APPENDIX 6

PROVISIONS OF GOVERNMENT OF INDIA ACT 1935

Administration of Federal Affairs

Section 9. 1) There shall be a council of ministers, not exceeding ten in number, to aid and advice the Governor-General in the exercise of his functions, except in so far as he is by or under this Act required to exercise his functions or any of them in his discretion:

Provided that nothing in this subsection shall be construed as preventing the Governor-General from exercising his individual judgment in any case where by or under this Act he is required so to do.

2) The Governor-General in his discretion may preside at meetings of the council of ministers.

3) If any question arises whether any matter is or is not a matter as respects which the Governor-General is by or under this Act required to act in his discretion or to exercise his individual judgment, the decision of the done by the Governor-General in his discretion shall be final, and the validity of anything done by the Governor-General shall not be called in question on the ground that he ought or ought not to have
acted in his discretion, or ought or ought not to have exercised his individual judgment.

Section 10. 1) The Governor-General’s ministers shall be chosen and summoned by him, shall be sworn as members of the council, and shall hold office during his pleasure.

2) A minister who for any period of six consecutive months is not a member of either chamber of the federal Legislature shall at the expiration of that period cease to be a minister.

3) The salaries of ministers shall be such as the Federal Legislature may from time to time by Act determine and, until the Federal Legislature so determine, shall be determined by the Governor-General.

Provided that the salary of a minister shall not be varied during his term of office.

4) The question whether any and, if so, what advice was tendered by ministers to the Governor-General shall not be inquired into in any court.

3) The functions of the Governor-General with respect to the choosing and summoning and the dismissal of ministers, and with respect to the determination of their salaries, shall be exercised by him in his discretion.
Section 13. 1) The secretary of state shall lay before Parliament the draft of any Instrument of Instructions (including any Instrument amending or revoking an Instrument previously issued) which is proposed to recommend His Majesty to issue to the Governor-General, and no further proceedings shall be taken in relation there to except in pursuance of an address presented to His Majesty by both Houses of Parliament pray my that the Instrument may be issued.

2) The validity of anything done by the Governor-General shall not be called in question on the ground that it was done otherwise than in accordance with any Instrument of Instructions issued to him.

Section 50 : Administration of Provincial Affairs

1) There shall be a council of ministers to aid and advice the Council of Governor in the exercise of his functions, except in so far as he is ministers. By or under this Act required to exercise his function or any of them in his discretion:

Provided that nothing in this sub-section shall be construed as preventing the Governor from exercising his individual judgment in any case where by or under this Act he is required so to do.
2) The Governor in his discretion may preside at meetings of the council of ministers.

3) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Act required to act in his discretion or to exercise his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion, or ought or ought not to have exercised his individual judgment.

Section 51. 1) The Governor’s ministers shall be chosen and summoned by him, shall be sworn as members of the council, and shall hold office during his pleasure.

2) A minister who for any period of six consecutive months is not a member of the provincial Legislature shall at the expiration of that period cease to be a minister.

3) The salaries of ministers shall be such as the provincial Legislature may from time to time by Act determine, and, until the provincial Legislature so determine, shall be determined by the Governor:

Provided that the salary of a minister shall not be varied during his term of office.
4) The question whether any, and if so what, advice was tendered by ministers to the Governor shall not be inquired into in any court.

5) The functions of the Governor under this section with respect to the choosing and summoning and the dismissal of ministers, and with respect to the determination of their salaries, shall be exercised by him in his discretion.