majesty's Dominions beyond the Seas, and who, being appointed for that purpose by His Majesty, shall attend the sittings of the Judicial Committee of the Privy Council, shall severally be entitled to receive, over and above any Annuity granted to them in respect of having held such office as aforesaid, the sum of Four Hundred Pounds for every year during which they shall so attend as aforesaid, as an Indemnity for the Expense which they may thereby incur ; and such sum of Four Hundred Pounds shall be chargeable upon and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

His Majesty empowered to make orders for regulating the mode etc., of such Appeals.

Retired Judges attending the Judicial Committee to receive an Allowance.

## II. THE INDIAN HIGH-COURTS ACT, 1861.

(24 &amp; 25 Vict. C. 104.)

AN ACT FOR ESTABLISHING HIGH COURTS OF JUDICATURE IN INDIA. (6th Aug. 1861).

Be it enacted by the Queen's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

1. It shall be lawful for Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, to erect and establish a High Court of Judicature at *Fort William* in *Bengal* for the *Bengal* Division of the Presidency of *Fort William* aforesaid, and by like Letters Patent to erect and establish like High Courts at *Madras* and *Bombay* for those Presidencies respectively, such High Courts to be established in the said several Presidencies at such time or respective times as to Her Majesty may seem fit, and the High Court to be established under any such Letters Patent in any of the said Presidencies shall be deemed to be established from and after the publication of such Letters Patent in the same Presidency, or such other Time as in such Letters Patent may be appointed in this behalf.

High Courts may be established in the several Presidencies of India.

2. The High Court of Judicature at *Fort William* in *Bengal* and at the Presidencies of *Madras* and *Bombay* respectively shall consist of a Chief Justice and as many Judges, not exceeding fifteen, as Her Majesty may from Time to Time think fit and appoint, who shall be selected from—

Constitution of High Courts.

1st. Barristers of not less than Five Years' standing ; or,

2nd. Members of the Covenanted Civil Service of not less than Ten Years' standing, and who shall have served as Zillah Judges, or shall have exercised the like Powers as those of a Zillah Judge for at least Three Years of that Period ; or,

3rd. Persons who have held Judicial office not inferior to that of Principal Sudder Ameen or Judge of a Small Causes Court for a Period of not less than Five Years ; or,

4th. Persons who have been Pleaders of a Sudder Court or High Court for a Period of not less than Ten Years, if such

Pleaders of a Sudder Court shall have been admitted as Pleaders of a High Court :

Provided that not less than One Third of the Judges of such High Courts respectively, including the Chief Justice, shall be Barristers, and not less than One Third shall be Members of the Covenanted Civil Service.

3. Provided always, That the Persons who at the Time of the Establishment of such High Court in any of the said Presidencies are Judges of the Supreme Court of Judicature and Permanent Judges of the Court of Sudder Dewanny Adawlut or Sudder Adawlut of the same Presidency shall be and become Judges of such High Court without further Appointment for that Purpose ; and the Chief Justice of such Supreme Court shall become the Chief Justice of such High Court.

4. All the Judges of the High Courts established under this Act shall hold their offices during Her Majesty's Pleasure : Provided that it shall be lawful for any Judge of a High Court to resign such office of Judge to the Governor-General of India in Council or Governor in Council of the Presidency, in which such High Court is established.

5. The Chief Justice of any such High Court shall have Rank and Precedence before the other Judges of the same Court, and such of the other Judges of such Court as on its Establishment shall have been transferred thereto from the Supreme Court shall have Rank and Precedence before the Judges of the High Court not transferred from the Supreme Court, and, except as aforesaid, all the Judges of each High Court shall have Rank and Precedence according to the Seniority of their Appointments, unless otherwise provided in their Patents.

6. Any Chief Justice or Judge transferred to any High Court from the Supreme Court shall receive the like Salary and be entitled to the like Retiring Pension and Advantage as he would have been entitled to, for, and in respect of Service in the Supreme Court, if such Court had been continued, his Service in the High Court being reckoned as Service in the Supreme Court ; and, except as aforesaid, it

shall be lawful for the Secretary of State in Council of *India* to fix the Salaries, Allowances, Furloughs, Retiring Pensions, and (where necessary) Expenses for Equipment and Voyage of the Chief Justices and Judges of the several High Courts under this Act, and from Time to Time to alter the same: Provided always, that such Alteration shall not affect the Salary of any Judge appointed prior to the Date thereof.

7. Upon the happening of a vacancy in the office of the Chief Justice, and during any absence of a Chief Justice, the Governor-General in Council or Governor in Council, as the case may be, shall appoint one of the Judges of the same High Court to perform the duties of Chief Justice of the said Court until some Person has been appointed by Her Majesty to the office of Chief Justice of the same Court, and has entered on the discharge of the duties of such Office, or until the Chief Justice has returned from such Absence; and upon the happening of a vacancy in the office of any other Judge of any such High Court, and during any Absence of any such Judge, or on the Appointment of any such Judge to act as Chief Justice, it shall be lawful for the Governor-General in Council or Governor in Council, as the case may be, to appoint a Person, with such Qualifications, as are required in Persons to be appointed to the High Court, to act as a Judge of the said High Court and the Person so appointed shall be authorized to sit and to perform the Duties of a Judge of the said Court until some Person has been appointed by Her Majesty to the Office of Judge of the same Court, and has entered on the Discharge of the Duties of such Office, or until the absent Judge has returned from such Absence, or until the Governor-General in Council or Governor in Council as aforesaid shall see Cause to cancel the Appointment of such acting Judge.

8. Upon the Establishment of such High Court as aforesaid in the Presidency of Fort William in Bengal the Supreme Court and the Court of Sudder Dewanny Adawlut and Sudder Nizamut Adawlut at Calcutta shall be abolished:

**Abolition of Supreme Courts & Sudder Courts.**

And upon the Establishment of such High Court in the Presidency of Madras the Supreme Court and the Court of Sudder Adawlut and Foujdary Adawlut in the same Presidency shall be abolished:

And upon the Establishment of such High Court in the

Presidency of Bombay the Supreme Court and the Court of Sudder Dewanny Adawlut and Sudder Foujdary Adawlut in the same Presidency shall be abolished :

And the Records and Documents of the several Courts so abolished in each Presidency shall become and be Records and Documents of the High Court established in the same Presidency.

9. Each of the High Courts to be established under this Act shall have and exercise all such **Jurisdiction and Powers of High Courts.** Civil, Criminal, Admiralty, and Vice-Admiralty, Testamentary, Intestate, and Matrimonial Jurisdiction, original and appellate, and all such Powers and Authority for and in relation to the Administration of Justice in the Presidency for which it is established, as Her Majesty may by such Letters Patent as aforesaid grant and direct, subject, however, to such Directions and Limitations as to the Exercise of original Civil and Criminal Jurisdiction beyond the Limits of the Presidency Towns as may be prescribed thereby ; and, save as by such Letters Patent may be otherwise directed, and subject and without Prejudice to the Legislative Powers in relation to the Matters aforesaid of the Governor-General of India in Council, the High Court to be established in each Presidency shall have and exercise all Jurisdiction and every Power and Authority whatsoever in any manner vested in any of the Courts in the same Presidency abolished under this Act at the time of the Abolition of such last-mentioned Courts.

10. Until the Crown shall otherwise provide under the Powers of this Act, all Jurisdiction now exercised by the Supreme Courts of Calcutta, Madras, and Bombay respectively over inhabitants of such parts of India as may not be comprised within the local Limits of the Letters Patent to be issued under this Act establishing High Courts at Fort William, Madras, and Bombay, shall be exercised by such High Courts respectively.

11. Upon the establishment of the said High Courts in the said Presidencies respectively all Provisions then in force in India of Acts of Parliament, or of any Orders of Her Majesty in Council, or Charters, or of any Acts of the Legislature of India, which at the time or respective times of the establishment of such High Courts are respectively ap-

pliable to the Supreme Courts at Fort William in Bengal, Madras, and Bombay respectively, or to the Judges of those Courts, shall be taken to be applicable to the said High Courts, and to the Judges thereof respectively, so far as may be consistent with the Provisions of this Act, and the Letters Patent to be issued in pursuance thereof, and subject to the Legislative Powers in relation to the Matters aforesaid of the Governor-General of India in Council.

Existing provisions applicable to Supreme Courts to apply to High Courts.

12. From and after the Abolition of the Courts abolished as aforesaid in any of the said Presidencies, the High Court of the same Presidency shall have Jurisdiction over all proceedings pending in such abolished Courts at the time of the Abolition thereof, and such Proceedings, and all previous Proceedings in the said last-mentioned Courts, shall be dealt with as if the same had been had in the said High Court, save that any such Proceedings may be continued, as nearly as Circumstances permit, under and according to the Practice of the abolished Courts respectively.

Provisions as to pending proceedings in abolished Courts.

13. Subject to any Laws or Regulations which may be made by the Governor-General in Council the High Court established in any Presidency under this Act may by its own Rules provide for the Exercise, by one or more Judges, or by Division Courts constituted by two or more Judges of the said High Court, of the Original and Appellate Jurisdiction vested in such Court, in such manner as may appear to such Court to be convenient for the due Administration of Justice.

High Courts may provide for exercise of Jurisdiction by single Judges etc.

14. The Chief Justice of each High Court shall from Time to Time determine what Judge in each Case shall sit alone, and what Judges of the Court, whether with or without the Chief Justice, shall constitute the several Division Courts as aforesaid.

Chief Justice to determine what Judges shall sit alone, etc.

15. Each of the High Courts established under this Act shall have superintendence over all Courts which may be subject to its Appellate Jurisdiction, and shall have Power to call for Returns, and to direct the Transfer of any Suit or Appeal for any such Court to any other Court of equal or superior Jurisdiction, and shall have Power to make and issue



General Rules for regulating the Practice and Proceedings of such Courts, and also to prescribe Forms for every Proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all Books, Entries, and Accounts to be kept by the officers, and also to settle Tables of Fees to be allowed to the Sheriff, Attorneys, and all Clerks and Officers of Courts, and from Time to Time to alter any such Rule or Form or Table; and the Rules so made, and the Forms so framed, and the Tables so settled, shall be used and observed in the said Courts, provided that such General Rules and Forms and Tables be not inconsistent with the Provisions of any law in force, and shall before they are issued have received the Sanction, in the Presidency of Fort William of the Governor-General in Council, and in Madras or Bombay of the Governor in Council of the respective Presidencies.

16. It shall be lawful for Her Majesty, if at any Time hereafter Her Majesty see fit so to do, by Letters Patent under the Great Seal of the United Kingdom, to erect and establish a High Court of Judicature in and for any Portion of the Territories within Her Majesty's Dominions in India, not included within the Limits of the local Jurisdiction of another High Court, to consist of a Chief Justice and of such Number of other Judges, with such Qualifications as are required in Persons to be appointed to the High Courts established at the Presidencies here-in-before mentioned, as Her Majesty from Time to Time may think fit and appoint; and it shall be lawful for Her Majesty by such Letters Patent to confer on such Court any such Jurisdiction, Powers, and Authority, as under this Act is authorised to be conferred on or will become vested in the High Court to be established in any Presidency here-in-before mentioned; and, subject to the Directions of such Letters Patent, all the Provisions of this Act having reference to the High Court established in any such Presidency, and to the Chief Justice and other Judges of such Court, and to the Governor-General or Governor of the Presidency in which such High Court is established, shall, as far as Circumstances may permit, be applicable to the High Court established in the said Territories, and to the Chief Justice and other Judges thereof, and to the person administering the Government of the said Territories.

