

Executive Legislation in Colonial India

HANS RAJ



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A Study of Ordinances Promulgated by
the Governor General of India

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PREFACE

It was in 1861 that the Governor General of India was vested with the power of promulgating ordinances in cases of real emergency, when there was unavoidable need for a legislative measure. The power was, however, not very extensively used before 1914, when world war I broke out. Thereafter several ordinances were promulgated and kept in force for years together. The provisions of the original Act that an ordinance could be valid for a maximum period of six months were twice modified when world wars first and second broke out, so as to keep the ordinances valid during the whole period of hostilities and six months thereafter. This power was continued with the Governor General under the Acts of 1915, 1919, 1935 and thereafter till India won her freedom. The spate of ordinances was very high during second world war when large number of ordinances were promulgated, as is shown in the Tables attached to the text of the study.

The central legislature met very infrequently and gap between the two sessions, which were usually held in a year, was of more than six months. Several ordinances were promulgated when the Assembly was going to meet very soon whereas many ordinances were promulgated either when the Assembly was in session or soon after its adjournment.

Whereas subject-matter of several ordinances was new and such ordinances dealt with an altogether new subject, quite a large number of ordinances effected previously enacted Act or an ordinance. In fact, during this period need for amending some provision(s) of an ordinance was felt in the same year itself. Several ordinances had to be amended with the amending ordinances.

In the study not only these have been highlighted with the help of Tables, but focus of each ordinance has been studied and its salient features brought to the fore. The difficulty can be imagined from the fact that during the period under study as many as 294 ordinances were promulgated. To study and summarise each in a short space is in no less a difficult task, particularly when the ordinances are not available at one place, but had to be collected from several sources. A lot of time, money and energy was, therefore, required to collect this scattered material.

Ordinances have left a powerful legacy behind. Several ordinances promulgated by the Governor General during British regime were continued for years together in free India. Not only this, but some of the

ordinances remained in force for more than 35 years. But permanent legacy of this provision of the Government of India Acts is that our Constitution makers found it expedient to retain this provision in our Republican Constitution. Articles 123 and 231 of the Constitution empower the President/Governor to promulgate an ordinance under certain conditions and each ordinance is to have the force of law. This power has been extensively used both by the President as well as the State Governors.

The whole study is divided into 11 chapters. Chapter-I provides background to the provisions of the Act empowering the Governor General to promulgate ordinances. Chapters II to X deal with the focus of ordinances promulgated during the years 1939-1947, along with such other information as (a) Duration of each ordinance; (b) Effect of each ordinance on already enacted legislation; (c) replacement of ordinances by Acts, etc. and (d) promulgation of ordinances and Central Legislative Assembly. The last mentioned aspect provides information as to (i) how soon before the convening of the Assembly into session, and (ii) how after the adjournment of the Assembly, each ordinance was promulgated. Information is also provided about Sessions of the Assembly, i.e. (a) date of meeting of each session; (b) date of adjournment of each session; (c) the days for which it actually met; and (d) how many days were spent on government and non-government business. A chapter each has been devoted for the ordinances promulgated during that year. The concluding chapter (XI) is devoted to the legacy of the ordinances. It is in this Chapter that Tables have been provided to show how many ordinances and for how many years, were continued in free India, which had been promulgated by the Governor General between 1939-1947. Information has also been provided about the number of ordinances promulgated since India became Republic on 26 January, 1950. An annexure has been added to show the number of ordinances, titles of each ordinance and date of its promulgation from 1861 to 1935.

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BACKGROUND

Ordinance promulgating power of the head of the State was and continues to be unique feature of our legislative system. Once the power was given to the Governor General in 1861, this continued with him till India won her freedom and continues to be enjoyed by the President of India, under the present Constitution. Provision about promulgation of ordinance was first made in 1861, under Indian Councils Act, 1861 (Section 23). It was then provided that Governor General could make and promulgate ordinance for peace and good government of British India, and any part thereof. Each such ordinance was to have the like force of law or regulation made by the Governor General in Council for a maximum period of six months unless Her Majesty allowed its discontinuance earlier or that was controlled or superseded by some law or regulation made by the Governor General in Council at a meeting held for the purpose of law making.

First ordinance of the year was promulgated on 27-12-1961¹ and thereafter the ordinances continued to be promulgated but their spate was slow. Between 1861 and 1914 when First World War broke out, only seven ordinances were promulgated. In fact, no ordinance was promulgated between 1870 to 1875 and again for a period of about 30 years between 1877 to 1906. Between 1908 and 1911 again no ordinance was promulgated. It was only during the World War I that some ordinances were promulgated.

Under the Government of India Act, 1915, a provision was made (Section 72) for the promulgation of ordinances by the Governor General, on the same lines, as were in the Council's Act of 1861 and so was the case with the Government of India Act, 1919.

The Government of India Act, 1935 provided that India shall be a federation consisting of British India and princely States. Sub-section I of

Section 42 of the said Act again loaded the Governor General, with the power of promulgating ordinances during the recess of the legislature if he was satisfied that the circumstances so existed that it was unavoidable for him to take immediate action. He could then promulgate an ordinance, subject to two conditions:

- (1) Firstly, he was to see that he was competent to exercise his individual judgement as respects the promulgation of an ordinance under that section if a bill containing the same provisions would under that Act require his previous sanction to the introduction of that Bill in the legislature.
- (2) Secondly, he was to see that it was not a type of ordinance, on which ordinarily he would have deemed it necessary to reserve a Bill for the signification of His Majesty's pleasure thereon.

Sub-section 2 of the Bill provided that during the period an ordinance was in force, it was to have the same effect and force as an Act of the federal legislature, duly assented by the Governor General but it was to be laid before the federal legislature and was also to cease to operate at the expiration of six weeks from the re-assembly of the legislature. It was, however, cease to operate if a resolution, disapproving the same by both the chambers, was passed earlier. It was also provided that each such ordinance was subject to the provisions of that Act, relating to the power of His Majesty to disallow Acts, as if these were the acts of the federal legislature assented to by the Governor General. The Governor General, however, could withdraw, at any time, an ordinance, once promulgated by him. An ordinance was ordinarily to remain in force for a period of six months, but its life could be extended by another six months.

Sub-section (3) of the same Section provided that if any provision of the ordinance was such which was not within the competence of the federal legislature to enact, to that extent the ordinance shall be void. His Majesty could also disallow any ordinance, in the same manner, as if that was an Act of Federal Legislature, assented by the Governor General. He himself could also withdraw an ordinance at any time. If he extended the life of an ordinance, the same was to be communicated to the Secretary of State who, in turn, was to place that on the Table of each House of Parliament.

The Government of India Act, 1935 had several schedules attached to it. Ninth Schedule to the Act had certain provisions of the Govern-

BACKGROUND

ment of India Acts 1915 and 1919 with certain amendments, which were to remain in force till the federation envisaged under the Government of India Act, 1935 came into existence. The provisions relating to the power of the Governor General to promulgate ordinances under certain circumstances, were included in Ninth Schedule attached to the Act of 1935. Since the princely states did not join the federation, therefore, the federal structure, as envisaged under the Act of 1935, did not come into existence. Obviously, the Sections of the Act of 1935 dealing with the powers of the Governor General to promulgate ordinances remained a dead letter but he continued to promulgate ordinances under the powers vested in him by Ninth Schedule attached to the Government of India Act, 1935 based on the modifications of the provisions of the Acts of 1915 and 1919.

As already said, the first ordinance was promulgated in the year 1861.² It, however, remained in force only for 7 days when it was repealed on 3-1-1862.³ In 1862, another ordinance on the same subject was promulgated (3-1-1862), which remained in force till 28-2-1862, i.e. for a period of one month twenty-six days.⁴ Though the Governor General enjoyed the power to promulgate ordinances, yet that was not extensively used. After 1862, in the year 1869 only two ordinances were promulgated.⁵ The first of the two ordinances remained in force for 3 months and 6 days whereas the second one only for two months and two days. Thereafter, one ordinance was promulgated in 1876.⁶

As pointed out earlier for about 30 years, no ordinance was promulgated. One ordinance each was promulgated in 1907 and 1912. Some ordinances were, however, promulgated during World War I and thereafter. Table 1.1 will show the number of ordinances promulgated between 1861 and 1935. Title of each ordinance along with date of promulgation is at Annexure A.

From all accounts, it appears that the spate of promulgation of ordinances was very slow and resort to this method of legislation was usually not taken. An ordinance was promulgated when absolutely unavoidable.

Each ordinance was to remain in force for a period of six months only. In 1914, when First World War broke out the government felt the need of keeping the ordinances in operation for more than 6 months and accordingly Emergency Legislation Continuance Act, 1915 was passed by the Governor General in Council on January 12, 1915 by which the government got powers to keep an ordinance in force even beyond 6 months. Now an ordinance could remain in force for the duration of war and six

Table 1.1: Number of ordinances promulgated between 1861-1935

<i>Year</i>	<i>Number of ordinances promulgated</i>	<i>Year</i>	<i>Number of ordinances promulgated</i>
1861	1	1919	7
1862	1	1920	4
1869	2*	1921	5
1876	1	1922	3
1907	1	1924	1*
1912	1	1925	1
1914	9	1929	1*
1915	3	1930	11
1916	8	1931	15
1917	4	1932	12
1918	3	1935	3*

* No ordinance was promulgated during the missing years.

months thereafter. It was after the passing of this Act that the life of some of the ordinances during war days was increased beyond 6 months. These included the ordinances promulgated during the year 1914 and such ordinances as the Registration Ordinance, 1917 (I of 1917), the Indian Paper Currency Ordinance, 1918 (I of 1918) and so on.

In 1939, Second World War broke out and need was again felt for continuance of ordinances in force for more than 6 months. Accordingly, on 27-6-1940, India and Burma (Emergency Provisions) Act, 1940 was passed which provided that Section 72 of the government of India, 1935 will stand modified in so far as validity period of an ordinance was concerned. Under the 1935 Act, this period had been fixed at six months but now it could remain valid for any period till the government declared the end of present hostilities, which had begun on 3-9-1939. These hostilities were declared to have ended with effect from 1-4-1946. Thus between 27-6-1940 and 31-3-1946, the life on an ordinance was kept beyond 6 months and several ordinances were kept in operation for years together.

Such was the position in 1946. By then several attempts made by the British Government to solve India's constitutional problem resulted in the formation of an interim government and simultaneously a Constituent Assembly was brought into existence to frame a constitution for the country. In the Assembly there was a heated debate about the retention of power with the President to promulgate ordinances. The Union

Constitution Committee recommended the incorporation of such a clause in the constitution,⁷ which was adopted by the Drafting Committee with certain verbal alterations, as Article 102 of the draft constitution.

The framers of the constitution were however, quite clear that the ordinance making power of the Governor General had never been popular in the country,⁸ and as such the Constitutional Adviser added a note highlighting the importance of legislation by ordinances. It was accepted by the Provincial Constitution Committee⁹ and also by the Drafting Committee.

Several suggestions were however, made before the Assembly agreed to the incorporation of Article 123 in the Constitution. H.V. Kamath proposed that the President should not be empowered to promulgate an ordinance when one of the two houses of the Parliament was in session.¹⁰ B. Porker Sahib opined that it may be clearly specified that no ordinance shall deprive any citizen of right to personal liberty except on conviction after trial by competent court of law.¹¹ Pandit Hirday Nath Kunzuru suggested that an ordinance promulgated by the President should cease to operate 30 days from the date of its promulgation.¹² Professor K.T. Shah suggested that under the constitution and by the constitution itself maximum period for the life of an ordinance should be prescribed and that definite procedure should be laid down whereby the ordinance could be approved by either House of Parliament by a specific resolution.¹³

Sardar Hukam Singh suggested that every ordinance should be promulgated only after consultations with the Council of Ministers.¹⁴ Even President of the Assembly Dr. Rajendra Prasad appeared to be in favour of specifically providing that the President of the Union should be bound by the advice of Council of Ministers.¹⁵

Dr. B.R. Ambedkar however, effectively dealt with each of the suggestions made and points raised and the Assembly finally decided to incorporate a provision in the constitution empowering the President to promulgate ordinances during emergencies and Article 123 was finally added to the constitution. A similar power was given to the Governors of states by incorporating Article 213 in the constitution.

In 1947 Indian Independence Act was passed by which the British Government transferred power to the Indians. The Act provided that till the new constitution came into being the country will be governed by suitably modified Act of 1935. The amendments subsequently made in the Act did not make any substantial change in ordinance making power of the head of the state. He continued to exercise that till new constitution was inaugurated. Even today the President is very much using this power.

NOTES

1. The Export of Saltpetre Ordinance, 1861.
2. The Export of Saltpetre Ordinance, 1861 promulgated on 27-12-1861, without any ordinance number.
3. Calcutta Gazette Extraordinary, dated 3-1-1862.
4. Home Department Notification 1098, dated 28-1-1862; Calcutta Gazette Extraordinary, dated 28-2-1862.
5. The Agror Valley Ordinance 1869, and Duty on Salt (Bombay and Madras Presidencies) Ordinance, 1869.
6. The Dramatic Performance Ordinance, 1876.
7. The Union Constitution Committee Report, Part IV, Clause 17. See also Art. 86 of the Draft Constitution by Constitutional Adviser.
8. Rau, B.N., *Indian Constitution in the Making*, Delhi, 1960, p. 85.
9. Report of the Provincial Constitution Committee, Part I, Chapter III, Clause 23.
10. Constituent Assembly Debates; Vol. VIII, No. 6, May 23, 1949, p. 202.
11. *Ibid.*, p. 203.
12. The Constituent Assembly Debates, Vol VIII, No. 6, May 23, 1949, p. 213.
13. *Ibid.*, p. 208-209.
14. *Ibid.* p. 209.
15. *Ibid.*, p. 216.

OUTBREAK OF WAR YEAR ORDINANCES (1939)

In September 1939, Second World War broke out, which engulfed the whole world. Every nation either directly or indirectly got involved in it. The British government decided that India would join war on the side of the Allies. During the outbreak of war year (1939), only nine ordinances were promulgated as detailed in Table 2.1.

Table 2.1: Ordinances promulgated during the year 1939

<i>Ordinance No.</i>	<i>Title of the ordinance</i>	<i>Date of promulgation</i>	<i>Source: Gazette of India Extraordinary; Pages</i>
I	Foreigner's Ordinance	26-8-1939	171-76
II	Registration Ordinance	30-8-1939	172-83
III	Requisitioning of Vessels Ordinance	30-8-1939	193-95
IV	Transfer of Aircrafts and Vessels Restrictions Ordinance	1-9-1939	201-03
V	Defence of India Ordinance	3-9-1939	211-20
VI	Detention of Enemy Shipping Ordinance	5-9-1939	231-32
VII	Indian Air Force Volunteer Reserve (Discipline) Ordinance	6-9-1939	235-36
VIII	Defence of India (Amendment) Ordinance	13-9-1939	275-76
IX	Income Tax (Removal of Difficulties and Validating) Ordinance	30-12-1939	547-48

FOCUS OF THE ORDINANCES

Of the nine ordinances promulgated each ordinance dealt with a new sub-

ject, except of course, Defence of India Act for which two ordinances had to be promulgated. Focus of Ordinance I (the Foreigner's Ordinance) was to impose certain restrictions on the entry, presence and departure of foreigners, in and from British India. With the help of this ordinance, the Government got powers to regulate, prohibit and restrict the entry of foreigners in British India and also to control their departure and presence during their stay in the country. It provided that a foreigner shall enter British India only through a prescribed route and shall also remain only in the prescribed areas. The government could also put restrictions on his movements. No one was supposed to help an internee to escape from the custody and the government was empowered to decide about his place of detention, etc. Any competent officer could ask master of the vessel or pilot of the aircraft to provide him a list of passengers who were on the ship or in the aeroplane. It was for the person concerned to prove whether he was a foreigner or not. The central government was empowered to exempt any person from the provisions of this ordinance and could also give necessary directions. Any police officer could take adequate steps for preventing the breach of any provision of the ordinance. Strict penalties were proposed for any violation of any provision of the ordinance.¹

According to the government, although in the draft of the Defence of India Rules power had been taken to impose restrictions in the event of war upon the foreigners in British India, it was found necessary to take those powers in the period of tension immediately preceding the outbreak of war, and in advance of the promulgation of the Defence of India Ordinance. The substance of Part V of the Defence of India Rules together with certain supplementary provisions taken from Part XVIII of those rules was accordingly promulgated in the form of the Foreigner's Ordinance, 1939, on the 26th August, 1939. In consequence of this step, all actions so far taken in connection with the war in respect of foreigners has, with the exception of that provided for in Rule 31A of the Defence of India Rules, been taken in pursuance of orders made under the Foreigner's Ordinance. It was at one time intended to replace these orders on the expiry of the Foreigners Ordinance by orders made under the Defence of India rules. In view, however, of the self-contained nature of the Foreigner's Ordinance and of the danger of confusion which might follow upon the reissue of the substance of orders made under the ordinance in the form of orders and rules made under the Defence of India Act, government came to the conclusion that it would be preferable to replace the Foreigner's Ordinance by an Act having the same relation

to that ordinance and the orders made there under as the Defence of India Act had to the Defence of India ordinance and rules made thereunder.²

The aim of Ordinance II was to register certain European British subjects in any part of the country. By this, it was provided that every male European British subject, who was between the ages of 16-50 years, was duty bound to register himself with the registration authority. The term European British subject was defined as a person who was His Majesty subject of European descent. Any competent authority could call for such particulars, as were considered necessary from the person covered under the ordinance. Any person who failed to register himself with the competent authority was to be fined. Whether a person was British European subject or not, the decision of the competent authority was made both binding and final. The central government was empowered to make rules for carrying on the provisions of this ordinance and violation of any rule was an offence punishable.³

According to the government, the need of the ordinance arose because it wanted to immediately have information about British European subjects. It also wanted to continue to have it even after the information had been collected because it felt that that was necessary to carry out the provisions to embody in the register particulars of new arrivals in India and changes of address.⁴

Ordinance III provided that the Government could requisition any vessel temporarily for the service of His Majesty and if possible probable period of requisition was to be indicated. Such a requisition could be made by any competent commissioned officer and it was obligatory for the owner to handover the vessel. Each owner was to be paid compensation for the vessel requisitioned which was to be decided between the officer concerned and the owner. In the case of dispute, the decision of the central government was to be final. If the owner failed to handover the vessel, it could be seized and, if necessary force could also be used for the purpose. If anyone contravened any provision of this ordinance, he could be imprisoned up to 3 years. No requisition could be called in question in any court.⁵

Ordinance IV provided that no person shall, without the previous consent of the central government, transfer or acquire any interest in any registered sea going vessel/aircraft or in any registered aircraft which was already registered in India or elsewhere. If any person violated any provision of this ordinance, he could be punished with imprisonment up to seven years and also with fine. Any transaction made was also consi-

dered null and void and no transfer was to be registered from one part to the other without the approval of the central government.⁶

Ordinance V dealt with the Defence of India and provided for taking special measures to ensure public safety and also for speedy trial of certain offences. The government now got extensive powers to make rules about public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community. It also provided for setting up of special tribunals for settling the cases speedily. It was a detailed ordinance and very frequently amended to deal with the changing war situation.

The government got powers to deal with matters related with the safety and welfare of His Majesty's subjects, discipline in His Majesty's forces, communications with the enemy, preventing the spread of false reports which could cause alarm or spread dissatisfaction or hatred among His Majesty's subjects, etc. In fact, the list of items covered was very wide and practically left nothing which had concern with day-to-day life and defence of the country.

The government could arrest persons and make rules for imprisoning those who were even suspected of contravening any provisions of the rules made under the provisions of the ordinance. Provision was made for seizure, detention or forfeiture of any property in respect of which any contravention was involved. The officers were given wide powers to punish and apprehend all those who were doubted of violating any provision of the ordinance.

Both the central as well as provincial governments could delegate and transfer their powers to their subordinates for efficient discharge of functions and responsibilities. Any person who was not a defence employee could also be subjected to any defence law and the one who offended or contravened any provision of the ordinance could be punished with death penalty or transportation for life and also with fine.

It was also provided that if the press directly or indirectly conveyed any confidential information or information of the type which was likely to assist the enemy or published any prejudicial report calculated to mean contravening the provisions of the ordinance, it would be punished. It was also provided that if any person who was not otherwise covered under the Indian Navy (Discipline) Act entered into an engagement with the central government to serve His Majesty, that person during the period of his engagement shall be governed by the above mentioned Act.

The provincial governments were empowered to set up special tribunals consisting of three members to be appointed by the said govern-

ment to try any case of offence committed before or after the commencement of this ordinance. A special tribunal could take cognizance of the offences without the accused being committed to it for trial. It was also not necessary to take down evidence at length in writing but a substance of what the witness said need only be recorded. An accused person could also be tried in his absence, if in the opinion of the Tribunal absence had been brought about by the accused himself. All the decisions in the tribunal were to be taken by a majority of votes. It could also order the exclusion of the public during any part of the hearing but passing of any sentence in any case was to take place in the public. The Tribunal was given the powers of a session court.

It was also provided that there could be no appeal against an order of the Tribunal and no court had any authority to revise such order.⁷

According to the government, the aim of the ordinance was to provide special powers to the Tribunal to meet war emergency and that the ordinance was based largely on war regulations in operation in the United Kingdom. The replacing bill, which was introduced to replace the ordinance, was also stated to be on the lines of the ordinance.⁸

Ordinance VI provided for the detention of enemy ships in ports in British India and every detained ship was to be brought before the prize court for adjudication. It was also provided that all cargo on board any enemy ship detained under the provisions of this ordinance shall be released if otherwise not prohibited.⁹

The focus point of Ordinance VII was to enforce discipline among the members of the Indian Air Force and Volunteer Reserve Force raised in British India on behalf of His Majesty. It provided that every member of the Reserve Force while undergoing training shall remain subject to the rules and discipline provided in the Indian Air Force Act, 1932. The government got absolute powers to make rules for the discipline and regulation of the Force. When any member of the Force was required to join a unit and if he failed to do so without reasonable excuse he could be punished with fine. Similarly, when any member of this Force failed to join a particular unit without reasonable excuse, within the specified period of time, he could be apprehended and punished in the same manner as any person belonging to the Indian Air Force being levied with the charge of deserting or improperly absenting himself from duty.

It was provided that no court inferior to that of a Presidency Magistrate or a Magistrate of the Ist Class was to be competent to try an offence punishable in this ordinance.¹⁰

According to the government, the ordinance was promulgated to pro-

vide for additional personnel required to man Auxiliary Air Force Units. On formation, the Force was proposed to be governed under the provisions of Indian Air Force Act, 1932 in the same manner, as the persons belonging to His Majesty's Air Force. The members of the Force could be called in actual service at any time, even when under training. They could also be directed to undergo training anywhere.¹¹

Ordinance VIII amended Ordinance V of 1939 on the same subject. The focus was to provide that military or police forces of Indian states, when employed in the service of His Majesty, shall enjoy same protection and privileges as were being enjoyed by the members of His Majesty's armed forces.¹² It was also provided that the scope of the Indian Press Act be extended so as to prevent the printing of reports or documents prejudicial to the prosecution of war or were likely to prejudice His Majesty's relations with any foreign powers. The aim of the ordinance also was to render the benefits of the Indian Soldiers (Litigation) Act, 1925, admissible to the members of Indian States forces while serving in accordance with the conditions specified in the ordinance.¹³

Ordinance IX aimed at removing certain difficulties expressed in the operation of the Indian Tax Act 1922 (XI of 1922). It was provided that when an assessment had been made or was being made in respect of which a Commissioner of Income Tax appointed without reference to the area was exercising the functions of a Commissioner of Income Tax in respect of person whose income had been or was being assessed, shall be made by the Income Tax Officer for the time being charged with the function of making such assessment by the Commissioner of Income Tax to whom he was subordinate. The Ordinance also validated all assessments and proceedings already made and taken.¹⁴

The ordinance also provided for the provisional collection of income tax and super tax in case the Finance Bill was not passed by the legislature by 1st April, of any year. According to the government, the ordinance was necessitated because of the recent decision of the Bombay High Court regarding jurisdictions of certain Income Tax Officers.¹⁵

DURATION OF ORDINANCES

According to the Acts of 1919 and 1935, each ordinance once promulgated could remain in force for a maximum period of 6 months. Table 2.2 will give an idea about the duration of each ordinance promulgated during the year 1939.

Table 2.2 : Duration of ordinances promulgated during the year 1939

<i>Duration of ordinance</i>	<i>Ordinance No.(s)</i>
Less than one month	V, VII, VIII
Between 1-2 months	—
Between 2-3 months	IX
Between 3-4 months	—
Between 4-5 months	—
Between 5-6 months	I, II, III, IV, VI

Date of promulgation of each ordinance has already been shown in a separate table. Ordinance Nos. V, VII and VIII were repealed by Acts 35 and 36 of 1939; whereas No. IX by Act 12 of 1940 and I by Act 2 of 1940 and II by Act I of 1940. Ordinance Nos. III, IV and VI were allowed to expire.

EFFECT OF ORDINANCES ON ALREADY ENACTED LEGISLATION

The first ordinance of the year was promulgated on 26-8-1939. No need for amending an ordinance once promulgated was felt in the same year except, of course, the Defence of India Ordinance (No. V) which had to be amended with the help of Ordinance VIII of the same year. Though some ordinances were new in nature, the others effected some already legislated Ordinance(s)/Act(s) as detailed in Table 2.3.

PROMULGATION OF ORDINANCES AND CENTRAL LEGISLATIVE ASSEMBLY

In 1939, tenth session of Central Legislative Assembly was convened on 30-8-1939 and it continued till 22-9-1939. It was for a short duration of 24 days, but the House actually met for 15 days; out of these 4 days were allotted for non-official and remaining 11 days for government work. It is observed that Ordinance I was promulgated on 26-8-1939, i.e. just 4 days before the Assembly was going to meet. Ordinance II and III were promulgated on the very day when the Assembly was called in session, whereas Ordinances IV to VIII were promulgated when the Central

Table 2.3: Effect of ordinances on already enacted legislation

Ordinance No.	Previously enacted legislation effected		Nature of ordinance
	Ordinance No.	Act No.(s)	
I	—	XLV of 1860 XLIV of 1920	—
II	—	—	New
III	—	—	New
IV	—	XI of 1978 IV of 1884 XXII of 1934 XIX of 1923 XXII of 1931	—
V	—	—	New
VI	—	—	New
VII	—	XIV of 1932	—
VIII	V of 1939	—	—
IX	—	—	New

Assembly was already in session. Not only this but Ordinances IV to VII were promulgated just within a week of the meeting of the Assembly and Ordinance VIII in a fortnight's time of its meeting. The very fact that eight out of nine ordinances were promulgated when the Assembly was in session shows that the government had no regard for the Assembly. Ordinance IX was promulgated within a week of the adjournment of the Assembly. Since it was promulgated in view of the decision of the Court, which was available when the Assembly was in session and the matter was not placed before the Assembly, shows that the government had no care for the Assembly and preferred to act in an arbitrary manner.

NOTES

1. Gazette of India Extraordinary, Part V, dated 26-8-1939, pp. 171-76.
2. The Foreigner's Bill No. 8 of 1940 dated 6-2-1940; Gazette of India ordinary, Part V; pp. 87-92.
3. Gazette of India Extraordinary, Part V, July-Dec. 1939, dated 30-8-1939, pp. 172-83.
4. Registration (Emergency Powers) Bill 1940; Bill No. 7 of 1940 dated 6-2-1940. Gazette of India Extraordinary, Part V, pp. 84-86.

5. Gazette of India Extraordinary, Part V, July-Dec. 1939, dated 30-8-1939, pp. 193-95.
6. *Ibid.*, pp. 201-03.
7. Gazette of India Extraordinary, dated 3-9-1939, pp. 211-20.
8. Bill No. 41 of 1939, Gazette of India Extraordinary, dated 5-9-1939, p. 183.
9. Gazette of India Extraordinary; July-December, 1939; Vol. V, dated 6-9-1939, pp. 231-32.
10. Gazette of India Extraordinary, July-Dec. 1939, Vol. V, dated 6-9-1939, pp. 235-36.
11. Bill No. 49 of 1939, dated 19-9-1939; Gazette of India Extraordinary, Part V, pp. 220-21.
12. Gazette of India Extraordinary, July-Dec. 1939, Vol. V, dated 13-9-1939, pp. 275-76.
13. Bill No. 26 of 1940, dated 6-4-1940; Gazette of India Extraordinary, Part V, pp. 193-94.
14. Gazette of India Extraordinary, July-December, 1939 dated 30-12-1939, pp. 547-48.
15. Bill No. 14 of 1940, dated 23-2-1940; Gazette of India Ordinary, Part V, pp. 101-103.

WAR PROGRESSING YEAR ORDINANCES (1940)

The year 1940 saw the war progressing to the disadvantage of British empire everywhere including India. There was no constitutional solution with the government to solve political problems which confronted the country. The nationalists in India were invigorating their activities for winning freedom for the country. There was communal disharmony in the country and the position on all fronts was practically the same as it was at the time of outbreak of the hostilities in September, 1939. The government was depending on promulgation of ordinances for every type of legislation. In the year, an important step taken was that of the passing of India Burma (Emergency Provisions) Act, as mentioned earlier, by which it was provided that an ordinance once promulgated could remain in force at least till the end of the hostilities. During the year 1940, fourteen ordinances were promulgated as detailed in Table 3.1.

FOCUS OF ORDINANCES

Ordinance I changed rates of post cards etc. by amending Act VI of 1898.¹ The focus of Ordinance II was to get for the central government powers to control the employment and distribution of technical personnel in British India. By this, it was provided that all technical personnel over the age of 18 and under the age of 50 years being British Indian subjects could be called up for employment in the national service. A technical person was one who was so defined by a tribunal or who was already employed anywhere as a technical person and an Indian British subject was one who was subject of His Majesty in India.

The central government could declare any factory engaged in the production of war material or material which in the opinion of central government was likely to assist in the efficient prosecution of war, to be

Table 3.1: Ordinances promulgated during the year 1940

<i>Ordinance No.</i>	<i>Title of the ordinance</i>	<i>Date of promulgation</i>	<i>Source: Gazette of India Extraordinary; Pages</i>
I	Indian Post Offices (Amendment) Ordinance	30-3-1940	85-86
II	National Service (Technical Personnel) Ordinance	29-6-1940	101-108
III	Payment of Wages (Amendment) Ordinance	2-7-1940	291-292
IV	The Currency Ordinance	24-7-1940	439-440
V	National Service (European British Subjects) Ordinance	25-7-1940	441-448
VI	Indian Coinage (Amendment) Ordinance	26-7-1940	453-454
VII	Indian Tea Control (Amendment) Ordinance	6-8-1940	467-468
VIII	Civic Guards Ordinance	16-8-1940	491-492
IX	War Risks (Goods) Insurance Ordinance	26-8-1940	519-524
X	Indian Forces (Transfer) Ordinance	30-8-1940	531-532
XI	National Service (Technical Personnel) Amendment Ordinance	5-9-1940	537-540
XII	Indian Coinage (Second Amendment) Ordinance	11-10-1940	621-622
XIII	Coffee Market Expansion Ordinance	14-12-1940	757-766
XIV	Indian Coinage (Third Amendment) Ordinance	23-12-1940	787-788

a factory engaged in the work of national importance. Such a factory was to be treated as notified factory.

Every notified factory was made eligible to apply to a tribunal or central government for technical personnel. The central government got powers to constitute National Service Labour Tribunals which were to consist of not less than four members to be appointed by the central

government. Even the Chairman was to be appointed by it. It could associate any person for deliberations. For the purpose of recording evidence, it was given the powers of a civil court.

It was the responsibility of the Tribunal to ascertain particulars of technical personnel employed in any industrial undertaking for employment in notified factories and the capacity of the undertaking to release such personnel. It was empowered to summon the manager or owner of any industrial undertaking. A member of the Tribunal could enter upon and inspect any premise occupied by such an undertaking and also call for all relevant information from the owner/manager.

The Tribunal could require the owner or manager or any industrial undertaking to release any technical person for employment in the national service in notified factories. It could also direct any technical person whether employed or unemployed to serve in a notified factory. The terms of service of such technical personnel were to be laid down by the Tribunal in each case. The central government alone was competent to listen appeals against the decisions of a Tribunal.

The central government, in consultation with the Tribunal, could require any industrial undertaking to release a technical person for national service in any notified factory. It could also transfer any such person from one factory to the other.

It was made obligatory on the employer, from whom the technical person was got released for employment in the national service, to re-instate him in his former employment on the termination of that service, on favourable conditions. An employer, however, could be exempted from this condition by the Special Tribunal, after arranging suitable compensation for the employee not being re-instated. If any employer failed to obey the directions of the Tribunal, he could be punished with fine.

Each technical person was required to apply to his previous employer for re-instatement within a period of two months from his release from the national service.

For listening the disputes about re-instatement, the central government got powers to set up special tribunals consisting of three members to be nominated by the central government. The Chairman was to be a person of the status of District and Sessions Judge. For calling witnesses etc., it was given powers of a civil court. No technical person could leave his undertaking without the permission of the Tribunal. Similarly, no employer could dismiss, discharge or release any technical person without the permission of special tribunal of the area. Penalties were provided for those who wilfully violated the provisions of the ordinance.

The technical persons included technical personnel management staff, supervisory staff, people engaged in skilled and semi-skilled trade.²

The focus of Ordinance III was to empower an employer to deduct from the wage bill of an employee working with him sums intended for investment in the furtherance of approved war saving schemes, as approved by provincial government for the Government of the United Kingdom.³ The only condition attached was that the employee should give him consent for the deduction of money from source, in writing to his employer.

With the help of Ordinance IV, the central government got powers to issue and circulate one rupee currency note alongwith the one rupee silver coins already in circulation. The note was to have the same force as was of one rupee silver coin. It was also made obligatory on the Reserve Bank of India that at the close of every week it should send an assets' statement of one rupee silver coins held by it. The central government got powers to deliver to the bank rupee coins which fell short of rupees 50 crores or one-sixth of the total amount of the assets whichever was greater, during that week.⁴

Ordinance V amended Act XVIII of 1940 and provided that if any person liable to be called up for national service claimed that he conscientiously objected to the performing of military service, he should do so upon the receipt of preliminary notice and not after the date on which he was to present himself for examination before National Service Advisory Committee. In the ordinance, terms of service of persons entering civilian employment and rights of person called up for services in His Majesty's forces were specified. It was provided that the government was competent to decide whether any person was fit for service in the armed forces or in the civilian capacity and also whether a person could or could not be spared for national service without detriment to the public interest from his existing employment.

Provision was made for the constitution of National Service Advisory Committee and it was made obligatory for it to record in writing the findings of matter placed before it for consideration. If any person felt aggrieved against any decision of the Committee, he could appeal against it to the Tribunal, within 7 days of the receiving of the findings of the Committee.

When a person was called upon national service either in civil capacity or for joining the armed forces, he was to be treated to have joined the position mentioned in the calling up notice, from the date on which the notice was served on him. An employer, from whom the person was

being requisitioned for national services, could appeal to the Tribunal against the decision of National Service Advisory Committee. The decision of the Committee was to be superseded only if the Tribunal decided that the person was not fit for national service.

When a person was called upon to serve in the national service in civilian capacity, terms and conditions of his service were to be laid down by the competent authority. But such a person could appeal to the Tribunal, if he was not satisfied with the decision of the authority and the Tribunal's decision in this regard was to be treated as final. If any person after joining civilian position, left the same without the approval of the competent authority, he could be punished with imprisonment for a period up to 6 months. Similarly, it was also provided that if an employer failed to comply with the service conditions to be provided to an employee as decided by the National Service Advisory Committee, he could also be punished with imprisonment for a period extending up to 6 months.⁵

According to the government, the provisions of the ordinance and the replacing bill were such as to bring European British subjects in India, as far as possible, into line with their fellows in other parts of the empire in respect of service in His Majesty's forces during the present war.⁶

Ordinance VI dealt with the mixture of alloys to be used in silver coins to be put in circulation.⁷

The focus of Ordinance VII was that the central government could alter the Indian allotment export quota of tea and of any tea estate. It was clarified that when export of quota of any tea estate was reduced, any tea exported by the owner of the estate in excess would be excluded from the compensation of total quantity of tea exported during that financial year.⁸

Ordinance VIII empowered a District Magistrate to constitute for the district a body to be called Civic Guards to perform allotted functions about protection of persons, security of property and public safety. A member of the Civic Guards was given the same privileges and protections as were available to a police officer in British India.

A member of the Civic Guards could be called out at any time for training or for discharging any functions which might be assigned to him. No prosecutions were to be instituted against a member of the Civic Guards in respect of anything done by him in the discharge of his functions. When called upon to aid the police, these people were required to work under the control of the officers of the police force. If any person of the police force wilfully disobeyed the orders of his officers or failed to perform his duties, he could be punished with fine. The provincial

government was empowered to make rules for the Civic Guards.⁹

The focus of Ordinance IX was to introduce War Risks (Goods) Insurance Scheme with a view to making certain provisions for the insurance of goods in British India against damage by enemy action. The goods included all such goods situated in British India which could be used for war purposes, as defined in the Ordinance.

The war risk was defined to mean such risks which arose from the action taken by an enemy or from action taken in combating an enemy or in repelling an imagined attack by an enemy. The central government was the final authority to decide whether a particular commodity was insurable or not. If a person carried on a business in the course of which he constructed ships or parts of ships, he was deemed to be carrying on business as seller of ships.

Under the War Risks (Goods) Insurance Scheme promulgated with this ordinance, the government took upon itself the liability of insuring such persons who were carrying out business in British India as sellers of goods, against war risks in respect of goods insurable under the ordinance.

For the purpose, the central government was to issue a policy of insurance for a specific period and the insurer was required to pay prescribed premium. The government could ask any person or firm to act as its agent for any of the purposes specified in this ordinance.

It was also provided that after the promulgation of the ordinance carrying out of any business in British India as a seller of goods insurable or in violation of any provision of the ordinance was a punishable offence. After the enforcement of the scheme, thus no person could carry on business of insuring goods or persons in British India, as sellers of goods.

With the help of this ordinance, War Risks Insurance Fund was also created, into which all sums received by the central government by way of insurance premiums under the above-mentioned insurance scheme were to be deposited. It was out of this Fund that the liabilities of the government were to be discharged.

Any authorised person of the central government could enter any premises occupied by any person carrying on the business of fire insurance or seller of goods and also could call for the accounts on the spot to satisfy himself whether the person concerned had insured goods against war risks or not. Anyone who tried to obstruct the work of such a person or failed to produce documents could be punished with fine. It was also provided that no prosecution for any offence punishable under the ordi-

nance was to be instituted against any person, without the approval of the central government.

Ordinance X provided that during the period of emergency, any person enrolled in the army could be transferred anywhere without his consent or conditions of his service. He could also be transferred to any corps or department with the orders of the competent authority. After the termination of emergency, if such a person was still in service and if he so desired, he could be re-transferred to the corps or the department in which he was serving at the time, when he was first so transferred.¹¹

Ordinance XI amended Ordinance II of 1940 about technical personnel and empowered the tribunal to take steps to ascertain the particulars of technical personnel employed in any industrial undertaking and find out suitability of such personnel for employment.

Some of the ways in which the present ordinance amended the original ordinance being that the scope of the term 'Training Establishment' was widened. It was provided that every notified factory could apply to the tribunal for technical personnel and after having so applied was obliged to take into employment such technical personnel on such terms and conditions as the Tribunal might decide. Now it was not obligatory for the government to itself appoint a Chairman. The Tribunal was empowered to authorise to any managerial or supervisory class technical personnel to enter upon any premises occupied by such an undertaking and test the technical skills of such persons, as the Tribunal might direct. It was made obligatory for the establishment to provide necessary facilities to such testing staff.

The Tribunal now could call any person having technical skills to come for skill test and it was made obligatory for such person to appear for the test. It was now not obligatory for the technical central government to consult the Tribunal for getting the services of technical personnel.¹²

Ordinance XII once again amended Ordinance VI of 1940 about the silver metal to be used in the coins.¹³

The aim of Ordinance XIII was to introduce measures for providing assistance to the coffee industry by regulating export and sale of coffee from and in British India. For the purpose, Indian Coffee Market Expansion Board was set up as a body corporate. A custom duty was to be levied on all the coffee produced in India and exported from British India.

The Indian Coffee Market Expansion Board, for which a provision was made in the ordinance, was to consist of the then existing members of Indian Coffee Cess Committee and three other persons to be nominated by the central government. The Board was a body corporate and

given the power to hold and acquire property. The property of Indian Coffee Cess Committee was also vested in the proposed Board which was also empowered to appoint staff and set up committees. The central government was empowered to appoint Controller of Coffee, who was to be a member of Indian civil service. He was to be paid by the Board.

It was the duty of the Board to make its own bye-laws about the procedure to be followed in the meetings, etc.

It was provided that a duty of customs shall be levied on all coffee produced in India and exported from British India, at a fixed rate. The duty was made payable on all coffee released for sale by the Board from the surplus pool. All the proceeds were to be credited to the General Fund of the Board. The duty was to be paid by the registered owner of the estate producing the coffee.

It was made obligatory for every owner owning land planted with coffee, aggregating to 25 acres to register himself with the concerned Registering Officer. Registration once made was to remain in force till it was cancelled by the Registration Officer.

The central government got powers to fix the price of the coffee at which it could be sold in the Indian markets and no registered owner or licensed dealer could sell it beyond the maximum fixed price. Registered owner could sell only the maximum of the coffee fixed for sale through internal quota. No registered owner could sell uncured coffee and even the cured coffee could be sold through a licensed curing establishment. No coffee could be exported out of British India except under the authority of the Board. No coffee once exported could be re-imported in British India.

It was the responsibility of the Board to allot to each registered estate an internal sale quota for the year. Every registered owner was to send to the Board such returns, as might be required to be furnished. If the owner failed to do so, his internal quota could be cancelled. The Board could also authorise an officer to visit any estate, to ascertain its productive capacity. The coffee produced in excess of internal sale quota, by an estate, was to be delivered to the Board for inclusion in the surplus pool, at such place as the Board might decide, which shall thereafter was to remain in the charge of the Board. The Board was required to value the amount of surplus coffee, taking into consideration its quantity, kind and quality.

Every registered owner was to ensure that the coffee was cured with licensed curing establishment. He was also to inform the Board about the quantity of coffee sent for curing, showing separately the coffee meant

for internal sale and also meant for surplus pool. Similarly, every curing establishment was also to inform the Board about the quantity of coffee received from the registered owner. It was also to maintain accounts for open inspection of the Board.

The Board was required to maintain two separate funds, a general fund and a pool fund. In the former were to be credited all proceeds of duty of customs and duty of excise levied and other money was to be deposited in the pool fund. The general fund could be used to meet the expenses of the Board, etc.

Any owner who failed to apply for registration could be punished with fine and so was the case, if he sold coffee in contravention of any provision of the ordinance. Punishments were prescribed for unlicensed curing establishments and those who created any obstructions in the discharge of duties by the officers.

It was also provided that no court other than the Court of 1st Class Magistrate would take cognizance of any offence punishable under the ordinance. All acts of the Board were subject to the control of central government, which could also listen appeal against any decision of the Board.

