

39. Without the consent of both Houses of Parliament, the expenses of any military operation carried on beyond the external frontiers of India, except for preventing or repelling actual invasion, or under other sudden and urgent necessity, are not to be charged upon the revenues of India.

40. The revenues of India which are remitted to, and all moneys of India and stock accruing and arising in, the United Kingdom are deposited in the Bank of England to the credit of the Secretary of State for India in Council.

The accounts of the Indian revenues and expenditure in England are laid before Parliament annually, and are audited by an auditor appointed under the Royal Sign Manual, and countersigned by the Chancellor of the Exchequer.

In respect of legal proceedings and contracts, the Secretary of State in Council was constituted into a body corporate.

41. At present the Council of India consists of 10 members.

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## CHAPTER VIII.

### The Central Government in India.

42. Subject to the provisions of the Government of India Act, 1919 and the rules made thereunder, the superintendence, direction and control of the Civil and Military Government of India is vested in the Governor-General in Council who is required to pay due obedience to all such orders as he may receive from the Secretary of State.

43. The Governor-General's Executive Council is to consist of such number of members as His Majesty thinks fit. They are appointed by Warrant under the Royal Sign Manual; and three at least should have been in the service of the Crown in India for 10 years, and one must be a Barrister or Vakil. The Commander-in-Chief is also made a permanent member. The Governor-General may appoint a Vice-President. The quorum for a meeting of the Governor-General's Council is the President and one member other than the Commander-in-Chief. The term of the members of the Executive Council is not fixed by statute. It is, by custom, a period of 5 years. Under ordinary circumstances the Governor-General is bound by the opinion of a majority of his Council, but in special cases, where, in his opinion, the safety, tranquility and interests of British India are affected, he can overrule the opinion of the majority. During his absence from his Executive Council, the

Governor-General may be empowered by the Governor-General in Council to exercise all the powers of the Governor-General in Council. Even without such delegation, the Governor-General may, during his absence from his Executive Council, on his own authority and responsibility, issue an order which might have been issued by the Governor-General in Council, to any Local Government or to any officer or servant of the Crown acting under any Local Government. But a copy of such order together with the reasons for making the same, shall forthwith be forwarded to the Secretary of State, or the Local Government, as the case may be.

All orders and proceedings of the Governor-General in Council are expressed to be made by the Governor-General in Council, and shall be signed by a Secretary to the Government of India, or otherwise, as the Governor-General in Council may direct.

44. The executive work of the Government of India is divided into several departments and each member of the Council which now consists of 7 members, including the Commander-in-Chief, is entrusted with one or more of those departments. There is a Secretary at the head of each department. The following departments now exist:—

**The departments of the Government of India.**

- (1) Army member (Commander-in-Chief).
- (2) Home Member.
- (3) Finance Member.
- (4) Law Member.
- (5) Commerce Member (including Railways, Posts and Telegraphs).
- (6) Member-in-charge of Education, Health and Lands.
- (7) Member-in-charge of Industries and Labour.

The Viceroy is himself in charge of the Foreign and Political Department, and there is a Secretary in charge of each of the two branches.

Thus, while there are 8 departments, there are 9 Secretaries.

The Executive Councillors are members of one or other of the Chambers of the Indian legislature, with the right to attend and address the Chamber of which they are not members.

45. The Government of India differs altogether from the Provincial Governments in relation with the legislature. None of its members are constitutionally responsible to the Central legislature and an adverse vote of the legislature cannot bring about any change in its composition. In all essential matters its own authority, save for its

**Government of India not responsible to the legislature.**

accountability to Parliament, through the Secretary of State, remains indisputable. The Governor-General in Council is required to pay due obedience to the orders of the Secretary of State. In constitutional theory, therefore, the Government of India is a subordinate official Government under His Majesty's Government, though in actual practice this relation of agency is qualified by the extent to which authority is by delegation left in the hands of the Government of India, to be exercised without reference to, or order from, the Secretary of State.

46. We have seen that under the Rules framed, the subjects of administration were classed as central subjects and provincial subjects. The central subjects are administered by the Government of India and the provincial subjects by the Provincial Governments. The following are the more important of the central subjects. A fuller list as specified in Schedule I to the Devolution Rules is given in Appendix (A) :—

(1) Matters affecting the defence of India (*i.e.*, Army, Navy, Air Force), external affairs and ecclesiastical administration.