High Court to superintend and to frame rules of practice for Subordinate Courts.

Her Majesty may establish a High Court in the North Western Provinces.

17. It shall be lawful for Her Majesty, if Her Majesty shall so think fit, at any Time within Three Years after the Establishment of any High Court under this Act, by Her Letters Patent to revoke all or such Parts or Provisions as Her Majesty may think fit of the Letters Patent by which such Court was established, and to grant and make such other Powers and Provisions as Her Majesty may think fit, and as might have been granted or made by such First Letters Patent, or without any such Revocation as aforesaid, by like Letters Patent to grant and make any additional or supplementary Powers and Provisions which might have been granted or made in the first instance.

Other or supplemental Charters may be granted within three years after establishment of Court.

18. It shall be lawful for Her Majesty, from Time to Time by her Order in Council, to transfer any Territories or Place from the Jurisdiction of One to the Jurisdiction of Any Other of the High Courts established under this Act, and generally to alter and determine the territorial Limits of the Jurisdiction of the said several Courts as to Her Majesty, with the advice of Her Privy Council, may seem meet.

Territorial limits may be altered by Order in Council.

19. The Word "Barrister" in this Act shall be deemed to include Barristers of England or Ireland or Members of the Faculty of Advocates in Scotland; and the Words "Governor-General and Governor" shall comprehend the Officer administering the Government.

Interpretation of terms.

### III. LETTERS PATENT\* FOR THE HIGH COURT IN BENGAL, 1865.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, To all to whom these presents shall come, greeting: Whereas by an Act of Parliament passed in the Twenty-fourth and Twenty-fifth Years of Our Reign, entitled "An Act for establishing High Courts of Judicature in India," it was, amongst other things, enacted that it should be lawful for Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, to erect and establish a High Court of Judicature at Fort William in Bengal, for the Bengal Division of the Presidency of Fort William aforesaid, and that such High Court should consist

\* The Letters Patent for the High Courts of Madras and Bombay are *mutatis mutandis* in exactly the same terms.

of a Chief Justice, and as many Judges, not exceeding fifteen, as Her Majesty might, from time to time, think fit to appoint, who should be selected from among persons qualified as in the said Act is declared : Provided always, that the persons who at the time of the establishment of such High Court were Judges of the Supreme Court of Judicature, and permanent Judges of the Court of Sudder Dewanny Adawlut or Sudder Adawlut of the same Presidency, should be and become Judges of such High Court without further appointment for that purpose, and the Chief Justice of such Supreme Court should become the Chief Justice of such High Court, and that upon the establishment of such High Court as aforesaid, the Supreme Court and the Court of Sudder Dewanny Adawlut and Sudder Nizamut Adawlut at Calcutta in the said Presidency, should be abolished :—

And that the High Court of Judicature so to be established should have and exercise all such civil, criminal, admiralty and vice-admiralty, testamentary, intestate, and matrimonial jurisdiction, original and appellate, and all such powers and authority for and in relation to the administration of justice in the said Presidency, as Her Majesty might, by such Letters Patent as aforesaid, grant and direct, subject, however, to such directions and limitations, as to the exercise of original, civil, and criminal jurisdiction beyond the limits of the Presidency town, as might be prescribed thereby : and save as by such Letters Patent might be otherwise directed, and subject and without prejudice to the legislative powers in relation to the matters aforesaid of the Governor-General of India in Council, the High Court so to be established should have and exercise all jurisdiction, and every power and authority whatsoever, in any manner vested in any of the Courts in the same Presidency abolished under the said Act, at the time of the abolition of such last-mentioned Courts :—

And whereas We did, upon full consideration of the premises, think fit to erect and establish, and by our Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date at Westminster the Fourteenth day of May, in the Twenty-fifth Year of our Reign, in the Year of our Lord One thousand eight hundred and sixty-two, did, accordingly, for Us, Our heirs and successors, erect and establish, at Fort William in Bengal, for the Bengal Division of the Presidency of Fort William aforesaid, a High Court of Judicature, which should be called the High Court of Judica-

ture at Fort William in Bengal, and did thereby constitute the said Court to be a Court of Record; and whereas We did thereby appoint and ordain that the said High Court of Judicature at Fort William in Bengal should, until further or other provision should be made by Us or Our heirs and successors in that behalf, in accordance with the recited Act, consist of a Chief Justice and thirteen Judges, and did thereby, in addition to the persons who at the time of the establishment of the said High Court were Judges of the Supreme Court of Judicature, and permanent Judges of the Court of Sudder Dewanny Adawlut, in the said Presidency respectively, constitute and appoint certain other persons, being respectively qualified as in the said Act is declared, to be Judges of the said High Court :—

And whereas on the thirtieth day of January One thousand eight hundred and sixty-three, We did, in the manner in the said recited Act provided, direct and ordain that the said High Court should consist of a Chief Justice and fourteen Judges :—

And whereas by the said recited Act it is declared lawful for Her Majesty, at any time within three years after the establishment of the said High Court, by her Letters Patent, to revoke all or such parts or provisions as Her Majesty might think fit of the Letters Patent by which such Court was established, and to grant and make such other powers and provisions as Her Majesty might think fit, and as might have been granted or made by such first Letters Patent :—

And whereas by the Act of the twenty-eighth Year of Our Reign, chapter fifteen, entitled “an Act to extend the term for granting fresh Letters Patent for the High Courts in India, and to make further provision respecting the territorial jurisdiction of the said Courts,” the time for issuing fresh Letters Patent has been extended to the First of January, One thousand eight hundred and sixty-six :—

And whereas, in order to make further provision respecting the constitution of the said High Court, and the administration of justice thereby, it is expedient that the said Letters Patent, dated the Fourteenth of May, One thousand eight hundred and sixty-two, should be revoked, and that some of the powers and provisions thereby granted and made should be granted and made with amendments and additional powers and provisions by fresh Letters Patent :—

## LETTERS PATENT FOR THE HIGH COURT IN BENGAL. 399

1. Now know ye that We, upon full consideration of the premises, and of Our special grace, certain knowledge, and mere motion, have thought fit to revoke, and do by these presents (from and after the date of the publication thereof as hereinafter provided, and subject to the provisions thereof) revoke Our said Letters Patent of the Fourteenth of May, One thousand eight hundred and sixty-two, except so far as the Letters Patent of the Fourteenth Year of His Majesty King George the Third, dated the twenty-sixth of March, One thousand seven hundred and seventy-four, establishing a Supreme Court of Judicature at Fort William in Bengal, were revoked or determined thereby.

2. And We do by these presents grant, direct, and ordain, that notwithstanding the revocation of the said Letters Patent of the Fourteenth of May, One thousand eight hundred and sixty-two the High Court of Judicature, called the High Court of Judicature at Fort William in Bengal, shall be and continue, as from the time of the original erection and establishment thereof, the High Court of Judicature at Fort William in Bengal for the Bengal Division of the Presidency of Fort William aforesaid; and that the said Court shall be and continue a Court of Record, and that all proceedings commenced in the said High Court prior to the date of the publication of these Letters Patent shall be continued and depend in the said High Court as if they had commenced in the said High Court after the date of such publication, and that all rules and orders in force in the said High Court immediately before the date of the publication of these Letters Patent shall continue in force, except so far as the same are altered hereby, until the same are altered by competent authority.

3. And We do hereby appoint and ordain, that the person and persons who shall immediately before the date of the publication of these Letters Patent be the Chief Justice and Judges, or acting Chief Justice or Judges, if any, of the said High Court of Judicature at Fort William in Bengal, shall continue to be the Chief Justice and Judges, or acting Chief Justice or Judges, of the said High Court, until further or other provisions shall be made by Us or Our heirs and successors in that behalf, in accordance with the said recited Act for establishing High Courts of Judicature in India.

4. And We do hereby appoint and ordain, that every clerk and ministerial officer of the said High Court of Judicature at Fort William in Bengal appointed by virtue of the said Letters Patent of the Fourteenth of May, One thousand eight

hundred and sixty-two, shall continue 'to hold and enjoy his office and employment, with the salary thereunto annexed, until he be removed from such office and employment ; and he shall be subject to the like power of removal, regulations, and provisions as if he were appointed by virtue of these Letters Patent.

5. And We do hereby ordain, that the Chief Justice and every Judge *who shall be from time to time appointed to the said High Court of Judicature at Fort William in Bengal, previously to entering upon the execution of the duties of his office,* shall make and subscribe the following declaration before such authority or person as the Governor-General in Council may commission to receive it :—

"I, A. B., appointed Chief Justice (or a Judge) of the High Court of Judicature at Fort William in Bengal, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment."

6. And We do hereby grant, ordain, and appoint, that the said High Court of Judicature at Fort William in Bengal shall have and use, as occasion may require, a seal bearing a device and impression of Our Royal Arms, with an exergue or label surrounding the same, with this inscription : "The Seal of the High Court at Fort William in Bengal." And We do further grant, ordain, and appoint, that the said seal shall be delivered to and kept in the custody of the Chief Justice, and in case of vacancy of the office of Chief Justice, or during any absence of the Chief Justice, the same shall be delivered over and kept in the custody of the person appointed to act as Chief Justice, under the provisions of section 7 of the said recited Act ; and We do further grant, ordain, and appoint, that whensoever it shall happen that the office of Chief Justice, or of the Judge to whom the custody of the said seal be committed, shall be vacant, the said High Court shall be and is hereby authorized and empowered to demand, seize, and take the said seal from any person or persons whomsoever, by what ways and means soever the same may have come to his, her, or their possession.

7. And We do hereby further grant, ordain, and appoint, that all writs, summons, precepts, rules, orders, and other mandatory process to be used, issued, or awarded by the said High Court of Judicature at Fort William in Bengal, shall run and be in the name and style of Us, or of Our heirs and successors, and shall be sealed with the seal of the said High Court.

8. And We do hereby authorize and empower the Chief Justice of the said High Court of Judicature at Fort William in Bengal from time to time, as occasion may require, and subject to any rules and restrictions which may be prescribed by the Governor-General in Council, to appoint so many and such clerks and other ministerial officers as shall be found necessary for the administration of justice, and the due execution of all the powers and authorities granted and committed to the said High Court by these Our Letters Patent. And We do hereby ordain that every such appointment shall be forthwith submitted to the approval of the Governor-General in Council, and shall be either confirmed or disallowed by the Governor-General in Council, and it is Our further will and pleasure, and We do hereby, for Us, Our Heirs and Successors, give, grant, direct, and appoint, that all and every the officers and clerks to be appointed as aforesaid shall have and receive respectively such reasonable salaries as the Chief Justice shall, from time to time, appoint for each office and place respectively, and as the Governor-General in Council shall approve of : Provided always, and it is Our will and pleasure, that all and every the officers and clerks to be appointed as aforesaid shall be resident within the limits of the jurisdiction of the said Court, so long as they shall hold their respective offices ; but this proviso shall not interfere with or prejudice the right of any officer or clerk to avail himself of leave of absence under any rules prescribed by the Governor-General in Council, and to absent himself from the said limits during the term of such leave, in accordance with the said rules.

*Admission of Advocates, Vakeels, and Attorneys.*

9. And We do hereby authorize and empower the said High Court of Judicature at Fort William in Bengal to approve, admit, and enrol such and so many Advocates, Vakeels, and Attorneys as to the said High Court shall seem meet ; and such Advocates, Vakeels, and Attorneys shall be and are hereby authorized to appear for the suitors of the said High Court, and to plead or to act, or to plead and act, for the said suitors, according as the said High Court may by its rules and directions determine, and subject to such rules and directions.