Any member of the Board could enter any registered estate or any curing establishment and require production of records for his inspection. Similarly, a registered owner, under certain conditions, could inspect the records maintained by the Board. The central government, in consultation with the Board, could make rules for the purposes of this ordinance.¹⁴

According to the government after the outbreak of the war, the Indian coffee industry lost certain important foreign markets. There was, therefore, a great slump in the prices of coffee. A coffee control conference consisting of the interests affected was held in September, 1940 to consider the steps that could be taken to save the industry from collapse. After full consideration of the recommendations made at the conference, need for taking immediate steps was felt and hence the ordinance.¹⁵

Ordinance XIV of 1940 once again amended Indian Coinage Act III of 1906 changing the quantity of silver metal to be used in one rupee, half a rupee and quarter of rupee coin. It also provided that coins already in circulation would, however, continue to remain in circulation as legal tender.¹⁶

DURATION OF ORDINANCES

Before the passing of India Burma (Emergency Provisions) Act, 1940,

Table 3.2: Duration of ordinances promulgated during the year 1940

<i>Duration of ordinance</i>	<i>Ordinance No.(s)</i>
Less than a year	I
Between 1-2 years	XIII
Between 2-3 years	—
Between 3-4 years	—
Between 4-5 years	III, V, VI, VII, XI, XII, XIV
Between 5-6 years	—
Between 7-8 years	II, VIII
Between 17-18 years	IX, X
More than 20 years	IV

an ordinance was to be valid only for a maximum period of six months. It was after the passing of this Act that this clause dealing with validity period was omitted. After that the ordinance once promulgated remained and could remain in force for any number of years. Table 3.2 will give an idea about the duration of each ordinance.

Ordinance I remained in force for a period of 6 months and thereafter was allowed to expire, whereas Ordinance XIII was replaced by Act 7 of 1942. Ordinances III, V, VI, VII, XI, XII and XIV were replaced by Act 6 of 1942; Ordinances II and VIII were repealed by Act 2 of 1948; Ordinances IX and X by Act 36 of 1957 and Ordinance IV was allowed to remain in force for more than even 20 years.

As will be seen from Table 3.3, National Service (Technical Personnel) Ordinance II of 1940 had to be amended by Ordinance XI and Coinage Ordinance VI had to be twice amended with the help of Ordinances XII and XIV. No need was felt for amending the remaining ordinances during the course of the year. Though some ordinances touched altogether a new subject, the others effected already enacted legislation. Table 3.3 gives an idea about the effect of ordinances on enacted legislation.

PROMULGATION OF ORDINANCES AND CENTRAL LEGISLATIVE ASSEMBLY

During the year 1940, Central Legislative Assembly was convened twice. Eleventh Session of the Assembly began on 6-2-1940 and ended on 6-4-1940, i.e. the Assembly remained in session for 61 days. It, however

Table 3.3: Effect of Ordinances (1940) on already enacted legislation

Ordinance No.	Previously enacted legislation effected		Nature of ordinance
	Ordinance No.	Act No.	
I	—	VI of 1898	—
II	—	—	New
III	—	IV of 1930	—
IV	—	II of 1934	—
V	—	XVIII of 1940	—
VI	—	III of 1906	—
VII	—	VIII of 1938	—
VIII	—	—	New
IX	—	—	New
X	—	—	New
XI	II	—	—
XII	VI	III of 1906	—
XIII	—	—	New
XIV	VI	III of 1906	—

actually met for 37 days, out of which 31 days were devoted to official business whereas the remaining 6 days were earmarked for non-official work. Twelfth session of the Assembly began on 5-11-1940, i.e. after a gap of about 7 months and ended on 27-11-1940, lasting in all for 23 days. It however, actually met for 16 days. Out of this, 12 days were for the official and remaining 4 days were for non-official work. Ordinance I was promulgated on 30-3-1940 when the Assembly was already in session. The position in respect of other ordinance, i.e. how early before the meeting of the Assembly these were promulgated, is shown in Table 3.4.

Table 3.5 will show how soon after the adjournment of the Assembly, the ordinances were promulgated.

Table 3.4: Number of days between the meeting of the Assembly and promulgation of ordinance, 1940

<i>Session</i>	<i>Ordinance No.</i>	<i>Date of meeting of the Assembly</i>	<i>Date of promulgation of ordinance</i>	<i>Difference</i>		
				Months	Days	
11th	II	5-11-1940	29-6-1940	4	—	07
	III	"	2-7-1940	4	—	03
	IV	"	24-7-1940	3	—	13
	V	"	25-7-1940	3	—	12
	VI	"	26-7-1940	3	—	11
	VII	"	6-8-1940	3	—	00
	VIII	"	16-8-1940	2	—	20
	IX	"	26-8-1940	2	—	10
	X	"	30-8-1940	2	—	06
	XI	"	5-9-1940	2	—	00
	XII	"	11-10-1940	0	—	24

Table 3.5: Number of days between adjournment of the Assembly and promulgation of ordinances

<i>Session</i>	<i>Ordinance No.</i>	<i>Date of adjournment of the Assembly</i>	<i>Date of promulgation of ordinance</i>	<i>Difference</i>		
				Months	Days	
11th	II	6-4-1940	29-6-1940	2	—	23
	III	"	2-7-1940	2	—	26
	IV	"	24-7-1940	3	—	18
	V	"	25-7-1940	3	—	19
	VI	"	26-7-1940	3	—	20
	VII	"	6-8-1940	4	—	00
	VIII	"	16-8-1940	4	—	10
	IX	"	26-8-1940	4	—	20
	X	"	30-8-1940	4	—	25
	XI	"	5-9-1940	5	—	00
	XII	"	11-10-1940	6	—	05
	12th	XIII	27-11-1940	14-12-1940	0	—
XIV		"	23-12-1940	0	—	27

NOTES

1. Gazette of India Extraordinary, Part V, dated 30-3-1940, pp. 85-86.
2. *Ibid.*, Part IV, dated 29-6-1940, pp. 101-08.
3. *Ibid.*, dated 2-7-1940, pp. 291-92.
4. *Ibid.*, dated 24-7-1940, pp. 439-40.
5. *Ibid.*, dated 25-7-1940, pp. 441-48.
6. Bill No. 2 of 1940, dated 21-3-1940; Gazette of India Extraordinary, Part V, pp. 172-75.
7. Gazette of India Extraordinary, Part IV, dated 26-7-1940, pp. 453-54.
8. *Ibid.*, dated 6-8-1940, pp. 467-68.
9. Gazette of India Extraordinary, Part IV, dated 16-8-1940, pp. 491-92.
10. *Ibid.*, dated 26-8-1940, pp. 519-24.
11. *Ibid.*, dated 30-8-1940, pp. 531-32.
12. *Ibid.*, dated 5-9-1940, pp. 535-40.
13. *Ibid.*, dated 11-10-1940, pp. 621-22.
14. *Ibid.*, dated 14-12-1940, pp. 757-66.
15. Gazette of India Extraordinary, Part V, dated 11-2-1942, pp. 12-13; Bill No. 3 of 1942.
16. Gazette of India Extraordinary, Part IV, dated 23-12-1940, pp. 787-88.

WAR PROGRESSING YEAR ORDINANCES (1941)

The year 1941 did not bring either any change on the war front or brought the government anywhere near finding a solution to India's political problem. Some Indians, of course, extended their cooperation in making British war efforts a success but to deal with war situation recourse to ordinance was found to be the only way out for legislative purposes. During the course of the year, 13 ordinances were promulgated as detailed in Table 4.1.

Coffee Market Expansion ordinance had been promulgated in 1940 (XIII of 1940) and had to be amended thrice during the year (I, VIII and XIII): Civic Guards Ordinance (II of 1941) amended a similar ordinance promulgated in 1940 (VIII of 1940) and National Service (European British Subjects) Ordinance amended Ordinance V of 1940. Similarly, War Risks (Goods) Insurance (Amendment) Ordinance XII of the year amended Ordinance IX of 1940.

FOCUS OF THE ORDINANCES

Ordinance I dealt with coffee market expansion and provided that no registered owner shall sell coffee unless that had been cured or was delivered to the buyer through a licensed curing establishment. In the first ordinance (XIII of 1940) roasted and prepared coffee had not been included, but now that coffee was also covered under the ordinance. It was now provided that central government could exempt from operation of export provisions of the ordinance either absolutely or subject to certain conditions, the export of coffee from British India to an Indian state or to any foreign settlement bounded by India. The cost of storing, curing and marketing of coffee, which was proposed in the ordinance XIII of

Table 4.1: Ordinances promulgated during 1941

<i>Ordinance No.</i>	<i>Title of the ordinance</i>	<i>Date of promulgation</i>	<i>Source: Gazette of India Extraordinary; Page(s)</i>
I	Coffee Market Expansion (Amendment) Ordinance	4-2-1941	81-82
II	Civic Guards (Amendment) Ordinance	4-2-1941	83
III	Reserve Bank of India (Amendment) Ordinance	8-2-1941	113
IV	Air Raids Precautions Services Ordinance	10-5-1941	275-276
V	State Prisoners (Detention of Lunatics) Ordinance	26-6-1941	381
VI	National Service (European British Subjects) Amendment Ordinance	30-6-1941	389-391
VII	War Injuries Ordinance	25-7-1941	427-431
VIII	Coffee Market Expansion (Second Amendment) Ordinance	28-8-1941	539-541
IX	Indian Navy (Discipline) Amendment Ordinance	2-10-1941	635
X	Active Service Ordinance	6-12-1941	715-716
XI	Essential Service (Maintenance) Ordinance	20-12-1941	733-774
XII	War Risks (Goods) Insurance (Amendment) Ordinance	20-12-1941	735-738
XIII	Coffee Market Expansion (Third Amendment) Ordinance	22-12-1941	738-739

1940 was to be paid from the General Fund, was now to be met from the pool fund.¹

Ordinance II amended Ordinance VIII of 1940 and defined the jurisdictions of Presidency Town of Calcutta.²

Ordinance III amended Reserve Bank of India Act, 1934 by omitting proviso to sub-section 33 of the Act.³

With the help of Ordinance IV, the government got powers to constitute for an area a body to be called an Air Raid Precautions Service and also to appoint a person called the Controller to command such a body in such an area. The members of the service were to be responsible for protecting persons and property against hostile attacks. The number of persons to be appointed for this Guard was left to the care of the Provincial Government. Every person appointed to the Guard was to be given a certificate of membership. The Controller of the Guard could summarily dismiss a person if he failed to satisfactorily discharge his duties or was found guilty of misconduct or he was otherwise found undesirable. The Controller could call any person of the Guard for training at any time. Neither Controller nor member of the Guard could be called to account for anything done by him in the discharge of his duties. Failure on the part of the member of the Guard to obey commands was made an offence punishable with fine. The central government got powers to make rules about the organisation of the Guard.⁴

Ordinance V empowered competent authority to issue orders for receiving and detaining in asylum lunatic persons restrained under Regulation III of 1818.⁵

Ordinance VI empowered the Magistrate to decide whether a person, under the existing law, was liable or not to be called up for national service and his decision in this regard was to be treated as final. A person who was claimed not fit for national service was to be brought before the National Service Advisory Committee for examination on an appointed date. Whether a person was European British subject or not was to be decided on the basis of fact whether he was registered as such subject or not.⁶

The focus of Ordinance VII was to make provision for the grant of relief in respect of certain personal injuries sustained during the continuance of the hostilities. War service injury meant physical injury to the satisfaction of central government, for which the report was received from the Civil Service Defence Organisation of which the volunteer concerned was a member. The grant was to be made to those who sustained war injuries during the continuance of hostilities by gainfully occupied persons. The scheme of payment was to be finalised by the central government. Provision could also be made for the payment of temporary allowance to the injured persons when the injury was serious, had resulted in prolonged disablement or death. The purposes for which payment could be made included purchase of artificial limbs as well. For the purposes of deciding the amount of compensation to the injured person, the gov-

ernment could ask any person specified in the notice claiming compensation to produce any wage books, records or other documents in his possession containing entries with respect to his earnings. If any such person failed to produce documents or produced wrong documents, he could be punished with fine. Similarly, if any person claiming compensation produced wrong documents, he was to be punished with imprisonment. The payment made was not to pass on to any trustee or to other any person.⁷

Ordinance VIII amended Ordinance XIII of 1940 and provided that no owner of a coffee estate who was not registered with the government shall sell or store on his estate any coffee not grown on the estate. By the amended ordinance, the period of validity of the ordinance was extended from 31-8-1941 to 30-8-1942. Similarly, in the original ordinance, it had been provided that one who owned land planted with coffee plants aggregating not less than 25 acres was to get himself registered. Now this acreage was reduced from 25 acres to 10 acres. Now an estate owner could not store on his estate any coffee not grown on the estate. If any estate owner unlawfully sold coffee he could be fined and the amount of fine could be collected from the amount payable to him on account of sale of coffee. It was now clarified that those who obstructed the work of an authorised officer of the central government or refused to provide lawfully asked for information or records were offenders to be punished with fine or imprisonment. By this ordinance, the government got powers to enter not only registered coffee estate but any tea estate. The authorised officer could ask for any information relating to the production and storage of coffee by the estate.⁸

Ordinance IX, which dealt with Indian Navy Discipline, marginally amended Act XXXIV of 1934 on the same subject.⁹ With the help of Ordinance X, it was provided that all persons accompanying His Majesty's forces shall be deemed to be on active service, till the end of the hostilities and shall be governed by rules in force from time to time.

It was also provided that hereafter no punishment inflicted on such person shall be called in question on the ground that he was not on active service, if he was employed, or was a follower or accompanied any portion of His Majesty's forces.¹⁰

Ordinance XI dealt with Essential Services (Maintenance) in the country and its provisions were made applicable to all such types of employments under the crown as were considered essential for securing the Defence of India, the public safety, the maintenance of public order, or the efficient prosecution of war or for maintaining supplies and services

necessary to the life of community. The government got powers to direct any person in such employment not to depart from a particular area as may be specified in the order.

Any person so employed, if he disobeyed lawful order given to him or without any reasonable excuse abandoned such employment or absented himself from work or departed from area specified in the order without the consent of the authority making the order or the employer who discontinued the employment of such a person by closing his establishment was guilty of an offence. The central government got powers to make rules for the people employed in essential services and when finalised everyone who was employed in the service was obliged to obey that. The one who disobeyed any order or violated any provision could be sentenced with imprisonment for a period up to one year. The courts were ordinarily not to take cognizance of an offence under the ordinance and no suit or prosecution etc. was to lie against any person for anything done by him in good faith.¹¹

Ordinance XII amended Ordinance IX of 1940 and extended the types of goods to be brought under the War Risks (Goods) Insurance Scheme already in operation and empowered a competent officer to enter business premises of any firm. By this, the following items were covered under the category of war risks:

- (1) measures taken for checking damages occurring as a direct result of enemy action, etc.
- (2) precautionary or preparatory measures taken with a view to preventing or hindering the carrying out of any attack by an enemy being measures involving a substantial degree of risk to property.
- (3) steps taken in any way in anticipation of enemy action.

By this term, ownership was more specifically defined to provide that it meant any person carrying on business in British India, who was entitled to sell goods either by himself or by his authorised agent.

The War Risks (Goods) Insurance Scheme was now extended to persons in respect of goods insurable which were not owned by him but in which he had an interest arising in the course of that business. The government could extend scheme to goods situated in British India which were in the possession of such person otherwise than under hire purchase agreement for the purposes of that business.

The authorised officer was now empowered to enter any premises occupied by any person carrying on such business in British India and

inspect the premises and require any person found therein to allow him to examine accounts, books or other documents which related to business carried out in the premises. He could also ask for necessary information required by him. An offence punishable after the institution of prosecution could be compounded on payment for credit to the War Risks (Goods) Insurance Fund of such sum as the central government thought necessary.¹² Some of these amendments were carried out by the Government of India with notifications.¹³

With the help of Ordinance XIII, Coffee Market Expansion Ordinance was amended for the third time and it was clarified that once coffee was delivered in surplus pool, the owner was to have no other right except that of receiving payment for the surplus coffee. In the amended ordinance, it was provided that Chairman of the Indian Coffee Cess Committee shall be only the first Chairman of the Board and that on the occurrence of his vacancy due to resignation etc., the members of the Board were to elect their own Chairman from amongst the members. The Coffee Board was now empowered to borrow on the security of coffee delivered for inclusion in the surplus pool for the purposes of expansion of activities.¹⁴

After promulgation of ordinance, in February 1942 a bill was brought before the Assembly to continue control over coffee by legislation.¹⁵ It was said in the replacing bill that a second coffee control conference of the coffee interests was convened on the 20th October, 1941. The conference recognised that the control scheme has been greatly beneficial to the coffee industry in its present crisis and unanimously made the following recommendations:

- (1) that the control scheme as generally embodied in the ordinance should be continued by legislation and that its duration be for the period of war and one coffee crop year thereafter; and
- (2) that the control should be limited to estates with area of 10 acres or more but provision should be made whereby control may be extended, if necessary, over estates with areas below 10 acres.

These recommendations were endorsed by the Standing Advisory Committee of the Legislature attached to the Commerce Department.

In view of the general agreement of all interests for the maintenance of the coffee control scheme, it was proposed to continue control by legislation and the present Bill was designed to achieve this object.

Another Bill on the same subject was brought in the Central Assembly

in 1943 which suggested some changes and claimed to give effect to the recommendations of Indian Coffee Market Expansion Board.¹⁶ The proposed Bill said that under the existing provisions of the Coffee Market Expansion Act, 1942, the Indian Coffee Expansion Board has to allot to each registered estate a certain percentage of the total estimated crop as its internal sale quota, the balance of the crop being set apart for delivery to the surplus food controlled by the Board. The arrangement has not been found to bestow on the growers the fullest benefit of the ruling prices in the internal market. The third coffee control conference consisting of the representatives of the various sections of the coffee industry and of the Indian Coffee Market Expansion Board recommended that in the general interests of the producers, the Board should be empowered, subject to the previous sanction of the central government, not to allot internal sale quota in any year, i.e. to take into the surplus pool the entire crop of registered estates, in order that the crop may be uniformly controlled by the Board throughout the year and the full benefit of prices reaches all registered estates. The conference also recommended several other amendments to the Coffee Market Expansion Act which have been found necessary on administrative grounds, as a result of further experience gained of the working of the coffee control scheme.

The recommendations of the conference have been found to be in the interest of the coffee industry as a whole and the Bill was designed to give effect to them.

DURATION OF ORDINANCES

There was no limit on the period of validity of an ordinance once promulgated, these remained in force for years together, as shown in Table 4.2.

Ordinances I, VIII and XIII were repealed by Act 7 of 1942; Ordinances II, III, VI, IX and XII by Act 6 of 1945 whereas Ordinance IV was repealed by Ordinance I of 1946. Ordinance XI was replaced by Ordinance V of 1957 and X by Act 46 of 1950. Ordinance V was repealed by Act 36 of 1957 after a lapse of about 16 years whereas Ordinance VII continued for more than 10 years.

EFFECT OF ORDINANCES ON ALREADY ENACTED LEGISLATION

Though some of the ordinances dealt with a subject which was new and

Table 4.2: Duration of ordinances promulgated during 1941

<i>Duration of ordinance</i>	<i>Ordinance No.(s)</i>
Less than one year	VIII
Between 1-2 years	I
Between 2-3 Years	XIII
Between 3-4 Years	VI, IX, XII
Between 4-5 years	II, III, IV
Between 5-6 years	—
Between 6-7 years	—
Between 7-8 years	XI
Between 8-9 years	X
Between 9-10 years	—
Above 10 years	V, VII

on that no previous legislation had been made or any Act enacted, yet there were some other ordinances which effected already enacted Act(s) or promulgated ordinances as is shown in Table 4.3.

CENTRAL LEGISLATIVE ASSEMBLY AND PROMULGATION OF ORDINANCE, 1941

During the year 1941, Central Assembly met twice. It met first (Thirteenth session) from 11-2-1941 to 1-4-1941, i.e. for a period of 50 days. The sessions were actually held for 34 days, out of which 28 days were for official business, whereas remaining 6 days were earmarked for private members work. The Central Assembly was again called in session on 27-10-1941 and remained in session till 18-11-1941 (Fourteenth session), i.e. for a total of 23 days. Out of this, the House actually met for 14 days. Ten days were for government business whereas remaining 4 days were for non-official business. Table 4.4 shows how many ordinances were promulgated when the Assembly was going to be convened into session.

Ordinances I-III were promulgated when the Assembly was going to meet just within a week which is indicative of the fact that the Government had no regard for the Assembly. Afterwards the gap of many months occurred between promulgation of ordinance and meeting of the

Table 4.3: Effect of ordinances on already enacted legislation

<i>Ordinance No.</i>	<i>Previously enacted legislation effected</i>		<i>Nature of ordinance</i>
	<i>Ordinance No.</i>	<i>Act No.</i>	
I	XIII of 1940	—	—
II	VIII of 1940	—	—
III	—	II of 1934	—
IV	—	—	New
V	V of 1940	Regulation III of 1818	—
VI	—	XVIII of 1940	—
VII	—	—	New
VIII	XIII of 1940	—	—
IX	—	XXXIV of 1934	—
X	—	—	New
XI	—	—	New
XII	IX of 1940	—	—
XIII	XIII of 1940	—	—

Assembly because the Assembly met after about 8 months.

Table 4.5 gives an idea about the number of days after the adjournment of the Assembly and promulgation of ordinances.

Table 4.4: Gap between promulgation of ordinances and meeting of the Assembly

<i>Session</i>	<i>Ordinance No.</i>	<i>Date of meeting of the Assembly</i>	<i>Date of promulgation of ordinance</i>	<i>Difference</i>		
				Months	Days	
13th	I	11-2-1941	4-2-1941	0	—	07
	II	"	"	0	—	07
	III	"	8-2-1941	0	—	03
14th	IV	27-10-1941	10-5-1941	5	—	17
	V	"	26-6-1941	4	—	01
	VI	"	30-6-1941	3	—	26
	VII	"	25-7-1941	3	—	02
	VIII	"	28-8-1941	1	—	29
	IX	"	2-10-1941	0	—	25

Table 4.5: Gap between adjournment of the Assembly and promulgation of ordinances

<i>Session</i>	<i>Ordinance No.</i>	<i>Date of adjournment of the Assembly</i>	<i>Date of promulgation of ordinance</i>	<i>Difference</i>		
				Months	Days	
13th	IV	1-4-1941	10-5-1941	1	—	10
	V	"	26-6-1941	2	—	26
	VI	"	30-6-1941	3	—	00
	VII	"	25-7-1941	3	—	24
	VIII	"	28-8-1941	4	—	27
	IX	"	2-10-1941	6	—	01
	X	18-11-1941	6-12-1941	0	—	19
	XI	"	20-12-1941	1	—	03
	XII	"	"	1	—	03
	XIII	"	22-12-1941	1	—	05

NOTES

1. Gazette of India Extraordinary, Part IV, dated 4-2-1941, pp. 81-82.
2. *Ibid.*, dated 4-2-1941, p. 83.
3. *Ibid.*, dated 8-2-1941, p. 113.
4. *Ibid.*, dated 10-5-1941, pp. 275-76.
5. *Ibid.*, dated 26-6-1941, p. 381.
6. *Ibid.*, dated 30-6-1941, pp. 389-91.
7. *Ibid.*, dated 25-7-1941, pp. 427-31.
8. *Ibid.*, dated 28-8-1941, pp. 539-41.
9. *Ibid.*, dated 2-10-1941, p. 635.
10. *Ibid.*, dated 6-12-1941, pp. 715-16.
11. *Ibid.*, dated 20-12-1941, pp. 733-34.
12. *Ibid.*, dated 20-12-1941, pp. 735-38.
13. Ministry of Commerce, Government of India, Notification No. 9 W.R.I. (F) 42; No. 10 W.R.I. (F) 42 and No. 11 W.R.I. (F) 42 dated 13-5-1942.
14. Gazette of India Extraordinary, Part IV, dated 22-12-1941, pp. 738-39.
15. Gazette of India Extraordinary, Part IV, Bill No. 3 of 1942, pp. 4-13.
16. Gazette of India Extraordinary, Part V, Bill No. 11 of 1943, dated 25-2-1943.

PEAK WAR AND QUIT INDIA MOVEMENT YEAR ORDINANCES

ORDINANCES OF THE YEAR

In the history of India, the year 1942 occupies a very important place. The war had progressed to the disadvantage of British government not only in India but all over the world. In the country, foreign government had not been in a position to find a solution to the constitutional deadlock and the vast majority of Indian population had joined Quit India Movement, which had resulted in violence at several places as well. The aims of British government at this critical time were: (a) to win the war; (b) to use available Indian manual and material resources for winning the war; and (c) to maintain law and order in India. Obviously, the government was bound to take stern measures without caring either for the sentiments of the people or their demands and aspirations. These became just secondary things. Whereas the eye of the government always was on the movements which were being launched in several parts of the country, the objective was to crush these with a stern hand and to leave beyond any shadow of doubt in the minds of the people of India an impression about the capability of British government in India to deal with any and every situation successfully even under difficult war days. The ordinances were the powerful weapons which could be used and this weapon was in fact used to deal with every ticklish situation as and when that arose. There was, it appears, no hesitation in promulgating an ordinance. As the tempo of the war increased with that, the number of ordinances promulgated by the Governor General also went on increasing. Whereas in 1939 only 9 ordinances were promulgated, their number in 1940 was 14 and in 1941 it was 13, but it was all time high in 1942 when it reached 68, as detailed in Table 5.1.

Table 5.1: Ordinances promulgated during the year 1942 by the Governor General of India

<i>Ordinance No.</i>	<i>Title of the ordinance</i>	<i>Date of promulgation</i>	<i>Source: Gazette of India Extraordinary; Page(s)</i>
(1)	(2)	(3)	(4)
I	War Injuries (Amendment) Ordinance	1-1-1942	33-34
II	Special Criminal Courts Ordinance	2-1-1942	55-61
III	Penalties (Enhancement) Ordinance	2-1-1942	62-63
IV	Indian Coinage(Amendment) Ordinance	24-1-1942	147-48
V	Motor Vehicles (Drivers) Ordinance	27-1-1942	151-53
VI	National Service (Technical Personnel) Amendment Ordinance	29-1-1942	157-64
VII	Penalties (Enhancement) Amendment Ordinance	29-1-1942	165
VIII	Cotton Fund Ordinance	29-1-1942	166
IX	Reserve Bank of India (Temporary) Amendment Ordinance	9-2-1942	181
X	Civil Pioneer Force Ordinance	7-3-1942	305-11
XI	Police (Registration of Office) Ordinance	7-4-1942	397-98
XII	War Risks (Factories) Insurance Ordinance	8-4-1942	401-07
XIII	Women's Auxiliary Corps Ordinance	9-4-1942	409-10
XIV	War Risks(Goods) Insurance (Amendment) Ordinance	11-4-1942	411-12
XV	Prisoner's Amendment	21-4-1942	461-62

Table 5.1 (contd.)

(1)	(2)	(3)	(4)
	Ordinance		
XVI	Registration of Foreigner's Act (Extending) Ordinance	21-4-1942	462
XVII	United Provinces Special Armed Constabulary Ordinance	21-4-1942	462
XVIII	Indian Army (Amendment) Ordinance	5-5-1942	487
XIV	War Risks (Goods) Insurance (Second) Amendment Ordinance	13-5-1942	499-500
XX	Collective Fines Ordinance	13-5-1942	500-01
XXI	Railway Air Raid Precautions Services Ordinance	16-5-1942	505-07
XXII	Deputy Commander-in-Chief (Power) Ordinance	22-5-1942	603
XXIII	Defence of India (Amendment) Ordinance	22-5-1942	604-06
XXIV	Special Criminals Courts (Amendment) Ordinance	22-5-1942	606
XXV	Coal Mines Safety (Amendment) Ordinance	22-5-1942	607
XXVI	Essential Services (Maintenance) Amendment Ordinance	28-5-1942	709-10
XXVII	Auxiliary Force (Amendment) Ordinance	30-5-1942	717-19
XXVIII	Burma Notes Ordinance	6-6-1942	727
XXIX	Penalties (Enhancement) Ordinance	10-6-1942	731-32
XXX	Hellenic Naval Ordinance	10-6-1942	732-33
XXXI	Indian Army Act (Application) Ordinance	20-6-1942	775
XXXII	War Risks (Factories) Insurance Ordinance	1-7-1942	791-93
XXXIII	Civil Services (Conditions of Service) Ordinance	9-7-1942	803-04
XXXIV	Hellenic Naval Courts (Extension) Ordinance	21-7-1942	821

Table 5.1 (contd.)

(1)	(2)	(3)	(4)
XXXV	Crown Representative's Commission of Enquiry (Summons) Ordinance	24-7-1942	893-94
XXXVI	War Risks (Goods) Insurance (Third Amendment) Ordinance	28-7-1942	899-900
XXXVII	Women's Auxiliary Corps (Amendment) Ordinance	28-7-1942	901
XXXVIII	Essential Services (Maintenance) Second Amendment Ordinance	28-7-1942	901-02
XXXIX	War Injuries (Second) Amend- ment Ordinance	8-8-1942	919
XL	War Risks (Factories) Insurance (Second Amendment) Ordinance	8-8-1942	920
XLI	Armed Forces (Special Powers) Ordinance	15-8-1942	935-36
XLII	Special Criminal Courts (Second Amendment) Ordinance	19-8-1942	941
XLIII	Collective Fines	19-8-1942	942
XLIV	Reserve Bank of India (Rangoon Register) Ordinance	21-8-1942	943-44
XLV	Railways (Hours of Employment) Ordinance	21-8-1942	944
XLVI	Penalties (Enhancement) Third (Amendment) Ordinance	26-8-1942	951-52
XLVII	Indian Tea Control (Amendment) Ordinance	1-9-1942	963-64
XLVIII	Defence of India (Second Amendment) Ordinance	5-9-1942	973-74
XLIX	Collective Fines (Second Amendment) Ordinance	12-9-1942	977-78
L	Indian Navy (Discipline) Amendment Ordinance	3-10-1942	1011
LI	National Service (Technical Personnel) Second Amendment Ordinance	3-10-1942	1011-12
LII	Indian Press (Emergency	8-10-1942	1019

Table 5.1 (contd.)

(1)	(2)	(3)	(4)
	Powers Amendment Ordinance		
LIII	Railways (Employment) of Military Personnel Ordinance	8-10-1942	1019-20
LIV	Registration of Transferred Companies Ordinance	9-10-1942	1020-21
LV	Women Auxiliary Corps (Second Amendment) Ordinance	17-10-1942	1097
LVI	Allied Forces Ordinance	26-10-1942	1114-19
LVII	Allied Forces (United States of America) Ordinance	26-10-1942	1120-21
LVIII	Army and Air Force Enrolment Ordinance	26-10-1942	1122-23
LIX	Legal Tenders (Inscribed Notes) Ordinance	31-10-1942	1131-32
LX	Income Tax and Excess Profits Tax (Emergency) Ordinance	14-11-1942	1147-48
LXI	Special Criminal Courts (Third Amendment) Ordinance	21-11-1942	1155-56
LXII	Indian Legislature (Prevention of Disqualification) Ordinance	28-11-1942	1173
LXIII	Collective Fires (Third Amendment) Ordinance	5-12-1942	1177
LXIV	Indian Soldiers (Litigation) Amendment Ordinance	12-12-1942	1181-83
LXV	Civil Pioneer Force (Amendment) Ordinance	22-12-1942	1203-04
LXVI	Armed Forces (Special Powers) Extension Ordinance	24-12-1942	1205-06
LXVII	Bengal and North Western and Ronilkhand and Kumaon Rail- way Companies (Transferred Liabilities) Ordinance	29-12-1942	1209-10
LXVIII	The Commissioner of Ajmer Merawara (Construction of Reference) Ordinance	31-12-1942	1211-12

NEED FOR PROMULGATION OF THE ORDINANCES

As will be seen from the foregoing table that during the year as many as 68 ordinances were promulgated—the highest number of ordinances issued between 1939 to 1947. Each ordinance either widened the scope of the operation of an Act already in force or made the provisions of the existing Act very strict. Deterrent punishments were provided for violating any provision of the ordinance or its wilful disobedience or avoidance. New measures enforced with the help of new ordinances were too sweeping in all respects. The officers of the government were given extraordinary wide powers to punish even for minor offences. In very many cases, clear provisions were made in the ordinance itself that the appeals could not be taken to a court of law against a decision of an officer of the government. The powers of the courts were reduced whereas those of the public servants in civil administration and of the military officers in the armed forces, very considerably increased. Thus, the services and the bureaucracy gained at the cost of the judiciary.

Such were the characteristics or features of the ordinances promulgated during the year 1942. One main reason for providing harsh punishments and giving unusual wide powers both to the public servants and the military officers was that the Second World War was at its peak and progressing to the disadvantage of the British government everywhere. In India, the colonial power was in a very odd and difficult position and the situation, as already said, was day by day worsening because of the Quit India Movement which had become sufficiently a mass movement in India. British imperial power in India was not prepared to take even the least risk or allow a little let up in the situation under any circumstances. It, therefore, wanted to equip itself with maximum powers to deal with any or every unexpected situation which might arise at any moment, and might be created either from foreign aggression or due to internal disturbances.

Obviously, an alien government struggling for its very survival as a colonial and imperialist power, facing serious threat to its empire by a powerful enemy could not think of legislating on any social, economic or cultural measure with the help of an ordinance. No ordinance, therefore, dealt with any measure aiming at the betterment of social, economic or cultural life of the people of India.

During the year, the situation on the war front rapidly went on changing and even the ordinances lagged much behind. The lacunae in the ordinances once promulgated came to light so swiftly that in the same year the government felt the need of coming out with another ordinance on the subject to cover the gap. On 1-1-1942, the government promulgated

an ordinance dealing with war injuries¹ but another ordinance on the same subject had to be promulgated on 8-8-1942.² Similarly, an ordinance providing for the setting up of Special Criminal Courts was promulgated on 2-1-1942³ but during the same year three more ordinances on the same subject had to be promulgated. These being one each promulgated on 22-5-1942,⁴ on 19-8-1942⁵ and ordinance No. LXI of 1942 promulgated on 21-11-1942.

The government decided to impose enhanced penalties in certain circumstances for punishing certain offences. For this, an ordinance was promulgated on 2-1-1942.⁶ Again three more ordinances had to be promulgated on the same subject in the same year. An ordinance on the same subject had to be promulgated just within days of the promulgation of the first ordinance, i.e. on 29-1-1942.⁷ On 10-6-1942 still another ordinance on the same subject was promulgated.⁸ On 26-8-1942, need for the promulgation of still another ordinance on the same subject was felt.⁹

National Service (Technical Personnel) Ordinance was promulgated on 29-1-1942¹⁰ but on 3-10-1942 still another ordinance on the subject, as second amendment ordinance had to be promulgated.¹¹

As many as four ordinances dealing with Auxiliary Corps had to be promulgated in 1942. The first ordinance creating Women Auxiliary Corps was promulgated on 9-4-1942,¹² whereas amendment ordinance had to be promulgated on 28-9-1942.¹³ The second amendment ordinance of the year was promulgated on 17-10-1942.¹⁴ Auxiliary Force Act 1920 was amended with the help of an ordinance on the subject.¹⁵

It was during this year that the system of collective fines was introduced for some areas. It was introduced and enforced with the help of an ordinance, but again during the course of the year as many as four ordinances were promulgated. The first ordinance on the subject was promulgated on 13-5-1942.¹⁶ First amending ordinance was promulgated on 19-8-1942.¹⁷ In less than a month's time, second amendment ordinance on the same subject was promulgated on 12-9-1942,¹⁸ whereas on 5-12-1942, third amendment ordinance was promulgated.¹⁹

During war days, there is nothing safe, let alone the individuals even property, goods and factories, everything is exposed to danger. During the year, when war was at its peak this danger still more increased. The government of the day at that time promulgated several ordinances providing for the insurance of goods, factories and property against enemy attack. An ordinance was promulgated on 8-4-1942 providing for the insurance of certain properties against war risk,²⁰ whereas three ordinances were promulgated which dealt with War Risks (Goods) Insurance.

First ordinance of the year on the subject was promulgated on 11-4-1942²¹ whereas on 13-5-1942²² another ordinance on the subject was promulgated. On 28-7-1942, third amendment ordinance on the subject had to be promulgated.²³ Two ordinances were promulgated to deal with War Risks (Factories) Insurance Ordinance. First such ordinance was promulgated on 1-7-1942,²⁴ whereas second amendment ordinance was promulgated on 8-8-1942.²⁵

Defence of India Act, 1939 had to be twice amended with the help of two ordinances promulgated during the year. First such ordinance was promulgated on 22-5-1942,²⁶ whereas the second amendment ordinance was promulgated on 5-9-1942.²⁷

Need and necessity of maintaining essential services both during war and peace days cannot be underestimated. During the year, two ordinances were promulgated to deal with the subject. First ordinance on the subject was promulgated on 28-5-1942,²⁸ whereas the second one was promulgated on 28-7-1942.²⁹

During the year, some ordinances were promulgated which did not touch any other previously legislated Act, i.e. an Act in force, and as such these touched a subject matter which was altogether new. There were, however, other ordinances which touched some already enacted Act or ordinance, which is shown separately.

FOCUS OF THE ORDINANCES

In this section, an attempt is being made to bring out the focus of each ordinance. This attempt could possibly be made by two ways: one way could be to group the ordinances of similar nature promulgated on the same subject during the course of the year and discuss these at one place. The other way being to discuss each ordinance seriatim. I have opted for the latter. Firstly, because the idea about group ordinances promulgated has been already given to some extent; and secondly, because the discussion of each ordinance seriatim is likely to make the discussion somewhat less confusing and more easily understandable. This exercise is being made with a view to knowing what is basically contained in each ordinance both for further discussions and referencing.

Ordinance I of 1942 made it obligatory on each dispensary or hospital to provide treatment to persons who sustained war injuries and keep a record of each person treated by it. It was now provided that in the case of war injuries, payments could be made for medical and surgical treat-

ment as well. It was also provided that if any dispensary or hospital failed to keep a record of the treatment given to a war injured person he could be punished with fine up to Rs. 1,000.³⁰

Ordinance II of 1942 provided for setting up special criminal courts which included courts of special judges, special magistrates and summary courts, which were to try such offences as government in writing may direct these to try.

The ordinance empowered the provincial government to appoint a special judge for any particular area, who would be competent to try such offences, as the provincial government might direct. He could also take cognisance of an offence without the accused having been committed to his court for trial. He was to record only substance of the evidence of the witness examined. If a special judge convicted a person to death sentence, it was obligatory to send the proceedings for review by a person to be nominated by the provincial government, who was to be chosen from the judges of the High Court, and the decision of such person was to be treated as final.

The ordinance also provided for the appointment of special magistrates, who could be 1st Class Magistrate, who could try such cases who under I.P.C. did not provide for death penalty. The procedure for trial of offences was to be the same, as was followed by a special judge. A special magistrate could not pass death sentence, or transportation or imprisonment for a term exceeding seven years and if he felt that award of such a punishment was needed he could refer the case to a special judge of his area and if there was no such judge for his area, the matter was to be referred to the High Court.

The provincial government could also provide for summary trials in such cases as might be referred to it by the District Magistrate. Such a court was not required to record more than a memorandum of the evidence or frame a formal charge. It could pass any sentence which could be passed by a 1st Class Magistrate. The appeal against its decision laid with Special Magistrate or Presidency Magistrate. It could also refer cases for trial to Special Magistrate.

The Special Court could exclude the public and also prescribe special rules of procedure. Ordinarily, there was to be no appeal against any order or sentence of the court constituted under the Act.³¹

The focus of Ordinance III was to enhance, in certain circumstances, the penalties provided for the punishment of certain offences like the committing of theft in the premises damaged by war operations or vacated by reasons of attack by the enemy or similar other reason. Such

a punishment was fixed by imprisonment up to 10 years. He could also be punished with death or whipping.³² By a subsequent notification, the government made it clear that the powers vested in the central government in this regard were to be exercised by the provincial government as well.³³

Ordinance IV of 1942 amended Indian Coinage Act 1906 to provide for the minting of coins other than silver coins and mixing of metals in those coins.³⁴ It was now provided that the standard weight of two anna, one anna and half anna pieces coined were to be ninety, sixty and forty five respectively.³⁵

In Ordinance V of the year, a provision was made empowering provincial governments to prepare a register for including the names of the persons living within the province who were capable of driving motor vehicle and also that they could be called for duty any time. A separate list was to be prepared of those drivers who were capable or not of driving commercial vehicles. The person concerned whose name was entered in the list was to be informed and asked to furnish information about his qualifications as driver. He could be called to service any time at any place in the province and drive a motor vehicle of which he was capable of driving. It was obligatory for a registered person not to leave the place or province without first informing the licensing authority. If a registered person failed to report or make false statement he could be punished with fine. The one who obstructed such a person could be imprisoned.³⁶

With the help of Ordinance VI, the definition of the term 'Technical Personnel' was made more broad based to cover more people having qualifications and expertise in as many as 90 trades. The ordinance was earlier made applicable to Indian British subjects but now it was made applicable to all British subjects. Now all those persons who were undergoing technical training were also covered under the scheme. The term 'Industrial undertaking' was defined to include a concern engaged in the manufacture or production of any commodity needed in war material, supply of light, water or power, maintenance of any form of mechanised form of transport or a concern which was engaged in installing equipments or erecting certain type of premises. The scope of the ordinance was now also extended to Asiatic immigrants from any Asiatic territory outside India. Earlier only a notified factory could apply for technical personnel but now this eligibility was given to training establishments and departments under the crown.

Every notified factory could be compelled to frame service conditions

of technical personnel, as the government might decide. Now an Inspector could summon an owner of an industrial undertaking, whereas earlier this power was vested in the member of the Tribunal. The Tribunal could direct technical personnel to undertake employment in the national service, not only in the notified factory, but also in a training establishment and they could also be transferred from one place to the other.

If a technical person included in the scheme was willing to undertake employment in His Majesty's forces and the government was willing to have him there, the employer was under obligation to release him.³⁷

Ordinance VII amended Ordinance III of the year and provided for enhanced penalties for certain offences.³⁸ The theme of Ordinance VIII was to establish a fund for financing measures for the benefit of cotton growers by levying additional duty on raw cotton imported into any part in British India.³⁹ Ordinance IX amended R.B.I. Act 1934 and touched Burma.⁴⁰ The focus of Ordinance X was on constituting Civil Pioneer Force for Service in British India which would help in securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war or for maintaining supplies and services essential to the life of community by way of carrying out constructional work, loading and unloading of transport vehicle, etc.

It was also responsible for demolishing and constructing buildings and clearing debris, to do work in the factories, workshops and shipyards and also perform such other functions as the government may require it to do. A Unit of the Force could be posted in any part of the province. The Force was to have commandants, captains, lieutenants, second lieutenants, Administrative officers (all Commissioned officers) and havaldars and Naiks (non-commissioned officers). The commissioned officers were ordinarily to be appointed by the central government. Any person who had attained 18 years of age could become a member of the force for a particular unit, but he could be transferred to any other unit.

A person so appointed was to continue to serve till he was discharged by the competent authority. He was to be discharged after he had attained 50 years of age but it could dismiss him at any time.

An enrolled person could be imprisoned up to 14 years if he (a) joined any mutiny or excited or conspired against the government; (b) did not suppress a mutiny in which he was present; and (c) did not provide information which he had about a mutiny, etc. For minor offences, he could be imprisoned for a period up to one year. A charge against an enrolled person could also be held without trial, in summary court, if the person was a commissioned officer. Provision was also made for deductions from

pay for certain offences.⁴¹

Ordinance XI took away the rights enjoyed by certain members of the police force in British India to resign their offices on giving notice of their intention to resign.⁴² The focus point of Ordinance XII was to provide for insurance of certain property in British India against war risks, particularly certain types of factories. The insurance of such factories was made obligatory for the employers with the government appointed agents. Provision was made for starting War Risks (Factories) Insurance Scheme, under which the central government decided to undertake in relation to factories the liability of insuring against war risks property which appertained to a factory. Under the scheme, such property was covered in which a person in British India had an interest. The government was to undertake liability which was not to extend more than 80% of the value of insurable property and remaining 20% was first to be borne by the insurer, who was to pay premium of amount which was to be fixed by the central government. It could also appoint even a firm as its agent. It was compulsory for every factory to take out a policy of insurance for all insurable property for a sum not less than the insurable value of such property. No unauthorised person was to carry the business of insuring factories against war risks in respect of insurable property mentioned in the ordinance. One who violated this rule was to be punished with a fine up to Rs.5,000.