(2) Railways.

(3) Shipping.

(4) Posts, Telegraphs and Telephones.

(5) Customs and Excise.

(6) Income-tax.

(7) Banking, Insurance and Public Debt.

(8) Civil and Criminal Laws.

(9) Science and Invention.

(10) National and Foreign Trade and Commerce.

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

Although topics are thus distributed as central and provincial subjects, the Central legislature remains theoretically entitled to legislate over the whole field, and by S. 84 (2) of the Government of India Act, "the validity of any Act of the Indian legislature, or any local legislature shall not be open to question in any legal proceeding on the ground that the Act affects a provincial subject, or a central subject as the case may be."

46-A. *The Functions of the Government of India* :—(1) The Government of India administers the central subjects. (2) It has the power of superintendence, direction and control over Provincial Governments in respect of all reserved subjects.

**The functions of the Government of India.**

- (3) In respect of transferred subjects it can interfere,
- (a) For safeguarding the administration of central subjects,
  - (b) For deciding questions between two Provinces,
  - (c) To safeguard the due exercise and performance of any powers and duties possessed by or imposed upon the Governor-General in Council under or in connection with or for the purposes of Ss. 29-A, 30 (1-a) and Part VII-A of the Government of India Act (*i.e.*, relating to the I. C. S. and two other special matters).

(4) The Government of India is responsible for the administration of non-Governor's Provinces.

(5) The Governor-General is in personal charge of the relations of India with the Indian States. The Viceroy is the link between British India and the Indian States.

46-B. *The Powers of the Governor-General* :—The powers of the Governor-General are mainly derived from the Statute. But there are certain powers which, as the representative of the Crown, he exercises. The most important of these functions is the exercise of the Royal Prerogative to grant pardons, free or conditional, to offenders convicted by Courts of justice.

**The powers of the Governor-General.**

The statutory powers of the Governor-General are administrative, financial and legislative.

The administrative powers are, to

(1) Appoint Vice-Presidents of his Executive Council, Council Secretaries, Lieutenant-Governors, the President of the Council of State and the first President of the Legislative Assembly.

(2) Call meetings of his Executive Council, override his Executive Council if, in his judgment, such action is necessary for the safety, tranquility or interests of British India.

The rules for the transaction of Council business, the allocation of port-folios among its members, and the limitations of the scope, are entirely subject to his final decision.

(3) To summon meetings of the Indian legislature, to prorogue the sessions, to dissolve or extend the life of either Chamber, and to call for a general election after such dissolution.

The financial powers are as follows:—No proposal for the appropriation of any revenues, or moneys, for any purpose shall be made except on his recommendation.

The legislative powers of the Governor-General are as follow :—

(1) He can insist on the passing of legislation rejected by either or both Chambers, by certifying that such passage is essential for the safety, tranquility or interests of British India or any part thereof.

(2) He can restore grants refused by the Assembly. He may withhold his assent to any bill, whether Central or Provincial, or reserve them for the signification of His Majesty's pleasure.

(3) In emergencies, he can promulgate ordinances, without reference to the legislature, to be in force for 6 months.

(4) The previous sanction of the Governor-General is required for the introduction of certain classes of bills, both in the central and the provincial legislatures.

(5) On questions as to whether an item is a votable or a non-votable item of expenditure, the decision of the Governor-General is final.

Apart from these statutory powers, the Governor-General, in his capacity as Viceroy, presides over the annual session of the Chamber of Princes.

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## CHAPTER IX.

### The Governor's Provinces.

47. For purposes of administration, British India was divided into two sets of Local Governments, one set, eight in number, styled Governor's Provinces, *viz.*, Madras, Bombay, Bengal, United Provinces, Punjab, Bihar & Orissa, Central Provinces & Berar, Assam; or including Burma—nine Governor's Provinces; and the others six in number under the administration of a Chief Commissioner, *viz.*, Delhi, Ajmere-Merwara, British Baluchistan, North West Frontier Province, Coorg, Andamans & Nicobars.

In the Governor's Provinces the provincial subjects were divided into reserved subjects and transferred subjects, and the reserved subjects were to be administered by the Governor and his Executive Council and the transferred subjects by the Governor acting with Ministers appointed under the Act.