10. And We do hereby ordain, that the said High Court of Judicature at Fort William in Bengal shall have power to make rules for the qualifications and admission of proper persons to be Advocates, Vakeels, and Attorneys-at-Law of the said High Court, and shall be empowered to remove or to suspend

*from practice, on reasonable cause, the said Advocates, Vakeels, or Attorneys-at-Law; and no person whatsoever but such Advocates, Vakeels, or Attorneys shall be allowed to act or to plead for, or on behalf of any suitor in the said High Court, except that any suitor shall be allowed to appear, plead, or act on his own behalf, or on behalf of a co-suitor.*

*Civil Jurisdiction of the High Court.*

11. And We do hereby ordain, that the said High Court of Judicature at Fort William in Bengal shall have and exercise ordinary original civil jurisdiction within such local limits as may from time to time be declared and prescribed by any law *made by competent legislative authority for India*, and, until some local limit shall be so declared and prescribed, within the limits declared and prescribed by the proclamation fixing the limits of Calcutta, issued by the Governor-General in Council, on the Tenth day of September in the Year of Our Lord, One thousand seven hundred and ninety-four, and the ordinary original civil jurisdiction of the said High Court shall not extend beyond the limits for the time being declared and prescribed as the local limits of such jurisdiction.

12. And We do further ordain, that the said High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original civil jurisdiction, shall be empowered to receive, try, and determine suits of every description, if, in the case of suits for land or other immoveable property, such land or property shall be situated, or, in all other cases if the cause of action shall have arisen, either wholly, or, in case the leave of the Court shall have been first obtained, in part, within the local limits of the ordinary original jurisdiction of the said High Court, or if the defendant at the time of the commencement of the suit shall dwell, or carry on business, or personally work for gain, within such limits; except that the said High Court shall not have such original jurisdiction in cases falling within the jurisdiction of the Small Cause Court at Calcutta, in which the debt or damage, or value of the property sued for, does not exceed one hundred rupees.

13. And We do further ordain, that the said High Court of Judicature at Fort William in Bengal shall have power to remove, and to try and determine, as a Court of extraordinary original jurisdiction, any suit being or falling within the jurisdiction of any Court, whether within or without the Bengal



Division of the Presidency of Fort William, subject to its superintendence, when the said High Court shall think proper to do so, either on the agreement of the parties to that effect, or for purposes of justice, the reasons for so doing being recorded on the proceedings of the said High Court.

14. And We do further ordain, that where a plaintiff has several causes of action against a defendant, such causes of action not being for land or other immoveable property, and the said High Court shall have original jurisdiction in respect of one of such causes of action, it shall be lawful for the said High Court to call on the defendant to show cause why the several causes of action should not be joined together in one suit, and to make such order for trial of the same as to the said High Court shall seem fit.

15. And We do further ordain, that an appeal shall lie to the said High Court of Judicature at Fort William in Bengal from the judgment (not being a sentence or order passed or made in any criminal trial) of one Judge of the said High Court, or of one Judge of any Division Court, pursuant to section 13 of the said recited Act; and that an appeal shall also lie to the said High Court from the judgment (not being a sentence or order as aforesaid) of two or more Judges of the said High Court, or of such Division Court, wherever such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the said High Court at the time being; but that the right of appeal from other judgments of Judges of the said High Court, or of such Division Court, shall be to Us, Our Heirs or Successors, in Our or their Privy Council, as hereinafter provided.

16. And We do further ordain, that the said High Court of Judicature at Fort William in Bengal shall be a Court of Appeal from the Civil Courts of the Bengal Division of the Presidency of Fort William, and from all other Courts subject to its superintendence, and shall exercise appellate jurisdiction in such cases as are subject to appeal to the said High Court by virtue of any laws or regulations now in force.

17. And We do further ordain, that the said High Court of Judicature at Fort William in Bengal shall have the like power and authority with respect to the persons and estates of infants, idiots, and lunatics, within the Bengal Division of the Presidency of Fort William, as that which was vested in the said High Court immediately before the publication of these Presents.

18. And We do further ordain, that the Court for relief of insolvent Debtors at Calcutta shall be held before one of the Judges of the said High Court of Judicature at Fort William in Bengal, and the said High Court, and any such Judge thereof, shall have and exercise, *within* the Bengal Division of the Presidency of Fort William, such powers and authorities with respect to original and appellate jurisdiction, and otherwise, as are constituted by the laws relating to insolvent debtors in India

*Law to be administered by the High Court of Judicature  
at Fort William in Bengal.*

19. And We do further ordain that, with respect to the law or equity to be applied to each case coming before the said High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original civil jurisdiction, such law or equity shall be the law or equity which would have been applied by the said High Court to such case if these Letters Patent had not issued.

20. And We do further ordain that, with respect to the law or equity and the rule of good conscience to be applied to each case coming before the said High Court of Judicature at Fort William in Bengal, in the exercise of its extraordinary original civil jurisdiction, such law or equity and rule of good conscience shall be the law or equity and rule of good conscience which would have been applied to such case by any local court having jurisdiction therein.

21. And We do further ordain that, with respect to the law or equity and the rule of good conscience to be applied by the said High Court of Judicature at Fort William in Bengal, to each case coming before it in the exercise of its appellate jurisdiction, such law or equity and rule of good conscience shall be the law or equity and rule of good conscience which the Court in which the proceedings in such case were originally instituted ought to have applied to such case.

*Criminal Jurisdiction.*

22. And We do further ordain, that the said High Court of Judicature at Fort William in Bengal shall have ordinary original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction, and also in respect of all such persons, both within the limits of the Bengal Division of the Presidency

of Fort William, and beyond such limits and not within the limits of the criminal jurisdiction of any other High Court or Court established by competent legislative authority for India as the said High Court of Judicature at Fort William in Bengal shall have criminal jurisdiction over at the date of the publication of these Presents.

23. And We do further ordain, that the said High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original criminal jurisdiction, shall be empowered to try all persons brought before it in due course of law.

24. And We do further ordain, that the said High Court of Judicature at Fort William in Bengal shall have extraordinary original criminal jurisdiction over all persons residing in places within the jurisdiction of any Court now subject to the superintendence of the said High Court, and shall have authority to try at its discretion any such persons brought before it on charges preferred by the Advocate-General, or by any Magistrate or other officer specially empowered by the Government in that behalf.

25. And We do further ordain, that there shall be no appeal to the said High Court of Judicature at Fort William in Bengal from any sentence or order passed or made in any criminal trial before the Courts of original criminal jurisdiction, which may be constituted by one or more Judges of the said High Court. But it shall be at the discretion of any such Court to reserve any point or points of law for the opinion of the said High Court.

26. And We do further ordain, that on such point or points of law being so reserved as aforesaid, or on its being certified by the said Advocate-General that, in his judgment, there is an error in the decision of a point or points of law decided by the Court of original criminal jurisdiction, or that a point or points of law which has or have been decided by the said Court should be further considered, the said High Court shall have full power and authority to review the case, or such part of it as may be necessary, and finally determine such point or points of law, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment and sentence as to the said High Court shall seem right.

27. And We do further ordain, that the said High Court of Judicature at Fort William in Bengal shall be a Court of

Appeal from the Criminal Courts of the Bengal Division of the Presidency of Fort William, and from all other Courts subject to its superintendence, and shall exercise appellate jurisdiction in such cases as are subject to appeal to the said High Court by virtue of any law now in force.

28. And We do further ordain, that the said High Court of Judicature at Fort William in Bengal shall be a Court of Reference and Revision from the Criminal Courts subject to its appellate jurisdiction, and shall have power to hear and determine all such cases referred to it by the Sessions Judges, or by any other officers now authorized to refer cases to the said High Court, and to revise all such cases tried by any officer or Court possessing criminal jurisdiction, as are now subject to reference to, or revision by, the said High Court.

29. And We do further ordain, the said High Court shall have power to direct the transfer of any criminal case or appeal from any Court to any other Court of equal or superior jurisdiction, and also to direct the preliminary investigation or trial of any criminal case by any officer or Court otherwise competent to investigate or try it, though such case belongs in ordinary course, to the jurisdiction of some other officer or Court.

*Criminal Law.*

30. And We do further ordain, that all persons brought for trial before the said High Court of Judicature at Fort William in Bengal, either in the exercise of its original jurisdiction, or in the exercise of its jurisdiction as a Court of Appeal, Reference, or Revision, charged with any offence for which provision is made by Act No. XLV of 1860, called the "Indian Penal Code," or by any Act amending or excluding the said Act, which may have been passed prior to the publication of these presents, shall be liable to punishment under the said Act or Acts, and not otherwise.

*Exercise of Jurisdiction elsewhere than at the ordinary place of sitting of the High Court.*

31. And We do further ordain, that whenever it shall appear to the Governor-General in Council convenient that the jurisdiction and power by these Our Letters Patent, or by the recited Act, vested in the said High Court of Judicature at Fort William in Bengal, should be exercised in any place

within the jurisdiction of any Court now subject to the superintendence of the said High Court, other than the usual place of sitting of the said High Court, or at several such places by way of circuit, the proceedings in cases before the said High Court at such place or places shall be regulated by any law relating thereto which has been or may be made by competent legislative authority for India.

*Admiralty and Vice-Admiralty Jurisdiction.*

32. And We do further ordain, that the said High Court of Judicature at Fort William in Bengal shall have and exercise all such civil and maritime jurisdiction as may now be exercised by the said High Court as a Court of Admiralty, or of Vice-Admiralty, and also such jurisdiction for the trial and adjudication of prize causes and other maritime questions arising in India as may now be exercised by the said High Court.

33. And We do further ordain, that the said High Court of Judicature at Fort William in Bengal shall have and exercise all such criminal jurisdiction as may now be exercised by the said High Court as a Court of Admiralty, or of Vice-Admiralty, or otherwise in connection with maritime matters or matters of prize.

*Testamentary and Intestate Jurisdiction.*

34. And We do further ordain, that the said High Court of Judicature at Fort William in Bengal shall have the like power and authority as that which may now be lawfully exercised by the said High Court, except within the limits of the jurisdiction for that purpose of any other High Court established by Her Majesty's Letters Patent, in relation to the granting of probates of last wills and testaments, and letters of administration, of the goods, chattels, credits, and all other effects whatsoever of persons, dying intestate, whether within or without the said Bengal Division, subject to the orders of the Governor-General in Council, as to the period when the said High Court shall cease to exercise testamentary and intestate jurisdiction in any place or places beyond the limits of the provinces or places for which it was established: Provided always, that nothing in these Letters Patent contained shall interfere with the provisions of any law which has been

made by competent legislative authority for India, by which power is given to any other Court to grant such probates and letters of administration.

*Matrimonial Jurisdiction.*

35. And We do further ordain, that the said High Court of Judicature at Fort William in Bengal shall have jurisdiction, within the Bengal Division of the Presidency of Fort William, in matters matrimonial between Our subjects professing the Christian religion : Provided always, that nothing herein contained shall be held to interfere with the exercise of any jurisdiction in matters matrimonial by any Court not established by Royal Charter within the said Presidency lawfully possessed thereof.

*Powers of Single Judges and Division Courts.*

36. And We do hereby declare that any function which is hereby directed to be performed by the said High Court of Judicature at Fort William in Bengal, in the exercise of its original or appellate jurisdiction, may be performed by any Judge, or by any Division Court thereof, appointed or constituted for such purpose under the provisions of the thirteenth section of the aforesaid Act of the Twenty-fourth and Twenty-fifth Years of Our Reign ; and if such Division Court is composed of two or more Judges, and the Judges are divided in opinion as to the decision to be given on any point, such point shall be decided according to the opinion of the majority of the Judges, if there shall be a majority ; but if the Judges should be equally divided, then the opinion of the senior Judge shall prevail.