The scheme also provided for constituting War Risks (Factories) Insurance Fund into which all premiums were to be deposited and out of which all liabilities were to be discharged.

Any authorised person could ask the owner of a factory to show him account books and provide him all necessary information to ensure himself whether the insurable property had or had not been properly insured. Those who either obstructed or provided him wrong information were to be punished. If the central government desired the owner to remove his factory or property to some other place, for that it was to defray the removal expenses.⁴³

Ordinance XIII provided for the creation of a Women's Auxiliary Corps for Service in India as part of His Majesty's Military Forces in which those women could be enrolled who had attained 18 years of age. In the proposed corps, provision was made both for officers and enrolled persons, the former were to be appointed by the central government. Every enrolled person was to serve till she was discharged by the competent authority but she could be dismissed. She was also duty bound to undergo trainings which might be arranged from time to time. The Army Act,

as was applied to men, was to be applied to women as well.⁴⁴

Ordinance XIV of 1942 amended Ordinance IX of 1940 which dealt with War Risks (Goods) Insurance by which the goods insured in British India were not only covered but those lying in Port of Cochin were also covered.⁴⁵ Ordinance XV temporarily amended Prisoners Act of 1900⁴⁶ whereas Ordinance XVI made the Registration of Foreigners Act 1939 applicable to every person who was at the time of his birth a subject of any state in Europe excluding His Majesty's dominions in Europe.⁴⁷ The aim of Ordinance XVII was to apply the provisions of the United Provinces Special Armed Constabulary Act, 1942 to the members of the U.P. Special Armed Constabulary, while serving even outside the United Provinces.⁴⁸ Ordinance XVIII amended Indian Army Act 1911 to provide for summary trials.⁴⁹

War Risks (Goods) Insurance Ordinance, 1940 was second time amended by Ordinance XIX of 1942. It covered under insurance scheme certain categories of goods likely to be shipped out of India and liability of some undertakings by the central government in relation to a provincial government in certain special cases.⁵⁰ Ordinance XX provided for imposition of collective fines on an area where the people were alleged to have prejudicially affected the Defence of British India or the efficient prosecution of war. Such offences also included harbouring persons concerned in the commission of offences which prejudicially affected British India or were failing to render all assistance in their power to discover or apprehend an offender etc. The provincial government could exempt any section of inhabitants from the liability of paying the fine. For the purposes of the ordinance, an inhabitant was one who owned immovable property in the area.⁵¹

Ordinance XXI aimed at constituting Air Raid Precaution Services for railways in which it was made obligatory for every member of the service to protect railway property against hostile attack. Railway Disciplinary Rules were now to apply to these personnel as well. The newly constituted body was to be commanded by a Controller. The outsiders could also join the service. If a railway employee joined such a service, he was to be relieved from his normal duties. The Controller could direct any person of the service to undergo training. If anyone contravened any provision of the ordinance, he could be punished with imprisonment for a period up to one year.⁵²

With the help of Ordinance XXII, Deputy Commander-in-Chief of Armed Forces was entitled to exercise any powers and functions vested in the Commander-in-chief of the Armed Forces in India.⁵³ Ordinance

XXIII amended Defence of India Act. It provided that when any member of the military or police force of an Indian State was employed in British India on police or military duties, then any provision of law for the time being in force, which gave protection to the members of His Majesty's military or police force in India, shall also apply to the members of an Indian state military force/police force as well. Some of the offences were made cognizable and non-bailable.⁵⁴

Ordinance XXIV amended Special Criminal Courts Ordinance II of 1942 and denied bail to a person sentenced by the Special Criminal Court for a non-bailable offence. It was also provided that no person who had been sentenced by a special court to a term of imprisonment for any offence whether bailable or non-bailable was to be released on bail pending any appeal by him.⁵⁵

With the promulgation of Ordinance XXV, Coal Mines Safety (Stowing) Act 1939 was marginally amended⁵⁶ whereas Ordinance XXVI amended Ordinance XI of 1941 dealing with Essential Services (Maintenance) Ordinance. It provided that if a person left the job without having been properly released by his employer, he would be treated to have abandoned his job and punished accordingly. Offences mentioned in the ordinance were now made cognizable and for making rules and regulations about service conditions of the people serving in essential services, consent of the central government was always needed. It was also provided that one could not leave job on the plea that by continuing in his employment he would be exposed to increased physical danger or that his contract implied that he could terminate his employment by giving notice and without prior consent of the employer.⁵⁷

Ordinance XXVII amended Auxiliary Force Act, 1940 and provided for the enrolment of persons who had attained 17 instead of 18 years of age. It was now made obligatory for every employer to take back in employment a person who was drafted from his establishment for military service under the provision of this Ordinance. It was also provided that a person once enrolled in the Force shall be liable to perform military duties irrespective of his earlier service conditions. It was also made clear that the employer would take back his previous employee in the service on terms not less favourable to him had he continued in employment and his service not interrupted because of his being called in military service. If any employer failed to reinstate his ex-employee, either party could refer the matter to National Service (European British Subjects) Tribunal. If the employer failed to comply with the decision of the Tribunal, he could be punished with fine. No compensation was to

be paid or employment provided if the employee did not apply to the employer within two months from the termination of the military service he was required to perform.⁵⁸

Burma currency notes were invalidated for payment after a particular date specified in the ordinance with the promulgation of Ordinance XXVIII of 1942.⁵⁹ An offender could now be whipped, in addition to any other punishment, was the main focus of Penalty Enhancement Ordinance XXIX of 1942.⁶⁰ Ordinance XXX provided for the setting up of Hellenic Naval Courts for dealing with offences committed on board Royal Hellenic Navy Ship Georgios Averoff. The ordinance provided that the Court could try offences of non-British subjects when committed on board of such ship. The government could set up any such court at any time under the Hellenic law. The naval court and all persons taking part in any judicial proceedings were to enjoy immunities and privileges enjoyable by a British court. It was the duty of the area Magistrate to produce a person as witness etc. before the naval court, when requested to do so. A person sentenced by naval court was to be jailed in British India without further questioning.⁶¹

Ordinance XXXI was promulgated with a view to facilitating the application of Indian Army Act 1911 to forces raised and maintained in India under the authority of central government.⁶² Ordinance XXXII amended Ordinance XII of the same year which dealt with War Risks (Factories) Insurance. By this ordinance, operations of the provisions of original ordinance were made applicable to whole of India and to certain other territories outside British India provided these had enacted laws about was risk insurance which were substantially the same, as were provided in the ordinance. On doing so, the risks were to be covered in the same manner, as if the properties were in British India.⁶³

Ordinance XXXIII was promulgated with a view to regulating in certain respects the conditions of service of persons serving His Majesty in civil capacity in India. A person in civil service of the government could now be posted in any part of India without taking into consideration his service conditions.⁶⁴ Ordinance XXXIV provided that Hellenic Naval Court Ordinance 1942 (XXX of 1942) shall apply to any further naval courts to be constituted in accordance with the Hellenic law.⁶⁵ The focus of Ordinance XXXV was to make clear that a particular Commission of Enquiry as mentioned in the ordinance was to have the status of a civil court deemed to have been established by the authority of crown representative.⁶⁶

With the help of Ordinance XXXVI, War Risks (Goods) Insurance

Ordinance, 1940 (IX of 1940) was amended for the third time. By this, it was provided that if the central government was satisfied that by a law of an Indian state provision had been made substantially corresponding to the provisions made by this ordinance, it might declare that the provisions of this ordinance would apply to that state/territory as well.⁶⁷ Ordinance XXXVII amended Women's Auxiliary Corps Ordinance 1942 (XIII of 1942) and provided that this Corp shall form part of armed forces of the crown. It was made applicable to all British subjects.⁶⁸ Ordinance XXXVIII amended Essential Services Maintenance Ordinance, 1941 (XI of 1941) for the second time and the focus was that any person could be called up for national service or to undertake employment in the national service.⁶⁹ War Injuries (Second Amendment) Ordinance was promulgated on 8-8-1942 as Ordinance XXXIX and with it now the provisions of the original Ordinance (VII of 1941) were made applicable to British subjects and servants of the crown in any part of India.⁷⁰ War Risks (Factories) Insurance (Second Amendment) Ordinance XL of 1942, which amended Ordinance XII of 1942, dealt with distribution system of gas supply and power of the government to insure gas supply undertakings.⁷¹

With the help of Ordinance XLI, a provision was made that an officer not below the rank of a captain could use such necessary force as he deemed necessary, to the extent of even causing of death, if a person failed to halt when challenged by a sentry or attempted to damage any property which the officer was duty bound to protect.⁷² Ordinance XLII, which dealt with special criminal courts, amended Ordinance II of 1942. It provided that such courts could be set up by provincial government when there was a situation of disorder.⁷³

Ordinance XLIII dealt with collective fines and provided that such fines could be collected when the people of a particular area endangered public safety, maintenance of public order, supplies and services necessary to the life of the community.⁷⁴ Ordinance XLIV dealt with certain matters relating to the Rangoon share register of the R.B.I.⁷⁵

Ordinance XLV provided that the central government at any time could suspend the provisions of Chapter VI A of the Indian Railway Act, 1890 to railway servants of any railway or section of a railway as might be specified in the notification. When such a railway employee to whom this notification was applied was employed for more hours in any week than the number of hours permitted he was to be paid over time at not less than $\frac{1}{2}$ times of his ordinary rate of pay.⁷⁶

With the promulgation of Ordinance XLVI, Penalties (Enhancement)

Ordinance (III of 1942) was amended for the third time and provided that penalties could be enhanced if any provision of Defence of India was contravened in any way. Now such a person could be punished with death and whipping.⁷⁷ Ordinance XLVII amended Indian Tea Control Act, 1938 (VIII of 1938) and empowered a person who had been issued special export licence to transfer that once and finally to any person of his choice if he so liked.⁷⁸ Defence of India Act, 1939 (XXXV of 1935) was amended for the second time with the promulgation of Ordinance XLVIII of 1942 and brought agriculture, in addition to trade and industry, under its purview.⁷⁹ Ordinance XLIX amended Collective Fines Ordinance (XX of 1942) for the second time by which it was made obligatory on the officer imposing fine to publish that in the Gazette of India and bring the fact of the imposition of fine to the notice of the inhabitants of the area.⁸⁰ Ordinance L marginally amended Indian Navy (Discipline) Act, 1934 (XXXIV of 1934).⁸¹

Ordinance LI amended National Service (Technical Personnel) Ordinance, 1940 (II of 1940) for the second time. It dealt with the composition of Tribunals set up under the main ordinance and provided that only a servant of the crown was qualified to be a member of the Tribunal. The liability of National Service (Technical Personnel) was extended to Indian State residents for the time being in British India. The central government now could empower the Tribunal to exercise power over British subjects in any state or group of states.⁸² With the help of Ordinance LII, Indian Press (Emergency Power) Act, 1931 (XXIII of 1931) was amended to make printing or otherwise producing any material prejudicial to war efforts as an offence punishable.⁸³ With the promulgation of Ordinance LIII it was provided that any provision of Indian Railway Act, 1890, which conferred a power, status, etc. upon railway servants, was to be construed as conferring the same powers, status etc., as the case may be, upon members of His Majesty's forces when so employed in the work of the railways.⁸⁴ Focus of ordinance LIV was to provide for the incorporation and operation of certain types of companies, by or under the law in force in certain parts of His Majesty's Dominions outside British India, to continue to operate effectively by removing them to British India. The central government could make suitable laws for the purpose. Such a company was, however, made liable to pay the taxes as usual. Such powers could also be exercised by the provincial government.⁸⁵ It was only in 1946 that by a Bill it was said that with the termination of war, some of the companies registered under the ordinance expressed a desire of going back to the countries of their original

incorporation. The Bill proposed that with a view to facilitate their return the central government might be loaded with the power of cancelling the registration of such companies on such terms and conditions as might be deemed necessary to safeguard the interests of all concerned.⁸⁶

Ordinance LV amended Women's Auxiliary Corps Ordinance 1942 (XIII of 1942) for the second time and with it the age of enrolment of a woman to Corps was reduced from 18 to 17 years.⁸⁷ With the help of Ordinance LVI, provision was made for the exemption of armed forces of foreign powers allied with British government and stationed in British India from punishments according to Indian laws for the offences committed by them in British India. It was also provided that where any naval, military or air force of any foreign power allied with His Majesty, time being present in British India or on board any ship or air-craft, exercised within British India, in relation to members of those forces of that power in matters concerning discipline and internal administration, it would be treated that all such powers were conferred upon them by the law of that power. A military, naval or air force court, which called witnesses the latter was to enjoy the same immunities as were enjoyed by witnesses under Naval Discipline Act etc. A sentence passed by such court was to be treated as valid and the person sentenced was to be punished. A certificate signed by officer commanding any foreign force that a particular person was being detained was to be considered sufficient proof of detention. The government was to help the foreign power court to arrest a person who had been guilty of an offence and awarded sentence of imprisonment, when a request was so made. If in the request it was desired that the person guilty might be kept in a British jail, that request was also to be acceded to.⁸⁸

Ordinance LVII made certain provisions regarding the military and naval forces in British India of the USA. It was provided that no criminal proceedings could be instituted in British India before any court of British India against a member of armed forces of the USA. It was also clarified that the power of search, arrest and entry shall not be exercised in respect of premises occupied or used by the armed forces of the USA. It was said that all persons who were by law of the USA subject to the naval and military law of that country were to be deemed to be the members of such forces.⁸⁹ Subsequently, these provisions were also made applicable to the Republic of China.⁹⁰

Ordinance LVIII provided that every person who had for a period of 3 months been in receipt of military pay as an enrolled person shall be deemed to have been duly enrolled and shall have both liabilities and

privileges of an enrolled person.⁹¹ The main focus of Ordinance LIX was to restrict the negotiability of currency and other notes inscribed with message(s) of political character. It was provided that such a note shall not be legal tender and the RBI shall not be under any obligation to accept that note.⁹²

The Ordinance LX provided to remove certain difficulties caused by the destruction of documents and records pertaining to collection of payment of income tax and excess profits tax, during riots or civil commotion. It gave wide powers to the Income Tax Commissioners.⁹³

Ordinance LXI amended Criminal Courts Ordinance 1942 (II of 1942) for the third time and provided that the session judge of an area, for which a special judge had been appointed, was empowered to transfer a case from one special judge to another within the same area, at any stage of proceedings. Similarly, District Magistrate of the district could transfer a case from him to another special magistrate within the same district.⁹⁴ The purpose of Ordinance LXII was to declare certain offices in the service of the crown in India to be the offices the holding of which did not disqualify the holder either from contesting an election or continuing as a member of the Indian legislature. Thus a person was not to disqualify himself as a member of either chamber of legislature by holding or accepting any office in the service of the crown in India.⁹⁵

Subsequently, the government decided to bring this measure on a permanent footing and introduced a bill to this effect in the Assembly.⁹⁶ The replacing bill traced the whole history from the past to the present. It said that—

(1) Sub-section (1) of Section 63E of the old Government of India Act ran as follows:

An official shall not be qualified for election as a member of either chamber of the Indian Legislature, and, if any non-official member of either chamber accepts office in the service of the crown in India, his seat in that chamber shall become vacant.

Section 134 of the same Act defined the expressions "official" and "non-official" as follows:

The expressions "official" and "non-official", where used in relation to any person, mean respectively a person who is or is not in the civil or military service of the crown in India:

Provided that rules under this Act may provide for the holders of such offices as may be specified in the rules not being treated for the purposes of this Act, or any of them, as officials."

Rule 2 of the Non-official (Definition) Rules made under the rule-making power conferred by the proviso to this definition ran as follows:

The Holder of any office in the civil or military service of the crown, if the office is one which does not involve both of the following incidents, namely, that the incumbent—(a) is a whole-time servant of Government; and (b) is remunerated either by salary or fines, shall not be treated as an official for any of the purposes of the Government of India Act.

(2) Sub-section (1) of Section 63E was included in the provisions of the old Act set out in the Ninth Schedule to the existing constitution Act but a Section 134 was not included therein, with the result that the initial relevant effect of the Constitution Act was to leave no means available of taking any category of official or office out of the mischief of sub-section (1) of Section 63E of the India and Burma (Temporary and Miscellaneous Provisions) Act, 1942, which added the following proviso to sub-section (1) of Section 63E as set out in the Ninth Schedule:

Provided that the Act of the Indian Legislature may declare any office in the service of the crown in India to be an office the holding of which does not disqualify the holder thereof for election, as, or continuance as, a member of either Chamber of the Indian Legislature, and any such Act may be made to have effect from any date before the passing thereof, not earlier than the third day of September, nineteen hundred and thirty nine.

(3) The Indian Legislature (Prevention of Disqualification) Ordinance (LXII of 1942), promulgated in pursuance of this provision removed the disqualification attaching to holding or acceptance of office in respect of—

- (a) an office not involving both of the following incidents, namely, that the incumbent—(i) is a whole-time servant of Government; and (ii) is remunerated either by salary or fees; or
- (b) an office in the naval, military or air forces of, or raised in British India on behalf of His Majesty; or
- (c) an office certified by the central government to be an office created for a purpose connected with the prosecution of the war, or to be an office to which, but for war conditions, a member of the defence or civil services of the crown would have been appointed.

Sub-section (3) of Section 1 of the ordinance in question provides that it shall be in force only until the termination of the present hostilities

and for six months thereafter and the ordinance consequently ceased to be in force on the 1st October, 1946.

(4) With Ordinance LXII of 1942, no longer in force and with further legislation enacted in pursuance of the proviso to sub-section (1) of Section 63E in the Ninth Schedule, no "official" would be qualified for election to the Indian Legislature, while if a non-official member of the Indian Legislature whether elected or nominated, accepted office of any kind, his seat would automatically become vacant.

(5) The dispensation in favour of offices in categories (b) and (c) (Paragraph 3 ante) was directed to the exigencies of the war and it is now proposed that the dispensation in favour of offices in category (a) should be removed, with the effect of restoring the position which prevailed under the non-official (Definition) Rules and in particular of equating the position in relation to any further general election and to any bye-election to either Chamber, with the position which, under the operation of Clause (b) of Section 307 of the Constitution Act, prevailed in relation to the first elections to the provincial Legislature, was to have prevailed in relation to the first election to the federal Legislature (Section 307 runs as follows):

For the purpose of the first elections of persons to serve as members of the Federal Legislature and of Provincial Legislatures, no person shall be subject to any disqualification by reason only of the fact that he holds —(a) an office of profit as a non-official member of the Executive Council of the Governor General or a Governor, or a minister in a province; (b) an office which is not a whole-time office remunerated either by salary or by fees."

The same position is capable of being permanently produced in relation to provincial legislatures by legislation in pursuance of Clause (a) of sub-section (1) of Section 69 of the Constitution Act and was designed to be capable of being permanently produced in relation to the Federal Legislature by legislation in pursuance of Clause (a) of sub-section (1) of Section 26 thereof.

Ordinance LXII amended collective Fines Ordinance 1942 (XX of 1942) for the third time and empowered provincial determination of all claims made by any person.⁹⁷

Indian Soldiers Litigation Act, 1925 (IV of 1925) was amended with the help of Ordinance LXIV and provided that with effect from the date on which war broke out a soldier who had become a prisoner of war

shall be deemed to have been serving under war conditions and was entitled to get all benefits and concessions accordingly. It was also provided that if to a court, before which any proceeding was pending, it appeared that an Indian soldier, though not a party to the proceedings, was materially concerned in the outcome of proceeding and that his interests were likely to be prejudiced by his inability to attend, the court in such a case could suspend proceedings and was obliged to give notice to the prescribed authority. It was said that if any court was in doubt about the death of an Indian soldier or about his serving under special conditions, the matter was to be referred to the appropriate authority and certificate of that authority was to be considered conclusive. Some of the powers of the central government as well.⁹⁸

Ordinance LXV amended Ordinance X of 1942 about Civil Pioneer Force and made the provisions of original ordinance applicable not only to British India but also to the whole of India. The central government could as well constitute such a force in any province.⁹⁹ Ordinance LXVI extended powers made available to armed forces under Ordinance XLI of 1942 to police forces when employed on any specified duty. These could be exercised only by Gazetted police officer.¹⁰⁰ With the help of Ordinance LXVII, the Government of India took upon itself the responsibility of paying gratuities, leave salaries, etc. In respect of persons employed in certain railway companies for the period of their services under those companies.¹⁰¹ Last ordinance LXVIII of the year provided that in all notifications, etc. issued so far references to the Commissioner of Ajmer Merwara were to be construed as references to Deputy Commissioner of Ajmer Merwara.¹⁰²

DURATION OF ORDINANCES

On June 27, 1940, India and Burma (Emergency Provisions) Act, 1940 was passed by which as already said, the then existing provision that an ordinance could remain in force for a maximum period of 6 months was waived as long as the war lasted. It was now provided that the period of validity of an ordinance would be the period beginning with the promulgation of ordinance and ending with such date as His Majesty might by order in Council declare to be the end of emergency created by Second World War and which necessitated the promulgation of the ordinance. The state of emergency was declared by the Governor General of India on 3-9-1939 and an order in Council terminating the period

Table 5.2: Duration of ordinances promulgated during the year 1942

<i>Duration of ordinance</i>	<i>Ordinance No.(s)</i>
Less than a year	—
Between 1-2 years	II
Between 2-3 years	—
Between 3-4 years	IV, VI, VII, XIV, XVI, XVIII, XIX, XXI, XXIII, XXIV, XXV, XXVI, XXVII, XXIX to XXXII, XXXIV to XL, XLII, XLIII, XLV to LII, LV, LVIII, LXI, LXIII to LXV, LXVII, LXVIII
Between 4-5 years	I, VIII, XXVIII
Between 5-6 years	IX, X, XIII, XV, XXII, XXXIII, XLIV, LIII, LXII
Between 6-7 years	XVII, LVI, LVII
Between 7-8 years	V
Between 8-9 years	—
Between 9-10 years	—
Between 10-11 years	—
Between 11-12 years	—
Between 12-13 years	—
Between 13-14 years	—
Between 14-15 years	LIV
Between 15-16 years	III, XII
Between 16-17 years	—
Between 17-18 years	—
Between 18-19 years	XI, LXVI
Between 19-20 years	—
Above 20 years	XX, XLI, LIX, LX

of emergency with effect from 1-4-1945 was issued by him. The provisions of India and Burma (Emergency Provisions) Act, 1940 came into force on 27-6-1940 and remained in operation up to 31-3-1946. During this period, the Governor General could promulgate ordinances with unlimited duration. The effect of this was that most of the ordinances promulgated during 1942 remained in force for years and only some were repealed on 1-4-1946. Duration of each ordinance is shown

in Table 5.2.

It will thus be seen that as many as 42 ordinances were continued between three and four years. The date of promulgation of each ordinance has already been given in a separate table. Ordinance II (between 1-2 years) was repealed by Ordinance XIX on 5-6-1943 whereas all the 42 ordinances, which remained in force between 3-4 years, were repealed by Ordinance I of 1946 (5-1-1946). Ordinance I, VIII and XXVIII, which remained in force between 4-5 years, were repealed by Ordinance I of 1946 (5-1-1946), Act 7 of 1946 (30-3-1946) and Act 11 of 1947 (17-4-1947) respectively. Nine ordinances remained in force between 5-6 years as mentioned above. Ordinances IX and XLIV were repealed by Act 11 of 1947 (17-3-1947) and X, XIII, XV, XXII, XXXIII, LIII, and LXVI by Act 2 of 1948 (5-1-1948). Three ordinances remained in force between 6-7 years; of these 17 was repealed by Ordinance XXX of 1948 (3-11-1948) whereas Ordinances LVI and LVII were repealed by Act 2 of 1948 (5-1-1948). Ordinance V, which remained in force between 7-8 years, was repealed by Act 40 of 1949 (1-5-1949) whereas Ordinance 54, which remained in vogue between 14-15 years was repealed by Act 1 of 1956 (18-1-1956). Ordinances III and XII, which were in force for more than 14 years, were repealed by Act 36 of 1957 (17-9-1957) whereas Ordinances XI and LXVI, which were in vogue between 18-19 years, lost their validity after the passing of repealing Act 58 of 1960 (27-11-1960). Ordinance LIX remained in force for about 22 years when it was repealed by Act 28 of 1964 (30-9-1964). Ordinances XX, XII and LX remained in force for even more than that period.

EFFECT OF ORDINANCES ON ALREADY ENACTED LEGISLATION

During the year 1942, as many as 68 ordinances were promulgated. Some of these were new, whereas the remaining effected previously enacted legislation, as shown in Table 5.3.

CENTRAL LEGISLATIVE ASSEMBLY AND PROMULGATION OF ORDINANCES

During the year 1942, as usual the Central Legislative Assembly was twice called in session. Fifteenth session of the Assembly started on 11-2-1942 and ended on 2-4-1942, i.e. it lasted for a period of 51 days. The Assembly, however, actually met for 32 days, out of which 26 days were for government and remaining 6 days were for non-government

Table 5.3: Effect of ordinances on already enacted legislation

<i>Ordinance No.</i>	<i>Previously enacted legislation effected</i>		<i>Nature of ordinance</i>
	<i>Ordinance No.(s)</i>	<i>Act No.(s)</i>	
(1)	(2)	(3)	(4)
I	VII of 1941	—	—
II	—	—	New
III	—	XLV of 1860 XXXV of 1939	—
IV	—	IV of 1909	—
V	—	III of 1906	—
VI	—	IV of 1939	—
VI	II of 1942	—	—
VII	III of 1942	—	—
VIII	—	—	New
IX	—	II of 1934	—
X	—	—	New
XI	—	—	New
XII	—	XXV of 1934 IV of 1923	—
XIII	—	—	New
XIV	IX of 1940	—	—
XV	—	III of 1900	—
XVI	—	XVI of 1939	—
XVII	—	U.P. Act V of 1942	—
XVIII	—	VIII of 1911	—
XIX	IX of 1940	—	—
XX	—	—	New
XXI	—	IX of 1890	—
XXII	—	—	New
XXIII	—	XXXV of 1939 XIX of 1923 IV of 1939	—
XXIV	II of 1942	—	—
XXV	—	XIX of 1939	—
XXVI	XI of 1941	—	—
XXVII	—	XLIX of 1920	—

Table 5.3 (contd.)

(1)	(2)	(3)	(4)
XXVIII	—	II of 1934	—
XXIX	III of 1942	—	—
XXX	—	—	New
XXXI	—	VIII of 1911	—
XXXII	XII of 1942	—	—
XXXIII	—	—	New
XXXIV	XXX of 1942	—	—
XXXV	—	V of 1908	—
XXXVI	IX of 1940	—	—
XXXVII	XIII of 1942	—	—
XXXIX	XI of 1941	—	—
XXXIX	VII of 1941	—	—
XL	XII of 1942	—	—
XLI	—	—	New
XLII	II of 1940	—	—
XLIII	XX of 1942	—	—
XLIV	—	II of 1934	—
XLV	—	IX of 1890	—
XLVI	III of 1942	—	—
XLVII	—	VIII of 1938	—
XLVIII	—	XXXV of 1939	—
XLIX	XX of 1942	—	—
L	—	XXXIV of 1931	—
LI	II of 1940	—	—
LII	—	XXIII of 1931	—
LIII	—	IX of 1890	—
LIV	—	VI of 1913	—
LV	XIII of 1942	—	—
LVI	—	—	New
LVII	LVI of 1942	—	—
LVIII	—	VIII of 1911	—
LIX	—	II of 1934	—
		IV of 1940	
LX	—	XI of 1922	—
		XV of 1940	
LXI	II of 1940	—	—

Table 5.3 (contd.)

(1)	(2)	(3)	(4)
LXII	—	—	New
LXIII	XX of 1942	—	—
LXIV	—	IV of 1925 IX of 1908	—
LXV	X of 1942	—	—
LXVI	XLI of 1942	—	—
LXVII	—	—	New
LXVIII	—	—	New

Table 5.4: Gap between promulgation of ordinances and meeting of the Assembly

Session	Ordinance No.	Date of meeting of the Assembly	Date of promulgation of ordinance	Difference		
(1)	(2)	(3)	(4)	(5)		
				Months	Days	
15th	I	11-2-1942	1-1-1942	2	—	10
	II	"	2-1-1942	2	—	09
	III	"	"	2	—	09
	IV	"	24-1-1942	0	—	19
	V	"	27-1-1942	0	—	16
	VI	"	29-1-1942	0	—	14
	VII	"	"	0	—	14
	VIII	"	"	0	—	14
	IX	"	9-2-1942	0	—	02
16th	XI	14-9-1942	7-4-1942	5	—	08
	XII	"	8-4-1942	5	—	07
	XIII	"	9-4-1942	5	—	06
	XIV	"	11-4-1942	5	—	04
	XV	"	21-4-1942	4	—	24

Table 5.4 (contd.)

(1)	(2)	(3)	(4)	(5)		
	XVI	"	"	4	—	24
	XVII	"	"	4	—	24
	XVIII	"	5-5-1942	4	—	10
	XIX	"	13-5-1942	4	—	02
	XX	"	"	4	—	02
	XXI	"	16-5-1942	3	—	29
	XXII	"	22-5-1942	3	—	23
	XXIII	"	22-5-1942	3	—	23
	XXIV	"	22-5-1942	3	—	23
	XXV	"	"	3	—	23
	XXVI	"	28-5-1942	3	—	17
	XXVII	"	30-5-1942	3	—	15
	XXVIII	"	6-6-1942	3	—	09
	XXIX	"	10-6-1942	3	—	05
	XXX	"	10-6-1942	3	—	05
	XXXI	"	20-6-1942	2	—	25
	XXXII	14-9-1942	1-7-1942	2	—	13
	XXXIII	"	9-7-1942	2	—	05
	XXXIV	"	21-7-1942	1	—	24
	XXXV	"	24-7-1942	1	—	20
	XXXVI	"	28-7-1942	1	—	16
	XXXVII	"	"	1	—	16
	XXXVIII	"	"	1	—	16
	XXXIX	"	8-8-1942	1	—	06
	XL	"	"	1	—	06
	XLI	"	15-8-1942	0	—	29
	XLII	"	19-8-1942	0	—	25
	XLIII	"	19-8-1942	0	—	25
	XLIV	"	21-8-1942	0	—	23
	XLV	"	"	0	—	23
	XLVI	"	26-8-1942	0	—	14
	XLVII	"	1-9-1942	0	—	10
	XLVIII	"	5-9-1942	0	—	10
	XLIX	"	12-9-1942	0	—	02

Table 5.5: Gap between the adjournment of the Assembly and promulgation of ordinances

<i>Session</i>	<i>Ordinance No.</i>	<i>Date of adjournment of the Assembly</i>	<i>Date of promulgation of ordinance</i>	<i>Difference</i>		
(1)	(2)	(3)	(4)	(5)		
				Months	Days	
15th	XI	2-4-1942	7-4-1942	0	—	5
	XII	"	8-4-1942	0	—	6
	XIII	"	9-4-1942	0	—	7
	XIV	"	11-4-1942	0	—	9
	XV	"	21-4-1942	0	—	19
	XVI	"	21-4-1942	0	—	19
	XVII	"	21-4-1942	0	—	19
	XVIII	"	5-5-1942	1	—	4
	XIX	"	13-5-1942	1	—	12
	XX	"	"	1	—	12
	XXI	"	16-5-1942	1	—	14
	XXII	"	22-5-1942	1	—	20
	XXIII	"	22-5-1942	1	—	20
	XXIV	"	"	1	—	20
	XXV	"	"	1	—	20
	XXVI	"	28-5-1942	1	—	26
	XXVII	"	30-5-1942	1	—	28
	XXVIII	"	6-6-1942	2	—	5
	XXIX	"	10-6-1942	2	—	9
	XXX	"	"	2	—	9
	XXXI	"	20-6-1942	2	—	19
	XXXII	"	1-7-1942	3	—	00
	XXXIII	"	9-7-1942	3	—	9
	XXXIV	"	21-7-1942	3	—	21
	XXXV	"	24-7-1942	3	—	24
	XXXVI	"	28-7-1942	3	—	28
	XXXVII	"	"	3	—	28
	XXXVIII	"	"	3	—	28
	XXXIX	"	8-8-1942	4	—	6

Table 5.5 (contd.)

(1)	(2)	(3)	(4)	(5)	
	XL	"	"	4	— 6
	XLI	"	15-8-1942	4	— 13
	XLII	"	19-8-1942	4	— 17
	XLIII	"	"	4	— 17
	XLIV	2-4-1942	21-8-1942	4	— 19
	XLV	"	"	4	— 19
	XLVI	"	26-8-1942	4	— 24
	XLVII	"	1-9-1942	5	— 0
	XLVIII	"	5-9-1942	5	— 4
	XLIX	"	12-9-1942	5	— 11
16th	L	24-9-1942	3-10-1942	0	— 10
	LI	"	"	0	— 10
	LII	"	8-10-1942	0	— 15
	LIII	"	"	0	— 15
	LIV	"	9-10-1942	0	— 16
	LV	"	17-10-1942	0	— 24
	LVI	"	26-10-1942	1	— 2
	LVII	"	"	1	— 2
	LVIII	"	"	1	— 2
	LIX	"	31-10-1942	1	— 7
	LX	"	14-11-1942	1	— 21
	LXI	"	21-11-1942	1	— 28
	LXII	"	28-11-1942	2	— 5
	LXIII	"	5-12-1942	2	— 13
	LXIV	24-9-1942	12-12-1942	2	— 20
	LXV	"	22-12-1942	2	— 29
	LXVI	"	24-12-1942	3	— 1
	LXVII	"	29-12-1942	3	— 6
	LXVIII	"	31-12-1942	3	— 8

work. The Assembly was again called in session (Sixteenth session) on 14-9-1942, i.e. after a period of about 7 months. It remained in session till 24-9-1942, i.e. for a short duration of 11 days. It actually met for 9 days and all the days were devoted for government business. Since the Assembly met for a very short period, therefore, most of the legislative work was done with the help of ordinance. Obviously, it is dif-

difficult to have any meaningful analysis about regard or disregard for the Assembly, but for the sake of convenience and information, Table 5.4 gives an idea about the promulgation of ordinances before the meetings of the Assembly and after its adjournment.

The fact that out of 9 ordinances 6 were promulgated when the Assembly was going to meet within next 3 weeks shows that it was in desperate haste to promulgate ordinances. Ordinance X was promulgated when the Assembly was already in session.

During this session only four ordinances were promulgated when the Assembly was going to meet within next three weeks.

As regards promulgation of ordinances after the adjournment of the Assembly, the position is shown in Table 5.5.

NOTES

1. Ordinance No. I of 1942.
2. *Ibid.*, No. XXXIX of 1942.
3. *Ibid.*, No. II of 1942.
4. *Ibid.*, No. XXIV of 1942.
5. *Ibid.*, No. XLII of 1942.
6. *Ibid.*, No. III of 1942.
7. *Ibid.*, No. VII of 1942.
8. *Ibid.*, No. XXIX of 1942.
9. *Ibid.*, No. XLVI of 1942.
10. *Ibid.*, No. VI of 1942.
11. *Ibid.*, No. LI of 1942.
12. *Ibid.*, No. XIII of 1942.
13. *Ibid.*, No. XXXVII of 1942.
14. *Ibid.*, No. LV of 1942.
15. *Ibid.*, No. XXVII of 1942.
16. *Ibid.*, No. XX of 1942.
17. *Ibid.*, No. XLIII of 1942.
18. *Ibid.*, No. XLIX of 1942.
19. *Ibid.*, No. LXIII of 1942.
20. *Ibid.*, No. XII of 1942.
21. *Ibid.*, No. XIV of 1942.
22. *Ibid.*, No. XIX of 1942.
23. *Ibid.*, No. XXXVI of 1942.
24. *Ibid.*, No. XXXII of 1942.
25. *Ibid.*, No. XL of 1942.
26. *Ibid.*, No. XXIII of 1942.
27. *Ibid.*, No. XXXVIII of 1942.
28. *Ibid.*, No. XXVI of 1942.
29. *Ibid.*, No. XXXVIII of 1942.
30. Gazette of India Extraordinary, Part IV, dated 1-1-1942, pp. 33-34.

31. *Ibid.*, January 2, 1942, pp. 55-61.
32. *Ibid.*, dated 2-1-1942, pp. 62-63.
33. *Ibid.*, Notification No. 893-SM/1941, dated 2-1-1942.
34. Gazette of India Extraordinary, Part IV, dated 24-1-1942, pp. 147-148.
35. Finance Department Notification No. F2 (127) (1)F/41, dated 24-1-1942.
36. Gezette of India Extraordinary, Part IV, dated 27-1-1942, pp. 151-153.
37. *Ibid.*, dated 29-1-1942, pp. 157-164.
38. *Ibid.*, dated 29-1-1942, p. 165.
39. *Ibid.*, dated 29-1-1942, p. 166.
40. *Ibid.*, dated 9-2-1942, p. 181.
41. *Ibid.*, dated 13-1-1942, pp. 305-311.
42. *Ibid.*, dated 7-4-1942, pp. 397-398.
43. *Ibid.*, dated 8-4-1942, pp. 401-407.
44. *Ibid.*, dated 9-4-1942, pp. 409-410.
45. *Ibid.*, dated 11-4-1942, pp. 411-412.
46. *Ibid.*, dated 21-4-1942, pp. 461-462.
47. *Ibid.*, dated 21-4-1942, p. 462.
48. *Ibid.*, dated 21-4-1942, p. 462.
49. *Ibid.*, dated 5-5-1942, p. 487.
50. *Ibid.*, dated 13-5-1942, pp. 499-500.
51. *Ibid.*, dated 13-5-1942, pp. 500-501.
52. *Ibid.*, dated 16-5-1942, pp. 506-507.
53. *Ibid.*, dated 22-5-1942, p. 603.
54. *Ibid.*, dated 22-5-1942, pp. 604-606.
55. *Ibid.*, dated 22-5-1942, p. 606.
56. *Ibid.*, dated 22-5-1942, p. 607.
57. *Ibid.*, dated 28-5-1942, pp. 709-710.
58. *Ibid.*, dated 30-5-1942, pp. 717-719.
59. *Ibid.*, dated 6-6-1942, p. 727.
60. *Ibid.*, dated 10-6-1942, pp. 731-732.
61. *Ibid.*, dated 10-6-1942, pp. 732-737.
62. *Ibid.*, dated 20-6-1942, pp. 775-776.
63. *Ibid.*, dated 1-7-1942, pp. 791-793.
64. *Ibid.*, dated 9-7-1942, pp. 803-804.
65. *Ibid.*, dated 21-7-1942, p. 821.
66. *Ibid.*, dated 24-7-1942, pp. 893-894.
67. *Ibid.*, dated 28-7-1942, pp. 899-900.
68. *Ibid.*, dated 28-7-1942, p. 901.
69. *Ibid.*, dated 28-7-1942, pp. 901-902.
70. *Ibid.*, dated 8-8-1942, p. 919.
71. *Ibid.*, dated 8-8-1942, p. 920.
72. *Ibid.*, dated 15-8-1942, pp. 935-936.
73. *Ibid.*, dated 19-8-1942, p. 941.
74. *Ibid.*, dated 19-8-1942, p. 942.
75. *Ibid.*, dated 21-8-1942, pp. 943-944.
76. *Ibid.*, dated 21-8-1942, p. 944.
77. *Ibid.*, dated 26-8-1942, pp. 951-952.
78. *Ibid.*, dated 1-9-1942, pp. 963-964.
79. *Ibid.*, dated 5-9-1942, pp. 973-974.

80. *Ibid.*, dated 12-9-1942, pp. 977-978.
81. *Ibid.*, dated 3-10-1942, p. 1011.
82. *Ibid.*, dated 3-10-1942, pp. 1011-1012.
83. *Ibid.*, dated 8-10-1942, p. 1019.
84. *Ibid.*, dated 8-10-1942, pp. 1019-1020.
85. *Ibid.*, dated 8-10-1942, pp. 1020-1021.
86. Gazette of India Extraordinary, Part V, Bil' No. 57 of 1946, dated 6-11-1946, p. 318.
87. Gazette of India Extraordinary, Part IV, dated 17-10-1942, p. 1097.
88. *Ibid.*, dated 26-10-1942, pp. 1114-1119.
89. *Ibid.*, dated 26-10-1942, pp. 1120-1121.
90. War Department Notification No. 11239/A/W.6 dated 24-10-1942.
91. Gazette of India Extraordinary, Part IV, dated 26-10-1942, pp. 1122-1123.
92. *Ibid.*, dated 31-10-1942, pp. 1131-1132.
93. *Ibid.*, dated 14-11-1942, pp. 1147-1148.
94. *Ibid.*, dated 21-11-1942, pp. 1155-1156.
95. *Ibid.*, dated 25-11-1942, pp. 1173-1174.
96. Bill No. 16 of 1947; Gazette of India Extraordinary, dated 10-2-1947, pp. 83-85.
97. Gazette of India Extraordinary, Part IV, dated 5-12-1942, p. 1177.
98. *Ibid.*, dated 12-12-1942, pp. 1181-1183.
99. *Ibid.*, dated 22-12-1942, pp. 1203-1204.
100. *Ibid.*, dated 24-12-1942, pp. 1205-1206.
101. *Ibid.*, dated 29-12-1942, pp. 1209-1210.
102. *Ibid.*, dated 31-12-1942, pp. 1211-1212.

PEAK WAR YEAR ORDINANCES (1943)

During the year 1943, when the war was still at its peak, as many as 43 ordinances were promulgated by the Governor General of India, as shown in Table 6.1.

Table 6.1: Ordinances promulgated by the Governor General of India during the year 1943

<i>Ordi- nance No.</i>	<i>Title of the ordinance</i>	<i>Date of promulgation</i>	<i>Source: Gazette of India Extra- ordinary; Page(s)</i>
(1)	(2)	(3)	(4)
I	The Enemy Agents Ordinance	9-1-1943	23-27
II	Essential Services Maintenance Ordinance	"	27
III	Penalties Enhancement (Amendment) Ordinance	16-1-1943	31
IV	The Income Tax Proceeding Validity Ordinance	"	32
V	Collective Fines (Amendment) Ordinance	20-1-1943	111
VI	The Indian Standard Time (Interpretation of References) Ordinance	"	112
VII	Civil Pioneer Force (Amendment) Ordinance	27-1-1943	123
VIII	War Risks (Goods) Insurance (Amendment) Ordinance	"	124-125

Table 6.1 (contd.)

(1)	(2)	(3)	(4)
IX	War Risks (Factories) Insurance (Amendment) Ordinance	"	126
X	Special Criminal Courts (Amendment) Ordinance	30-1-1943	133-134
XI	Indian Navy (Discipline) (Amendment) Ordinance	3-2-1943	139
XII	Governor of R.B.I. (Exercise of Powers and Functions) Ordinance	22-2-1943	157
XIII	Essential Service (Telephone Employees) Ordinance	16-3-1943	215
XIV	Defence of India (Amendment) Ordinance	28-4-1943	323-324
XV	Enemy Agents (Amendment) Ordinance	1-5-1943	325-326
XVI	The Excess Profit Tax Ordinance	17-5-1943	341-343
XVII	Royal Indian Navy (Powers of Command) Ordinance	20-5-1943	349-350
XVIII	The Martial Law (Indemnity) Ordinance	31-5-1943	363-366
XIX	Special Criminal Courts (Repeal) Ordinance	5-6-1943	395-396
XX	The Reserve Bank of India (Limitation of Dividend) Ordinance	30-6-1943	421-422
XXI	The Parole Centres Ordinance	2-7-1943	435-436
XXII	Special Police Establishment (War Deptt.) Ordinance	12-7-1943	525-526
XXIII	Civil Pioneer Force (Amendment) Ordinance	15-7-1943	527-528
XXIV	Discipline of Sea men Ordinance	"	528-530

Table 6.1 (contd.)

(1)	(2)	(3)	(4)
XXV	War Risks (Inland Vessels) Insurance Ordinance	17-7-1943	535-536
XXVI	Special Criminal Courts (Repeal) Amendment Ordinance	"	537
XXVII	National Service (Technical Personnel) Amendment Ordinance	"	538
XXVIII	Allied Forces (Exemption from Local Taxation) Ordinance	4-9-1943	583-584
XXIX	Criminal Law (Amendment) Ordinance	11-9-1943	589-594
XXX	Military Nursing Services (India) Ordinance	15-9-1943	603-604
XXXI	Factories (Control of Dismentaling) Ordinance	"	604-606
XXXII	Special Criminal Courts (Repeal) Second Amendment Ordinance	29-9-1943	613-614
XXXIII	Military Stores (Unlawful) Possession Ordinance	11-10-1943	623-624
XXXIV	Subversive Activities Ordinance	16-10-1943	625-626
XXXV	Hoarding and Profiteering Prevention Ordinance	"	626-629
XXXVI	Prisoners of War (Forfeiture of Emoluments) Ordinance	"	629-630
XXXVII	Military Operational Area (Special Powers) Ordinance	19-10-1943	635-642
XXXVIII	Civil Pioneer Force (Third Amendment) Ordinance	23-10-1943	651-654
XXXIX	Criminal Law Amendment (Amending) Ordinance	25-10-1943	653-654
XL	Criminal Law Amendment (Second Amending) Ordinance	2-11-1943	663-664

Table 6.1 (contd.)

(1)	(2)	(3)	(4)
XLI	Sugar (Temporary Excise) Duty Ordinance	10-11-1943	757-760
XLII	North West Frontier Constabulary (Amendment) Ordinance	2-12-1943	819
XLIII	Penal Deductions Ordinance	"	819-820
XLIV	Defence of India (Second Amendment) Ordinance	"	820

FOCUS OF THE ORDINANCES

Ordinance I of 1943 dealt with trial and punishment of enemy agents and the persons committing certain offences with the intention of aiding the enemy. The term 'enemy' being understood to mean any State which was at war with the His Majesty and enemy agent was one who acted on the instructions received from the enemy. For the purposes of trial of offences, the central government was empowered to appoint a special judge, which could also transfer any case from one special court to the other. Provision was also made for review of sentences awarded by a special judge, if the person convicted was sentenced to death or transportation to life. The reviewing person was not to be below the rank of High Court judge. If necessary, the proceedings could be held in camera. No judge or court had any authority to revise an order of sentence passed by the special judge. If any person disclosed any information about the proceedings etc. of the court of special judge, he was to be punished with imprisonment for a term which could be extended up to two years or with fine or both.¹ A special judge was not bound to resubmit a witness when a case was transferred to him from another judge. He could also take cognizance of an offence without the accused being committed to his court for trial. He was required to record only summary of the evidence of each witness examined by him.

Ordinance II of the year further amended the Essential Service Maintenance Ordinance 1941 (No. XI of 1941). In the ordinance of 1941, it had been provided that no court shall take cognizance of any offence

committed under the said ordinance unless a complaint was made by a person authorised on behalf of the central or the state government. With the ordinance now under reference, it was provided that such a complaint should be made only by a servant of the Crown and not by any person, as provided earlier.²

Ordinance III of 1943 amended Penalties (Enhancement) Ordinance, 1942 (Ordinance III of 1942). The present ordinance added a new provision to the already existing ordinance which provided that an offender who committed theft etc. in a premises damaged by war or similar other offences could be punished with death, or with whipping in addition to any punishment to which he was liable under the Act. Any act of other preparatory to the commission of the offence mentioned in Ordinance III of 1942 was also to be considered as commission of the offence.³

Ordinance IV of 1943 aimed at establishing the validity of certain appointments as Income Tax Officer and certain proceedings taken by persons designated as Assistant Income Tax Officers. It amended Act XI of 1922. The ordinance provided that no act purported to have been done by an Assistant Income Tax Officer, acting as Income Tax Officer shall be deemed irregular or called in question merely on the ground of any irregularity or defect in the manner of appointment as Income Tax Officer.⁴

Ordinance V amended Collective Fines Ordinance, 1942 (Ordinance XX of 1942). The ordinance of 1942 had empowered the provincial governments to impose collective fines on the inhabitants of the area if they were found guilty of committing acts prejudicial to the Defence of India. The present ordinance provided that no suit or legal proceedings shall lie against any person in respect of anything done by him in good faith.⁵

Ordinance VI simply dealt with an interpretation in the enactments in force in British India with reference to Indian Standard Time. It provided that Indian Standard Time was 5-1/2 hours in advance of Greenwich Time.⁶

Ordinance VII of 1943 further amended Ordinance X of 1942, which dealt with Civil Pioneer Force ordinance. Sub-section (6) of Section 17 had provided that if any appeal was laid against a decision of a summary court as provided in the ordinance of 1942, the appellate authority shall dispose of such appeal as per procedure laid down in the Code of Civil Procedure, 1908. By this ordinance it was provided that such cases shall be disposed of in accordance with the procedure laid down in Code of Criminal Procedure, 1898.⁷

Ordinance VIII amended War Risks (Goods) Insurance Ordinance, 1940 (Ordinance IX of 1940). By this amendment, it was provided that

if any person was found to be evading the payment of the premium of the goods insured, the amount so determined shall be payable by such person as arrears of land revenue and shall be the first charge on the property in respect of which the default was made.⁸ The central government could also, at its discretion, order the refund of any premium already paid.

Ordinance IX of the year amended War Risks (Factories) Insurance Ordinance, 1942 (No. XII of 1942). It amended Section 8 of the original ordinance and provided that any person authorised by the central government could enter any premises comprising or containing the property and to inspect such premises for the purposes of ascertaining whether or not the owner or occupier of any property required to be insured had taken out a policy of insurance or for the purpose of investigating the insurable value of any property insured or required to be insured. The term 'property insurable' included all plants and machinery in the factory for use in the production of transmission of motive power, or in the maintenance of plant and machinery or materials. Every insurer was to pay 20% of the loss or damage of the property insurable. By this ordinance, it was also provided that if any person failed to insure or evaded payment of payable premium of insurance that was to be recovered as the arrears of land revenues.⁹

Ordinance X amended Special Criminal Courts Ordinance, 1942 (Ordinance II of 1942). By the amendment, it was provided that a provincial government was fully empowered to transfer a case from a special judge appointed for one area to a special judge appointed for a different area. The same provisions were made applicable to the appeals sent to the provincial governments against the decisions of the lower courts.¹⁰

Ordinance XI of 1943 amended Indian Navy Discipline Act, 1934. By this amendment, period of punishment to be inflicted for breach of discipline was specified and some doubts about punishment clarified.¹¹

Ordinance XII dealt with the powers and functions of the Governor of Reserve Bank of India. It provided that till the vacancy of the Governor of Reserve Bank of India was filled, the powers vested in him shall be exercised by Shri C.D. Deshmukh, the Deputy Governor of Reserve Bank of India or any person who officiated for or succeeded him in the post.¹²

Ordinance XIII provided that with effect from 1-4-1943, unless otherwise communicated, an employee working in some specified telephone corporations/companies, shall be deemed to have been taken into the

employment of the crown and thereupon the provisions of Essential Services (Maintenance) Ordinance, 1941 (Ordinance XI of 1941) shall apply to such persons as well.¹³

Ordinance XIV amended Defence of India Act, 1939 (Ordinance XXXV of 1939). By this, the Government of India was empowered to prohibit a person from entering or residing or remaining in any area or to order abstaining him from doing anything provided it was satisfied that the person concerned was doing or likely to do something which was prejudicial to public safety, or interests of the British India, or maintenance of public order or His Majesty's relations with foreign powers or Indian states, etc.¹⁴

Ordinance XV amended Enemy Agents Ordinance, 1943 (Ordinance I of 1943). The original ordinance had provided that an aggrieved person had the right to appeal and such an appeal was to be listened by a person not below the rank of a High Court judge. The present ordinance provided that the judge reviewing the case could call for and examine the record of any proceedings to satisfy himself about the correctness, legality or propriety of any proceedings of the special judge.¹⁵

Ordinance XVI dealt with Excess Profits Tax. It was provided that the officer declared competent by the government to assess Excess Profits shall have the powers to make provisional assessments of Excess Profits Tax chargeable from a person and that this was to be done in a summary manner. It was further provided that there would be no appeal against the decisions of such a competent authority.¹⁶

Ordinance XVII provided that where a viceroy's commissioned officer was seconded or posted to the landing craft wing of His Majesty's Royal Indian Navy, then for the purposes of command and discipline and also for purposes of the provisions of the Naval Discipline Act, 1934 he was to be treated as if he were a naval officer of the rank of Midshipman.¹⁷

Ordinance XVIII aimed at indemnifying servants of the crown and other persons in respect of acts done by them under martial law. The ordinance specified the areas covered by the martial law order. It provided that no suit, prosecution or any other legal proceedings shall be in any court against any servant of the crown for any act done or order issued in martial law area during the martial law period for the purposes of maintaining or restoring order etc.; provided the act was done in good faith and in a reasonable belief and that that was necessary for the purpose intended to be served thereby. It was also provided that no prosecution or legal proceedings shall be instituted in any court on an

allegation that the act complained of was not done in good faith etc. except with the permission of the central government.

The ordinance also provided that no claim was maintainable in any court for compensation of the property seized, confiscated, destroyed or damaged in the course of operations conducted in the martial law area during the martial law period.

All sentences passed during the martial law period were to be deemed to have been lawfully passed.¹⁸

Ordinance XIX repealed Special Criminal Courts Ordinance, 1942 (Ordinance 11 of 1942) with effect from 5-6-1943. It, however, provided that any sentence passed by a special court or summary court passed under the ordinance of 1942 shall remain valid. It was also provided that no suit, prosecution of other legal proceedings were to lie in any court against any servant of the crown for any sentence passed or order issued by him under the powers conferred on him under the ordinance of 1942.¹⁹

Ordinance XX of 1943 temporarily limited the rate at which dividends on the share capital of the Reserve Bank of India were to be paid by the Bank to the shareholders. It provided that so long as the ordinance remained in force, the dividend was not to exceed 4% of per annum on the share capital of the bank and that the balance was to be paid to the central government.²⁰

Ordinance XXI, promulgated on 2-7-1943, provided for maintenance and control of foreigners who were required to reside in parole centres. It provided that each such foreigner was required to accept conditions for the maintenance of discipline and punishment of offences and breaches of discipline as the central government might from time to time decide and impose.²¹

Ordinance XXII, promulgated on 12-7-1943, provided for constituting a special police force for investigating certain offences. The ordinance empowered the central government to constitute a special police force establishment (war department). The force was to have power throughout India to investigate offences which might be sent to it for investigation. It was to have the power to arrest persons. It was left to the central government to specify the offences or class of offences which were to be investigated by the Special Police Establishment, which was to work under the control and directions of the central government.²²

Ordinance XXIII, promulgated on 15-7-1943, amended Civil Pioneer Force Ordinance, 1942 (Ordinance X of 1942). By this amended ordinance, it was provided that no controller or commandant-I was to be

appointed for the unit or units of Civil Pioneer Force for any province without the approval of the central government. The provincial government was authorised to empower Commandant Grade I to exercise the powers vested in a commandant. Similarly, the provincial government was also empowered to vest in a controller the powers which were vested in Commandant Grade-I.²³

Ordinance XXIV was promulgated on 15-7-1943. It made certain provisions relating to discipline of Seamen. It provided that if any person who was lawfully engaged to serve on board any ship deserted or left without permission or absented himself without leave was to be punished with imprisonment up to 6 months/pay up to 2 months or both.²⁴

Ordinance XXV was promulgated on 17-7-1943 and dealt with insurance of inland vessels against war risks. It also amended War Risks (Factories) Insurance Ordinance, 1942 (Ordinance XII of 1942) and War Risks (Goods) Insurance Ordinance, 1940 (Ordinance IX of 1941). By this, several provisions of above mentioned two ordinances were made applicable to inland vessels, which were not ordinarily plying outside the limits of the territorial waters surrounding British India. The value of such a vessel for the purpose of insurance under the War Risks (Factories) Insurance Scheme exceeded one thousand rupees.²⁵

Ordinance XXVI, which was promulgated on 17-7-1943, repealed Special Criminal Courts Ordinance 1943 (Ordinance XIX of 1943).²⁶

Ordinance XXVII of 1943 was promulgated on 17-7-1943. It amended National Service (Technical Personnel) Ordinance, 1940 (Ordinance II of 1940). By the provisions of the original ordinance, the age of technical personnel on whom the provisions of the ordinance were to be made applicable was fixed at 18 years, whereas with the help of present ordinance this age was reduced to 17 years. It also clarified certain points relating to the obligations of an employer from whose service a technical person had been got released for employment in the national service. It provided that it was not necessary for the owner etc. of an industrial undertaking to obtain special permission of the tribunal to release or remove a technical person if such a person before joining national service was engaged on probation but had not been confirmed or was engaged for a specified period or was engaged for the completion of a piece of work, etc.²⁷

Ordinance XXVIII, promulgated on 4-9-1943, aimed at exempting from payment of taxes imposed by local authorities in British India on the forces and establishments of certain foreign powers allied with His Majesty during war days. The ordinance provided that no tax imposed by

a local body was payable by any military establishment maintained in British India or any immovable property or any animal or apparatus or any building occupied by them. If a doubt arose whether on a particular item tax was payable or not, the decision of the central government was to be final.²⁸

Ordinance XXIX promulgated on 11-9-1943 provided for speedy trial of certain offences punishable under Indian Penal Code. By this ordinance, the central government got powers to set up two tribunals, one each at Calcutta and Lahore. Each tribunal was to consist of 3 members. The tribunals were to try cases of certain persons mentioned in Schedule I of the ordinance. These could also try cases punishable under Section 161 of I.P.C. when offence was committed by a public servant discharging duties in connection with the provision of facilities for transport to the public and similar other offences mentioned in Second Schedule attached to the ordinance. The ordinance provided that a special tribunal could take cognizance and try an offence which was not even specified in the Second Schedule or offences without the accused being committed to it for trial. It could also refuse to summon any witness. It could pass any sentence authorised by law and there was to be no appeal from any order or sentence of a special tribunal. With the help of this ordinance, it was provided that where any special tribunal ceased to function, sentences or orders passed by it will be deemed, for the purposes of Criminal Procedure Code, to have been passed by the Court of session within the local limits of whose jurisdiction the offences charged in the case were committed, or if there be more than one such court of session by such one of them as may be determined by the High Court.²⁹

In 1946, a bill about this ordinance was brought which mentioned the need of the ordinance. It said that the Criminal Law Amendment Ordinance, 1943 (Ordinance XXIX of 1943) provided for the constitution of special tribunals for the trial of specified cases allotted to them by the central government. Two of these tribunals ceased to co-exist on 1-10-1946. As the questions were bound to arise as to the courts which should be regarded as their successors for the purposes of Code of Criminal Procedure (such as for executing sentences and receiving orders passed by the High Court on appeal or revision), it was considered necessary to make express statutory provisions for the determination of such questions before the special tribunals ceased to function. As the central legislature was not in session, necessary provisions had to be made by the promulgation of the ordinance.³⁰

Ordinance XXX was promulgated on 15-9-1943. It aimed at consti-

tuting Military Nursing Servicing Force, as a part of armed forces of the crown. The ordinance provided that such a force was to comprise of Indian Military Nursing Service and Indian Nursing Service Reserve. The former was to serve only with forces and persons subject to Indian Army Act, 1911 whereas the latter was liable to serve only with forces and persons subject to Army Acts 44 and 45. All the members were to be officers of the commissioned rank. The ordinance also provided for the mode of their employment, dismissal and training. The central government retained powers to make rules and regulations for the service now being constituted.³¹

Ordinance XXXI was promulgated on 15-9-1943. It aimed at controlling the dismantling of factories. By this ordinance, it was provided that no person was authorised to dismantle any factory without the prior permission of the central government. An authorised officer could enter the premises of the factory if he was satisfied that any person contravened any provision of the ordinance. If anyone contravened any provision of the ordinance, he could be punished both with imprisonment or fine or both. No prosecution or legal proceedings could be instituted against an officer for anything done by him in good faith.³²

Ordinance XXXII was promulgated on 29-9-1943 and repealed Special Criminal Courts Ordinance promulgated earlier in the year (Ordinance XIX of 1943). Provision was, however, made that an appeal could be made against a decision of the courts when in existence both on a matter of fact as well as on a matter of law.³³

Ordinance XXXIII promulgated on 11-10-1943 made special provision for the punishment of offences of unlawful possession of military stores. It was provided that whoever was found to be in unlawful possession of an article of military stores was to be punished with imprisonment up to 5 years or fine or both, as the court might decide.³⁴

Ordinance XXXIV promulgated on 16-10-1943 provided for more effective punishment for certain subversive activities against His Majesty's armed forces. By subversive activity was meant an act which intended to cause disaffection or interfered with the discipline etc. among His Majesty's armed forces or distributed any subversive matter. Such a person could be punished with transportation with life or with imprisonment up to 10 years and a fine could also be imposed. Every person who possessed subversive material was liable to be punished. Even a premises occupant in whose premises subversive material was found was to be punished. The penalty could also be raised to death penalty.³⁵

Ordinance XXXV was promulgated on 16-10-1943. Its aim was to

check hoarding of articles and also profiteering. In the ordinance, certain articles were specified which could not be hoarded. It was provided that the central government could fix in respect of any article maximum quantity which might be possessed by a dealer or could be sold to a person at one time and also the maximum price which was to be charged by a dealer or a producer. Those who possessed more quantities of articles were required to immediately declare the same to the competent authority. No dealer could refuse to sell articles to the authorised persons, if available with him. The Controller General could also require a dealer to exhibit the prices of the articles available with him. He could direct him to produce or maintain record of all sale or purchase transactions and also call for any information which might be required by a competent authority of the government. He could also inspect books and other documents and issue suitable instructions in respect of disposal etc. of the articles. Those who violated any provision of the ordinance could be punished with fine or imprisoned up to 5 years or with both the penalties. All prosecutions were to be made with the approval of the central government.³⁶

Ordinance XXXVI was promulgated on 16-10-1943. It provided for the forfeiture of pay and allowances of certain persons. It was provided that pay and allowances of a commissioned officer of Indian army could be forfeited if he had deserted to the enemy or had aided the enemy in any manner or allowed himself to be taken prisoner by the enemy due to wilful negligence or failed to rejoin the army, after imprisonment, when in a position to do so. The government also got powers to constitute courts of enquiry for enquiring such offences.³⁷

Ordinance XXXVII of 19-10-1943 was quite comprehensive one. It authorised certain officers to deal with offences in a certain area contiguous with the territories occupied by the enemy. The term 'enemy' included an enemy agent, any mutineer or a rebel. For the purpose, provision was made for setting up of (a) Superior Military Courts; and (b) Summary Military Courts. A Superior Military Court could be constituted by General Officer Commanding. It shall have three officers of whom one at least shall be of the rank not below that of a major. A Summary Military Court was to consist of only one person, whereas a Superior Military Court could pass any sentence authorised by law. A Summary Military Court could try an offence not punishable with death or transportation. Every accused could employ a legal practitioner. The trial could be held in camera. A person who was reasonably suspected to have committed an offence could be arrested without warrant and could be kept in military custody.

The courts, as mentioned above, could call any person for the purposes of giving evidence or producing a document. No court was authorised to revise sentence passed by either of the two courts. The offences identified included communicating with enemy and hindering operations of forces, assisting enemy, obstructing of member(s) of military forces, failure to give information concerning enemy, poisoning of water supply, unauthorised occupation of military stores and equipments, spreading false intelligence or alarming reports, destroying or damaging of notices, failure to obey summons and disclosure of information concerning trial.³⁸

Ordinance XXXVIII of 23-10-1943 for the third time amended Civil Pioneer Force Ordinance had provided that a Civil Pioneer Force shall be created in which the officers shall be appointed by the central government or by the provincial government subject to the approval of central government. It was now provided that the provincial government could appoint an officer of the commissioned officer rank to command a unit of the force. In case central government also appointed an officer for such a unit, such an officer shall be deemed to be a superior officer. It was also provided that an enrolled person was not without his own consent will not be transferred to a unit constituted for a province other than that in which he was enrolled. The amending ordinance also provided that when an enrolled person other than a commissioned officer was charged with certain types of offences, he might be punished without formal trial and could be awarded certain types of punishments. By this ordinance, commanding officer could dispose of certain types of major offences of non-commissioned officer and award certain types of punishments. The commanding officer could also lower the rank of non-commissioned officer as a matter of punishment.³⁹

Ordinance XXXIX of 1943 promulgated on 23-10-1943 dealt with criminal law and amended Ordinance XXIX of 1943. By this, it was provided that English shall be deemed to be the language of the court set up for speedy trial of offences punishable under Indian Penal Code, constituted with the help of the original ordinance.⁴⁰

Ordinance XL of 1943 promulgated on 2-11-1943 also amended Criminal Law Ordinance, 1943 (Ordinance XXIX of 1943) for the second time. Schedule A of the ordinance indicated the cases for trial by the tribunal at different places and Schedule B showed offences triable by the tribunals. With the help of this ordinance, Schedule A was only amended and few more names were added in it.⁴¹

Ordinance XLI was promulgated on 10-11-1943. It imposed a tem-

porary duty of excise on certain sugar produced in British India. By this, a duty of excise was to be levied on all sugar produced in any factory. An Assessing Officer was to assess the duty payable on sugar. The amount assessed, if not paid, was to be recovered as arrears in land revenue. An Assessment Officer was empowered to enter the premises in which he had reason to believe that there was assessable sugar. He could also examine account books and other documents. The ordinance provided punishment for certain types of offences. The courts could also order forfeiture of sugar, in case the owner failed to pay the duty. Provision was made for appeal against the decision of the lower officer.⁴²

Ordinance XLII of 2-12-1943 amended North West Frontier Constabulary Act, 1915. By this it was provided that it shall be lawful for the central government to employ this constabulary outside the limits of N.W.I.P. for better protection and administration of the area under the general control and direction of District Magistrate.⁴³

Ordinance XLIII of 2-12-1943 authorised the government to make certain penal deductions from the pay and allowances of a person subject to the Indian Army Act, 1911, for certain types of offences committed by them.⁴⁴

Ordinance XLIV of 2-12-1943 amended Defence of India Act, 1939. By this, it was provided that no death sentence could be passed on any prisoner unless minimum five officers were present at the court martial. In other cases, a majority of not less than 2/3rd of the officers present must concur in the sentence being passed.⁴⁵

DURATION OF ORDINANCES

After the passing of India and Burma (Emergency Provisions) Act, 1940, an ordinance promulgated by the Governor General could remain in force for any number of years. Out of 44 ordinances promulgated during the year 1943, as many as 15 were new ordinances, whereas remaining ordinances effected either some already promulgated ordinances or a previously enacted Act of the central government. Of these no ordinance was allowed to remain in force for less than a year, only one was in force between 1-2 years; twenty remained valid between 2-3 years; eleven between 4-5 years; six between 5-6 years; one between 6-7 years and three between 14-15 years. Remaining 3 ordinances remained valid for more than 15 year.

Table 6.2: Duration of ordinances promulgated during the year 1943

<i>Duration of ordinance</i>	<i>Ordinance No.(s)</i>
Less than a year	—
Between 1-2 years	XLIII
Between 2-3 years	II, III, V, VII, VIII, IX, X, XI, XII, XIV, XV, XXIII, XXV, XXVI, XXVII, XXXII, XXXIV, XXXVII, XXXVIII, XLIV
Between 3-4 years	—
Between 4-5 years	I, VI, XIII, XVII, XXI, XXII, XXIV, XXVIII, XXXI, XXXIII, XXXV
Between 5-6 years	XX, XXXIX, XL, XLI, XLII
Between 6-7 years	XXXVI
Between 14-15 years	XVIII, XIX, XXIX
More than 15 years	IV, XVI, XXX

Of the ordinances mentioned in Table 6.2, repealing ordinance No. I of 1946 repealed as many as 21 ordinances. These being (II, III, V, VII, VIII, IX, X, XI, XII, XXIII, XXV, XXVI, XXVII, XXXII, XXXIV, XXXVII, XXXVIII, XXXIX, XL, XLII and XLIV). Fourteen ordinances were repealed by Act 2 of 1948, passed on 5-1-1948. These being (I, VI, XIII, XIV, XV, XVII, XXI, XXII, XXIV, XXVIII, XXXI, XXXIII, XXXV and XLI). Three ordinances were repealed by repealing Act 36 passed on 17-9-1957. These being (XVIII, XIX and XXIX), one ordinance No. XLIII was repealed by Act 40 passed on 15-4-1949 whereas one Ordinance No. XXXVI was repealed by Act 46 passed on 20-5-1950.

EFFECT OF ORDINANCES ON THE PREVIOUS LEGISLATION

During the year 1943 as many as 54 ordinances were promulgated. Some such ordinances were promulgated for the first time, whereas some others were of amending nature and effected an already enacted Act/Ordinance. This effect is shown in Table 6.3.

Table 6.3: Effect of ordinances on the already enacted legislation

Ordinance No.	Previously enacted legislation effected		Nature of ordinance
	Ordinance No.	Act No.	
(1)	(2)	(3)	(4)
I	—	V of 1898.	New
II	XI of 1941	—	—
III	III of 1942	VI of 1908, XLV of 1860	—
IV	—	XI of 1922	—
V	XX of 1942	—	—
VI	—	—	New
VII	X of 1942	V of 1908, V of 1898	—
VIII	IX of 1940	—	—
IX	XII of 1942	—	—
X	II of 1942	—	—
XI	—	XXXIV of 1930	—
XII	—	II of 1934	—
XIII	XI of 1941	—	—
XIV	—	XXXV of 1939	—
XV	I of 1943	—	—
XVI	—	XV of 1940	—
XVII	—	XXXIV of 1934	—
XVIII	—	—	New
XIX	II of 1942	—	—
XX	—	—	New
XXI	—	—	New
XXII	—	—	New
XXIII	X of 1942	—	—
XXIV	—	XXI of 1923	—
XXV	IX of 1940 XII of 1940	—	—
XXVI	XIX of 1943	—	—
XXVII	II of 1940	—	—
XXVIII	LVI of 1942	—	—
XXIX	—	—	New
XXX	—	—	New

Table 6.3 (contd.)

(1)	(2)	(3)	(4)
XXXI	—	—	New
XXXII	—	XIX of 1943	—
XXXIII	—	—	New
XXXIV	—	—	New
XXXV	—	—	New
XXXVI	—	—	New
XXXVII	—	—	New
XXXVIII	X of 1942	—	—
XXXIX	XXIX of 1943	—	—
XL	XXIX of 1943	—	—
XLI	—	—	New
XLII	—	XIII of 1945	—
XLIII	—	VIII of 1911	—
XLIV	—	XXXV of 1939	—

ORDINANCES AND LEGISLATIVE ASSEMBLY, 1943

The year 1943 was a war year and as such during the year the Assembly met for a short while. In all, it was convened for 95 days, out of which it actually met for 69 days. In all 11 days were allotted for non-official business, whereas remaining 58 days were allotted for official business, as detailed in Table 6.4.

Table 6.4: Sessions of Central Legislative Assembly, 1943

Particulars of Session	Date of commencement	Time of commencement of meeting	Date of adjournment	Total No. of days of the Session	Actual No. of days on which the House met	No. of days allotted for Non-official business	Official business
17th Session	10-1-1943	11a.m.	2-4-1943	52	36	6	30
18th Session	26-7-1943	"	25-8-1943	31	23	3	20
19th Session	8-11-1943	"	19-11-1943	12	10	2	8

Table 6.5: Gap between the promulgation of ordinances and the meeting of the Assembly

<i>Session</i>	<i>Ordinance No.</i>	<i>Date of commencement of session</i>	<i>Date of promulgation of ordinance</i>	<i>Difference of days</i>		
(1)	(2)	(3)	(4)	(5)		
				Months	—	Days
17th	I	10-2-1943	9-1-1943	1	—	01
	II	"	"	1	—	01
	III	"	16-1-1943	0	—	24
	IV	"	"	0	—	24
	V	"	20-1-1943	0	—	20
	VI	"	"	0	—	20
	VII	"	27-1-1943	0	—	14
	VIII	"	"	0	—	14
	IX	"	"	0	—	14
	X	"	30-1-1943	0	—	11
	XI	"	3-2-1943	0	—	07
18th	*					
	XIV	28-7-1943	28-4-1943	2	—	29
	XV	"	1-5-1943	2	—	25
	XVI	"	17-5-1943	2	—	08
	XVII	26-7-1943	20-5-1943	2	—	05
	XVIII	"	31-5-1943	1	—	27
	XIX	"	5-6-1943	1	—	22
	XX	"	30-6-1943	0	—	26
	XXI	"	2-7-1943	0	—	24
	XXII	"	12-7-1943	0	—	15
	XXIII	"	15-7-1943	0	—	12
	XXIV	"	"	0	—	12
	XXV	"	17-7-1943	0	—	09
	XXVI	"	"	0	—	09
	XXVII	"	"	0	—	09
19th	XXVIII	8-11-1943	4-9-1943	2	—	05
	XXIX	"	11-9-1943	1	—	28
	XXX	"	15-9-1943	1	—	24

Table 6.5 (contd.)

(1)	(2)	(3)	(4)	(5)		
	XXXI	"	"	1	—	24
	XXXII	"	29-9-1943	1	—	10
	XXXIII	"	11-10-1943	0	—	27
	XXXIV	"	16-10-1943	0	—	23
	XXXV	"	"	0	—	23
	XXXVI	"	"	0	—	23
	XXXVII	8-11-1943	19-10-1943	0	—	20
	XXXVIII	"	23-10-1943	0	—	16
	XXXIX	"	25-10-1943	0	—	14
	XL	"	2-11-1943	0	—	06

* Ordinance Nos. XII and XIII were when the Central Assembly was in session.

Table 6.5 shows as to how soon before meeting the Assembly the ordinance were promulgated.

It will thus be observed that two ordinances (XI and XL) were promulgated just seven days before the beginning of the sessions of the Central Legislative Assembly. Ordinance Nos. VII, VIII, IX, X, XXIII, XXIV, XXV, XXVI, XXVII and XXXIX, i.e. ten ordinances were promulgated between 8-14 days of the beginning of the session. Ordinance Nos. V, VI, XXII, XXXVI and XXXVIII, i.e. five in all were promulgated between 15-21 days of the beginning of the session. Remaining twenty-three ordinances were promulgated more than 22 days of the beginning of the session. Since about 40% of the total ordinances promulgated during the year were promulgated when the Council was about to meet within 22 days, it can be concluded that the government did not care for the Central Assembly.

As regards the time gap between the promulgation of ordinances and the adjournment of the session of the Assembly, the position is clear from Table 6.6.

Since only seven ordinances were promulgated within 21 days after the adjournment sine die of the Assembly, as such it can be said that the government did not haste in promulgating the ordinances soon after the adjournment sine die of the Assembly.

Ordinances XII and XIII were promulgated when 17th session of the Central Legislative Assembly was in session. Ordinance XII was pro-

Table 6.6: Gap between adjournment of the Assembly and promulgation of ordinances

<i>Session</i>	<i>Ordinance No.</i>	<i>Date of adjournment of Assembly</i>	<i>Date of promulgation of ordinance</i>	<i>Difference</i>		
(1)	(2)	(3)	(4)	(5)		
				Months	Days	
17th	XIV	2-4-1943	28-4-1943	0	—	26
	XV	"	1-5-1943	1	—	00
	XVI	"	17-5-1943	1	—	16
	XVII	"	20-5-1943	1	—	19
	XVIII	"	31-5-1943	2	—	00
	XIX	"	5-6-1943	2	—	04
	XX	"	30-6-1943	2	—	28
	XXI	"	2-7-1943	3	—	00
	XXII	"	12-7-1943	3	—	10
	XXIII	"	15-7-1943	3	—	13
	XXIV	"	"	3	—	13
	XXV	"	17-7-1943	3	—	15
	XXVI	"	"	3	—	15
	XXVII	"	"	3	—	15
18th	XXVIII	25-8-1943	4-9-1943	0	—	10
	XXIX	"	11-9-1943	0	—	17
	XXX	"	15-9-1943	0	—	21
	XXXI	"	"	0	—	21
	XXXII	"	29-9-1943	1	—	05
	XXXIII	"	11-10-1943	1	—	18
	XXXIV	"	16-10-1943	1	—	23
	XXXV	"	"	1	—	23
	XXXVI	"	"	1	—	23
	XXXVII	"	19-10-1943	1	—	26
	XXXVIII	"	23-10-1943	1	—	29
19th	XXXIX	"	25-10-1943	2	—	00
	XL	"	2-11-1943	2	—	08
	*					
	XLII	19-11-1943	2-12-1943	0	—	14

Table 6.6 (contd.)

(1)	(2)	(3)	(4)	(5)
	XLIII	"	"	0 — 14
	XLIV	"	"	0 — 14

* Ordinance XLI was promulgated on 10-11-1943 when the House was in session.

mulgated on 22-2-1943 whereas Ordinance XIII was promulgated on 16-3-1943.

No ordinance was promulgated when 18th session of Central Legislative Assembly was in progress.

Ordinance XLI was promulgated on 10-11-1943 when 19th session of the Assembly was in progress.

NOTES

1. Gazette of India Extraordinary, Part V, dated 9-1-1943, pp. 23-27.
2. *Ibid.*, dated 9-1-1943, p. 27.
3. *Ibid.*, dated 16-1-1943, p. 31.
4. *Ibid.*, dated 16-1-1943, p. 32.
5. *Ibid.*, dated 20-1-1943, p. 111.
6. *Ibid.*, dated 20-1-1943, p. 112.
7. *Ibid.*, dated 27-1-1943, p. 123.
8. *Ibid.*, dated 27-1-1943, pp. 124-125.
9. *Ibid.*, dated 27-1-1943, p. 126.
10. *Ibid.*, dated 30-1-1943, pp. 133-34.
11. *Ibid.*, dated 3-2-1943, p. 139.
12. *Ibid.*, dated 22-2-1943, p. 157.
13. *Ibid.*, dated 16-3-1943, p. 215.
14. *Ibid.*, dated 28-4-1943, pp. 323-324.
15. *Ibid.*, dated 1-5-1943, pp. 325-326.
16. *Ibid.*, dated 17-5-1943, pp. 341-343.
17. *Ibid.*, dated 20-5-1943, pp. 349-350.
18. *Ibid.*, dated 31-5-1943, pp. 363-366.
19. *Ibid.*, dated 5-6-1943, pp. 395-396.
20. *Ibid.*, dated 30-6-1943, pp. 395-396.
21. *Ibid.*, dated 2-7-1943, pp. 435-436.
22. *Ibid.*, dated 12-7-1943, pp. 525-526.
23. *Ibid.*, dated 15-7-1943, pp. 527-528.
24. *Ibid.*, dated 15-7-1943, pp. 528-530.
25. *Ibid.*, dated 17-7-1943, pp. 535-536.

26. *Ibid.*, dated 17-7-1943, p. 537.
27. *Ibid.*, dated 17-7-1943, p. 538.
28. *Ibid.*, dated 4-9-1943, pp. 583-584.
29. *Ibid.*, dated 11-9-1943, pp. 589-594.
30. Special Tribunals (Supplementary Provisions) Bill No. 50 of 1946, dated 4-11-1946; Gazette of India Extraordinary, Part IV, pp. 258-259.
31. Gazette of India Extraordinary, Part IV, dated 15-9-1943, pp. 603-04.
32. *Ibid.*
33. *Ibid.*, dated 29-9-1943, pp. 613-614.
34. *Ibid.*, dated 11-10-1943, pp. 623-624.
35. *Ibid.*, dated 16-10-1943, pp. 625-626.
36. *Ibid.*, dated 16-10-1943, pp. 626-629.
37. *Ibid.*, dated 16-10-1943, pp. 629-630.
38. *Ibid.*, dated 19-10-1943, pp. 635-642.
39. *Ibid.*, dated 23-10-1943, pp. 651-654.
40. *Ibid.*, dated 25-11-1943, pp. 655-656.
41. *Ibid.*, dated 2-11-1943, pp. 663-664.
42. *Ibid.*, dated 10-11-1943, pp. 757-760.
43. *Ibid.*, dated 2-12-1943, p. 819.
44. *Ibid.*, dated 2-12-1943, pp. 819-820.
45. *Ibid.*, dated 2-12-1943, p. 820.

DECLINING WAR YEAR ORDINANCES (1944)

During the year 1944 as many as 56 ordinances were promulgated by the Governor General as shown in Table 7.1.

Table 7.1: Ordinances promulgated by the Governor General of India during the year 1944

<i>Ordi- nance No.</i>	<i>Title of the ordinance</i>	<i>Date of promulgation</i>	<i>Source: Gazette of India Extra- ordinary; Page(s)</i>
(1)	(2)	(3)	(4)
I	Allied Forces (Exemption from Local Taxation) Amendment Ordinance	13-1-1944	23
II	Cotton Cloth and Yarn (Contracts) Ordinance	13-2-1944	23-24
III	Restriction and Detention Ordinance	15-1-1944	27-31
IV	Military Safety (Power of Detention) Ordinance	"	31-32
V	Indian Army (Amendment) Ordinance	31-1-1944	45
VI	Criminal Law Amendment (Amending) Ordinance	"	45-47
VII	Coal Mines Labour Welfare Fund Ordinance	"	48-50

Table 7.1 (contd.)

(1)	(2)	(3)	(4)
VIII	Excess Profit Tax (Amendment) Ordinance	"	50
IX	War Risks Insurance (Extending) Ordinance	11-3-1944	539-540
X	Railways (Coal Contracts Extension) Ordinance	"	540
XI	Enemy Agent (Amendment) Ordinance	8-4-1944	679-780
XII	Hoarding and Profiteering Prevention (Amendment) Ordinance	"	680-682
XIII	Burma Police Forces (Disci- pline Enforcement) Ordinance	15-4-1944	693-694
XIV	Indian Soldiers (Litigation) Amendment Ordinance	29-4-1944	757-758
XV	Bombay Commission of Enquiry Ordinance	6-5-1944	767-768
XVI	Criminal Law (Second Amendment) Ordinance	13-5-1944	773-775
XVII	Indian Discipline (Amendment) Ordinance	"	775
XVIII	Railway (Employment of Military Personnel) Ordinance	"	775-776
XIX	Railway Stores (Unlawful Possession) Ordinance	"	776
XX	Service in Ships (Requisition) Ordinance	20-5-1944	945-946
XXI	Public Health (Emergency) Provisional Ordinance	"	946-949
XXII	Restriction and Detention (Amendment) Ordinance	27-5-1944	953-954
XXIII	Discipline of Seamen (Amend- ment) Ordinance	"	954
XXIV	Criminal Law Amendment (Third Amendment) Ordinance	"	954-956
XXV	Delhi Rent Control Ordinance	3-6-1944	1061-1064

Table 7.1 (contd.)

(1)	(2)	(3)	(4)
XXVI	Defence of India (Amendment) Ordinance	24-6-1944	1131-1133
XXVII	Coal Mines Labour Welfare Fund (Amendment) Ordinance	"	1133
XXVIII	Famine Enquiry Commission Ordinance	"	1134
XXIX	War Risks (Goods) Insurance (Amendment) Ordinance	1-7-1944	1145
XXX	Army (Provisions For Dependents) Ordinance	"	1145-1146
XXXI	Indian Army (Second Amendment) Ordinance	"	1146
XXXII	Bombay Explosion (Compensation) Ordinance	"	1147-1161
XXXIII	Indian finance (Amendment) Ordinance	8-7-1944	1189
XXXIV	The Cotton Textiles Fund Ordinance	"	1189-1194
XXXV	The Defence of India (Second Amendment) Ordinance	29-7-1944	1211
XXXVI	Criminal Law (Fourth Amendment) Ordinance	"	1211-1214
XXXVII	Civilian Personnel (War Department) Transfer Ordinance	19-8-1944	1227-1228
XXXVIII	Criminal Law Amendment Ordinance	23-8-1944	1235-1240
XXXIX	The Coal Production Fund Ordinance	26-8-1944	1275-1277
XL	Criminal Law Amendment (Fifth Amendment) Ordinance	"	1277-1278
XLI	Allied Forces (Exemption from Local Taxation) Second Amendment Ordinance	9-9-1944	1299
XLII	Post Office National Saving Certificates	"	1299-1302

Table 7.1 (contd.)

(1)	(2)	(3)	(4)
	Ordinance		
XLIII	Cotton Textile Fund (Amendment) Ordinance	16-9-1944	1313-1314
XLIV	Indian Army (Third Amendment) Ordinance	30-9-1944	1421-1422
XLV	Income Tax and Excess Profits Tax (Validity of Notices) Ordinance	3-10-1944	1431-1432
XLVI	Registration (Emergency Powers) Ordinance	7-10-1944	1435-1438
XLVII	National Service (Techni- cal Personnel) Amendment Ordinance	"	1438
XLVIII	Code of Criminal Procedure (Amendment) Ordinance	21-10-1944	1441
XLIX	Criminal Law Amendment (Sixth Amendment) Ordinance	"	1441-1442
L	Sugar (Temporary Excise Duty) Ordinance	"	1442
LI	Bombay Explosion (Compen- sation) Amendment Ordinance	25-10-1944	1467-1468
LII	Criminal Law Amendment (Seventh Amendment) Ordinance	2-12-1944	1531-1533
LIII	Hoarding and Profiteering Prevention (Second Amend- ment) Ordinance	13-12-1944	1545-1548
LIV	War Injuries (Compensation Insurance) Amendment Ordinance	18-12-1944	1555-1556
LV	Women Auxiliary Corps (Amendment) Ordinance	23-12-1944	1563-1564
LVI	Cotton Textiles Fund (Second Amendment) Ordinance	30-12-1944	1565-1566

FOCUS OF ORDINANCES

Ordinance I of 1944, promulgated on 13-1-1944 amended Allied Forces (Exemption from Local Taxation) Ordinance, 1943 (Ordinance XXVIII of 1943). The original ordinance exempted payment of taxes levied by municipal committee etc. on the property etc. owned by armed forces establishments of Allied powers in India. The amending ordinance provided that this was also to apply to such taxes as had become payable before the commencement of the ordinance. In other words, such establishments were totally exempted from all sorts of payments.¹

Ordinance II was promulgated on 13-2-1944 and dealt with cotton cloth and yarn. By the ordinance, it was provided that the cotton cloth and yarn dealers were not to charge more price than what had been fixed by the Textile Commissioner.²

Ordinance III of January 15, 1944 was a detailed one. It empowered the central government and also the provincial governments to restrict the movement and actions and place in detention of certain persons with a view to preventing them from acting in any manner prejudicial to the Defence of India, the public safety, the maintenance of public order, His Majesty's relations with foreign powers or Indian states etc. The competent authority could direct any such person to remove himself from British India or he would be exposed to the risk of detention or would debar him from entering a particular area. If any person in violation of this order entered a place from where he was debarred to enter, he could be removed or even detained by any police officer. A person could also be detained outside the province. Provision was also made in respect of those persons who were found absconding or concealing themselves after the issue of their detention orders.