*Civil Procedure.*

37. And We do further ordain, that it shall be lawful for the said High Court of Judicature at Fort William in Bengal from time to time to make rules and orders for the purpose of regulating all proceedings in civil cases which may be brought before the said High Court, including proceedings in its Admiralty, Vice-Admiralty, Testamentary, Intestate, and Matrimonial jurisdictions respectively : Provided always, that the said High Court shall be guided in making such rules and orders, as far as possible, by the provisions of the Code of Civil Procedure, being an Act passed by the Governor-General in

Council, and being Act No. VIII of 1859, and the provisions of any law which has been made, amending or altering the same, by competent legislative authority for India.

*Criminal Procedure.*

38. And We do further ordain, that the proceedings in all criminal cases which shall be brought before the said High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original criminal jurisdiction, and also in all other criminal cases over which the said High Court had jurisdiction immediately before the publication of these Presents, shall be regulated by the procedure and practice which was in use in the said High Court immediately before such publication, subject to any law which has been or may be made in relation thereto by competent legislative authority for India ; and that the proceedings in all other criminal cases shall be regulated by the Code of Criminal Procedure prescribed by an Act passed by the Governor-General in Council, and being Act No. XXV of 1861, or by such further or other laws in relation to criminal procedure as may have been or may be made by such authority as aforesaid.

*Appeals to Privy Council.*

39. And We do further ordain, that any person or persons may appeal to Us, Our Heirs and Successors, in Our or their Privy Council, in any matter not being of criminal jurisdiction, from any final judgment, decree, or order of the said High Court of Judicature at Fort William in Bengal, made on appeal, and from any final judgment, decree, or order made in the exercise of original jurisdiction by a majority of the full number of Judges of the said High Court, or of any Division Court, from which an appeal shall not lie to the said High Court under the provision contained in the 15th clause of these Presents : Provided, in either case, that the sum or matter at issue is of the amount or value of not less than 10,000, rupees, or that such judgment, decree, or order shall involve, directly or indirectly, some claim, demand, or question to or respecting property amounting to or of the value of not less than 10,000 rupees ; or from any other final judgment, decree, or order made either on appeal or otherwise as aforesaid, when the said High Court shall declare that the case is a fit one for appeal to Us, Our Heirs or Successors, in Our or their Privy Council. Subject always to

such rules and orders as are now in force, or may from time to time be made, respecting appeals to Ourselves in Council from the Courts of the said Presidency ; except so far as the said existing rules and orders respectively are hereby varied, and subject also to such further rules and orders as We may, with the advice of Our Privy Council, hereafter make in that behalf.

40. And We do further ordain, that it shall be lawful for the said High Court of Judicature at Fort William in Bengal, at its discretion, on the motion, or if the said High Court be not sitting, then for any Judge of the said High Court, upon the petition of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree, order, or sentence of the said High Court, in any such proceeding as aforesaid, not being of criminal jurisdiction, to grant permission to such party to appeal against the same to Us, Our Heirs or Successors, in Our or their Privy Council, subject to the same rules, regulations, and limitations as are herein expressed, respecting appeals from final judgments, decrees, orders, and sentences.

41. And We do further ordain, that from any judgment, order, or sentence of the said High Court of Judicature at Fort William in Bengal, made in the exercise of original criminal jurisdiction, or in any criminal case, where any point or points of law have been reserved for the opinion of the said High Court in manner hereinbefore provided, by any Court which has exercised original jurisdiction, it shall be lawful for the person aggrieved by such judgment, order, or sentence to appeal to Us, Our Heirs or Successors, in Council ; provided the said High Court shall declare that the case is a fit one for such appeal, and under such conditions as the said High Court may establish or require, subject always to such rules and orders as We may, with the advice of Our Privy Council, hereafter make in that behalf.

42. And We do further ordain, that in all cases of appeal made from any judgment, order, sentence, or decree of the said High Court of Judicature at Fort William in Bengal to Us, Our Heirs or Successors, in Our or their Privy Council, such High Court shall certify and transmit to Us, Our Heirs and Successors, in Our or their Privy Council, a true and correct copy of all evidence, proceedings, judgments, decrees, and orders had or made in such cases appealed, so far as the same have relation to the matters of appeal ; such copies to be certified under the seal of the said High Court. And that the said High Court shall also certify and transmit to Us, Our Heirs and Successors, in Our or their Privy Council, a copy of the *réasons*



given by the Judges of such Court, or by any of such Judges, for or against the judgment or determination appealed against.

And We do further ordain, that the said High Court shall, in all cases of appeal to Us, Our Heirs or Successors, conform to and execute or cause to be executed, such judgments and orders as We, Our Heirs or Successors, in Our or their Privy Council, shall think fit to make in the premises in such manner as any original judgment, decree or decretal orders, or other order or rule of the said High Court, should or might have been executed.

*Calls for Records, etc., by the Government.*

43. And it is Our further will and pleasure that the said High Court of Judicature at Fort William in Bengal shall comply with such requisitions as may be made by the Government for records, returns, and statements, in such form and manner as such Government may deem proper.

44. And We do further ordain and declare, that all the provisions of these Our Letters Patent are subject to the legislative powers of the Governor-General in Council, exercised at meetings for the purpose of making laws and regulations, and also of the Governor-General in cases of emergency under the provisions of an Act of the Twenty-fourth and Twenty-fifth Years of Our Reign, Chapter sixty-seven, and may be in all respects amended and altered thereby.

45. And it is Our further will and pleasure that these Letters Patent shall be published by the Governor-General in Council, and shall come into operation from and after the date of such publication; and that from and after the date on which effect shall have been given to them, so much of the aforesaid Letters Patent, granted by His Majesty King George the Third, as was not revoked or determined by the said Letters Patent of the Fourteenth of May, One thousand eight hundred and sixty-two, and is inconsistent with these Letters Patent, shall cease, determine, and be utterly void, to all intents and purposes whatsoever.

In Witness whereof We have caused these Our Letters to be made Patent. Witness Ourself at Westminster, the Twenty-eighth day of December, in the Twenty-ninth Year of Our Reign.

(Sd.) C. ROMILLY.

## IV. THE INDIAN HIGH COURTS ACT, 1865.

(28 &amp; 29 Vict., Ch. 15.)

AN ACT TO EXTEND THE TERM FOR GRANTING FRESH LETTERS PATENT FOR THE HIGH COURTS IN INDIA, AND TO MAKE FURTHER PROVISIONS RESPECTING THE TERRITORIAL JURISDICTION OF THE SAID COURTS. (7TH APRIL, 1865.)

"Whereas it is expedient to extend the time fixed for granting fresh Letters Patent for the High Courts in India under the provisions of an Act passed in the Twenty-fourth and Twenty-fifth Years, of the Reign of Her present Majesty, intituled *An Act for establishing High Courts of Judicature in India*, and to make further provision than is in the said Act contained for empowering the alteration from time to time of the local limits of the said High Courts, and for the exercise, in places beyond the limits of the Presidencies, or places within and for which such High Courts are established, of the jurisdiction and powers conferred by Her Majesty's Letters Patent on the said High Courts." Be it enacted etc \* \* \* as follows :

1. The time fixed for granting fresh Letters Patent for the High Courts in India by Section seventeen of the said recited Act is hereby extended to the first day of January One thousand eight hundred and sixty six.

Time for granting  
fresh Letters Patent.

2. Sections ten and eighteen of the said Act of the Twenty-fourth and Twenty-fifth Years of Her present Majesty are hereby repealed.

24 & 25 Vict. C. 104.  
Ss. 10 & 18 repealed.

3. It shall be lawful for the Governor-General of India in Council, by order, from time to time, to transfer any territory or place, from the jurisdiction of one to the jurisdiction of any other of the High Courts established or to be established under the said Act, and to authorise and empower any High Court to exercise all or any portion of the jurisdiction and powers conferred or to be conferred on it by Her Majesty's Letters

Power to the Governor-  
General in Council to  
alter local limits of  
jurisdiction of High  
Courts.

Patent establishing the same, or any other Letters Patent issued by Her Majesty under the provisions of the above-recited Act of the Twenty-fourth and Twenty-fifth Years of Her Majesty, within any such portions of Her Majesty's Dominions in India not included within the limits

of the Presidency or place or places for which such High Court was established, as the said Governor-General in Council may from time to time determine, and also to exercise any such jurisdiction in respect of Christian subjects of Her Majesty resident within the Dominions of such of the Princes and States of India in alliance with Her Majesty as the said Governor-General in Council may, in manner aforesaid, from time to time determine, anything in the said recited Act of the Twenty-fourth and Twenty-fifth Years of Her present Majesty notwithstanding.

4. Whenever any such order has been passed by the Governor-General in Council, he shall transmit to the Secretary of State for India an authentic copy thereof; and it shall be lawful for Her Majesty to signify through the Secretary of State for India in Council, Her disallowance of such order; and such disallowance shall make void and annul such order from and after the day on which the Governor-General shall make known by Proclamation, or by signification to his

Power of Crown to disallow any order of the Governor-General for that purpose.

Council, that he has received the notification of such disallowance by Her Majesty: Provided always, that all Acts, Proceedings, and Judgments done, taken, or given by such High Courts, and not set aside by any competent authority before the Promulgation or signification as aforesaid of such disallowance by Her Majesty, shall be deemed to be and to have been valid and effectual for all purposes whatever, such disallowance notwithstanding.

5. So much of this Act as relates to the jurisdiction of the High Court shall commence and come into operation as soon as the same shall have been published by the Governor-General in Council.

Commencement of the Act.

6. Nothing in this Act contained shall interfere with the powers of the Governor-General in Council at meetings for the purpose of making Laws and Regulations.

Powers of Governor-General not affected.

**V. THE INDIAN HIGH COURTS ACT, 1911.**

(1 &amp; 2 Geo. V., Ch. 18.)

AN ACT TO AMEND THE INDIAN HIGH COURTS ACT, 1861. (18th AUGUST, 1911.)

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

1. The maximum number of Judges of a High Court of Judicature in India, including the Chief Justice, shall be twenty, and Section 2 of the Indian High Courts Act, 1861, shall have effect accordingly.

2. The Power of His Majesty under Section 16 of the Indian High Courts Act, 1861, may be exercised from time to time, and a High Court may be established under that section in any portion of the territories within His Majesty's Dominions in India, whether or not included within the limits of the local jurisdiction of another High Court; and where such a High Court is established in any part of such territories included within the limits of the local jurisdiction of another High Court, it shall be lawful for his Majesty by Letters Patent to alter the local jurisdiction of that other High Court and to make such incidental, consequential, and supplemental provisions as may appear to be necessary by reason of the alteration of those limits.

3. Subject to the provisions of Section 2 of the Indian High Courts Act, 1861, as amended by this Act, regulating the number and qualifications of Judges, it shall be lawful for the Governor-General in Council to appoint from time to time persons to act as additional Judges of any High Court for such period not exceeding two years as may be required, and the Judges so appointed shall, while so acting, have all the powers of a Judge of the High Court appointed by His Majesty under Section 2 of the said Act: Provided that such additional Judges shall not be taken into account in determining the proportions specified in the proviso to that section.

4. The salaries of any Judges or temporary Judges appointed under this Act shall be paid out of the Revenues of India.

5. This Act may be cited as the Indian High Courts Act, 1911, and shall be constructed as one with the Indian High Courts Act, 1861, and that Act, and the Indian High Courts Act, 1865, and this Act, may be cited together as the Indian High Courts Acts 1861 to 1911.