It was also provided that to the extent possible, the person detained shall be given grounds for his detention, to enable him to make representation, if he considered that necessary. Certain types of orders of detention were to be sent to the central government for confirmation. No detention order was to remain in force ordinarily for a period of more than six months. No such order was to be called in question in any court and the courts were forbidden to interfere with regard to these orders. Similarly, it was also provided that no court was entitled to require any public officer to produce before it or to disclose the substance of any such communication about the grounds of detention or representations made. If any information was disclosed or published about communication of grounds of detention, that was to be punished with imprison-

ment for a period up to 2 years.³

Ordinance V of 15-1-1944 dealt with military safety. It empowered the central government to detain certain types of persons who had entered British India from territories for the time being occupied by an enemy and when such a detention was considered necessary for military safety. Such a person could be arrested by any police officer without any arrest warrant and produced before a District Magistrate who was to send him to the nearest military authority. He was to be kept in custody till such time, as his release was ordered by the competent authority.⁴

Ordinance V of 31-1-1944 further amended Indian Army Act, 1911 (Act VIII of 1911). The amendment made proposed that Burma Army Act was also to be covered under the Act of 1911.⁵

Ordinance VI was promulgated on 31-1-1944. It amended Criminal Law Amendment Ordinance, 1943 (XXIX of 1943). It amended First and Second Schedules attached to the original ordinance, which dealt with cases for trial by the tribunals with Headquarters at Calcutta and Lahore.⁶

On 31-1-1944 was promulgated Ordinance VII of 1944 which provided for constituting a fund for financing the activities of and to promote the welfare of the labour employed in coal mine industry. With the help of this ordinance, the government got powers to levy and collect as a cess for the purpose, as a duty of excise. A Coal Mine Labour Welfare Fund was to be created. The purposes for which the money collected was to be utilised included measures to be taken for the benefit of labour employed in the coal mine industry, improvement of public health, prevention of diseases, improvement of existing medical facilities, supplies, educational facilities etc. An advisory committee was to be constituted for advising the central government on matters relating to coal mine workers welfare. The members of the committee were to be appointed by the central government which was empowered to appoint Welfare Administrators and also make rules to carry into effect the purpose and the provisions of this ordinance.⁷

Ordinance VIII of 1944 promulgated on 31-1-1944 amended Excess Profit Tax Act, 1940 (No. XV of 1940). It provided that if from a business of mining of any mineral, any bonus was paid by or through the central government in respect of increased output of the mineral, that shall be totally exempted from Excess Profit Tax and shall not be covered by that Act.⁸

On 11-3-1944 was promulgated Ordinance IX of the year which

extended issue period in respect of which policies of insurance under War Risks (Factories) Insurance Ordinance, 1942 (No. XII of 1942) had been issued, from 31-3-1944 to 31-3-1945. It also amended War Risks (Inland Vessels) Insurance Ordinance, 1943 (No. XXV of 1943). By this it was provided that insurance policy stood extended up to March 1945.⁹

Ordinance X of 1944 provided for extending the term of certain contracts for the supply of coal and coke to the railways. It was provided that any contract entered between the central government and railways for the supply of coal and coke to the railways which expires on 31.3.1944 was now to continue to remain in force till 30-6-1944, but could be expired earlier by the central government as well.¹⁰

Ordinance XI of 1944, promulgated on 8-4-1944, amended Enemy Agents Ordinance, 1943 (No. I of 1943). The original ordinance had provided for trial and punishment of enemy agents by special judges. The amending ordinance provided that a judge reviewing the proceedings could direct re-trial of the accused or direct further evidence to be taken. It also provided that no person other than the accused or his pleader was entitled to be furnished with a copy of any part of record of or document relating to any proceedings under the ordinance. It was the duty of the person concerned who had obtained such a copy to keep that under his personal custody and not to show that to any other person. It was also made obligatory on him to return the same document to the authority concerned within 10 days of the conclusion of the proceedings for the purpose for which it was furnished to him or obtained by him.¹¹

Ordinance XII of 1944 was promulgated on April 8, 1944. It amended Hoarding and Profiteering Prevention Ordinance, 1943 (No. XXXV of 1943). This ordinance provided that if any article was sold by auction in contravention of the prevention of the provisions of original ordinance, the auctioneer as well as the dealer or the producer will be liable to the punishment. It also specified what was considered to be unreasonable for the purposes of the ordinance. Provision was made for summary trials of the offences specified in the ordinance.¹²

On 15-4-1944, Ordinance XIII was promulgated. It provided for the maintenance and enforcement of discipline among the members of the police forces of British Burma who were temporarily in British India. It was provided that any act committed by a police officer of British Burma in British India was to be punished in British India, as if the act constituted an offence under the law of British India.¹³

Indian Soldiers (Litigation) Act, 1925 (No. XIV of 1944) was promulgated on 29-4-1944. It amended Act IV of 1925. By the ordinance,

the central government got powers to direct that every provision of the Act of 1925 was to apply to the members of the forces of any Indian state(s) in the same manner as they were to apply to Indian soldiers.¹⁴

On 6-5-1944 was promulgated Ordinance XV of 1944. On 2-5-1944, the Government of India had set up a Commission of Enquiry. By this ordinance, it was provided that this Commission would have the powers of civil court for the purposes of receiving evidence, administering oath etc. It was made an offence punishable to disclose or publish the proceedings of the Commission or what had transpired in the said Commission.¹⁵

Ordinance XVI of 1944 promulgated on 13-5-1944 further amended Criminal Law Amendment Ordinance, 1943 (No. XXIX of 1943). By this, it was provided that in addition to two special tribunals, as provided in the original ordinance, there shall be a third tribunal with headquarters at Lucknow.¹⁶

Indian Navy (Discipline) Act, 1934 (Act XXXIV of 1934) was amended by Ordinance XVII of 1944 promulgated on 13-5-1944. By this, it was provided that disciplinary action could be taken by a naval officer authorised by the central government on its behalf.¹⁷

The Railway (Employment of Military Personnel) Ordinance, 1942 (No. LIII of 1942) was amended by Ordinance XVIII of 1944, promulgated on 13-5-1944. In the original ordinance, it was provided that when member of His Majesty's forces were employed to assist a railway administration, these were to enjoy same power, status or immunity as were enjoyed by railway employees under Indian Railways Act, 1890. By the amending ordinance, this provision was made applicable not only to His Majesty's forces but also to the forces of United States, when employed by railway administration.¹⁸

Ordinance XIX of 13-5-1944 made special provision for the punishment of the offences of unlawful possession of railway stores. It was provided that a person who was in unlawful possession of railway store could be punished with imprisonment for a term not exceeding 5 years, or with fine or with both.¹⁹

On 20-5-1944 was promulgated Service in Ships (Requisition) Ordinance. By this it was provided that the competent authority could direct any British subject domiciled in the United Kingdom, presently in British India, to perform such services in any British Ship registered in the United Kingdom, as might be specified in the directions. The directions were also to specify the remunerations and conditions of service. It was also provided that no British subject domiciled in the United Kingdom

who had been a master or member of the crew of any ship at any time was to accept any employment except as the master or member of the crew in the British ship, without the consent of the competent authority.²⁰

Ordinance XXI was promulgated on 20-5-1944. It made special provisions in regard to health. By this, it was provided that the appropriate government could order any local authority to take within a specified period necessary measures ensuring for adequate medical services and of preventing the spread of human disease, safeguarding of public health and providing or maintaining services essential to the health of the community. It was made obligatory on the local authority to comply with such instructions. It was also provided that if any local authority failed to do so, the appropriate government might authorise any person to take measures for doing the assigned task. It could also appoint any additional staff and assume superintendence of all or any of the medical and public health services of any local authority. The appropriate government could also give instructions to the local authority, which the latter was duly bound to comply with. The former was competent to supersede the local authority for such period as might be specified in the order.

In the event of supersession, all the members were to vacate their offices and the work was to be looked after by the person, who might be so appointed by the appropriate government. It might also make rules for carrying out the instructions given to the local authority.²¹

Ordinance XXII of 1944 was promulgated on 27-5-1944. It amended Restriction and Detention Ordinance, 1944 (No. III of 1944). It was provided that by merely endorsing on the original order of detention, it could be provided that the detention period of the person detained be extended even beyond the period of 6 months.²²

Ordinance XXIII was promulgated on 27-5-1944. It amended the Discipline of Seamen Ordinance, 1943 (No. XXIV of 1943). By this, it was provided that whoever being lawfully engaged to serve on board any ship to which ordinance applied, assaulted or used criminal force to his master etc. or committed mischief by causing any damage to his ship and continually and wilfully disobeyed lawful command was to be punished with imprisonment for a term which might extend to one year or with fine or both.²³

On the same day, i.e. 27-5-1944 was promulgated Ordinance XXIV of 1944. It amended for the third time Criminal Law Amendment Ordinance, 1943 (No. XXIX of 1943) and Criminal Law Amendment (Second) Amending Ordinance, 1944 (Ordinance XVI of 1944). It amended first

Schedule attached to the original ordinance dealing with parties and places of trial.²⁴

On 3-6-1944 was promulgated Ordinance XXV of 1944. It dealt with control of rents in the province of Delhi. By this, it was provided that no tenant was liable to pay to his landlord for occupation of any premises any sum in excess of the standard rent of those premises. Any agreement for the payment of rent in excess of the standard rent was null and void and was construed to be as if it was an agreement for the payment of standard rent only. Where the rent was less than the standard rent, the owner could increase that up to the level of the standard rent. The courts were directed not to issue distress warrants for any rent due in respect of any premises and also that ordinarily no court was to pass any decree or order evicting the tenant.²⁵

Defence of India Act 1939 (No. XXXV of 1939) was amended with the promulgation of Ordinance XXVI of 1944, promulgated on 24-6-1944. Section (2) of Act 1939 had provided that the central government could issue orders providing for such matters as were necessary for ensuring the safety and welfare of His Majesty's forces etc. By this ordinance, it was provided that the said government could pass orders dealing with such matters as ports, railways, roads, canals, telegraphs, post offices, sources of water supply, mines and factories etc.

By this ordinance, it was now provided that the provincial government by notification in the official gazette could direct any person to perform such duties and functions as might be specified in the notification. The said government could also provide that the competent transport authority was not bound to take any representation into consideration while dealing with issue or refusal of permits for the plying of vehicles or fixing maximum/minimum fares or freights for stage carriages and public carriages and public carriers, etc. Such an authority could also modify the conditions or suspend permits once issued by it. The provincial government could also exempt any transport vehicle from the provisions of the Act if that was necessary in connection with the Defence of India. It was clarified that the decision of the competent authority was final and conclusive.²⁶

Ordinance XXVII was promulgated on 24-6-1944. It amended Coal Mines Labour Welfare Fund Ordinance, 1944 (No. VII of 1944). In the original ordinance, it had been provided that the money of the Fund was to be utilised for the welfare of coal and soft coke workers. Now it was provided that the money could be utilised for soft coal and soft coke resources, i.e. the word 'soft' was added before coal.²⁷

On June 24, 1944, another ordinance was promulgated by the Governor General providing for the constitution of a Commission to investigate the causes of food shortages and break out of epidemics in India in 1943. It provided that the Commission was to consist of 5 members including the Chairman. It was first to pay attention to Bengal and make recommendations about this province even before the submission of final report. It was also to make recommendations about the possibilities of improvement of diet of the people and the system of distribution and supply of food and emergent medical relief. The Commissioners were to be appointed by the central government and paid by it.²⁸

Ordinance XXIX of 1944 was promulgated on 1-7-1944. It amended Ordinance IX of 1940 which dealt with War Risks (Goods) Insurance Ordinance. The original ordinance had specified as to what was covered in the category of 'War Risks'. By this ordinance, it was provided that war risk would include any explosion or fire which involved any explosive or munition or other dangerous things required for war purposes.²⁹

On the same day was promulgated Ordinance XXX of 1944 which dealt with the dependants of army personnel. It provided that the central government was competent to make provisions for any dependant or for any such person who was a prisoner of war or missing, out of his pension and allowances. It also provided that any such amount already paid was to be treated to have been validly paid.³⁰

Ordinance XXXI also promulgated on the same day, amended Indian Army Act, 1911 (No. VIII of 1911). It provided that the provisions of this ordinance were applicable to the Territorial Army, Auxiliary Force in India and Burma Auxiliary Force. It also provided that any sentence already passed was to have the effect as if it were a finding or a sentence of a court martial.³¹

Ordinance XXXII was promulgated on 1-7-1944. It was quite a comprehensive ordinance and dealt with payment of compensation in respect of explosions and fires in Bombay on 14-4-1944 on Bombay Docks. It provided that for the purposes of assessing the amount of compensation, the central government would appoint a Claims Committee consisting of not more than 20 persons of whom one was to be nominated by the central government as its chairman. Every person who was interested in the payment of some amount was to make an application in the prescribed proforma. The Committee was not bound to hear the applicants or receive any evidence. It was to frame its own rules and procedures of work. The Claims Commissioners were given the powers of civil courts for the purposes of receiving evidence etc. Usually, the decisions

of the Claims Commissioners were to be final and not to be called in question in any court.

The Claims Committee was given the powers to issue payment orders. General guidelines were given for the payment of compensation in cases of death or injury. In the cases of death, the Claims Committee was to decide who was the right dependant to receive payments. Provision was made for the payment of compensation for the damage caused to property, both insured and uninsured. The ordinance also specified the cases in which no compensation was to be paid. None could, however, approach the court of law for non-payment or less payment of amount and for that matter for any purpose connected with compensation. No public servant connected with the work could disclose any information about payment of compensation, etc.³²

On 8-7-1944 was promulgated Ordinance XXXIII of 1944, which only marginally amended Indian Finance Act, 1944. It defined the terms 'Profit' and 'Dividend' for the purposes of the Act.³³

On the same day was promulgated Ordinance XXXIV of 1944 which provided for the setting up of Cotton Textile Fund. It empowered the central government to levy a duty of customs on all cloth and yarn manufactured in India and exported from British India at a certain specified rate. The said government was also made competent to set up Cotton Textiles Committee to administer the fund. It was to consist of such number of members, as might be decided by the government, which was also to appoint a chairman. the Committee was to decide its own procedure of work.

The money collected was to be used for payment of cost of such measures as might be necessary for supervising the export of cloth and yarn and also for meeting capital costs, for promoting or increasing the sale of Indian cloth and yarn abroad etc. The Committee was to maintain its own accounts.³⁴

Ordinance XXXV of 1944 was promulgated on 29-7-1944. It amended Defence of India Act, 1939 (No. XXXV of 1939) for the second time. By this, the central government got powers to make regulations for prohibiting or regulating the bringing into, or taking out of British India of goods and articles of any description (including coin, bullion, bank notes, etc. etc.). It was also provided that no order made or action taken in exercise of any powers conferred by this ordinance was to be called in question in any court.³⁵

Criminal Law Amendment (Fourth Amendment) Ordinance XXXVI of 1944 was promulgated on 29-7-1944. It amended Criminal Law

Amendment Ordinance, 1943 (No. XXIX of 1943). It added few more names to Schedule I of the said ordinance, which dealt with more speedy trial and more effective punishment of certain offences punishable under Indian Penal Code.³⁶

Ordinance XXXVII of 1944 was promulgated on 19-8-1944. It provided for the transfer of one corps department, establishment, formation or appointment to another of civilian personnel employed under the war department of the central government. It provided that during the period of present emergency any person who was employed in a civilian capacity under the war department of the central government could be transferred without his consent from one corps etc. to another under the war department by the order of the competent authority. Such a person was, however, to be re-transferred to the corps etc. in which he was employed at the time when he was first so transferred.³⁷

Ordinance XXXVIII of 1944 was a comprehensive one. It was promulgated on 23-8-1944. It was called Criminal Law Amendment Ordinance, 1944 and dealt with prevention of the disposal or concealment of property procured by means of certain offences. By this the provincial government was empowered to get the money or property of a person attached through the District Judge, if it was satisfied that such money or property was procured by means of an offence. If that very money or property for any reason could not be attached, then any other money or property of the equivalent amount could be attached. Provision was also made for ad-interim attachment. It was also provided that where the assets available for attachment of a person believed to have committed a scheduled offence were found to be less than the amount or value which he was believed to have procured by means of such offence, and the District Judge was satisfied that a part of the property had been transferred to some other person, then he could issue a show cause notice to the transferee of the property as to why so much of the transferee's property as was equivalent to the proper value of the property transferred should not be attached. Provision was made for making appeals to the High Court against the decision of the provincial government. A schedule was attached to the ordinance which mentioned about offences in connection with which property was liable to be attached. These included offences punishable under Sections 161, 165, 406, 409, 411, 414, 417 and 420 of Indian Penal Code.³⁸

Ordinance XXXIX of 1944 promulgated on 26-8-1944 provided for constituting a fund for the financing of the activities for the improvement of production, marketing and distribution of coal and coke. This

Coal Production Fund Ordinance provided for the levying of and collecting the same as a cess on all coal and coke despatched from collieries in British India, a duty of excise at such rate as might from time to time be fixed by the central government. The proceeds of the duties were to be credited to a fund to be called Coal Production Fund, which was to be utilised to meet expenditure incurred on measures which in the opinion of the central government were necessary for the improvement of production, marketing and distribution of coal and coke. The central government was the final authority to decide whether a particular item of expenditure was debitable to the fund or not.

The central government was also empowered to appoint Inspectors for the supervision of the activities financed from the Fund. It also got powers to make rules to carry into effect the purposes and the provisions of this ordinance.³⁵

Ordinance XL of 1944 promulgated on 26-8-1944 amended Criminal Law Amendment Ordinance, 1943 (No. XXIX of 1943). The original ordinance had provided that for trial of an offence, special tribunal was to consist of at least three members. It was now provided that any two members of the special tribunal could proceed with the trial of the case during the temporary and unavoidable absence of the third member, provided that all the three members were present when after the evidence had been concluded for the prosecution or the accused or his pleader was addressing the special tribunal and when the judgement in the case was being delivered.⁴⁰

Allied Forces (Exemption from Local Taxation) Ordinance, 1944 was promulgated on 9-9-1944. It amended Ordinance XXVIII of 1943. The original ordinance exempted the members in British India of establishments and forces of certain foreign powers allied with His Majesty and certain foreign authorities. By this ordinance, it was provided that the provisions of original ordinance which were applicable to foreign powers allied to His Majesty, were now to apply to Nepalese contingent maintained in British India.⁴¹

On the same day was promulgated Ordinance XLII of 1944 which made certain provisions in respect of Post Office Twelve Year National Savings Certificates and other classes of saving certificates. By the ordinance, transfer of such certificates was restricted and not to be made unless written consent of competent postal authority had been obtained. In case a person who held these certificates died, the money payable to him was to be deposited in Government Saving Bank accounts and not paid to him. In case where a maximum limit for holding these certif-

icates was exceeded, no interest was to be payable on the amount of such excess and if any such excess amount had already been paid that could be recovered as well.⁴²

Ordinance XLIII of 1944 was promulgated on 16-9-1944. It amended Ordinance XXXIV of 1944, which dealt with Cotton Textile Fund. The original ordinance provided for the levy and collection of duty of custom on cloth and yarn manufactured in India. By this ordinance, it was provided that such a duty could be levied on yarn and cloth exported for any purpose which in the opinion of Collector was connected with the prosecution of the war.⁴³

Ordinance XLIV promulgated on 10-9-1944 amended Indian Army Act, 1911 (Act VIII of 1911). By this, it was provided that so long as there were in India any of His Majesty's Burma's forces some provisions of the Army Act, 1911 shall have effect in all respects in relation to such Forces and persons, as had effect in relation to His Majesty's Indian Forces.⁴⁴

Ordinance XLV of 3-10-1944 tried to remove doubts about the validity of certain notices issued under the Indian Income Tax Act, 1922 and the Excess Profits Tax Act, 1940. By amending ordinance, it was clarified that every notice published or issued, whether before or after the commencement of this ordinance, notwithstanding any judgment or order of any court etc. was not to be called in question on the ground merely that a period insufficient in law within which to carry out the requirements of the notice had been specified therein.⁴⁵

On 7-10-1944 was promulgated Ordinance XLVI of 1944. It provided for the registration of certain female European British subjects. It was provided that every female European British subject who, on a prescribed date, had attained 18 years of age and was below fifty years of age, was to get herself registered with the registration authority, if she was not a whole-time government servant, and was not in permanent employment as missionary etc. The central government got powers to make rules for carrying out of this ordinance.⁴⁶

On the same day was promulgated Ordinance XLVII of 1944, which amended National Service (Technical Personnel) Ordinance, 1940 (No. II of 1940). Section 2 of the original ordinance defined as to what was to be covered under the term 'industrial undertaking'. In the amending ordinance port administration and shipping company were covered under this category. It was also now provided that the government could direct any technical person to undertake such employment in the national services as might be specified in the order. A new section was added in

the present ordinance by which it was provided that the provisions of this ordinance were to apply in relation to ships registered in British India under Merchant Shipping Act.⁴⁷

Ordinance XLVIII was promulgated on 21-10-1944. It amended Code of Criminal Procedure, 1898 (Act V of 1898). By this, it was provided that desertion of a soldier from any unit of Indian States' forces declared under the Indian Extradition Act, 1903 was an extradition offence.⁴⁸

Ordinance XLIX of 1944 amended Criminal Law Amendment Ordinance, 1943 (No. XXIX of 1943). It was promulgated on 21-10-1944. By this, original ordinance was amended for the sixth time. By this, several other names of the persons, as accused persons to be tried for offences under I.P.C. charge, were added to the schedule.⁴⁹

On the same day was promulgated an Ordinance No. L of 1944 which imposed a temporary duty of excise on certain sugar produced in British India. By this, it was provided that a duty of excise shall be levied on all sugar produced in any factory in British India by an owner of the factory or by a wholesale dealer. It was made obligatory on every person owning or possessing sugar to declare his stocks within seven days of the commencement of the ordinance. He was also to indicate the place where stocks were stored. For each area an Assessing Officer was appointed to assess the duty payable on the sugar. It was made obligatory on every sugar owner to pay assessed duty without delay. If the duty was not paid in part or full, the Assessing Officer was authorised to recover double the amount payable. An Assessing Officer could enter any premises in which he had reasons to believe that the sugar liable to the duty imposed had been kept.

No person could sell sugar without release orders of the competent authority. Any person who failed to supply information, evaded the payment of duty etc. was to be punished with imprisonment. The courts were empowered to pass orders for the forfeiture of any sugar but aggrieved person could make an appeal against this decision within a month of the passing of the orders.⁵⁰

Ordinance LI of 25-10-1944 amended XXXII of 1942, which dealt with payment of compensation to the victims of Bombay Dock Explosion. By this ordinance, it was provided that if the central government was satisfied that there were reasonable grounds for not filing compensation claim within the last date fixed for the purpose, it could allow the filing of such claims.⁵¹

Criminal Law Amendment Ordinance (Seventh Amendment) was promulgated on 2-12-1944, as Ordinance LII of 1944. By this Ordinance

(No. XXIX of 1943) was amended for the seventh time. By this, first schedule of the original ordinance was again amended by the addition of names to be tried for offences under I.P.C. and the headquarters at which each person concerned was to be tried.⁵²

Ordinance LIII of 1944 was promulgated on 13-12-1944. It amended hoarding and profiteering prevention ordinance, 1943 (No. XXXV of 1943). By the provisions of amending ordinance, it was provided that when any article was sold, offered for sale or otherwise disposed of in contravention of the provisions of the ordinance already in vogue by a dealer or producer etc., he was liable for punishment, whether such a person was present or not when the contravention occurred. It was further provided that the Controller General by order in writing could direct any dealer or producer to sell to any specified person any specified article(s) in such quantity, as might be specified in the order or otherwise, i.e. not to sell, except to such person, as the Controller General may order. The ordinance also empowered Controller General/Inspectors to investigate all offences punishable under the ordinance in force and while conducting investigation of a cognizable offence was to have all the powers, duties, privileges and liabilities of an officer in charge of police station under Code of Criminal Procedure, 1898. Any Magistrate could impose a fine up to Rs.1000 for any offence punishable under the ordinance. He was not to record the evidence or frame a charge unless for reasons to be recorded by him in writing he considered that advisable in any particular case to do so.⁵³

Ordinance LIV of 1944 was promulgated on 18-12-1944. It amended War Injuries (Compensation Insurance) Act, 1943 (Act XXIII of 1943) by adding a new schedule to the original Act, which included the names of some areas and territories, which were brought within the orbit of the 1943 Act for the purposes of payment of compensation.⁵⁴

On 23-12-1944 was promulgated Ordinance LV of 1944. It dealt with Women Auxiliary Corps and amended Ordinance XIII of 1942. The original ordinance had provided that Women Auxiliary Corps was to be raised and maintained in India. In the amending ordinance, the word 'India' was omitted. Thus now it could be maintained anywhere. In the original ordinance, it was made obligatory for every enrolled person to serve in the corps. Now it was provided that it was also obligatory for every enrolled to serve in it.⁵⁵

Last ordinance of the year was Ordinance LVI which was promulgated on 30-12-1944. It amended Cotton Textiles Fund Ordinance, 1944 (No. XXXIV of 1944). By this, it was provided that where for the time

Table 7.2: Duration of ordinances promulgated during the year 1944

<i>Duration of ordinance</i>	<i>Ordinance No.(s)</i>
Less than a year	--
Between 1-2 years	I, V, VI, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XXI, XXII, XXIII, XXIV, XXVI, XXVII, XXVIII, XXIX, XXXIII, XXXVI, XL, XLI, XLIII, XLIV, XLVI, XLVII, XLVIII, XLIX, LI, LII, LIII, LIV, LV, LVI
Between 2-3 years	XXV, XXXIX
Between 3-4 years	IV, VII, XX, XXXI, XXXV, L
Between 4-5 years	—
Between 5-6 years	XXX
Between 6-7 years	III
Between 7-8 years	—
Between 8-9 years	—
Between 9-10 years	—
Between 10-11 years	—
Between 11-12 years	XIX
Between 12-13 years	XLV
Between 13-14 years	II, XXXII, XXXVII
Between 14-15 years	—
Between 15-16 years	XLII
Between 19-20 years	XXXIV
Above 20 years	XXI, XXXVIII

being no maximum ex-factory price had been fixed, the duty of custom, until a maximum ex-factory was so fixed, was to be levied at the rate of 3% of the value of the cloth or yarn exported as declared in the shipping bill.⁵⁶

DURATION OF ORDINANCES, 1944

During the year, 1944, as many as 56 ordinances were promulgated. Some

Table 7.3: Effect of ordinances on previously enacted legislation, 1944

Ordinance No.	Previously enacted legislation effected		Nature of ordinance
	Ordinance No.(s)	Act No.(s)	
(1)	(2)	(3)	(4)
I	XXVIII of 1943	—	—
II	—	—	New
III	—	—	New
IV	—	—	New
V	—	VIII of 1911	—
VI	XXIX of 1943	—	—
VII	—	—	New
VIII	—	XV of 1940	—
IX	XII of 1944	—	—
X	—	—	New
XI	I of 1943	—	—
XII	XXXV of 1943	—	—
XIII	—	—	New
XIV	—	IV of 1925	—
XV	—	—	New
XVI	XXIX of 1943	—	—
XVII	—	XXXIV of 1934	—
XVIII	LIII of 1942	—	—
XIX	—	—	New
XX	—	—	New
XXI	—	—	New
XXII	III of 1944	—	—
XXIII	XXIV of 1943	—	—
XXIV	XVI of 1944, XXIX of 1943	—	—
XXV	—	—	New
XXVI	—	XXXV of 1939	—
XXVII	VII of 1944	—	—
XXVIII	—	—	New
XXIX	IX of 1940	—	—
XXX	—	VIII of 1911	—
XXXI	—	VIII of 1911	—
XXXII	—	—	New

Table 7.3 (contd.)

(1)	(2)	(3)	(4)
XXXIII	—	Indian Finance Act, 1944	—
XXXIV	—	—	New
XXXV	—	XXXV of 1939	—
XXXVI	XXIX of 1939	—	—
XXXVII	—	—	New
XXXVIII	—	—	New
XXXIX	—	—	New
XL	XXIX of 1943	—	—
XLI	XXVIII of 1943	—	—
XLII	—	—	New
XLIII	XXXIV of 1944	—	—
XLIV	—	VIII of 1911	—
XLV	—	XI of 1922, XV of 1940	—
XLVI	—	—	New
XLVII	II of 1940	—	—
XLVIII	—	V of 1898	—
XLIX	XXIX of 1943	—	—
L	—	—	New
LI	XXXII of 1944	—	—
LII	XXIX of 1943	—	—
LIII	XXXV of 1943	—	—
LIV	—	XXIII of 1943	—
LV	XIII of 1942	—	—
LVI	XXXIV of 1944	—	—

of these were repealed after one year, while others were allowed to continue for a longer time. The position is shown in the Table 7.2.

Of the 56 ordinances, 37 were repealed by ordinance I of 1946 promulgated on 5-1-1946 (Ordinance Nos. I, V, VI, VIII to XVIII, XXII to XXIV, XXVI to XXIX, XXXIII, XXXVI, XL, XLI, XLIII, XLIV, XLVI to XLIX, LI to LVI). Four ordinances (II, XXXII, XXXVII and XLV) were repealed by Act No. 36 of 1957, enacted on 17-9-1957. Two ordinances (III and XXX) were repealed by Act No. 35 passed on

19-4-1950; Ordinance VII was repealed by Act No. 32 passed on 18-4-1947; Ordinance XIX was repealed by Act No. 51 passed on 24-12-1955; Ordinance XXV was repealed by Act No. 19 passed on 24-3-1947. Repealing Act No. 41 of 3-12-1963 repealed Ordinance XXXIV whereas repealing Act No. 41 of 18-9-1959 repealed Ordinance XXXII of the year, and repealing Ordinance VI of 1947 (26-4-1947) repealed Ordinance XXXIX.

EFFECT OF ORDINANCES ON PREVIOUS LEGISLATION

During the year 1944 as many as 56 ordinances were promulgated. Whereas some of these were new, the others amended either some previous ordinances or Act of the Government. Table 7.3 shows the position.

ORDINANCES AND CENTRAL LEGISLATIVE ASSEMBLY, 1944

During the year 1944, the Central Legislative Assembly met only twice. Twentieth Session of the Assembly was held for 59 days (7-2-1944 to 5-4-1944), out of which the House sat only for 37 days. Of these 37 days, as many as 31 days were for government business whereas remaining 6 days were allocated for non-government business. The Central Legislative Assembly met after a long interval of about 7 months again on 1-11-1944. The Assembly was convened only for 21 days (1-11-1944 to 21-11-1944) but it actually sat for 15 days. Out of this, 12 days were allotted for government business and remaining 3 days for non-government work. The table below will show how many days before the convening of the Assembly, each ordinance was promulgated. It may, however, be mentioned that the sessions of the Assembly were of short duration and these too were held after very long intervals. During the year even usual three sessions were not convened. Obviously, the government did not care much for the Assembly as it did not bother to convene the session for about 7 months. Another fact which comes out is that it will be a deceptive conclusion to draw whether the government hastened to promulgate an ordinance when the Assembly was about to meet or soon after the House was adjourned sine die. The position is, however, given in Table 7.4.

The remaining ordinances were promulgated after 21st session of the Assembly, i.e. after 15-11-1944.

Table 7.4: Gap between promulgation of ordinances and meeting of the Assembly

<i>Session</i>	<i>Ordinance No.</i>	<i>Date of meeting of the Assembly</i>	<i>Date of promulgation of ordinance</i>	<i>Difference</i>			
(1)	(2)	(3)	(4)	(5)			
				Months	Days		
20th	XLI of 1943	7-2-1944	10-11-1943	2	—	29	
	XLII of 1943	"	2-12-1943	2	—	05	
	XLIII of 1943	"	"	2	—	05	
	XLIV of 1943	"	"	2	—	05	
	I of 1944	"	13-1-1944	0	—	25	
	II of 1944	"	"	0	—	25	
	III of 1944	"	15-1-1944	0	—	23	
	IV of 1944	"	"	0	—	23	
	V of 1944	"	31-1-1944	0	—	06	
	VI of 1944	"	"	0	—	06	
	VII of 1944	7-2-1944	31-1-1944	0	—	06	
	VIII of 1944	"	"	0	—	6	
	21st*	XI of 1944	1-11-1944	8-4-1944	6	—	23
		XII of 1944	"	"	6	—	23
XIII of 1944		"	15-4-1944	6	—	16	
XIV of 1944		"	29-4-1944	6	—	02	
XV of 1944		"	6-5-1944	5	—	26	
XVI of 1944		"	13-5-1944	5	—	19	
XVII of 1944		"	"	5	—	19	
XVIII of 1944		"	"	5	—	19	
XIX of 1944		"	"	5	—	19	
XX of 1944		"	20-5-1944	5	—	12	
XXI of 1944		"	"	5	—	12	
XXII of 1944		"	27-5-1944	5	—	05	
XXIII of 1944		"	"	5	—	05	
XXIV of 1944		"	"	5	—	05	
XXV of 1944		"	3-6-1944	4	—	28	
XXVI of 1944	"	24-6-1944	4	—	07		
XXVII of 1944	"	"	4	—	07		
XXVIII of 1944	"	"	4	—	07		

Table 7.4 (contd.)

(1)	(2)	(3)	(4)			
	XXIX of 1944	1-11-1944	1-7-1944	4	—	00
	XXX of 1944	"	"	4	—	00
	XXXI of 1944	"	"	4	—	00
	XXXII of 1944	"	"	4	—	00
	XXXIII of 1944	"	8-7-1944	3	—	24
	XXXIV of 1944	"	"	3	—	24
	XXXV of 1944	"	29-7-1944	3	—	02
	XXXVI of 1944	"	"	3	—	02
	XXXVII of 1944	"	19-8-1944	2	—	13
	XXXVIII of 1944	"	23-8-1944	2	—	08
	XXXIX of 1944	"	26-8-1944	2	—	05
	XL of 1944	"	"	2	—	05
	XLI of 1944	"	9-9-1944	1	—	23
	XLII of 1944	"	"	1	—	23
	XLIII of 1944	"	16-9-1944	1	—	15
	XLIV of 1944	"	30-9-1944	1	—	01
	XLV of 1944	"	3-10-1944	0	—	29
	XLVI of 1944	"	7-10-1944	0	—	25
	XLVII of 1944	"	"	0	—	25
	XLVIII of 1944	1-11-1944	21-10-1944	0	—	10
	XLIX of 1944	"	"	0	—	10
	L of 1944	"	"	0	—	10
	LI of 1944	"	25-10-1944	0	—	06

* Ordinance Nos. IX and X were promulgated when the Central Assembly was in session.

Table 7.5 shows the position about the time taken by the government in promulgating an ordinance after the adjournment of the House. But as already said that since the Assembly met for a short while only twice in the year and that too after an interval of 7 months, therefore, any analysis is bound to be unrealistic and deceptive for over all analysis of the study. The information is, however, given in Table 7.5.

Table 7.5: Number of days between the adjournment of the Assembly and promulgation of ordinances

<i>Session</i>	<i>Ordinance No.</i>	<i>Date of adjournment of the Assembly</i>	<i>Date of promulgation of ordinance</i>	<i>Difference of days</i>		
(1)	(2)	(3)	(4)	(5)		
				Months	Days	
20th*	XIII	5-4-1944	15-4-1944	0	—	10
	XIV	"	19-4-1944	0	—	14
	XV	"	6-5-1944	1	—	02
	XVI	"	13-5-1944	1	—	09
	XVII	"	"	1	—	09
	XVIII	"	"	1	—	09
	XIX	"	"	1	—	09
	XX	"	20-5-1944	1	—	16
	XXI	"	"	1	—	16
	XXII	"	27-5-1944	1	—	23
	XXIII	"	"	1	—	23
	XXIV	"	"	1	—	23
	XXV	"	3-6-1944	1	—	28
	XXVI	"	24-6-1944	2	—	20
	XXVII	"	"	2	—	20
	XXVIII	"	"	2	—	20
	XXIX	"	1-7-1944	2	—	26
	XXX	"	"	2	—	26
	XXXI	"	"	2	—	26
	XXXII	"	"	2	—	26
	XXXIII	"	8-7-1944	3	—	04
	XXXIV	"	"	3	—	04
	XXXV	"	29-7-1944	3	—	25
	XXXVI	"	"	2	—	25
	XXXVII	"	19-8-1944	4	—	15
	XXXVIII	"	23-8-1944	4	—	19
	XXXIX	"	26-8-1944	4	—	22
	XL	"	"	4	—	22
	XLI	"	9-9-1944	5	—	06

Table 7.5 (contd.)

(1)	(2)	(3)	(4)	(5)		
	XLII	"	"	5	—	06
	XLIII	"	16-9-1944	5	—	13
	XLIV	"	30-9-1944	5	—	25
	XLV	"	3-10-1944	5	—	28
	XLVI	"	7-10-1944	6	—	03
	XLVII	"	"	6	—	03
	XLVIII	"	21-10-1944	6	—	16
	XLIX	"	"	6	—	16
	L	"	"	6	—	16
	LI	"	25-10-1944	6	—	21
21st	LII	15-11-1944	2-12-1944	0	—	17
	LIII	"	13-12-1944	0	—	28
	LIV	"	18-12-1944	1	—	02
	LV	"	25-12-1944	1	—	09
	LVI	"	30-12-1944	1	—	14

* Ordinances I to XII were promulgated before 5-4-1944.

NOTES

1. Gazette of India Extraordinary, Part V, dated 13-1-1944, p. 23.
2. *Ibid.*, dated 13-1-1944, pp. 23-24.
3. *Ibid.*, dated 15-1-1944, pp. 27-31.
4. *Ibid.*, dated 15-1-1944, pp. 31-32.
5. *Ibid.*, dated 31-1-1944, p. 45.
6. *Ibid.*, dated 31-1-1944, pp. 45-47.
7. *Ibid.*, dated 31-1-1944, pp. 48-50.
8. *Ibid.*, dated 31-1-1944, p. 50.
9. *Ibid.*, dated 11-3-1944, pp. 539-540.
10. *Ibid.*, dated 11-3-1944, p. 540.
11. *Ibid.*, dated 8-4-1944, pp. 679-680.
12. *Ibid.*, dated 8-4-1944, pp. 680-682.
13. *Ibid.*, dated 15-4-1944, pp. 693-694.
14. *Ibid.*, dated 29-4-1944, pp. 757-758.
15. *Ibid.*, dated 6-5-1944, pp. 767-768.
16. *Ibid.*, dated 13-5-1944, pp. 773-774.
17. *Ibid.*, dated 13-5-1944, p. 775.
18. *Ibid.*, dated 13-5-1944, pp. 775-776.

19. *Ibid.*, dated 13-5-1944, p. 776.
20. *Ibid.*, dated 20-5-1944, p. 776.
21. *Ibid.*, dated 20-5-1944, pp. 946-949.
22. *Ibid.*, dated 27-5-1944, pp. 953-954.
23. *Ibid.*, dated 27-5-1944, p. 954.
24. *Ibid.*, dated 27-5-1944, pp. 954-956.
25. *Ibid.*, dated 3-6-1944, pp. 1061-1064.
26. *Ibid.*, dated 24-6-1944, pp. 1031-1034.
27. *Ibid.*, dated 24-6-1944, p. 1133.
28. *Ibid.*, dated 24-6-1944, pp. 1133-1134.
29. *Ibid.*, dated 1-7-1944, p. 1145.
30. *Ibid.*, dated 1-7-1944, pp. 1145-1146.
31. *Ibid.*, dated 1-7-1944, p. 1146.
32. *Ibid.*, dated 1-7-1944, pp. 1147-1161.
33. *Ibid.*, dated 8-7-1944, p. 1189.
34. *Ibid.*, dated 8-7-1944, pp. 1189-1192.
35. *Ibid.*, dated 29-7-1944, p. 1211.
36. *Ibid.*, dated 29-7-1944, pp. 1211-1214.
37. *Ibid.*, dated 19-8-1944, pp. 1227-1228.
38. *Ibid.*, dated 23-8-1944, pp. 1235-1240.
39. *Ibid.*, dated 26-8-1944, pp. 1275-1277.
40. *Ibid.*, dated 26-8-1944, pp. 1277-1278.
41. *Ibid.*, dated 9-9-1944, p. 1299.
42. *Ibid.*, dated 9-9-1944, pp. 1299-1302.
43. *Ibid.*, dated 16-9-1944, pp. 1313-1314.
44. *Ibid.*, dated 30-9-1944, pp. 1421-1422.
45. *Ibid.*, dated 3-10-1944, pp. 1431-1432.
46. *Ibid.*, dated 7-10-1944, pp. 1435-1438.
47. *Ibid.*, dated 7-10-1944, p. 1438.
48. *Ibid.*, dated 21-10-1944, p. 1441.
49. *Ibid.*, dated 21-10-1944, pp. 1441-1442.
50. *Ibid.*, dated 21-10-1944, pp. 1442-1445.
51. *Ibid.*, dated 25-10-1944, pp. 1467-1468.
52. *Ibid.*, dated 2-12-1944, pp. 1467-1468.
53. *Ibid.*, dated 13-12-1944, pp. 1545-1548.
54. *Ibid.*, dated 18-12-1944, pp. 1545-1548.
55. *Ibid.*, dated 23-12-1944, pp. 1563-1564.
56. *Ibid.*, dated 30-12-1944, pp. 1565-1566.

CLOSING WAR YEAR ORDINANCES (1945)

During the year 1945, which was the year of end of World War II, as many as 48 ordinances were promulgated by the Governor General of India, as shown in Table 8.1.

Table 8.1: Ordinances promulgated by the Governor General during the year 1945

<i>Ordi- nance No.</i>	<i>Title of the ordinance</i>	<i>Date of promulgation</i>	<i>Source: Gazette of India Extra- ordinary; Page(s)</i>
(1)	(2)	(3)	(4)
I	The Factories (Control of Dismantling (Amendment) Ordinance	13-1-1945	31-32
II	National Service (European British Subjects) Amendment Ordinance	30-1-1945	65
III	Delhi Rent Control (Amendment) Ordinance	"	65-66
IV	Military Safety (Power of Detention) Ordinance	"	66
V	The Canteen Stores (Exemption) from Local Taxation Ordinance	"	67-68
VI	Defence of India Reserve Ordinance	3-2-1945	151-152
VII	Naval Discipline	"	152

Table 8.1 (contd.)

(1)	(2)	(3)	(4)
	Ordinance		
VIII	Essential Services (Dibnusaidya and Colliery Branch) Ordinance	17-3-1945	205-206
IX	Indian Income Tax (Amendment Ordinance	28-4-1945	409-410
X	The War Injuries (Amendment) Ordinance	"	410
XI	Provincial Debt Laws (Temporary Validation) Ordinance	5-5-1945	415-416
XII	Criminal Law (1943 Amendment) Amending Ordinance	12-5-1945	425-426
XIII	War Risks (Factories) Insurance	16-5-1945	429
XIV	Criminal Law (1944 Amendment) Amending Ordinance	"	430
XV	The Civil Affairs (Malaya) Police Force (Discipline) Ordinance	19-5-1945	453-454
XVI	Income Tax and Excess Profits Tax (Validity of Notices) Amendment Ordinance	"	456
XVII	Mines (Amendment) Ordinance	26-5-1945	463-464
XVIII	Explosives (Amendment) Ordinance	2-6-1945	467-468
XIX	Reserve Bank of India (Temporary Amendment) Ordinance	9-6-1945	483-484
XX	Excess Profits Tax (Amendment) Ordinance	30-6-1945	561-562
XXI	Refugee Camps Ordinance	4-7-1945	563-565
XXII	Criminal Law (1943	"	565-566

Table 8.1 (contd.)