**VI. LETTERS PATENT CONSTITUTING THE HIGH COURT  
OF JUDICATURE AT PATNA, DATED THE  
9th FEBRUARY, 1916.**

George the Fifth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India, To all to whom these Presents shall come, greeting: Whereas by an Act of Parliament passed in the Twenty-fourth and Twenty-fifth Years of the Reign of Her late Majesty Queen Victoria, and called the Indian High Courts Act, 1861, it was, amongst other things, enacted by section one, that it should be lawful for Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, to erect and establish a High Court of Judicature at Fort William in Bengal, for the Bengal Division of the Presidency of Fort William;

and, by section two, that such High Court should consist of a Chief Justice and as many Judges, not exceeding fifteen, as Her Majesty might, from time to time, think fit to appoint, who should be selected from among persons qualified as in the said Act was declared;

and, by section eight, that upon the establishment of such High Court as aforesaid the Supreme Court and the Court of Sadar Diwani Adalat and Sadar Nizamat Adalat at Calcutta, in the said Presidency, should be abolished;

and, by section nine, that the High Court of Judicature so to be established should have and exercise all such Civil, Criminal, Admiralty, and Vice-admiralty, Testamentary, Intestate and Matrimonial Jurisdiction, original and appellate, and all such powers and authority for and in relation to the administration of Justice in the said Presidency, as Her Majesty might by such Letters Patent as aforesaid grant and direct, subject, however, to such directions and limitations, as to the exercise of original civil and criminal jurisdiction beyond the limits of the Presidency town, as might be prescribed thereby; and that, save as by such Letters Patent might be otherwise direc-

ted, and subject and without prejudice to the legislative powers in relation to the matters aforesaid of the Governor-General of India in Council, the High Court so to be established should have and exercise all jurisdiction, and every power and authority whatsoever, in any manner vested in any of the Courts in the same Presidency abolished under the said Act at the time of the abolition of such last-mentioned Courts :

And whereas it was further declared by section sixteen of the said recited Act that it should be lawful for Us by Letters Patent to erect and establish a High Court of Judicature in and for any portion of territories within Our Dominions in India, not included within the limits of the local jurisdiction of another High Court, to consist of a Chief Justice and such number of other Judges, with such qualifications as were by the same Act required in persons to be appointed to the High Courts established at the Presidencies of Fort William in Bengal, of Madras, and of Bombay, as We from time to time might think fit and appoint ; and that it should be lawful for Us, by such Letters Patent, to confer on any new High Court which might be so established any such jurisdiction, powers and authority, as under the same Act was authorised to be conferred on or would become vested in the High Court established in any of the said Presidencies ; and that, subject to the directions of the Letters Patent, all the provisions of the said recited Act relative to High Courts and to the Chief Justice and other Judges of such Courts, and to the Governor-General or Governor of the Presidency in which such High Courts were established, should, as far as circumstances might permit, be applicable to any new High Court which might be established in the said territories, and to the Chief Justice and other Judges thereof, and to the Persons administering the Government of the said territories ;

And whereas, upon full consideration of the premises, Her late Majesty Queen Victoria, by Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date at Westminster the Fourteenth day of May, in the Twenty-fifth Year of Her Reign, in the Year of Our Lord One thousand eight hundred and sixty-two, did erect and establish a High Court of Judicature at Fort William in Bengal for the Bengal Division of the Presidency of Fort William aforesaid, and did constitute that Court to be a Court of Record :

And whereas Her late Majesty Queen Victoria, by Letters Patent under the Great Seal of the United Kingdom of Great

Britain and Ireland, bearing date at Westminster the Twenty-eighth day of December, in the Twenty-ninth Year of Her Reign, in the Year of Our Lord One thousand eight hundred and sixty-five, did revoke the said Letters Patent bearing date the Fourteenth day of May in the Year of Our Lord One thousand eight hundred and sixty-two, but notwithstanding that revocation did continue the said High Court of Judicature at Fort William in Bengal and declared that the Court should continue to be a Court of Record :

And whereas, upon full consideration of the premises, Her late Majesty Queen Victoria, by Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date at Westminster the Seventeenth day of March, in the Twenty-ninth Year of Her Reign, in the Year of Our Lord One thousand eight hundred and sixty-six, did erect and establish a High Court of Judicature for the North-Western Provinces, which said Court is situated at Allahabad in the Province of Agra and is now called the High Court of Judicature at Allahabad, and did constitute that Court to be a Court of Record :

And whereas by an Act of Parliament passed in the First and Second Years of Our Reign, and called the Indian High Courts Act, 1911, it was enacted, amongst other things, by section one, that the maximum number of Judges of a High Court of Judicature in India, including the Chief Justice, should be twenty ; and by section two, that Our power under section sixteen of the Indian High Courts Act, 1861, might be exercised from time to time, and that a High Court might be established under the said section sixteen in any portion of the territories within Our Dominions in India, whether or not included within the limits of the local jurisdiction of another High Court ; and that, where such a High Court was established in any part of such territories included within the limits of the local jurisdiction of another High Court, it should be lawful for Us by Letters Patent to alter the local jurisdiction of that other High Court, and to make such incidental, consequential, and supplemental provisions as might appear to be necessary by reason of the alteration of those limits :

And whereas the said Indian High Courts Acts, 1861 and 1911, have been repealed and re-enacted by an Act of Parliament passed in the Fifth and Sixth Years of Our Reign, and called the Government of India Act, 1915 :

And whereas certain territories formerly subject to and included within the limits of the Presidency of Fort William in

Bengal were, by Proclamation made by the Governor-General of India on the Twenty-second day of March in the Year of Our Lord One thousand nine hundred and twelve, constituted a separate Province, called the Province of Bihar and Orissa, and are now governed by a Lieutenant-Governor in Council :

1. Now know ye that We, upon full consideration of the premises, and of Our special Grace, certain Knowledge, and mere Motion, have thought fit to erect and establish, and by these Presents We do accordingly for Us, Our Heirs and Successors, erect and establish, for the Province of Bihar and Orissa aforesaid, with effect from the date of the publication of these Presents in the Bihar and Orissa Gazette, a High Court of Judicature, which shall be called the High Court of Judicature at Patna, and We do hereby constitute the said Court to be a Court of Record.

2. And We do hereby appoint and ordain that the High Court of Judicature at Patna shall, until further or other provision be made by Us, or our Heirs and Successors, in that behalf in accordance with section one hundred and one of the said recited Government of India Act, 1915, consist of a Chief Justice and six other Judges, the first Chief Justice being Sir Edward Maynard Des Champs Chamier, Knight, and the six other Judges being Saiyid Shurf-ud-din, Esquire, Edmund Pelly Chapman, Esquire, Basanta Kumar Mullick, Esquire, Francis Reginald Roe, Esquire, the Hon'ble Cecil Atkinson, and Jowala Persad, Esquire, being respectively qualified as in the said Act is declared.

3. And We do hereby ordain that the Chief Justice and every other Judge of the High Court of Judicature at Patna, previously to entering upon the execution of the duties of his office, shall make and subscribe the following declaration before such authority or person as the Lieutenant-Governor in Council may commission to receive it :—

"I, A. B., appointed Chief Justice (or a Judge) of the High Court of Judicature at Patna, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment."

4. And We do hereby grant, ordain and appoint that the High Court of Judicature at Patna shall have and use, as occasion may require, a Seal bearing a device and impression of Our Royal Arms, with an exergue or label surrounding the same, with this inscription, "The Seal of the High Court



at Patna." And We do further grant, ordain and appoint that the said Seal shall be delivered to and kept in the custody of the Chief Justice, and in case of vacancy of the office of Chief Justice, or during any absence of the Chief Justice, the same shall be delivered over and kept in the custody of the person appointed to act as Chief Justice under the provisions of section one hundred and five of the Government of India Act, 1915; and We do further grant, ordain and appoint that, whensoever the office of Chief Justice or of the Judge to whom the custody of the said Seal be committed is vacant, the said High Court shall be, and is hereby, authorized and empowered to demand, seize and take the said Seal from any person or persons whomsoever, by what ways and means soever the same may have come to his, her or their possession.

5. And We do hereby further grant, ordain and appoint that all Writs, Summonses, Precepts, Rules, Orders and other mandatory process to be used, issued or awarded by the High Court of Judicature at Patna shall run and be in the name and style of Us, or of Our Heirs and Successors, and shall be sealed with the Seal of the said High Court.

6. And We do hereby authorize and empower the Chief Justice of the High Court of Judicature at Patna from time to time, as occasion may require, and subject to any rules and restrictions which may be prescribed from time to time by the Lieutenant-Governor in Council, to appoint so many and such clerks and other ministerial officers as may be found necessary for the administration of justice, and the due execution of all the powers and authorities granted and committed to the said High Court by these Our Letters Patent. And We do hereby ordain that every such appointment shall be forthwith submitted to the approval of the Lieutenant-Governor in Council, and shall be either confirmed or disallowed by the Lieutenant-Governor in Council. And it is Our further will and pleasure, and We do hereby, for Us, Our Heirs and Successors, give, grant, direct and appoint, that all and every the officers and clerks to be appointed as aforesaid shall have and receive respectively such reasonable salaries as the Chief Justice may, from time to time, appoint for each office and place respectively, and as the Lieutenant-Governor in Council, subject to the control of the Governor-General in Council, may approve of: Provided always, and it is Our will and pleasure, that all and every the officers and clerks to be appointed as aforesaid shall be resident within the limits of the jurisdiction of the said Court, so long as they

hold their respective offices ; but this proviso shall not interfere with or prejudice the right of any officer or clerk to avail himself of leave of absence under any rules prescribed from time to time by the Governor-General in Council, and to absent himself from the said limits during the term of such leave in accordance with the said rules.

*Admission of Advocates, Vakils and Attorneys.*

7. And We do hereby authorize and empower the High Court of Judicature at Patna to approve, admit, and enrol such and so many Advocates, Vakils and Attorneys as to the said High Court may seem meet ; and such Advocates, Vakils and Attorneys shall be and are hereby authorized to appear for the suitors of the said High Court, and to plead or to act, or to plead and act, for the said suitors, according as the said High Court may by its rules and directions determine, and subject to such rules and directions.

8. And We do hereby ordain that the High Court of Judicature at Patna shall have power to make rules from time to time for the qualifications and admission of proper persons to be Advocates, Vakils and Attorneys-at-law of the said High Court, and shall be empowered to remove or to suspend from practice, on reasonable cause, the said Advocates, Vakils or Attorneys-at-law ; and no person whatsoever but such Advocates, Vakils or Attorneys shall be allowed to act or to plead for, or on behalf of, any suitor in the said High Court, except that any suitor shall be allowed to appear, plead or act on his own behalf, or on behalf of a co-suitor.

*Civil Jurisdiction of the High Court.*

9. And We do further ordain that the High Court of Judicature at Patna shall have power to remove, and to try and determine, as a Court of extraordinary original jurisdiction, any suit being or falling within the jurisdiction of any Court subject to its superintendence, when the said High Court may think proper to do so, either on the agreement of the parties to that effect, or for purposes of justice, the reasons for so doing being recorded on the proceedings of the said High Court.