(1)	(2)	(3)	(4)
	Amendments) Second Amending Ordinance		
XXIII	The Present War (Definition) Ordinance	14-7-1945	569
XXIV	The War Gratuities (Income Tax Exemption) Ordinance	"	570
XXV	Defence of India (Amendment) Ordinance	"	570
XXVI	Andaman and Nicobar Islands Police Force (Temporary Provisions) Ordinance	21-7-1945	591-592
XXVII	Civil Pioneer Force (Amendment) Ordinance	4-8-1945	601-602
XXVIII	Military Operational Areas (Special Power) Amendment Ordinance	23-8-1945	619-620
XXIX	War Risks (Factories Insurance) (Termination) Ordinance	31-8-1945	699-700
XXX	Secunderabad Marriage Validity Ordinance	1-9-1945	701
XXXI	Defence of India (Second Amendment) Ordinance	"	702
XXXII	Bengal Textiles Association Ordinance	8-9-1945	711-715
XXXIII	Limitation (War Condition) Ordinance	8-9-1945	716
XXXIV	War Risks (Goods) Insurance (Termination) Ordinance	14-9-1945	777-778
XXXV	Defence of India (Third Amendment) Ordinance	"	778
XXXVI	Armed Forces (Special Powers) Ordinance	18-9-1945	785-786

Table 8.1 (contd.)

(1)	(2)	(3)	(4)
XXXVII	Indian Army (Amendment) Ordinance	29-9-1945	795-796
XXXVIII	National Service (European British Subjects) Amendment Ordinance	6-10-1945	799-800
XXXIX	Bills of Exchange Ordinance	20-10-1945	829-830
XL	Army (Forfeiture of Emoluments) Ordinance	27-10-1945	899-900
XLI	War Injuries (Compensation Insurance) Amendment Ordinance	27-10-1945	900
XLII	Indian Army and Indian Air Force (Amendment) Ordinance	31-10-1945	903-904
XLIII	Hoarding and Profit- eering Prevention (Amendment) Ordinance	17-11-1945	937-940
XLIV	Defence of India Reserve (Disbandment) Ordinance	24-11-1945	981-982
XLV	Defence of India (Fourth Amendment) Ordinance	11-12-1945	1071-1072
XLVI	Pension Appeal Tribunal (Powers) Ordinance	22-12-1945	1139-1140
XLVII	International Monetary Fund and Bank Ordinance	24-12-1945	1141-1145
XLVIII	Indian Army (Second Amendment) Ordinance	24-12-1945	1146

FOCUS OF ORDINANCES

Ordinance I of the year 1945 was promulgated on 13-1-1945. It amended

the Factories (Control of Dismantling) Ordinance, 1943 (No. XXXI of 1943). The original ordinance had provided that the provisions of ordinance shall be applicable to the dismantling of factory only but after the promulgation of this ordinance it was provided that the provisions of this ordinance will be treated to be in force even before the promulgation of the ordinance.¹

Ordinance II of 1945 promulgated on 30-1-1945 amended National Service (European British Subjects) Act 1940 (Act XVIII of 1940). The original Act had provided that the provisions of the Act shall be applicable to those who were in His Majesty's forces. Now it was provided that these were to be applicable to all those who were also in any other employment under the crown, which to a person might be temporarily assigned while serving in His Majesty's forces. It was also clarified that the duty imposed under the Act, on the employer to reinstate in his employment a person was neither to be extinguished nor affected by the fact that such a person was on duty under the crown nor shall any such assignment be deemed to have terminated or interrupted because of his service in the capacity by virtue of which such duty was incurred by the employer.²

On 30-1-1945 was promulgated Ordinance III of 1945. It amended Delhi Rent Control Ordinance, 1944 (No. XXV of 1944). The original ordinance had provided that no court shall pass any decree or order evicting any tenant. Now it was provided that the court also could not issue any decree about the evicting of a tenant.³

On 30-1-1945 was promulgated Ordinance IV of 1945, which amended Military Safety (Power of Detention) Ordinance, 1944 (No. IV of 1944) by adding new sections, i.e. 5A and 5B. It was now provided that a competent officer could receive and keep in military custody any person delivered to him by authority in Burma and was to be kept in custody and detention till his release was ordered by competent authority.⁴

On the same day was promulgated Ordinance V of 1945. It dealt with Canteen Stores, Exemption from Local Taxation. It provided that no tax etc. imposed by a local authority was to be payable in respect of any goods, including liquors for human consumption, which were the property of or consigned for ultimate delivery to the Canteen's Stores Department. The Indian Red Cross Society or the St. John's Ambulance. Similarly, no taxes were to be levied on stores issued from Canteen's Stores Department for sale to the members of the armed forces etc.⁵

The Defence of India Reserve Ordinance VI of 1945 was promulgated on 3-2-1945. By this it was provided that any officer or enrolled

person of Defence of India Corps could be transferred to Defence of India Reserve and back at any time. While in the service Reserve, a person of the Corps shall not be subject to military law. If a person of the Corps in the service of the Reserve, failed to go back to his Corps, he could be punished with imprisonment.⁶

On 3-2-1945 was promulgated National Discipline Ordinance, 1945 (No.VII of 1945) by which it was clarified that every person when embarked on board any ship of His Majesty shall be subject to the provisions of the National Discipline Act and when embarked on any ship of the Indian Navy was to be subject to the provisions of Naval Discipline Act, 1934.⁷

The Essential Services (Debru Saidya and Colliery Branch (Railway) (Ordinance VIII of 1945) was promulgated on 17-3-1945. By this ordinance, it was provided that any person who was employed on 31-3-1945 by the Assam Railways and Trading Co. Ltd. in connection with the construction, maintenance and operation of Debru Saidya Railway or Colliery Branch Railway was to be deemed to have been taken in the employment of the crown in connection with the Railways. It was also provided that thereafter the provisions of Essential Services (Maintenance) Ordinance, 1941 (No. XI of 1941) with respect to employment under the crown were to apply to that person as well.⁸

Indian Income Tax (Amendment) Ordinance, 1945 (No. IX of 1945) was promulgated on 8-4-1945. It amended an old Act of 1922 by the insertion of a new clause. It defined the term 'earned income' by saying that it meant any income of an assessee which was earned by an individual, Hindu undivided family etc. and was included in the assessee's income. It was also said that in the tax income of any assessee which was exempted by the annual Act of central legislature was not to be included.⁹

Ordinance X of 1945 was promulgated on 28-4-1945. It was called the War Injuries (Amendment) Ordinance, 1945. It amended Section II of Ordinance VII of 1941. It clarified in more specific terms the words 'war injury'. It was now said that every injury caused by any explosion, or fire or munition or other dangerous things required for war purposes and which was caused by or in connection with the manufacture, storage or transportation of any such explosives, munitions or other dangerous things, was to be covered under the category of war injury.¹⁰

Ordinance XI of 1945, called Provincial Debt Laws (Temporary Validation) Ordinance was promulgated on 5-5-1945. By this it was provided that certain laws enacted between 1-4-1937 and 12-12-1944 were

to be treated as valid in so far as these dealt with promissory notes, transactions dealing with these notes etc.¹¹

The Criminal Law (1943 Amendment) Amending Ordinance, 1945 was promulgated on 12-5-1945, as Ordinance XII of 1945. It amended Ordinance XXIX of 1943. By the amended ordinance, it was provided that for dealing with war criminals the central government could constitute any number of special tribunals as it considered necessary and could order the setting up of any tribunal at any place or at a place not specifically mentioned in the notification constituting the tribunal. The said government could allot cases for trial to each special tribunal and also could transfer any case from one special tribunal to another or withdraw the case from the jurisdictions of a special tribunal. The special tribunals were empowered to impose sentences of punishments and fines.¹²

War Risks (Factories) Insurance (Amendment) Ordinance, 1945 (No. XIII of 1945) was promulgated on 16-5-1945. It amended Ordinance XII of 1945. By this, it was further clarified as to what was covered as war risk for the purposes of factories insurance. It provided that any damage caused to a factory by any explosion or fire which involved any explosion or munitions or other dangerous things required for war purposes and which was caused by, through or in connection with the manufacture, storage or transportation of any such explosive, munition or other dangerous things were to be covered under this category.¹³

Ordinance XIV of 1945, called Criminal Law (1944 Amendment) Amending Ordinance, 1945 was promulgated on 16-5-1945. It amended Ordinance XXXVIII of 1944. By the amending ordinance, it was provided that where an accused person was convicted of an offence which had caused loss to more than one government the finding should indicate the amount of loss sustained by each government. Similarly, when the accused was convicted of more than one offence, the finding should indicate separately the amounts procured by means of two classes of offences. It was also said that every sum ordered to be forfeited with an offence, after deduction of cost of attachment as determined by the District Judge shall be credited to each government or the local authority, in proportion to the loss suffered by each.¹⁴

Maintenance and Enforcement of Discipline among the members of the Civil Affairs (Malaya Police Force) Ordinance, 1945 (No. XV of 1945) was promulgated on 19-5-1945. By the provision of this ordinance, it was provided that each person recruited to the federated Malaya State Police Force would be required to sign a bond committing to serve him-

self in the Force for a period of 5 years. It was also provided that the members of the Force would be deemed to obey discipline and rules, as if they were in British India. No member of the Force could resign his appointment during the term of his engagement and the one who left was to be deemed to have deserted within the meaning of Police Force Enactment. The Commandant was made the final authority to decide, if permission for leaving the Force was to be granted or not. An offence committed in British India by a member of the Force was punishable under the law of British India.¹⁵

On 19-5-1945 was promulgated Ordinance XVI of 1945, called the Income Tax and Excess Profits Tax (Validity of Notices) Amendment Ordinance. It amended Section 2 of Ordinance XLV of 1944. In the original ordinance, it was provided that every notice published or issued before or after the commencement of the ordinance was to be deemed to have given a period of notice, in full compliance with the law. The original ordinance did not specify any date for the issue or publication of the notice. By this ordinance, it was provided that every notice published or issued before 6-5-1945 was to be applicable to the provisions of the original ordinance.¹⁶

Ordinance XVII of 1945 was promulgated on 26-5-1945. It was called Mines (Amendment) Ordinance. It amended Section 30 of Act IV of 1923. It provided for maintaining rooms for the children below 6 years of age, of women employees ordinarily employed in the mines.¹⁷

Explosives (Amendment) Ordinance, 1945 (No. XVIII of 1945) was promulgated on 2-6-1945. It amended Section 8, 9, 14, and 18 of Act IV of 1884. By the amending ordinance, it was provided that whoever failed to give notice of any accident was to be punished with fine or imprisonment. It also provided that each such accident was to be enquired into by an authority specified in the ordinance. Every person holding the enquiry was to report to the central government the causes and circumstances of the accident.¹⁸

Reserve Bank of India (Temporary Amendment) Ordinance, 1945 (No. XIX of 1945) was promulgated on 9-6-1945. It amended Act II of 1934. By this ordinance, Reserve Bank of India was authorised to transact all business for British Military Administration, Burma for which the Administration was to suitably pay to the Bank.¹⁹

Ordinance XX of 1945 was promulgated on 30-6-1945. It was called Excess Profits Tax (Amendment) Ordinance, 1945. It amended Ordinance XVI of 1943. It provided that in respect of any chargeable accounting period ending after 31-12-1944, the provisions of the original

ordinance were to be made applicable.²⁰

Refugee Camps Ordinance, 1945 (No. XXI of 1945) was promulgated on 4-7-1945. It was to apply to all those persons who had left Burma and had come to British India on account of enemy occupation of that place or the threat of that occupation. By this, it was made lawful for the government to take any refugee under escort to a refugee camp till he was sent back to his home. No refugee was to be admitted to a camp without the authority of the central government. Similarly, no refugee could leave the camp without the permission of the competent authority. The Camp Commandar was authorised to make regulations for the maintenance of health and good order in the camp and also to develop harmonious relations among the refugees accommodated therein. The ordinance also specified camp offences and the procedures for trials and penalties to be imposed. No suit or other legal proceedings whatever were to lie against the crown or any person for anything done in good faith.²¹

Ordinance XXII of 1945 was promulgated on 4-7-1945. It was entitled as Criminal Law (1943 Amendment) Second Amending Ordinance, 1945. It amended Ordinance XXIX of 1943. The original ordinance had provided for more speedy trial of certain offences punishable under Indian Penal Code. With the help of present ordinance, the words 'Indian Penal Code' were omitted and thus the scope of the ordinance was widened. The amending ordinance also changed the composition of special tribunals set up by the original ordinance for the speedy trial of certain offences. It provided that one of the members should possess qualifications of a judge of the High Court, etc.²²

Ordinance XXIII of 1945, called the "Present War Definition" Ordinance, 1945 was promulgated on 14-9-1945. It was clarified that the present war might be deemed to involve and include a reference to the present war with Japan notwithstanding that the war had not broken between His Majesty and Japan, when the provision to this effect had been made.²³

War Gratuities (Income Tax Exemption) Ordinance, 1945 (XXIV of 1945) was promulgated on 14-7-1945. It defined the term gratuity and said that any such gratuity paid whether after the commencement of this ordinance or not to any person was not for the purposes of Income Tax Act, 1922 to be included in the total income of that person.²⁴

Defence of India (Amendment) Ordinance, 1945 was promulgated on 14-7-1945. It only marginally amended Act XXXV of 1939, without making any significant changes in the original Act.²⁵

On 21-7-1945 was promulgated Andaman and Nicobar Islands Police

Force (Temporary Provisions) Ordinance, 1945 (No. XXVI of 1945). It provided that the members of Andaman Nicobar Islands Police Force were to have, within the province in which they were for the time being, such powers, duties privileges and liabilities, including liability to discipline, as were being enjoyed by the members of the police force of that province.²⁶

On 4-8-1945 was promulgated Ordinance XXVII of 1945. It was entitled the Civil Pioneer Force (Amendment) Ordinance 1945. It amended Ordinance X of 1942. It was now made applicable to the members of Civil Pioneer Force who were British subjects but domiciled in any part of India. The amending ordinance provided that a member of the Civil Pioneer Force who was British subject domiciled in any part of India was not to be made liable without his own consent given in writing in the prescribed form to serve outside India.²⁷

Military Operational Area (Special Powers) Amendment Ordinance, 1945 (No. XXVIII of 1945) was promulgated on 23-8-1945. It amended Ordinance XXXVII of 1943. In the original ordinance, the authority for trial of certain military offences was given to the General Officer (Commanding the Military Forces). With the help of amending ordinance, it was provided that this authority was now vested in any General Officer Commanding of military forces.²⁸

Ordinance XXIX, War Risks Factories Insurance (Termination) Ordinance, 1945, was promulgated on 31-8-1945. By this ordinance, it was provided that all policies of insurance issued under the provisions of the War Risks (Factories) Insurance Ordinance, 1942 and War Risks (Inland Vessels) Insurance Ordinance, 1943 (No. XXV of 1943) shall cease to have effect after the promulgation of this ordinance.²⁹

Ordinance XXX of 1945, Secundrabad Marriage Validity Ordinance, 1945 was promulgated on 1-9-1945. By this, certain marriages performed in a church in Secundrabad between persons being Christians, not Indian Christians subjects of His Majesty, were validated. It was provided that these might be deemed to have been solemnised under a licence granted under Indian Christian Marriage Act, 1872.³⁰

On the same day was promulgated Defence of India (Second Amendment) Ordinance, 1945 (No. XXXI of 1945). It amended Act XXXV of 1939. By the amending ordinance, it was provided that the Provincial Transport Authority could issue permit to be effective for any specified period not exceeding a period of 5 years in the case of a permit and one year in the case of temporary permit. The said authority was also empowered to terminate the validity of a permit already issued after giving 6

months notice. The provincial government could also exempt any transport vehicle required for use or purpose connected with the Defence of British India or the prosecution of war.³¹

The Bengal Textile Association Ordinance, 1945 (No. XXXII of 1945) was promulgated on 8-9-1945. By this ordinance, it was provided that a trading corporation was to be established for the purposes of improvement, procurement and wholesale distribution of piece goods in the province of Bengal. There was also to be constituted a Board of Control and an Executive Committee for the management of the Association. The members, it was provided were to be appointed by the central government. Their qualifications etc. were prescribed in the Ordinance itself. It was also provided that every wholesale dealer and several types of other categories of persons were entitled to become its members. The decision of the Board about acceptance of membership was to be treated as final. The activities of the Association were to be controlled by the Government of Bengal.³²

Ordinance XXXIII of 1945, the Limitation (War Condition) Ordinance, 1945 was promulgated on 8-9-1945. By this, it was provided that if at any time before the expiration of the period of limitation prescribed for any suit, any person who could have instituted the suit had been detained in enemy territory by circumstances attributable to war, the said period of limitation, as regards the institution of suit by such person was to be deemed not to have run in the period during which the person was in detention. Such a person was entitled to sue etc. within a period of 6 months from the date he ceased to be in detention.³³

The War Risks (Goods) Insurance (Termination) Ordinance, 1945 (No. XXXIV of 1945) was promulgated on 14-9-1945. By this, certain provisions of Ordinance IX of 1940 were repealed. With the repealing of the provisions of War Risks (Goods) Insurance Scheme, compulsory insurance of certain goods and War Risk (Goods) Insurance Fund, was abolished.³⁴

On the same day was promulgated Ordinance XXXV of 1945 called Defence of India (Third Amendment) Ordinance, 1945. It amended Act XXXV of 1939. By this, it was provided that the central government could provide and make rules both for the seizure, detention and forfeiture of any property and also for adjudication of such forfeiture whether by a court or by any other authority.³⁵

On 18-9-1945 was promulgated Ordinance XXXVI of 1945 called Armed Forces (Special Powers) Ordinance. By this, it was provided that any military person arrested and taken into custody was immediately to

be handed over, together with a report of the circumstances under which he was arrested, to the officer incharge of the nearest police station, where such a person, subject to the military law, was to be given treatment appropriate to the status of such officer.³⁶

Indian Army (Amendment) Ordinance, 1945 (No. XXXVII of 1945) was promulgated on 29-9-1945. It amended Indian Army Act, 1911. By this, it was provided that where the conduct of any military person while in the hands of the enemy is to be enquired into under the Act of 1911, the commander-in-Chief or any officer authorised by him, could order that the whole or any part of the pay and allowances of such a person may be withheld, till the results of the pending enquiry were available.³⁷

National Service (European British Subjects) Amendment Ordinance, 1945 was promulgated on 6-10-1945. It amended Act XVIII of 1940. By this, it was provided that a notice on a person covered under National Service (European British Subject) Ordinance to be served could also be sent by post to the person concerned at his last known address. It was also provided that no notice was to be considered invalid for any purpose on the ground only that the authority issuing it had no jurisdiction or command over that in which the person to whom the notice was directed was for the time being resident.³⁸

The Bills of Exchange Ordinance, 1945 (No. XXXIX of 1945) was promulgated on 20-10-1945. It was provided that when in any suit or other proceedings founded upon a bill of exchange payable outside British India and there was reason to believe that the loss could reasonably be due to war conditions, directly or indirectly, the court might allow and pass a decree thereon, about the place where the bill was to be paid.³⁹

The Army (Forfeiture of Emoluments) Ordinance, 1945 (No. XI of 1945) was promulgated on 7-10-1945. By this, it was provided that the whole or any part of pay and allowances of an army person could be forfeited, if a military court after enquiry came to the conclusion that he had deserted to the enemy, or any manner aided him or had himself allowed to be taken as prisoner or on similar other grounds. The Court of Enquiry was to be set up by the Commander-in-Chief of the armed forces or by his duly authorised officer.⁴⁰

Ordinance XLI of 1945, The War Injuries (Compensation Insurance) Amendment Ordinance, 1945, was promulgated on 27-10-1945. It amended War Injuries (Compensation Insurance) Act, 1943 (No. XXIII of 1943). By this it was specified that the term 'Termination of Hostilities' in the Act of 1943 might be understood to mean a date as the

central government might declare to be the date on which the said hostilities were deemed to have been terminated.⁴¹

The Indian Army and Indian Air Force (Amendment) Ordinance, 1945 (No. XLII of 1945) was promulgated on 31-10-1945. It amended Indian Army Act, 1911 (No. VIII of 1911). By this, it was defined that an 'enemy territory' was an area which was under the sovereignty of or was being administered or was in the occupation of a State which was at war with his Majesty.⁴²

The Hoarding and Profiteering (Amendment) Ordinance, 1945 (No. XLIII of 1945) was promulgated on 17-11-1945. It amended Ordinance XXXV of 1945. It was provided that any Deputy Assistant or Deputy Assistant Controller General could take action against a profiteer or hoarder. The ordinance also provided that no dealer was to have in his possession at any one time a quantity of any article, exceeding that which was prescribed in the ordinance. It also presented a formula for calculating the cost of any imported article. Then it was provided that every dealer or producer selling any article to any person, whether a dealer or a consumer, was to give to the purchaser a memorandum containing the particulars of the transactions. Provision was also made for summary trials of offences. There was also no need for the recording of evidence or framing a charge. A Magistrate could also recall the witness and re-hear the case, if he was satisfied that the sentence awarded was insufficient.⁴³

Ordinance XLIV of 1945, The Defence of India Reserve (Disbandment) Ordinance, 1945, was promulgated on 24-11-1945. By this, it was provided that Defence of India Reserve created with the promulgation of ordinance VI of 1945 would be disbanded with effect from 30-11-1945 and the said ordinance would be treated to have been repealed.⁴⁴

Defence of India (Fourth Amendment) Ordinance, 1945 was promulgated on 11-12-1945 (No. XLV of 1945). It amended Act XXXV of 1939. By this, it was provided that when any property was requisitioned under the above mentioned Act, the arbitrator was to take into consideration the market value of the property at the date of requisition and not at the date of its subsequent acquisitions. The ordinance also provided some guidelines for acquiring property. The property could be requisitioned and acquired where any work, during the period of requisition had been constructed, and where the cost to the government of restoring the property to its original conditions at the time of its acquisition was to be excessive having regard to the value of the property etc.⁴⁵

Ordinance XLVI of 1945, Pension Appeal Tribunal (Powers) Ordi-

nance, 1945 was promulgated on 22-12-1945. It was provided that every Pension Appeal Tribunal was to have the powers of a civil court for the purposes of receiving evidence, administering oaths, enforcing the attention of an evidence, etc.⁴⁶

International Monetary Fund and International Bank Ordinance (No. XLVII of 1945) was promulgated on 24-12-1945. By this, it was provided that the central government was competent to pay out of central revenues all such sums as might from time to time be required for the purpose of paying subscription payable by it to the International Fund and International Bank and for connected purposes. The Reserve Bank of India was declared as the depository of British Indian currency holdings of the International Fund and the International Bank. The Fund and the Bank were entitled to import into British India goods free of any duty of customs without any restrictions on their subsequent sale.⁴⁷

Ordinance XLVIII of the year, namely Indian Army (Second Amendment) Ordinance, 1945, was promulgated on 24-12-1945. It amended Indian Army Act, 1911. The amending ordinance made provision for appeal against a sentence by military court if the punishment was death penalty or transportation for life.⁴⁸

DURATION OF ORDINANCES

During the year 1945 as many as 48 ordinances were promulgated. These were kept in force for varying periods of time, as shown in Table 8.2.

Of the 48 ordinances, as many as 29 ordinances (I, II, III, IV, VIII, IX, XI, XII, XIV, XVI, XVII, XVIII, XX, XXI, XXII, XXV, XVI, XXXI, XXXV, XXXVI, XXXVII, XXXVIII, XXXIX, XLI to XLV, and XLVIII) were repealed with repealing Act, No. 2 of 1948 enacted on 5-1-1948. It covered ordinance which were in force between 2-3 years. Ordinance Nos. XXIII, XXIX, XXXIII, and XLVI were repealed by Act No. 36 enacted on 17-9-1957. It repealed ordinance which were in force between 11-12 years and 12 to 13 years. Ordinance No. VI was repealed by Ordinance No. 44 of 1945, promulgated on 24-11-1945, whereas Ordinance Nos. X, XIII, XV, XXVI, and XXVIII were repealed by repealing Ordinance No. I of 1946 promulgated on 5-1-1946. Act 11 passed on 17-3-1947 repealed Ordinance No. XIX whereas Act 25 passed on 28-8-1959 repealed Ordinance XLVII of the year. Repealing Act No. 40 of 1-5-1949 repealed Ordinance XXXII and repealing Act No. 35 enacted on 19-4-1950 repealed Ordinance No. XL of 1945.

Table 8.2: Duration of ordinances promulgated during the year 1945

<i>Duration of ordinance</i>	<i>Ordinance No.(s)</i>
Less than a year	VI, X, XIII, XV, XXVI, XXVIII
Between 1-2 years	XIX
Between 2-3 years	I, II, III, IV, VIII, IX, XI, XII, XIV, XVI, XVII, XVIII, XX, XXI, XXII, XXV, XXVII, XXXI, XXXV to XXXIX, XLI to XLV, XLVIII
Between 3-4 years	XXXII
Between 4-5 years	VII, XL
Between 5-6 years	—
Between 6-7 years	—
Between 7-8 years	—
Between 8-9 years	—
Between 9-10 years	—
Between 10-11 years	—
Between 11-12 years	XLVI
Between 12-13 years	V, XXIII, XXIX, XXXIII, XXXIV
Between 13-14 years	XLVII
Above 15 years	XXIV, XXX

Table 8.3: Effect of ordinances on previously enacted legislation, 1945

<i>Ordinance No.</i>	<i>Previously enacted legislation effected</i>		<i>Nature of ordinance</i>
	<i>Ordinance No.(s)</i>	<i>Act No.(s)</i>	
(1)	(2)	(3)	(4)
I	XXXI of 1943	—	—
II	—	XVIII of 1940	—
III	XXV of 1944	—	—
IV	IV of 1944	—	—
V	—	—	New
VI	—	—	New
VII	—	XXXIV of 1934	—

Table 8.3 (contd.)

(1)	(2)	(3)	(4)
		VIII of 1911	
VIII	—	—	New
IX	—	XI of 1922	—
X	VII of 1941	—	—
XI	—	—	New
XII	XXIX of 1943	—	—
XIII	XII of 1942	—	—
XIV	XXXVIII of 1944	—	—
XV	XLV of 1944	—	—
XVI	—	IV of 1923	—
XVII	—	IV of 1884	—
XVIII	—	—	—
XIX	—	II of 1934	—
		XLVII of 1920	
XX	XVI of 1943	—	—
XXI	—	—	New
XXII	XXIX of 1943	—	—
XXIII	—	—	New
XXIV	—	XI of 1922	—
XXV	—	XXXV of 1939	—
XXVI	—	—	New
XXVII	X of 1942	—	—
XXVIII	XXXVII of 1943	—	—
XXIX	XII of 1942	—	—
	XXV of 1943		
XXX	—	XV of 1872	—
XXXI	—	XXXV of 1939	—
XXXII	—	—	New
XXXIII	—	IX of 1908	—
XXXIV	IX of 1940	—	—
	XXIX of 1945		
XXXV	—	XXXV of 1939	—
XXXVI	XI of 1942	—	—
XXXVII	—	VIII of 1911	—
XXXVIII	—	XVIII of 1949	—
XXXIX	—	—	New

Table 8.3 (contd.)

(1)	(2)	(3)	(4)
XL	—	—	New
XLI	—	XXIII of 1943	—
XLII	—	VIII of 1911 XIV of 1932	—
XLIII	XXXV of 1943	—	—
XLIV	VI of 1945	—	—
XLV	—	XXXV of 1939	—
XLVI	—	—	New
XLVII	—	—	New
XLVIII	—	VIII of 1911	—

EFFECT OF ORDINANCES ON ALREADY ENACTED LEGISLATION, 1945

During the year 1945, as already said, as many as 48 ordinances were promulgated by the Governor General. Some such ordinances were promulgated for the first time, whereas the others effected the previously enacted Ordinance/Act, as is shown in Table 8.3.

ORDINANCES AND SESSIONS OF LEGISLATIVE ASSEMBLY, 1945

During the year 1945, only one session of the Assembly was held. It began on 8-2-1945 and ended on 12-4-1945. It was convened for 64 days, but the House actually sat for 43 days. Of these, 6 days were allotted for non-official business, whereas the remaining 37 days were allotted for official business. Since only one session of the Assembly was held obviously for analytical purposes, no meaningful study can be made, as to what was the intention of the government. i.e. whether it wanted to avoid the Assembly or not. Table 8.4, however, will provide an idea as to how many days before the convening of the Assembly ordinances were promulgated.

It will thus be observed that out of 11 ordinances, which were promulgated between 20th and the 21st sessions of the Assembly as many as 6 ordinances were such which were promulgated within 10 days of time when the Assembly was about to meet. Ordinance VIII was pro-

Table 8.4: Gap between the promulgation of an ordinance and the meeting of the Assembly

<i>Session</i>	<i>Ordinance No.</i>	<i>Date of meeting of the Assembly</i>	<i>Date of promulgation of ordinance</i>	<i>Difference of days</i>		
(1)	(2)	(3)	(4)	(5)		
				Months	Days	
21st	II of 1944	8-2-1945	2-12-1944	2	—	08
	LIII of 1944	"	13-12-1944	1	—	27
	LIV of 1944	"	18-12-1944	1	—	22
	LV of 1944	"	23-12-1944	1	—	17
	LVI of 1944	"	30-12-1944	1	—	10
	I of 1945	"	13-1-1945	0	—	26
	II of 1945	"	30-1-1945	0	—	09
	III of 1945	"	"	0	—	09
	IV of 1945	"	"	0	—	09
	V of 1945	"	"	0	—	09
	VI of 1945	"	3-2-1945	0	—	05
	VII of 1945	"	"	0	—	05

Table 8.5: Number of days between adjournment of the Assembly and promulgation of an ordinance

<i>Session</i>	<i>Ordinance No.</i>	<i>Date of adjournment of the Assembly</i>	<i>Date of promulgation of ordinance</i>	<i>Difference of days</i>		
(1)	(2)	(3)	(4)	(5)		
				Months	Days	
21st	IX	12-4-1945	28-4-1945	0	—	17
	X	"	"	0	—	17
	XI	"	5-5-1945	0	—	23
	XII	"	12-5-1945	1	—	00

Table 8.5 (contd.)

(1)	(2)	(3)	(4)	(5)		
	XIII	"	16-5-1945	1	—	05
	XIV	"	"	1	—	05
	XV	"	19-5-1945	1	—	08
	XVI	"	"	1	—	08
	XVII	"	26-5-1945	1	—	14
	XVIII	"	2-6-1945	1	—	21
	XIX	"	9-6-1945	1	—	28
	XX	"	30-6-1945	2	—	20
	XXI	"	4-7-1945	2	—	24
	XXII	12-4-1945	4-7-1945	2	—	24
	XXIII	"	14-7-1945	3	—	05
	XXIV	"	"	3	—	05
	XXV	"	"	3	—	05
	XXVI	"	21-7-1945	3	—	10
	XXVII	"	4-8-1945	3	—	22
	XXVIII	"	23-8-1945	4	—	11
	XXIX	"	31-8-1945	4	—	19
	XXX	"	1-9-1945	4	—	20
	XXXI	"	"	4	—	20
	XXXII	"	8-9-1945	4	—	27
	XXXIII	"	"	4	—	27
	XXXIV	"	14-9-1945	5	—	02
	XXXV	"	"	5	—	02
	XXXVI	"	18-9-1945	5	—	07
	XXXVII	"	29-9-1945	5	—	18
	XXXVIII	"	6-10-1945	5	—	25
	XXXIX	"	20-10-1945	6	—	09
	XL	"	27-10-1946	7	—	16
	XLI	"	"	7	—	16
	XLII	12-4-1945	31-10-1945	6	—	20
	XLIII	"	17-11-1945	7	—	06
	XLIV	"	24-11-1945	7	—	13
	XLV	"	11-12-1945	8	—	00
	XLVI	"	22-12-1945	8	—	11
	XLVII	"	24-12-1945	8	—	13
	XLVIII	"	"	8	—	13

mulgated on 17-3-1945 when the Assembly was still in session. The position about the ordinances, which were promulgated after the adjournment of the Assembly, is shown in Table 8.5.

NOTES

1. Gazette of India Extraordinary, Part IV, dated 13-1-1945, pp. 31-32.
2. *Ibid.*, dated 30-1-1945, p. 65.
3. *Ibid.*, dated 30-1-1945, pp. 65-66.
4. *Ibid.*, dated 30-1-1945, p. 66.
5. *Ibid.*, dated 30-1-1945, pp. 67-68.
6. *Ibid.*, dated 3-2-1945, pp. 151-152.
7. *Ibid.*, dated 3-2-1945, p. 152.
8. *Ibid.*, dated 17-3-1945, pp. 205-206.
9. *Ibid.*, dated 28-4-1945, pp. 409-410.
10. *Ibid.*, dated 28-4-1945, p. 410.
11. *Ibid.*, dated 5-5-1945, pp. 415-416.
12. *Ibid.*, dated 12-5-1945, pp. 425-426.
13. *Ibid.*, dated 16-5-1945, p. 429.
14. *Ibid.*, dated 16-5-1945, p. 430.
15. *Ibid.*, dated 16-5-1945, pp. 453-454.
16. *Ibid.*, dated 19-5-1945, p. 456.
17. *Ibid.*, dated 19-5-1945, pp. 463-464.
18. *Ibid.*, dated 2-6-1945, pp. 467-68.
19. *Ibid.*, dated 9-6-1945, pp. 483-484.
20. *Ibid.*, dated 30-6-1945, pp. 561-562.
21. *Ibid.*, dated 4-7-1945, pp. 563-565.
22. *Ibid.*, dated 4-7-1945, pp. 565-566.
23. *Ibid.*, dated 14-7-1945, p. 569.
24. *Ibid.*, dated 14-7-1945, p. 570.
25. *Ibid.*, dated 14-7-1945, p. 570.
26. *Ibid.*, dated 21-7-1945, pp. 591-592.
27. *Ibid.*, dated 4-8-1945, pp. 601-602.
28. *Ibid.*, dated 23-8-1945, pp. 619-620.
29. *Ibid.*, dated 31-8-1945, pp. 669-700.
30. *Ibid.*, dated 1-9-1945, p. 701.
31. *Ibid.*, dated 1-9-1945, p. 702.
32. *Ibid.*, dated 8-9-1945, pp. 711-715.
33. *Ibid.*, dated 8-9-1945, p. 716.
34. *Ibid.*, dated 14-9-1945, pp. 777-778.
35. *Ibid.*, dated 14-9-1945, p. 778.
36. *Ibid.*, dated 18-9-1945, pp. 785-786.
37. *Ibid.*, dated 29-9-1945, pp. 795-796.
38. *Ibid.*, dated 6-10-1945, pp. 799-800.
39. *Ibid.*, dated 20-10-1945, pp. 829-830.
40. *Ibid.*, dated 27-10-1945, pp. 899-900.

41. *Ibid.*, dated 27-10-1945, p. 900.
42. *Ibid.*, dated 31-10-1945, pp. 903-904.
43. *Ibid.*, dated 17-11-1945, pp. 937-940.
44. *Ibid.*, dated 24-11-1945, pp. 981-982.
45. *Ibid.*, dated 11-12-1945, pp. 1071-1072.
46. *Ibid.*, dated 22-12-1945, pp. 1139-1140.
48. *Ibid.*, dated 24-12-1945, p. 1146.

POST WAR YEAR ORDINANCES (1946)

The war came to an end in 1945 and the government of the day decided that with effect from 1-4-1946 several ordinances would be repealed and Emergency Act of 1940, which increased the life of an ordinance to an indefinite period, was brought to an end. During the year 1946, as many as 28 ordinances were promulgated by the Governor General of India, as shown in Table 9.1.

Table 9.1: Ordinances promulgated by the Governor General during the year 1946

<i>Ordinance No.</i>	<i>Title of the ordinance</i>	<i>Date of promulgation</i>	<i>Source: Gazette of India Extraordinary; Page(s)</i>
(1)	(2)	(3)	(4)
I	The Repealing Ordinance	5-1-1946	45-49
II	The Banking Notes (Declaration of Holdings) Ordinance	12-1-1946	59-61
III	The High Denomination Bank Notes (Demonetisation) Ordinance	"	61-64
IV	Banking Companies (Inspection) Ordinance	15-1-1946	65-66
V	National Service (European British Subjects) Termination of Calling up Ordinance	17-1-1946	73-74

Table 9.1 (contd.)

(1)	(2)	(3)	(4)
VI	The Criminal Law (Amendment) Ordinance	17-1-1946	74-75
VII	The Criminal Law (1943 Amendment) Amending Ordinance	"	75-76
VIII	Allied Forces(China) Ordinance	19-1-1946	79-80
IX	National Service (Technical Personnel) Amendment Ordinance	"	80-81
X	Termination of War (Definition) Ordinance	5-2-1946	149-150
XI	Defence of India (Amendment) Ordinance	23-2-1946	183-184
XII	Defence of India (Second Amendment) Ordinance	30-3-1946	251
XIII	Army (Forfeiture of Emoluments) Amendment Ordinance	"	252
XIV	Active Service (Amendment) Ordinance	"	252
XV	Royal Indian Navy (Commission of Enquiry) Ordinance	13-4-1946	269-70
XVI	Royal Indian Navy (Commission of Enquiry) (Amendment) Ordinance	1-5-1946	323
XVII	Bearer Promissory Notes (Publication of Issue) Ordinance	18-5-1946	345-346
XVIII	Essential Supplies (Temporary Powers) Ordinance	25-9-1946	711-714
XIX	Requisitioned Land (Continuance of Powers)	"	715-717

Table 9.1 (contd.)

(1)	(2)	(3)	(4)
	Ordinance		
XX	Emergency Provisions (Continuance) Ordinance	25-9-1946	711-714
XXI	Foreigner Act (Amendment) Ordinance	"	723
XXII	Delhi Special Police Establishment Ordinance	"	723-724
XXIII	Special Tribunals (Supplementary) Ordinance	30-9-1946	773
XXIV	Indian Navy (Discipline) Amendment Ordinance	10-10-1946	1047
XXV	Sugar (Temporary Excise Duty) Ordinance	23-10-1946	1083-1085
XXVI	Indian Tariff Act (Amendment) Ordinance	23-10-1946	1088
XXVII	Indian Tariff Act (Second Amendment) Ordinance	26-10-1946	1089
XXVIII	The Railway (Emergency Provisions) Ordinance	14-12-1946	1241-1242

FOCUS OF THE ORDINANCES

Ordinance I of 1946, the Repealing Ordinance, was promulgated on 5-1-1946. With the promulgation of this ordinance, several ordinances promulgated since 1941 were repealed. It was, however, provided that the repeal was not to effect the previous operation of an ordinance so repealed; any right, title etc. acquired, any penalty or forfeiture incurred, any investigation and legal proceedings etc. started. The repeal was not to revive or restore anything not in force at the time of the commencement of the ordinance. The ordinance also provided that proceedings of military court started under the provisions of Military Operational Area (Special Powers) Ordinance, 1943 but not concluded were to be proceeded with.¹

On 12-1-1946. Ordinance II of 1946—The Banking Notes (Declaration of Holdings) Ordinance—was promulgated. By this, it was provided that every bank and government treasury would send to the government information about the notes of each denominational value held by it on 11-1-1946 and also provide details of such notes received by it by post or in any other way with the name and address of the sender. The central government got powers to appoint officers to inspect books, documents, accounts of any bank, etc. Every bank manager, who wilfully provided wrong information, was to be punished with imprisonment up to 3 years or with fine or both and so was the punishment for those who failed to produce books/documents, etc. for inspection.²

The High Denomination Bank-Notes (Demonetisation) Ordinance (No. III of 1946) was promulgated on 12-1-1946. By this, it was provided that all high denomination notes would cease to be legal tender on the expiry of 12-1-1946. With this, all transfers of high denomination notes from one person to the other were also made illegal. Every person who held such notes, however, could get these exchanged from the Reserve Bank within 10 days from the promulgation of the ordinance, after providing necessary details. The person making declaration for the purpose of exchange of notes was to be identified properly. The person making declaration was to be treated as owner of the notes and if subsequently it was found that he was not the real owner of the notes, he was to be punished for the offence. The central government could ask any applicant to amplify his declaration. Except Reserve Bank of India at Bombay, Calcutta and Madras, no bank could exchange high denomination notes exceeding rupees ten lakhs.³

Ordinance IV of 1946—The Banking Companies (Inspection) Ordinance, 1946—was promulgated on 15-1-1946. By this, it was provided that the central government at any time could direct the Reserve Bank to cause an inspection to be made of any banking company, its books and accounts and make a report thereon. It was made obligatory on every officer of the company to be inspected to produce documents about the affairs of the company. If any one failed to produce a document, he could be fined.

If after inspection it was found that the affairs of the company were being run detriment of the interests of the depositors, the central government was empowered to prohibit such a banking company from receiving fresh deposits, could exclude such a company from banking schedule and if deposits were received even after prohibition order had been issued, the company could be fined with amount twice the amount of the depos-

its so received.⁴

In 1946, the government brought a bill about these companies. According to it, the Registration of Transferred Companies Ordinance, 1942 was passed with the object of enabling the companies evacuated from various parts of the British empire, owing to circumstances arising out of the war, to register themselves and operate in and from British India. With the termination of war, some of the companies registered under the ordinance were desirous of going back to the countries of their original incorporation. With a view to facilitate their return, the government wanted to have powers to cancel the registration of such companies on such terms and conditions as might be deemed necessary to safeguard the interests of all concerned and hence the bill.⁵

Ordinance V of 1946, the National Service (European British Subjects) Termination of Calling Ordinance, 1946, was promulgated on 17-1-1946. It provided that after the commencement of the ordinance, no person was to be liable to be called for national service under National Service (European British Subjects Act, 1940 (Act XVIII of 1940)). The provisions of the ordinance, however, were not to apply to any person on whom a calling up notice had been served before the commencement of this ordinance.⁶

On the same day the Criminal Law Amendment Ordinance, 1946 (No. VI of 1946) was promulgated. By this, it was provided that if any person possessed pecuniary resources or property disproportionate to his sources of income, the fact might be taken into consideration by the court, as if, it were a relevant fact within the meaning of Indian Evidence Act, 1872. The ordinance had a schedule attached to it which specified certain crimes such as acceptance of gratification, amassing of wealth by illegal means etc. It was provided that if any person was found guilty of any such offence, the court could impose a fine equivalent to the amount of money or property found by the court to have been procured by means of the offence. The court was obliged to record the extent of loss incurred by the government, in case more than one government was involved in the offence. If a person was found guilty of more than one offence, the court was to separately award punishment for each offence.⁷

Still another Ordinance No. VII of 1946—The Criminal Law (1943 Amendment) Amending Ordinance—was promulgated on the same day. By this it was provided that if a special tribunal found a person guilty of an offence, it was empowered, in addition to awarding normal sentence, a fine equivalent to the amount of money or value or other pro-

erty found to have been procured by the offenders by means of an offence. In other respects same provisions were made in respect of special tribunals, as were made for the courts, as mentioned in the above-mentioned ordinance.⁸

Ordinance VIII of 1946, The Allied Forces (China) Ordinance, 1946, was promulgated on 19-1-1946. By this it was provided that no criminal proceedings could be prosecuted or continued in British India before any court of British India against members of the Chinese forces and any such proceedings, which were already pending at the commencement of this ordinance, were to be discharged. It was further provided that a person already pending at the commencement of this ordinance, were to be discharged. It was further provided that a person already in the custody of any authority of British India, be delivered to the appropriate authority of the forces of which he was a member. If any request was made by an officer commanding of any member of the Chinese forces for arrest on the plea that he was guilty of an offence of law of the Republic of China, such a person was to be arrested and when so arrested was to be handed over to the appropriate authorities of China. Whether a person was a member of Chinese forces or not, a certificate issued by a competent authority of Chinese forces was to be considered as final.⁹

On the same day was promulgated National Service (Technical Personnel) Amendment Ordinance (No. IX of 1946). It amended Ordinance II of 1940. By this, it was provided that if a person was got released from an employer for war service under the orders of the central government or special tribunal, applied for re-instatement within a specified period, it shall be the duty of the employer to reinstate him in his former appointment on the termination of his service. While deciding his payment, due care was to be taken to the additional skills and experience acquired by him since his release, but in no case conditions will be less favourable to him than those which would have been applicable to him had he not been so released.