10. And We do further ordain that an appeal shall lie to the High Court of Judicature at Patna from the judgment (not being an order made in the exercise of revisional jurisdiction

in a case which has been called for by the said Court, and not being a sentence or order passed or made in the exercise of criminal jurisdiction) of one Judge of the said High Court, or of one Judge of any Division Court constituted in pursuance of section one hundred and eight of the Government of India Act, 1915, and that an appeal shall also lie to the said High Court from the judgment (not being an order or sentence as aforesaid) of two or more Judges of the said High Court, or of any such Division Court, wherever such Judges are equally divided in opinion and do not amount in number to a majority of the whole of the Judges of the said High Court at the time being ; but that the right of appeal from other judgments of Judges of the said High Court, or of any such Division Court, in such case shall be to Us, Our Heirs or Successors, in Our or their Privy Council, as hereinafter provided.

11. And We do further ordain that the High Court of Judicature at Patna shall be a Court of Appeal from the Civil Courts of the Province of Bihar and Orissa and from all other Courts subject to its superintendence, and shall exercise appellate jurisdiction in such cases as were, immediately before the date of the publication of these Presents, subject to appeal to the High Court of Judicature at Fort William in Bengal by virtue of any law then in force, or as may after that date be declared, subject to appeal to the High Court of Judicature at Patna by any law made by competent legislative authority for India.

12. And We do further ordain that the High Court of Judicature at Patna shall have the like power and authority with respect to the persons and estates of infants, idiots and lunatics within the Province of Bihar and Orissa as that which was vested in the High Court of Judicature at Fort William in Bengal immediately before the publication of these Presents.

*Law to be administered by the High Court.*

13. And We do further ordain that, with respect to the law or equity to be applied to each case coming before the High Court of Judicature at Patna in the exercise of its extraordinary original civil jurisdiction, such law or equity shall, until otherwise provided, be the law or equity which would have been applied to such case by any local Court having jurisdiction therein.

14. And We do further ordain that, with respect to the law or equity and the rule of good conscience to be applied by the High Court of Judicature at Patna to each case coming before it in the exercise of its appellate jurisdiction, such law or equity and rule of good conscience shall be the law or equity and rule of good conscience which the Court in which the proceedings in such case were originally instituted ought to have applied to such case.

*Criminal Jurisdiction.*

15. And We do further ordain that the High Court of Judicature at Patna shall have ordinary original criminal jurisdiction in respect of all such persons within the Province of Bihar and Orissa as the High Court of Judicature at Fort William in Bengal had such criminal jurisdiction over immediately before the publication of these Presents.

16. And We do further ordain that the High Court of Judicature at Patna, in the exercise of its ordinary original criminal jurisdiction, shall be empowered to try all persons brought before it in due course of law.

17. And We do further ordain that the High Court of Judicature at Patna shall have extraordinary original criminal jurisdiction over all persons residing in places within the jurisdiction of any Court subject to its superintendence, and shall have authority to try at its discretion any such persons brought before it on charges preferred by any magistrate or other officer specially empowered by the Government in that behalf.

18. And We do further ordain that there shall be no appeal to the High Court of Judicature at Patna from any sentence or order passed or made by the the Courts of original criminal jurisdiction which may be constituted by one or more Judges of the said High Court. But it shall be at the discretion of any such Court to reserve any point or points of law for the opinion of the said High Court.

19. And We do further ordain that, on such point or points of law being so reserved as aforesaid, the High Court of Judicature at Patna shall have full power and authority to review the case, or such part of it as may be necessary, and finally determine such point or points of law, and thereupon to alter the sentence passed by the Court of original jurisdic-

tion, and to pass such judgment and sentence as to the said High Court may seem right.

20. And We do further ordain that the High Court of Judicature at Patna shall be a Court of Appeal from the Criminal Courts of the Province of Bihar and Orissa, and from all other Courts subject to its superintendence, and shall exercise appellate jurisdiction in such cases as were, immediately before the date of the publication of these Presents, subject to appeal to the High Court of Judicature at Fort William in Bengal by virtue of any law then in force, or as may after that date be declared subject to appeal to the High Court of Judicature at Patna by any law made by competent legislative authority for India.

21. And We do further ordain that the High Court of Judicature at Patna shall be a Court of reference and revision from the Criminal Courts subject to its appellate jurisdiction, and shall have power to hear and determine all such cases referred to it by the Sessions Judges, or by any other officers in the Province of Bihar and Orissa, who were, immediately before the publication of these Presents, authorized to refer cases to the High Court of Judicature at Fort William in Bengal, and to revise all such cases tried by any officer or Court possessing criminal jurisdiction in the Province of Bihar and Orissa, as were, immediately before the publication of these Presents, subject to reference to or revision by the High Court of Judicature at Fort William in Bengal.

22. And We do further ordain that the High Court of Judicature at Patna shall have power to direct the transfer of any criminal case or appeal from any Court to any other Court of equal or superior jurisdiction, and also to direct the preliminary investigation or trial of any criminal case by any officer or Court otherwise competent to investigate or try it, though such case belongs in ordinary course to the jurisdiction of some other officer or Court.

#### *Criminal Law.*

23. And We do further ordain that all persons brought for trial before the High Court of Judicature at Patna, either in the exercise of its original jurisdiction, or in the exercise of its jurisdiction as a Court of Appeal, reference or revision, charged with any offence for which provision is made by Act No. XLV of 1860, called the "Indian Penal Code," or by any

Act amending or excluding the said Act which may have been passed prior to the publication of these Presents, shall be liable to punishment under the said Act or Acts, and not otherwise.

*Admiralty Jurisdiction.*

24. And We do further ordain that the High Court of Judicature at Patna shall have and exercise in the Province of Bihar and Orissa all such civil and maritime jurisdiction as was exerciseable therein immediately before the publication of these Presents by the High Court of Judicature at Fort William in Bengal as a Court of Admiralty, and also such jurisdiction for the trial and adjudication of prize causes and other maritime questions as was so exerciseable by the High Court of Judicature at Fort William in Bengal.

25. And We do further ordain that the High Court of Judicature at Patna shall have and exercise in the Province of Bihar and Orissa all such criminal jurisdiction as was exerciseable therein immediately before the publication of these Presents by the High Court of Judicature at Fort William in Bengal as a Court of Admiralty, or otherwise in connection with maritime matters or matters of prize.

*Testamentary and Intestate Jurisdiction.*

26. And We do further ordain that the High Court of Judicature at Patna shall have the like power and authority as that which was immediately before the publication of these Presents lawfully exercised within the Province of Bihar and Orissa by the High Court of Judicature at Fort William in Bengal, in relation to the granting of probates of last wills and testaments, and letters of administration of the goods, chattels, credits and all other effects whatsoever of persons dying intestate; Provided always that nothing in these Letters Patent contained shall interfere with the provisions of any law which has been made by competent legislative authority for India, by which power is given to any other Court to grant such probates and letters of administration.

*Matrimonial Jurisdiction.*

27. And We do further ordain that the High Court of Judicature at Patna shall have jurisdiction, within the Province of Bihar and Orissa, in matters matrimonial between

Our subjects professing the Christian religion : Provided always that nothing herein contained shall be held to interfere with the exercise of any jurisdiction in matters matrimonial by any Court, not established by Letters Patent within the said Province, which is lawfully possessed of that jurisdiction.

*Powers of Single Judges and Division Courts.*

28. And We do hereby declare that any function which is hereby directed to be performed by the High Court of Judicature at Patna, in the exercise of its original or appellate jurisdiction, may be performed by any Judge, or by any Division Court, thereof, appointed or constituted for such purpose in pursuance of section one hundred and eight of the Government of India Act, 1915 ; and if such Division Court is composed of two or more Judges and the Judges are divided in opinion as to the decision to be given on any point, such point shall be decided according to the opinion of the majority of the Judges, if there be a majority, but, if the Judges be equally divided, then the opinion of the senior Judge shall prevail.

*Civil Procedure.*

29. And We do further ordain that it shall be lawful for the High Court of Judicature at Patna from time to time to make rules and orders for regulating the practice of the Court and for the purpose of adapting as far as possible the provisions of the Code of Civil Procedure, being an Act, No. V. of 1908, passed by the Governor-General in Council, and the provisions of any law which has been or may be made, amending or altering the same, by competent legislative authority for India, to all proceedings in its testamentary, intestate and matrimonial jurisdiction, respectively.

*Criminal Procedure.*

30. And We do further ordain that the proceedings in all criminal cases brought before the High Court of Judicature at Patna, in the exercise of its ordinary original criminal jurisdiction, shall be regulated by the procedure and practice which was in use in the High Court of Judicature at Fort William in Bengal immediately before the publication of these Presents, subject to any law which has been or may be made in relation thereto by competent legislative

authority for India ; and that the proceedings in all other criminal cases shall be regulated by the Code of Criminal Procedure, being an Act, No. V. of 1898, passed by the Governor-General in Council, or by such further or other laws in relation to criminal procedure as may have been or may be made by such authority as aforesaid.

*Appeals to Privy Council.*

31. And We do further ordain that any person or persons may appeal to Us, Our Heirs and Successors, in Our or their Privy Council, in any matter not being of criminal jurisdiction, from any final judgment, decree, or order of the High Court of Judicature at Patna made on appeal, and from any final judgment, decree, or order made in the exercise of original jurisdiction by Judges of the said High Court, or of any Division Court, from which an appeal does not lie to the said High Court under the provisions contained in the 10th clause of these Presents ; provided, in either case, that the sum or matter at issue is of the amount or value of not less than 10,000 rupees, or that such judgment, decree, or order involves, directly or indirectly, some claim, demand or question to or respecting property amounting to or of the value of not less than 10,000 rupees ; or from any other final judgment, decree, or order made either on appeal or otherwise as aforesaid, when the said High Court declares that the case is a fit one for appeal to Us, Our Heirs or Successors, in Our or their Privy Council ; but subject always to such rules and orders as are now in force, or may from time to time be made, respecting appeals to Ourselves in Council from the Courts of the Province of Bihar and Orissa, except so far as the said existing rules and orders respectively are hereby varied ; and subject also to such further rules and orders as We may, with the advice of Our Privy Council, hereafter make in that behalf.

32. And We do further ordain that it shall be lawful for the High Court of Judicature at Patna, at its discretion, on the motion, or, if the said High Court be not sitting, then for any Judge of the said High Court, upon the petition, of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree, or order of the said High Court, in any such proceeding as aforesaid, not being of criminal jurisdiction, to grant permission to such party to appeal against the same to Us, Our Heirs and Successors, in Our or their Privy Council, subject to the same rules, regulations



and limitations as are herein expressed respecting appeals from final judgments, decrees and orders.

33. And We do further ordain that from any judgment, order or sentence of the High Court of Judicature at Patna, made in the exercise of original criminal jurisdiction, or in any criminal case where any point or points of law have been reserved for the opinion of the said High Court, in manner provided by the 18th clause of these Presents, by any Court which has exercised original jurisdiction, it shall be lawful for the person aggrieved by such judgment, order or sentence to appeal to Us, Our Heirs or Successors, in Council, provided the said High Court declares that the case is a fit one for such appeal, and that the appeal be made under such conditions as the said High Court may establish or require, but subject always to such rules and orders as are now in force, or may from time to time be made, respecting appeals to Ourselves in Council from the Courts of the Province of Bihar and Orissa.