If for any reason an employer found himself unable to reinstate such a person either party could refer the matter to a special tribunal, which could order for paying such a person compensation not exceeding an amount equal to 6 months remuneration at the rate which the Tribunal felt was suitable. If an employer terminated the services of re-instated person before the expiry of a period of 6 months, he could be made to pay for the unexpired period but this condition was not to be enforced, if the re-employed person was found guilty of gross insubordination, habitual absence from work or any serious misconduct.¹⁰

On 5-2-1946, Termination of War (Definition) Ordinance, 1946 (No. X of 1946) was promulgated. It revoked ordinance XXIII of 1945 promulgated on 14-7-1945.¹¹

Defence of India (Amendment) Ordinance, 1946 (No. XI of 1946) was promulgated on 13-2-1946. It amended Act XXXV of 1939. By this ordinance, it was provided that the commission of an offence included any interference in the maintenance of supplies and services essential to the life of the community.¹²

Ordinance XII of 1946, the Defence of India (Second Amendment) Ordinance, 1946, was promulgated on 30-3-1946. It also amended Act XXXV of 1939. By this, it was provided that the expiry of 1939 Act shall not affect the previous operation of anything duly done or suffered under this Act or any rule or order made thereunder. It was also provided that the expiry was also not to effect any obligations or liabilities, penalties or forfeitures and was also not to withhold any investigations or legal proceedings, etc.¹³

Ordinance XIII of 1946, the Forfeiture of Emoluments (Amendment) Ordinance, 1946 was promulgated on 30-3-1946. The original ordinance had provided that part or full pay or allowances of an army officer could be forfeited, if the said person after an enquiry was found guilty of an offence. With the help of this ordinance, the word 'officer' was omitted which meant that pay and allowances of any person, irrespective of the rank could be forfeited.¹⁴

Ordinance XIV of 1946 was promulgated on 30-3-1946. It was called Active Service (Amendment) Ordinance, 1946. It amended Active Service Ordinance, 1941. Section 2 of the original ordinance specified certain categories of persons who were to be treated as on active service for the purposes of army and air force Act. With the help of present ordinance, it was provided that the central government could declare that it could exempt or include any category of persons in this category, as people to be on active service.¹⁵

Ordinance XV, the Royal Indian Navy Commission of Enquiry Ordinance, 1946, was promulgated on 13-4-1946. By this, it was provided that Commission of Enquiry was to have all the powers of a civil court for the purposes of receiving evidence, administering oaths, enforcing attendance of witnesses, etc.¹⁶

Ordinance XVI, the Royal Indian Navy (Commission of Enquiry) (Amendment) Ordinance, was promulgated on 1-5-1946. By this, it was provided that no statement made by a person in the course of giving evidence before the Commission, made in reply to a question and relevant

to the subject, was to be used against the witness in any civil or criminal proceedings.¹⁷

The Bearer Promissory Notes (Publication of Issue) Ordinance, 1946 (No. XVII of 1946) was promulgated on 18-5-1946. By this, it was provided that after the promulgation of this ordinance, no bank could make or issue any promissory note payable to the bearer of the instrument. It was also provided that if any bank issued any promissory note, the concerned officer could be punished with fine which might extend to twice the amount for which promissory notes were so made or issued.¹⁸

Ordinance XVIII of 1946, the Essential Supplies (Temporary Powers) Ordinance, 1946 was promulgated on 25-9-1946. It specified some essential commodities like food stuffs, textiles, paper, coal etc. and provided that the central government could provide for regulating or prohibiting the production, supply and distribution of the commodities and trade and commerce therein. The government could regulate these commodities by issuing licences, permits or otherwise the production and manufacture of any or all essential commodities and by several other ways, mentioned in the ordinance. The said government could also issue instructions to the provincial governments as well. Provision was made for the imposition of fines on all those who contravened any order or gave any false statement. The burden of proving a person innocent was to lie with the person who was being alleged for the contravention of any provision of the ordinance. The courts were to take cognisance of the offence only when a complaint was made by the public servant. Provision was also made for summary trials.¹⁹

On 15-9-1946 was promulgated Requisitioned Land (Continuance of Powers) Ordinance, 1946 (No. XIX of 1946). The ordinance provided that after the expiration of Defence of India Ordinance, 1939, all requisitioned lands were to continue to be, until the expiration of the ordinance under requisition and the appropriate government might use or deal with any requisitioned land in such manner as it deemed fit. The government could release any requisitioned land at any time and that was to be treated as full discharge of the government from all liabilities in respect of such delivery. The government could also acquire requisitioned land under certain circumstances specified in the ordinance. Any decision about the acquisition of land was to be treated as final and was not to be called in question in any court. The government was to pay compensation for the requisitioned and acquired land. It could ask any person to supply information about requisitioned land. If a person willfully failed to provide information or provided wrong information, he

could be imprisoned up to one year.²⁰

According to the government Rule 75A of the Defence of India Rules provided *inter-alia* for the temporary requisition and permanent acquisition of lands and buildings for the purposes indicated in Sub-rule (1) of that rule. A large number of lands and buildings had been requisitioned by the central government as well as by the provincial governments and immediately before the expiry of the defence of India Act, were still in the use and occupation of government for various public purposes. If the Defence of India Act was allowed to expire without any legislative measure in this respect, the lands and buildings permanently acquired under sub-rule (2) of Rule 75(a) would not have been effected but it would have been necessary to return forthwith to owners all lands and buildings which had only been requisitioned, whether for a definite or indefinite period.

Retention of some of the requisitioned lands and buildings beyond 30-9-1946 was and still is necessary for several reasons. The problem of quartering armed forces and ancillary services and of finding storage accommodation for their equipment and stores was to continue to exist for a considerable time. Troop movement was still greatly in excess of peace-time movement, with the result that transit camps and other facilities were needed to be temporarily retained. Valuable assets had been created during the war period and on many of the requisitioned lands, the value of which at the time of requisition was only a fraction of their present value. The government, however, could not legally claim from the owners any part of this increase in value and the return of all such properties on the 1st October, would have resulted in an enormous loss of public money. Hence not for replacing bill for the ordinance.²¹

Ordinance XX of the year, the Emergency Provisions (Continuance) Ordinance, 1946, was promulgated on 25-9-1946. It was provided that after the expiry of Defence of India Act, 1939, some provisions of the Act, as specified in the schedule, were to remain in force. The Indian Navy Discipline Act, 1934 (No. XXXIV of 1934) was to continue to have effect.²²

Ordinance XXI of 1946, the Foreigner's Act (Amendment) Ordinance, 1946, was promulgated on 25-9-1946. It amended Foreigner's Act, 1940 (No. II of 1940) which provided that the Act was to remain in force during the continuance of war and six months thereafter. By the present ordinance, it was provided that it will cease to be in operation on 25th day of March 23.²³

In November, 1946, the Government of India decided to bring for-

ward a bill bringing the measure on permanent footing.²⁴ While tracing the history and highlighting the need of a permanent measure, it was said that at present the only permanent measures governing foreigners specifically were the Registration of Foreigners Act, 1939, and the Foreigners Act, 1864. The Act of 1939 provided for the making of rules to regulate registration of foreigners and formalities connected therewith, their movement in, or departure for the expulsion of foreigners and their apprehension and detention pending removal and for a ban on their entry into India after removal, the rest of the Act which provided for report on arrival, travel under a licence and certain incidental measures, could be enforced only on the declaration of an emergency. The powers under this Act have been found to be ineffective and inadequate both during normal times and during an emergency.

The needs of the war emergency were met by the enactment of a Foreigners Ordinance in 1939 and the promulgation under it of the Foreigners Order and the Enemy Foreigners Order. Even at that time the need for more satisfactory permanent legislation was recognised but it was decided to postpone consideration of such a measure until after the war. The ordinance was, therefore, replaced by the Foreigners Act, 1940, the life of which was to expire on 30-9-1946 but had recently been extended by the Foreigners Act (Amendment) Ordinance, 1946, up to 25-3-1947.

Meanwhile, the question of permanent legislation, more or less on the lines of the Act of 1940, has been examined, in consultation with the Provincial Governments and its continuance found necessary. The Bill in the main reproduces the provisions of the Foreigners Act of 1940.

On 7-11-1947 still another bill was brought forward on the subject, which aimed at giving more powers to the government and rendering some of the gaps which had not been covered by the Act of 1946.²⁵ It was said in the proposed bill that the Foreigners Act 1946, had in many respects been found inadequate for the effective control of foreigners in India. For example, the Act did not provide power for requiring the master of a vessel or a pilot of an aircraft to remove a foreigner who has made an illegal entry into India on any such vessel or aircraft or who had under Section 3 of the Act been ordered not to remain in India. Another power the absence of which had been keenly felt was that of requiring a foreigner, who had been directed to leave India, to meet the expenses of his voyage, if he was in a position to do so, for want of this power, recalcitrant foreigners avoided payment which fell on the general tax-payer of India especially in case of foreigners whom it was found necessary to deport with as little delay as possible. The Act does not

also give power for imposing in times of emergency an obligation on a householder in any specified area (e.g. in prohibited and protected places) to report to the prescribed authority the presence of any foreigner in his household and to furnish other particulars in respect of such a foreigner. Similarly, there is no power under the Act for closing down clubs and restaurants, etc. frequented by foreigners, and in the absence of such power the police experienced special difficulty in closing down gambling and opium dens etc. used by foreigners or criminal or disloyal association or otherwise of undesirable people. These powers are necessary both from the security point of view and for the effective control of foreigners in general.

Delhi Special Police Establishment Ordinance, 1946 (No. XXII of 1946) was promulgated on 25-9-1946. It provided for the constitution of Delhi Special Police Force for the investigation of offences in Delhi. Any member of the said police establishment was to exercise any of the powers of the officer incharge of police station in the area in which for the time being he was posted. The central government was to notify the offences which were to be investigated by Delhi special police establishment. The superintendence of this police was vested in the central government by an officer who was to have the powers of Inspector General of Police. The jurisdictions of this force could be extended beyond Delhi by the central government, if need be.²⁶

In 1943, the Government of India had set up a police staff called the Special Police Establishment (War Department) under the Special Police Establishment (War Department) Ordinance XXII of 1943. For the purposes of investigating offences of bribery and corruption connected with the departments of central government. According to the government, the Department did useful work in the investigation of cases in which employees and contractors of the central government were involved and brought the offenders to books. The Government of India, with the advice of a Standing Committee of the Central legislature for the Home Department then decided to retain this Department on a permanent basis. The Special Police Establishment (War Department) Ordinance XXII of 1943, with which it was created, lapsed on 30-9-1946, but by that time necessary legislation could not be undertaken. In order to avoid break in continuity the present ordinance was promulgated on 25-9-1946 which could remain in force till 25-3-1947. And hence the need for the ordinance.

The government wanted to have this department on regular basis. It was hoped that it would be able to conduct investigations in all provinces

with their consent. Replacing bill of the ordinance was introduced on 4-11-1946.²⁷

Ordinance XXIII of 1946, the Special Tribunals (Supplementary Provisions) Ordinance, 1946, was promulgated on 30-9-1946. It dealt with Special Tribunals constituted under the Criminal Law Amendment Ordinance, 1943 (No. XXIX of 1943). It was provided that when any special court ceased to function, the sentences or orders passed by it in any case be deemed to have been passed by the court of session within the local limits of whose jurisdiction the offence was alleged to have taken place.²⁸

Ordinance XXIV, the Indian Navy (Discipline Amendment) Ordinance, 1946, was promulgated on 10-10-1946. It amended The Indian Navy (Discipline Act) 1934 (No. XXIV of 1934). In the original ordinance, the word 'President' was used for a 'Captain'. Now it was amended and was used for 'commander' instead of captain as was the position earlier.²⁹

The Sugar (Temporary Excise Duty) Ordinance, 1946 (No. XXV of 1946) was promulgated on 23-10-1946. By this, it was provided that a duty of excise would be levied by the central government on all sugar produced in any factory in British-India before and after the commencement of the ordinance, by an owner or dealer of a factory at some fixed rates. Everyone was to declare to the Assessing Officer all stocks of sugar within a week owned by him or in his possession. He was also to indicate the place where the sugar was stored and date on which it was expected to reach a particular destination. The Assessing Officer was empowered to assess the duty payable on the sugar and the amount so assessed was to be communicated in writing to the person owing or possessing the sugar, which was to be paid within 10 days. If the assessed duty was not paid within the specified period, the unpaid amount was to be recovered by any sum not exceeding double the amount left unpaid. The amount was to be recovered as arrears of land revenue. The competent officer was empowered to enter any place in which he had reason to believe that the sugar liable to the duty imposed was kept. He could also call for any information, papers or documents and examine the accounts. None was to dispose of sugar assessed without the orders of the assessing officer. Whoever, in any way, violated any provision of the ordinance or obstructed the officer could be punished with imprisonment. The courts were empowered to order forfeiture of any sugar, where these were satisfied that offence under the ordinance had been committed. Provision was made for an appeal to the Collector of Central

Excise against the decision of Assessment Collector, whose decision could only be reviewed by the Central Board of Revenue.

The central government could exempt any sugar from levy.³⁰

Ordinance XXVI, the Indian Tariff Act (Amendment) Ordinance, 1946, was promulgated on 23-10-1946. It amended Act XXXII of 1934. In the entries made for tariff purposes, in the schedule attached to the Act, jute, raw jute, sacking cloth bags, twist yarns, etc. were added.³¹

Ordinance XXVII, Indian Tariff Act (Second Amendment) Ordinance, 1946, was promulgated on 26-10-1946. It also amended Act XXXII of 1934. In the schedule to the Act, raw cotton bales of specific categories were added.³²

Last ordinance of the year, The Railway (Emergency Provisions) Ordinance, 1946 (No. XXVIII of 1946), was promulgated on 14-12-1946. By this, the penalties imposed under the Indian Railway Act, 1890 were enhanced. It was provided that if any person tried or actually sabotaged railway work, he could be punished with imprisonment not exceeding seven years or with fine or both. Even if he intended to commit an offence, for which there was sufficient evidence, it would be presumed that he had committed an offence.³³

DURATION OF ORDINANCES, 1946

During the year 1946, only 28 ordinances were promulgated. As is the case with the previous years, some of the ordinances were of less than a year's duration, whereas some others were continued for longer period, as shown in Table 9.2.

Thus, most of the ordinances were allowed to remain in force a period of less than a year. In fact, four ordinances (XVIII, XXI, XXII and XXIII) were in force for less than 2 months. Ordinance No. XVIII was repealed on 19-11-1946 by Act No. 24 of 19-11-1946 after remaining in force for one month and 24 days only. Similarly, Ordinance No. XXI, which was repealed by Act 31 of 1946, passed on 23-11-1946, was in force for one month and 28 days only. Ordinance No. XXII was repealed by Act XXV passed on 19-11-1946 after it had remained in operation for one month and 24 days, whereas Ordinance No. XXIII which was repealed by Act 26 of 1946 passed on 22-11-1946 was in operation for one month and 22 days. Ordinance Nos. XV, XVI, XVII, XIX, XX, XXIV, XXV, XXVI, XXVII and XXVIII were kept in operation for a period not exceeding six months. Ordinance Nos. XV, XVI, XX, XXIV,

Table 9.2: Duration of Ordinances, 1946

<i>Duration of ordinance</i>	<i>Ordinance No.</i>
Less than a year	XV, XVI, XVII, XVIII, XIX, XX to XXVII, XXVIII
Between 1-2 years	XI, XII
Between 2-3 years	—
Between 3-4 years	IV
Between 4-5 years	I, VII, VIII, IX, XIII, XIV
Between 5-6 years	—
Between 6-7 years	—
Between 7-8 years	—
Between 8-9 years	—
Between 9-10 years	—
Between 10-11 years	—
Between 11-12 years	V
Between 12-13 years	—
Between 13-14 years	—
Between 14-15 years	—
Between 15-16 years	—
Between 17-18 years	—
Above 20 years	II, III, VI, X

XXV and XXVIII were allowed to expire. Ordinance XVII was repealed by Act 23 of 16-11-1946; No. XIX by Act 17 of 24-3-1947; No. XXVI by Act 20 of 31-3-1947 and No. XXVII by Act 20 of 31-3-1947. Ordinance Nos. I, IX and XIII were repealed by Act 35 of 19-4-1950; No. IV was repealed by Act No. 10 of 10-3-1949; Ordinance Nos. V, VII and VIII were repealed Act 36 of 17-9-1957; Nos. XI and XII were repealed by Act 2 of 5-1-1948 and No. XIV by Act 46 passed on 20-5-1950.

EFFECT OF ORDINANCES ON PREVIOUSLY ENACTED LEGISLATION, 1946

During the year 1946, as already said, 28 ordinances were promulgated. Some of these were new and promulgated for the first time, whereas some others effected previously enacted legislation. Table 9.3 gives the position:

Table 9.3: Effect of ordinances on previously enacted legis'ation, 1946

Ordinance No.	Previously enacted legislation effected		Nature of ordinance
	ordinance No.	Act No.	
(1)	(2)	(3)	(4)
I	Repealed several ordinances*		
II	—	—	New
III	—	—	New
IV	—	—	New
V	—	XVIII of 1940	—
VI	XXXVIII of 1940	—	—
VII	XXIX of 1943	—	—
VIII	—	—	New
IX	II of 1940	—	—
X	—	—	New
XI	—	XXXV of 1939	—
XII	—	XXXV of 1939	—
XIII	XL of 1945	—	—
XIV	X of 1941	—	—
XV	—	—	New
XVI	XV of 1946	—	—
XVII	—	—	New
XVIII	—	—	New
XIX	—	—	New
XX	—	—	New
XXI	—	II of 1940	—
XXII	—	—	New
XXIII	XXIX of 1943	—	—
XXIV	—	XXIV of 1934	—
XXV	—	—	New
XXVI	—	XXXII of 1934	—
XXVII	—	XXXII of 1934	—
XXVIII	—	—	New

* 1941: No IV

1942: Nos. IV to VII, XIV, XVI, XVIII to XXI, XXIII to XXVII, XXIX to XXXII XXXIV to XL XLII, XLIII, XLV to XLII, LV, LVIII, LXI, LXIII to XLV, LXVII and LXVIII.

1943: Nos. III, V, VII to XII, XIV to XVI, XXIII, XXV to XXVII, XXXII, XXXIV, XXVII, to XL, XLII, XLIV.

1944: No. I, V, VI, VIII to XXVIII XXII to XIV, XXVI to XXXI, XXXIII, XXXVI, XL, XLI, XLII, XLVI to XLIX, LI to LVI.

1945: Nos. X, XII, XV, XXVI, XXVIII.

Table 9.4: Gap between promulgation of ordinance and meeting of the Assembly

<i>Session</i>	<i>Ordinance No.</i>	<i>Date of meeting of the Assembly</i>	<i>Date of promulgation of ordinance</i>	<i>Difference</i>		
(1)	(2)	(3)	(4)	(5)		
				Months	Days	
1st	I	21-1-1946	5-1-1946	0	—	06
	II	"	12-1-1946	0	—	09
	III	21-1-1946	12-1-1946	0	—	09
	IV	"	15-1-1946	0	—	06
	V	"	17-1-1946	0	—	04
	VI	"	"	0	—	04
	VII	"	"	0	—	04
	VIII	"	19-1-1946	0	—	02
	IX	"	"	0	—	02
2nd	XVI	28-10-1946	1-5-1946	5	—	28
	XVII	"	18-5-1946	5	—	10
	XVIII	28-10-1946	25-9-1946	1	—	03
	XIX	"	"	1	—	03
	XX	"	"	1	—	03
	XXI	"	25-9-1946	1	—	03
	XXII	"	"	1	—	03
	XXIII	"	30-9-1946	0	—	28
	XXIV	"	10-10-1946	0	—	18
	XXV	"	23-10-1946	0	—	05
XXVI	"	"	0	—	05	
XXVII	"	26-10-1946	0	—	02	

ORDINANCES AND SESSIONS OF LEGISLATIVE ASSEMBLY

During the year 1946, Central Legislative Assembly met twice. Its first session was convened on 21-1-1946 and continued till 18-4-1946. Duration of the session was 88 days. It, however, met for 60 days. Out of these 60 days, only 9 days were allotted for non-official work, whereas

Table 9.5: Gap between adjournment of the Assembly and promulgation of ordinances

<i>Session</i>	<i>Ordinance No.</i>	<i>Date of adjournment of the Assembly</i>	<i>Date of promulgation of ordinance</i>	<i>Difference</i>	
(1)	(2)	(3)	(4)	(5)	
				Months	Days
1st	XVI	18-4-1946	1-5-1946	0	— 14
	XVII	"	18-5-1946	1	— 00
	XVIII	"	19-5-1946	1	— 01
	XIX	"	"	1	— 01
	XX	"	"	1	— 01
	XXI	"	"	1	— 01
	XXII	"	"	1	— 01
	XXIII	"	30-9-1946	5	— 12
	XXIV	"	10-10-1946	5	— 22
	XXV	"	23-10-1946	6	— 05
	XXVI	"	"	6	— 05
	XXVII	"	"	6	— 05
2nd	XXVIII	18-11-1946	14-12-1946	1	— 04

remaining 51 days were for government work. The Assembly met again in the year 1946 on 28-10-1946 and continued to be in session till 18-11-1946, i.e. for a short duration of 22 days. The House, however, actually met for 16 days; out of which, 12 days were for official and 4 days for non-official work. It may, however, be mentioned that with effect from 1-4-1946, Section 3 of India and Burma (Emergency Provisions) Act, 1940 ceased to operate and Section 72 of the Act continued to operate in its original form. In other words, the power of the Governor-General to promulgate ordinances was subject to the ordinance remaining in force for not more than 6 months from their promulgation. How early from the meeting of the Assembly an ordinance was promulgated is shown in Table 9.4.

It will thus be seen that all nine ordinances in the 1st session were promulgated when the Assembly was just going to meet within next two

weeks. This shows that the government showed scant regard for the Assembly and did not await its meeting. Not only this but ordinance Nos. X to XV were promulgated when the Assembly was in session. These were issued between 5-2-1946 to 13-4-1946 whereas the Assembly was in session between 21-1-1946 and 18-4-1946.

The ordinance Nos. XVI and XXVII were promulgated between the 1st and 2nd session of the Assembly. These ordinances were promulgated months before the meeting of the Assembly because gap between two sessions of the Assembly was of about 6 months. Even in this case, out of the 12 ordinances promulgated, four were such which were promulgated when the Assembly was going to meet within next three weeks.

Now coming to the other side, i.e. how many ordinances were promulgated soon after the adjournment of the sessions of the Assembly, the position was as shown in Table 9.5.

Thus, except one all the ordinances were promulgated after a month of the adjournment of the Assembly. Thus, it cannot be said that the government waited the adjournment of the House for the promulgation of the ordinances.

NOTES

1. Gazette of India Extraordinary, Part IV, dated 5-1-1946, pp. 45-49.
2. *Ibid.*, dated 12-1-1946, pp. 60-61.
3. *Ibid.*, dated 12-1-1946, pp. 61-64.
4. *Ibid.*, dated 15-1-1946, pp. 65-66.
5. Registration of Transferred Companies (Amendment) Bill, 1946; Bill No. 57 of 1947. dated 6-11-1946; Gazette of India Extraordinary, Part IV, p. 318.
6. Gazette of India Extraordinary, Part IV, dated 17-1-1946, pp. 73-74.
7. *Ibid.*, dated 17-1-1946, pp. 74-75
8. *Ibid.*, dated 17-1-1946, pp. 75-76.
9. *Ibid.*, dated 19-1-1946, pp. 79-80.
10. *Ibid.*, dated 19-1-1946, pp. 80-81.
11. *Ibid.*, dated 5-2-1946, pp. 149-150.
12. *Ibid.*, dated 23-2-1946, pp. 183-184.
13. *Ibid.*, dated 30-3-1946, p. 251.
14. *Ibid.*, dated 30-3-1946, p. 252.
15. *Ibid.*, dated 30-3-1946, p. 252.
16. *Ibid.*, dated 13-4-1946, pp. 269-270.
17. *Ibid.*, dated 1.5.1946, p. 323.
18. *Ibid.*, dated 18-5-1946, pp. 345-346.
19. *Ibid.*, dated 25-9-1946, pp. 711-714.
20. *Ibid.*, dated 25-9-1946, pp. 715-717.
21. The Requisition Land (Continuance of Powers) Bill, 1946; Bill No. 50 of 1946 dated 6-11-1946; Gazette of India Extraordinary, Part V, pp. 357-361.

22. *Ibid.*, dated 25-9-1946, pp. 717-722.
23. Gazette of India Extraordinary, Part IV, dated 25-9-1946, p. 723.
24. Gazette of India Extraordinary, Part V, dated 4-11-1946, pp. 253-254 (Bill No. 46 of 1946).
25. *Ibid.*, dated 7-11-1947, pp. 427-429 (Bill No. 44 of 1947).
26. Gazette of India Extraordinary, Part IV, dated 25-9-1946, pp. 723-724.
27. Delhi Special Police Establishment Bill No. 48 of 1946, dated 4-11-1946; Gazette of India Extraordinary, Part IV, pp. 255-257.
28. Gazette of India Extraordinary, Part IV, dated 30-9-1946, pp. 773.
29. *Ibid.*, dated 10-10-1946, p. 1047
30. *Ibid.*, dated 23-10-1946, pp. 1083-1085.
31. *Ibid.*, dated 23-10-1946, p. 1088.
32. *Ibid.*, dated 26-10-1946, p. 1089.
33. *Ibid.*, dated 14-12-1946, pp. 1241-1242.

TOWARDS FREEDOM YEAR ORDINANCES (1947)

India got her independence on 15-8-1947. Between 1-1-1947 and 15-8-1947, thirteen ordinances were promulgated by the Governor General. These are given in Table 10.1.

Table 10.1: Ordinances promulgated from 1-1-1947 to 15-8-1947

<i>Ordinance No.</i>	<i>Title of the ordinance</i>	<i>Date of promulgation</i>	<i>Source: Gazette of India Extraordinary; Page(s)</i>
(1)	(2)	(3)	(4)
I	Agertine (Jute and Cereals) Agreement Ordinance	7-1-1947	91-93
II	Indian Tariff (Amendment) Ordinance	16-1-1947	101
III	Press (Special Powers) Ordinance	29-1-1947	147-160
IV	Punjab (Disturbed Areas) (Special Powers of Armed Forces Ordinance	19-3-1947	281-282
V	Capital Issues (Continuance of Control) Ordinance	22-3-1947	294A-294D
VI	Coal Production Fund (Repealing) Ordinance	26-4-1947	387
VII	Indian Patents and Designs (Extension of Time) Ordinance	22-5-1947	473
VIII	Tea (Export Licences) Ordinance	24-5-1947	475

Table 10.1 (contd.)

(1)	(2)	(3)	(4)
IX	North West Frontier Province Disturbed Areas (Special Powers of Armed Forces) Ordinance	2-7-1947	621-622
X	The Press (Special Powers) (No.2) Ordinance	28-7-1947	659-662
XI	The Bengal Disturbed Areas (Special Powers of Armed Forces) Ordinance	11-8-1947	733-734
XII	Delhi Premises (Requisition and Eviction) Ordinance	13-8-1947	765-768
XIII	The Central Nursing Council Ordinance	13-8-1947	768-774

THE FOCUS OF ORDINANCES

Ordinance I, Agertine (the Jute and Cereals) Agreement, 1947 was promulgated on 7-1-1947. It was said by the government that a case was pending in Calcutta High Court in which Governor General in Council was the plaintiff and Adanijee Jute Mills Ltd. and others were the defendants. It was said in the ordinance that title and possession of all goods in dispute in the Court in the said suit on the said date shall vest in the central government free from any mortgage, lien or other encumbrances whatsoever. It was also provided that if in the suit it was finally decided that the said goods were not validly requisitioned or acquired by the central government on 30-9-1946, the owners of the said goods would be entitled to receive from the central government the market price prevailing on the date of institution of such suit. A person who resisted in the acquisition of goods was to be treated as offender to be punished suitably.¹

Ordinance II, The Indian Tariff (Amendment) Ordinance, 1947 was promulgated on 16-1-1947. By this in the Tariff schedule attached to Act XXXII of 1934, rates to be charged on tea were revised.²

The Press (Special Powers) Ordinance, 1947 (No. III of 1947), was

promulgated on 29-1-1947. It was provided that the powers which have been conferred by this ordinance could be exercised by District Magistrate, or Additional District Magistrate. By this ordinance, the provincial government was empowered to prohibit or regulate the printing or publication in any document either absolutely or for a specific period or in a particular issue of a newspaper or a periodical any matter which directly or indirectly could promote feelings of enmity or hatred between different classes of his Majesty's subjects. The said government could also call for any document for scrutiny before its publication and prohibit its publication. Any provincial government could ban or regulate the entry or circulation of any document, published outside the province.

Every provincial government could declare any newspaper, book or document, as the one which could possibly promote the feelings of enmity or hatred and order its forfeiture. The police officers could enter upon and search for such copies in any premises. Anyone who circulated or distributed any newspaper, document or material, which could create feelings of enmity among different classes of people, could be awarded punishment of imprisonment or fine or both. Those who repeated in the public what had been prohibited for printing in any form could be imprisoned.

Whoever committed or abetted or attempted to abet any act preparatory to the commission of any offence punishable under the ordinance was deemed to have committed the offence. The Magistrate could issue search warrants of a place where he had sufficient reason to believe that any objectionable publishable material was stocked or was likely to be published. Any offence punishable under the provisions of this ordinance was declared to be a cognizable offence.³

Punjab Disturbed Areas (Special Powers of Armed Forces) Ordinance, 1947 (No. IV of 1947) was promulgated on 19-3-1947. By this ordinance, every commissioned officer of His Majesty's military or air force could arrest without warrant any person who had committed a cognizable offence, or against whom there was reasonable suspicion that he had committed or was about to commit a cognizable offence. Such an officer could enter and search without warrant any premises to make such arrests.⁴

The Capital Issues (Continuance of Control) Ordinance of 1947 (No. V of 1947) was promulgated on 22-3-1947. By this it was provided that no company incorporated in British India could make an issue of capital outside British India, without the prior consent of the government. Similarly, no company could make an issue of capital in British India, make

in British India any public offer of securities for sale etc. Without prior approval of the central government. No person could issue in British India any prospectus or other document, offer for subscription or for sale any security without central government's approval. Which however, could exempt any company from the provisions of this ordinance. Any officer of the central government, if authorised, could call for accounts, documents or any other information from any company. No one could disclose information thus obtained, to any other person.⁵

According to the government, the object of the measure was to keep in existence for five years more the control over capital issues which was imposed by Rule 94A of Defence of India Rules in May 1943 and which continued to remain in force under the expiry of Defence of India Act by ordinance XX of 1946. The government believed that there had been an appreciable change in the general conditions which constituted the principal reason for the introduction of control during war time but in the light of experience gained it was proper that the control be continued to secure a balanced investment of the country's resources in industry, agriculture and the social services. The replacing bill thus gave the reasons for the measure, but did not mention the need for continuing it with the help of an ordinance.⁶

On 24-4-1947 was promulgated Coal Production Fund (Repealing) Ordinance (No. VI of 1947). By this, ordinance No. XXXIX of 1944 creating Coal Production Fund was repealed. The available fund amount was to be used for the purposes connected with the coal industry, as the central government might decide whose decision in this regard was to be final.⁷

In 1944, the Government of India promulgated Coal Mines Labour Welfare Ordinance for the levy of an excise duty at a rate not exceeding Rs. 10-4-0 per ton of coal and coke despatched from the collieries in British India. The proceeds were intended exclusively for promoting of the welfare of the labour employed in the coal making industry. The purpose of the ordinance was to increase the cess; the maximum being raised to Rs. 0-8-0 per ton on all the despatches of coal and coke.

According to the government the present housing conditions in the coal fields were extremely unsatisfactory and that the housing problem could not be tackled piecemeal. In the opinion of the government, the target of housing fixed for coal industry was 50000 houses and that it intended to achieve the target of 15000 houses to be completed before the end of the next financial year.

Keeping the cost of houses in view, the government had come to the

conclusion that by levy of a cess of Rs. $-\frac{3}{4}$ per ton of coal and coke and a subsidy of Rs. 400 per house from the general revenues, adequate funds could be raised for financing of 50000 houses. The government had various other welfare measures in view like establishment of hospitals, anti-malarial measures, public health and sanitation, adult education propaganda, etc., which needed additional funds. In the ordinance, therefore it had been provided that when the rate of cess reached maximum of Rs. $-\frac{8}{-}$ per ton not less than Rs. $-\frac{3}{4}$ thereof would be earmarked to a separate housing fund.

It was also stated by the government that colliery owners in many cases provided dispensary services for the benefit of miners employed by them but with the establishment of central and regional hospitals and the Coal Mines Welfare Fund, a tendency was likely to arise, by which the responsibility for providing dispensary services up to particular standards prescribed was to fall in the government and for which grants in aid not exceeding amount equivalent to a cess 8 pies per ton in respect of coal or coke despatches from the respective colliery or the amount actually spent by the employer whichever is less was to be provided. Where the employers have not provided adequate dispensary services, the fund will itself provide these.

The result of these measures being that the limit of the cess should be raised to Rs. 8/- per ton. The cess amount per ton was to be gradually increased. It was to be ensured that the houses constructed were occupied by genuine and steady workers and that those who ceased to be so did not continue to occupy the houses.⁸

The Indian Patents and Designs (Extension of Time) Amendment Ordinance, 1947 (No. VII of 1947) was promulgated on 22-5-1947. By this, the period of validity of Indian Patents and Designs (Extension of Time) Act, 1942 (Act X of 1942) was extended up to 31-10-1947.⁹

Tea Export of Licences Ordinance, 1947 (VIII of 1947) was promulgated on 24-5-1947. By this, it was provided that special Export Licences issued for the export of tea were to remain valid only up to 31-7-1947.¹⁰

On 2-7-1947 was promulgated North West Frontier Province Disturbed Areas (Special Powers of Armed Forces) Ordinance, 1947 (No. IX of 1947). It had the same provisions as Ordinance No. IV of 1947 about Punjab.¹¹

About the ordinance, it was said that certain special powers had been conferred on the armed forces in certain disturbed areas of the country to enable them to more efficiently discharge their duties in connection with the maintenance of law and order and that a separate ordinance had

been promulgated for each such area. It was said that it was a temporary piece of legislation and intended to remain in force for a period of one year, which could be extended by another one year. A provincial government could at any time put the measure out of operation by the cancellation of the proclamation or declaration of the Bill. The government, however, did not make a mention about the need of the promulgation of the ordinance, in the replacing bill No. 76 of 1947 dated 25-11-1947.¹²

On 28th July, 1947 was promulgated Ordinance X of 1947, the Press (Special Powers) (No. 2 Ordinance, 1947). By this, the provincial government could authorise a District Magistrate, Additional District Magistrate and Chief Commissioner empowering to exercise powers mentioned in the ordinance. The provincial government was empowered to prohibit or regulate the printing or publication of any document or newspaper or periodical or any other matter which directly or indirectly promoted feelings of emity or hatred between different classes of His Majesty's subjects. It could call any document for scrutiny before publication and also prohibit its publication. It could also prohibit the entry of any document or newspaper published outside the province, in its own province and order the forfeiture of books, newspapers and other documents which in its opinion contained objectionable matter.¹³

Ordinance XI of 1947, the Bengal Disturbed Areas (Special Powers of the Armed Forces) Ordinance, 1947, was promulgated on 11-8-1947. It contained the same provisions about Bengal, as were contained in ordinance IV of 1947 about Punjab.¹⁴

On 13-8-1947 was promulgated Delhi Province (Requisition and Eviction) Ordinance, 1947 (No. XII of 1947). By this, it was provided that an authorised Estate Officer could requisition any premises for any public purposes, provided that that was not a purely religious premises. For this the notice was to be served on the owner/tenants and if either of them was not available by getting that published in official gazette and pasting that on the premises. He could order the owner not to sell or structurally alter that. He could also enter and inspect any premises.

For every acquired premises some compensation was to be paid by mutual agreement and if such an agreement was not possible, an arbitrator was to be appointed and a detailed procedure was laid down for the appointment of arbitrator. The central government was to decide about the person to whom the acquired property was to be returned, after the purpose for which the property had been acquired. Provision was made for appeal to the Chief Commissioner against the orders of acquisition.

The compliance of order was to be got done as a decree of the court.¹⁵

In November 1947, the government brought forward a Bill¹⁶ providing for the replacement of this ordinance by an Act of Dominion Legislature. The replacing bill said that in order to meet the acute shortage of accommodation in New Delhi, the Government of India promulgated an ordinance known as the Delhi Premises (Requisition and Eviction) Ordinance, 1947. On 1-3-1947, for the assumption of certain powers relating to: (a) the acquisition of premises in Delhi; (b) eviction of tenants from government accommodation in cases where such tenants occupied this accommodation in an unauthorised manner. This ordinance was valid only for six months.

The acute shortage of the housing position has not in any way eased out but it has on the other hand become more serious and demands for office as well as residential accommodation are on the increase. As several foreign Embassies have been established in the capital city, it has become incumbent on the government of India to provide them at least the minimum of accommodation required by them. Moreover, the large influx of refugees from the Pakistan areas, the creation of new organisations, such as the Rehabilitation Ministry and the expansion of some of the Ministries and Departments have added to government's responsibility of finding out sufficient accommodation. The Government of India's decision to help the East Punjab Government by bringing down to Delhi some of their offices from Simla has also aggravated the housing situation in Delhi.

It is, therefore, absolutely necessary to replace this ordinance by an Act of the Dominion Legislature so that the power vested in Government of India by the ordinance may continue so long as the present acute shortage of accommodation in Delhi continues.

On the same day, The Central Nursing Council Ordinance, 1947 (No. XIII of 1947) was promulgated. By this, it was provided that the central government shall constitute a Nursing Council which shall consist of nurses of the staff of an institution, head of the institution where the nurses were to be trained. Head of the institutions of the province in which Health Visitors were to be trained, a representative of mid-wives etc. The Council shall be a body corporate having perpetual succession. The provincial governments were to make rules for the conduct of election of the representatives. The Secretary of the Council was to be appointed by the central government. The Council will elect its own Vice-President and constitute an executive committee from amongst its own members. Both the President and the Vice-President shall be ex-officio members

of the executive committee. The Council will recognise qualifications and negotiate with other provincial councils. Any recognised qualification shall be a sufficient qualification for enrolment in any provincial register.

It was provided that every authority in British India, which granted a recognised qualification or a recognised higher qualification, was obliged to furnish such information as the Council from time to time might require about the courses of study, training or examinations. The executive committee of the Council might appoint Inspectors to inspect any institution recognised as an institution and report on the suitability of the institution for the purposes of training.

The Council could withdraw recognition under certain circumstances and situations.¹⁷

About the need of the measure, it was said in the replacing Bill No. 51 of 1947 that Provincial Nursing Councils had been established in all the provinces, which maintain registers of qualified nurses, Health Visitors and Mid-Wives. But increasing difficulties were being experienced by the nursing profession and also by the employing authorities owing to the diversity in the standards of preliminary education of candidates entering training schools of nursing, the varying standards of training and examination for nursing certificates and lack of inter-provincial reciprocity in the registration of nurses. The purpose of the ordinance by and large was to remedy these difficulties by setting up Indian Nursing Council, which was to be primarily responsible for prescribing uniform minimum standards of education and training for nurses, mid-wives and Health Visitors, supervise examinations and maintain a schedule of qualifications recognised for registration throughout India. All about the need for the promulgation of ordinance was said was that it was promulgated so as to avoid delay.¹⁸

DURATION OF ORDINANCES, 1947

After 1-4-1946, no ordinance promulgated by the Governor General could remain in force for a period exceeding 6 months. The duration of each ordinance is shown in Table 10.2.

It will be seen that except one ordinance, i.e. No. II of 1947, all other ordinances were almost kept in operation and in force for a period of six months. Of the 13 ordinances, Ordinance Nos. I, III, IV, V, VIII, IX were allowed to expire. Ordinance II was repealed by Act 20 of 1947

Table 10.2: Duration of ordinances, 1947

<i>Duration of ordinance</i>	<i>Ordinance No.(s)</i>
Less than a month	—
Between 1-2 months	—
Between 2-3 months	II
Between 3-4 months	—
Between 4-5 months	X, XI, XII, XIII
Between 5-6 months	I, III, IV, V, VI, VII, VIII, IX

passed on 31-3-1947; No. VII was repealed by Act 37 enacted on 22-11-1947. Ordinance No. X was repealed by Act 39 passed on 18-12-1947; No. XI was repealed by Act 3 of 1948 passed on 5-1-1948; No. XII by Act 49 of 1947 passed on 31-12-1947 and No. XIII on 31-12-1947 by Act 48 of the year.

Table 10.3: Effect of ordinances on already enacted legislation

<i>Ordinance No.</i>	<i>Previously enacted legislation effected</i>		<i>Nature of ordinance</i>
	<i>Ordinance No.</i>	<i>Act No.</i>	
I	—	—	New
II	—	XXXII of 1934	—
III	—	—	New
IV	—	—	New
V	—	—	New
VI	XXXIX of 1944	—	—
VII	—	X of 1942	—
VIII	—	—	New
IX	—	—	New
X	—	—	New
XI	—	—	New
XII	—	—	New
XIII	—	—	New

Table 10.4: Gap between promulgation of an ordinance and meeting of the Assembly

<i>Ordinance No.</i>	<i>Date of meeting of the Assembly</i>	<i>Date of promulgation of ordinance</i>	<i>Difference</i>
			Days
I	3-2-1947	7-1-1947	26
II	—	16-1-1947	18
III	—	29-1-1947	05

Table 10.5: Gap between adjournment of the Assembly and promulgation of ordinances

<i>Ordinance No.</i>	<i>Date of adjournment of the Assembly</i>	<i>Date of promulgation of ordinance</i>	<i>Difference</i>		
			Months		Days
VI	12-4-1947	26-4-1947	0	—	14
VII	—	22-5-1947	1	—	10
VIII	—	24-5-1947	1	—	12
IX	—	2-7-1947	2	—	21
X	—	28-7-1947	3	—	16
XI	—	11-8-1947	3	—	29
XII	—	13-8-1947	4	—	01
XIII	—	"	4	—	01

EFFECT OF ORDINANCES ON ALREADY ENACTED LEGISLATION, 1947

During the year 1947 (up to 15-10-1947), 13 ordinances were promulgated. Some such ordinances, as was the case in the previous years, effected the already enacted legislation, whereas some others were new. The position is shown in Table 10.3.