34. And We do further ordain that, in all cases of appeal made from any judgment, decree, order or sentence of the High Court of Judicature at Patna to Us, Our Heirs or Successors, in Our or their Privy Council, such High Court shall certify and transmit to Us, Our Heirs and Successors, in Our or their Privy Council, a true and correct copy of all evidence, proceedings, judgments, decrees and orders had or made, in such cases appealed, so far as the same have relation to the matters of appeal, such copies to be certified under the Seal of the said High Court. And that the said High Court shall also certify and transmit to Us, Our Heirs and Successors, in Our or their Privy Council, a copy of the reasons given by the Judges of such Court, or by any of such Judges, for or against the judgment or determination appealed against. And We do further ordain that the said High Court shall, in all cases of appeal to Us, Our Heirs or Successors, conform to and execute, or cause to be executed, such judgments and orders as We, Our Heirs or Successors, in Our or their Privy Council, may think fit to make in the premises, in such manner as any original judgment, decree or decretal orders, or other order or rule of the said High Court should or might have been executed.

*Exercise of Jurisdiction elsewhere than at the usual place of sitting of the High Court.*

35. And We do further ordain that, unless the Governor-General in Council otherwise directs, one or more Judges of the

High Court of Judicature at Patna shall visit the Division of Orissa, by way of circuit, whenever the Chief Justice from time to time appoints, in order to exercise in respect of cases arising in that Division, the jurisdiction and power by these Our Letters Patent, or by or under the Government of India Act, 1915, vested in the said High Court : Provided always that such visits shall be made not less than four times in every year, unless the Chief Justice, with the approval of the Lieutenant-Governor in Council, otherwise directs : Provided also that the said High Court shall have power from time to time to make rules, with the previous sanction of the Lieutenant-Governor in Council, for declaring what cases or classes of cases arising in the Division of Orissa shall be heard at Patna and not in that Division, and that the Chief Justice may, in his discretion, order that any particular case arising in the Division of Orissa shall be heard at Patna or in that Division.

36. And We do further ordain that whenever it appears to the Lieutenant-Governor in Council, subject to the control of the Governor-General in Council, convenient that the jurisdiction and power by these Our Letters Patent, or by or under the Government of India Act, 1915, vested in the High Court of Judicature at Patna should be exercised in any place within the jurisdiction of any Court subject to the superintendence of the said High Court, other than the usual place of sitting of the said High Court, or at several such places by way of circuit, one or more Judges of the Court shall visit such place or places accordingly.

37. And We do further ordain that whenever any Judge or Judges of the High Court of Judicature at Patna visit any place under the 35th or the 36th clause of these Presents, the proceedings in cases before him or them at such place shall be regulated by any law relating thereto which has been or may be made by competent legislative authority for India.

*Delegation of Duties to Officers.*

38. The High Court of Judicature at Patna may from time to time make rules for delegating to any Registrar, Prothonotary or Master or other official of the Court any judicial, quasi-judicial and non-judicial duties.

*Cessation of Jurisdiction of the High Court of Judicature  
at Fort William in Bengal.*

39. And We do further ordain that the jurisdiction of the High Court of Judicature at Fort William in Bengal in any matter in which jurisdiction is by these Presents given to the High Court of Judicature at Patna shall cease from the date of the publication of these Presents, and that all proceedings pending in the former Court on that date in reference to any such matters shall be transferred to the latter Court :

Provided, first, that the High Court of Judicature at Fort William in Bengal shall continue to exercise jurisdiction—

- (a) in all proceedings pending in that Court on the date of the publication of these Presents in which any decree or order, other than an order of an interlocutory nature, has been passed or made by that Court, or in which the validity of any such decree or order is directly in question ; and
- (b) in all proceedings (not being proceedings referred to in paragraph (a) of this clause) pending in that Court, on the date of the publication of these Presents, under the 13th, 15th, 22nd, 23rd, 24th, 25th, 26th, 27th, 28th, 29th, 32nd, 33rd, 34th, or 35th clause of the Letters Patent bearing date at Westminster the Twenty-eighth day of December, in the Year of Our Lord One thousand eight hundred and sixty-five, relating to that Court ; and
- (c) in all proceedings instituted in that Court, on or after the date of the publication of these Presents, with reference to any decree or order passed or made by that Court :

Provided, secondly, that, if any question arises as to whether any case is covered by the first proviso to this clause, the matter shall be referred to the Chief-Justice of the High Court of Judicature at Fort William in Bengal, and his decision shall be final.

*Calls for Records, etc., by the Government.*

40. And it is our further Will and Pleasure that the High Court of Judicature at Patna shall comply with such requisitions as may be made by the Lieutenant-Governor in Council for records, returns and statements, in such form and manner as he may deem proper.

*Powers of Indian Legislatures.*

41. And We do further ordain and declare that all the provisions of these our Letters Patent are subject to the legislative powers of the Governor-General in Legislative Council, and also of the Governor-General in Council under section seventy-one of the Government of India Act, 1915, and also of the Governor-General in cases of emergency under section seventy-two of that Act, and may be in all respects amended and altered thereby. In Witness whereof We have caused these Our Letters to be made Patent. Witness Ourselves at Westminster the Ninth day of February, in the Year of Our Lord One thousand, nine hundred and sixteen and in the sixth Year of Our Reign.

By Warrant under the King's Sign Manual,

(Sd.) SCHUSTER.

## PART VI.

### ROYAL PROCLAMATIONS AND ANNOUNCEMENTS, AND DOCUMENTS CONNECTED THEREWITH.

#### I

##### A. QUEEN VICTORIA'S PROCLAMATION.\*

(November 1st, 1858).

VICTORIA, BY THE GRACE OF GOD OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND, AND OF THE COLONIES AND DEPENDENCIES THEREOF IN EUROPE, ASIA, AFRICA, AMERICA, AND AUSTRALASIA, QUEEN, DEFENDER OF THE FAITH.

Whereas, for divers weighty reasons, we have resolved, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled, to take upon Ourselves the Government of the Territories in India heretofore administered in trust for Us by the Honorable East India Company :

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\* "This memorable instrument, justly called the Magna Charta of India, was framed in August, 1858, by the Earl of Derby, then the head of the Government. His son, Lord Stanley, the first Secretary of State for India, had drafted a Proclamation, and it was circulated to the Cabinet. It reached the Queen in Germany. She went through the draft with the Prince Consort, who made copious notes on the margin. The Queen did not like it, and wrote to Lord Derby that she 'would be glad if he would write himself in his excellent language.' Lord Derby thereupon consulted Stanley; saw the remarks of some of the Cabinet, as well as of Lord Ellenborough, upon Stanley's draft, and then wrote and rewrote a draft of his own, and sent it to the Queen. It was wholly different in scope and conception from the first draft. The Prince Consort enters in his journal that it was now '*recht gut*', one or two further suggested amendments were accepted by Lord Derby and the Secretary of State; experts assured them that it contained nothing difficult to render in the native languages; and the Proclamation was launched in the form in which it now stands. One question gave trouble—the retention of the Queen's title of *Defender of the Faith*. Its omission might provoke remark, but on the other hand Lord Derby regarded it as a doubtful title 'considering its origin' (conferred by the Pope on Henry VIII) and as applied to a Proclamation to India. He was in hopes that in the Indian translation it would appear as 'Protectress of Religion' generally, but he was told by experts in vernacular that it was just the title to convey to the Indian mind the idea of the special Head and Champion of a creed antagonistic to the creeds of the country. Lord Derby was inclined to omit, but he sought the Queen's own opinion. This went the other way. The last sentence of the Proclamation was the Queen's. The three drafts are all in the records at Windsor".

[From an Appendix to Lord Morley's "Indian Speeches,"]

Now, therefore, We do by these Presents notify and declare that, by the Advice and Consent aforesaid, We have taken upon Ourselves the said Government; and We hereby call upon all Our Subjects within the said Territories to be faithful, and to bear true Allegiance to Us, Our Heirs, and Successors, and to submit themselves to the authority of those whom We may hereafter, from time to time, see fit to appoint to administer the Government of Our said Territories, in Our name and on Our behalf:

And We, reposing especial trust and confidence in the loyalty, ability, and judgment of Our right trusty and well beloved Cousin and Councillor, Charles John Viscount Canning, do hereby constitute and appoint him, the said Viscount Canning, to be Our first Viceroy and Governor-General in and over Our said Territories, and to administer the Government thereof in Our name, and generally to act in Our name and on Our behalf, subject to such Orders and Regulations as he shall, from time to time, receive from Us through one of Our Principal Secretaries of State:

And We do hereby confirm in their several Offices, Civil and Military, all Persons now employed in the Service of the Honorable East India Company, subject to Our future pleasure, and to such Laws and Regulations as may hereafter be enacted.

We hereby announce to the Native Princes of India that all Treaties and Engagements made with them by or under the authority of the Honorable East India Company are by Us accepted, and will be scrupulously maintained; and We look for the like observance on their part.

We desire no extension of Our present territorial Possessions; and while We will permit no aggression upon Our Dominions or Our Rights, to be attempted with impunity, We shall sanction no encroachment on those of others. We shall respect the Rights, Dignity, and Honour of Native Princes as Our own; and We desire that they, as well as Our own Subjects, should enjoy that Prosperity and that social Advancement which can only be secured by internal Peace and good Government.

We hold Ourselves bound to the Natives of Our Indian Territories by the same obligations of duty which bind Us to all Our other Subjects; and those Obligations, by the Blessing of Almighty God, We shall faithfully and conscientiously fulfil.

Firmly relying Ourselves on the truth of Christianity, and acknowledging with gratitude the solace of Religion, We disclaim alike the Right and the desire to impose our Convictions on any of Our Subjects. We declare it to be Our Royal Will and Pleasure that none be in any wise favoured, none molested or disquieted by reason of their Religious Faith or Observances ; but that all shall alike enjoy the equal and impartial protection of the Law : and We do strictly charge and enjoin all those who may be in authority under Us, that they abstain from all interference with the Religious Belief or Worship of any of Our Subjects, on pain of Our highest Displeasure.

And it is Our further Will that, so far as may be, Our Subjects, of whatever Race or Creed, be freely and impartially admitted to Offices in Our Service, the Duties of which they may be qualified, by their education, ability, and integrity, duly to discharge.

We know, and respect, the feelings of attachment with which the Natives of India regard the Lands inherited by them from their Ancestors ; and We desire to protect them in all Rights connected therewith, subject to the equitable demands of the State ; and We will that generally, in framing and administering the Law, due regard be paid to the ancient Rights, Usages, and Customs of India.

We deeply lament the evils and misery which have been brought upon India by the acts of ambitious Men, who have deceived their Countrymen, by false reports, and led them into open Rebellion. (Our Power has been shewn by the Suppression of that Rebellion in the field ; We desire to shew Our Mercy, by pardoning the Offences of those who have been thus misled, but who desire to return to the path of Duty.)

Already in one Province, with a view to stop the further effusion of blood, and to hasten the Pacification of Our Indian Dominions, Our Viceroy and Governor-General has held out the expectation of Pardon, on certain terms, to the great majority of those who, in the late unhappy Disturbances, have been guilty of Offences against Our Government, and has declared the Punishment which will be inflicted on those whose Crimes place them beyond the reach of forgiveness. We approve and confirm the said act of Our Viceroy and Governor-General, and do further announce and proclaim as follows :—

Our Clemency will be extended to all Offenders, save and except those who have been, or shall be, convicted of having

directly taken part in the Murder of British Subjects. With regard to such, the Demands of Justice forbid the exercise of Mercy.

To those who have willingly given asylum to Murderers, knowing them to be such, or who may have acted as leaders or instigators in Revolt, their lives alone can be guaranteed ; but in apportioning the penalty due to such Persons, full consideration will be given to the circumstances under which they have been induced to throw off their Allegiance ; and large indulgence will be shown to those whose crimes may appear to have originated in too credulous acceptance of the false reports circulated by designing Men.

To all others in Arms against the Government, We hereby promise unconditional Pardon, Amnesty, and Oblivion of all Offence against Ourselves, Our Crown and Dignity, on their return to their homes and peaceful pursuits.

It is Our Royal Pleasure that these Terms of Grace and Amnesty should be extended to all those who comply with their Conditions before the First Day of January next.

When, by the Blessing of Providence, internal Tranquillity shall be restored, it is Our earnest Desire to stimulate the peaceful Industry of India, to promote Works of Public Utility and Improvement, and to administer its Government for the benefit of all Our Subjects resident therein. In their Prosperity will be Our Strength ; in their Contentment Our Security ; and in their Gratitude Our best Reward. And may the God of all Power grant to Us, and to those in authority under Us, Strength to carry out these Our Wishes for the good of Our People.

**B. Queen Victoria's Letter to the Earl of Derby.**

(15th August, 1858).

The Queen has asked Lord Malmesbury to explain in detail to Lord Derby her objection to the draft of Proclamation for India. The Queen would be glad if Lord Derby would write it himself in his excellent language, bearing in mind that it is a female Sovereign who speaks to more than 100,000,000 of Eastern people on assuming the direct Government over them after a bloody civil war, giving them pledges which her future reign is to redeem, and explaining the principles of her Government. Such a document should breathe



feelings of generosity, benevolence, and religious feeling, pointing out the privileges which the Indians will receive in being placed on an equality with the Subjects of the British Crown, and the prosperity following in the train of civilisation.

## II

### A. QUEEN VICTORIA'S PROCLAMATION, 1876.

Whereas an Act has been passed in the present Sessions of Parliament, intituled 'An Act to enable Her Most Gracious Majesty to make an addition to the Royal Style and Titles appertaining to the Imperial Crown of the United Kingdom and its Dependencies', which Act recites that, by the Act for the Union of Great Britain and Ireland, it was provided that after such Union the Royal Style and Titles appertaining to the Imperial Crown of the United Kingdom and its Dependencies should be such as His Majesty by His Royal Proclamation under the Great Seal of the United Kingdom should be pleased to appoint : and which Act also recites that, by virtue of the said Act, and of a Royal Proclamation under the Great Seal, dated the 1st day of January 1801, Our present Style and Titles are 'Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith' : and which Act also recites that, by the Act for the better government of India it was enacted that the Government of India, theretofore vested in the East India Company in trust for Us, should become vested in Us, and that India should thenceforth be governed by Us and in Our name, and that it is expedient that there should be a recognition of the transfer of government so made by means of an addition to be made to Our Style and Titles : and which Act, after the said recitals, enacts that it shall be lawful for Us, with a view to such recognition as aforesaid of the transfer of the Government of India, by Our Proclamation under the Great Seal of the United Kingdom, to make such addition to the Style and Titles at present appertaining to the Imperial Crown of the United Kingdom and its Dependencies as to Us may seem meet ; We have thought fit, by and with the advice of Our Privy Council, to appoint and declare, and We do hereby, by and with the said advice, appoint and declare that henceforth, so far as conveniently may be, on all occasions and in all instruments wherein Our

Style and Titles are used, save and except all Charters, Commissions, Letters Patent, Grants, Writs, Appointments, and other like instruments, not extending in their operation beyond the United Kingdom, the following addition shall be made to the Style and Titles at present appertaining to the Imperial Crown of the United Kingdom and its Dependencies; that is to say in the Latin tongue in these words: 'INDIÆ IMPERATRIX'. And in the English tongue in these words: 'EMPRESS OF INDIA'.

And Our Will and Pleasure further is, that the said addition shall not be made in the Commissions, Charters, Letters Patent, Grants, Writs, Appointments, and other like instruments, here-in-before specially excepted.

And Our Will and Pleasure further is, that all gold, silver and copper moneys, now current and lawful moneys of the United Kingdom, and all gold, silver, and copper moneys which shall on or after this day be coined by Our authority with the like impressions, shall, notwithstanding such addition to Our Style and Titles, be deemed and taken to be current and lawful moneys of the said United Kingdom; and further, that all moneys coined for and issued in any of the Dependencies of the said United Kingdom, and declared by Our Proclamation to be current and lawful moneys of such Dependencies respectively bearing our Style, or Titles, or any part or parts thereof, and all moneys which shall hereafter be coined and issued according to such Proclamation, shall, notwithstanding such addition, continue to be lawful and current moneys of such Dependencies respectively, until Our Pleasure shall be further declared there-upon.

Given at Our Court at Windsor the Twenty-eighth day of April One thousand eight hundred and seventy-six in the thirty-ninth Year of Our Reign.

God Save The Queen.

## **B.**

**Despatch from Lord Salisbury (Secretary of State for India)  
to the Government of India, No. 70, dated India  
Office, 13th July, 1876.**

I forward herewith, for the information of Your Excellency's Government, a copy of the Queen's Proclamation notifying the assumption by Her Majesty of the title of "Empress of India."

2. This act on the part of Her Majesty is a formal and emphatic expression, for which it seemed to the Queen that the opportunity was eminently suitable, of the favourable sentiments which She has always entertained towards the Princes and People of India. I request that Your Excellency will proclaim throughout Her Majesty's Indian Dominions, in a manner suitable to Her gracious intentions, the addition which has been made to the Royal Style and Titles.

## **C.**

**The Royal Titles Act, 1876:**

(39 Vict., Ch. 10.)

An act to enable Her Most Gracious Majesty to make an addition to the Royal Style and Titles appertaining to the Imperial Crown of the United Kingdom and its Dependencies. (27th April, 1876.)

Whereas by the Act for the Union of Great Britain and Ireland passed in the Fortieth Year of the Reign of His late Majesty King George the Third, Chapter sixty-seven, it was provided that after such Union as aforesaid the Royal Style and Titles appertaining to the Imperial Crown of the United Kingdom and its Dependencies should be such as His Majesty by his Royal Proclamation under the Great Seal of the United Kingdom should be pleased to appoint:

And whereas by virtue of the said Act and of a Royal Proclamation under the Great Seal, dated the first day of January, One thousand eight hundred and one, the present Style

and Titles of Her Majesty are "Victoria by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith :

And whereas by the Act for the better Government of India passed in the Session of the Twenty-first and Twenty-second Years of the Reign of Her present Majesty, Chapter one hundred and six, it was enacted that the Government of India, theretofore vested in the East India Company in trust for Her Majesty, should become vested in Her Majesty, and that India should thenceforth be governed by and in the name of Her Majesty, and it is expedient that there should be a recognition of the transfer of Government so made by means of an addition to be made to the Style and Titles of Her Majesty :

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

It shall be lawful for Her Most Gracious Majesty with a view to such recognition as aforesaid of the transfer of the Government of India by Her Royal Proclamation under the Great Seal of the United Kingdom, to make such addition to the Style and Titles at present appertaining to the Imperial Crown of the United Kingdom and its Dependencies as to Her Majesty may seem meet.

Power to Her Majesty  
to make addition to style  
and titles of Crown.

#### D.

**Extracts from Mr. Disraeli's Speech in the House of Commons  
on March 9, 1876.**

In the course of a speech on the Second Reading of the Royal Titles Bill, Mr. Disraeli said :—

It has been objected that the title of Emperor or Empress denotes military dominion; that it has never or rarely been adopted but by those who have obtained dominion by the sword, retained it by the sword, and governed it by the sword ; and, to use the words of a Right Hon'ble Gentleman (MR. LOWE) who took part in the recent debate—"Sentiment clothes the title of Emperor with bad associations." Now, the House must at once feel what vague and shadowy arguments—if they can be

called arguments—are these—"Sentiment clothes the title of Emperor with bad associations." I very much doubt whether sentiment does clothe the title of Emperor with bad associations. I can remember, and many Hon'ble Gentlemen can remember, the immortal passage of the greatest of modern historians, where he gives his opinion that the happiness of mankind was never so completely assured, or for so long a time maintained, as in the age of the ANTONINES—and the ANTONINES were Emperors. The Right Hon'ble Gentleman may be of opinion that an Imperial title is a modern invention, and its associations to him may be derived from a limited experience of which he may be proud. But when so large a principle is laid down by one distinguished for his historical knowledge, that "Sentiment clothes the title of Emperor with bad associations," I may be allowed to vindicate what I believe to be the truth upon this matter. Then a second objection was urged. It was said—"This is a clumsy periphrasis in which you are involving the country if you have not only Royal but Imperial Majesties." Now, the Right Hon. Gentleman who made the remark ought to have recollected that there would be no clumsy periphrasis of the kind. The Majesty of England requires for its support no such epithet. The Queen is not "Her Royal Majesty." The Queen is described properly as "Her Majesty." Therefore, the "clumsy periphrasis" of "Royal and Imperial Majesty" could never occur.

There is, however, a stronger and more important objection which has been brought to the title of Empress, which has hitherto been merely assumed in argument. This greater objection I will place briefly before the House. It has been said that we diminish the supremacy of the Queenly title by investing Her Majesty, though only locally, with an Imperial dignity. Now, Sir, there appears to me to be a great fallacy in that position. I deny at once that you diminish the supremacy of the Queenly title, by investing Her Majesty, though only locally, with an Imperial dignity. I deny that any Imperial dignity is superior to the Queenly title, and I defy any one to prove the reverse. I hear and read every day of an intention to invest Her Majesty with a title superior to that which She has inherited from an illustrious line of ancestors. It is necessary, therefore, to notice this statement. In times which will guide us in any way upon such a subject I doubt whether there is any precedent of an Emperor ranking superior to a Crowned Head, unless that Crowned Head was his avowed feudatory. I will

take the most remarkable instance of Imperial sway in modern history. When the Holy Roman Empire existed, and the German Emperor was crowned at Rome and called Cæsar, no doubt the Princes of Germany, who were his feudatories, acknowledged his supremacy, whatever might be His title. But in those days there were great Kings—there were Kings of France, Kings of Spain, and Kings of England—they never acknowledged the supremacy of the Head of the Holy Roman Empire ; and the origin, I have no doubt, of the expression of the Act of HENRY VIII., where the Crown of England is described as an Imperial Crown, was the determination of that eminent Monarch, that at least there should be no mistake upon the subject between himself and the EMPEROR CHARLES V.

These may be considered antiquarian illustrations and I will not dwell upon them, but will take more recent cases at a time when the intercourse of nations and of courts was regulated by the same system of diplomacy which now prevails. Upon this question, then, I say there can be no mistake, for it has been settled by the assent, and the solemn assent, of Europe. In the middle of the last century a remarkable instance occurred which brought to a crisis this controversy, if it were a point of controversy. When PETER THE GREAT emerged from his anomalous condition as a powerful Sovereign—hardly recognised by his brother Sovereigns—he changed the Style and Title of his office from that of Czar to Emperor. That addition was acknowledged by England, and by England alone. The rulers of Russia as Emperors remained unrecognised by the great comity of nations ; and after PETER THE GREAT they still continued to bear the Titles of Czar and Czarina, for more than one female Sovereign flourished in Russia about the middle of the century. In 1745, ELIZABETH CZARINA of Russia, having by her armies and her councils interfered considerably in the affairs of Europe—probably (though I am not sure of this) influenced by the circumstance that the first congress of Aix-la-Chapelle, in the middle of the last century, was about to meet, announced to her allies and to her brother Sovereigns that she intended in future to take the title of Empress, instead of Czarina. Considerable excitement and commotion were caused at all the Courts and in all the Governments of Europe in consequence of this announcement, but the new title was recognised on condition that Her Majesty should at the same time write a letter—called in diplomatic language a Reversal acknowledging, that she