**PROMULGATION OF ORDINANCES AND SESSIONS OF
LEGISLATIVE ASSEMBLY, 1947**

During the year 1947, before India got her independence on 15-8-1947 only one session of the Assembly was held. It was called into session on 3-2-1947 and continued to remain in session till 12-4-1947, i.e. for a total period of 69 days. Of these, the Assembly actually met for 47 days out of which 6 days were allotted to non-official work whereas remaining 41 days were allotted for the official work. The position in Table 10.4 gives an idea as to how many days before the meeting of the Assembly the ordinances were promulgated.

It will thus be clear from Table 10.4 that out of 3 ordinances of the year, two were such which were promulgated when the Assembly was going to meet within 3 weeks. Ordinance Nos. IV and V were promulgated when the Assembly was in session. Remaining 8 ordinances were promulgated after the adjournment of the Assembly. The position in this regard is given in Table 10.5.

Thus except in one case, all other ordinances were promulgated months after the adjournment of the Assembly and thus there was no keenness to promulgate an ordinance, as soon as Assembly Session was over.

NOTES

1. Gazette of India Extraordinary, Part IV, dated 7-1-1947, pp. 91-93.
2. *Ibid.*, dated 16-1-1947, p. 101.
3. *Ibid.*, dated 19-1-1947, pp. 147-150.
4. *Ibid.*, dated 19-3-1947, pp. 281-282.
5. *Ibid.*, dated 23-3-1947, pp. 294A to 294D.
6. Bill No. 32 of 1947, dated 17-3-1947, Capital Issues (Continuing of Control) Bill, 1947; Gazette of India Extraordinary, Part V, pp. 264-267.
7. Gazette of India Extraordinary, Part IV, dated 26-4-1947, p. 387.
8. The Coal Mines Labour Welfare Fund Bill, 1947; Bill No. 37 of 1947, dated 20-3-1947; Gazette of India Extraordinary, Part IV, pp. 311-318.
9. Gazette of India Extraordinary, Part V, dated 22-5-1945, p. 473.
10. *Ibid.*, dated 24-5-1947, p. 475.
11. *Ibid.*, dated 2-7-1947, pp. 621-522.
12. Gazette of India Extraordinary, Part V, pp. 604-605.
13. *Ibid.*, dated 28-7-1947, pp. 621-622.
14. *Ibid.*, dated 11-8-1947, pp. 733-734.
15. *Ibid.*, dated 12-8-1947, pp. 765-768.
16. Gazette of India Extraordinary, Part V, dated 10-11-1947, pp. 435-438; Bill No. 49 of 1947.
17. Gazette of India Extraordinary, Part IV, dated 13-8-1947, pp. 768-774.
18. Gazette of India Extraordinary, Part V, dated pp. 449-56; Bill No. 51 of 1947.

LEGACY OF ORDINANCES

Ordinance promulgating power of the Governor-General of India was very effective and an important one also which was both enjoyed and extensively exercised by him throughout the period India remained under British Control. During the difficult war days most of the legislative work was done with the help of the ordinances. It was perhaps for several reasons. The Central Legislative Assembly met for very short periods, as there was no desire to call it into sessions very frequently. War measures brooked no delay and immediate legislation was very badly needed. In fact, little delay would have meant slipping the situation out of grip. Another reason perhaps could be that since most of the ordinances adversely effected the interests of common man and curtailed their even very little available liberties, the government was sure that each measure was bound to be badly criticised on the floor of the House. It did not wish to provide a good forum to the critics of the government to propagate against it. It knew it fully well that every harsh ordinance was bound to be a good weapon in the hands of the nationalist leaders and freedom fighters to whip it and expose undemocratic measures. In fact, most of the ordinances were very harsh in nature and character.

Most of the ordinances empowered the government to search places where there was apprehension of some concealed goods, the people could be arrested without arrest warrants and the private employers could be forced to relieve qualified persons without any hesitation, for government service and sent on war fronts. The factories could be ordered to produce goods in fixed quantities of a particular commodity and insurance of goods and factories was made compulsory. Accounts of the factories and business houses could be checked without any notice by any government servant on duty. It was with the help of ordinances that press censorship was introduced and penalties already imposed for certain off-

ences were enhanced. The right of the employees to go on strike in certain services was taken away from them. Special courts and tribunals were set up to summarily try certain types of offences, and also that no appeals could be made against their decisions in any court. Their decisions were to be treated as final. The penalties for committing an offence were drastic and usually provision was made for life imprisonment, death and whipping.

Special criminal courts and police forces were set up with extensive powers to apprehend the people for minor offences. It was with the help of ordinances that efforts were made to check hoarding and profiteering activities, so that supply of essential commodities continued at reasonable prices, though every one knows that the people had to badly suffer during war days and the measures taken by the government did not succeed much.

There are very few countries in the world where the head of the State has power to promulgate ordinance, much less with the powers with which an ordinance can easily be promulgated and kept in force as in India. After 1940, an ordinance could be kept in force for any number of years. Each ordinance had full force of law and could not be challenged in any law court for its non-validity. The Governor General could touch any aspect of national life, though in actual practice no ordinance was promulgated for checking social evils or which dealt with the weaker sections of society or what could be termed as a welfare measure, though several measures were taken to crush strikes and activities of freedom fighters and nationalists. Such service schemes were introduced by which provision was made for compulsory recruiting of the people for certain types of services. Certain categories of people were required to compulsorily register themselves with the government. The people could be detained without trials even on the apprehension of committing an offence.

Enforcement of disciplinary laws was made stricter and those who deserted army or any defence service or establishment could not only be punished but their emoluments could also be forfeited. Armed forces and police officers were given special powers and very strict measures were taken for checking hoarding and excess profiteering. Criminal laws and old Defence of India laws were frequently amended to deal with rapidly changing situation. Civic Guards and Women Auxiliary Forces were created to have personnel who could help the government in maintaining essential services for running life of the community. Penalties for offences were not only enhanced but realisation of fines was made both easier and effective. Provisions were made not to return lands and

properties acquired during war days for military use, on the plea that these were still needed and heavy investments had been made on these since these were acquired. Provisions were also made for the exemption of payment of local taxes to foreign forces and establishments of allied powers in India. Similarly, all concessions and facilities were made available to the soldiers of Indian states, while serving in the forces of Government of India, either in India or abroad. Special powers were given to armed forces to deal with disturbed areas like Punjab, NWFP and Bengal. A Central Nursing Service and Coal Mines Welfare Fund each was created with the help of ordinances.

Several ordinances once promulgated were amended several times to keep pace with the fast changing political situation on the one hand and war threat on the other. Table 11.1 will give an idea about the ordinances amended with the help of an other ordinance(s).

Legacy of the ordinances can well be imagined from the fact that quite a large number of ordinances promulgated between 1937-1947 were not allowed to lapse even after independence. Of the total number of 190 ordinances promulgated after 1940 Act, as many as 129 were kept in force. Table 11.2 will give an idea about the ordinance kept in force and period for which these, in one way or the other, remained effective in free India.

It was only after the passing of India and Burma (Emergency provisions) Act, 1940 that it was provided that an ordinance once promulgated could remain in force for any length of time. Thus out of 190 total ordinances promulgated between 1940-47, as many as 127 were allowed to remain in force after India got her independence. Some of the ordinances continued to remain in force for about 40 years and were thus considered useful. Thus the legacy was quite substantial. The year-wise breakup in this regard is shown in Table 11.3.

Thus about 66.8% of the total ordinances promulgated during this period were passed on to independent India as legacy.

Of the 127 ordinances, which were continued after independence, some remained in force for a very long time, as shown in Table 11.4. The remaining 16 are shown in Table 11.5.

Several ordinances promulgated by the Governor General were continued in one form or the other. In 1941, War Injuries (Goods Insurance) Ordinance and War Risks (Factories) Insurance Ordinance were promulgated. Both the ordinances were found so useful that the government felt the need of replacing them by an Act of the Central Legislature. Accordingly, a Bill was introduced¹ and got passed from it.

Table 11.1: Ordinances amended with the help of ordinances

Title of the ordinance	Year in which ordinance was amended and Ordinance No.								
	1939	1940	1941	1942	1943	1944	1945	1946	1947
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1. Defence of India Ordinance No. V of 1939	VIII	—	—	XIII, XXIII, XLVIII	XIV, XLIV	XXVI, XXXV	XXV, XXXI, XXXV, XLV	XI, XII	—
2. National Service (Techincal Personnel) Ordinance, 1940 (II of 1940)	—	XI	—	VI, LI	XXVII	XLII	—	IX	—
3. National Service (European British Subjects) Ordinance, 1940 (V of 1940)	—	—	VI	—	—	—	II, XXXVIII	—	—
4. Indian Coinage (Amendment) Ordinance, 1940 (VI of 1940)	—	XII, XIV	—	IV	—	—	—	—	—
5. Indian Tea Control Ordinance 1940 (VII of 1940)	—	—	—	XLVII	—	—	—	—	—
6. The Civic Goods Ordinance, 1940 (VIII of 1940)	—	—	II	—	—	—	—	—	—

7. War Risks (Goods) Insurance Ordinance, 1940 (IX of 1940)	—	—	XII	XIV, XIX, XXVI	VIII	XXIX	XXXIV	—	—
8. Indian Coffee Market Expansion Ordinance, 1940 (XIII of 1940)	—	—	I, VIII, XIII	—	—	—	—	—	—
9. The Essential Services (Maintenance) Ordinance, 1941 (II of 1941)	—	—	—	XXVI, XXXVIII	II	—	—	—	—
10. The Reserve Bank of India (Amendment) Ordinance, 1941 (III of 1941)	—	—	—	IX	—	—	XIX	—	—
11. The War Injuries Ordinance, 1941 (VII of 1941)	—	—	—	I, XXXIX	XXIII	—	X, XLI	—	—
12. Indian Navy (Discipline) Amendment Ordinance, 1941 (IX of 1941)	—	—	L	XI	XVII	—	—	XXIV	—
13. The Special Criminal Courts Ordinance, 1942 (II of 1942)	—	—	XXIV, XLII, LXI	X, XIX, XXVI, XXXII	—	—	—	—	—

Table 11.1 (contd.)

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
14. The Penalties Enhancement Ordinance, 1942 (III of 1942)	—	—	—	VII XXIX, XLVI	III	—	—	—	—
15. The Civil Pioneer Force Ordinance, 1942 (X of 1942)	—	—	—	LXV	VII, XXIII, XXXVIII	—	XXVII	—	—
16. The War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942)	—	—	—	XXXII, XL	—	—	XIII, XXIX	—	—
17. The Women Auxiliary Corps Ordinance, 1942 (XIII of 1942)	—	—	—	XXXVII, LV	—	LV	—	—	—
18. Indian Army (Amendment) Ordinance, 1942 (XVIII, of 1942)	—	—	—	—	—	V, XXXI, XXXVII, XLIV	XXXVII, XLII, XLVIII	—	—
19. Collective Times Ordinance, 1942 (XX of 1942)	—	—	—	XLIII, XLIX, LXIII	V	—	—	—	—

20. The Railway (Employment of Military Personnel) Ordinance, 1942 (LIII of 1942)	—	—	—	—	—	XVIII	—	—	—
21. The Enemy Agents Ordinance, 1943 (I of 1943)	—	—	—	—	XV	XI	—	—	—
22. The Excess Profit Tax Ordinance, 1943 (XVI of 1943)	—	—	—	—	—	VIII	XX	—	—
23. The Discipline of Seamen Ordinance 1943 (XXIV of 1943)	—	—	—	—	—	XIII	—	—	—
24. The War Risks (Inland Vessels) Insurance Ordinance, 1943 (XXV of 1943)	—	—	—	—	—	IX	XXIX	—	—
25. Allied Forces (Exemption from Local Taxation) Ordinance, 1943 (XXVIII of 1943).	—	—	—	—	—	I	XLI	—	—
26. The Criminal Law (Amendment) Ordinance, 1943 (XXIX)	—	—	—	—	XXXIX, XL	VI, XVI, XXIV, XXXVI, XXXVIII, XL, XLI, XLII	—	—	—

Table 11.1 (contd.)

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
27. The Factories (Control of Dismantaling) Ordinance, 1943 (XXXI of 1943)	—	—	—	—	—	—	I	—	—
28. Restriction and Detention Ordinance, 1944 (III of 1944)	—	—	—	—	—	XXII	—	—	—
29. The Military Safety (Power of Detention) Ordinance, 1944 (IV of 1944)	—	—	—	—	—	—	IV	—	—
30. The Coal Mines Labour Welfare Fund Ordinance, 1944 (VII of 1944)	—	—	—	—	—	—	XXVI	—	—
31. Delhi Rent Control Ordinance, 1944 (XXV of 1944)	—	—	—	—	—	—	III	—	—
32. The Bombay Explosion (Compensation) Ordinance, 1944 (XXXII of 1944)	—	—	—	—	—	LI	—	—	—

33. Cotton Textile Fund Ordinance, 1944 (XXXIV of 1944)	—	—	—	—	—	—	IV	—	—
34. Military Operational Area (Special Powers) Ordinance, 1945 (XXVIII of 1945)	—	—	—	—	XXXVII	—	—	—	—
35. The Press (Special Power) Ordinance, 1945 (III of 1947)	—	—	—	—	—	—	—	—	X

Table 11.2: Ordinance promulgated between 1937 and 14-8-1947 but continued in operation in independent India

<i>Year of promulgation</i>	<i>Ordinance No.</i>	<i>Date of promulgation</i>	<i>Date of repeal</i>	<i>Act No. of repealing Act</i>	<i>Duration of ordinance</i>
(1)	(2)	(3)	(4)	(5)	(6)
					Y - M - D
1940	II	29-6-1940	5-1-1948	II	7 - 06 - 06
	IV*	24-7-1940	—	—	—
	VIII	16-8-1940	"	"	7 - 04 - 20
	IX	26-8-1940	17-9-1957	XXXVI	17 - 00 - 22
1941	V	26-6-1941	"	"	16 - 02 - 21
	VII*	25-7-1941	—	—	—
	X	6-12-1941	20-5-1950	XLVI	8 - 05 - 15
	XI	20-12-1941	7-8-1957	†	15 - 08 - 18
1942	III	2-1-1942	17-9-1957	XXXVI	15 - 08 - 16
	V	27-1-1942	1-5-1949	XL	7 - 03 - 05
	X	7-3-1942	5-1-1948	II	5 - 09 - 29
	XI	7-4-1942	27-12-1960	LVIII	18 - 08 - 20
	XII	8-4-1942	17-9-1957	XXXVI	15 - 05 - 09
	XIII	9-4-1942	5-1-1948	II	5 - 08 - 26
	XV	21-4-1942	"	"	5 - 08 - 14
	XVII	"	3-11-1948	XXX	6 - 06 - 12
	XX*	13-5-1942	—	—	—
	XXII	22-5-1942	5-1-1948	II	5 - 07 - 14
	XXXIII	9-7-1942	"	II	5 - 05 - 27
	LXI*	15-8-1942	—	—	—
	LIII	8-10-1942	"	II	5 - 02 - 28
	LIV	"	18-1-1956	I	13 - 03 - 11
	LVI	26-10-1942	5-1-1948	II	5 - 02 - 10
	LVII	"	"	"	5 - 02 - 10
	LIX	31-10-1942	30-9-1964	XXVIII	21 - 11 - 00
	LX*	14-11-1942	—	—	—
	LXII	28-11-1942	5-1-1948	II	5 - 01 - 07
	LXVI	24-12-1942	26-12-1960	LVIII	18 - 00 - 03

Table 11.2 (contd.)

(1)	(2)	(3)	(4)	(5)	(6)
					Y - M - D
1943	I	19-1-1943	5-1-1948	II	4 - 11 - 27
	IV*	16-1-1943	—	—	—
	VI	20-1-1943	"	"	4 - 11 - 16
	XIII	16-3-1943	"	"	4 - 9 - 20
	XV*	17-5-1943	—	—	—
	XVII	20-5-1943	5-1-1948	II	4 - 07 - 16
	XVIII	31-5-1943	17-9-1957	XXXVI	14 - 03 - 17
	XIX	5-6-1943	"	XXXVI	14 - 03 - 12
	XX	30-6-1943	1-5-1949	XL	5 - 10 - 01
	XXI	2-7-1943	5-1-1948	II	4 - 06 - 4
	XXII	12-7-1943	"	"	4 - 05 - 24
	XXVIII	4-9-1943	"	"	4 - 04 - 01
	XXIX	11-9-1943	17-9-1957	XXXVI	14 - 00 - 06
	XXX*	15-9-1943	—	—	—
	XXXI	15-9-1943	5-1-1948	II	4 - 03 - 20
	XXXIII	11-10-1943	"	"	4 - 02 - 25
	XXXV	"	"	"	4 - 02 - 25
	XXXVI	16-10-1943	20-5-1950	XLVI	6 - 07 - 5
	XLI	10-11-1943	5-1-1948	II	4 - 01 - 25
	XLIII	2-12-1943	1-5-1949	XL	5 - 05 - 00
1944	II	13-1-1944	17-9-1957	XXXVI	13 - 08 - 05
	III	15-1-1944	19-4-1950	XXXV	6 - 03 - 05
	IV	"	5-1-1948	II	3 - 11 - 21
	XIX	13-5-1944	24-12-1955	LI	11 - 07 - 12
	XX	20-5-1944	5-1-1948	II	3 - 07 - 16
	XXI*	20-5-1944	—	—	—
	XXX	1-7-1944	19-4-1950	XXXV	5 - 09 - 18
	XXXI	"	5-1-1948	II	3 - 07 - 16
	XXXII	"	17-9-1950	XXXVI	13 - 02 - 16
	XXXIV	8-7-1944	3-12-1963	XLI	19 - 04 - 26
	XXXV	29-7-1944	5-1-1948	II	3 - 05 - 07
	XXXVII	19-8-1944	17-9-1957	XXXVI	13 - 00 - 27
	XXXVIII*	23-8-1944	—	—	—
	XLII	9-9-1944	18-9-1959	XLVI	15 - 00 - 09
	XLV	3-10-1944	17-9-1957	XXXVI	12 - 11 - 15

Table 11.2 (contd.)

(1)	(2)	(3)	(4)	(5)	(6)
					Y - M - D
1945	L	21-10-1944	5-1-1948	Π	3 - 02 - 15
	I	13-1-1945	"	"	2 - 11 - 23
	II	30-1-1945	"	"	2 - 11 - 06
	III	"	"	"	2 - 11 - 06
	IV	"	"	"	2 - 11 - 06
	V	"	17-9-1957	XXXVI	12 - 07 - 18
	VIII	17-3-1945	5-1-1948	Π	2 - 09 - 19
	IX	28-4-1945	"	"	2 - 08 - 07
	XI	5-5-1945	"	"	2 - 08 - 01
	XII	12-5-1945	"	"	2 - 07 - 24
	XIV	16-5-1945	"	"	2 - 07 - 20
	XVI	19-5-1945	"	"	2 - 07 - 17
	XVII	26-5-1945	5-1-1948	Π	2 - 07 - 10
	XVIII	30-6-1945	"	"	2 - 07 - 03
	XX	30-6-1945	"	"	2 - 06 - 05
	XXI	4-7-1945	"	"	2 - 06 - 02
	XXII	"	"	"	2 - 06 - 02
	XXIII	14-7-1945	17-9-1957	XXXVI	12 - 02 - 04
	XXIV*	14-7-1945	—	—	—
	XXV	"	5-1-1948	Π	2 - 05 - 22
	XXVII	4-8-1945	"	"	2 - 05 - 02
	XXIX	31-8-1945	17-9-1957	XXXVI	12 - 00 - 07
	XXX*	1-9-1945	—	—	—
	XXXI	"	5-1-1948	Π	2 - 04 - 04
	XXXII	8-9-1945	1-5-1949	XL	3 - 07 - 23
	XXXIII	"	17-9-1957	XXXVI	12 - 00 - 09
	XXXIV	14-9-1945	"	"	12 - 00 - 03
	XXXV	"	5-1-1948	Π	2 - 03 - 04
	XXXVI	18-9-1945	"	"	2 - 03 - 17
	XXXVII	29-9-1945	5-1-1948	Π	2 - 03 - 06
	XXXVIII	6-10-1945	"	"	2 - 03 - 00
	XXXIX	20-1-1945	"	"	2 - 02 - 16
	XL	27-10-45	19-4-1950	XXXV	4 - 05 - 23
	XLI	"	5-1-1948	Π	2 - 02 - 09
	XLII	31-10-1945	"	"	2 - 02 - 05

Table 11.2 (contd.)

(1)	(2)	(3)	(4)	(5)	(6)
					Y - M - D
	XLIII	17-11-1945	"	"	2 - 01 - 18
	XLIV	24-11-1945	"	"	2 - 01 - 11
	XLV	11-12-1945	"	"	2 - 00 - 25
	XLVI	22-11-1945	17-9-1957	XXXVI	11 - 08 - 26
	XLVII	24-12-1945	28-8-1959	XXV	13 - 08 - 05
	XLVIII	"	5-1-1948	II	2 - 00 - 12
1946	I	5-1-1946	19-4-1950	XXXV	4 - 03 - 05
	II*	12-1-1946	—	—	—
	III*	12-1-1946	—	—	—
	IV	15-1-1946	10-3-1949	X	3 - 01 - 26
	V	17-1-1946	17-9-1957	XXXVI	11 - 08 - 01
	VI*	"	—	—	—
	VII	"	19-4-1950	XXXV	4 - 03 - 03
	VIII	19-1-1946	19-4-1950	"	4 - 03 - 01
	IX	"	"	"	4 - 03 - 01
	X*	5-2-1946	—	—	—
	XI	25-2-1946	5-1-1948	II	1 - 10 - 10
	XII	30-3-1946	"	"	1 - 09 - 06
	XIII	"	19-4-1950	XXXV	4 - 00 - 20
	XIV	"	20-5-1950	XLVI	4 - 01 - 21
1947	IV+	19-3-1947	19-9-1947	—	0 - 06 - 00
	V*+	22-3-1947	22-9-1947	—	0 - 06 - 00
	VI+	26-4-1947	26-10-1947	—	0 - 06 - 00
	VII	22-5-1947	22-11-1947	XXXVII	0 - 06 - 00
	VIII+	24-5-1947	24-11-1947	—	0 - 06 - 00
	IX+	2-7-1947	2-1-1948	—	0 - 06 - 00
	X	28-7-1947	18-12-1947	XXXIX	0 - 04 - 21
	XI	11-8-1947	"	XXXIX	0 - 04 - 25
	XII	13-8-1947	31-12-1947	XLIX	0 - 04 - 19
	XIII	"	"	XLVIII	0 - 04 - 19
	XIV	"	5-1-1948	III	0 - 04 - 23

† Superseded by ordinance No. 5 of 1957.

* Continued to remain in force for about 35 years.

+ Allowed to expire.

Table 11.3: Year-wise breakup of ordinance continued after 15-8-1947

<i>Year</i>	<i>Total of ordinances promulgated</i>	<i>Total number of ordinances continued after 15-8-1947</i>
1940	4	14
1941	4	18
1942	20	68
1943	20	44
1944	16	56
1945	40	48
1946	14	28
1947 (14-8-1947)	11	14
Total	129	190

While elaborating the need for replacing the ordinance by an Act, it was said in the replacing bill that the War Injuries Ordinance, 1941 empowered the central government to make a scheme providing for the grant of relief in respect of war injuries. It also provided that no compensation should be payable under the Workmen's Compensation Act in respect of a war injury. Workmen under that Act now were only entitled to receive relief from government under the War Injuries Scheme.

In more highly industrialised countries where variation in the industrial wage scales are not so large as in India, payments under the Personal Injuries Scheme are, in respect of labour, both relief and compensation. In India, the amount of relief under the War Injuries Scheme does not at present give higher paid labour adequate compensation. It is impossible for government themselves either to increase generally the scale of relief under the War Injuries Scheme or to undertake a liability to pay further compensation to a particular class of employees from government funds. It is, however, reasonable that obligation should be put on certain employers. There is also probably more danger to employees in factories and other industrial concerns (which may be target for enemy attack) than there is elsewhere.

The Bill imposes on employers of essential services of factory and mine labour, in major ports, and other employments to be specified, an obligation to pay compensation in respect of war injury to other workmen, calculated to amount to the difference between the amount paid

Table 11.4: Year-wise duration of ordinances continued after independence

<i>Duration</i>	<i>1940</i>	<i>1941</i>	<i>1942</i>	<i>1943</i>	<i>1944</i>	<i>1945</i>	<i>1946</i>	<i>1947</i>	<i>Total</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>	<i>(6)</i>	<i>(7)</i>	<i>(8)</i>	<i>(9)</i>	<i>(10)</i>
Less than 1 year	—	—	—	—	—	—	—	IV to IX, X to XIV	11
Between 1-2 years	—	—	—	—	—	—	XI, XII	—	2
Between 2-3 years	—	—	—	—	—	I to IV IV, VIII, IX, XI, XII, XIV, XVI to XVIII, XX to XXII, XXV, XXVII, XXXI, XXXV to XXXIX, XLI to XLV, XLIII	—	—	30
Between 3-4 years	—	—	—	—	IV, XX, XXXI, XXXV, L	XXXII	—	—	6

Table 11.4 (contd.)

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Between 4-5 years	—	—	—	I, VI, XIII, XVII, XXI, XXII, XXIII, XXXI, XXXIII, XXXV, XLI	—	XL	I, VII, VIII, IX, XIII, XIV	—	18
Between 5-6 years	—	—	X, XIII, XV, XXV, XXXIII, LIII, LVI, LVII, LXII,	XX, XLIII	XXX	—	—	—	12
Between 6-7 years	—	—	XVII	XXXVI	III	—	—	—	3
Between 7-8 years	II, VIII	—	V	—	—	—	—	—	3
Between 8-9 years	—	X	—	—	—	—	—	—	1
Between 9-10 years	—	—	—	—	—	—	—	—	—

Between 10-11 years	—	—	—	—	—	—	—	—	—
Between 11-12 years	—	—	—	—	XIX	XLVI	V	—	3
Between 12-13 years	—	—	—	—	XLV	V, XXIII, XXIX, XXXIII, XXXIV	—	—	6
Between 13-14 years	—	—	LIV	—	II, XXXII, XXXVII	XLVII	—	—	5
Between 14-15 years	—	—	—	XVIII, XIX, XXIX	—	—	—	—	3
Between 15-16 years	—	XI	III, XII	—	XLII	—	—	—	4
Between 16-17 years	—	V	—	—	—	—	—	—	1
Between 17-18 years	IX	—	—	—	—	—	—	—	1
Between 18-19 years	—	—	XI, LXVI	—	—	—	—	—	2
Between 19-20 years	—	—	—	—	XXXIV	—	—	—	1
Between 20-21 years	—	—	—	—	—	—	—	—	—
Between 21-22 years	—	—	LIX	—	—	—	—	—	1
Total	3	3	17	17	14	38	10	11	113

by government under the War Injuries Scheme and the amount which would have been payable under the Workmen's Compensation Act if the war injury had given a right to compensation thereunder. This will mean additional payments in respect of labour drawing roughly over Rs. 24 a month.

Many employers are prepared to take the extra liability but the liability may prove either embarrassment or an impossibility in the case of a factory which might be seriously damaged by enemy action, unless insurance can be taken out to cover the risk. It is understood that few insurance companies are now prepared to cover such risks although in a few cases insurance in this matter has been effected. The Bill, therefore, provides for compulsory insurance with the central government, of the liability referred to above, by employers throughout British India.

A provision has also been made to extend the scheme of insurance to employers in states provided that provisions substantially corresponding to the provisions of this Bill are made in that State.

The Bill it was said, follows closely the War Risks (Goods) Insurance Ordinance and the War Risks (Factories) Insurance Ordinance.

In 1940, the government promulgated currency ordinance. In 1943, it felt the need of replacing it by an Act. Meantime it came to know that photoprints and other reproductions of currency notes were also in circulation, which it felt was undesirable for country like India with a large mass of illiterate and ignorant population. Accordingly, a bill amending Indian Penal Code was introduced in the central legislature with the object of replacing that by an Act.² In the replacing bill it was said that photoprints and other reproductions of currency notes and bank notes though printed for innocent purposes, have passed into circulation in a number of cases and it was considered undesirable that in a country like India with large mass of illiterate and ignorant persons such reproductions should be permitted to go unchecked before it menaced the safety of the currency. It was proposed, therefore, to put a stop to this practice by making it a punishable offence.

"While the counterfeiting of any currency note or bank note constitutes a criminal offence under Section 489A read with Section 28 of the Penal Code, there is no legal provision prohibiting the reproduction, or the production of imitations, of currency and bank notes for such purposes as advertisement and the like when there is no intention to practice deception, on any one, nor even a knowledge that deception is likely to be practised with the help of the limitations". The Bill it was said was designed to fill this lacuna in the present law.

Ordinance Nos. I, VIII and XIII of 1941 and Act II of 1944;³ Act XVI of 1944;⁴ and Bill No. 11 of 1943⁵ all dealt with Coffee Market Expansion Ordinance. On 1-2-1944 the government brought a bill in the legislature on the same subject.⁶ It was said that in the existing laws, there was no provision for the execution of those dealers who violated provisions of existing laws on the subject. With the help of the replacing bill, an effort was made to fill up this gap. The replacing bill said that under sub-section (1) of Section 16 of the Coffee Market Expansion Act, 1942, the central government has the power to fix the wholesale and retail prices at which coffee shall be sold in the Indian Market, and sub-section (2) of the same Section provided that no registered owner or licensed curer or dealer shall sell coffee at a price or prices higher than those fixed by the central government. A registered owner or licensed curer who sells coffee at a higher price or prices in contravention of the above provision can be punished under Section 36(1) of the Act. No provision, however, exists in Section 36(1) or elsewhere in the Act for prosecuting a dealer for a similar offence, though such provision is necessary to enforce the control of coffee prices.

The Bill is, therefore, designed to define a dealer and to make him liable to prosecuting for violating the provision of sub-section (2) of Section 16 of the Act, and also to provide that any prosecution for the above offence may be launched on a complaint made not by any authorised officer of the Indian Coffee Board but also by an authorised officer of a provincial government.

On 3-10-1944, the government brought another bill in the Central Assembly on the same subject. The aim was that the central government should be empowered to transfer money collected by the sale of coffee from the pool fund to Central Fund, to the extent to which it was surplus in the pool fund. It was said that the money thus transferred will be used for the promotion of technology and agricultural research. The replacing bill⁷ said that under sub-section (1) of Section 32 of the Coffee Market Expansion Act, 1942 all sums realised by sales of coffee from the pool by the Indian Coffee Board have to be credited to the Pool Fund. There is, however, no provision in the Act to provide for transfer to the Central Fund any excess in the Pool Fund after the requirements of the clauses of sub-section (2) of Section 32 of that Act, have been met.

The Bill is, therefore, designed to make provision for this purpose. The amount so transferred will be applied for promoting agricultural and technological research in the interest of the Coffee industry in India.

Legacy can be appreciated from the fact that several ordinances

remained in force for about 35 years. Table 11.5 will give an idea about the ordinances promulgated between 1940 and 1947, but continued in free India for more than even 35 years.

Legacy is lasting is very clear from the fact that the framers of Indian Constitution found it very essential that the President of Republic of India should have the power of promulgation of ordinances. Not only this but it was equally felt that the Governors of the States, should also have this power. Accordingly, Articles 123 and 213 of the Constitution of India empower the President/Governor to promulgate ordinances. This power has been very much used both by the President as well as by the Governors. In so far as President is concerned, Table 11.6 will give an idea about the number of ordinances promulgated during each year since India became a republic on January 26, 1950.

Thus since India became a Republic about 360 ordinances have been promulgated by the President, which is quite high and shows the use of power and the system which free India inherited from British India. It is, however, worth mentioning that both under British India as well as in free India it has always been protested by the opposition parties that the power of promulgating ordinances has been and is being mis-used by the executive government and should be withdrawn. It was, however, continued with each Government of India Act passed by the British government since 1861 and has been retained by the framers of present Indian Constitution. Unfortunately, throughout the period (1939-1947) under study no ordinance was promulgated which dealt with any social problem. Of course, some ordinances were promulgated which had economic bias but these aimed at checking hoarding and profiteering but in no way made any efforts for economic betterment of the people of India. The power on the whole has been extensively used but not to the advantage of the people.

NOTES

1. *Gazette of India Extraordinary*, Part V, dated 11-3-1943, pp. 97-98.
2. *Ibid.*, dated 16-3-1943, pp. 55-56; Bill No. 8 of 1943.
3. *Gazette of India Extraordinary*, Part V, dated 27-2-1944, pp. 15-16.
4. *Ibid.*, dated 22-11-1944, p. 48.
5. *Ibid.*, dated 25-2-1943, pp. 69-70.
6. *Ibid.*, dated 1-2-1944, p. 10; Bill No. 5 of 1955.
7. *Ibid.*, dated 3-10-1944, p. 82; Bill No. 21 of 1944.

Table 11.5: Ordinances kept in force for more than 35 years after independence

<i>Ordinance No.</i>	<i>Date and year of promulgation</i>	<i>Title of the ordinance</i>
IV	24-7-1940	The Currency Ordinance, 1940
VII	25-7-1941	The War Injuries Ordinance, 1941
XX	13-5-1942	The Collective Fines Ordinance, 1942
XLI	15-8-1942	The Armed Forces (Special Powers) Ordinance, 1942
LX	14-11-1942	The Income Tax and Excess Profit Tax (Emergency) Ordinance 1942
IV	10-1-1943	The Income Tax Proceedings Validity Ordinance, 1943
XVI	17-5-1943	The Excess Profit Tax Ordinance, 1943
XXX	15-9-1943	The Indian Military Nursing Service Ordinance, 1943
XXI	20-5-1944	The Public Health (Emergency) Provisions Ordinance
XXXVIII	23-8-1944	The Criminal Law Amendment Ordinance
XXIV	14-7-1945	The War Gratuities (Income Tax Exemption) Ordinance, 1945
XXX	1-1-1945	Secundrabad Marriage Validating Ordinance, 1945
II	12-1-1946	The Bank Notes (Declaration of Holdings) Ordinance, 1946
III	12-1-1946	The High Denomination Bank Notes (Demonetization) Ordinance, 1946
VI	17-1-1946	The Criminal Law (Amendment) Ordinance 1946
X	5-2-1946	The Termination of War (Definition Ordinance, 1946)

Table 11.6: Year-wise breakup of promulgation of ordinances by the President of India since 1950

<i>Year</i>	<i>No. of ordinances promulgated</i>	<i>Year</i>	<i>No. of ordinances promulgated</i>
1950	21 (from 26-1-1950)	1960	1
1951	10	1961	3
1952	9	1962	8
1953	7	1963	—
1954	9	1964	3
1955	7	1965	7
1956	9	1966	13
1957	6	1967	9
1958	7	1968	13
1959	3	1969	10
1960	1		
1970	5	1979	12
1971	23	1980	19
1972	9	1981	12
1973	4	1982	1
1974	15	1983	11
1975	29	1984	15
1976	16	1985	8
1977	16	1986	11
1978	6	1987 (upto 30.6.1987)	3

ANNEXURE

Annexure: Ordinances Promulgated by the Governor General in India between 1861-1935

<i>S.No</i>	<i>Year</i>	<i>Title of ordinance</i>	<i>Ordinance No.</i>	<i>Date of promulgation</i>
(1)	(2)	(3)	(4)	(5)
1.	1861	The Export of Saltpetre Ordinance	—	27-12-1861
2.	1862	"	—	3-1-1862
3.	1869	The Agror Valley Ordinance	—	9-10-1869
4.	"	The Duty on Salt, Bombay and Madras Presidencies Ordinance	—	"
5.	1876	The Dramatic Performances Ordinance	—	4-3-1876
6.	1907	The Regulation of Meetings Ordinance	I	18-5-1907
7.	1912	The Bengal Cotton Gambling Ordinance	I	14-12-1912
8.	1914	The Indian Naval and Military News (Emergency) Ordinance	I	7-8-1914
9.	"	The Impressment of Vessels Ordinance	II	14-8-1914
10.	"	The Foreigners Ordinance	III	20-8-1914
11.	"	The Indian Volunteers Ordinance	IV	22-8-1914
12.	"	The Ingress into India Ordinance	V	5-9-1914
13.	"	The Commercial Intercourse with Enemies Ordinance	VI	14-10-1914
14.	"	The Foreigners (Amendment) Ordinance	VII	"
15.	"	The Foreigners (Further	VIII	14-11-1914

Annexure (contd.)

(1)	(2)	(3)	(4)	(5)
		Amendment) Ordinance		
16.	1914	The Articles of Commerce Ordinance	IX	30-11-1914
17.	1915	The Indian Paper Currency (Amendment) Ordinance	I	16-1-1915
18.	"	The Indian Soldiers (Litigation) Ordinance	II	5-5-1915
19.	"	The Defence of India Ordinance	III	10-11-1915
20.	1916	The Indian Paper Currency (Amendment) Ordinance	I	11-1-1916
21.	"	The Dutiable Goods and Salt Ordinance	II	19-1-1916
22.	"	The Foreigners (Trial by Court Martial) Ordinance	III	26-1-1916
23.	"	The Import and Export of Goods Ordinance	IV	14-6-1916
24.	"	The Enemy Trading Ordinance	V	27-6-1916
25.	"	The Indian Paper Currency (Further Amendment) Ordinance	VI	13-11-1916
26.	"	The Second Indian Paper Currency (Further Amendment) Ordinance	VII	14-12-1916
27.	"	The Indian Legislative Councils (Election Enquiries) Ordinance	VIII	27-12-1916
28.	1917	The Registration Ordinance	I	2-2-1917
29.	"	The Indian Paper Currency (Amendment) Ordinance	II	18-4-1917
30.	1917	The Gold (Import) Ordinance	III	29-6-1917

Annexure (contd.)

(1)	(2)	(3)	(4)	(5)
31.	"	The Silver (Import) Ordinance	IV	11-7-1917
32.	1918	Indian Paper Currency Ordinance	I	15-4-1918
33.	"	The Gold Coinage Ordinance	II	14-6-1918
34.	"	The Indian Paper Currency (Amendment) Ordinance	III	7-12-1918
35.	1919	The Martial Law Ordinance	I	14-4-1919
36.	"	The Martial Law (Extension) Ordinance	II	16-4-1919
37.	"	The Martial Law (Sentences) Ordinance	III	18-4-1919
38.	"	The Martial Law (Further Extension) Ordinance	IV	21-4-1919
39.	"	The Bombay District Police Ordinance	V	6-5-1919
40.	"	The Martial Law (Trial Continuous) Ordinance	VI	27-5-1919
41.	"	The Rouble Note Ordinance	VII	6-12-1919
42.	1920	The Treaty of Peace Ordinance	I	7-1-1920
43.	"	The Rouble Note Ordinance	II	5-6-1920
44.	"	The Gold Ordinance	III	21-6-1920
45.	"	The Treaty of Peace (Austria) Ordinance	IV	31-7-1920
46.	1921	The Treaty of Peace (Hungary) Ordinance	I	12-7-1921
47.	"	The Martial Law Ordinance	II	28-8-1921
48.	"	The Martial Law (Supplementary) Ordinance	III	5-9-1921
49.	"	The Martial Law (Military Courts) Ordinance	IV	15-10-1921
50.	"	The Martial Law (Special Magistrates) Ordinance	V	11-11-1921

Annexure (contd.)

(1)	(2)	(3)	(4)	(5)
51.	1922	The Malabar (Restoration of Order) Ordinance	I	25-2-1922
52.	"	The Malabar (Restoration of Order) Amendment Ordinance	II	30-3-1922
53.	"	The Malabar (Completion of Trials) Ordinance	III	19-8-1922
54.	1924	The Bengal Criminal Law Amendment Ordinance	I	25-10-1924
55.	1925	The Cotton Excise Duty (Suspension) Ordinance	I	1-12-1925
56.	1929	The Public Safety Ordinance	I	13-4-1929
57.	1930	The Bengal Criminal Law (Amendment) Ordinance	I	19-4-1930
58.	1930	The Indian Press Ordinance	II	27-4-1930
59.	"	The Lahore Conspiracy Case Ordinance	III	1-11-1930
60.	"	The Sholapur Martial Law Ordinance	IV	15-5-1930
61.	"	The Prevention of Intimidation Ordinance	V	30-5-1930
62.	"	The Unlawful Instigation Ordinance	VI	30-5-1930
63.	"	The Unauthorised News Sheets and Newspaper Ordinance	VII	2-7-1930
64.	"	The Martial Law Ordinance	VIII	15-8-1930
65.	"	The Unlawful Association Ordinance	IX	10-10-1930
66.	"	The Indian Press and Unauthorised News Sheets and News Papers Ordinance	X	23-12-1930
67.	"	The Unlawful Instigation	XI	23-12-1930

Annexure (contd.)

(1)	(2)	(3)	(4)	(5)
		(Second) Ordinance		
68.	1931	The Burma Criminal Law Amendment Ordinance	I	31-1-1931
69.	"	The Repealing Ordinance	II	6-3-1931
70.	"	The Burma (Rebellion) Trial Ordinance	III	12-3-1931
71.	"	The Foreign Relations Ordinance	IV	1-8-1931
72.	1931	The Burma Emergency Powers Ordinance	V	1-8-1931
73.	"	The Currency Ordinance	VI	21-9-1931
74.	"	The Gold and Sterling Sales Regulation Ordinance	VII	24-9-1931
75.	"	The Criminal Procedure (Delhi Amendment) Ordinance	VIII	16-10-1931
76.	"	The Bengal Criminal Law Amendment Ordinance	IX	29-10-1931
77.	"	The Kashmir State (Protection Against Disorder) Ordinance	X	4-11-1931
78.	"	The Bengal Emergency Powers Ordinance	XI	30-11-1931
79.	"	The United Provinces Emergency Powers Ordinance	XII	14-12-1931
80.	"	The NWFP Emergency Powers Ordinance	XIII	24-12-1931
81.	"	The Unlawful Instigation (NWFP) Ordinance	XIV	24-12-1931
82.	"	The Unlawful Association (NWFP) Ordinance	XV	24-12-1931
83.	1932	The Bengal Emergency Powers (Supplementary) Ordinance	I	2-1-1932
84.	"	The Emergency Powers Ordinance	II	4-1-1932

Annexure (contd.)

(1)	(2)	(3)	(4)	(5)
85.	"	The Unlawful Instigation Ordinance	III	"
86.	1932	The Unlawful Association Ordinance	IV	4-1-1932
87.	"	The Prevention of Molestation and Boycotting Ordinance	V	"
88.	"	The Repealing Ordinance	VI	30-1-1932
89.	"	The Amending Ordinance	VII	6-2-1932
90.	"	The Supplementing Ordinance	VIII	29-3-1932
91.	"	The Bengal Emergency Powers Ordinance	IX	28-5-1932
92.	"	The Special Powers Ordinance	X	30-6-1932
93.	"	The Bengal Emergency Powers Ordinance	XI	28-5-1932
94.	"	The Bengal Emergency Powers (Second Amendment) Ordinance	XII	20-7-1932
95.	1935	The Indian Post Offices (Amendment) Ordinance	I	30-3-1935
96.	"	The Indian Income Tax (Deduction at Source) Ordinance	II	1-4-1935
97.	"	The Italian Loans and Credits Prohibition Ordinance	III	18-11-1935

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